

# **Maternity Benefits in Private Sector: A SocioLegal Study**

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**LOVELY PROFESSIONAL UNIVERSITY, PUNJAB 2024**

### **DECLARATION**

I, hereby declare that the presented work in the thesis entitled "Maternity Benefits in Private Sector: A SocioLegal Study" in fulfilment of degree of **Doctor of Philosophy (Ph. D.)** is outcome of research work carried out by me under the supervision of Dr. Shobha Gulati, working as Associate Professor, in the School of Law of Lovely Professional University, Punjab, India and co-supervision of Dr. Arshi Pal Kaur working as Assistant Professor, Department of Laws, Guru Nanak Dev University, Regional Campus, Gurdaspur, Punjab. In keeping with general practice of reporting scientific observations, due acknowledgements have been made whenever work described here has been based on findings of other investigator. This work has not been submitted in part or full to any other University or Institute for the award of any degree.

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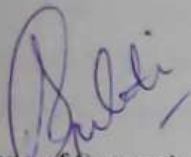
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### CERTIFICATE

This is to certify that the work reported in the Ph. D. thesis entitled Maternity Benefits in Private Sector: A Socio-Legal Study" submitted in fulfillment of the requirement for the award of degree of **Doctor of Philosophy (Ph.D.)** in the school of Law, is a research work carried out by Shivani, 41900438, is bonafide record of her original work carried out under my supervision and that no part of thesis has been submitted for any other degree, diploma or equivalent course.



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## **Abstract**

Historically, women have faced persistent gender-based oppression, manifested through violence, threats, and psychological challenges. The acknowledgment of women's rights, rooted in ancient texts like the Vedas and evolving through modern feminist jurisprudence, underscores the ongoing struggle for equality. The concept of transformative constitutionalism in India, recognized by the Supreme Court in landmark judgments, has advanced the recognition of privacy, individual autonomy, and sexual orientation rights. Despite legal protections, women still encounter significant disparities, particularly in social security and maternity benefits.

The right to social security, a fundamental human right, ensures a safe and acceptable living standard for all citizens. In India, the Social Protection Floor (SPF) encompasses various programs addressing income loss due to illness, disability, maternity, and other social threats. Within this framework, maternal support is crucial, offering medical care and financial benefits during maternity leave to support mothers and their children.

The Maternity Benefits Act of 1961, and its 2017 amendment, aimed to provide equitable workplace conditions for women, extending maternity leave from 12 to 26 weeks and including provisions for adoptive and commissioning mothers. While these amendments benefit women in organized sectors, they overlook the needs of those in informal employment, who remain financially vulnerable. This disparity highlights the need for comprehensive social security measures for all working women.

The evolution of women's roles from homemakers to career-oriented individuals demands special attention to maternity benefits and support systems. Effective implementation of maternity laws, particularly in private sectors, is essential for ensuring women's rights and enhancing workplace retention, efficiency, and satisfaction. Addressing these issues will contribute to broader social change and align India with international labor standards.

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## Table of Contents

S.No.	Contents	Page No.
I	<b>CHAPTER I: INTRODUCTION</b>	1-30
1.1.	Introduction	1-6
1.2.	Statement of Problem	6-7
1.3.	Review of Literature	7-23
1.4.	Scope & Significance	23
1.5.	Research Gap	23-24
1.6.	Objective of the Study	24
1.7.	Hypothesis	25
1.8.	Research Questions	25
1.9.	Research Methodology	25-26
1.10.	Method of Data Collection	26-28
1.11.	Limitations of the Research	28-29
1.12.	Chapterisation	29-30
II	<b>CHAPTER II: EVOLUTION AND GROWTH OF MATERNITY PROTECTION LAWS IN INDIA</b>	31-62
2.1.	Overview	31-34
2.2.	Evolution and Growth of Maternity Protection Laws in India	34-37
2.2.1.	Maternity Benefit Laws in India: From Inception to Modern Reforms	37
2.2.1.1.	Colonial Era: The Early Foundations	37
2.2.1.2.	Post Independence Era: Constitutional and Legislative Mandates	38

2.2.1.3.	International Influence: ILO Conventions	38
2.2.1.4.	Expanding the Scope: Legislative Reforms	38-39
2.2.1.5.	Addressing the Unorganized Sector: PMMVY & Other Initiatives	39
2.2.1.6.	Challenges & Future Reforms	39-40
2.2.2.	Maternity Rights Around the World: A Comparison with India's Legislative Journey	40
2.2.2.1.	Early Foundations	40
2.2.2.2.	Expansion of Coverage & Protections	41
2.2.2.3.	Work Life Balance and Personal Leave	41-42
2.2.2.4.	Government & Employer's Responsibility	42-43
2.2.3.	Judicial Role in the Development of Maternity Benefits Laws in India: A Comprehensive Perspective	43
2.2.3.1.	Constitutional Backing for Maternity Rights	44
2.2.3.2.	Right to Maternity Leave: An Extension of the Right to Life	44
2.2.3.3.	Maternity Benefits for Contractual & Temporary Employees	45
2.2.3.4.	Protection Against Discriminatory Dismissal Due to Pregnancy	45
2.2.3.5.	Judicial Oversight on Implementation of Maternity Benefit Laws	45-46
2.2.3.6.	Creche Facilities & Workplace Support	46
2.2.3.7.	Judicial Support for Extended Leave & Equal Opportunities	46-47
2.3.	Maternity Benefits Reforms	47



2.3.1.	Qualification Criteria	47
2.3.2.	Leave	48
2.3.3.	Ensuring Fair Compensation: Maternity Benefit Acts, Provisions for Paid Leave and Beyond	48
2.3.4.	Medical Advantages	48
2.3.5.	Procurement Insurance	48
2.3.6.	Filing complaint	48
2.3.7.	Employer Obligations	49
2.4.	Maternity Protection Laws in Maharashtra	49-53
2.5.	The Maharashtra Maternity Benefit Rules, 1965	53-56
2.6.	Maternity Protection Laws in Mumbai	56-59
2.7.	Maternity Protection Laws in the Private Sector in Mumbai	59-60
2.7.1.	National Maternity Benefit Scheme (NMBS)	60-61
2.7.2.	Indira Gandhi Matritava Sahayog Yojana	61
2.8.	Conclusion	62
III	<b>CHAPTER III</b> <b>MATERNITY BENEFITS: AN INTERNATIONAL</b> <b>PERSPECTIVE</b>	63-95
3.1.	Overview	63
3.2.	International Laws on Maternity Benefits	63-64
3.2.1.	Nations with Maternity Leave Privileges of More than 16 weeks	64
3.2.1.1.	United Kingdom	64

3.2.1.2.	India	64-65
3.2.1.3.	France	65
3.2.1.4.	Spain	65-66
3.2.2.	Nations with Maternity Leave Privileges of Less than 16 weeks	66
3.2.2.1.	Japan	66
3.2.2.2.	United States of America	66
3.2.2.3.	Canada	66-67
3.2.2.4.	Singapore	67
3.2.2.5.	Thailand	67
3.2.2.6.	China	68
3.2.2.7.	Mexico	68-70
3.3.	International Instruments for Maternity Protection	70-71
3.3.1.	Universal Declaration of Human Rights (UDHR), 1948	71
3.3.2.	International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966	71
3.3.3.	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979	71-72
3.3.4.	Convention on the Rights of the Child (CRC), 1989	72
3.3.5.	Beijing Declaration and Stand for Action, 1995	72-73

3.3.6.	World Health Assembly Declarations - International Plan for Newborn and Young Baby Feeding: Segments related to maternity protection	73-75
3.3.7.	The Innocenti Declarations on Breastfeeding and New-born and Young Baby Feeding	75
3.3.7.1.	Innocenti Declarations, 1990 and 2005	75
3.3.7.2.	Innocenti Declaration on New-born and Young Baby Feeding, 2005	75-76
3.3.8.	International Labour Standards	76
3.3.8.1.	The ILO and International Labour Standards	76
3.3.8.2.	International Labour Standards on Motherhood Safety	76-77
3.3.8.2.1.	The Maternity Protection Conference, 1919	77
3.3.8.2.2.	The Maternity Protection Conference	77
3.3.8.2.3.	The Maternity Protection Conference, 2000	77-78
3.3.8.3.	Ratification and application of ILO motherhood Safety Conferences	78-79
3.3.8.4.	Other ILO Standards and Obligations Connected to Maternity Protection	79
3.3.8.4.1.	Cash and Medical Benefits	79
3.3.8.4.1.1.	The Salary Protection Recommendation, 1944	79
3.3.8.4.1.2.	The Medicinal Treatment Recommendation, 1944	79
3.3.8.4.1.3.	Part VIII of the Social Protection (Minimum Standards) Conference, 1952	79
3.3.8.4.2.	Protection of Health	79

3.3.8.4.2.1.	The Nightwork Conference, 1990 (No. 171) and the Protocol of 1990 to the Nightwork (Females) Conference (Amended), 1948	79-80
3.3.8.4.2.2.	Recommendation regarding AIDS and HIV and the World of Work, 2010 (No. 200)	80
3.3.8.4.3.	Protection of Employment	80
3.3.8.4.3.1.	Employment Termination Conference, 1982	81
3.3.8.4.3.2.	The Promotion of Employment and Safety against Unemployment Conference, 1988	81
3.3.8.4.4.	Non-differentiation	81
3.3.8.4.4.1.	Differentiation (Occupation and Employment) Conference, 1958	81
3.3.8.4.4.2.	The ILO Code of Practice, 1997	81
3.3.8.4.5.	Working conditions	81
3.3.8.4.5.1.	The Vacations with Wage Conference	81
3.3.8.4.5.2.	The Part-Time Job Conference, 1994	81
3.3.8.4.5.3.	The Private Service Agencies Conference, 1997	81
3.3.8.4.5.4.	The Work Formation in Small and Moderate-Sized Organizations Recommendation, 1998	81
3.3.9.	Immigrant employees	82
3.3.9.1.	The Immigration for Service Conference (Amended), 1949	82
3.3.10.	Special segments	82
3.3.10.1.	The Nursing Workers Conference, 1977	82

3.3.10.2.	The Homework Conference and Recommendation, 1996	82
3.3.10.3.	The Protection and Health in Agriculture Conference, 2001	82
3.3.10.4.	The Maritime Labour Conference 2006	82
3.3.10.5.	The Domestic Workers Convention, 2011	82
3.3.11.	Social Discussion and Joint Negotiation	82
3.4.	Broad ILO Commitments to Maternity Protection	82-83
3.4.1.	The Declaration on Equality of Chance and Treatment for Female Employees	83
3.4.2.	The Resolution on equal chances and equal treatment for males and females in service	83
3.4.3.	In the Resolution on gender equality, pay equity and maternity protection	83
3.4.4.	The Declaration on Social Justice for a Reasonable Globalization	83
3.4.5.	The Resolution on gender impartiality at the heart of decent work	83-84
3.4.6.	The Global Jobs Pact	84
3.4.7.	The resolution relating to the persistent dialogue on social safety	84
3.5.	Ratification and application of ILO Conferences	84-85
3.5.1.	The Pre-Ratification Stage	85-86
3.5.2.	The Ratification Procedure	86
3.5.3.	Participant Countries' statement demanded by Conference	86-87

3.5.3.1.	The role of employees' and employers' associations	87-88
3.5.3.2.	Regulation of International Labour Standards and Follow-up Through Technical Support	88
3.5.3.2.1.	The regular system of supervision:	88
3.5.3.2.2.	Special procedures	88
3.5.3.3.	The routine method of regulation	88
3.5.3.4.	The Committee of Experts on the Application of Conventions and Recommendations (CEACR)	88-90
3.5.4.	CEACR comments on Maternity Protection	90
3.5.4.1.	Special procedures	90-91
3.5.4.2.	Follow-up through technical support:	91
3.6.	Regional frameworks	91-92
3.7.	EU - Proposed Reform to amend Council Directive	92
3.8.	Latin American instruments and Maternity Protection	93
3.8.1.	The Quito Consent, 2007	93-94
3.8.2.	Other Protocol to the US Conference on Human Rights in the Region of Cultural, Economic and Social Rights, 1988	94
3.8.3.	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Females in Africa (July 2003)	94
3.8.4.	Southern African Development Community (SADC) Protocol on Social Protection (2007)	94
3.9.	Conclusion	95

IV	<b>CHAPTER IV</b> <b>CONSTITUTIONAL AND LEGISLATIVE</b> <b>FRAMEWORK FOR THE MATERNITY BENEFITS IN</b> <b>INDIA</b>	96-132
4.1.	Overview	96
4.2.	Constitutional Mandate for Maternity Benefits	97-102
4.3.	Fundamental Rights to enhance women's status	102
4.3.1.	Equality Mandate	102
4.3.2.	Non-Discrimination	102
4.3.3.	Abolition of Untouchability	103
4.3.4.	Various Freedoms	103
4.3.5.	Life and Personal Liberty	103
4.3.6.	Educational Rights	103
4.3.7.	Other Constitutional Protections	103-104
4.4.	Overview	104-105
4.4.1.	Analysis of Maternity Benefit Act, 1961 along with the Maternity Benefit (Amendment) Act of 2017	105-118
4.4.2.	Equal Remuneration Act, 1976	118
4.4.3.	National Commission for Women Act, 1990	118
4.4.4.	Constitutional (74th Amendment) Act, 1992	118-119
4.4.5.	The Protection against Sexual Harassment of Women at the Workplace Bill, 2010	119

4.4.6.	Empowering Mothers: Overview of Centrally Sponsored and State-Sponsored Maternity Protection Schemes	119-125
4.5.	Maternity Benefits Under the Code on Social Security, 2020	125-128
4.6.	Maternity Benefits for Gig Workers in India: Current Landscape and Future Perspectives	128-129
4.7.	Child Care Leave (CCL) Policies in India: Understand Benefits and Regulations	129-131
4.8.	Conclusion	131-132
V	<b>CHAPTER V</b>  <b>JUDICIAL ENDEAVOURS TO INTERPRET VARIOUS FACETS OF MATERNITY LAWS</b>	133-158
5.1.	Overview	133-134
5.2.	Maternity Benefit Act: Judicial Craftsmanship	134
5.2.1.	Limitations on Third Child Maternity Leave: Central Civil Services Rules Perspective	135
5.2.1.1.	Purposive Interpretation of Social Welfare Legislations	135-136
5.2.2.	Constitutional Persuade of Social Justice: A Foundational Principle	136-137
5.2.3.	Constitutional Imperatives: Upholding Women's Rights and Maternity Benefits	137-139
5.2.3.1.	Legal Interpretations: Distinction Between Childcare Leave and Maternity Leave	139
5.2.4	Judicial Protection of Working Women: Maternity Relief and Expanded Notions of Family	139-140



5.2.5.	Inclusive Maternity Benefits: Extending Benefits to all Pregnant Women, Irrespective of Employment Status	140-141
5.2.6.	Supreme Court Rebuke: Directing Maternity and Medical Coverage for Ad Hoc Teachers	142
5.2.7.	Legal Mandates and Women's Health: Necessitated Absence from Employment Due to Childbearing	142-143
5.2.8.	Challenges to Pregnancy Discrimination: The Dichotomy of Legal Interpretation in Air India v. Nargesh Meerza	143-144
5.2.9.	Protecting Dignity and Equality: Landmark Supreme Court Verdict on Pregnancy Disclosure and Maternity Rights	144-145
5.2.10.	Comprehensive Maternity and Childcare Rights: A Milestone Directive for Female Employees	145-146
5.2.11.	Maternity Leave as Social Insurance: Promoting Family Well-being and Support	146
5.2.12.	Equal Rights in Motherhood: Advocating for Inclusive Maternity Benefits in Surrogacy Cases	146-147
5.2.13.	Maternity Breaks for Temporary Workers: Upholding Rights Beyond Statutory and Contractual Obligations	147-148
5.2.14.	Extending Maternity Leave: Recognizing Fundamental Rights over Contractual Norms	148-149
5.2.15.	Ensuring Gender Equality: Challenging Denial of Seniority Due to Pregnancy Related Course Attendance Barriers	149-150
5.2.16.	Maternity Rights for Commissioning Mothers: Challenging Discrimination and Defining Legal Protections	150

5.2.17.	Combating Pregnancy Discriminations: Upholding Constitutional Rights in Employment cases	150-151
5.2.18.	Ensuring Equality: Upholding Maternity Rights for Ad Hoc Employees	151-152
5.2.19.	Challenging Discrimination: Gender Equality in the Central Reserve Police Force	152
5.2.20.	Equal Rights in Career Advancement: Pregnancy Discrimination and Seniority Denial	152
5.2.21.	Upholding Constitutional Rights: Protecting the Rights of Pregnant Women in Employment	152
5.2.22.	Restoring Justice: Delhi High Court's Ruling on Unlawful Dismissal During Maternity Leave	153
5.2.23.	Ensuring Maternity Rights: Interpreting Eligibility Under the Maternity Benefits Act	153
5.2.24.	Ensuring Education Equality: Upholding Women's Rights in Higher Education during Pregnancy	153-154
5.2.25.	Ensuring Maternity Rights: Upholding Benefit Access Regardless of Wage Payment Method	154
5.2.26.	Protecting Maternity Rights: Prohibiting Compulsory Work on Holidays and Ensuring Full Benefits	154
5.2.27.	Exploring Social Security Laws in India: Contributory and Non-Contributory Perspectives	154
5.2.28.	Prioritizing Maternal Health: A Case for Equal Treatment in Government Employment	155

5.2.29.	Upholding Maternity Rights: Recognition of Contractual Employees' Establishments	155
5.2.30.	Ensuring Maternity Benefits: Upholding Rights Beyond Contractual Terms	156
5.2.31.	Upholding Maternity Benefits: Ensuring Equality Regardless of Employment Status	156
5.2.32	Childcare leave for women is a constitutional mandate: Supreme Court	156
5.3.	Conclusion	156-158
VI	<b>CHAPTER VI IMPLEMENTATION OF OF MATERNITY BENEFIT LAWS IN THE PRIVATE SECTOR AND PUBLIC SECTOR IN MUMBAI</b>	159-256
6.1.	Overview	159
6.2.	Social-Legal Impact of Maternity Benefits Laws in the De-facto Financial Centre of India, Mumbai	160
6.3.	Field Study	161-162
6.3.1.	General Questionnaire	162-193
6.3.2.	Special Questionnaire	193-227
6.4.	Addressing Challenges: Implementing Maternity Benefit Laws in the Public and Private Sector	227-229
6.4.1.	Maternity Protection: An Empirical Examination of Principles and Implementation Challenges	229-234
6.5.	Exploring Maternity Benefit Implementation: Interview Schedule and Findings	234-235
6.5.1.	Procedure to File Complaints in Case of Non-compliance of Maternity Benefit Laws	235

6.5.2.	Assessing Maternity Benefit Laws: Maharashtra State Commission for Women's Perspective	236-239
6.5.3.	Interview Schedule Questionnaire for the Labour Commissioner Mumbai	239-241
6.5.3.1.	Streamlined Procedure for Filing Complaints on Maternity Benefit Non-compliance in Maharashtra	241-242
6.5.4.	Maternity Benefit in Private and Government Colleges	243-247
6.5.5.	Understanding Maternity benefits for Women Employees in Private and Government Hospital under the Maternity Benefit Law	247-250
6.5.6.	Maternity Benefits in Private and Government or Nationalized Banks	250-254
6.5.7.	Maternity Benefit in the Corporate Sector: Supporting Working Mothers through Policies and Practices	254-256
6.6.	Conclusion	256
VII	<b>CHAPTER VII</b> <b>CONCLUSION AND SUGGESTIONS</b>	257
7.1.	Overview	257
7.2.	Testing the Hypothesis	258-259
7.3.	Conclusion	259-263
7.4.	Suggestions	263
7.4.1.	Legislative Measures	263-264
7.4.1.1.	Maternity breaks are to be extended	264
7.4.1.2.	Social Security Scheme	264-265
7.4.1.3.	Establishment of Grievance Redressal Tribunal	265
7.4.1.4.	Capital Expenditure for the Employers	265

7.4.1.5.	Outsourcing of Creche facilities	266
7.4.1.6.	Incorporation of Creche facilities within the Establishments	266
7.4.1.7.	Extension of this Act to more establishments	266
7.4.1.8.	Provisions for Paternity Leave	266-267
7.4.1.9.	Punitive Measures to be Increased	267
7.4.1.10.	Leave to be increased for Commissioning Mother and Adoptive Mother	268
7.4.1.11.	Empowered Human Resources	268
7.4.2.	Implementation of Law	268
7.4.2.1.	Role of Government	268-269
7.4.2.2.	Responsibility of Employers	269-270
7.4.2.3.	Responsibility of Employees	270
7.4.2.4.	Strict Implementation of the Act	270-271
7.4.3.	Miscellaneous	271
7.4.3.1.	Role of Individuals	271
7.4.3.2.	Awareness and Education	272
7.4.3.3.	Family Support	272
7.4.3.4.	Judiciary's Role	272-273
7.4.3.5.	Role of NGOs	273-274
7.5.	Strengthening the Enforcement of Maternity Benefit Laws in India	274-276

7.5.1.	Enhancing Maternity Benefit Policies: Essential Recommendation for Public and Private Sector	276-278
	Bibliography	
	Annexures	

## List of Tables and Figures

<b>S. No.</b>	<b>Contents</b>	<b>Page No.</b>
<b>Table 1.1.</b>	Sample Proportions of General and Legal Respondents from Questionnaire Methods	<b>27</b>
<b>Table 1.2.</b>	Structured Interview Schedule of Different Stakeholders Regarding Implementation of Maternity Benefit Laws	<b>27-28</b>
<b>Table 3.1.</b>	A comparative analysis of maternity laws in India, France, Spain, Japan, United States of America, Canada, Singapore, Thailand, China, and Mexico	<b>68-69</b>
<b>Table 6.1.</b>	Participation of Stakeholders / Respondents for the Study	<b>235</b>
<b>Figure 6.2.</b>	Geographical Indication of Mumbai, Maharashtra	<b>160</b>
<b>Figure 6.3.1.1.</b>	Figure representing age group of general respondents.	<b>163</b>
<b>Figure 6.3.1.2.</b>	Figure Representing employment type of general respondents.	<b>164</b>
<b>Figure 6.3.1.3.</b>	Figure Representing Organisation type of general respondents.	<b>166</b>
<b>Figure 6.3.1.4.</b>	Figure Representing profession of general respondents.	<b>167</b>
<b>Figure 6.3.1.5</b>	Figure Representing the marital status of the general respondents.	<b>169</b>
<b>Figure 6.3.1.6.</b>	Figure Representing the familiarity of general respondents to the Maternity Benefits Act.	<b>170</b>
<b>Figure 6.3.1.7.</b>	Figure Representing the usage of maternity leaves of general respondents.	<b>172</b>
<b>Figure 6.3.1.8.</b>	Figure Representing the payment of maternity benefits during maternity period of general respondents.	<b>174</b>

<b>Figure 6.3.1.9.</b>	Figure representing the adherence of Maternity Act requirement at the organisation of general respondents.	<b>175</b>
<b>Figure 6.3.1.10.</b>	Figure representing the modification of the Act by the employers of the general respondents to suit their needs.	<b>178</b>
<b>Figure 6.3.1.11.</b>	Figure representing the timing of leave of general respondents.	<b>180</b>
<b>Figure 6.3.1.12.</b>	Figure representing the length of reception of pay on leave for general respondents.	<b>182</b>
<b>Figure 6.3.1.13.</b>	Figure representing the factors affecting the general respondents after childbirth.	<b>184</b>
<b>Figure 6.3.1.14.</b>	Figure representing the opinion of general respondents on beneficiary value of the amendment Act of 2017 on women and society.	<b>186</b>
<b>Figure 6.3.1.15.</b>	Figure representing the future hopes and expectations of general respondents from an employers or government.	<b>188</b>
<b>Figure 6.3.1.16.</b>	Figure representing the awareness of general respondents about the maternity break of 6 weeks given in case of miscarriages or medical termination of pregnancy.	<b>190</b>
<b>Figure 6.3.1.17.</b>	Figure representing the awareness of general respondents about the 12 weeks of paid maternity leave given to adoptive or commissioning mothers.	<b>191</b>
<b>Figure 6.3.2.1.</b>	Figure representing age group of special respondents.	<b>195</b>
<b>Figure 6.3.2.2.</b>	Figure Representing employment type of special respondents.	<b>196</b>
<b>Figure 6.3.2.3.</b>	Figure Representing Organisation type of special respondents.	<b>198</b>



<b>Figure 6.3.2.4.</b>	Figure Representing the marital status of the special respondents.	<b>200</b>
<b>Figure 6.3.2.5.</b>	Figure Representing the familiarity of special respondents to the Maternity Benefits Act.	<b>201</b>
<b>Figure 6.3.2.6.</b>	Figure Representing the usage of maternity leaves of special respondents.	<b>203</b>
<b>Figure 6.3.2.7.</b>	Figure Representing the payment of maternity benefits during maternity period of special respondents.	<b>204</b>
<b>Figure 6.3.2.8.</b>	Figure representing the adherence of Maternity Act requirement at the organisation of special respondents.	<b>206</b>
<b>Figure 6.3.2.9.</b>	Figure representing the modification of the Act by the employers of the special respondents to suit their needs.	<b>208</b>
<b>Figure 6.3.2.10.</b>	Figure representing the timing of leave of special respondents.	<b>210</b>
<b>Figure 6.3.2.11.</b>	Figure representing whether the employer of special respondent educate them about the maternity benefits at the time of their appointment.	<b>212</b>
<b>Figure 6.3.2.12.</b>	Figure representing the factors affecting the special respondents after childbirth.	<b>213</b>
<b>Figure 6.3.2.13.</b>	Figure representing the opinion of special respondents on beneficiary value of the amendment Act of 2017 on women and society.	<b>215</b>
<b>Figure 6.3.2.14.</b>	Figure representing the future hopes and expectations of special respondents from an employers or government.	<b>217</b>

<b>Figure 6.3.2.15.</b>	Figure representing the awareness of special respondents about the maternity break of 6 weeks given in case of miscarriages or medical termination of pregnancy.	<b>218</b>
<b>Figure 6.3.2.16.</b>	Figure representing the awareness of special respondents about the 12 weeks of paid maternity leave given to adoptive or commissioning mothers.	<b>220</b>
<b>Figure 6.3.2.17.</b>	Figure representing the awareness of special respondents that after the 2017 amendment to Maternity Benefit Act, 26 weeks (six and half months) of paid leave are given to women.	<b>222</b>
<b>Figure 6.3.2.18.</b>	Figure representing the awareness of special respondents that that if a woman dies before availing of the maternity benefits or amount, it will be given to the assigned nominee.	<b>224</b>
<b>Figure 6.3.2.19.</b>	Figure representing the awareness of special respondents that that there is a provision for legal punishment (minimum three months of imprisonment and minimum Rs. 2000 fine) if the employer fails to pay a women employee during her maternity leave.	<b>226</b>

## CHAPTER - I

### INTRODUCTION

*“Maternity leave and parental leave is absolutely vital for strengthening families. It's an issue for men and women.”*

- Quentin Bryce

#### 1.1 Introduction

Throughout the annals of history, women have endured countless transgressions in the guise of gender prejudice. The world has borne witness to numerous occurrences where women have been oppressed by the intricacies of patriarchy, enduring demeaning treatment based solely on their gender. Sometimes, it is induced by violence and at the other times, it is induced by threats and psychological predicaments. Therefore, the need to introduce the basic criteria or standards for adequate and rightful treatment of women was realised and made pertinent. One of the oldest texts in the Hindu mythology, the ‘Vedas’ speaks of rightful status of a woman and the attributes of treatment of womanhood in many verses and hymns.<sup>1</sup> It has also been contended by the historians like Wendy Doniger that women have not been favoured much by the major religions of the world in the past.<sup>2</sup> However the present times are much more inclined towards evolving the feminist jurisprudence to become more inclusive and corresponds the values of equality, justice and liberty, the very basic preambular characteristics of the Constitution of India. The notion of transformative constitutionalism, delineated and recognized by the Constitutional Bench of India's Supreme Court in the case of Justice K. S. Puttuswamy (Retd.) and Anr. vs Union Of India And Ors, has emerged as a pivotal framework for the present-day justice administration system, requiring its application in all dimensions of the lives of Indian citizens.<sup>3</sup> The case per se, dealt with the contours of privacy so far as the Aadhaar card and the social media information of an individual is concerned, invoking question as to whether can to privacy would be enforced against a private entity or not. However, the unanimous decision of the nine-judges bench has ruled that the privacy has multi-fold contours touching aspects of life, liberty and even personal autonomy of an individual and therefore they could declare privacy as a fundamental right. This judgment enabled itself and the other courts of India to identify new parameters of individuality, recognition and sexual orientation, marking decriminalisation of homosexuality and adultery in India.<sup>4</sup>

Nonetheless, the judiciary had even recognised the new emerging parameters of equality and indeed the legislations are existent to delve upon bridging the gap between the genders and the sexes to recognise one and all as equals. Womanhood is one such existential truth which itself brings life into existence. It is neither contentious nor debatable that women and womanhood are to be attributed and comprehended within the wall-walled criterion of bearing a child. It is a fact of nature that a mother can only bear a child. Despite the scientific and biological evolutionary phenomenon, the world per se depends on a woman for the human species to strive, thrive and perpetuate. However, while ascertaining this role to women, regardless of their desires, are factors of modern times counted in? A woman is now not merely a child delivery machine but so much more a human being with social, political, and economic rights. The present society has been reshaped to allow men and women to grow and prosper as per their desired roles. The rights in the name and shape of umbrella right to life, right to equality, right to livelihood, right to free speech and expression, right against discrimination and right to religion, to name a few, are provided to one and all in a democratic, socialist, secular republic that is India. Alongside these internationally and constitutionally recognized rights, the corresponding duties have also been entrusted to all citizens, be it men, women, transgender people, etc., for them to preserve and protect fraternity in the country, which would not only ensure and protect the dignity of the individual but would also keep the nation united. Therefore, the notion of social security was introduced in the Indian Constitution.

The right to social security is widely accepted as a fundamental human right that ensures every citizen a safe, healthful, and acceptable living standard. The phrase 'social security' indicates the protection provided in the event of social threats and needs by social security programs. 'Social security' means policies that, in cash or kind, provide coverage for the insurance, among other things: loss of labour income or income from illness, handicap, pregnancy, work injury, unemployment, the ages or death of a member of the family; lack of access or affordable access to healthcare; lack of social support for the reason, especially for the benefit of a member of the family.

In India, the concept of social security, also known as the Social Protection Floor (SPF), encompasses a range of government-operated statutory insurance and social grant programs that were once part of a convoluted and fragmented system at both the federal and state levels. SPF can be categorized into three distinct types: non-contributory and funded by taxpayers, employer-

funded, and jointly funded, with contributions coming from both the employer and employee, along with partial support from the government. Within the realm of social security, one division specifically focuses on maternal support, providing medical care and benefits as a substitute for maternity leave.

The concept of SPF has been developed to represent the entire set of social rights, services, and installations that every person is to enjoy in recognition of the significant global disparities in access to social security.<sup>5</sup> SPF comprises an entire program of cash and cash guarantees that help poor and sick people in ensuring basic income security in childhood, at work, and the age of old age, and access to necessary health care at an affordable price. These assurances lay down the minimum-security requirements that should be afforded to all people in society in case of need.<sup>6</sup>

In the well-being of mothers and children in and after pregnancy, strengthening and improving social welfare is just as important as it is to the life-long well-being of all females, men, and children. Cash advantages are required to offset lost earnings in the weeks immediately before and after the birth to facilitate mothers' recovery, nutrition, economic security, and well-being of mothers and their children. They contribute directly to the MDG (The United Nations Millennium Development Goals hereinafter referred to as 'MDGs' are eight goals that UN Member States have agreed to try to achieve by the year 2015) - MDG 3 (on gender equality) and MDG 5 (on maternal health). Social welfare measures often give significant benefits for newborns to cover pregnancy and access to medical care. They help to reduce infant mortality, promote physical and mental development, and reduce transmission of HIV and AIDS mother-to-child through access to health services, which all lead towards the goals of MDG 4 (Making the Child's Health) and MDG 6. (Combating HIV, AIDS, and other diseases).

Unfortunately, 20 percent of women have comprehensive social security services for the working population of the world and their families. In comparison, at least 40 percent still need access to primary social benefits. This means that the cash and health advantages of maternity leave for many women are well beyond their control. Governments and other stakeholders are immediately expected to take measures to strengthen and extend social welfare, including maternity rights, to reach the MDGs.

Maternity leave refers to a form of leave traditionally taken by mothers or birthing parents in the period surrounding childbirth. In certain instances, it also applies to those adopting a child. The specific provisions for maternity leave are outlined in local labor regulations, and these

regulations can vary from one jurisdiction to another. Maternity leave can encompass paid, unpaid, or partially paid arrangements, depending on the applicable laws and policies.

The Maternity Benefits Act 1961 was enacted to provide women with an equitable environment and a level playing ground in workplaces.<sup>7</sup> "The State shall provide for safeguarding just and humane working conditions and maternity relief," under article 39 of DPSPs of the Indian Constitution.<sup>8</sup> In India, working women may avail maternity leave for up to 3 months under Maternity Benefits Act 1961. It guarantees that each woman has a right to the payment amount at the time of her actual absence is referred to as the maternity benefit payment. Again, the Act said the women who is supposed to gain maternity benefits should have worked for at least 80 days in the last 12 months. Moreover, no company shall be allowed to appoint a woman for six weeks. Just after the day of birth, mistake, or health care and end of childbirth if there is no female pregnant at work. It is forbidden for the employer to do so by a provision of this Act. The Act in 1961 on maternity allowance also comprises additional requirements, including the Ordinance on maternity benefit, to refuse her by citing this deficiency (Maternity Benefit Act: 1961).

The amendment of 2017 was necessary after the Maternity Act of 1961. After the passage of 55 years, many changes took place in society; hence, new reforms are needed in the Act. During 1961, the number of working women was very few, but with time, this number continued to increase. Moreover, by 2016-17, the participation of working women became significant. Hence, it also became necessary to understand and address the needs of women and their problems in the workplace to have a better work-life balance. After the 2017 amendment, maternity leaves were increased from 12 weeks to 26 weeks. The Act became applicable to factories, mines, plantations, shops, and other establishments.<sup>9</sup> The Act also introduced provisions for adoptive and commissioning mothers.

The Maternity Benefit Amendment Act of 2017 governs the employment conditions of women during childbirth and grants maternity benefits. This Act is applicable to various establishments, including factories, mines, plantations, shops, and others. It introduces provisions pertaining to the duration and scope of maternity leave and additional facilities.

Maternity leave for adoptive and commissioning mothers: Under this Act, it is proposed to provide 12 weeks of maternity leave to two categories of women – (i) those who legally adopt a child under three months of age, and (ii) commissioning mothers. A commissioning mother is defined as a biological mother who utilizes her egg to create an embryo implanted in another

woman. The 12-week maternity benefit period begins from the date the child is handed over to the adoptive or commissioning mother. Option to work from home: The Act also introduces a provision allowing employers to permit women to work from home if the nature of their assigned work permits remote work. This option can be exercised after the maternity leave period, for a duration mutually agreed upon by the employer and the woman.

The primary objective of this act is to safeguard the dignity of motherhood and ensure the well-being of both the mother and the newborn by supporting them financially during the crucial period when the woman is not engaged in employment. Pregnancy marks the beginning of a new chapter in the life of a working woman, introducing fresh expectations and unforeseen challenges. The absence of a proper support system often compels many women to leave their jobs. In fact, nearly half of women in junior-level positions leave before advancing to middle management due to the constraints of the existing Maternity Benefit Act of 1961.

The incorporation of these new changes into the existing maternity benefit law aims to provide women in the country with more time for childcare and family development. Under the amended act, women are now entitled to 26 weeks of maternity leave as opposed to the previous 12 weeks. The Maternity Benefit Act of 1961 serves to protect women's employment during their maternity leave, ensuring their right to return to their jobs with full pay to care for their child.

Regrettably, an extended maternity leave alone will only address the concerns of a specific group of working women. This amendment primarily benefits women employed in organized sectors within the government, its departments, or the corporate realm, constituting approximately 12.1% of employed women. The majority of women work in informal sectors, such as small businesses, service providers, cottage industries, domestic roles, or as daily wage earners, with others engaged in agriculture and construction. Unfortunately, this amendment fails to address the pressing need to establish a safety net for these working women when they are nursing a new baby. Many of them do not even earn the minimum income prescribed, rendering them financially vulnerable. It is imperative for both the state and central governments to address the concerns of this significant portion of women in the workforce.

Today in our nation, the position of a homemaker has changed dramatically to that of a career woman. The result is obviously due to broad industrialization, in which growing numbers of women have grown their abilities to serve the needs of offices, workplaces, and labour-intensive sectors, like plantations. While today women are recognized and adapted to new roles offered by

a civilized society, their positions as mothers have been in severe crisis and difficulty because of this exponential degree of social change. Women require special attention, and they must stress that they need it when they come to this necessity during the different phases of pregnancy and the culture around all these women. Maternity benefits and maternity leave are essential functions for all female employees in all segments of female workers. They play an essential role in maintaining and growing the corporate presence and retention, efficiency, and satisfaction at work.<sup>10</sup>

The law also includes support and enactment of various laws for maternity benefits, particularly within private organizations. Inaccurate entitlement specifics (maternity benefit procedure) accompanied by improperly organized payment policies are due to a lack of the relevant laws, the lack of mechanisms, the direct causes of violations of validated labour standards, and the subsequent infringement of female rights as guaranteed in the Indian constitution considering that not only the legislation relating to maternity laws, but also the Employee's State Insurance Act of 1948, and the Central Civil Service Rules of 1972, which concern maternity protection, is the law of 1961 on maternity benefits. The researchers would attempt in the first section to point out that there are a minimal scope and extent to follow the legal structure in the after-independence era, summing up the fact that an overall proportion of women in private companies are comfortably excluded from such benefits. Enacting the implementation of the Private Motherhood Act could contribute more favourably to women's work, which in turn would contribute to the essential step towards the adoption of the International Labor Organization Convention. The second will concentrate on a thorough discussion of the road to maternity benefits and associated safety topics in India, the common interconnections between working women and women's maternal position, and their approach over the years.

## **1.2. Statement of Problem**

The issue of maternity benefits is pivotal in safeguarding the rights and welfare of working women. This socio-legal study aims to examine the disparity in the implementation and impact of maternity benefits across the public and private sectors in India, particularly following the enactment of the Maternity Benefit (Amendment) Act 2017. Despite the Act's attempt to extend maternity leave and introduce additional benefits like creche facilities and work-from-home options, shortcomings in the legislative framework persist, especially within the private sector. However, the current legislative framework, specifically the Maternity Benefit Act, despite



amendments in 2017, remains insufficient in addressing the needs of working mothers especially in private sector. However, its actual enforcement and reception vary significantly between the public and private sectors.

Despite legislative efforts to enhance maternity benefits and support working mothers in India, significant gaps and challenges remain in the effective implementation and enforcement of these laws, particularly within the private sector. The 2017 amendment to the Maternity Benefit Act aimed to address some of these issues, but many deficiencies persist. This research seeks to investigate the following key problems:

- There is a historical and ongoing lack of compliance with maternity benefit laws, particularly among private sector employers, who often view pregnancy and childcare as 'women's issues' and fail to take these concerns seriously.
- Despite the judiciary's efforts to expand the scope of the Maternity Benefit Act, many working mothers are dissatisfied due to the courts' reluctance to extend maternity leave duration and the exclusion of private sector from these benefits.
- A considerable gap exists between public and private sector compliance with maternity benefit laws, with the private sector lagging significantly.
- The 2017 amendment does not provide clear guidelines regarding essential elements such as the availability, frequency, and duration of nursing breaks, as well as the provision of creche facilities and other maternity benefits in the private sector.
- There is an absence of standardized regulations for paternity leave, leading to inconsistent policies across different organizations, particularly in the private sector.
- The increased maternity benefits have made some employers hesitant to hire female employees due to the perceived financial burden. This research will explore the feasibility of state-supported maternity compensation to alleviate this burden.

The research aims to examine these issues in depth, assess the effectiveness of current policies, and propose solutions to ensure better support and equity for working mothers in India.

### **1.3. Review of Literature**

There have been several empirical observations on the various dimensions of mother's rights laws and regulations. In the Motherhood Benefits Act, the Researcher has checked several documents and papers and examined similar legislation affecting women's freedom to experience them comfortably and underfunded, particularly in the private sector. Given in turn, by reading

several publications, the researcher has lived within the concept as stated below in the various publications:

- **Puri, P. A., & Wani, S. A. (2022)**<sup>11</sup> explained that the "Employee" was a mere production factor following industrialization in both the organized and unorganized sectors. The legal and social necessity of providing social security for workers who contributed significantly to the industry was undervalued. As a result, legislation is transformed into a tool for ensuring social and economic fairness. The Maternity Benefits Act of 1961 was explicitly enacted to safeguard pregnant women's and their families' rights throughout pregnancy and childbirth. Simply put, the Constitution's Directive Principles of State Policy are the backbone of the Social Security system. The study's primary goal was to examine how social security, specifically Maternity Benefits for working women in any industry, has changed over time.
- **Saumya Dubey (2021)**<sup>12</sup>, in 2017, The Maternity Benefit Act, which raises paid leave for expectant moms from 12 weeks to 26 weeks, was adopted by the Parliament of India. The initially revolutionary change, under closer scrutiny, shows that the 'gender-based division of labour was not recognized in society and seems to improve it. Also, the MB Act requires employers liable to pay the costs of such benefits, making women workers "cheaper" than men. According to projections, the move would result in approximately 12 million women leaving the workforce (Nikore, 2018). India has seen its Global Gender Gap Index, published by the World Economic Forum, fall continuously since 2016. The explanation for this is that women's participation in the Indian economy was poor and low, inclusive. Furthermore, this law is essential in trying to normalize the concept of solo women's role in childcare. This Act is accompanied by the submission of the 2017 Paternity Benefit Bill to introduce new paternity leave legislation. It proposed to male workers in both organized and unorganized sectors a 15-day leave bonus paid to them. The plan to take paternity leave of 15 days is a simple bite in promoting a widespread social reform in shared responsibility and shared parenting, while the MB Act provides a 6-month maternity leave period. The MB law must be examined in its current form to connect the lack of inclusiveness among women in the workforce and to preserve the dignity of women. This article highlights the proposed law's pitfalls and discusses gender-neutral parental leaves to promote greater equality between men and women.

- **Anushka Sharma (2020)<sup>13</sup>**, "An Understanding of the Transitional Nature of Law around Maternity Benefits in India," The objective of this review is to discuss the maternity leave legislation in three areas: firstly, it explores the maternity advantages offered by India, the case history on maternity leave and the effectiveness of current legislation. This is accomplished by identifying the constitutional requirement on maternity and foreign maternity rights, which require the signatory State (India, in this case) to respect the requirement. Secondly, it highlights the disparity in maternity benefits offered between the organized and non-organized industries and thus helps to promote efficiency analysis. It also analyses the impact of maternity leave on labour reforms and the consequences of reforms in India.

Indian culture has often seen women as the weakest part of society about society's norms. On the opposite, men must provide financial assistance to the family. Culture promotes females as homemakers and caregivers of children. With time and culture rising, however, people now need help finding good pay, and more females are interested in working. The law considered this by introducing the Maternity Benefit Act of 1961, which protects women's jobs during their maternity time and gives them a right to maternity care – that is, full-paid childcare without employment. In this sense, the legislation tackled the increasing uneasiness of society. The Act extends to all facilities employing ten or more workers. After recognizing the need for improvement and amendments to the act, the Maternity Benefit (Amendment) Act 2017 came into effect, which is mentioned in detail in this Article.

- **Gayathri Devi and DR K Logasakthi (2020)<sup>14</sup>**, "A Comparative Analysis on Maternity Benefits in India with Other Countries." This paper mainly emphasizes maternity benefits in India and the rest. Today, one-third of women work through pregnancy and face a range of barriers to solving issues related to health. Government agencies in various regions around the world have implemented pregnancy insurance schemes. This applies, with some exceptions, to both the public and private sectors. i.e., a woman can work only when her maternity leave depends upon her monthly earnings and absolute absence as an organization over at least 80 days during the last 12 months. However, both the public and the private sector companies for female employees on maternity benefits will be subject to the government legislation of the pay act. Motherhood insurance schemes contribute to

safeguarding and assisting both mothers' and their children's lives with leave, wages, and rewards. It can work at home and can be extended if necessary. The employers and employees have a signed obligation. It will support her in taking good care of her infant during and after pregnancy. This study, therefore, aims to deeply understand how maternity care services provide facilities for women and how they differ from other nations.

- **Ankita Verma, Rakesh Kumar Shukla, and Y. S. Negi (2020)<sup>15</sup>,**” An Analysis of Awareness and Implementation of Maternity Benefits Act – A Study in Western Himalayan State of Himachal Pradesh, India,” One of India's workplace women's healthcare systems is the Maternities Benefits Act, 1961 (the most recent reform in 2017). This study considered the degree of understanding, the extent to which the Act would be applied, and the challenges that working women experience before and after maternity leave in using the benefits of the Act. The study surveyed 112 contractual and daily working women in the western Himalayan state of Himachal Pradesh, India, in public and private education institutions. Just those women who took maternity leave were brought back to research after their maternity leave. The study revealed that female staff and often working women lacked understanding. Pregnancy legislation is confused with schemes of motherhood. It became evident that women were not very much the voice of business owners' violence in providing prescribed benefits as they were concerned about work losses. Females: Emotional frustration and criticism from coworkers were experienced in the private industry if they were fully used to leaving the benefits. The government was suggested to notify women of the maternal benefits Act by promotions for awareness. Business owners should also feel their moral responsibility to pay due gain to and educate women on the same matter.
- **Dr.RajeshriRandiveAdmane (2020)<sup>16</sup>,**” A Study on Effectiveness and Impact of Maternity Benefit (Amendment) Act, 2017 on Employment in Unorganized Sector concerning Construction Company (West Nagpur, Maharashtra, India)", Any business can only achieve its objective if the workers work entirely together. Working with employees is only appropriate if he is delighted with their employer. Maternity is the kind that keeps women out of work and affects their earning potential for an extended period, and it has to do with child welfare. Therefore, it is compulsory to provide maternity benefits for women workers. The maternity benefits should aim at tracking and compensating maternity and other benefits for the jobs of female workers for specific periods of pre-and post-birth time

in certain institutions. This study explores the effectiveness and effects of the Maternity Benefit Act (Amendment) Act 2017 on employment in the unorganized market. The aim is also to raise public awareness of the legislation on maternity benefits among female workers. To obtain more reliable and first-hand information from women workers, research was conducted on the maternity benefit of female workers in the work company based on primary data. Data were obtained through a face-to-face interview. The questions were focused solely on the benefits of maternity.

- **Surabhi Chaturvedi (2019)<sup>17</sup>,**” Social safety net for maternity protection and early childhood development in India,” this study examines the Integrated Child Development (ICDS) framework and other policies aimed at promoting motherhood and early childhood development (the historical development and present form of the system). With the findings from the second paper in mind, this paper aims to examine the potential and the nature of the ICDS system to meet its intended recipient. It stresses that vertical programs attempt to produce intervention strategies using the common ICDS platform without accurately evaluating their capability or platform design to supply integrated services. Sometimes the layering of additional inputs onto these systems causes the device to overflow, likely to result in lower returns or exacerbate the negative feedback loops. Also, one of the best components impacting childcare centres’ quality is human capital for childcare. This paper contains findings from a study of quality on the motivation of human resources and non-monetary rewards that affect the performance and productivity of human resources. This is supported by articulating probable study objectives and some following stages to different strategies of child development growth and maternity support.
- **Dr. Shashi Bala (2019)<sup>18</sup>,**” Impact of the Maternity Benefit (Amendment) Act, 2017 in the IT/ITES Industry”, this report aims to study, in terms of legal compliance at work, the implications of the Maternity Benefit (Amendment) Act 2017. The effects of legislative changes on the place of work must be analyzed, and the state of awareness, behaviours, and experience in the place of work must be recognized. This research is intended as a quick assessment of the essential patterns that can facilitate the delivery of the changed law to improve.
- **Sanjay Tripathi et al. (2019)<sup>19</sup>,**” Quality of maternity care provided by private sector healthcare facilities in three states of India: a situational analysis,” Good quality care can

substantially enhance maternal and infant survival around childbirth. It is essential to analyze the quality of maternity care provided by the private sector healthcare facilities in countries such as India, where the private industry contributes to a significant proportion of institutional delivery. The study aims to fill the information gap by analyzing the Manyata threshold assessments that aim to facilitate maternity care in private facilities.

- **Aarushi Kalra and Aditi Priya (2019)**<sup>20</sup>, In June 2018, we conducted a small survey in two blocks in Jharkhand, Manika Latehar District, and Khunti District, of the Pradhan Mantri Matru Vandana Yojana (PMMVY). In addition to studying the PMMVY status, we researched the issues facing women during pregnancy and childbirth, including the cost of health care, malnutrition, and income loss. At the time, most females had significant money issues. Firstly, the costs of medications, testing, hospitalization, and transportation are huge. On the other hand, their salaries and revenues also decrease due to decreased pregnancy skills. In particular, Adivasi and Dalit are vulnerable, as women are supposed to start wages. Due to limited scope, low benefits, and cumbersome procedures, the PMMVY has done even less to resolve these issues. It not only calls for the scheme to be improved but also for the National Food Security Act to be respected: maternity benefits for all births, not only the first living child, should be increased to at least Rs. 6, 000 per child. In most countries, including India, maternity rights are recognized as paid leave for employed persons in the formal sector. This is an essential recognition of the specific needs of working women who may need relaxation pre- and post-pregnancy, setting policies (and incurring spending) that have longer-term implications for mother and child health. In the formal sector, only 6.5% of Indian workers are working, with only 5.9% of women employed in the organized economy (ILO, 2018). The advantages of the formal sectors should be covered for females in the informal sector or women doing non-payment policies work at home. Enhanced coverage in respect of maternity rights is a significant move forward in the compensation and acknowledgment of the unpaid work of women in informal employment.
- **A.Y.M. Siregar et al. (2019)**<sup>21</sup>, nearly half of all Indonesian kids under the age of 6 have not been breastfeeding exclusively in 2017. Maternity safety programs can lead to higher rates of breastfeeding. This study seeks to estimate the possible costs of optimizing the current payment scheme for maternity protection, estimate the budgets necessary to increase lactation rooms in medium and large companies and examine the challenges of their

introduction in Indonesia. From 2020 to 2030, it was projected that the present and enhanced financial burden for maternity leave would occur (3 and 6 months) and the government's future Budgetary effects. For informal employment businesses, the cost to set up breastfeeding rooms is calculated using the criteria Alive & Thrive. In 2016 interviews with 29 respondents were conducted across five separate provinces to identify existing and future obstacles in implementing current and enhanced maternity welfare policies. The expansion costs in the three- to the six-month timeframe for paid maternity leave and the inclusion of standard lactation facilities in 80percent of medium and large companies across Indonesia were expected to amount to US\$ 1 billion (US\$ 616,4/mother/year) from 2020 to 2030 and some 1,7 million females. Eighty percent of medium and large companies will spend US\$ 18,1 million over ten years setting up a simple lactation space. The three critical obstacles to expanding breastfeeding practices were breast milk replacement sales practices, lack of workplace lactation facilities, and local traditions that could interfere with breastfeeding as recommended. Extended paid maternity leave costs are more minor than potential savings of US\$ 1.5 billion from lower mortality and morbidity among children, maternal rates of cancer, and cognitive losses. A cost-effective economic solution can arise from sharing paid maternity leave between the government and industry. Critical obstacles to growing lactation must be addressed to gain the advantages of prescribed lactation activities.

- **Janine Hicks's (2019)**<sup>22</sup>article discusses how women mobilized for a legislative response to the crucial issue of gender-based justice in the organized labour system in South Africa, explicitly linking to maternity coverage for self-employed women and women in the informal sector. Currently, Southern Africa's labour-relatedlaw framework only allows workers to benefit from social security benefits such as Unemployment Insurer and Maternity Benefits, which result in discrimination against and harm to the informal economy and self-employed workers (Unemployment Insurance Act 63 of 2001, Unemployment Insurance Contributions Act 4 of 2002, Work Relations Act 66 of 1995).In a case in point received, legal and consultative research was conducted among the South African Self-Employed Women's Association (SASEWA) members and analyze the effects of this gap on the rights of their sexual and reproductive health, labour rights and Constitutional r of the Commission for Gender Equality, one South African Constitutional Organization (CGE). Through its national gender structure, CGE formed a strategic alliance

with the South African Trade Union Congress (COSATU), which led to the adoption of its National Conference on Gender Policy, South Africa's ratification of the International Labor Organisation's Motherhood Convention 183 and Recommendation 191 on Maternity Security, and reforms needed to the current labour laws. With the overview mandate and policy advocacy contributions of the CGE under-stressed, the campaign partners on the topic should ensure that the Office of Justice and Constitutional Development support this reform and the formation of the South African Law Reform Committee by the political weight of the COSATU political advice as a member of the ruling party's Tripartite Alliance (SALRC 2017a, 2017b). Subsequent research with females' informal traders, the Females in Unofficial Jobs: Globalization and Organization (WIEGO) Support network and other unofficial trader networks were carried out through SALRC. This article discusses women's rights and expectations in the informal sector and the progress of these workers in the ongoing legislative reform initiative.

- **Ira Chadha-Sridhar and Geetika Myer<sup>23</sup>**, in their article on “Feminist Reflections on Labour: The 'Ethics of Care' Within Maternity Laws in India” (2013), had given the positive step for women in resolving a challenge to the theoretical foundations of law, the Maternity Benefit (Amendment) Act, 2017, was debated, both around contributions to discuss individual liberty in this paper. A model fundamental to understanding the laws of maternity and jobs in India.
- **Manvendra Singh Jadon and Ankit Bhandari<sup>24</sup>**, in their research paper “Analysis of the Maternity Benefits Amendment Act, 2017 and its Implications on the Modern Industrial Discourse”, 2019The authors tried to investigate the judiciary and legal purpose of the Maternity Benefits Act 1961 amendment in 2017. The concept of social justice is expressed in the benefits of motherhood, the 1961 Law, and its additions. The judicial system, in addition to this provision, played a significant role in making moderate explanation decisions for the labour group, the provisions of the act should be of concern. There are always problems that the legislative and judicial authorities must understand equal economic and social opportunities for women are impeded by this.
- **Bharat B Das<sup>25</sup>**, Women workers in the unorganized sector: Labor law does not guarantee security and healthcare for workers on an unaccompanied market, the however inadequate protective cover is 92% of women work in the job market. The business could be more



organized. Female employees in construction are frequently taken advantage of; they work casually. They work unsteady employment and continue work changes. These are the fundamental attributes of building employees. Motherhood is seldom permitted profit even though it is compulsory.

- **Sanchari Ghosh (2018 & 2019)<sup>26</sup>,**” Maternity Leave in India - Past Present and Future,” Democratic principles are entering the socialist structure positively in India with the shifts in conventional family dynamics. Women are highly engaged in the age of globalization, though motherhood is also unique and profoundly emotional in their lives. However, their journey has several barriers to accomplishing this binary goal. First, they have continued intact connections with pregnancy and childhood education and, on the other hand, the neglect of legal and legal management by policy experts and business owners’ Socio-cultural aspects. The Labor Department has now modified the 1961 Maternity Benefit Act, increasing motherhood leave for women from 12 to 26 weeks serving in private companies a change like that. Nevertheless, the panacea cannot be recognized. This report looks at the following constitutional growth and further emphasizes maternity benefits in India. Probable barricades in their successful application, the goal is also to achieve argue about the role of fathers and the need to highlight quitting your paternity too.
- **S. Gokulakrishnan and Dr. D Vezhaventhan (2018)<sup>27</sup>,** “A Study on Maternity Benefit Scheme in India,” this work present the government's maternity benefits program for women and the challenges that women face in this scheme. The article addresses the program for women's maternity benefits and their issues. Roughly ten female jobs, i.e., 90% of female employees, are in unorganized employment. Disorganized division involves forestry, seasonal workers, domestic workers, experts in building and so on. The Indian Law Commission proposed in 2015 that the 1961 Maternity Benefit Act arrangements should extend to female workers who work in the segment sorted out. However, even the law must consider expanding out to females in the unorganized sector from the pregnancy benefit program. The technique employed in this study is doctrinal only, with the data and information provided must consider expanding the secondary knowledge analysis gathered in newspapers and documents. By the Research, we can conclude that the principal benefit for unorganized sector segment specialists is Pradhan Mantri Matru Vandana Yojana, where they have transferred from Rs to conditional cash 6000/ in 2 (Rs. 3000/each) portions on

condition fulfillment. Especially in comparison to this, one may tell the other industries, Females in the unstructured industry do not profit as much as women get who are working in the structured fields all. The benefits of pregnancy are significant. There should be no partiality to what should be given to all women in a country between providing women services in the organized and unorganized sectors.

- **Kirthi Jayakumar (2018)<sup>28</sup>**, The 1961 reform of the Maternity-Benefit-Act opened the door to the apparent advantage for mothers. However, parenting must be recognized as a joint obligation, and patriarchal standards involving parental employment must be reinforced. It also needs to pay more attention to the needs of women in informal employment to account for cross-sectionalism. Furthermore, implementing it and guaranteeing subtle exemption is not considered. Policy and practice on maternity benefits focused on recognizing new mothers' human rights. The global policy mainly involves providing a time-limited period in the months instantly pre-birth and post-birth to expectant mothers or new mothers. In the United States, workers do not receive paid parental or maternity leave. However, their sick or holiday days are welcome to be used, saved, or stored. Just 11% of US private-sector workers have access to paid family leave. 16% of the workforce will take paid parental leave for federal and state workers. Breastfeeding is allowed for 52 weeks in the UK, and qualifying workers up to 39 weeks. There is no maternity leave in Australia, but a 'parental leave' where either parent can take a government-paid vacation for up to 18 weeks, or both may share their holiday in either measure. Jobs up to one year after the child is born are also covered. Moms may be given 18 weeks' maternity leave in Denmark, all at full salary four weeks before birth and 14 weeks afterward. Couples in Sweden are entitled to parental leave for 480 days, the world's most extended maternity leave. Ninety days of rest are reserved for the father, but only 80% of the regular pay of parents during the break (Maternity leave and benefits, 2017).
- **Anwarul Hoda, Durgesh K Rai (2017)<sup>29</sup>**, Working paper on Labor Regulations in India: The study shows that all social security benefits, which include maternity benefits, are given to staff within the regulated sector. In the unorganized market, workers are full of work uncertainty and advantages. The report stated that the government should change the unstructured economy, and social security is increasing. It was the first analytic

recommendation the government should shift to ensure that working-class women forget their employment income throughout the motherhood period.

- **G. Gopalakrishnan and Dr. G. Brindha (2017)<sup>30</sup>**, “A Study on Maternity Benefit and its Effectiveness in Construction Industry,” Around 10 Crore female employees work in an unorganized field, which is 90 percent of women. Unorganized sectors comprise fishermen, seasonal employees, housekeepers, builders, etc. In 2015, the India Law Commission proposed including women workers in organized and unorganized industries under the Maternity Benefit Act of 1961. Still, the government has yet to consider expanding the maternity welfare scheme to females in the unorganized sectors. Pradhan Mantri Matru Vandana Yojana (PMMVY) is the only gain for employees in the unorganized sector, where they earn a CCT of Rs. 6000/-in two instalments (Rs. 3,000 per instalment) with a condition of fulfilment of the requirements. When this study was conducted, the reach of PMMVY was found to be relatively limited. The Ministry of Labor has, through the 2017 Maternity Benefit (Amendment) Act, extended its benefits to workers employed in those organizations, benefiting only 1.8 billion female employees.
- **Gaurav Sharma (2017)<sup>31</sup>** “An Investigation into Quality of Care (QoC) at the Time of Birth at Public and Private Sector Maternity Facilities in Uttar Pradesh, India.” High-quality care prevents avoidable maternal, neonatal, and intrapartum mortality through labour and childbirth. This Ph.D. had researched the standard of care (QoC) during everyday work and birth and explores the effect of QoC on management at 26 public and private parenting facilities in Uttar Pradesh, India.
- **Venkata Vara Prasad Janjanam and Dr. A.V.V.S. Subbalakshmi (2018).**” Maternity Benefit Act 1961-A study on history, scope and amendments in India”, this article is a short review of the history of the Act on Maternity benefits, its introduction in India in 1961, its scope and amendments. This paper offers a comprehensive report. Efforts are being made on the bill, and comparisons are being made with other countries regarding motherhood benefits. The author has briefly examined maternity leave, payments, benefits, incentives, bonuses, salary deductions, nursing rests, maternity benefits forfeiture, registrations, penalties, etc. Maternity leaves internationally, the worst and strongest countries are also presented for paid maternity leave. Latest changes to the maternity bill, along with its

critical concerns, such as the extension of the act to contract staff and women consultants, as to whether the current amendment favours women already on maternity leave.

- **S.K. Sasikumar (2017)<sup>32</sup>**, In terms of women's empowerment and increasing their involvement in workplace markets, the Maternity Benefit (Amendment) Act 2017 guarantees a game-changer. These two consequences would directly lead to higher national revenue, inequality, and poverty reductions and raise efficient economic demand. This ambitious initiative should be initiated and guided by the Ministry of Labor and Employment. There are distinctive amendments to the current Maternity Benefit Act of 1961. Firstly, it increases women from 12 to 26 weeks their paid maternity leave (for the first two surviving children). Second, it gives mothers employed with fostering children and children with substitution services (so-called "mother-commissioned") 12 weeks of maternity leave. Third, it allows women to work from home by reciprocal agreement between bosses and women employees after having taken maternity leave, where practically practicable. Fourth, for enterprises with more than 50 staff and four scheduled day-to-day attends by the working woman for the care of the infant, the obligatory supply of crèche facilities. The benefits should be conveyed in writing and digitally to each woman's employee at the time of selection. The provisions of the Act apply significantly to all employees of women, whether directly or through an institution, taking into consideration the vast number of contract and temporary workers on the job market. These regulations (in particular, the rise in paid leave) now include India in the maternity welfare category of developed countries like Norway and Canada. They are by far the strongest in developing nations. The ILO Maternity Benefits Convention suggests a minimum of 14 weeks of payment of maternity benefits and recommends that 18 weeks be paid. For most sections, the Indian regulations are now well beyond the prescribed levels.
- **Lisa M. Steurer (2017)<sup>33</sup>**, the World Health Organization (WHO) and the American Health Agenda for the Healthier People 2020 (WHO) internationally recommend breastfeeding, both of which advice exclusive breastfeeding, described as breast milk only supplied via breasts/bottle for the first six months of a child's life. Previous literature shows that socioeconomic conditions are correlated with breastfeeding, with more considerable mother income and education as predictors of continuous breastfeeding. This same female demographic is more able to function outside the residence. To identify the effects of

maternity leave and the employer policy on the support of breastfeeding for working mothers, the Cochrane and PubMed databases of Systematic reviews were investigated using exclusion and inclusion criteria. Extended maternity leaves and time and space for breast milk pumping once the mother returned to the place of work were included as common aids for breastfed support. Obstacles included policy incoherence and the need for policy implementation in various countries. Globally, there needs to be more continuity in maternity leave and employment policy as variables of continuous maternity breastfeeding. A straightforward approach is required to achieve the exclusive breastfeeding target for children.

- **Nur Syahidah Abdul Jalil (2017)<sup>34</sup>**, Women need special safeguards today to maintain their original role as mothers in shifting from conventional care providers to multi-tasking financial providers. This defense, including workplace security, wellness, maternity leave, motherhood benefits, and others, ensures that women can balance many roles. Pressure on all its positions will negatively impact the economy and society in the job market whenever expectancy is removed, or women decide on fertility. Many studies suggest that women need help performing both roles in a negative relationship between maternity fertility and policy. The maternity policies among developing and developed countries also vary, showing a diverse approach to the question while both face the same decreasing fertility rate. The notion of the profession of women generally does not respond to Islam. Nevertheless, it is essential to obey instructions to protect Sharjah. Islam, amongst others, encourages women to keep breastfeeding when they ramp up. Islam supports the maternal image of women. This paper aims to evaluate the decisions taken on fertility based on women's perception of the maternity policy of their company through survey interviews. Although the survey found that maternity policy does not explicitly influence women's fertility decisions, suggestions to change the existing patterns of maternity policies by companies in general to encourage a better working atmosphere for women are also needed.
- **Dr. Suman Singh (2016)<sup>35</sup>**, "The Maternity Benefit (Amendment) Bill, 2016: A Critical Analysis", The latest Bill, The Maternity Benefit Bill 2016, was tabled and adopted by the Rajya Sabha (or Council of States), the upper house of the Indian Parliament, on 11 August 2016, as amended by the Maternity Benefit Act 1961. This article's main aim is to critically analyze the revisions to the law on the geography and related facilities of maternity leave.

- **Santosh Kumar Pradhan and Brajaballav Kar (2015)<sup>36</sup>**, “Review of Maternity Protection: Case of Beedi workers and ESIC Efficacy in Odisha,” This paper analyses the state of maternity care today and the various government policies and strategies. In the remote region of Odisha, it aims to determine the mother's health of Beedi workers. In terms of efficiency, actual accessibility of maternity protection for employees, job rates, and actual costs, the inclusion and contribution of female workers into an informal economy have been assessed. However, existing pregnancy and social security programs highlight legislation, laws, and procedural knowledge differences, resulting in learning lessons learned, similarities, and best practices disparities between the various schemes. Suggested guidelines may also contribute towards revising the future course of action regarding legislative and structural improvements to the large-scale modification of women.
- **Islam Md. Zahidul (2015)<sup>37</sup>**, This study seeks to determine the current maternity benefits for women employed in the Bangladesh Labor Code (amendment) 2013 and to examine labour legislation procedures in Bangladesh's Ready-Made Garment (RMG) industry about maternity benefits. The study focused on the preliminary information collected by structured questionnaire by interview method from 120 women employees and 15 managers from 15 RMG plants in Dhaka City. In contrast, secondary data from various publications were collected. The report shows that 66 percent of women operating during prohibition have been employed. Ninety-four percent of female employees received maternity benefits, but the payment scheme is complicated; many workers (82 percent) only follow one choice for maternity benefits. The study, therefore, indicates that the government should introduce a robust supervision program to enforce the country's new labour law effectively. Women employees should be aware of their privileges, and business owners should comply with and respect the current labour laws of the nation.
- **Dr. Ipseeta Satpathy, Dr. B. C. M. Patnaik and Ms. Mitu Agarwal (2014)<sup>38</sup>**, “An introspection into awareness of maternity benefit Act 1961 in the semi-urban area”, There are considerable changes in the Indian workforce, as women's participation in the workforce has risen dramatically. Companies and public agencies must explore issues that will make a woman's trip easier, playing multiple roles from producer to life-creator. Repeatedly bypassing different female's friendly laws and offering women the requisite benefits, the government has helped to calm the issues facing females in organizations. However, are

these females conscious of these rules and advantages? This article aims to make women workers aware of the Maternity Benefit Act 1961, particularly in semi-rural areas.

- **Shashi Bala<sup>39</sup>**, in their submission “Implementation of the Maternity Benefit Act,” 2012, have these protection laws been complied with or not for the main reason? Is there a doubt whether female employees (these protection laws are built for her) are benefited? If you look at the actual execution, you must find that females are workers. The excellent advantage has not been obtained; even under the statute, the next move in workplace trends shows an increase in women's representation that need an increasingly pleasant environment for women on the job to take proper care. These are their overall needs. Regarding the gender aspect, it is essential to know that the workforce is a generation of excellent and productive employment. Circumstances are regarded as a crucial integrated growth strategy. This research focuses on a law enacted in India for workers' welfare and benefit – the law on motherhood profits, 1961.
- **Lakshmi Lingam and Vaidehi Yelamanchili**, in their article, “Reproductive Rights and Exclusionary Wrongs: Maternity Benefits” (2011), the study is based on the solid concept that the unpaid services and social status of women contribute to the Indian economy. However, maternity benefits are sector specific. Then there is the employer-employee. The writer attempted to improve the wrong approach by targeting such systems to reimburse women for the drop-in maternity income Time.
- **Lakshmi Lingam and Vaidehi Yelamanchili (2011)<sup>40</sup>**, Maternity freedom for women employees during the beginning of the 20th century was significant among the numerous rights for the protection of living and working conditions of workers. The right of women to social support for childcare and maternity leave is constantly flagged by women's organizations working with women employees in the non-organized sector and children. There are limits to its extent and its coverage to the legal structure established in India after independence for maternity protection, thus excluding most non-organized women. The liberalization period changed the institution of employment and production, further degrading women workers' restricted rights. A new scheme as the Indira Gandhi Matritva Sahyog Yojana (IGMSY), piloted in 52 regions, implicitly recognizes the need to give motherhood and mother and child nutrition to compensate for wage loss. A range of clauses, however, lessen the scheme's goals. To examine the classical interrelation of women's and

mothers' roles and their care over the years, this paper aims to map the path toward maternity gain and protection-related problems in India. It stems from a recent national maternity security assessment for the Ministry of Labor and Jobs and the Government of India, as well as the International Labor Organization (ILO), New Delhi (Lingam & Krishnaraj, 2011). Section 1 addresses the theoretical problems concerning the reproductive rights of workers; Section 2 deals with women's and legal safeguards for the protection of maternity workers and women's rights as workers. The report is organized into six sections: Section 3 raises essential questions related to women's work and the association with maternity coverage, the invisibility of women's social reproductive contribution, and the specific ways women are integrated into the global economies. Sec 4 points out the trends and data on women's jobs in India. Section 5 explores the essential methods and effectiveness of maternity protection, while Section 6 tackles the IGMSY concerning exclusion clauses; it investigates who has thus been excluded and violates the reproductive rights of women and ICPD (International Convention of the United Nations).

- **Amrita Chhachhi**<sup>41</sup>, in her article, “Who Is Responsible for Maternity Benefit: State, Capital or Husband? Bombay Assembly-Debates on Maternity Benefit Bill, 1929, (1998) Sets the research wheels on the ground that the fundamental question of the obligation for delivering maternity benefits to which the regulations and standards justify the supplier has been discussed in law.
- **Various Authors**<sup>42</sup>; in their compilation of “Maternity Leave Policies: An International Survey' (1988) Learn from various parts of the world, including Africa, Fiona Branton, Chile, Vandanask, India, Sweden, Jennifer Schirmer, Turkey, Sweden, and Singapore (Jeffrey Avina and Jean Manas), etc., where explanations and operational activity patterns have been gathered and Maternity Act Usefulness For working mothers.
- **Sadanand Jha**,<sup>43</sup>, in her article “Maternity Benefits: At Present and Their Future in India” (1976), Discusses from an academic viewpoint the importance and application of and the comprehensive understanding of the 1961 Maternity Benefits Act. Essentially, the meaning has been clarified in the context of the prevailing conditions in which females work in various fields. A segment of intensive labour areas such as factories and more residential the way these incidents were handled. The central highlights the extent to of the rules and



regulations do not excuse women's privileges. This condition of women in the workplace will gain more.

#### **1.4. Scope & Significance**

The research will delve into the discrepancies and inconsistencies within the legal and institutional frameworks concerning maternity protection for women in the private sector in India. This includes an examination of existing laws, policies, and practices that govern maternity benefits, leave entitlements, and workplace accommodations for pregnant employees. Additionally, the scope will encompass a comparative analysis between the private and public sectors to identify disparities in maternity protection provisions. The research will also explore the societal and cultural factors influencing women's decision-making regarding work and career choices post-marriage and motherhood. Furthermore, it will investigate the impact of globalization and industrialization on the status of women in the workforce and the evolving dynamics of gender equality in Indian workplaces.

The significance of this research lies in its potential to contribute to the discourse on gender equality, women's rights, and labor laws in India. By highlighting the inadequacies in maternity protection for women in the private sector, the research aims to advocate for policy reforms and institutional changes to ensure fair and equitable treatment of pregnant employees. It has practical implications for policymakers, employers, and other stakeholders in fostering a more inclusive and supportive work environment for women. Additionally, the research findings can inform advocacy efforts by women's rights organizations and civil society groups working towards gender justice and empowerment. Ultimately, addressing the gaps in maternity protection is crucial for promoting women's participation in the workforce, enhancing their economic independence, and advancing overall social development in India.

#### **1.5. Research Gap**

The identified research gaps highlight significant lacunae in the existing literature and legal provisions concerning women's maternity rights within the private sector, particularly in the context of Indian laws. These gaps underscore the need for further empirical research and legal scrutiny in the following areas:

- Despite the growing importance of women's security and maternity rights in the private sector, there remains a dearth of empirical research in this domain. Existing studies fail to adequately explore the nuanced challenges and experiences faced by women working in private sector organizations, thus hindering a comprehensive understanding of the issue.
- While instances of women's maternity rights violation are prevalent in private sector workplaces, the available data on such occurrences is limited. This scarcity of data impedes efforts to assess the extent of the problem and develop effective interventions to address it.
- The existing legal framework in India lacks sufficient provisions for ensuring adequate maternity protection in the private sector. This deficiency not only leaves women vulnerable to exploitation and discrimination but also undermines their ability to fully exercise their rights in the workplace.

Addressing these research gaps is crucial for advancing scholarly understanding and legal reform efforts aimed at promoting women's security and maternity rights within the private sector. Conducting empirical research, collecting comprehensive data, and advocating for legislative amendments are imperative steps toward fostering a more equitable and supportive work environment for women in India's private sector.

## **1.6. Objective of the Study**

The researcher has outlined the following objectives for the research:

- To examine the growth and evolution of Maternity Benefits in India.
- To analyze the various laws related to Maternity Benefits in other countries worldwide and to explore the different international instruments for Maternity Protection.
- To analyze the constitutional mandate of Maternity Benefits in India.
- To evaluate the existing laws and schemes introduced by the Government regarding Maternity Benefits in India.
- To analyze and deliberate upon the judicial decisions about Maternity Protection in India.
- To analyze the implementation of Maternity protection laws in the private and public sectors in Mumbai.
- To find out the loopholes in existing legislations concerning maternity benefits and to propose suitable recommendations concerning future policies and programs for the effective functioning of maternity protection programs in the private sector.

### **1.7. Hypothesis**

The researcher hypothesises the following, based on the present study:

- That India lacks the appropriate and adequate laws and legal mechanisms for maternity protection in the private sector.
- The non-implementation of maternity laws due to variety of reasons has led to an undisputable infringement of maternity rights in the private sector.

### **1.8. Research Questions**

Based on the outlined objectives, the following research questions can be formulated:

- How have maternity benefits in India evolved over time, and what factors have influenced their growth and development?
- How do the maternity benefit laws in India compare with those in other countries, and what international instruments influence these laws?
- What constitutional provisions exist in India regarding maternity benefits, and how are these mandates implemented in practice?
- What are the current laws and schemes introduced by the Indian Government regarding maternity benefits, and how effective are they in providing maternity protection?
- What key judicial decisions regarding maternity protection have been made in India, and how have they influenced the enforcement and interpretation of maternity protection laws?
- How are maternity protection laws implemented in both the private and public sectors in Mumbai, and what challenges and successes have been observed in the implementation process?
- What existing loopholes in legislation concerning maternity benefits in India need addressing, and what recommendations can be made to enhance future policies and programs for the effective functioning of maternity protection programs in the private sector?

### **1.9. Research Methodology**

The researcher has adopted for hybrid research for the present study. Therefore, the present research is both theoretical and empirical. This analysis is based on the doctrinal review approach in which the secondary and primary sources are compiled, organized, and systematized. The

researcher has taken into consideration both secondary sources and primary sources. The researcher has collected the secondary data from published sources such as various books, Indian and foreign magazines, online journals, newspapers, online newspapers, research articles and different internet sites to gather data and literature for the review and analysis. In this study, the researcher has used the observational analysis approach to gather and generalize the knowledge from various respondents on the topic through questionnaires. The leading information has been collected from 200 Mumbai respondents. The primary data obtained in this analysis from the respondents has been used to prove/reject the study hypothesis.

#### **1.10. Method of Data Collection**

The researcher is employing both quantitative and qualitative methods. This mixed-method approach includes the use of questionnaires and semi-structured interviews/interview schedule method to gather comprehensive data.

This analysis has been used to get the results using the Questionnaire method and interview schedule method. An empirical analysis of the topic has been attempted to examine the opinions of general and legal respondents. Two questionnaires have been framed: one for the legal respondent, which includes Advocates, and Law Professors and another for general respondents, such as corporate women employees, Teachers, Doctors, and women employees in the public as well as the private sector. The universe for the collection of data has been the economic capital of India, Mumbai. The number of respondents fixed has been 200. The questionnaires contain both open-ended and close-ended questions to facilitate quantitative analysis and allow for qualitative insights.

The primary method of data collection is semi-structured interviews, which allows for in-depth exploration of complex issues. The interview schedule includes guided questions, with room for open-ended responses to capture detailed and nuanced information. The aim of this research is to gain a comprehensive understanding of labour and gender issues across different sectors in Mumbai. This includes insights from the Labour Commissioner of Mumbai, the Women's Commission of Mumbai, and various private sector representatives such as principals of private colleges, administrators of private hospitals, executives from private banks and, corporate managers.

**Table 1.1. Sample Proportions of General and Legal Respondents from Questionnaire Methods**

<b>General Respondents – 120</b>	<b>Legal Respondents - 80</b>
Corporate Women Employees – 40	Law Professors - 40
Doctors – 40	Lawyers - 40
Teachers – 40	

**Table 1.2.: Structured Interview Schedule of Different Respondents regarding Implementation of Maternity Benefit Laws**

This table outlines the structured interview format used to collect detailed insights from various respondents regarding the implementation of maternity benefit laws in Mumbai, including the Labour Commissioner, the Women's Commission, and representatives from private & government - colleges, hospitals, private & nationalized banks, corporations, and law firms.

<b>Respondent's Category</b>	<b>Interview Focus Areas</b>	<b>Respondent's Size</b>	
<b>Labour Commissioner, Maharashtra</b>	To examine the role of the Labour Commission in addressing implementation challenges related to maternity benefit laws in both public and private sectors, including identifying obstacles, enforcing compliance, and proposing solutions to ensure effective implementation.	<b>Labour Commissioner</b>	<b>1</b>
<b>Maharashtra State Commission for Women</b>	To understand the Women's Commission's perspective on the implementation of maternity benefits for women in both the private and public sectors, including the challenges they encounter, existing support mechanisms, and to identify potential areas for improvement in both the laws and their implementation.	<b>Women's Commission</b>	<b>1</b>
<b>Principals of Private &amp; Government Colleges of Mumbai</b>	To explore the implementation of maternity benefits in the education sector, focusing on insights into the provision and the challenges faced in implementing these benefits in private educational institutions.	<b>Private Colleges</b>	<b>5</b>
		<b>Government Colleges</b>	<b>2</b>
		<b>Total</b>	<b>7</b>

<b>Administrators of Private &amp; Government Hospitals of Mumbai</b>	To collect information on the challenges and strategies involved in providing maternity benefits to female employees in private hospitals.	<b>Private Hospitals</b>	<b>5</b>
		<b>Govt. Hospitals</b>	<b>3</b>
		<b>Total</b>	<b>8</b>
<b>Executives from Private &amp; Govt./ Nationalized Banks of Mumbai</b>	To assess the banking sector's approach to maternity benefits. Detailed insights into the provision and support mechanisms for maternity benefits in private sector banks, challenges faced during implementation.	<b>Private Banks</b>	<b>5</b>
		<b>Govt. Banks</b>	<b>3</b>
		<b>Total</b>	<b>8</b>
<b>Corporate Managers of Mumbai</b>	To analyze corporate sector practices and compliance with maternity benefit laws, including understanding corporate strategies for providing and ensuring compliance with maternity benefits, as well as examining support systems during maternity leave.	<b>Corporate Sector (Companies)</b>	<b>5</b>

This structured interview framework facilitates a comprehensive understanding of the labor and gender issues across various sectors, providing both consistency and depth in the data collected.

### 1.11. Limitations of the Research

The current research points out a handful of limitations such as methodological as well as geographical limitations. In terms of geographical limitation, the study pertains only to the geographical area of Mumbai and only represents that part of the nation. As far as methodological limitations are concerned, the researcher is aware of the possibility of the methodological limitations in this study concerning the sample representation wherein the representation of the sample is disproportionate as the sample is not representing the respondent women from public and private sectors in a proportionate manner. Also, there is another possibility of the restriction of selective memory of the sample population, which would indicate that the respondents participating in this quantitative legal research employed by the questionnaire method for collection of data have a propensity to not recall or remember events from their past correctly, for example, a respondent despite being provided with the knowledge by the employer about the

provisions of the Act following the mandate of Section 11A, might tend to forget that and thereby to put an incorrect answer in the questionnaire rendering the credibility of such response to nullify.

### 1.12. Chapterisation

The following chapters are framed for the present research:

- **Chapter One**, titled as '*Introduction*' enunciates upon the titular introduction of the present research wherein the researcher attempts to discuss the problem addressed. The researcher also highlights the definition and concept of maternity benefits and presents the research design of the thesis comprising of the literature review, objectives, hypothesis, and the research methodology of the study.
- **Chapter Two**, titled as '*Evolution and Growth of Maternity Protection Laws in India*' discusses the historical evolution and the etymological growth of the nomenclature of maternity benefits in India and abroad. Not only would this chapter enumerate the growth of the concept from a first world feminist phenomenon to a globally recognised woman right.
- **Chapter Three**, titled as '*Maternity Benefits: An International Perspective*' aims to throw light on the international conventions, treaties, agreements, and protocols which have been introduced concerning the rights of women and maternity protection. This chapter also discusses the ratification of these laws by various countries and draws comparative analogies with India. Maternity laws of United states of America, United Kingdom, Australia, Singapore, New Zealand, to name a few are also discussed under this chapter.
- **Chapter Four**, titled "*Constitutional and Legislative Framework for the Maternity Benefits In India,*" discusses the legislative history and the Constitutional mandates of maternity benefits. Social justice comes from the constitutional order of socialism, and socialism has been derived from the purposive interpretation of the Constitution. Socialism is indeed a characteristic of Indian society, which is to be read to be interpreted as a secular democratic socialist. The Constitution of India is prima facie a social document aiming to introduce a socio-economic revolution.
- **Chapter Five**, titled as '*Judicial Endeavours to Interpret Various Facets of Maternity Laws*' discusses about the judicial matrix of the country's highest court that is the Supreme Court and other High Courts of India concerning the maternity benefits, the notion of

family as discussed in the landmark case of *Deepika Singh v. Central Administrative Tribunal*.

- **Chapter Six**, titled as '*Implementation of Maternity Benefit Laws in The Private Sector and Public Sector in Mumbai*' highlights the empirical research conducted by the researcher and discusses the findings of the research in both the general and special questionnaire research. The chapter also draws out the limitation to the research.
- **Chapter Seven**, titled as 'Conclusion and Suggestion' discusses about the conclusive remarks concerning the various aspects of the research. The hypothesis of the research has also been tested under this chapter. The suggestions have been outlined by the researcher under different categories, namely, the legislative suggestions, law enforcement suggestions and other miscellaneous suggestions.



## **CHAPTER - II**

### **EVOLUTION AND GROWTH OF MATERNITY PROTECTION LAWS IN INDIA**

#### **2.1. Overview**

Females have been as vital in the history of human growth as men have been. More excellent jobs and work for women are essential to a country's overall success. Undoubtedly, a country's social, economic, or political development will deteriorate and become stagnant without women's active involvement in national activities. However, sadly, and unfortunately, their bosses, their peers, or the public at large do not take women workers quite seriously. Indian women have traditionally been home builders, but over the past few decades, decent education and understanding have made them go and choose occupations about the ever-increasing cost of living. A man is still considered the primary breadwinner in a patriarchal society. While Indians have started to work outside their home, they have a long journey to change people's mindsets culturally, socially, and economically.<sup>44</sup>

Women are economically dependent and are now subordinated to society. Therefore, women must also be financially autonomous and play an active role in all trade sectors to eradicate such submission and form the basis for the equitable government wants to provide certain criteria to support specific programmes that are appropriate for women's needs. Maternity benefits are one of the most significant needs of women. The primary objective is to maintain self-reliance on motherhood, protect women's health, and provide absolute child protection. For some biological causes, women staff worldwide are disadvantaged. Menstrual periods, pregnancy, children's birth, infant lactation, menopause, and multiple complications resulting from such problems must be encountered. Providing female workers during maternity time, appropriate steps to protect their health, and salaries are essential to female employees and society.

Maternity benefits are necessary to bring about a decrease in child mortality rates in the world. The management also profits from these maternity benefits because it eliminates the lack of women's work and makes it possible for women to focus on their work unequivocally. The first maternity benefits law was approved in 1929 by the State government of Bombay. This law was viewed as relatively progressive. Other states quickly followed similar rules with minor changes,

such as eligibility, wage rates, etc. The central legislation, including the Mines Maternity Benefit Act 1941, the Plantation Lab Act 1951, etc., has been passed with provisions for maternity benefits. The nature of the Acts differed, however, regarding payment requirements, periods and maternity allowances, etc. The Government of India passed the new Law on the Maternity Benefit Act of 1961 in 1961 to reduce the inequalities in maternity protection under the various acts. In 1970, 1972, 1973, 1975, 1976, 1988, 1995 and 2017, it was revised very extensively.<sup>45</sup>

The ILO Maternity Security Convention standard establishes 53 percent (98 out of 185 nations) of nations with a motherhood leave duration of at least 14 weeks (No. 183). The 18 weeks leave standards proposed in Suggestion No. 191 are met or exceeded by 20 percent of countries. Around one-third (35%) of countries shall offer a 12- 13 weeks' vacation period – less than the period laid down in Convention No. 183 but in line with the level of at least 12 weeks of vacation set out by conventions 3 and 103. Only 14% of nations provide maternity leave for less than twelve weeks. In India, the order laid down by the State for the safeguarding of just and humane situations of employment and motherhood advantages lies in Article 42 of the Indian Constitution. The Indian Parliament enacted the Maternity Benefit Act of 1961 to govern the service of females in certain facilities for specific periods before and after birth and to compensate for motherhood benefits and certain other benefits. It considered not only all the maternity legislation existing from the constitution days but also the mandate of the ILO in terms of motherhood protection, the Maternity Benefit Act of 1961 (ILO Maternity Protection Convention 103, 1952).

In India, not only is the 1961 Maternity Benefit Act was the only law to protect or benefit motherhood. Other legislation covering maternity protection is the Employees' State Insurance Act of 1948 and the Central Civil Services Rules of 1972.<sup>46</sup> Women are economically dependent and are now subordinated to society. This subordination must therefore be removed; women must also become economically autonomous and play a critical role in all aspects of the industry today to lay the groundwork for equality. The government must have specific situations to fund this program that are appropriate for women's needs. The economic issue of sexism against women due to their biological activities in childbearing is a problem women face. During pregnancy/living, most women need to change their work due to health, workplace conditions, transport problems, traditions, and customs.<sup>47</sup> A woman's maternity benefit is needed to reduce this issue and protect women's economic rights. Females have the right to all these advantages as the process of childbearing is very difficult and causes harm to the body. This can seriously impact

the women's future work as a worker and decrease their productivity, which means that maternity benefits for women workers are needed.<sup>48</sup>

Maternity benefits are necessary to preserve employed females' rights and stay self-reliant and economically stable. A just social system will be achieved if inequalities are removed, and everybody is compensated with what is legally due. If women make up nearly half the section of our society in places where women struggle to earn a living, they must be honored and dignified. Regardless of their nature, the legal profession, and the location of work, all the amenities they are qualified for must be given. The most natural event in a woman's life is a mother. For anything necessary to help a woman in service birth a child, the employer must be careful and friends with her and must understand the physical challenges a career mother will face while bearing a child in the womb or raising her baby after birth in her workplace.<sup>49</sup> Historically, in female workers who undergo some function in the weeks just before and after childbirth, pregnancy has always been regarded as a disability. With the advent of the wage-labour system in industries, many business owners tended to end the woman's services as they found that motherhood tried to interfere with the success of women workers' usual duties. Therefore, throughout this period, many female employees had to resign without salary to keep their job. Many others suffered a substantial burden, damaging both the mother and child's health during pregnancy. During the time of pregnancy. The idea of motherhood benefits is essential to eliminate the difficulty for female workers to perform a child's social role, to carry out and nurture their fitness and loss of earnings without unnecessary pressure. At some point in their lives, many women like to have children. They had previously sacrificed their professional and personal objectives under economic arrangements. Hence, while women have made tremendous strides towards gender equality at work, they cannot continue in the enterprising sector unless there is the provision of motherhood benefits if conventional gender philosophies and expectations (i.e., stereotypes, position beliefs, and position) linger.<sup>50</sup>

The Indian culture has always seen females as the poorer segment of society, leading to social standards. Culture supports women as homemakers and child caregivers, yet on the other side, men must provide financial help for their families. With time and society growing, however, women are now fighting for decent wages where more females are willing to work. The law dealt with the increasing social discomfort through the introduction of the "Maternity Benefit Act 1961," which protects females' jobs during motherhood and allows them to take care of a child with

"motherhood benefits," maximum paid absence from work. The Act applies to all institutions with ten or even more workers. As feminism grows worldwide, issues such as paid leave, wellness, and maternity benefits must be addressed that are promised under domestic labour law. In early 1953, the Indian Social Security Program began operation. Given the same egalitarian philosophies mentioned previously, India's success in women's advancement in Indian Society has consistently been assessed by the writers of the Indian Constitution. In this program of social security, maternity leave was one of the main facts to be studied, recognizing women as workers and therefore providing guidance to protect the interests of women during their maternity, and has been promoting the rights and freedoms of pregnant ladies since 1953, disregarding sexism and acknowledging the needs of a working woman.<sup>51</sup>

## **2.2. Evolution and Growth of Maternity protection laws in India**

The origin of the motherhood benefit system can be discovered back to the end of the 19th century in Germany when motherhood benefits were part of insurance schemes. Similar methods were introduced in some industrialized nations, like the UK and Australia. Maternity benefits have been added to healthcare coverage in Great Britain. The Maternity Allocation Act came into force in 1912 in Australia. International recognition was only recognized for maternity gain. The International Labor Organization's ("ILO") efforts were practical. The ILO's main issues were ensuring women's work poses no danger to females' and their babies' health and ensuring females do not interfere with reproductive positions, the economy's safety, and employment. The 98th International Labor Conference Conclusions June 2009 also recognized zed the enhanced security of mothers is fundamental to the balance of gender in the workplace. Hence, the ILO has been asked to promote and implement Convention No.183 and to "[...] compile and distribute successful parental leave practice and parenthood and motherhood leave and privileges and professional assistance. Gov'ts to implement efficient legislation and policies" (ILO, 2010).<sup>52</sup>

When the ILO adopted the Maternity Protection Convention in 1919, it was proposed that the countries mentioned should investigate the issue of women workers' maternity benefits. Therefore, the Conference accepted a specific motion calling the Government of India to research the maternity value and present a report at the next meeting. The Indian Government then consulted and sent a message to the International Labor Conference held in 1921 on the provincial

governments, business owners, etc. The study stated that the law would be premature on the subject. Still, an attempt was made promoting voluntary benefits schemes to the main organized sectors by financially supporting them"<sup>53</sup>. The Indian government was, therefore, unable to follow the agreement. The reasons were:

- the fact that the compulsory absence of employment for pregnant female workers was impossible to implement,
- a medical women's shortage that would be needed for,
- the impossible obligatory contribution to be given, medical credential plans to have advantages,
- the lack of provision necessity concerning care times and the prevention of loss of female pregnancy jobs.<sup>54</sup>

But the state governments convinced workers to follow the ILO Conventions unilaterally. Meanwhile, Mr. N. M. Joshi who was a Leader of the Trade Union and Secretary-General of the Congress of the Indian Trade Union, he played a role in the business activities of the Unions, passed in 1926) and who was the worker's delegate Motherhood Security International Labor Conference. The conference was accepted, and the Maternity Bill was passed in the Central legislature of the European Parliament. The Bill aims to provide statutory maternity requirements benefits to and pay for women working in factories and mines advantages while in detention. The proposal cannot be adopted due to a lack of ability to oversee the system, low availability of public funding, women physicians and female workers' migration character Lucknow, Eastern Book (Srivastava, S.C. Social Security and Labor Laws Co., 1985, p. 237. There was also the impression that the law passed would impact women's job opportunities. The government found the viability of motherhood advantages in India, despite the Central Government's negative behaviour. And as such, with the passage of the Bombay Maternity Benefit Act of 1929, maternity benefits laws took hold. In the context of the Act, each employee who has been working in a plant for nine months is entitled to develop a medical report to motherhood advantage for four weeks; she has the right to resign. The profit of mothers was paid at a rate of 8 annas per day (8 annas equals 50 annas at today's money value). It was the first advantage of maternity in India legislation.

The implementation of a related law was decided to follow by the Central and Berar provinces in 1930. With the selection of the Royal Labor Commission in 1929, another landmark was achieved in maternity benefits. Among other things, the Commission proposed legislation on maternity benefits it should be enforced in 1929 according to the Bombay Maternity Benefit Act in States other than that the Committee suggested motherhood. Non-contributory gifts should be made in line with guidelines several provinces have passed their laws on maternity benefits. This law was adopted in 1934 by Madras and Ajmer, in 1937 by Delhi, U.P. 1938, 1939, Bengal and Sind, 1942, Hyderabad, 1943, Assam, Punjab, Bihar in 1944 and 1945. Bihar reintroduced the Maternity Benefit Act. Some developments in 1947. Most other countries have adopted these laws. A little later, in the period of post-constitution. These are the framework acts and required changes have been checked from time - to -the time it was adopted. The National Government, however, was not lagging.

The state governments took the idea and passed legislation for maternity benefits. The mines were the very first core activity in the field. Act of 1941 on the gift of motherhood. This Law was of very restricted use. Only in mines was it applicable. However, the dedication to maternity security has remained poor despite these measures. The Health Survey and Development Committee report (1946): Vol. I - Survey, Report of the Shores Committee: New Delhi: India Press Government) has highlighted the insufficiency of access to and inadequate execution of crèches in many sectors of maternity benefits provisions in different pre-independent Union Provinces in India. The constitution was drawn up after India became independent, and in 1950, it was adopted. The Constitution, the basis and directing principle for all future laws, has special provisions, provision of females' rights and benefits. These rights and benefits are included in the fundamental values and freedoms of the Directive Policies of the Department.<sup>55</sup>

The second 5 years plan resulted in the adoption of a centralized motherhood benefit legislation (1956-61). The scheme has continued as regards the welfare of women. The organization of females as employees were recognized as essential for women to be safe should receive pregnancy and crèches against hazardous jobs for kids in workplaces should be identified. It also suggested rapid application of the fair pay principle for equivalent work and training to allow women to participate in higher employment. Far from it, the more significant change was the fresh Central Motherhood Value Act, Pregnancy Value Act, enforced in 1961. The law on motherhood services was adopted in 1961. Both pre-constitution directions of the ILO Maternity updated conference

for protection, 1952.<sup>56</sup> On 28 July 1928, the Maternity Benefit Act was first implemented lawfully in India and was endorsed and defended by Dr. B. R. Ambedkar. On 12 December 1961, Parliament passed the Act as Act no. 53 of 1961, in the 12th year of the Republic of India. This act is intended primarily to govern women's jobs for some duration pre- and post-childbirth. This Act applies to factories, mines, farms, government institutions, shops, and government establishments. Legislative and other acknowledged by the national government in which ten or more people work or worked on any day within the previous 12 months to supply motherhood advantage and some other benefits.

### **2.2.1. Maternity Benefit Laws in India: From Inception to Modern Reforms**

The development of maternity benefit laws in India has evolved significantly, rooted in the colonial period and advancing through constitutional and international mandates post-independence. The journey towards ensuring the welfare and protection of working women, especially during pregnancy and after childbirth, has been a gradual process, with both domestic reforms and international influences shaping the framework.

#### **2.2.1.1. Colonial Era: The Early Foundations**

The colonial era laid the initial foundation for maternity protection, largely driven by industrialization and the increasing number of women joining the workforce in sectors such as textiles, factories, and mines. In the early 20th century, formal legal protections for women workers were almost non-existent, leading to precarious working conditions, especially for pregnant women.

The first significant step towards recognizing the need for maternity benefits came with the *Royal Commission on Labour in 1929*,<sup>57</sup> which highlighted the adverse health effects faced by women due to the lack of maternity leave and inadequate support during childbirth. The commission's recommendations emphasized the importance of safeguarding the health of female workers, yet no legislative action followed under the colonial administration. Women remained vulnerable, depending on informal support networks during childbirth, without job security or financial assistance. Thus, the pre-independence period can be seen as a time when the conversation around maternity rights began, though it lacked tangible legal mechanisms to enforce these rights. However, this era set the stage for post-independence reforms, as the plight of women workers gained attention.

### **2.2.1.2.Post-Independence Era: Constitutional and Legislative Mandates**

After India gained independence in 1947, the need to protect working women, including their right to maternity benefits, became more pronounced. The Constitution of India, adopted in 1950, laid a robust foundation for social welfare through its Directive Principles of State Policy. Articles like Article 42<sup>58</sup> mandate the State to make provisions for securing just and humane conditions of work and maternity relief, giving constitutional backing to the rights of working women.

The first major legislative development in this direction was the Maternity Benefit Act of 1961.<sup>59</sup> This Act was a landmark law that aimed to protect the rights of women before and after childbirth. It formalized maternity benefits, including 12 weeks of paid maternity leave, medical bonuses, and job security. The Act applied to factories, mines, and plantations, establishing India's commitment to supporting working women during maternity.

### **2.2.1.3.International Influence: ILO Conventions**

India's maternity benefit laws were also shaped by international influences, particularly from the International Labour Organization (ILO).<sup>60</sup> In 1981, India ratified ILO Convention No. 103, which focused on maternity protection and advocated for at least 14 weeks of maternity leave, along with job security and health benefits for working women. The influence of this convention pushed India towards further legislative amendments that expanded the scope of maternity benefits to a wider group of women workers.

### **2.2.1.4. Expanding the Scope: Legislative Reforms**

Following the enactment of the 1961 Act,<sup>61</sup> subsequent amendments strengthened maternity protections. In 1976, the scope of the Maternity Benefit Act was expanded to include additional sectors such as plantations, factories, and mines. This amendment also introduced provisions for adoptive mothers and mandated the provision of crèche facilities in workplaces, addressing the needs of mothers in both formal and informal employment.

The 2017 Amendment to the Maternity Benefit Act marked one of the most significant reforms. It extended paid maternity leave from 12 to 26 weeks for women with up to two children and introduced provisions for adoptive and commissioning mothers, who were entitled to 12 weeks of leave. Additionally, it made crèche facilities mandatory in workplaces with 50 or more employees, further supporting the well-being of women workers. The law also offered flexibility



by allowing women to work from home, depending on the nature of their job and agreement with their employers. These changes reflected a growing recognition of the need for more comprehensive maternity protections in a rapidly modernizing society.

#### **2.2.1.5. Addressing the Unorganized Sector: PMMVY and Other Initiatives**

While the formal sector saw progressive changes, a large proportion of women in India work in the unorganized sector, which remains outside the purview of formal maternity protections. To address this gap, the Pradhan Mantri Matru Vandana Yojana (PMMVY) was launched in 2017. This scheme provides financial assistance of ₹5,000 to pregnant and lactating women for their first child, helping to cover some of the costs associated with pregnancy and childbirth. Similarly, the National Food Security Act, 2013, guarantees maternity benefits of ₹6,000 to ensure better maternal health and nutrition for women in vulnerable conditions.

#### **2.2.1.6. Challenges and Future Reforms**

Despite the progressive trajectory of maternity benefit laws, challenges remain, especially for women in the informal sector. The existing legal framework largely benefits women in formal employment, leaving out millions of women in the unorganized sector. Moreover, current maternity laws in India place the care giving responsibility solely on women, without addressing the need for shared parental leave, which could help promote gender equality in both workplaces and households.

As discussions around gender equality, women's empowerment, and workplace inclusivity continue to evolve, India's maternity benefit laws reflect substantial progress but also highlight areas in need of further reform. Balancing the protection of women's rights in both the formal and informal sectors, along with promoting shared parental responsibilities, will be key in shaping the future of maternity protections in India.

The evolution of maternity benefit laws in India has been a dynamic process, shaped by colonial legacies, constitutional mandates, and international influences. From the early recognition of women's rights in the workplace by the Royal Commission on Labour in 1929 to the landmark reforms of the 2017<sup>62</sup> Amendment, the legal framework for maternity benefits has expanded significantly. However, the journey towards comprehensive maternity protection continues, with a focus on ensuring that all women, regardless of their employment status, are supported during

one of the most critical phases of their lives.

## 2.2.2. Maternity Rights Around the World: A Comparison with India's Legislative Journey

Maternity benefit laws have evolved globally to protect women's rights and health in the workplace, ensuring paid leave and medical benefits during and after pregnancy. While India has made significant progress in its own trajectory, comparing its developments to the international scenario highlights both similarities and differences in approach, scope, and timing.

### 2.2.2.1. Early Foundations:

- **International Scenario:**

- The idea of maternity protection first gained attention internationally in the early 20th century, largely influenced by the International Labour Organization (ILO). The **ILO Convention No. 3<sup>63</sup>**, adopted in **1919**, was the first international standard providing maternity protection for women in the workforce. This convention mandated 12 weeks of maternity leave, along with benefits such as paid leave and protection from dismissal during pregnancy and after childbirth.
- European countries, especially **Germany (Mutterschutzgesetz, 1878)** and **France (1913)**, were early pioneers in enacting national laws granting maternity leave. These laws were driven by a combination of labor movements, health concerns, and women's rights activism.

- **Indian Scenario:**

- In India, maternity rights gained momentum much later. During the **British colonial era**, there were no comprehensive maternity protections for women. The need for such benefits was only formally recognized by the **Royal Commission on Labour** in **1929<sup>64</sup>**, but no concrete legislative steps were taken at that time.
- It was only after independence, in **1961**, that India introduced the **Maternity Benefit Act, <sup>65</sup>** providing maternity leave and related benefits for women in the formal sector. India's early steps were significantly influenced by international labor standards set by the ILO, but it took much longer for India to implement comparable protections.

#### 2.2.2.2. Expansion of Coverage and Protections:

- **International Scenario:**

- ❖ Post-World War II saw rapid advancements in maternity laws across the world. Countries like **Sweden (1955)** and **Norway (1956)** expanded their maternity leave entitlements, with an emphasis on health, child welfare, and gender equality.
- ❖ The **ILO Convention No. 103**<sup>66</sup> (1952) further extended maternity leave rights globally, setting a minimum of 12 weeks of leave and providing job security and benefits for women. This was followed by Convention No. 183 (2000), which recommended a minimum of **14 weeks** of maternity leave and increased health protections for pregnant workers.
- ❖ **European Union (EU)** countries, especially in the **Nordic region**, became known for their generous maternity (and parental) leave policies, combining maternity, paternity, and shared parental leaves to promote gender equality and family welfare.

- **Indian Scenario:**

- ❖ India's **Maternity Benefit Act of 1961**<sup>67</sup> initially provided **12 weeks** of paid leave, which was similar to the ILO standard at the time. It covered a wide range of industries and ensured job protection during the leave period.
- ❖ Over time, amendments in **1976** expanded coverage to include plantations, mines, and factories. However, maternity benefits remained focused on women working in the formal sector, which accounts for only a small portion of India's female workforce.
- ❖ The **2017 amendment**<sup>68</sup> significantly expanded protections by extending paid leave to **26 weeks** (for women with up to two children) and introduced provisions for adoptive and commissioning mothers. While this marked a major reform in India, aligning with some global standards, the coverage still heavily favored women in formal employment.

#### 2.2.2.3. Work-Life Balance and Parental Leave:

- **International Scenario:**

- ❖ Globally, there has been a shift towards providing **shared parental leave** to promote

equality between genders in caregiving roles. Countries like **Sweden**, **Iceland**, and **Germany** have policies where both parents share parental leave, with certain quotas reserved for fathers to encourage their participation in child-rearing.

- ❖ In the EU, the **EU Directive on Work-Life Balance** (2019) aimed to further improve the balance between family and professional life by mandating paternity leave, parental leave, and flexible working arrangements for parents.
- ❖ Maternity leave is often supplemented by **paternity leave** and **parental leave**, reflecting a broader emphasis on family welfare and gender equality. For example, **Sweden** provides 480 days of parental leave, which is shared between both parents.
- **Indian Scenario:**
  - ❖ In contrast, Indian laws still focus almost entirely on maternity leave, with no legal provision for **paternity leave** or shared parental leave in the private sector (except in certain organizations). This places the primary responsibility for child-rearing on women and is a major area of divergence from many international standards.
  - ❖ Though the **2017 amendment**<sup>69</sup> allowed for the possibility of working from home post-maternity leave (based on the nature of the job), India lacks the extensive provisions for **shared leave** and **flexible work arrangements** seen in many countries across Europe and North America.
  - ❖ The gap between protections for women in the **formal and informal sectors** remains another challenge in India. While maternity protections are robust for women in formal employment, the vast majority of Indian women in the informal economy receive little to no maternity support.

#### 2.2.2.4. Government and Employer Responsibility:

- **International Scenario:**
  - ❖ In many countries, particularly in Europe, maternity and parental benefits are often funded by a combination of **social security schemes** and employer contributions. This reduces the financial burden on employers, making it more feasible to hire women without concerns about long maternity leaves.
  - ❖ Countries like **France**, **Germany**, and the **UK** have national insurance schemes that provide

wage compensation to women during maternity leave. In countries like **Canada** and **Australia**, the government plays a major role in funding maternity leave through public funds or insurance schemes.

- **Indian Scenario:**

- ❖ In India, maternity benefits are largely **employer-funded**, meaning the financial burden falls directly on the employer. This has raised concerns that it might deter companies from hiring women due to the cost implications, particularly for small and medium-sized enterprises.
- ❖ Government support in the form of programs like the **Pradhan Mantri Matru Vandana Yojana (PMMVY)**, which offers financial assistance to pregnant women in the informal sector, provides some relief, but it is limited to the first child and the amount (₹5,000) is insufficient compared to international maternity support.

The evolution of maternity benefit laws in India has been significant, particularly with the **2017 reforms**, which brought the country closer to international standards. However, the Indian scenario still lags in terms of **shared parental leave**, **informal sector protections**, and **government support** when compared to many developed countries. While global trends are shifting towards more comprehensive family and gender-balanced approaches, India's maternity laws remain focused primarily on women, highlighting the need for further reforms in areas such as paternity leave, shared responsibilities, and wider coverage for all working women.

### **2.2.3. Judicial Role in the Development of Maternity Benefit Laws in India: A Comprehensive Perspective**

The judiciary in India has played a pivotal role in interpreting and expanding the scope of maternity benefit laws, shaping the legal landscape to ensure the protection of women's rights in the workplace. While the **Maternity Benefit Act of 1961** and subsequent amendments laid the foundation for maternity benefits, the judiciary's interpretation and enforcement of these provisions have been instrumental in safeguarding and enhancing the rights of working women. This article explores the judicial contributions that have significantly impacted the development and evolution of maternity benefit laws in India.

### 2.2.3.1. Constitutional Backing for Maternity Rights

The **Constitution of India** provides a robust framework for the protection of women's rights, including maternity benefits. **Article 42** of the Constitution, under the Directive Principles of State Policy, directs the State to ensure just and humane conditions of work and provide maternity relief. Though Directive Principles are not enforceable by the courts, they have been used as guiding principles in numerous judgments to interpret the rights of women in the workplace.

In cases such as **Olga Tellis v. Bombay Municipal Corporation**<sup>70</sup> (1986), the Supreme Court held that the Directive Principles should guide the interpretation of fundamental rights, particularly in the context of labor welfare. Courts have consistently interpreted maternity benefit laws in light of the constitutional mandate to ensure social justice, as envisioned under **Articles 14, 15, and 21**, which guarantee the right to equality, non-discrimination, and life with dignity.

### 2.2.3.2. Right to Maternity Leave: An Extension of the Right to Life

The **right to life under Article 21** has been expansively interpreted by Indian courts to include the right to live with dignity. In the context of maternity benefits, the judiciary has played a critical role in ensuring that maternity leave and related benefits are seen as an essential aspect of a woman's right to live with dignity and maintain her health. In the landmark case of **Municipal Corporation of Delhi v. Female Workers (Muster Roll)**<sup>71</sup> (2000), the Supreme Court held that female workers engaged on a casual or muster roll basis were entitled to maternity leave. The Court ruled that denying such workers maternity benefits would be violative of their fundamental right to life and dignity under Article 21. The judgment extended the scope of maternity benefits beyond formal, permanent employees, recognizing the necessity of maternity leave for all women, regardless of the nature of their employment. The Court emphasized:

*"To become a mother is the most natural phenomenon in the life of a woman. Whatever be the nature of employment, a woman who is working as a casual worker or on a daily wage basis cannot be compelled to be at work in a situation where she cannot take care of herself and her child."*

This judgment marked a critical expansion in the interpretation of maternity benefit laws, ensuring that even women in temporary or informal employment were entitled to these protections.

### 2.2.3.3. Maternity Benefits for Contractual and Temporary Employees

Judicial intervention has also ensured that women working on contractual or temporary employment terms are entitled to maternity benefits. In **C.B. Muthamma v. Union of India** (1979)<sup>72</sup>, the Supreme Court criticized service rules that discriminated against women on the grounds of maternity, particularly those that restricted women's employment prospects due to pregnancy or maternity leave. The Court declared that such service rules were discriminatory and violated the principle of equality enshrined in **Article 14**.

The case of **Neera Mathur v. Life Insurance Corporation of India**<sup>73</sup>(1992) further highlighted the issue of discriminatory service conditions. In this case, the Supreme Court took cognizance of the fact that the Life Insurance Corporation (LIC) had asked personal and invasive questions related to pregnancy and childbirth in its job application forms, violating the dignity and privacy of women employees. The Court struck down such practices and affirmed that women cannot be discriminated against or denied employment opportunities based on their pregnancy.

### 2.2.3.4. Protection Against Discriminatory Dismissal Due to Pregnancy

Indian courts have also played an essential role in protecting women against dismissal from employment due to pregnancy or maternity leave. In **Air India v. Nergesh Meerza**<sup>74</sup>(1981), the Supreme Court addressed the discriminatory retirement and dismissal policies of Air India for air hostesses. The airline's policies allowed for termination of employment if a female employee became pregnant. The Court ruled that these policies were unconstitutional and violated the right to equality under Articles 14 and 16, which prohibit discrimination in employment.

This case set a precedent for protecting women against discriminatory practices related to pregnancy and childbirth, ensuring that women's reproductive rights are not used as grounds for dismissal or unfavorable treatment at the workplace.

### 2.2.3.5. Judicial Oversight on Implementation of Maternity Benefit Laws

In several cases, the judiciary has taken proactive steps to ensure the effective implementation of maternity benefit laws, particularly where employers or public authorities have failed to comply with statutory provisions. For instance, in **Dr. Meera Dutta v. New Delhi Municipal Council**<sup>75</sup> (2004), the Delhi High Court held that maternity leave is a statutory right, and any refusal or delay in granting such leave violates the provisions of the Maternity Benefit Act, 1961. The Court directed the employer to ensure immediate compliance with the law, emphasizing that maternity benefits are not discretionary but a legal entitlement.

In **B. Shah v. Presiding Officer, Labour Court, Coimbatore**<sup>76</sup> (1977), the Supreme Court interpreted the Maternity Benefit Act's provisions liberally to ensure that women workers received their full entitlements. The Court stated that the law should be interpreted in favor of the beneficiaries, ensuring that employers do not deprive women of their rightful benefits through technicalities or narrow interpretations of the statute.

#### **2.2.3.6. Creche Facilities and Workplace Support**

With the 2017 amendment to the Maternity Benefit Act mandating crèche facilities for organizations with 50 or more employees, courts have been called upon to enforce these provisions. The judiciary has actively monitored and directed employers to comply with this requirement, ensuring that women can access child-care facilities at the workplace, which is critical for balancing work and motherhood.

#### **2.2.3.7. Judicial Support for Extended Leave and Equal Opportunities**

The **Maternity Benefit (Amendment) Act, 2017**, which extended maternity leave to 26 weeks, was met with judicial scrutiny to ensure that its provisions were uniformly applied across various sectors. The judiciary has been instrumental in ensuring that women working in government institutions, public sector undertakings, and private companies receive the full benefits of extended maternity leave.

Moreover, courts have consistently stressed the importance of creating equal opportunities for women in the workplace. In **Vikram Kumar v. Union of India**<sup>77</sup> (2019), the Delhi High Court highlighted the need for gender-sensitive policies in the workplace and emphasized that maternity benefits should be seen as a right, not a privilege, ensuring that women are not penalized in their careers for taking maternity leave.

The judiciary in India has played a transformative role in shaping the development of maternity benefit laws, extending legal protections to women across various sectors of employment, and interpreting the law in light of constitutional principles of equality and dignity. Through progressive judgments, Indian courts have expanded the scope of maternity benefits, ensuring that women are not denied their rights due to the nature of their employment, discriminatory practices, or administrative lapses.



The judicial system has reinforced the idea that maternity benefits are a vital part of ensuring women's right to health, life with dignity, and equal opportunity in the workplace. As discussions on workplace gender equality and shared parental responsibilities continue, the judiciary's role will remain crucial in pushing for more inclusive and comprehensive maternity protections in India.

### **2.3. Maternity Benefits Reforms**

In 2017, the Indian government passed the Maternity Benefit Amendment Act. The reforms were accepted subsequently:

- The duration from twelve to twenty-six weeks for maternity benefits has increased; this does not apply to mothers who have children over two.
- The commissioning mother is qualified for maternity benefits for 12 weeks from the day she gave the baby on ordering or adoption.
- If the enterprise has more than 50 workers, crèche service should be provided. The mother is permitted to crèche four times a day, and the visiting duration is called a recess or rest interval.
- Depending on the organization's restrictions, women will work from home after maternity leave based on a joint agreement between the employee and the employer.

The new amendment applies to all workers of contractors and consultants. The latest amendment benefits women who are already on leave. Women's security if she is fired after discovering her pregnancy from her boss. The unorganized sector will benefit from the new Act. In December 1961, the Maternity Benefit Act was enacted. It oversees the work of females in particular foundations and provides maternity benefits for some periods of work.

#### **2.3.1. Qualification criteria:**

The Maternity Benefit Act hits all of India and extends female staff to every shop or foundation with a minimum of 10 employees. The significance of the foundation includes industrial installations, mines, estates, and bases in which persons are used to showing aerobics, equestrian, and various shows. The Act is safeguarded if a woman has worked 80 days or more in the year before transportation; she is eligible to receive maternity benefits (Women's National Committee, government of India 2014).<sup>78</sup>

### **2.3.2. Leave:**

According to the Maternity Benefit Act, a woman delegate will be qualified to take off for 26 weeks. The transmission date should be at most eight weeks before the expected date. If early childbirth or therapeutic pregnancy ends, the Maternity Benefit Act shall be considered a representative for a month and a half after and in case of unnatural birth, tubectomy mission, or two weeks following the operation; the employee is available for leave. Moreover, female staff with pregnancy-related diseases are the most eligible for the extended holiday month.

### **2.3.3. Ensuring Fair Compensation: Maternity Benefit Act's Provisions for Paid Leave and Beyond**

The Maternity Benefit Act says that when she is on maternity take-off, woman employees should be compensated at the pace of their ordinary daily pay by their superior. Standard wages should also be paid daily for leave after the unnatural birth cycle, tubectomy, or disease from pregnancy.

### **2.3.4. Medical advantages**

A lady has the luxury of having Rs.2500 in medical treatment and being given two nursing breaks every day until her child is fifteen months old.

### **2.3.5. Procurement insurance**

It is not legal for a company to discharge or remove a worker in the middle of or take off motherhood because of the rule. It is also illegal for a company to withdraw or refuse releases on such a day that the note will end in the middle of a simple motherhood representative.

### **2.3.6. Filing complaint**

Should the mother's benefit or therapeutic award be denied to the woman or freed or expelled by or under maternity leave, she can, within sixty-day, offer against the option for this purpose, she may approach a designated inspector under the Act. That is the opportunity she is not pleased with Inspector's requests; she can give the endorsed recommendations against the expert for 30 days. In one year, she may also document her case in court that the demands of the Inspector still need to be met or whether a more extensive legal inquiry is made enclosed.

### **2.3.7. Employer obligations**

The Maternity Benefit Act clarifies that a company could not use a female immediately after half a year of transport. A company also does not impact a woman to do a hard job or to work in the middle of the month before her regular vehicle. Also, a company undertakes in all facets of the base where the women are used to demonstrate the Act. Each company should also prepare and maintain involvement documents and apply for an annual backup (national commission for women, Government of India, 2014).<sup>79</sup>

### **2.4. Maternity protection laws in Maharashtra**

The 1919 Convention on Motherhood Protection was the first to be adopted by the ILO conventions. In 1921, the Indian government stated that the 1919 Convention could not be adopted on different grounds. In 1924, a private member submitted a bill to the Central Legislature, asking the government to oblige business owners to provide female employees with maternity benefits. But the government rejected the Bill because it thought such a proposal was unnecessary and, if laws were to be enacted, it might affect women's jobs. In its recommendations, the Royal Commission on Labor also emphasized the importance of adequate maternity laws for women permanently working in non-seasonal factories. The provincial authorities took the lead because the Indian government refused to act on these recommendations. The Bombay government passed the Motherhood Benefit Act in 1926. The provinces of central Madras, U.P., Bengal, and several others were pursued. The leave date, the amount of gain, and the qualification requirements differed differently from the country. In 1961, the National Government implemented the Maternity Benefit Act to reduce the inequalities in maternity welfare under various regional or state provisions. An owner is not permitted to hire any woman knowingly within six weeks of the day she or she delivered in any institution. Similarly, a female cannot work in any institution for six weeks. Also, no pregnant lady is to be administered at a request.

- Work of a strenuous essence.
- Work that takes a long-standing time.

Any job that in all ways may impair or cause an abortion or otherwise adverse health to her pregnancy or the normal development of the fetus. Two prescription nursing pauses, in addition to

their regular rest periods, are to be offered to a female employee restarting the infant up to 15 months after birth. The duration of this break is a rule for any State. (It is 15 minutes in Maharashtra). Because of light work or breaks taken for her kids, a boss must keep the pay. Also, it may not be discharged or dismissed because of a pregnancy, birth error, childbirth, or premature birth. Its terms of operation must remain the same during this time. If a female entitled to the motherhood benefit expires before she receives her duties, she or her legal advisor must pay the employer in the case of no candidate. The maternity benefit is paid only for six weeks before childbirth, plus the day of her death, where she dies. If the employer dies before or after the birth of the infant six weeks, they have to offer motherhood advantages for the whole six weeks; however, if the infant dies after the period, only for days up to and counting, the baby's mortality. In addition to the benefits offered by the Central Act, several national provisions include incentives such as free medical treatment, maternity benefits, creche provision, and different rest periods. If gifts are rejected incorrectly, complaints can be lodged with government-appointed inspectors.

The Factory Inspectorate is responsible for administrating the Act in all States. The Coal Mines Welfare Committee is accountable for the execution of the Act as far as coal mines are concerned. In mines other than coal mines, the Director-General of Minery Safety administrates the law. The Central and State Act rules require that employers supply annual returns to the administrators indicating the number of females employed during the year, the number of claims, the sum charged, etc. State governments analyze and publicize the details found in these reports in their annual reports on the operation of the Act.<sup>80</sup>

Any debate about childcare benefits in Maharashtra must take place within the framework of females' work and the visibility of their work in the economy. A Maternity Benefit policy is determined by the way "work" is interpreted, particularly in the sense of social reproduction, which means that our primary obligation remains to be accepted, even though more women are working as teachers. First, the significant share of domestic work inside has remarkable resistance. This very critical contribution of households to other policy measures is not recognized economic women and service factors for women in the office, such as crèches, feeding intervals and other treatment services for children. This should be an essential requirement for motherhood Women's Benefit Allocations.

Maharashtra is India's second-largest state, with a geographical region of 308 million m<sup>2</sup> and a population of nearly 100 million. The state is a strongly urbanized and industrialized economic powerhouse. The GSDP of the Gross National Domestic Product state accounts for 13% of Rs. 5,909,950,000 at current market prices (2007-08). Brutal National Product of the world, the production and fast expansion of the province. Altogether, the service sector contributes about 85% of the GDP. Maharashtra is India's second-largest state in union and territory (about 103 million). It has an extensive pool of competent, unqualified workers and simplified financial markets in India; it was an early manufacturing powerhouse.

Interestingly, the greatest exports are Joys, pre-made clothes, sugar, cotton thread, turmeric, made-up pieces, tools and equipment, metal, agro-based, and wine goods. In 2005-2006, Indian Manufacturing production was added by the province at 15% and GDP at 12%. Maharashtra is the wealthiest state in India and has an average income per capita of \$800. Maharashtra has the most significant number of microphones, according to the new Economic Survey. Special export promotion zones (SEZs) for Small and Medium Enterprises (MSME) and any country worldwide. This has become an important manufacturing center for automobiles, and an IT center for rising approximately 27% of nationwide export in 2007-2008 came from Maharashtra. Maharashtra province has a very dynamic and fast-growing manufacturing industry sector utilities. The two sectors currently comprise about 89% of the State's domestic product. On the other side, the agriculture sector and allies contribute while approx. 55% of the population is just 11% of State income agricultural production-based and allied operation.<sup>81</sup>

In terms of national statistics, overall, an examination of educational attainment indicates a more significant achievement. The general literacy rate in 2001 was 77%, compared with 86.27% for men and 67.5% for women. In aspects of literacy, however, gender disparities are still high. There have been a few enhancements in health factors since 1991. Infant mortality for every 1000 live births, as opposed to the average for all of India, and according to SRS data (Sample Registration System) offered 60 (SRS-2004-06). In NHFS-2, at the same time, nearly 50% of kids are undernourished in Maharashtra, which indicates that Maharashtra's growth is skewed.<sup>82</sup> ICDS (Integrated Child Development Allocation Services) Rs 1,600 crores (from Rs 1,444 in the Union budget 2004-5 only are rarely available budgets for 2003-4). Central and state governments combined spending of around Rs 3,000 crores is less than 1/10% of India's GDP. This is a minor assignment, keeping in mind that the number of children under 6 is about 15%. The aura of

economic development cannot conceal that Maharashtra still has 12 of the country's 100 poorest districts outside urban areas.

The population of Maharashtra in rural zones (5.58 crores) proceeds to be larger, compared with 4.11 in urban zones. A quarter of the entire state's population resides with the economically vulnerable sectors at a disadvantage; disparities are highest. With increased economic wealth, there will be far more people understood to have adequate wages for themselves and their family members and increased quality of life. In this case, the primary beneficiaries with more kids in schools, women, and children, should be better health and improved results for safety and health. But what does this so-called growth mean? The fact that women and children contribute to this is the economy's invisibility employed in highly exploitable conditions without change as a job in the unorganized market security. The gender ratio in Maharashtra is 922 women per 1000; here, it is essential to note that the husbands (which is lower than the national average of 933 females per 1000 males). This is based upon Sundaram's research (2000); unorganized labour employed approximately half of the entire in the 1960s and 1970s; the industrial strategy sharply increased the deterrence of big factories. By 1991, the unofficial economy expanded to 66% and grew since structural reforms were introduced.

The informal sector participates according to the estimated 40% of the gross national product. For women and girls, this has severe consequences considered to be readily accessible jobs at late hours without social security protections being necessary. Simultaneously, Maharashtra led the way in implementing proactive women's policies. In 1975 Mahila Arthik Vikas was the founder of the idea of a construction company business help in the form of loans, education, and marketing for the poor Mahamandal Women searching for their work. It was the first province to create a women's committee and a Women and Child Development Department and the first to publish a women's policy (1994), making the Initiative of Women portion of the State's growth plan an essential part of Economic Survey 2008-09 of the Maharashtra Group.

The provision should be expressly stated here income maternity leave under the Maharashtra Jobs Guarantee (MEGS) from 1969 onwards. It was also a prosperous unmarried woman in this province that Protected maternity advantages since the Act on Maternity Advantages does not provide that a woman must be married to bear a child (Maharashtra Human Development Report 2002). In that way, aware attempts were made until 1994 for its political and programmatic inputs

to identify that women must form part of the processes of development plans. But women's data are different and need to be thoroughly analyzed to delineate the discrepancy levels. The sexual ratios of Maharashtra clearly show gender discrimination. The numbers for gender discrimination and gender inequality are shocking. The 0-6 girl gender ratio had dropped to 913 girls per 1,000 boys in 1991 by 2001, confirming the reality of the growing use of embryo screens of modern technology to remove girls. The PNDCT Act, which excludes the exam, appears on paper only despite the unique policies of feminism and other women, person, and sex. State indicators of growth leave a lot to be desired. Strong rural-urban split, enormous territorial imbalances, and persistent poverty characterize the state. The prosperity of Maharashtra in Mumbai and the other rural and industrial regions is concentrated in Thane, Pune, Nagpur, and Nasik, commercial cities, while the state villages make a difference on the fringes of life (Maharashtra Development Report, 2007).<sup>83</sup>

## **2.5. The Maharashtra Maternity Benefit Rules, 1965**

The Government of Maharashtra has herewith, exercising power contained in sec. 28 of the Maternity Benefit Act, 1961 (53 of 1961), as set out in subparagraph (1) of that Section 28 of the Act, the following rules:

### **1.Short title and start-**

- The Maharashtra Benefit Rules for Maternity, 1965, can be referred to as these.
- The State Government can nominate them in that name on the date of their entry into force.

### **2. Title short and beginning. In these Rules, if the circumstances require otherwise.**

- "Act" shall mean "Maternity Benefit Act 1961";<sup>84</sup>
- "Competent Authority" shall mean a chief inspection officer designated under section 8 of the Factories Act of 1948;
- "Form" shall mean a form attached by the Rules;
- Form of notification under Section 6.- A female qualified for maternity benefit shall be notified in Form 1.
- The payment method with pregnancy advantages and other advantages.
  - a. The medical incentive available to a female under section 8 and the maternity benefit sum due for six weeks immediately after the delivery date shall be received.

**b.** Within four hours of the proof of this miscarriage or sickness, the wages payable to a female for error under section 9 of the Act or leave for a condition resulting from pregnancy, delivery, childbirth, or miscarriage under section 10 shall be paid.

- Death evidence of pregnancy, etc.

**a.** For the Act and the following laws, a certificate in form 2 shall be issued to the licensed physician attesting the pregnancy, delivery, and disease of a woman resulting from pregnancy, delivery, premature birth of a child, or abortion of a woman.

**i.** a certificate issued by a registered midwife in Form 3, proving the confinement or abortion of a wife or

**ii.** certificates issued by the police or an approved extract from a birth register kept in force under any birth register, in evidence of confinement or woman, shall also be a proof of custody or as is required by the

**iii.** law, a woman shall be detained by the law of that date.

**b.** For that Act and these laws, proof of the death shall be provided for the creation of a certificate of Form 4 by a medical practice registered or licensed derive from any record of deaths long held under any law relating to the registry of fatalities certifying the killing of a female of a child.

- Period of breaks permitted by Section 11. - A woman shall each be allowed to break for 15 minutes, subject to the period adequately time required of a woman to arrive in the crèche or in the place to which her child is held in duty by her and to return to the duty-place, the period of each such rest shall be increased by no further period.
- Deliberately destroying goods or the property of an employer;
  - a.** attacking the superior officers or coworkers at the place of work;
  - b.** criminal violations involving moral turpitude resulted in judgment by a court of law;
  - c.** theft; acts comprising gross misconduct. - The acts constituted by gross misconduct are gross misconduct, by paragraph (2) of section 12.
- Section 12 appeal. Appeal -



- a. The Competent Authority shall appeal under paragraph (b) of subparagraph (2) of Section 12 as early as in Form 5. It shall be directly transferred or sent by registered post to the competent authority.<sup>85</sup>
  - b. Following receipt of the appeal, the Expert Board shall submit to the employer the copy of the charm and notify the employer that the employer must give the employer a reply to a request and the product on or before the date set out in this notice as the documents about the proposal. The notification also states that the request will be determined ex parte if the company fails to send a response or submit documents on or before the date indicated in the notice.
  - c. The Competent Authority shall offer its judgment on the appeal, taking into account the evidence submitted to it by the petitioners and the employer and, if any, from the documents provided by the employer. If by the communication served to him in sub-rule (2), the business owner fails to provide his response and produces records; the competing authority must offer an ex parte of his decision.
- Section 17 complaint -
    - a. All complaints under section 17 shall be made as soon as they can be made in the form of the plaintiff being a female entitled to the benefits for which a complaint is lodged and if the plaintiff is any individual seeking the benefits under section 7.
    - b. Following receipts of a complaint under section 17, the inspector shall review all registers held by the employer to investigate and review any employee employed before issuing any order under subsection (2) of that section and shall take the statements required from such individual.
  - Section 17 appeal. –
    - a. An application under subsection (3) of Section 17 shall occur at the Competent Authority as early as in Form 8. Provided the Government of State or other power which the government of a state can appeal in that name is also against the opinion of the Competent Authority itself in the form of a concisely defining memorandum gr shall be appealed to it in that capacity.

- b. After the appeal has been accepted by the Competent Authority, when a request is received, the Competent Authority shall appeal to the Inspector, on whose decision the appeal is brought to the attention of the Inspector, to include all the records of the request before a specific date.<sup>86</sup>
- Abstract forms are to be presented in Section 19. The Act's summaries and the laws it contains for display by Section 19 shall be in Form 9.
- Each employer of the factory where females work shall create and maintain maternity benefits records in Form 10—maternity benefit database.
  - a. All registered entries are rendered in ink and shall remain open throughout working hours for review by the Inspector.
  - b. The employer shall be entitled to enter such details as may find appropriate for the Law in the register.
- Forms are submitted. - Each employer shall provide copies of every other form other than Form 9, 10 and 11 upon the application made by a woman.
- Suppose notification, petition, or complaint is not given or made as early as possible in the form required under those rules. In that case, the person to receive such a notice, appeal, or complaint shall need a person to give such notice to the applicant, request or complaint within 15 days of receipt of such information, request or complaint.<sup>87</sup>
- Return. - By the fifteenth day of January each year, each employer must return a return to the competent authority on Form 11.
- Records. - All records maintained as provided by and by the provisions of the Act are to be retained for three years starting from the date of last entry.<sup>88</sup>

## 2.6. Maternity Protection Laws in Mumbai

In Maharashtra, the Maharashtra Domestic Workers Welfare Board Act 2008 has already been executed at the state level. The Campaign -*Jagrut Gharelu Kamgar Andolan* met and interviewed the member organization. As a result, in Mumbai, nearly 8 lakh domestic staff, and just 15000 to 17000, will enter them.<sup>89</sup> The fundamental problems emerging from the debate were:

- No income loss is provided for in maternity benefits included under the Act (1) the employer shall offer three months or if the employer leaves at least 1 1/4 months; (2) he shall not quit the employee in that period.
- This organization states that: Time and (3) must offer to pay for a minimum of one month.
- The Act stipulates but does not that bosses must be identified on the Board, nothing about your input.
- The Government can only pay for the Welfare Board as one of its members. The domestic costs were given for all two deliveries in a municipal hospital. A welfare board member is an employee enrolled.
- The Act does not guarantee minimum wages and leaves much to be desired regarding employment circumstances and worker sexual assault.
- The Act does not provide for procedures to ensure the provisions.

Welfare Boards were implemented fully and supervised on 1 September 1965 in Maharashtra; the MB Act and the Rules for the Maternity Benefit were enacted (vide GoM notification dated 9.8.1965). The law is in force in Mining, planting, and planting plants (defined under paragraph 2(m) of the Factories Act, 1948). Any institution protected by the Act on the Bombay Shops and Commercial Establishment. ESIC is not protected (1948), including all hotels, restaurants, and dining establishments house (since Feb. 22, 1980). Cotton-ginning establishments (since Feb. 22, 1980), except government hospitals or Zilla Parishad and Panchayat Samiti (since 17 May 1978).

The Law is applied to mines, plantations, and circuses by the Central Government and any other establishments mentioned above by the Government of Maharashtra. The Maternity Benefit Act covered 966 plants in Maharashtra according to the latest statistics available at the Labor Bureau (2003). Of those returns, 743 or 77% file. Of the 408 women who made motherhood statements gain, 363 applications have been admitted, and 192 or 47% of claimants, paid in whole or part. No Health bonuses have been charged. The overall payment of maternity allowances was Rs 7.6 million.<sup>90</sup>

To gain an insight into the state of social security and maternity welfare, in-depth interviews were conducted in Mumbai with nurses and paraprofessional staff. Some of the main conclusions were as follows:

- There is a growing trend in the push for contractual patient care and other nursing assistant work. Females and lower-caste men work in these jobs and are therefore stigmatized, and in a comparative study to doctors, it remains considered insignificant jobs. Poor salaries, lack of safe time in the office and poor working conditions enhance the status.
- It must be stressed here that the nursing community is the pillar of the health industry, and its role must be acknowledged. To do so, protection of time in office must be guaranteed employment and benefits for social security.<sup>91</sup>
- Private healthcare organizations must be registered, monitored, regulated, strengthened and extended to equal social security and maternity provisions.
- The provincial government and the medical government should keep the database and its authentication councils that practice in private. The nursing and other staff details must be annually provided to the Department of State Health.
- All contract nursing assistant workers of government hospitals whose contracts are to be regulated by State Special fund salaries were accruing.
- They are reinforcing the education and training of nursing staff and other paraprofessionals' strategies for strengthening Maharashtra healthcare services. They are the nurses who manage and decide on training curricula as they are essential interested parties with experience working with patients directly.<sup>92</sup>

In *Bombay Labour Union v. International Franchises Pvt. Ltd.*,<sup>93</sup> according to the existing regulation, all single women had to leave the military once they were wedded. The court observed that there was no evidence to support the notion that wedded women were inherently more inclined to take time off from their jobs than either single women or widows. If the existence of children were the cause of increased absenteeism among wedded women, then the situation would be the same for widows caring for their children.

In the case of *Air India v. Nergesh Meerza and Ors.*<sup>94</sup>, six flight attendants from Air India and Indian Airlines challenged their employer's policy that allowed for the termination of their employment upon the discovery of their first pregnancy. The Indian Apex Court ruled that this policy violated Article 14 of the Indian Constitution, as it was deemed arbitrary and unjustified. However, when air hostesses with two live children became pregnant with their third child, the Supreme Court supported an amendment that effectively compelled them to retire. This

amendment was purportedly introduced in the interest of women's health and the national family planning program.<sup>95</sup>

The case of *Anima Goel Ms. vs. Haryana State Agricultural Marketing Board*<sup>96</sup> was a matter of whether or not the applicant should be given the protection of Section 5 of the Maternity Benefit Act. The petitioners were temporary employees in the context of the Municipal Court; the Supreme Court of Hon'ble already resolved this case. *Delhi v. Female Employees Company (Muster, Roll)* and *Anr*, a view retained the possibility of *Vandana Sharma and Haryana and Ors. The C.W.P. State of Anr. 5517/2006* and some other requests were agreed upon on 11 April 2002.

## **2.7. Maternity protection laws in the Private sector in Mumbai**

By the Employees' State Insurance (ESI) Act of 1948 and the Maternity Benefit (MB) Law of 1961, the maternity benefits for private workers are limited. By the ESI Act, 1948, video notice of 20.01.2017, the government has already extended its paid maternity leave for up to 2 surviving children from 12 to 26 weeks. In terms of increased benefits under the 1961 MB Act, before Rajya Sabha, 2016 was adopted by the Government. The Rajya Sabha approved the bill on 11 August 2016, and on 09 March 2017, the Lok Sabha also supported the bill. The laws protect employed women's rights by comprehensive and appropriate mechanisms, including official field inspections. To ensure proper compliance, the Act provides for strict punishments, including incarceration, for breaches of its provisions.<sup>97</sup> According to the Law on Social Security of Unorganized Workers 2008, "an unaffected worker means:

- An employee from home
- Employees themselves
- Unorganized sector nature of jobs, contract, casual, and bonded labour.<sup>98</sup>

The law made it obligatory for working places to give female workers maternity rights to fulfill the previously stated requests and support that must be given to employed pregnant women. The Act of Motherhood Benefit, 1961, was recently revised by the Maternity Bill in 2017.<sup>99</sup> These privileges are available to women who work with ten or more workers in all stores and facilities. Also, by the Staff's State Insurance Act of 1948, women in industries with ten or more workers receive maternity benefits.<sup>100</sup> The Maternity Benefit Act initially paid maternity leave three months after her maternity leave at the pace of her daily average pay. It was subsequently updated in 2017. After recognizing that it took at least 80 days in a year before the date of her planned arrival, the

reform came into effect. It extended maternity leave to 26 weeks for twelve weeks. The maternity duration is 12 weeks, though, if the female has two remaining children. This represents a considerable improvement in benefits for women to deal with changes in lifestyle and support maternity. After Canada and Norway, 26 weeks is the third-highest time in the world. Added provisions enable women to work at home or with more than 50 workers to enter the workplace up to four days per week. It is not all about safety at work anymore. A woman who takes maternity leave or terminates a pregnant woman should not be dismissed. The legislation also supports employed pregnant women under the constitutional terms of reference. The legislation is, however, applicable only to institutions with more than ten staff. The research aimed at serving "a small percentage of India's small workforce women" The paper also considers that "The narrow definition of maternity benefit is due to the desire of the Indian elite to mere imitation and implementation of Western policies without adapting them to Indian conditions." The paper argues that the Law is a prime example of a "phantom law."<sup>101</sup>

#### **2.7.1. National Maternity Benefit Scheme (NMBS)**

Pregnant women get funds from the nationwide maternity advantages system. This is linked to improved food arrangements for pregnant women in families living under the poor line. The advantage measurement is Rs.500. A lady should be qualified:

- to be a city's permanent resident.
- have a seat below the BPL or are undergoing 8-9 months of pregnancy.
- be pregnant for the 1st or 2nd time

#### **2.4.2 Janani Suraksha Yojana (JSY)**

Janani Suraksha Yojana is a restrictive currency exchange package that includes budgetary colleagues with maternity and institutional care in the middle and immediately the following transportation. The strategy aims to reduce maternal and newborn mortality and increase organizational transfers in families below the poverty mark.<sup>102</sup> The measurement benefit is Rs.500 and an additional Rs.200 (700 rupees in aggregate) for domestic transport or 100 rupees for Country Regions (aggregate of Rs.600 for urban territories) for organizational institutions living. The advantages are accessible for public healing centers and transportation in private companies. In circumstances of good governance, professionals are not available in government to track disruptions or for the Cesarean Section. The well-being basis for

enlistment will use 1500 rupees from private division authorities. A woman is entitled to benefit from the JSY should:

- Be 19 or older.
- Have a place with BPL classification or be an SC/ST lady, or be pregnant for the 1<sup>st</sup> or 2<sup>nd</sup> time (national commission for women, Government of India 2014).

### **2.7.2. Indira Gandhi Matritava Sahayog Yojana**

The Indira Gandhi Matritava Sahyog Yojana (IGMSY) aims to offer pregnant women a fractional salary with the intention that they will not receive the impulse to function during or shortly after the last stage of pregnancy. The justification salary is that women who relax before the transmission can do more. Do not carry babies with minimal birth mass; females who relax after transport can recover and breastfeed their children. The primary purpose of the strategy is to improve the well-being and nourishment of women and their female's young people. This could be concluded by encouraging ladies to eat and improve early child support and survival insurance, promoting newborn children before the schedule, and selective breastfeeding in the first half-year of tyke's lives.<sup>103</sup> The Advantage Measure is 4 000 rupees and is available between the second quarter of pregnancy in three portions till half a year of age ends for the newborn boy. The women chosen by IGSMY are urged to gain from the JSY bundle and the opposite to be entitled to the advantages IGMSY, a female should:

- be of the age of 19 years or beyond.
- be pregnant for the 1st or 2nd time.

Additionally, if the ladies are urged to take an interest in the plans and administration of the women, Anganwadi workers and Anganwadi partners at the Anganwadi Centers (central objectives of the execution of the project) will get money. In the Advantage Measure, there are 200 rupees per pregnant and 100 rupees per pregnant for Anganwadi specialists and lactating ladies (national commission for women, Government of India 2014). The benefits for maternity employees do not include employees in the unstructured field: the point of the interest portion of the Indian Parliament's Maternity Benefit Act 1961, 26 weeks of paid moms' leave, has generated more acid than the existing 12 since its skeptical essence reflux than the hurrahs (Neeta Lal 2016). The rule shall also apply to promote alternatives to telecommuting for nursing mothers after the

period has expired. He made creche offices necessary with at least 50 employees in the foundations. The review takes India on board the third position in maternity leave after Norway (44 weeks) and Canada (50 weeks).<sup>104</sup>

## **2.8. Conclusion**

The maternity benefits have evolved in the present times to accommodate working women in multi-fold sectors; however, their rights have been recognized and expanded at the international stage as well. Maternity benefits are indispensable for safeguarding women's economic rights and alleviating the challenges they face due to childbirth. The Maternity Benefit Act, 1961, stands as a beacon of protection, ensuring paid leave and job security for women during pregnancy and childbirth.

Historically, societal norms and workplace practices often marginalized pregnant women, leading to financial insecurity and health risks. However, with the enactment of maternity benefit laws, women are empowered to balance their maternal responsibilities with their professional aspirations.

The evolution of maternity protection laws in India mirrors global efforts towards gender equality and social justice. Inspired by international conventions and domestic imperatives, these laws have progressively expanded to cover a broader spectrum of women workers, fostering a culture of inclusivity and support. Despite the strides made, challenges persist in the effective implementation and awareness of maternity benefits. Addressing these challenges requires collective action from employers, policymakers, and civil society to ensure that every woman receives her rightful entitlements.

In conclusion, maternity benefits play a vital role in promoting gender equality and empowering women in the workforce. By upholding the principles of fairness and compassion, we can create a more equitable society where every woman can thrive, both personally and professionally. The forthcoming chapter discusses the international dynamics on the rights of women and the fruition of such rights in form of conventions, protocols and treaties.



## **CHAPTER - III**

### **MATERNITY BENEFITS: AN INTERNATIONAL PERSPECTIVE**

#### **3.1. Overview**

The benevolence of globalisation and the westernisation has rendered many states cross the globe to understand aspects of justice and mankind in a broader sense. Certain rights which were practically obsolete in the earlier times like recognition of transgenders, gays, bisexuals, homosexuals, etc, or existence of rights of privacy, access to internet, rights of under-trails, to name a few have now become instrumental rights of the democracies across the world. Similarly maternity benefits have also been recognised, deliberated and discussed at the supranational stage by world leaders. This chapter would throw light on several conventions, protocols, treaties and other international instruments relating to the maternity benefits. In the late 19th century in Germany, when maternity benefits became an aspect of the insurance system, the origin of the maternity benefit scheme can be traced. Similar methods were also adopted by other developed nations, including the UK and Australia. The Maternity Allowance Act was implemented in 1912 in Australia, and in Great Britain, it was also incorporated into health insurance. However, the International Labour Organization (“ILO”) achieved international recognition of mothers' benefits. The ILO's main concerns are to guarantee that women's work would not risk women's health or children and ensure that their economic and occupational safety does not include women's reproductive roles. The conclusions of June 2009's 98th International Labour Conference also recognize that the enhanced security of maternity status is vital to uniformity between women and men and urge the ILO to support the ratifying and implement Convention No.183 and to *"[...] collect and communicate good parental leave procedures and maternity leave advantages and provide the governments with technical support to improve effective legislation and policies."* (ILO, 2010).<sup>105</sup>

#### **3.2. International Laws on Maternity Benefits**

Almost all countries have maternity leave laws that enable young moms to leave work for a limited period around birth and then return to work (ILO 1998). However, these laws differ distinctly between countries: In the United States, maternity leave for up to 12 weeks of employment security over a 12-month term, and in Denmark, women will leave their places of

work for 18 weeks and then go back to the job, they have previously done. In the UK, recent amendments to the maternity leave rule have extended to 40 weeks, the overall duration of the work-protected absence. The right to reinstate the employer leaves the costs of restructuring work temporarily during motherhood leave. These reorganization costs would depend, among other things, on the length of the vacation and, at least in part, on workers, on young women who "have a chance" of benefiting from maternity leave provisions. This might exacerbate the situation of young women in maternity leave provisions aiming to boost the labour market status. In addition, many countries often make maternity leave payments which the employer sometimes partly supports. While maternity leave in the US is unpaid, in Germany, maternity wages amount to up to 100% of the salary, and the employer bears about 40% of those expenses (ALEWELL 2000). The costs of co-financing maternity wages increase reorganization costs, and the labour market status of young women can be further exacerbated.<sup>106</sup>

### **3.2.1. Nations with Maternity Leave Privileges of More than 16 weeks**

When the workforce is hired in the following nations, the corporation can plan for maternity leave, taking considerable time and costs. The United Kingdom has 39 weeks of paid/half-paid leave during the entire leave time (plus 13 unpaid weeks), followed by India with a wholly paid leave of 26 weeks. However, in terms of costs, leave in the United Kingdom is financed by the government (employer pays and then claims), minimum after six weeks. The employer in India pays the whole cost and ensures paying total wages on leave for six months.

#### **3.2.1.1. United Kingdom<sup>107</sup>**

- Full Maternity Leave Privilege: 52 weeks
- Time to Take Leave: Beginning 11 weeks before the due date
- Paid Leave Quantity: 39 weeks
- Wages Paid Percentage: 90 percent of salaries for the 1st six weeks of vacation, then either ninety percent of wages or 145 BP per week (whichever is less) for the next 33 weeks.
- Paid by: Social security
- Unpaid Leave Quantity: 13 weeks
- Termination Safety While on Vacation: Yes<sup>108</sup>

#### **3.2.1.2. India<sup>109</sup>**

- Full Maternity Vacation Privilege: twenty-six weeks (birth) or twelve weeks (adoption)

- Time to Take Vacation: up to eight weeks preceding (pre-natal) to the due date
- Paid Vacation Quantity: 26 weeks
- Wages Paid Percentage: 100 percent plus medical dividend (if no well-being advantages)
- Paid by: Owner
- Unpaid Vacation Quantity: Not Available
- Termination Safety While on Vacation: Yes

France also has a lenient rule on vacation, particularly when the family has more than 1 or 2 children, but only 16 weeks are paid regardless of total leave time. Spain has the same threshold for paid leave, which is paid to 100% by the social security system, which reduces the employer's burden for a possible absence of 4 months. Japan has just 14 weeks at 66 percent of salaries, while mothers can take up to 1 year of childcare leave at 50 percent of wages, making this a generous employee perk. In Japan, the employer's pressure is reduced by the particular procedure, where workers are expected to 'stagger' their childbirth and require their motherhood leave.

#### **3.2.1.3. France<sup>110</sup>**

- Full Maternity Vacation Privilege: sixteen to twenty-six weeks, depending on the number of babies
- Time to Take Vacation: 6 weeks before delivery and ten weeks after
- Paid Vacation Quantity: sixteen to twenty-six weeks up to the legal highest pay
- Wages Paid Percentage: 100 percent of average salary up to 9,933 Euros
- Produced by: Social Security
- Unpaid Vacation Quantity: Not Available, but after sixteen weeks, parental vacation is obtainable
- Termination Safety While on Vacation: Yes

#### **3.2.1.4. Spain<sup>111</sup>**

- Full Maternity Vacation Privilege: 16 weeks
- Time to Take Vacation: Beginning up to ten weeks before the due date
- Paid Leave Quantity: 16 weeks
- Wages Paid Percentage: 100 percent
- Produced by: Social security

- Unpaid Vacation Quantity: Up to 3 years and up to 1 year to hold a similar situation at the corporation.
- Termination Safety While on Vacation: Yes, for nine months following birth

### **3.2.2. Nations with Maternity Leave Privileges of Less than 16 weeks**

Between 12 and 16 weeks, the following countries provide maternity leave, with the USA being the least lenient, offering only 12 weeks of unpaid leave without termination cover. Canada, by comparison, offers 15 weeks but is covered by social insurance and is only paid 55% of salaries.

#### **3.2.2.1. *Japan*<sup>112</sup>**

- Full Maternity Vacation Privilege: 14 weeks
- Time to Take Vacation: six weeks before birth and eight weeks after
- Paid Vacation Quantity: 14 weeks
- Wages Paid Percentage: 66 percent
- Produced by: Social security
- Unpaid Vacation Quantity: Not Available but may take up to 1 year of childcare vacation, paid at fifty percent of pay.
- Termination Safety While on Vacation: Yes

#### **3.2.2.2. *United States of America*<sup>113</sup>**

- Full Maternity Vacation Privilege: twelve weeks (restricted use to corporations with more than fifty workers)
- Time to Take Vacation: Following childbirth
- Paid Leave Quantity: Not Available
- Wages Paid Percentage: Not Available
- Produced by: Employer provides health advantages
- Unpaid Vacation Quantity: up to twelve weeks
- Termination Safety While on Vacation: No

#### **3.2.2.3. *Canada*<sup>114</sup>**

- Full Maternity Vacation Privilege: 15 weeks
- Time to Take Vacation: Up to two weeks before delivery, as the advantage ends seventeen weeks after birth

- Paid Leave Quantity: 15 weeks
- Wages Paid Percentage: 55 percent up to CAD 562 per week
- Produced by: Government Employment Insurance
- Unpaid Vacation Quantity: Not Available, but parental vacation is accessible for up to sixty-nine weeks
- Termination Safety While on Vacation: Yes

Compared to Singapore and Thailand, the US and Canada are the least expensive for employers, which mandate them to pay at least half their leave at a 100% payroll. Singapore also offers the staff the opportunity to take up to 1 year of leave without pay.

#### **3.2.2.4. Singapore<sup>115</sup>**

- Full Maternity Vacation Privilege: twelve weeks (sixteen weeks if the baby is a Singaporean)
- Time to Take Vacation: Within four weeks of the date of birth
- Paid Leave Quantity: 16 weeks
- Wages Paid Percentage: 100 percent (government payments covered at \$10,000 per four weeks)
- Paid by: Owner (1st eight weeks) government (next eight weeks for residents only)
- Unpaid Vacation Quantity: Up to thirty-six to forty weeks (total vacation of fifty-two weeks)
- Termination Safety While on Vacation: Yes, without reason

#### **3.2.2.5. Thailand<sup>116</sup>**

- Full Maternity Vacation Privilege: Ninety-eight days
- Time to Take Vacation: After delivery
- Paid Vacation Quantity: 98 days
- Wages Paid Percentage: 100 percent
- Paid by: Owner (forty-five days) Social Welfare Fund (forty-five days at fifty percent)
- Unpaid Vacation Quantity: Not Available
- Termination Safety While on Vacation: Yes

With just three months' leave, China and Mexico are much simpler for the employer, and the government social security fund pays the entire sum.

### 3.2.2.6. *China*<sup>117</sup>

- Full Maternity Vacation Privilege: 98 days (contains weekends and vacations)
- Time to Take Vacation: 15 days before childbirth
- Paid Vacation Quantity: 98 days
- Wages Paid Percentage: Maternity Payment based on a monthly salary, involving all workers in the past twelve months (whichever is greater, but no more than three times the average pay in the area).
- Paid by: Social Security
- Unpaid Vacation Quantity: Not Available
- Termination Safety While on Vacation: Yes, up to when the baby one-year-old)

### 3.2.2.7. *Mexico*<sup>118</sup>

- Full Maternity Vacation Privilege: twelve weeks, with an increase of sixty days available
- Time to Take Vacation: 6 weeks before delivers six weeks after
- Paid Vacation Quantity: twelve weeks complete salary, sixty days half salary
- Wages Paid Percentage: 100%
- Produced by: Social security
- Unpaid Vacation Quantity: Not Available
- Termination Safety While on Vacation: Yes <sup>119</sup>

**Table : 3.1.: A comparative analysis of maternity laws in India, France, Spain, Japan, United States of America, Canada, Singapore, Thailand, China, and Mexico :**

Country	Maternity Leave Duration	Paid Leave Percentage	Eligibility Requirements	Job Protection	Paternity Leave
<b>India</b>	26 weeks	100%	Employed for at least 80 days in the 12 months prior	Yes	15 days
<b>France</b>	16 weeks (first child); up to 26 weeks for subsequent children	100%	Must be registered under social security	Yes	25 days

Country	Maternity Leave Duration	Paid Leave Percentage	Eligibility Requirements	Job Protection	Paternity Leave
<b>Spain</b>	16 weeks	100%	Must be contributing to the Social Security system	Yes	12 weeks (shared)
<b>Japan</b>	14 weeks	67% (up to 6 months), 50% (thereafter)	12 months of insurance contributions	Yes	1 year (shared)
<b>United States</b>	12 weeks (unpaid, under FMLA)	0%	Employed at company with 50+ employees, 1 year tenure	Yes (under FMLA)	12 weeks (unpaid)
<b>Canada</b>	17 weeks (maternity); 61 weeks (parental)	55% (up to 15 weeks), 33% (thereafter)	600 hours of work in the last 52 weeks	Yes	5 weeks (parental)
<b>Singapore</b>	16 weeks	100%	90 days of work before child's birth	Yes	2 weeks
<b>Thailand</b>	98 days	100%	Must be employed and paying into social security	Yes	15 days
<b>China</b>	98 days (additional leave varies by region)	100%	Varies by region, generally includes all female employees	Yes	14 days
<b>Mexico</b>	12 weeks	100%	30 weeks of contributions to social security	Yes	5 days

The comparative analysis of maternity laws across India, France, Spain, Japan, the United States, Canada, Singapore, Thailand, China, and Mexico reveals significant variations in maternity leave policies regarding duration, pay, and conditions. The duration of maternity leave ranges from 12 weeks in the USA and Mexico to up to 61 weeks in Canada, including parental leave. Most countries provide around 14 to 16 weeks of maternity leave, with notable extensions seen in Canada and India. In terms of paid leave, countries like France, Spain, India, Singapore, Thailand, China, and Mexico offer 100% paid maternity leave, ensuring financial stability for new mothers. Conversely, Japan and Canada offer substantial but not full paid leave, while the USA stands out

for not mandating paid maternity leave, offering only unpaid leave under the Family and Medical Leave Act” (FMLA).

Eligibility for maternity leave benefits generally requires prior employment or contributions to social security systems, with the USA having the most restrictive eligibility criteria, applying only to employees in larger companies with a minimum tenure. Job protection during maternity leave is a common provision across all countries, ensuring women can return to their jobs post-leave, although specifics can vary, particularly in the USA where job protection is conditional under the FMLA

The recognition of paternity leave is also growing, with most countries offering some form of leave for fathers. The duration and conditions of paternity leave vary significantly, with countries like Canada and Japan providing substantial parental leave that can be shared between parents. The key takeaways from this analysis are that European countries like France and Spain, along with Canada and Japan, offer relatively generous maternity and parental leave policies both in duration and financial compensation. Full wage replacement during maternity leave is common in many countries, highlighting the importance of financial security for new mothers. However, the USA lags significantly behind in terms of paid leave, offering only unpaid leave, which can pose a substantial financial burden for families.

### **3.3. International Instruments for Maternity Protection**

Maternity protection is a critical component of labour rights, aiming to safeguard the health of mothers and their newborns, ensure job security, and promote gender equality in the workplace. Several international instruments have been established to provide a framework for maternity protection globally. These instruments set out minimum standards for maternity leave duration, benefits, and job security, and aim to harmonize national laws with international labour standards. Key international organizations, including the International Labour Organization (ILO)<sup>120</sup> and the United Nations (UN)<sup>121</sup>, have been instrumental in developing and promoting these standards.

The primary international instruments for maternity protection include the ILO Conventions and Recommendations, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and various regional agreements. These instruments are designed to ensure that maternity protection is not left to the discretion of individual employers or subject to the vagaries of national policies alone but is grounded in internationally recognized standards that all member states are encouraged to adopt and implement.<sup>122</sup>



This introduction outlines the significance of these international instruments and their role in promoting a consistent and fair approach to maternity protection worldwide. It also highlights the ongoing challenges and disparities in the implementation of these standards across different countries, emphasizing the need for continued advocacy and policy development to achieve comprehensive maternity protection for all working women. World countries have constantly restated the significance of motherhood safety to children's rights, human rights, gender impartiality, and females' rights. Several international human rights instruments have maternity protection obligations, including:

### **3.3.1. Universal Declaration of Human Rights (UDHR), 1948**

**Art 25(2):** Unique treatment and support are available for motherhood and childhood. All children should have the same social protection whether they were born to a married parent or not.

### **3.3.2. International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966**

The International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>123</sup> adopted by the United Nations General Assembly in 1966, is a fundamental treaty that outlines the economic, social, and cultural rights of individuals. Article 10(2) of the ICESCR specifically emphasizes the importance of protecting and supporting mothers, particularly in the periods before and after childbirth. This provision mandates that mothers receive special care during these crucial times. It also underscores the necessity for maternity leave, stipulating that working mothers should be granted either paid leave or leave with adequate social security benefits to ensure their well-being and economic stability during maternity. This recognition of the need for special provisions for mothers highlights the broader commitment of the ICESCR to promoting human dignity and equality, ensuring that all individuals have the necessary support to lead healthy and fulfilling lives. Mothers should be given special care proficient period pre-birth and post-childbirth. Over time, vacation with wage or leave with graduate protection advantages should be granted to working mothers.

### **3.3.3. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979**

- **Preamble:** Non-differentiation rights of women, which pregnancy: contributing to maternity rights in the workplace, parental leave, and recognition of the role of society towards women concerning motherhood.

- **Art. 11:** Non-discrimination in jobs; occupational safety and health; forbid pregnancy dismissal and maternity leave; maternity leave with pay; programmes that allow female workers to balance family and employment responsibilities (childcare); protection against hazardous work throughout pregnancy.<sup>124</sup>
  - Nations Groups shall ponder all the actions essential to eradicate differentiation against females in the service sector to make sure equal privileges based on equal employment between men and women:
  - The right to secure safety and health at the workplace and safeguard productive function.
  - Nations Groups shall consider adequate actions to avoid discrimination against females on maternity or marriage grounds and secure their active work right:
  - Prohibition of removal on the reasons of pregnancy or maternity vacation and differentiation on the fields of married position subject to the application of sanctions;
  - Introducing maternity leave without loss of former work, seniority or social security benefits with salary or similar social benefits;
  - Encouragement of social provision to facilitate parents to assimilate family obligations and public life participation, in particular by fostering growth and establishment of a children's services network;
  - It has been proven detrimental to women in job types to offer exceptional protection during pregnancy.
- **Art. 12.2:** The State Parties shall ensure women's sufficient conception, confines, and post-natal care, accessible and, where possible, nutrition during lactation and pregnancy. The Parties shall provide women with good services.

### **3.3.4. Convention on the Rights of the Child (CRC), 1989**

- **Art. 18(2):** To guarantee and foster the rights in the Convention, States Parties would provide adequate support in exercising their child-raising duties to parents and legal guardians and creating children's care institutions, facilities, and programmes.<sup>125</sup>
- **Art. 18(3):** Nations Groups shall consider all steps necessary to guarantee that childcare facilities and facilities eligible for which kids of working parents are entitled to benefit.<sup>126</sup>

### **3.3.5. Beijing Declaration and Stand for Action, 1995**

Six thousand representatives from 180 nations and over 4,000 members from the NGOs attended the 4th International convention on females in Beijing in 1995. governments have

reiterated in a declaration about dedication to females' reasonable rights and empowerment. A global agenda and strategic goals and initiatives were set out in the resulting Platform to act in 12 key fields: poverty, fair exposure to education and medical services, brutality against females, policymaking, and women's rights. The critical lesson of the 4th International Convention on females was that global and universal problems were discussed in the Forum for Action. Properly developed perceptions and traditions perpetuate in every part of the world discrimination and inequality against women. Modification and implementing new principles, behaviours, activities, and goals at all levels is therefore essential. Measures to protect and encourage the inviolable rights of every girl and woman should be undertaken at all levels and central to all actions. Such initiatives should comply with international gender principles and standards and allow organizations to advance to a broader extent in implementing reform. Governments and the United Nations should commit themselves to using gender mainstreaming as a tool to attain gender impartiality objectives in their policies and programmes. To improve access to adequate, accessible, and quality care, related services, and information for women during the life cycle:

- **Para 106** calls for governments and associates to develop specific strategies, regulations and programmes to reduce and eradicate health risks associated with home travel, work, and other activities in caring for lactating and pregnant females.
- **Para 181** calls on the government to make sure that females and males have opportunities to pursue job-secured parental vacation and have parental advantages through regulations, rewards, and encouragements. Promote reasonable allocation between women and men's obligations for the family, including through law, benefits, and motivation, and encouraging work mothers to ease breastfeeding.<sup>127</sup>

In March 2010, a statement on the fiftieth anniversary of the Beijing Convocation was adopted. The 54th Session of the UN Commission on the position of females passed a resolution of 54/4 on financial empowerment for females. The resolution calls on states, employers, associations, and labour unions to implement or reinforce policies and programmes that promote the multi-functioning of women in society. The resolution recognizes the importance of pregnancy and maternity. It should also encourage the joint interest of men and women in parental babies and the care of other household members through such policies and programmes.<sup>128</sup>

### **3.3.6. World Health Assembly Declarations - International Plan for Newborn and Young Baby Feeding: Segments related to maternity protection<sup>129</sup>**

- **Para 4: Scope:** The motherhood protection law should cover all females performing in the farming, informal and formal segments.
- **Para 12: Specific protection measures:** The minimum permitting requirements for females in salaried jobs can be facilitated to maintain breastfeeding, for instance, part-time arrangements, paid maternity leave, on-spot crèches, breast milk expressing and storage facilities and breastfeeding lunch breaks.
- **Para 28: Governments' Role:** Mothers should also be ready to breastfeed and care for their babies after returning to salaried work. By ILO Convention for the Security of Maternities 2000 No. 183 and the recommendation for Maternity Protection 2000 No.191, this can be achieved by introducing legislation and related steps. Both working women outside the home should be provided with day-care facilities, maternity leave and paid breaks.
- **Para 34: National legislation:** A detailed national policy should support an atmosphere that encourages, facilitates, and protects adequate baby and young baby food practices and should be focused on a thorough needs assessment. For protection: To allow women in salary employment to be breastfeeding, including those whose criteria identify them as engaged in atypical types of work, such as part-time, home, and irregular work, to adopt and track the policy on maternity entitlements, by the ILO Convention on Maternity Security and the Recommendation.<sup>130</sup>
- **Para 45: Owners and trade associations' Role:** Owners should guarantee that the motherhood rights of all females in waged jobs, containing lunches for breastfeeding or in other working environments, such as breast milk expressing and storage facilities for subsequent caregiver feeding, are met to ensure that allows the feeding of breast milk once maternity leave has been paid. Trade unions provide a direct role for women of reproductive age to negotiate sufficient maternity allowances and job protection.
- **Para 46: Childcare facilities:** Other groups: childcare facilities to encourage and promote continued breast milk feeding and breastfeeding, allowing work-related moms to care for their babies and young children.
- **Para 48: International organizations:** Specific influences by international groups, including women working in atypical types of dependent labour, to promote government

work assistance strategy formulation and marketing, approval of ILO Maintenance Safety Conferences 2000, No. 183, and execution of Recommendation 2000 No. 191.<sup>131</sup>

### **3.3.7. The Innocenti Declarations on Breastfeeding and New-born and Young Baby Feeding**

The Innocenti Declarations of 1990 and 2005 agree that the rights of a child to food, health and treatment are an irrevocable right for all mothers and are essential elements. The declarations, therefore, called on the governments to continue to apply women's rights in the workplace, including breastfeeding rights, one of the main elements to secure maternity. The Innocenti declarations have effectively inspired global recognition and action containing employed females' breastfeeding rights.

#### **3.3.7.1. Innocenti Declarations, 1990 and 2005**

The conference was organized in Florence between 30 Jul and 1 Aug 1990 and was co-supported by USAID, WHO, UNICEF, and the Swedish International Development Agency (SIDA). The declaration supported by the 45th World Assembly for Health specifies that the following four organizational milestones should have been achieved by 1995.

- **Target 1:** Designate a central breastfeeding controller for the suitable board and create a national multi-sectoral breastfeeding board comprised of appropriate government agencies, NGOs, and association members.
- **Target 2:** Ensure that all maternity care facilities implement all the '10 Steps to Successful Breastfeeding.
- **Target 3:** Take measures to implement the standards and objectives of all provisions of the International Code of Marketing of Substitutes of Breast milk and successive resolutions in the World Health Assembly.
- **Target 4:** Present proactive measures that secure the privileges of females in the workforce to breastfeed and provide for implementing these laws.

#### **3.3.7.2. Innocenti Declaration on New-born and Young Baby Feeding, 2005**

UNICEF, WHO and other NGOs adopted the Innocenti Declaration on Young Baby Feeding in 2005. It introduced five new goals, thus strengthening the four original targets.

- **Target 5:** Broad Strategy
- **Target 6:** Ideal breastfeeding to support mothers in the society
- **Target 7:** Additional feeding with continuous breastfeeding

- **Target 8:** Feed children under extraordinarily challenging conditions
- **Target 9:** New laws and other interventions <sup>132</sup>

### **3.3.8. International labour standards**

The ILO's mandate directly covers the health of mothers at work. A necessary means by which the ILO can function is the introduction, through surveillance and technical help, of international labour standards and measures to help countries enforce them.

#### **3.3.8.1. The ILO and international labour standards**

Standards of international labour are included in agreements or recommendations. As of January 2012, the International Labour Conference accepted 189 conferences and 201 suggestions in the ILO's 92-year period. These work standards include the fundamental rights at the workplace, employer relations and employment relationships, requirements of job security, health and employment, social security, gender equality, and other aspects of social strategy relevant to the workplace. To provide benchmark criteria for human rights within the workplace, international labour standards are used in the layout and execution at the national level of employment and social strategies. Even in a country, if the Convention does not approve it, Conferences are also stated as the international lowest standard with authority. Two characteristics define these principles: these are comprehensive and intended in all the Participant Countries of the Association; they also acknowledge that countries are subject to varying stages of economic advancement and different legal requirements. International labour standards may therefore give the application of generally accepted principles. They represent a certain degree of flexibility. Many conventions, for example, have so-called clauses of flexibility that can be implemented gradually. International work criteria offer the lawful basis for attaining respectable jobs for all. They are the product and are global discussion experiences among governments, employees, and employers. The Conventions, in their initiatives to support a good job and ensure economic and social development, recommendations include a pathway for decision-makers and policymakers at the central stage. Therefore, international labour standards on motherhood rights are of immediate significance to establish and enhance national law and policies in this area. <sup>133</sup>

#### **3.3.8.2. International labour standards on motherhood safety**

The ILO was established in 1919 when governments, trade unions, employers, and leaders of Participant Countries introduced the 1st Conference on Maternity Protection. The issue of maternity protection has become a central issue for female workers. Throughout its lifetime, the

ILO historically approved 3 Conferences on Maternity Protection (No. 3, 1919; No. 103, 1952; No. 183, 2000). These conventions have increasingly broadened the reach and eligibility of maternity protection at the workplace with their corresponding recommendations (no.95, 1952; no.191, 2000) and established comprehensive guidelines that guide national policies and measures. The main issues were the possibility of women balancing their productive and reproductive roles effectively and avoiding differential treatment of their reproductive position in jobs. At least one of the Motherhood Security Conventions was signed in 65 countries as of January 2012.<sup>134</sup>

#### **3.3.8.2.1. The Maternity Protection Conference, 1919 (No. 3),**

**This** was the 1st ILO norm for pre-and post-childbirth for women at work. This Convention was restricted to women working in private or public businesses. It outlined the Maternity protection's basic standards: maternity leave rights (twelve weeks), medical advantages, wage substitution during leaves and breaks for breastfeeding. The right to leave has been strengthened by an explicit ban on dismissals when a woman is absent from maternity leave or so long as the notice expires during her absence. The security of jobs was thus viewed as a crucial element of motherhood safety right from the outset. Conference No. 3 is no longer available for approval but remains in effect for those Participant Countries that approved and subsequently have not imputed it.

#### **3.3.8.2.2. The Maternity Protection Conference (Amended) (No. 103),**

This conference accepted in 1952, the range of safety expanded to contain females in non-industrial and industrial, and farming professions, covering workers in a broader range of categories "In-house jobs in households for wages" (Art.1.3.h). It further safeguards by expanding the right to leave for pregnancy or containments caused by disease and expanding health benefits. In addition, a minimum requirement in terms of cash maternity benefits was first introduced: advantages should be set at a pace adequate for the complete and balanced care of mom and baby by an acceptable living standard (i.e., 2/3rds of old salary where advantages are calculated on a profit basis). Conference No. 103 is thus no longer subject to confirmation but continues in effect for those Participant Countries which have endorsed Convention No. 183 unless subsequently ratified (only the latter is in force, if so).

#### **3.3.8.2.3. The Maternity Protection Conference, 2000 (No. 183)**

This Convention is the latest adopted by the Participating Countries on motherhood protection and is followed by the 2000 Recommendation on maternity protection (No. 191).<sup>135</sup>

The Maternity Protection Conference, 2000 (No. 183), contains:

- Expansion of safety to all working females.
- Maternity leave for 14 weeks, having six weeks of obligatory post-natal leave.
- Further, leave in the event of an ailment or possibility of pregnancy or birth difficulties.
- Cash compensation on the holiday of at least 2/3rd (or at an equal percentage if advantages are not measured on the ground of earlier returns) of past or insured earnings.
- Access to maternal, birth and post-natal treatment and, where appropriate, hospitalization.
- Health safety: the right of pregnant females or breastfeeding not to do the job that harms their well-being or their children.
- Breastfeeding: minimum of 1 lunch break per day, payable.
- Work non-discrimination and protection.

The progress made in protecting against prior pregnancy requirements was noteworthy in Conference No. 183 and Recommendation No. 191. Conference No. 183 extended maternity protection to include any female employed, comprising those in atypical unofficial economy-based jobs. The duration of minimum leave has been extended from 12 weeks to fourteen weeks in Conference No. 183, and Recommendation No. 191 recommends eighteen weeks. Conference No. 183 offers greater security for employed people. It includes legislation to guarantee that maternity does not lead to differentiation, even in terms of access to the job (except in limited specific conditions). Recommendation No. 191 on breastfeeding requires the establishment of occupational breastfeeding facilities. Research indicates that domestic law has progressively shifted towards the rules laid down in recent maternity security requirements regarding leave, levels, and sources of benefits.<sup>136</sup>

### **3.3.8.3. Ratification and application of ILO motherhood Safety Conferences**

By Jan 2012, at minimum, 1 of the Maternity Protection Conventions had been signed by 65 ILO Member States, and almost all countries had adopted specific maternity protection initiatives. Global ILO predictions for 2010, based on revisions of 167 countries' legal provisions, show that significant changes have been made in the laws on maternity rights since 1994. Globally speaking, 30% of Participant Countries meet the conditions of Convention 183 entirely on all 3 points: they pay for 14 weeks of leave to be provided by the public funds or social security at the cost of at least 2/3rds of their previous income. Central Asia and Europe are the areas with the maximum



percentage of nations under these conventional characteristics, whereas Asia, the Pacific and the Near East have deficient compliance levels.

#### **3.3.8.4. Other ILO standards and obligations connected to maternity protection**

ILO guidelines for maternity protection. Apart from essential maternity safety tools and family workers, some other ILO tools refer to one or more major maternity protection components.<sup>137</sup>

##### **3.3.8.4.1. Cash and medical benefits**

Three instruments answer maternity protection in a larger context for health care and income stability. They are:

**3.3.8.4.1.1. The Salary Protection Recommendation, 1944 (No. 67)** claims that salary protection systems should alleviate destitution and avoid recovering income missed due to incapacity to operate satisfactorily. The unique thing is that a reduction of earnings from the absence of women from a job during the specified times before and after childbirth is a possibility for which maternity advantage should be compensated. This benefit should be guaranteed to self-employees if they comply with payment terms regularly.

**3.3.8.4.1.2. The Medicinal Treatment Recommendation, 1944 (No. 69)** emphasizes that access to health treatment is essential to social protection. In Para 21, medical treatment should include the care provided by trained midwives and other motherhood facilities at hospitals, homes, or other medical facilities; in para 29, the maternity, nursing, or therapeutic facilities shall be explicitly stated.

**3.3.8.4.1.3. Part VIII of the Social Protection (Minimum Standards) Conference, 1952 (No. 102)** recognizes motherhood services as 1 out of 9 social protection divisions that provide healthcare and regular compensation for maternity benefits concerning earnings suspension. The Convention provides for maternity provision, medical treatment, and monetary assistance (at least for 12 weeks, equivalent to at least 45 percent of a female worker's previous salary), either by a health check practitioner or by eligible midwives and, where possible, hospitalization.

##### **3.3.8.4.2. Protection of Health**

**3.3.8.4.2.1. The Nightwork Conference, 1990 (No. 171) and the Protocol of 1990 to the Nightwork (Females) Conference (Amended), 1948**

This conference for pregnant and nursing staff may not preclude night work. Instead, Article 7 of the Conference offers action to ensure that women night workers have an option

tonight for the mother's health or infant, staff before and after the childbirth, for a minimum of 16 weeks and, where possible, for additional periods. One of the steps is to move to day work and to include social security advantages for extending maternity leave.

#### **3.3.8.4.2.2. Recommendation regarding AIDS and HIV and the World of Work, 2010(No. 200)<sup>138</sup>**

It comprises all employees and all work areas under all modes of arrangement. The recommendation highlights that AIDS and HIV are a problem in the workplace and that the empowerment of females is the main element in international disease reactions. Priority should be given to prevention and protective actions, and care involving mother-to-child spread and medication should be given to employees and their families. Workplace measures to reduce the spread of HIV should also include the safety of women's reproductive well-being and the sexual and reproductive privileges of men and women. The provision of HIV testing and disclosure by staff should not be needed.

#### **3.3.8.4.3. Protection of Employment**

The Employment Termination Convention, 1982 (No. 158), and the Promotion of Employment and Protection against Unemployment Convention, 1988 (No. 168), are key international instruments aimed at safeguarding employment rights and promoting equality in the workplace.<sup>139</sup> Convention No. 158 establishes principles regarding the termination of employment, emphasizing that dismissal based on certain criteria, such as race, sex, marital status, pregnancy, religion, political opinion, or social background, is deemed null and void. This includes protections for women during maternity leave and against discrimination based on their family obligations or membership in associations<sup>140</sup>. These provisions are crucial for ensuring equal opportunities and protecting individuals from unjust treatment in the workplace. Convention No. 168 focuses on promoting employment opportunities and protecting workers against unemployment. One significant provision prohibits the use of previous unemployment as a criterion for denying maternity benefits to women.<sup>141</sup> This measure aims to prevent discrimination against women based on their employment history and ensures that maternity benefits are accessible to all eligible individuals regardless of their past employment status.

Together, these conventions underscore the importance of upholding fundamental human rights principles, promoting gender equality, and ensuring that individuals are not disadvantaged in the workplace due to factors beyond their control.<sup>142</sup>

#### **3.3.8.4.3.1. Employment Termination Conference, 1982 (No. 158)**

It convinces that null and void explanation includes race, sex, colour, marital status, obligations to families, pregnancy, faith, national extraction, political opinion, social background, motherhood leave and association engagement or membership.

#### **3.3.8.4.3.2. The Promotion of Employment and Safety against Unemployment Conference, 1988 (No. 168),**

The prohibition that the criterion for refusing a woman's maternity benefits cannot be previous unemployment.<sup>143</sup>

#### **3.3.8.4.4. Non-differentiation**

##### **3.3.8.4.4.1. Differentiation (Occupation and Employment) Conference, 1958 (No. 111)**

The goal is to ensure that any employment application should be equally measured without differentiation built on marital position, gender, family condition, pregnancy, or discrimination.

##### **3.3.8.4.4.2. The ILO Code of Practice, 1997,**

It is regarding the privacy of employees' records, provides that the treatment of this information does not have the impact of illegal differentiation in jobs or employment covered by Convention number 111.

#### **3.3.8.4.5. Working conditions**

##### **3.3.8.4.5.1. The Vacations with Wage Conference (Amended), 1970 (No. 132)**

It ensures that we shall not count motherhood leave as part of the qualified holiday.

##### **3.3.8.4.5.1.2. The Part-Time Job Conference, 1994 (No. 175)**

It identifies motherhood safety as one of the places where part-time employees in similar situations can experience the same conditions as full-time workers.

##### **3.3.8.4.5.3. The Private Service Agencies Conference, 1997 (No. 181)**

It offers actions that guarantee the provision of appropriate motherhood and benefits as well as parental rights for employees hired by private employment organizations and the advantages.

##### **3.3.8.4.5.4. The Work Formation in Small and Moderate-Sized Organizations Recommendation, 1998 (No. 189)**

It requests a revision of regulations to ensure society's protection of motherhood for women in small and moderate-sized establishments.

### **3.3.9. Immigrant employees**

#### **3.3.9.1. The Immigration for Service Conference (Amended), 1949 (No. 97)**

It offers the care of immigrant employees, including maternity workers, which is not less advantageous than what national workers earn.

### **3.3.10. Special segments**

#### **3.3.10.1. The Nursing Workers Conference, 1977 (No. 149)**

This conference offers nursing staff maternity leave and social protection that is, at minimum, equal to that appreciated by other employees in the nation.<sup>144</sup>

**3.3.10.2. The Homework Conference, (No. 177) and Recommendation (No. 184), 1996** the goal around maternity protection is to achieve fair treatment of home workers.

#### **3.3.10.3. The Protection and Health in Agriculture Conference, 2001 (No. 184)**

This conference offers security in pregnancy, breastfeeding and reproductive health for female workers in agriculture. It also includes strategies for preventing and protecting chemical use and treatment.

#### **3.3.10.4. The Maritime Labour Conference 2006 (MLC)**

It states that the annual paid vacation should not be regarded as a maternity vacation, emphasizing the demand for a robust maternity social protection system.

#### **3.3.10.5. The Domestic Workers Convention, 2011 (No.189)**

It states that necessary steps are to take with due respect to the basic features of inland job in line with national legislation and rules to guarantee that house employees appreciate circumstances not less desirable than those commonly appropriate to employees, particularly concerning maternity welfare.

### **3.3.11. Social Discussion and Joint Negotiation**

The Freedom of Organization Conference, 1948 (No. 87) and the right to Arrange and Joint Negotiating Conference, 1949 (No. 98) International labour standards are basic for social dialogue and negotiations between employers and employees to increase the security of maternity and workers' rights with responsibility for the home.

### **3.4. Broad ILO Commitments to Maternity Protection**

One of the ILO's goals and purposes from its inception has been to protect mothers.<sup>145</sup> Article III of the ILO Declaration (1944) on the objectives and goals of the ILO, as an aspect of the ILO

constitution, in particular, states that: The Conference acknowledges the International Labour Organisation's solemn duty to continue to implement international programmes among the nations:

- extension to all those in demand of such insurance and comprehensive medical treatment of social protection measures to ensure basic income;
- adequate protection in all professions for the lives and welfare of employees;
- Provision for the health of children and maternity;

The ILO Member States have repeatedly confirmed their commitment to the security of maternity and social protection systems necessary for its implementation, including:

### **3.4.1. The Declaration on Equality of Chance and Treatment for Female Employees**

The ILO Convocation was implemented in 1975. The statement recalls that "motherhood is a social feature" and that women's equal opportunities and care need an end to pregnancy discrimination—the duties of childbirth and family. *"By social security or other state funds or mutual agreements, all employees of women shall be granted to complete maternity protection"* (Art. 8). The statement also notes that studies, study, and protection against processes that could damage women and men regarding their social reproductive role should be undertaken, and steps are taken to protect them (Art. 9).<sup>146</sup>

### **3.4.2. The Resolution on equal chances and equal treatment for males and females in service,**

It introduced in 1985 by the ILC, promotes support actions related to the burdens of responsibility of the family and the home.

### **3.4.3. In the Resolution on gender equality, pay equity and maternity protection,**

The ILC accepted the 2004 Conventions of 100 and 111 and called on all nations to ratify, implement, and relate motherhood rights to non-discrimination. Both social partners are actively engaged in the abolition of discrimination against gender and in promoting equality between men and women.

### **3.4.4. The Declaration on Social Justice for a Reasonable Globalization,**

The ILO's "solemn duty" strengthened in 2008 to advance and encourage, amongst others, the creation and improve all the goals established by the Declaration of Philadelphia of *"sustainable and adaptable steps of social welfare - social security and protection of the workforce"* [Article I A.(ii)].

### **3.4.5. The Resolution on gender impartiality at the heart of decent work,**

According to the ILC adopted in 2009, differentiation in maternity health and pregnancy discrimination is one of the significant major problems facing gender workplace impartiality. *"In the perspective of governments' duty for social and economic policy, the need to integrate maternity security must be recognized and implemented."* The resolution states that discrimination due to family obligations must be eliminated by improved legal structure, including successful implementation, particularly recruitment and firing strategies that differentiate against women of childbearing age. The resolution observes that public service programmes and interventions must be developed to implement the concept of paid motherhood leave and parental leave. The declaration states, among its recommendations, that the ILO *"assemble and distribute fair practise on parental leave and maternity leave and advantages, as well as provide technical assistance for governments in developing effective legislation and policy."*<sup>147</sup>

#### **3.4.6. The Global Jobs Pact,**

The structure of social security programmes to help the vulnerable, was introduced by the ILC in 2009 as one of the main Decent Work Answers to the Social and Economic Crisis. It urged nations to consider, amongst other things, establishing cash transfer programmes for the deprived to gather their instant requirements and shape sufficient social safety for everyone, including exposure to income security, child benefits and health care, through the bare social welfare floor.

#### **3.4.7. The resolution relating to the persistent dialogue on social safety**

According to the ILC adopted in 2011, females appear to encounter more significant exclusion of social protection than men *"due to life phase inequality and family and childcare burdens"* It also contains the essential strategy choices for balanced expansion and a greater level of good work *"to facilitate settlement of women's and men's work and family obligations and ensure adequate access to integrated social facilities to respond to the treatment requirements of employees. This involves maternity insurance such as proper treatment and income guarantees for females in the previous week of pregnancy and the initial weeks after delivery"*.

### **3.5. Ratification and application of ILO Conferences**

The Convention shall not be legally binding on an ILO Member Country until the ILO has properly registered an act of ratification. The ILO Convention is ratified, and a decision by the competent central authority or body to this effect shall be communicated to the ILO so-called 'ratification instrument' and ILO Director-General registration of ratification. For the country

concerned, a convention usually comes into force one year after membership with the ILO. Two years after ratification, periodical monitoring for oversight commences. The ILO shall provide the ratification and implementation of conventions with technical assistance on request. The ILO International Labour Standards Department (NORMES) created an online database on the execution of international labour standards to track the position and application of the ratifications of ILO conventions. This databank provides material on nations ratifying the ILO Maternity Security Conferences and how the Conventions were used in practice and law.<sup>148</sup>

### **3.5.1. The Pre-Ratification Stage**

While it remains for each ILO Member State to decide whether to ratify a convention, the ILO Constitution requires the National Agency that has the authority to legislate or take further measures to enforce the instrument under the ILO Constitution; they shall present recently adopted Conventions (and Recommendations). Typically, this reliable power is the parliament or legislative assembly. The purpose of this process is to encourage national initiatives for the Convention's implementation. It also seeks to promote ratification. Governments are welcome to identify the steps that should be taken to bring the instrument into concern by bringing a Convention text (or suggestion) before the qualified legislative institution. Therefore, several governments are conducting a relative analysis of the law and procedures of the Participant Countries and, on the other hand, of the ILO instrument. Governments can also make potential ratification suggestions to the legislature. It is nice to practise (and a duty to consult members of employers' organizations and employees' organizations under the 1976 Tripartite Consultation Convention, where ratified No. 144) before making legislation for submission to the national legislation.

Governments have 12 months under the ILO Constitution (18 months in extraordinary cases) to present the competent authority with new ILO instruments. After such submission, occasionally, non-ratified conventions may be reviewed by countries to decide what steps to introduce and ratify these may be promoted, as necessary. Because of this, convention 183 revises the previous Convention No 103 on Maternity Protection. The ILO Governing Body welcomed the Member Countries expressly to which Conference No. 103, the current Convention No. 183, is to be considered to be ratified. Revision of non-ratified conferences and recommendations for the governmental agencies accountable for labour matters can initiate intervals (the Labour Office, usually). Such a mechanism can be created by raising the international labour standards policy of

the national tripartite organization issues where such bodies or other social dialogue forums exist. Review of Convention No 183 can also be implemented via the goal of potential ratification Examination of national legislation and maternity protection policies, International good practise comparative analysis and technical implementation Workshops with the employee, employer, and other related participants. During the pre-ratification phase, governments also search for support for the ILO in reviewing and enhancing central legislation and practice and exploring the significance and consequences of the Convention provisions concerned.<sup>149</sup>

### **3.5.2. The Ratification Procedure**

The next move is to initiate formal processes at the central level toward ratification once the Ministry responsible for the central government has recommended ratification. Although these procedures differ by region, they usually vary. Implicit in submitting a request for adoption to the parliament or the board of ministers and then submitting a proposal for approval by the legislature. The government's job is to communicate ratification to the ILO once the structured ratification procedures at the national level have been concluded. To that end, the government will give the Director-General (DG) of the Government a document (the "Ratification tool"). The ILO specifies which specific Convention was ratified. The letter should express clearly that the State is willing and obliged to comply with the provisions of the Convention in question, specifically concerning Article 19(5)(d) of the Constitution of the ILO. An original document signed by an individual with the lawful power to participate in the Country (e.g., Leader of the Country, Premier Labor Minister, External Affairs Minister, or someone who has not been scanned or photocopied) must be an instrument for ratification issued to the ILO. The ratification instrument is obtained by the ILO and recorded by the DG in the official ILO Newsletter and the internet site of the ILO. For the DG's ratification of the Convention, there is another formal provision under Convention No.183: the government must notify the ILO specifying the time of the maternity leave set at the national scale. As provided for in Article 4(2), this declaration is obligatory by the Convention.<sup>150</sup>

### **3.5.3. Participant Countries' statement demanded by Conference No. 183**

Various conferences include statements either in the ratification instrument itself or in a piece of supporting information. This is also the case with the Convention for Motherhood Protection, 2000 (No. 183). The following is provided for in Article 4(1, 2):



- A female to whom this Conference relates shall be granted a maternity leave of fewer than 14 weeks when a medical report or other suitable certificate has been produced, as defined by national laws and practises, indicating the date of presumed childbirth.
- In a statement following its approval of this Conference, each Participant shall specify the duration of the leave period described above.

This means that, with such notification by the government in question, the approval of Conference No 183 will be documented by the Director-General (DG) of the ILO. Therefore, it is critical that during ratification preparations and before the mechanism of ratification, the content of the statement (in this case, the time of maternity leave) is considered. Without joining the declaration, some Member States sent an instrument of ratification to the ILO. The 2000 Convention on maternity security (no. 183), in compliance with international law, has yet to be officially deemed ratified by these countries. In the form of a document accredited to the DG, a declaration connected with Article 4(2) of the Conference may be made, indicating the duration of maternity leave within the Ratifying State by its domestic legislation. The leave period referred to in the statement shall be 14 weeks.<sup>151</sup>

#### **3.5.3.1. The role of employees' and employers' associations**

In the context of ratifying the ILO guidelines, employees and owner corporations have a central role to play. As mentioned previously, nationwide tripartite discussions on the review of non-ratified conferences and their implementation actions. The Tripartite Consultation Conference of 1976 (No. 144) makes the ratification obligatory (international labour standards) possible. Where Conference No 144 is not approved, there are yet clear recommendations on tripartite consultations. Inputs and feedback from these organizations are essential to implementing substantive and efficient policies, as inducted in the ILO Constitution. Moreover, some Convention No. 183 provisions expressly grant social partners an advisory role concerning essential elements of motherhood protection at the workplace. In general, Article 2.2 provides for the Participant Countries which have ratified the Treaty to be able to exclude, in whole or in part, limited workers' categories when the application of the Convention to them raises exceptional, substantive issues, but only in discussion and in contract with social associations. Art. 3 defines representative consultation in the form of potentially risky job decisions. Article 4.4 provides for a period of compulsory post-natal leave to be determined by governments, employers, and employee

organizations. Finally, Article 11 applies this advisory position to the adequacy of the extension or increase of the volume or rates of maternity payments.

### **3.5.3.2. Regulation of international labour standards and follow-up through technical support**

International labour standards are supported by an internationally specific regulatory mechanism that allows countries to adopt ratification conventions. The ILO regularly discusses the implementation of norms in the Member States and should be better enforced, pointing out regions. If the performance of standards is problematic, the ILO aims to support nations via social discussion and professional support.<sup>152</sup> The ILO has implemented two sorts of monitoring systems for standards monitoring:

#### **3.5.3.2.1. The regular system of supervision:**

It is examining the reports on actions undertaken in the execution of the provisions of the Conventions ratified and submitted by the Member States;

#### **3.5.3.2.2. Special procedures:**

A general application representation and grievances procedure and individual freedom of association procedure. The country is compelled to report annually on the steps it has taken for its implementation after it has ratified an ILO Convention. Governments must provide Employers and Employees Organizations with copies of their papers. The organizations may act on the reports of the governments and may also submit observations to the ILO directly on the implementation of the conventions.

#### **3.5.3.3. The routine method of regulation**

The routine monitoring practice focuses on reviewing these government documents and any reports forwarded by employers and workers' associations. This supervisory position is the responsibility of two ILO bodies.

#### **3.5.3.4. The Committee of Experts on the Application of Conventions and Recommendations (CEACR)**

To review the number of government documents on ratified conventions, the Committee of Specialists was set up in 1926.<sup>153</sup> It consists now of 20 renowned lawyers named for a three-year term by the governing body. The specialists come from various geographical, juridical, and cultural areas. It is the responsibility of the Committee to conduct an independent, professional assessment of the implementation status of international labour standards. The Board of Specialists

makes two types of remarks while reviewing the implementation of international labour standards: suggestions and immediate demands. Comments include comments on fundamental issues a state poses while implementing a specific Convention. The comments are involved in the annual statement of the Committee.

Further technical queries or demands for further information are more related to direct requests. They are notified to the governments concerned, however. These are not released in the study. For each ILO Convention and three on motherhood protection, the process is being carried out (i.e., Conference Nos. 3, 103 and 183). The Committee of Experts' annual report, generally accepted in December, is subsequently submitted by the Conference Board on Standard Implementation to the International Labour Conference in June, which is to be reviewed. The Conference Board is comprised of agents of government, employees, and employers. It discusses and extracts a few conclusions from the study in a tri-partisan way. The governments pointed to in these observations are invited to answer and supply information on the current situation before the Conference Committee. The Conference Committee also recommends that governments take concrete action to ease an issue or invite ILO missions or technical support. The Conference Committee shall publish the debates and findings on the circumstances discussed in its report. In specific paragraphs of the General Report, events of particular interest are highlighted.

The daily surveillance system is an efficient way to implement international labour standards principles successfully. The Committee of Specialists has documented over 2,300 reports of substantive improvements in practice and law that have changed the implementation of an approved Conference since the Experts Committee began maintaining a record of progress in 1964. However, in ratifying countries, the effects of the regular surveillance scheme go far beyond such progress. Member Countries that have not approved a specific Convention may also examine remarks made by the Board on the application in other countries of a Convention and may modify its laws and procedures to prevent similar problems when applying a standard or to follow the best practices. Several instances of the Board's remarks on the ILO Motherhood Security Conferences can act as a guide for these and other Member Countries. In ratifying a Convention, the Committee often applies directly to governments, points out obvious issues in implementing a standard, and provides nations concerned time to answer and deal with these matters before publishing any remarks. The interventions of the Board promote social dialogue and require governments, which can supplement the information, review the implementation of the norm, and offer this information

to the social partners. The social dialogue following this will contribute to solving and preventing more problems.<sup>154</sup>

### **3.5.4. CEACR comments on Maternity Protection**

The CEACR has, since its establishment, actively assessed Member States' compliance and advice on the nature and better implementation of the provisions of a specific Convention by ILO Conventions. As far as maternity welfare is concerned, many comments and direct inquiries have been made concerning implementing Conventions No.s 3, 103 and 183. These observations are essential to accurately comprehend each Convention's underlying concepts and measures for successful application. This action can be a valuable guideline for the directly affected Member States and those seeking to develop their national law and practice through the Conferences. Some instances are provided below; more is available online in the international labour standards databases of the ILO.

#### **3.5.4.1. Special procedures**

Contrary to the standard monitoring scheme, filing a description or a complaint is the basis of special procedures. The procedure of representation grants a manufacturing association of owners or employees the right to make representation before the ILO leading body against any Participant Nation which, in its opinion, *"has unsuccessful, in all respects, to ensure that any convention to which they are a party is effectively adhered to within their jurisdiction."* A three-member tri-partisan panel of the Governing Authority may be established to review the representation and government response. The report presented to the Regulating Organization by the Board specifies the legal and functional elements of the situation, reviews the submitted information, and ends with recommendations. If the government's response is unacceptable, the Governing Body has the right to release the interpretation and the answer.

The Board on Freedom of Assembly generally examines the representations of implementing Conventions No 87 and 98. A complaint may be brought by another Participant Nation that has approved the same Conference, by a representative to the International Labour Conference or by the Governing Authority on behalf of its initiative against a Participant Country for not conforming with the Convention approved. If a complaint is received, a Board of Governors, composed of 3 independent members responsible for conducting a complete examination, may establish the facts and recommendations for action to resolve the complaint's problems. The Board of Governors may also form the Board of Governors. The ILO's highest-level investigative process is an enquired

committee; it usually establishes itself when a Member State is implicated and consistently refuses to remedy ongoing and severe violations. Throughout ILO history, the use of such specific procedures has been very unusual.<sup>155</sup>

#### **3.5.4.2. Follow-up through technical support:**

The ILO not only oversees the implementation of the Conferences approved. It also offers various types of specialized support whereby ILO specialists assist nations in addressing issues in law and practice to align them with the instruments ratified. Technical support includes consulting and direct contacts (with ILO staff meeting officials to discuss the problems in the implementation of standards and find solutions); promotional activities involving national workshops and seminars to raise awareness of standards and develop national stakeholders' ability to use their pro. The ILO also supports the preparation of federal laws by its principles.

### **3.6. Regional frameworks**

Countries have established international, economic, and political alliances, and several types of multilateral cooperation have been agreed upon. The influence or, in many situations, the determination of national working standards and care regulations, both regional and trade agreements.<sup>156</sup> Motherhood defence laws include the principal regional intergovernmental organizations (IGOs):

- African Union herein referred to as 'AU'
- European Union herein referred to as 'EU'
- Organization of American States herein referred to as 'OAS'
- Southern African Development Community herein referred to as 'SADC'

Local rules and strategies can offer more comprehensive and defensive rules than international conferences. The 1961 European Social Charter ensures the right to special rights for working women at the European level. This includes 12 weeks' maternity leave paid for with reasonable compensation from social security or public funds; a female's privileges to return to work after vacation; enough time off for moms who care for children; and night-time work regulations as well as a ban on work which is unsafe, hazardous, or arduous for women. The EU has created the most comprehensive collection of Local rules for its Member Countries, covering most areas of civil life, including motherhood security, from all regional agreements, which go far beyond purely fiscal, trade and trade regulations. The overarching goal of the EU's new leave

policy and job/family Balance System is to add to the latest Lisbon Plan for employment by improving gender mainstreaming and making it possible for men and women to achieve more private, professional, and family harmony. The specific goals are to:

- Reduce labour gaps between females with or without kids, in particular between the most disadvantaged parties (e.g., migrants, the rural and the elderly);
- Enlarging the reach and conditions of family vacation;
- Reduce the gender gap through parental leave;
- Ensure that children under three years have access to appropriate childcare facilities;
- Provide financial assistance during leave;
- Make sure family leave does not jeopardize work security or cause discrimination.<sup>157</sup>

Many of these initiatives were reaffirmed in the European Gender Equality Plan 2010-2015, the latest strategy to evaluate and eliminate gender inequalities across Europe. This broad strategy addresses critical problems like access to jobs, fair pay and political representation, and initiatives relating to motherhood security. Several EU directives outlining motherhood protection and family responsibilities and strategies have been implemented and enforced in the union to enforce this regional framework. To implement this regional framework. In Oct 2010, for instance, the EU's Parliament endorsed the revisions, in line and sometimes beyond ILO Conference on Motherhood Protection 2000 (No. 183), to Council Directive 92/85/EEC (Pregnant Employee Directive) dated 19 Oct 1992 to extend maternity rights and protections (No. 191).<sup>158</sup>

### **3.7. EU - Proposed Reform to amend Council Directive 92/85/EEC**

In 1992, the EU published Directive 92/85/EEC on safety and health reforms in the workplace of pregnant employees and employees who have recently given birth and are breastfeeding. This guideline was a significant step toward a local framework for inclusive maternity standards. In October 2010, to achieve greater conformity with existing ILO guidelines on maternity rights at work and beyond, the European Parliament approved and adopted the first proposed reform of this system. The following table demonstrates how Directive 92/85/EEC regulations could be modified and compared with the Convention of 2000 on maternity protection (No. 183).<sup>159</sup>

### **3.8. Latin American instruments and Maternity Protection**

Latin American countries have made significant strides in ensuring the protection and well-being of mothers in the workforce through various legal instruments and maternity protection measures. These measures are essential for promoting gender equality, supporting working mothers, and fostering a conducive work environment that acknowledges the unique challenges women face during pregnancy and childbirth.

In Latin America, maternity protection is often enshrined in labor laws and regulations, which aim to safeguard the rights of pregnant women and new mothers in the workplace. These laws typically include provisions for paid maternity leave, job security during pregnancy and after childbirth, access to prenatal and postnatal healthcare services, and breastfeeding support.

For example, many countries in Latin America mandate a minimum period of paid maternity leave, ensuring that women can take time off from work to recover from childbirth and care for their newborns without sacrificing their income or job security. Additionally, laws often prohibit discrimination against pregnant women and require employers to make reasonable accommodations to ensure their safety and well-being in the workplace.

Furthermore, Latin American countries have also ratified international conventions, such as the Maternity Protection Convention (No. 183) of the International Labour Organization (ILO), which sets out guidelines for maternity protection and encourages member states to adopt comprehensive measures to support working mothers.

Overall, the combination of domestic legislation and international conventions underscores Latin America's commitment to promoting maternal health, gender equality, and social justice in the workplace. By ensuring that mothers are adequately supported and protected during pregnancy and childbirth, these measures contribute to creating a more inclusive and equitable society for all.

#### **3.8.1. The Quito Consent, 2007**

The 10th Caribbean and Latin American women's regional conference (Quito, 2007) discussed fundamental issues of gender equality, exceptionally women's economic and social security and, in particular, their work without pay. In the Quito Consensus, governments have committed themselves to take joint responsibilities with women and men in work and family life, recognizing the importance of work without pay and its contribution to the well-being of families and the economic prosperity of nations. They recognized the requirement for Countries to

undertake liability for care giving and social reproduction, the population's well-being as a financial objective and a sacred public obligation.

### **3.8.2. Other Protocol to the US Conference on Human Rights in the Region of Cultural, Economic and Social Rights, 1988**

Approved by several Latin American Countries, this Protocol includes two principal provisions on maternity protection. The first ensures the right, without any particular period, to maternity leave before and after childbirth. The other is to "*provide mothers with specific care and assistance for a reasonable time before or after the birth;*" however, there are no further details about the pan. The Protocol also aims to ensure sufficient nutrition in the nursing stage for small children, even though nursing rights are explicitly stated.<sup>160</sup>

### **3.8.3. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Females in Africa (July 2003)**

**Art. 13: Social and Economic Welfare Right,** The Nations Groups shall utilize law-making and other actions to ensure equivalent employment and other financial chances for women in job and professional development. They ensure that both private and public organizations pay pre-and post-natal motherhood leave.<sup>161</sup>

### **3.8.4. Southern African Development Community (SADC) Protocol on Social Protection (2007)**

In 2007, the SADC published a Social Security Code to be harmonized at the regional level. Article 8 of the Code provides for the motherhood and paternity requirements:

- Member Countries should ensure that the protections offered under ILO Maternity Protection (Amended) conference No. 183, 2000, do not affect or discard females in the field of motherhood.
- Member States must guarantee that workplace circumstances and environments for pregnant and nursing mothers are adapted and conducive.
- Member States should phase out paid motherhood leave for a minimum of 14 weeks and cash payments for a minimum of two-thirds of wages.
- Member countries are encouraged to include paternity leave to ensure the mutual obligation between mom and dad for child-raising.



### **3.9. Conclusion**

Although some work remains to be done about implementation, these provisions include already strong guidance to seek worldwide maternity protection, in line with the ILO Conference for the Protection of Maternities, 2000 (No. 183). This problem is particularly significant in this area, disproportionately influenced by extreme poverty, uncertain circumstances for pregnant employees, and high maternal mortality.<sup>162</sup> The comity of nations and the hegemony of supranational organisations implements rather coerces the budding democracies of the world to participate in such international endeavours through ratification and adoption, so that a global perspective of maternity relieves could reach beyond borders of western democracies.<sup>163</sup>

## **CHAPTER - IV**

### **CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK FOR THE MATERNITY BENEFITS IN INDIA**

#### **4.1.Overview**

The lawmakers in the country constitute a vital pillar of the Indian democratic system, alongside the executive and the judiciary. Thus, it is crucial to delve into the constitutional underpinnings and legislative background of any law to grasp its significance in society. In light of the global progression of feminism, it becomes even more imperative to scrutinize issues like paid leave, healthcare, and maternity benefits, all of which should be safeguarded by domestic labour laws.

India's social security system was inaugurated in early 1953. The framers of the Indian Constitution, driven by progressive ideals, consistently gauged India's progress based on the advancement of women in Indian society. Maternity leave emerged as a pivotal aspect of this social security program, recognizing women as active contributors to the workforce and, consequently, establishing guidelines to protect their interests during pregnancy. Since 1953, it has been instrumental in granting rights and privileges to pregnant women, transcending patriarchal norms and recognizing the needs of working women.

Traditionally, women have been perceived as the more vulnerable segment of the Indian society, adhering to cultural norms. On one hand, the culture often places women in roles as homemakers and child caregivers, while on the other hand, men are expected to be the primary financial providers for the family. However, with evolving times and cultural shifts, more women are seeking employment opportunities. In response, the government addressed the growing social concern by enacting the Maternity Benefit Act of 1961, which safeguards women's employment during pregnancy and grants them a "maternity benefit" – a fully paid leave of absence – to attend to their childcare responsibilities. This legislation applies to all firms with ten or more employees.<sup>164</sup> Recognizing the need for reform and updates to the act, the Maternity Benefit (Amendment) Act of 2017 came into effect, reflecting lawmakers' acknowledgment of the evolving societal landscape.<sup>165</sup>

## Part A – Constitutional Mechanism

### 4.2. Constitutional Mandate for Maternity Benefits

“India, being a signatory to a number of international instruments on the rights of women, envisages provisions on right to employment free from discrimination and gender equality in its Constitution.”<sup>166</sup> “The equality standard which have found manifest expression in different international instruments, have been duly incorporated after due consideration in the Constitution of India. The Constitution, which encompasses rights and duties of citizens along with principles in accordance with which the nation is supposed to be governed, clearly reflects the principle of *substantive equality*.” Further, it envisages the notion of gender equality and authorises the government under article 15(3) to make special laws for protecting women and children.<sup>167</sup>

Dr. B.R. Ambedkar introduced the Maternity Benefits Act in the Bombay Legislative Council on July 28, 1928, reflecting remarkably progressive ideals of its time. In the year 1961, this act serves as a valuable lens through which we can understand the intentions of the Constitution's framers, contributing to the establishment of a justice system that prioritizes social well-being. As stated in the introduction, the concept of maternity is deeply rooted in the beliefs of the Indian Constitution's drafters, making it an indispensable component of the social security code to be provided to the Indian populace. Furthermore, Article 15(3) of the Constitution stipulates that *"nothing shall prevent the State from making special provisions for women and children."*<sup>168</sup> Consequently, maternity benefits transcend being mere privileges for expectant mothers; they constitute a fundamental human right that is essential for living with dignity. Traditionally, women have been perceived as the more vulnerable members of society. This constitutional clause not only promotes gender equality but also addresses the specific needs of pregnant women, ensuring they can genuinely be considered "equal." Article 21, aimed at providing a broader spectrum of needs, should be interpreted liberally. Therefore, the right to life includes the provision of maternity benefits, enabling women to pursue their professions without the fear of losing their job, income source, or passion due to childbirth.

Additionally, Articles 38, 39, and 42 establish the state's responsibility to create a social justice framework for women, reducing disparities and guaranteeing equitable and humane working conditions, which inherently encompass maternity benefits. While the Directive

Principles of State Policy are inspirational in nature, they aid in understanding the Constitution's framers' objectives and paint a picture of the "ideal state."

The right of women to maternity entitlements has been explicitly recognised as Directive principles of state policy. The state has been entrusted with the duty to ensure to women, health and strength to work, and it is the responsibility of the state to provide them with protection from economic abuse which is coercive in nature and against other adverse situations wherein they are compelled by economic necessity to enter those avocations which are generally not suited to either their age or strength.<sup>169</sup> Constitution guides the state in directing its policies towards securing the right to means of livelihood equally to all.<sup>170</sup> Directive principles of state policy contains provision for ensuring equal pay for equal work.<sup>171</sup> As per the meaning of art 41, the state is required to, given the economic capacity, make effective provisions for securing the right to work, education and public assistance in circumstances of unemployment, disablement, old age, sickness etc. Emphasis has been put on the plight of the weaker sections of the society so that special attention can be given for their educational and economic betterment.<sup>172</sup> They need the governmental assistance for improvement in employment opportunities and conditions of the work.

The judiciary has played a pivotal role in interpreting and applying these principles to improve the lives of working pregnant women. The Supreme Court has emphasized that employers must be considerate and understanding of the physical challenges faced by pregnant women in the workplace, both before and after childbirth. The Court has affirmed that reproductive rights are protected under Article 21 of the Indian Constitution, which safeguards the "Protection of Life and Personal Liberty."<sup>173</sup> It is emphasized that a healthy pregnancy necessitates proper prenatal care and access to healthcare services during and after childbirth. Socioeconomic obstacles often hinder women's access to these services, making the domestic implementation of international law pertinent in this context.

In "*B. Shah vs. Presiding Officer, Labour Court, Coimbatore and others*"<sup>174</sup>, the Apex Court was asked whether the maternity benefit for the term provided by Section 5 should be calculated. Sundays should be included in the break. When the Federal Court ruled to involve Sundays, it followed "Article 42" of the Constitution's beneficial construction guideline favouring women workers. It noted that this benefit was meant to allow women workers not to survive and plenish their lost power, breastfeed their children, maintain their productivity as workers, and

maintain their previous productivity levels. During this time, She cannot work and needs more funds to cover her medical bills. These times are mandated by law to ensure that working women can support themselves and their families while protecting their health. The biological role of childbearing necessitates a woman's temporary absence from employment.

In the case of *“Air India vs. Nergesh Meerza and Ors.”*<sup>175</sup>, six flight attendants from Air India and Indian Airlines challenged their employer's policy that allowed for the termination of their employment upon the discovery of their first pregnancy. The Indian Apex Court ruled that this policy violated Article 14 of the Indian Constitution, as it was deemed arbitrary and unjustified. However, when air hostesses with two live children became pregnant with their third child, the Supreme Court supported an amendment that effectively compelled them to retire. This amendment was purportedly introduced in the interest of women's health and the national family planning program.

In *“Neera Mathur v. Life Insurance Corporation of India”*<sup>176</sup>, a female worker was fired from her job because she failed to appropriately state her last menstrual date and the fact that she was pregnant on her employment disclosure form when she joined the company. This woman sought justice in India's Apex Court, alleging that the arbitrary dismissal decision had her right to equality as protected by “Article 14” of the country's constitution. The Appellate Court decided that the statement requested in the form was insulting, degrading, and a breach of the employee's dignity and self-respect, and the dismissal decision was quashed. Efforts to escape providing maternity coverage to a female worker by not employing her if she is pregnant would be vulnerable to a constitutional dispute, the Court said in its recommendation to remove such restrictions from the disclosure form.

In *“Anshu Rani v. State Of Uttar Pradesh And Ors.”*<sup>177</sup>, Anshu Rani, the petitioner, requested a maternity break with the District Basic Education Officer in Bijnor in 2018. In place of the 180 days she had asked for, she was granted 90 days of maternity break with an honorarium from October 1, 2018, to December 29, 2018. She was not explained why her leave was reduced in half. The petitioner complained to the Allahabad High Court, dissatisfied with the seeming failure to act. Avadesh Pratap Singh, the petitioner's learned counsel, pointed to the ‘Maternity Benefit Act of 1961’, which was amended in 2017 “Maternity Benefit (Amendment) Act, 2017”. The petitioner can benefit from the additional 26 weeks of maternity vacation granted under the

2017 amendment, which expanded the standard 8-week leave to 26 weeks. The Court said maternity vacation constitutes social insurance after holding hearings from both parties. Maternal and child wellness and assistance for families are the primary goals of the maternity break. the “Maternity Benefit Act of 1961” was enacted by Parliament by the stipulations of Article 42. Executive or administrative actions that deny maternity benefits must be considered under Article 42, which expressly refers to "fair and humane conditions of employment" and "pregnancy relief."

In “*Pooja Jignesh Doshi v. The State of Maharashtra and Ors*”<sup>178</sup>, to have a second child, the petitioner sought aid from a surrogate mother. The petitioner gained custody of the child after it was born, thanks to the efforts of the surrogate mother. Before the child's birth, the surrogate mother, i.e., the petitioner, demanded and was denied a maternity break. An employee rejected the petitioner's request for leave to care for her baby because she argued that federal and state leave rules and policies do not permit the maternity break for surrogate children. As an outcome, the topic of whether a surrogate mother has the right to maternity leave has emerged. The High Court of Bombay depended on the same court's ruling in “*Dr. Mrs. Hema Vijay Menon v. the State of Maharashtra*” without digging into the case's outcome. In this ruling, the High Court looked at motherhood and pregnancy. According to the High Court, in this decision, maternity includes both the time spent pregnant and the time directly following the birth of a child.

A maternity break is intended to preserve the respect of motherhood while also assisting the child in achieving and mother's well-being and the mother-child bond. Maternity break is intended to aid women, and their children in achieving social equality. Making a difference between a biological mother and a surrogacy mother would be degrading to the womanhood and motherhood of the woman who wants to raise a surrogacy child in the same manner she would like a biological child. Article 21 of the Indian Constitution defines the right to life as including the right to motherhood and the freedom to a child's complete maturation. It is tough to understand why the administration would not offer maternity breaks to a mother who has a kid through surrogacy if it can give maternity breaks to an adoptive mother. Parents who provide their eggs and sperm have the right to depart even if their kid is born via surrogacy. Mothers and fathers are entitled to maternity and paternity breaks, respectively.

In “*Seema Gupta v. Guru Nanak Institute Management*”<sup>179</sup>, The Central Civil Service Rules govern non-State non-profit colleges and universities like the one where the petitioner worked as

a professor (CCS Rules). The petitioner requested more time after her first maternity leave of 135 days, and the additional leave expired. Show-cause notices were sent to her, demanding that she return to duty. CCS Rules stated that maternity leave might be extended for up to one year without a medical certificate. Thus, the petitioner relied on this provision in the CCS Rules. Even so, the petitioner had their employment dismissed because of an unlawful leave they had taken. It was decided by the Delhi High Court that the employment and service laws' provisions for maternity coverage should be interpreted in light of Articles 15, 41, and 42 of the Indian Constitution as well as India's duties under the "UDHR" and "CEDAW." An employee's request to prolong her maternity leave by employment standards is interpreted as an exercise of her fundamental rights rather than a usual execution of a service contract.

In "*Neetu Bala v. Union of India*"<sup>180</sup>, the petitioner who was pregnant, declared ineligible for a Short Service Commission in the Army Medical Corps. The respondents ignored her desire to keep a slot open for her to return to work following the birth of her kid. According to the Kerala High Court, denying employment to women purely because of their pregnancy was discriminatory and unconstitutional, which violated Indian Constitutional Articles 14, 16, and 42. According to the report, this discrimination would breach India's commitments under the "CEDAW," ILO's Maternity Protection Convention, and the Universal Declaration of Human Rights. India has pledged to eliminate discrimination against women (UDHR). To put it another way, the woman in this instance had taken issue with the state's decision not to provide her with an appointment to the Short Service Commission because of her pregnancy.

In "*Inspector (Mahila) Ravina v. Union of India & Ors.*," the petitioner could not complete a pre-promotional course due to her pregnancy. After her pregnancy was finished, she completed the course in the next batch. Her seniority would have been restored, but she was not allowed to take the first course. Because the petitioner was "unwilling" to participate in the first pre-promotional training, the CRPF justified denying him seniority. It also explored whether punishing the petitioner for her pregnancy and making her select between having a child. Her career infringed her rights under Articles 21, 14, 15 (1) and 16 (2) of the Indian Constitution when deciding whether the petitioner's pregnancy denotes her lack of willingness or incapability to attend the course.

In "*S. Amudha v. Chairman, Neyveli Lignite Corporation*"<sup>181</sup>, The Madras High Court struck down employment restrictions that defined pregnant women as "temporarily unsuitable" for

work, regardless of the type of activity they were to undertake. Invoking this regulation, the respondent tried to delay the petitioner's appointment until after childbirth in this case. Articles 14 and 21 of the Indian Constitution prohibit such a limitation, according to the High Court.

### **4.3. Fundamental Rights to enhance women's status**

Indian constitution's section on Fundamental Rights, which seeks to enhance women's positions and provide equal opportunities for men and women, is as follows:

#### **4.3.1. Equality Mandate**

According to the Constitution of India, all the people in the perspective of the law, women and men, are equal, and they have the right to equal protection from the standpoint of law within the territorial authority of India. It implies that in similar situations, all individuals, irrespective of gender, should be considered equally. The government shall not tolerate individual distinctions, and rules must be administered equally. The Indian Constitution deals with the exclusion of inequality. It forbids the state, by tribal, racial, sexual, ethnic, religious, homeland, or socio-economic status, from discriminating against anybody, including women.<sup>182</sup> The report says, among other things, that all people have the right to fair access to stores, hotels, cafes, banks, infrastructure, and public spaces. On the other hand, the state can provide special arrangements for children and women and scheduled tribes, scheduled tribes, and other disadvantaged groups.

#### **4.3.2. Non-Discrimination**

All citizens including all persons, including females, are similar in the perspective of law and have the right to equal protection under the system within the limits of India's legal boundaries. It signifies that in similar circumstances, all people, irrespective of sex, should be treated fairly. The government should not tolerate any distinction between individuals, and the rules should be applied equally to all. Discrimination is prohibited under the Indian Constitution. It restricts the government from discriminating against individuals, including females, based on tribe, gender, race, ethnicity, religion, birthplace, or socioeconomic status. It says that, among other things, all people have the right to fair access to stores, hotels, cafes, banks, infrastructure, and places of interest. The state, by contrast, has the authority for children and women, as well as scheduled castes, tribals and other disadvantaged groups, to make special arrangements.



#### **4.3.3. Abolition of Untouchability**

The system of untouchability was eradicated, and the Indian Parliament enacted the Untouchability (Offense) Act of 1955. To further strengthen the efforts to eliminate untouchability from society, the Untouchability (Offense) Amendment Act of 1976 was passed, introducing more stringent provisions and measures.<sup>183</sup>

#### **4.3.4. Various Freedoms**

Every citizen, also considering women, has the right to free expression and speech, to peacefully gather without arms, to establish a union or organization travel freely across the nation, to live or reside in any country, and participate, according to their objectives, in almost any profession or lawful trade.

#### **4.3.5. Life and Personal Liberty**

No one may be impoverished of their life and personal freedom until they follow the legal procedure. Human life encompasses access to a decent life and the right to confidentiality. Female violence is also a breach of the Constitution of India since it undermines the self-respect and integrity of the victims.

#### **4.3.6. Educational Rights**

The government should provide affordable and compulsory education to aged 6 to 14 in a way that the government may set through legislation.<sup>184</sup>

#### **4.3.7. Other Constitutional Protections**

To grant relief to women alleged to help women accused - the Indian Constitution states that nobody, including females, will be condemned unless a felony there is a violation of the law. Yet, nobody shall be prosecuted and punished for the same offence repeatedly. No one should be compelled to testify against oneself if they are suspected of a crime. The Indian Constitution prohibited human trafficking and forced labour avoiding the immoral trafficking of women and girls. The Inhibition of Immoral Trafficking in Women and Girls Act, 1956 (now titled the Immoral Trafficking Act 1956) was passed by Parliament to penalize actions that result in the trafficking of inhuman persons. The Indian Constitution prohibits child labour, particularly for girls. Employing children under 14 in a factory, mine, or any hazardous occupation is illegal.

Liberty of morality and the right to recognize, practice, and promote religious conviction are guaranteed to all people, including women.

### **Part B – Statutory Perspective**

“Maternity benefits in India hold significant legal importance, primarily governed by the Maternity Benefit Act, 1961. This legislation aims to protect the rights of women employees during pregnancy and childbirth, ensuring their physical wellbeing and economic security. The Act mandates various provisions such as maternity leave, maternity pay, and job security, emphasizing the principle of social justice and gender equality in the workplace. The statutory perspective of maternity benefits in India underscores the government's recognition of the unique needs of pregnant and lactating women in the workforce. By providing legal entitlements, the law seeks to mitigate the challenges women face due to maternity, including discrimination, loss of income, and job insecurity. Moreover, the Act reflects India's commitment to international standards, aligning with conventions such as the International Labour Organization's Maternity Protection Convention. The statutory framework surrounding maternity benefits not only safeguards the health and welfare of women employees but also promotes a more inclusive and equitable work environment. It underscores the importance of balancing work and family responsibilities, acknowledging the vital role of women in both the workforce and society at large. Thus, understanding the statutory perspective of maternity benefits is essential for employers, policymakers, and employees alike, as it delineates the rights and obligations concerning maternity protection in India.”

#### **4.4. Overview**

In light of the constitutional mandate, India has enacted a number of legislations for working women, especially focussing on the maternity protection and child care.<sup>185</sup> Maternity Benefit Act, 1961,<sup>186</sup> Employees’ State Insurance Act, 1948,<sup>187</sup> Central Civil Services Rules, 1972, Mines Act, 1952,<sup>188</sup> Factories Act, 1948,<sup>189</sup> Plantations Labour Act, 1951,<sup>190</sup> Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992,<sup>191</sup> National Food Security Act (NFSA), 2013.<sup>192</sup> NFSA recognises maternity protection as a legal right providing for a minimum amount to be given as maternity entitlement to all women.<sup>193</sup> This also includes women from the unorganised sector. India has also in place executive measures based on recommendations of the sixth Pay Commission.<sup>194</sup> The major task remaining

for the state is to ensure that there does not exist any considerable difference between the constitutional goals that have to be implemented and the actual reality regarding the status of women in India.

National legislation concerning any particular area such as maternity protection plays a pivotal role by way of transplanting universally accepted principles from global level into national and regional levels. It assists in setting minimum standards to be met for the national and sub-national stages. Governments have been entrusted with the major task of taking steps to improve maternity protection and implement work-family policies by making new laws for implementing at the workplace level.<sup>195</sup> In the capacity of competent authorities, it becomes their prime responsibility to ensure that concerned draft legislation is prepared after a detailed analysis and it is duly submitted with the concerned legislative authorities either to make new law or amend repeal existing ones. Further, they have to devote considerable time and efforts to ensure proper implementation and monitoring of laws.<sup>196</sup>

There are three categories of legislative domain wherein laws providing benefits and maternity protection can be found. These are labour legislations, social security legislations and anti-discrimination legislations. For instance, legislation concerning maternity protection in India, which has been part of the employee welfare legislations, has recently got subsumed into Social Security Code, 2020<sup>197</sup> which consolidates and amends the laws pertaining to social security with the objective to increase the coverage of social security to all employees and workers across sectors.<sup>198</sup> Regarding social security legislation it has been observed that: <sup>199</sup> “Where maternity, paternity and parental leave benefits, as well as nursing and childcare facilities, are covered by social security, then their regulation is generally included in social security legislation. This includes the amount and duration of the benefits or services, and conditions for receiving these benefits or services. Certain social security schemes also include benefits for prolonged leave and medical care in case of illness or complications. Other benefits, such as prenatal, childbirth, breast feeding or childcare allowances, if provided by social security, can also be found in this legislation.”<sup>200</sup>

#### **4.4.1. Analysis of Maternity Benefit Act, 1961 along with the Maternity Benefit (Amendment) Act of 2017**

The most productive years of a woman's life are also the reproductive years of her life. In the absence of any provision for maternity leave, a woman worker often has to leave her job to have a child. Poor health, additional medical expenses and loss of employment, make the woman worker economically vulnerable during the period of childbirth, plunging her into a crisis of borrowing and high interest expenses. Often, she does not take adequate rest and starts working soon after childbirth with adverse effects on her health. This repeated neglect of a woman's health during pregnancy and childbirth with adverse effect on her health." In such circumstances Maternity Benefits under the Maternity Benefit Act, 1961 are of special significance for women workers."<sup>201</sup>

Maternity Benefit Act, 1961 provides for the maternity and other benefits to the women employees as follows:

- Prohibition of work during certain periods (Sec. 4)
- Payment of Maternity Benefit (Sec. 5)
  - Notice of claim to the employer;
  - Payment of medical bonus;
  - Breaks for nursing the child.
  - Maternity benefit in case of death of woman.
- Leave with wages for miscarriage, etc. (Sec. 9)
- Leave with wages for tubectomy operation (Sec. 9A)
- Leave for illness arising out of pregnancy, etc. (Sec. 10)
- No dismissal during absence due to pregnancy (Sec. 12)
- No deduction of wages in certain cases (Sec. 13)

● **Prohibition of work during certain periods<sup>202</sup>**

According to sub-section (1) of Sec. 4, no employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her;

- delivery,
- miscarriage, or
- medical termination of pregnancy.

Similarly, according to sub-section (2) of Sec. 4,<sup>203</sup> no woman shall work in any establishment during the six weeks immediately following the day of her;

- delivery,

- miscarriage, or
- medical termination of pregnancy.

A woman may give a notice of her pregnancy in writing in the prescribed form to her employer in accordance with Sec. 6<sup>204</sup>. But if she does not give notice as provided under Sec. 6, she may make a request to her employer under sub-section (3) of Sec. 4<sup>205</sup>. On request being made by the employed woman under Sec. 4(3), the employer shall not require such woman to do any work;

- which involves long hours of standing; or
- which is of an arduous nature; or
- which in any way is likely to interfere with her pregnancy the normal development of the foetus; or
- which is likely to cause her miscarriage; or
- which otherwise adversely affects her health

According to Sec. 4(4)<sup>206</sup>, the woman shall not be required to do any work specified in Sec. 4(3) for:

- the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;
- any period during the period of six weeks before her expected delivery, if she does not avail leave of absence under section 6.

According to Sec. 13(a)<sup>207</sup>, the employer shall not make any deductions from the normal and usual daily wages of a woman by reason only of the nature of work assigned to her under sub-section (3) of Sec. 4.<sup>208</sup> Because sub-section (3) of Sec. 4 the employer can assign only work which is not arduous or which will not interfere with the pregnancy of pregnant woman.

#### ● **Payment of maternity benefit<sup>209</sup>**

Maternity Benefit Act, 1961 defines "Maternity Benefit", Maternity benefit"<sup>210</sup> means the payment referred to in sub-section (1) of Section 5. Whereas sub-section (1) of Sec. 5 provides that every woman is entitled to, and her employer is liable for, the payment of maternity benefit. The maternity benefit is paid at the rate of the average daily wage for the period of her actual absence, that is to say,

- the period immediately preceding the day of her delivery.

- the actual day of her delivery, and
- any period immediately following the day of her delivery.

"Average daily wage- Explanation to Sec. 5<sup>211</sup> describes 'average daily wage as follows: "For the purpose of sub-section (1) of Sec. 5, the average daily wage means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948, or ten rupees, whichever is the highest."

- **Maternity benefit for a maximum period of twenty-six weeks**<sup>212</sup>

After the Maternity Benefit (Amendment) Act, 2017, the Maternity Benefit Act, 1961 has increased the maximum period of maternity benefit in the form of leave with wages from *twelve weeks to twenty-six weeks*.<sup>213</sup> According to sub-section (3) of Sec. 5, the maximum period for which any woman is entitled to maternity benefit in the form of leave with wages as provided in Sec. 5(1) is twenty-six weeks. Of the twenty-six weeks not more than *eight weeks*<sup>214</sup> shall precede the date of her expected delivery. Thus, a woman may avail leave with wages eight weeks prior to her delivery and eighteen weeks after the delivery. In *B. Shah v. Presiding Officer, Labour Court*<sup>215</sup> Supreme Court held that a week for the purpose of maternity benefit means a cycle of seven days including Sunday. A woman may not avail eight weeks leave with wages preceding the expected delivery. In such case she is entitled to avail the entire leave with wages for twenty-six weeks after the delivery of the child. But if a woman dies during this period of twenty-six weeks, the maternity benefit shall be payable only for the days up to and including the day of her death.

Regarding the significance of maternity benefit to women workers under Section 5 of the Maternity Benefit Act, 1961 the Supreme Court in *B. Shah v. Presiding Officer, Labour Court, Coimbatore*,<sup>216</sup> observed as follows: "It has to be borne in mind that in interpreting provisions of beneficial pieces of legislation like Maternity Benefit Act, 1961 which is intended to achieve the object of doing social justice to women workers employed in the plantations and which squarely fall within the purview of Article 42 of the Constitution, the beneficent rule of construction which would enable the woman worker not only to subsist but also to makeup her dissipated energy, nurse her child, preserve her efficiency as a worker and maintain

the level of her previous efficiency and output has to be adopted by the Court."

➤ **Meaning of 'week' under Section 5<sup>217</sup>**

A woman worker who expects a child is entitled to maternity benefits for a maximum period of twelve weeks under Section 5 of the Maternity Benefit Act, 1961. This period of twenty-six weeks is split up into two periods, viz. pre-natal and post-natal. In the context of Section 5 of the Maternity Benefit Act, 1961, the Supreme Court in *B. Shah v. Presiding Officer, Labour Court, Coimbatore*,<sup>218</sup> explained the meaning of the term 'week' as follows: "In the context of sub-sections (1) and (3) of Section 5 of the Act, the term 'week' has to be taken to signify a cycle of seven days including Sundays. The Legislature intended that computation of maternity benefits to be made for the entire period of the woman worker's absence, i.e., for all the days including Sundays which may be wage less holidays falling within that period and not only for intermittent periods of six days thereby excluding the Sundays falling within that period. Again, the word "period" occurring in Section 5(1)<sup>219</sup> seems to emphasize the continuous running of time and recurrence of the cycle of seven days."

➤ **Woman dying leaving behind a child**

A woman entitled to maternity benefit under Sec. 5(1), having been delivered of child, may die during her delivery, or during the period immediately following the date of her delivery for which she is entitled for maternity benefit. According to Sec. 5(3), if she leaves behind in either case the child then the employer shall be liable for the payment of maternity benefit for the entire period for which the woman was entitled to. But if the child dies during the said period of maternity benefit for the days up to and including the date of the death of the child.

➤ **Eligibility for woman to claim maternity benefit<sup>220</sup>**

A woman is entitled to claim maternity benefit under sub-section (1) of Section 5 from her employer, only if she has worked in his establishment for not less than eighty days. She must have worked for not less than eighty days in the twelve months immediately preceding the date of her expected delivery. Sub-section (2) of Sec. 5 reads as under: "No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the

date of her expected delivery. "Calculation of Eighty days. However, to calculate eighty days for the purpose of determining the eligibility of woman to claim maternity benefit under Sec. 5(1). Explanation to Sec. 5(2) provides as follows: For the purpose of calculating under the sub section the days on which a woman has actually worked in the establishment the days for which she

- has been laid-off, or
  - was on leave, or
  - was on holiday declared under any law for the time being in force to be holiday with wages during the twelve months shall be taken into account."
- **Woman engaged on casual basis or on muster roll are also entitled to Benefits under the Act**

The Division Bench of Supreme Court in *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*,<sup>221</sup> held that the Maternity Benefit Act entitles not only the regular, but even the women employee droll also to claim the benefits under the Maternity Benefit Act, 1961 if she fulfils the condition set out in Sec. 5(2). It provides that a woman must have worked for not less than eighty days in the preceding twelve months in the establishment of the employer from whom she claims maternity benefit.<sup>222</sup>In *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*<sup>223</sup>, Female Workers of Municipal Corporation of Delhi raised a demand for grant of maternity leave which was made available only to regular female workers but was denied to them on the ground that they were not regularized and therefore they were not entitled to maternity leave. Their case was espoused by the Delhi Municipal Workers' Union, and consequently, the following question was referred by the Secretary (Labour), Delhi Administration to the Industrial Tribunal for adjudication: "Whether the female workers working on Muster Roll should begiven any maternity benefit? If so, what directions are necessary in this regard?

The Union filed a statement of claim in which it was stated that Municipal Corporation of Delhi employs a large number of persons including female workers on muster roll and they are made to work in that capacity for years together though they are recruited against the work of perennial nature. It was further stated that the nature of duties and responsibilities performed and undertaken by the muster roll employees are the same as those of the regular employees. The women employed on muster roll, who have been working with the Municipal Corporation of Delhi



for years together, have to work very hard in construction projects and maintenance of roads including the work of digging trenches, etc., but the Corporation does not grant any maternity benefit to female workers who are required to work even during the period of mature pregnancy or soon after the delivery of child. It was pleaded that the female workers require the same maternity benefit as were enjoyed by the regular female workers under the Maternity Benefit Act, 1961.

The Corporation in their written statement contended that the female workers on muster roll were engaged on daily wages. It was also contended that as these female workers were not entitled to the benefits under the Employees' Insurance Act, 1948 therefore their demand for maternity benefit was liable to be rejected. The Tribunal by its award allowed the claim of the female workers on muster roll and directed the Municipal Corporation of Delhi to extend the benefit under the Maternity Benefit Act, 1961 to muster roll females who were in the continuous service of the Corporation for three years or more. The Corporation challenged this judgment in writ petition before the Delhi High Court, which was dismissed by the Delhi High Court. Then the Corporation filed special leave petition in the Supreme Court. The Supreme Court also taking a serious note of the plight of the women workers in India dismissed the special leave petition filed by the Municipal Corporation of Delhi and directed the Municipal Corporation of Delhi to pay the maternity benefit to the female workers even though they were engaged on casual basis or on muster roll. In *Mrs. Bharati Gupta v. Rail India Technical and Economical Services Ltd.(RITES)*<sup>224</sup>, Petitioner was a qualified architect, had been engaged on contractual basis by respondent. Last order extending her contract by 6 months was issued on May, 2000. Her previous period was expired on 17-4-2000. Her extended period commenced on 17-4-2000 and continued till 16-10-2000. Petitioner applied for her maternity benefit on 15-10-2000 under Sections 3, 4 and 5 of the Maternity Benefit Act, 1961, and went on maternity leave w.e.f. 11-11-2000 and delivered a baby boy on 5-12-2000.

In this case the petitioner did not ask for the reinstatement as her contract of employment had come to an end but applied for her maternity benefit under Sections 3, 4 and 5 of the Maternity Benefit Act, 1961. She relied upon Supreme Court Judgment given in *Municipal Corporation of Delhi v. Female Workers (Muster Rolls)*,<sup>225</sup> Court had held that even daily wage employees on muster rolls are entitled to the benefits under the Maternity Benefit Act, 1961.

➤ **Condition of eighty days does not apply to pregnant woman immigrated into the State of Assam**<sup>226</sup>

Sub-section (2) of Section 5 also provides that the qualifying period of eighty days applicable to other woman shall not apply to a woman;

- who has immigrated into the State of Assam; and
- was pregnant at the time of the immigration.

- **Notice of claim by the woman for maternity benefit and payment thereof**<sup>227</sup>

Woman employed in an establishment and entitled to maternity benefit under the provisions of the Maternity Benefit Act, 1961 may give notice to her employer.

- under sub-section (1) of Sec. 6.
- This notice has to be in writing and in such form as may be prescribed. This notice states that the maternity benefit of the woman and any other amount to which she may be entitled under the Maternity Benefit Act, may be paid to her or to such person as she may nominate into the notice. In the notice she also states that she will not work in any establishment during the period for which she receives maternity benefit.<sup>228</sup>

According to sub-section (2) of Sec. 6, the woman who is pregnant and gives notice under Sec. 6(1) shall also state in the notice the date from which she will be absent from work. This date is not to be earlier than six weeks from the date of her expected delivery. Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery. According to sub-section (4) of Sec. 6, on receipt of the notice the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit. Payment of maternity Benefit-According to sub-section (5) of Sec. 6, the employer shall pay in advance the amount of maternity benefit for the period preceding the date of her expected delivery. Such advance is paid on production of such proof as may be prescribed that the woman is pregnant. The amount due for the period subsequent to the delivery is paid by employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.

Failure to give notice does not disentitle a woman to maternity benefit. According to sub-section (6) of Sec. 6, failure to give notice under sub-section (1) of Sec. 6 does not disentitle a woman to maternity benefit or other amount under the Maternity Benefit Act if she is otherwise entitled to such benefit or amount.

- **Forfeiture of maternity benefit** <sup>229</sup>

A woman who has been permitted by her employer to absent herself under the provisions of Section 6 forfeits her claim to the maternity benefit for such period, if during such period of authorized absence, she works in any her establishment.

- **Maternity Benefit for a maximum period of Twelve weeks**

Although Maternity Benefit (Amendment) Act, 2017 has enhanced the maternity benefit of maximum period from twelve weeks to twenty-six weeks in the form of leave with wages under sub-section (3) of section 5 of the Maternity Benefit Act, 1961, yet, this amendment has kept the maternity benefit of leave with wages for a maximum period of twelve weeks for the following women by inserting new provisions in Section 5.

- Following are the women who avail maternity benefit for a maximum period of twelve of weeks after the Maternity Benefit (Amendment) Act, 2017:
  - Women with two or more than two surviving children. <sup>230</sup>
  - Adopting mother, who legally adopts child of the age of less than three months. <sup>231</sup>
  - Commissioning mother <sup>232</sup>

- **Women with two or more than two surviving children** <sup>233</sup>

The Maternity Benefit (Amendment) Act, 2017 has amended sub-section (3) of Sec. 5 of the Maternity Benefit Act, 1961. With this amendment, the maximum period of maternity benefit to a woman in the form of leave with wages has been increased from the maximum period of twelve weeks to twenty-six weeks, yet in the same sub-section (3) of Section 5, the amendment has inserted a provision which reads as follows:

"Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery".

Thus, as per the new provision added in sub-section (3) of Section 5 the enhanced period of twenty-six weeks as a maternity benefit is not available to a woman who has two or more than two surviving children. Such women can avail the maternity benefit of maximum period of twelve weeks only as it was provided the Maternity Benefit (Amendment) Act, 2017.

- **Adopting mother, who legally adopts the child of the age of less than**

### **three months<sup>234</sup>**

The Maternity Benefit (Amendment) Act, 2017 has added new sub-section (4) of Sec. 5. By this sub-section (4), now a woman who legally adopts a child below the age of three months is also eligible to avail the maternity benefit in the form of leave with wages for a maximum period of twelve weeks from the date the child is handed over to adopting mother. But this adoption has to be legal. Sub-section (4) of Section 5 reads as follows:

"Sec. 5(4)-A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be."

- **Commissioning mother<sup>235</sup>**

The Maternity Benefit (Amendment) Act, 2017 has added a new definition of "commissioning mother" under sub-section (ba) of Section 3 of the Maternity Benefit Act, 1961, which reads as follows: "Sec. 3(ba)-commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman. "The Maternity Benefit (Amendment) Act, 2017 has not only a new definition of "commissioning mother" but has also provided for the maternity benefit to her for a period of twelve weeks from the date the child is handed over to her under sub-section (4) of Section 5. Sub-section (4) of Section 5 after the Maternity Benefit (Amendment) Act, 2017 reads as under: "Sec. 5(4)-A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date of child is handed over to the adopting mother or the commissioning mother, as the case may be."

- **Payment of medical bonus<sup>236</sup>**

Every woman entitled to maternity benefit under Sec. 5 of the Act is also entitled to receive from her employer a medical bonus. This medical bonus is of two hundred fifty rupees and is given to the woman if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

- **Breaks for nursing the Child<sup>237</sup>**

Every woman delivered of a child who returns to duty after such delivery is allowed two breaks in the course of her daily work for nursing her child. These breaks are of the prescribed duration and are in addition to the interval for rest allowed to her. Breaks for nursing the child are

allowed to the woman under Sec. 11 until the child attains the age of fifteen months. According to Sec. 13(b), employer shall not make any deduction from the normal and usual daily wages of the woman for breaks for nursing the child.

- **Facility of Creche<sup>238</sup>**

Sec. 11A has been inserted in the Maternity Benefit Act, 1961, by the Maternity Benefit (Amendment) Act, 2017. Sec. 11A provides not only for the facility of Creche within such distance of every establishment having fifty or more employees, but also provides for four visits a day to the crèche by the woman that also includes the interval for rest allowed to her. Sec. 11A(1) reads as follows: "Sec. 11(A). Every establishment having fifty or more employees shall have the facility of Creche within such distance as may be either separately or along with common facilities."

- **Intimation of every benefit to every woman<sup>239</sup>**

Sub-section (2) of Section 11A inserted by the Maternity Benefit (Amendment) Act, 2017 provides that, every establishment shall intimate inwriting and electronically to every woman at the time of her initial appointment regarding every benefit available under this Act."

- **Payment of maternity benefit in case of death of a woman<sup>240</sup>**

If a woman entitled to maternity benefit or any other amount under this Act dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section(c) of section 5, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 6 and in case there is no such nominee, to her legal representative.

- **Leave with wages for miscarriage, etc.<sup>241</sup>**

According to Sec. 9, a woman is entitled to leave with wages in case of:

- miscarriage, or
- medical termination of pregnancy.
- The Maternity Benefit Act, 1961 defines Miscarriage and Medical termination of pregnancy as follows:
- Sec. 2(j)-"*Miscarriage*" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code.
- Sec. 2(ha)-"*Medical termination of pregnancy*" means the

termination of pregnancy permissible under the provisions of Medical Termination of Pregnancy Act, 1971.

To claim leave with wages for 'miscarriage' and 'medical termination of pregnancy', the woman has to produce proof of her 'miscarriage' or 'medical termination of pregnancy'. The leave with wages are provided at the rate of maternity benefit, for a period of six weeks immediately following the day of her 'miscarriage' or, as the case may be, her 'medical termination of pregnancy'.

- **Leave with wages for tubectomy operation** <sup>242</sup>

A woman is entitled to leave with wages in case of tubectomy operation of her. For leave with wages she has to produce the proof of tubectomy operation. She is entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

- **Leave for illness arising out of pregnancy, etc.** <sup>243</sup>

A woman is entitled to leave with wages if she suffers from illness arising out of:

- pregnancy,
- delivery,
- premature birth of child,
- miscarriage,
- medical termination of pregnancy, or
- tubectomy operation.

- **No dismissal during absence due to pregnancy** <sup>244</sup>

According to sub-section (1) of Section 12, when a woman absents herself from work in accordance with the provisions of the Maternity Benefit Act, 1961, it is unlawful for her employer; or

- to discharge or dismiss her during or on account of such absence,
- to give notice of discharge or dismissal on such a day that the notice will expire during such absence; or
- to vary to her disadvantage any of the conditions of her service

- **Dismissal and Discharge during pregnancy<sup>245</sup>**

According to clause (a) of sub-section (2) of Sec. 12, a woman may be discharged or dismissed at any time during her pregnancy when she is not absent. But such dismissal or discharge shall not disentitle the woman to claim maternity benefit or medical bonus to which she otherwise is entitled. However, the employer may refuse maternity benefit or medical bonus or both if the woman is dismissed or discharged for prescribed gross misconduct. But such woman may appeal to a prescribed authority against such order of her employer which deprives her of medical benefit or medical bonus under clause (b) of sub-section (2) of Sec. 12. Sub-section (2) of Section 12 reads as under:

(a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in Section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit, or medical bonus, or both.

(b) Any woman deprived of maternity benefit, or medical bonus, or both, or discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may, within sixty days from the date on which order of such deprivation on discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharge or dismissed shall be final

(c) Nothing contained in this sub-section shall affect the provisions contained in sub-section (1).

- **No deduction of wages in certain cases<sup>246</sup>**

According to Sec. 13, deduction from the wages of a woman shall not be made on account of lighter work given to her during certain period of pregnancy or breaks given to her for nursing her child under the provisions of the Act. Sec. 13 reads as under:

No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Act shall be made by reason only of

- the nature of work assigned to her by virtue of the provision contained in sub - section (3) of Section 4 ; or

- breaks for nursing the child allowed to her under the provisions of Section 11 .

- **Duties of the employer**

- To maintain register (Sec. 20)
- To exhibit the abstract of the Act (Sec. 19)
- To maintain register (Sec. 20)

According to Sec. 20, every employer whom the Maternity Benefit Act 1961, applies shall prepare and maintain such registers, records and muster rolls in such manner as may be prescribed.

- **To exhibit the abstract of the Act<sup>247</sup> (Sec. 19)**

According to Sec. 19, every employer to whom Maternity Benefit Act, 1961 applies shall exhibit the abstract of the provisions of the Maternity Benefit Act, 1961, and the rules made there under in his establishment. This abstract shall be exhibited in a conspicuous place in every part of the establishment in which women are employed. The abstract shall be in the English language or language of the locality.

#### **4.4.2. Equal Remuneration Act, 1976**

The regulation forbids gender discrimination in pay, recruitment, promotion, or training; however, it may be circumvented by reclassifying qualified and unqualified employees. Irrespective of the type or skill level of the job, females are often categorized as complete, lower-paying wage earners, while men are classified as skilful, higher-paying salary earners. This Act mandates equal pay for males and females who work in the same or comparable occupations. There must be no discrimination in recruiting and employment circumstances, except when female labour is limited by legislation, for example, by night or industrial limits.

#### **4.4.3. National Commission for Women Act, 1990**

This Act makes a Women's National Committee to evaluate the existing legal protections for women, start preparing regular updates to the Chief Administration on issues about females' rights safety, inspect grievances relating to deprivation of these rights, and materially assist in the litigation of women's issues.

#### **4.4.4. Constitutional (74th Amendment) Act, 1992**

On the ground, women in political roles have pushed over resources like water for master education programs and power. Because of the increasing lucrateness of the post, large parties



only propose a few female candidates, typically family members. Although these women rise through the ranks in national politics, there still needs to be more women. The amendment establishes one-third quotas or reservations for women in public or state institutions' local governing bodies.<sup>248</sup>

#### **4.4.5. The Protection against Sexual Harassment of Women at the Workplace Bill, 2010**

The proposal would describe sexual harassment on the job and compel any business employing more than ten to create women's committees to deal with accusations of sexual harassment. Such panels could collect evidence and function likewise in Civil Courts, although members do not require legal experience, which is problematic. Employers would also face fines because of the new sanctions.

#### **4.4.6. Empowering Mothers: Overview of Centrally Sponsored and State-Sponsored Maternity Protection Schemes**

In a nation as diverse and dynamic as India, the well-being of mothers stands as a fundamental pillar of societal progress. With a population comprising myriad cultures, languages, and socioeconomic backgrounds, ensuring the health and security of expectant and new mothers requires a multifaceted approach. Central and state governments have thus embarked on a journey to safeguard maternal rights and promote maternal health through an array of meticulously crafted schemes.

This overview embarks on a journey through the landscape of maternity protection schemes in India, spanning centrally sponsored initiatives as well as those sponsored by individual states. These schemes, rooted in the ethos of inclusivity and social justice, aim to address the diverse needs of mothers across the nation's vast tapestry. From comprehensive healthcare provisions to financial assistance and workplace accommodations, these schemes reflect a collective commitment to nurturing mothers and their children, thereby fortifying the very foundation of our society. Join us as we explore the contours of these initiatives, understanding their objectives, implementation strategies, and the transformative impact they wield on the lives of millions of mothers and their families nationwide.

### ❖ **National Maternity Benefit Scheme (NMBS)<sup>249</sup>**

Pregnant women get funds from the nationwide maternity advantages system. This is linked to improved food arrangements for pregnant women in families living under the poor line. The advantage measurement is Rs.500.<sup>250</sup> A lady should be qualified:

- to be a city's permanent resident
- have a seat below the BPL or are undergoing 8-9 months of pregnancy.
- be pregnant for the 1st or 2nd time

### ❖ **Janani Suraksha Yojana (JSY)**

Janani Suraksha Yojana<sup>251</sup> is a restrictive currency exchange package that includes budgetary colleagues with maternity and institutional care in the middle and immediately the following transportation. The strategy aims to reduce maternal and newborn mortality and increase organizational transfers in families below the poverty mark. The measurement benefit is Rs.500 and an additional Rs.200 (700 rupees in aggregate) for domestic transport or 100 rupees for Country Regions (the entirety of Rs.600 for urban territories) for organizational institutions living. The advantages are accessible for public healing centers and transportation in private companies. In circumstances of good governance, professionals are not available in government to track disruptions or for the Cesarean Section. The well-being basis for enlistment will use 1500 rupees from private division authorities. A woman is entitled to benefit from the JSY should:

- Be 19 or older.
- Have a place with BPL classification or be an SC/ST lady, o be pregnant for the 1<sup>st</sup> or 2<sup>nd</sup> time (national commission for women, Government of India 2014).

### ❖ **Indira Gandhi Matritava Sahayog Yojana (IGMSY)**

The Indira Gandhi Matritva Sahyog Yojana (IGMSY)<sup>252</sup> is a pilots' pilot office located in 52 countries/UTs around India. It aims to offer pregnant women fraction salaries with the intention that they will not receive the impulse to function during or shortly after the last stage of pregnancy. The justification salary is that women who relax before the transmissions can do more. Do not carry babies with minimal birth mass; females who relax after transport can recover and breastfeed their children. The primary main purpose of the strategy is to improve the well-being and

nourishment of women and their young female people. This could be concluded by encouraging ladies to eat and improve early child support and survival insurance, promoting newborn children before the schedule, and selective breastfeeding in the first half-year of tyke's lives. The Advantage Measure is 4 000 rupees and is available between the second quarter of pregnancy in three portions till half a year of age ends for the newborn boy.<sup>253</sup> The women chosen by IGSMY are urged to gain from the JSY bundle and the opposite to be entitled to the advantages IGMSY, a female should:

- be of the age of 19 years or beyond
- be pregnant for the 1st or 2nd time

Additionally, if the ladies are urged to take an interest in the plans and administration of the women, Anganwadi workers, and Anganwadi partners at the AnganwadiCenters (central objectives of the execution of the project) will get money there, Advantage Measure there are 200 rupees per pregnant and 100 rupees per pregnant for Anganwadi specialists and lactating ladies (national commission for women, Government of India 2014).The benefits for maternity employees do not include employees in the unstructured field: the point of the interest portion of the Indian Parliament's Maternity Benefits Act 1961, 26 weeks of paid moms' lea, has generated more acid than the existing 12 since its skeptical essence reflux than the hurrahs (Neeta Lal 2016). The rule shall also apply to promote alternatives to telecommuting for nursing mothers after the period has expired. He made creche offices necessary with at least 50 employees in the foundations. The review takes India on board the third position in maternity leave after Norway (44 weeks) and Canada (50).<sup>254</sup>

#### ❖ **Pradhan Mantri Matru Vandana Yojana (PMMVY)**

Eight years just after National Food Security Act was passed, the federal government has yet to implement one of its provisions, the Act's key responsibilities: the payment of Rs. 6,000 in maternity benefits to all pregnant mothers. Even the meagre benefits under PMMVY<sup>255</sup> (Rs. 5,000 for just one child) prove elusive: as previously stated, PMMVY cover still needed to be more balanced even in 2019-20. The poor coverage of PMMVY is reflected in our sample as well. Only 28% of the first instalment had been distributed to nursing women qualified for PMMVY. The Mamata plan is better covered in Odisha in every way, including awareness, application rates, and tangible benefits. It is also worth noting that, as outsiders of Odisha, only a few females receive

anything before 18. The JABS survey offers insight into why many women are barred from participating in PMMVY. In summary, the NFSA has denied women's rights in three ways.

➤ **Restriction of Entitlement**

As mentioned earlier, the PMMVY program has imposed a restriction of Rs. 5,000 for the first live child, which appears to be in clear violation of the NFSA (National Food Security Act). The definition of maternity benefits under this program has also varied in different instances. For instance, consider the case of Rita Devi from Kullu, Himachal Pradesh. She was childless when the researcher initially encountered her, but she was pregnant at that time. However, Rita was unable to receive PMMVY benefits because she had terminated her pregnancy previously. According to the Anganwadi worker, the terminated pregnancy was counted as her first child since it occurred during the fourth quarter after her initial pregnancy had been registered. Despite approaching the CDPO (ICDS block coordinator), no resolution was offered in her favor. Similarly, some mothers have been denied PMMVY benefits because their child was born at home due to circumstances beyond their control. There have also been reported instances where a second woman was denied PMMVY benefits, even for her first child, solely because the first wife had already availed of the scheme. The primary drawback is that the PMMVY program does not extend benefits beyond the first live birth, which is an uncommon limitation considering India's continued need for population control. Furthermore, this limitation appears discriminatory, as there are no such restrictions for women in organized industries. This restriction has had a detrimental impact on PMMVY by limiting the number of eligible women. Universalizing maternity benefits, as mandated by the NFSA, would simplify the process for pregnant women to understand and claim their entitlements. Even increasing the maternity benefits to cover two children instead of just one, as demonstrated by Odisha's Mamata scheme, could make a substantial difference.<sup>256</sup>

➤ **Cumbersome Application Process**

To qualify for PMMVY benefits, eligible women must complete a lengthy application for each of the three instalments, totalling 23 pages during the survey. They must also fulfil various requirements, including linking their bank account with their Aadhaar card and providing additional documents such as the "mother-child protection" (MCP) card, Aadhaar cards for themselves and their husbands, and their bank passbook. Moreover, the electronic submission of these applications relies on the goodwill of Anganwadi personnel and Child Development Project

Officers (CDPOs), posing challenges, especially for women with limited knowledge. Approximately 41 percent of nursing mothers in the sample faced difficulties during the application process. Additionally, many individuals still needed awareness about PMMVY benefits at the time of the survey.

#### ➤ **Unreliable Payments**

For several reasons, online PMMVY applications and payments are frequently refused, returned late, or with error messages, some of which can be identified in studies of Aadhaar-enabled social benefit transfers in different situations (e.g., pensions & the National Rural Employment Guarantee Act). Examples include: (1) inadequate information, (2) discrepancies between the Aadhaar card and the bank passbook, and (3) funds being redirected to the wrong person's account. There is no mechanism for contacting the affected ladies and outlining what has to be done in case of an unsuccessful application or payment failure.

#### ❖ **Rajasthan Maternity Benefit Scheme (RMBS)<sup>257</sup>:**

- State-sponsored scheme by the Government of Rajasthan
- Provides financial assistance to pregnant women for institutional delivery and postnatal care.
- Aims to encourage institutional deliveries and reduce maternal and neonatal mortality.

#### ❖ **Mukhya Mantri Matru Pushti Uphaar Yojana (MMMPUY):**

- State-sponsored scheme in Madhya Pradesh.
- Provides nutritional support to pregnant and lactating mothers in the form of food packets.
- Aims to address malnutrition among pregnant and lactating women.

#### ❖ **Mamata Scheme (West Bengal):**

- This scheme is a West Bengal State -sponsored maternity benefit scheme.
- It Provides financial assistance to pregnant and lactating women for better maternal and child health outcomes.
- It aims to reduce maternal and infant mortality rates through improved access to healthcare services.

#### ❖ **Maharashtra Rajmata Jijau Mother-Child Health and Nutrition Mission:**

- This is a State-sponsored initiative aimed at improving maternal and child health outcomes

- This scheme provides various services including antenatal care, institutional deliveries, postnatal care, and nutritional support to pregnant and lactating women and children.

❖ **Dr. Panjabrao Deshmukh Swaasthya Suraksha Yojana:**

- This is a state-sponsored health insurance scheme in Maharashtra.
- Provides health insurance coverage to all families in the state, including pregnant women, for cashless treatment in public and empanelled private hospitals.
- The aim of this scheme is to help pregnant women to access quality healthcare services without financial burden.

❖ **Mata Kaushalya Scheme:**

- State-sponsored scheme in Punjab.
- Provides financial assistance to pregnant women for institutional delivery and postnatal care.
- Aims to reduce maternal and infant mortality rates and promote institutional deliveries.

❖ **Mukh Mantri Punjab Sarbat Sehat Bima Yojana (PMSSY):**

- State-sponsored health insurance scheme.
- Provides health insurance coverage to eligible families in Punjab, including pregnant women, for cashless treatment in empanelled hospitals.
- Ensures access to quality healthcare services without financial burden.

Centrally sponsored and state-sponsored schemes on maternity protection play a vital role in safeguarding the health and well-being of pregnant and lactating women across India. These schemes aim to address various aspects of maternity care, including financial assistance, healthcare services, and nutritional support, thereby contributing to improved maternal and child health outcomes and reduced mortality rates.

Centrally sponsored schemes such as the Pradhan Mantri Matru Vandana Yojana (PMMVY), Janani Suraksha Yojana (JSY), and Indira Gandhi Matritva Sahyog Yojana (IGMSY) provide financial assistance and incentives to pregnant and lactating women at the national level. They focus on promoting institutional deliveries, compensating for wage loss, and encouraging health-seeking behavior during pregnancy and childbirth.

State-sponsored schemes complement these efforts by addressing specific maternal and child health needs within individual states. Examples include initiatives like the Maharashtra Rajmata

Jijau Mother-Child Health and Nutrition Mission and the Mata Kaushalya Scheme in Punjab, which provide comprehensive maternal and child healthcare services, including antenatal care, institutional deliveries, postnatal care, and nutritional support.

Overall, these schemes underscore the commitment of both the central and state governments to prioritize maternal and child health and ensure that every pregnant and lactating woman receives the necessary support and resources for a safe and healthy pregnancy and childbirth experience. By investing in maternity protection, India strives towards achieving its goals of reducing maternal and neonatal mortality rates and promoting the well-being of mothers and newborns across the country.

#### **4.5. Maternity Benefits Under the Code on Social Security, 2020**

The Maternity Benefit Act, 1961, as amended vide the Maternity Benefit (Amendment) Act, 2017, is an Act to regulate the employment of women in certain establishments for certain periods before and after child-birth and to provide for maternity benefit and certain other benefits. The Act applies to every establishment being a factory, mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances; and to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months. The maternity benefits are also provided to women workers who are covered under the provisions of Employees' State Insurance (ESI) Act, 1948. Every woman, entitled to the payment of maternity benefit under the Maternity Benefit Act, continues to be covered under this Act until she becomes qualified to claim maternity benefit under the ESI Act, 1948.

Law commission of India in its 259<sup>th</sup> report made a strong recommendation for amendment to the existing Act in the following words:<sup>258</sup> The Maternity Benefit Act be amended in accordance with the forward-looking provisions in the CCS Rules, whereby maternity benefits should be increased from twelve weeks to 180 days. Provision of maternity benefits should be made obligatory on the State and not left to the will of the employers and should cover all women, including women working in the unorganised sector. It is suggested that government formulates

policy or guidelines laying down minimum specifications of paid maternity leave to women employed in private sector.

The Code on Social Security, 2020 (CoSS)<sup>259</sup> has been passed by the Parliament on 28.09.2020. The Code has subsumed various existing social security legislations including the Maternity Benefit Act, 1961. The Code also provides for the maternity benefits to women workers who are covered under the provisions of Employees' State Insurance (ESI) Act, 1948, which has also been subsumed in the Code. The ESI scheme is applicable to every establishment in which ten or more persons are employed other than a seasonal factory. The Code on Social Security, 2020 already has enabling provisions inter-alia for providing health and maternity benefits to women workers under unorganised sector. Section 45 and Section 109(1) of the Code on Social Security, 2020 already provides for provision regarding framing of welfare scheme(s) including health and maternity benefits for these workers. Section 1(7) of the Code also provides for voluntary coverage of an establishment to enable it to obtain benefits of the Employees' State Insurance (ESI) Corporation. The Code has not come into force so far.<sup>260</sup>

The Social Security Code, 2020, **aims to regulate the organized/unorganized (or any other) sectors** and extend **social security** benefits, during sickness, maternity, disability, etc. to all employees and **workers across different organizations**. Maternity benefits are now available to every woman employed in mines, factories, plantations, and other establishments which employs more than 10 employees<sup>261</sup>. The maternity benefits in workplace according to the new Indian Labour Code 2020 are as follows.<sup>262</sup>

- It is deemed illegal for an employer to employ a woman within six months of delivery or soon after her miscarriage or medical termination of the pregnancy.
- If a woman decides to work during the period in which she is entitled the maternity leave, she cannot be forced to do difficult, tiring, or a task that involves standing for long hours.
- If she already has two or more children, the leave with pay will be entitled to only 12 weeks. If she has no other child or 1 child, the maternity leave in India rule states that the pay will be of 26 weeks.
- In case a woman dies during the period of maternity benefit, then the benefits will be payable up-to the day of her death. But, if she dies and leaves a child behind, then the maternity benefits for the full period will be payable by the employer.



- If she is employed in a job that can be done on a ‘work from home’ basis, then even after the end of the maternity leave, she can ask her employer to move her to a ‘work from home’ model.<sup>263</sup>
- In case the employer doesn’t offer any post-natal care or pre-natal confinement a women will also be entitled to a bonus of Rs. 3500 along with the maternity leave.<sup>264</sup>
- After the woman employee joins the office after delivery, she will be entitled to two breaks for nursing her child, till the child is one and a half years old.<sup>265</sup>
- If a woman goes through a miscarriage or undergoes medical termination of the pregnancy, she will be entitled leave with pay for a period of six weeks following the date if termination or miscarriage.<sup>266</sup>
- If any illness arises out of the pregnancy, premature birth, miscarriage, or medical termination of the pregnancy, the woman employee will be entitled to an additional month of leave with pay.<sup>267</sup>
- As per the employer maternity leave obligations, a woman on maternity leave cannot be dismissed from work or given a notice for dismissal. Even if she gets dismissed, she will be given the maternity benefits that can only be scrapped if the woman employee is punished or accused of gross misconduct.<sup>268</sup>
- The maternity benefit should be paid in advance (for the period before the date of delivery) and within 48 hours of the production of proof of delivery. In some cases, an inspector-cum-Facilitator can be appointed for initiating payments due under maternity benefit.<sup>269</sup>
- As highlighted in the maternity leave rules in India, if a woman legally adopts a child below the age of three years or is a commissioning mother, she will be entitled to maternity benefit. The benefits will be for a period of 12 weeks starting from the date when the child gets handed over to the adopting mother.<sup>270</sup>
- In mines, factories, plantations, and other establishments where there are 50 or plus employees, there should be a creche facility within a prescribed distance or within the premises.<sup>271</sup>

The Social Security Code, 2020, introduces substantial provisions regarding maternity benefits in India, applicable to both the private and public sectors. By consolidating and amending existing laws related to social security, the Code ensures a standardized framework for maternity protection, irrespective of the sector of employment. Overall, the Social Security Code, 2020, underscores the government's commitment to promoting gender equality, supporting maternal

health, and ensuring the welfare of women workers across all sectors. By providing comprehensive maternity benefits, the Code contributes to creating a more inclusive and supportive work environment for working mothers in India, fostering economic empowerment and societal progress.<sup>272</sup>

#### **4.6. Maternity Benefits for Gig Workers in India: Current Landscape and Future Perspectives**

In India, maternity benefits for gig workers have been a topic of discussion and advocacy, but the legal framework and implementation can be complex.<sup>273</sup> Here's an overview:

1. **Maternity Benefits Act:** India has the Maternity Benefit Act, which provides maternity benefits to women employed in certain establishments, including factories, mines, plantations, and shops or establishments employing 10 or more people. However, gig workers, who are often classified as independent contractors, may not fall under the purview of this act.<sup>274</sup>
2. **Social Security Measures:** The Indian government has various social security schemes aimed at providing benefits to workers in the informal sector, including gig workers. These schemes may include maternity benefits, but their coverage and accessibility can vary.<sup>275</sup>
3. **Advocacy and Discussions:** There have been discussions and advocacy efforts to extend maternity benefits to gig workers in India. Various organizations and policymakers have highlighted the need to address the rights and protections of gig workers, including maternity leave.<sup>276</sup>
4. **Legal Challenges:** One challenge in extending maternity benefits to gig workers in India is the legal classification of these workers. Since they are often considered independent contractors rather than employees, they may not be entitled to the same benefits under existing labor laws.
5. **Company Policies:** Some gig companies operating in India may offer maternity leave or related benefits as part of their policies to attract and retain workers. However, the availability and extent of these benefits can vary between companies.
6. **Government Initiatives:** The Indian government has shown some interest in addressing the rights of gig workers. Initiatives such as the proposed Social Security Code aim to provide

social security benefits to gig workers, although the specifics of maternity benefits under such schemes are still evolving.<sup>277</sup>

Overall, while there may not be specific legal provisions for maternity benefits for gig workers in India currently, there are ongoing discussions and efforts to address the rights and protections of gig workers, including maternity leave. As the gig economy continues to grow and evolve, it's essential for policymakers, employers, and workers' representatives to collaborate to ensure fair and equitable treatment for all workers, including access to maternity benefits.

#### **4.7. Child Care Leave (CCL) Policies in India: Understanding Benefits and Regulations**

Child Care Leave (CCL) policies<sup>278</sup> in India are designed to provide working parents, especially mothers, with the opportunity to take time off from work to care for their children.

- **Applicability:** Child Care Leave (CCL) is a benefit provided to female employees in the government sector, including Central Government employees, State Government employees, and those working in public sector undertakings. Private sector employees may not be entitled to CCL unless it's provided by their employer's policies.
- **Duration:** Female employees are typically entitled to avail of CCL for a maximum of two years (730 days) during their entire service period. This leave can be availed as a single spell or in multiple spells.<sup>279</sup>
- **Eligibility:** To be eligible for CCL, the employee must have completed at least one year of continuous service in the government sector. Additionally, the employee must have one or more minor children, below the age of 18 years.<sup>280</sup>
- **Purpose:** CCL is primarily intended to enable female employees to take care of their children during their formative years. It can be used for various reasons, including to take care of sick children, attend to their educational needs, or for any other similar reasons.<sup>281</sup>
- **Entitlement:** CCL is granted as a paid leave, which means the employee continues to receive her regular salary during the period of leave. However, this is subject to certain conditions and limits as per the organization's policies.<sup>282</sup>
- **Utilization:** Employees must apply for CCL in advance, stating the reason for availing the leave and the period for which it is required. Employers may require supporting

documentation, such as medical certificates for sick children, depending on the reason for the leave.<sup>283</sup>

- **Impact on Other Leaves:** Generally, CCL is not deducted from other leave balances like earned leave or casual leave. However, organizations may have specific policies regarding the interaction of CCL with other types of leave.<sup>284</sup>
- **Legal Framework:** The provision for CCL is governed by the Central Civil Services (Leave) Rules, 1972, for Central Government employees. State governments and public sector undertakings may have their own rules and regulations regarding CCL for their employees.<sup>285</sup>
- **Childcare leave for women is a constitutional mandate:** Recently, in *Shalini Dharmani vs State of Himachal Pradesh*<sup>286</sup> Supreme Court bench headed by Chief Justice of India D Y Chandrachud said, “**Participation of women in the workforce is a matter not just of privilege but a constitutional entitlement** protected by Article 15 of the Constitution. The state as a model employer cannot be oblivious to the special concerns which arise in the case of women who are part of the workforce.” They were hearing a plea by an assistant professor in the Government College, Nalagarh, who was denied childcare leave (CCL) to attend to her child suffering from a genetic condition. Women government employees are eligible for two years of CCL for two children till they reach the age of 18 years. Her employer had argued that it was the state’s choice to not adopt the policy. The judgment highlighted that Article 15 of the Constitution not only restricts discrimination based on gender but also enables the states to make special provisions for women. The judgment comes at a time when concerns about the low participation rate of women in the workforce have been expressed in various circles and state and central governments have acknowledged the need for childcare services to bolster women’s participation in paid work. In a country where care is perceived as the responsibility of women, the verdict makes it clear that the state and the employer have responsibilities to enable women to join and retain their employment. In India, women have little choice but to single-handedly manage the triple burden of housework, care work and paid work. As per the Time Use Survey of India, 2019, Indian men spend 173 minutes compared to 433 minutes spent by women for unpaid domestic and care work. Socially and economically marginalised

women are more stretched. Working women often face “marriage penalties” and “motherhood penalties” as they are often temporarily forced to withdraw from the workforce due to marriage and pregnancy. It is no surprise that the female workforce participation in India is barely 37 per cent. As per PLFS 2022, 60 per cent women are self-employed and 53 per cent of the self-employed women work as unpaid family helpers. These are intertwined outcomes of lack of opportunities in the labour market and opting for flexible employment near or at home to balance both.<sup>287</sup> In this case, the Supreme Court directed the government of Himachal Pradesh to review its policy on childcare leave concerning working mother especially mother of children with special needs. Noting the lack of any policy framework in the state to provide CCL to mothers of differently abled children, the court further directed to constitute a committee headed by state commissioner under the rights of persons with Disability Act 2016 to examine the possible solutions to the present issue.

Child Care Leave policies in India aim to support working parents in balancing their professional and family responsibilities by providing them with the necessary time off to care for their children. While the specifics may vary between organizations and sectors, CCL serves as a crucial benefit for promoting employee well-being and gender equality in the workplace.

#### **4.8. Conclusion**

Local autonomy is guaranteed for women's seats: Seventy-third of all women elected to the Local Authority in either urban or rural areas under the Septuagint Constitutional Amendment Act, approved by parliament in 1992. The National Action Plan for the Child is an Indian government particular action plan designed to protect & promote females. This approach aims to reduce female feticide & infanticide and eliminate sexist prejudice; Rehabilitate and protect girls from violence, exploitation & abuse by providing clean drinking water & food near their homes. National Policy, 2001 Women's Empowerment Policy In 2001, the Department of Women's & Children's Growth set up a national plan for empowerment for women. The policy aims to encourage women's progress, development, and license. This strategy is widely publicized and will aggressively encourage all stakeholders to take part in the achievement of their goals. The forthcoming chapter would shed light on the jurisprudential and constitution approach of Indian courts upon the Maternity Benefits Act of 1961 and its subsequent amendment in 2017 which has

attempted to revamp and revolutionize the aspects of certain pre- and post- natal benefits to working women.<sup>288</sup> The chapter would also highlight various Indian policies concerning the women and related benefits.

In India, maternity benefits are governed by both legislative and constitutional mandates. The legislative aspect primarily encompasses laws such as the Maternity Benefit Act, 1961, which ensures women workers' right to maternity leave and benefits. These benefits typically include paid leave before and after childbirth, medical allowances, and job security during the maternity period.

Constitutionally, the right to maternity benefits is often interpreted under the broader framework of gender equality and social justice enshrined in the Indian Constitution. The Constitution of India, through its various provisions, including Articles 14, 15, and 42, mandates the state to ensure equality before the law and prohibits discrimination on the grounds of sex. This constitutional mandate forms the bedrock for the legislative measures aimed at providing maternity benefits, ensuring that women have equal opportunities in the workforce without facing discrimination due to pregnancy or motherhood. The legislative and constitutional mandates regarding maternity benefits in India work hand in hand to protect and promote the rights of women in the workforce. They reflect the country's commitment to gender equality and social justice, recognizing the importance of supporting women during the crucial phase of motherhood while ensuring their continued participation and advancement in the workforce.

## **CHAPTER - V**

### **JUDICIAL ENDEAVOURSTO INTERPRET VARIOUS FACETS OF MATERNITY LAWS**

#### **5.1. Overview**

The Indian judiciary has been entrusted with the constitutional responsibility to interpret laws. The same has been performed by the judiciary apart from its other functions in a well-rounded manner. This chapter discusses some important and landmark judgments considering the rights of the working women. Women now comprise a sizable proportion of the workforce in most affluent countries. In India, females between the age of 18 & 21 are employed at a rate of 23.6 %. Women who have babies and children make up a significant portion of the workforce in all the official & unofficial sectors of the economy.

Maternity & family leave policies are in place to give parents of newborns or newly adopted children time off from work. These regulations are intended to assist employees in balancing their jobs and family commitments. They are put in place to improve family well-being and job continuity. Furthermore, because women often contribute significantly to childcare in the early months, these regulations benefit them and influence their capacity to give their children the greatest care and attention. This chapter gives readers an overview of these policies. Maternity Benefits are an essential aspect of a woman's career since they give her the financial assistance, she needs to consider establishing a family. The guidelines are in place to assist families during childbirth and aid in rehabilitation before returning to work. They also provide peace during this period by ensuring benefits, job stability, and salary for the mother. In 2015, 80 nations worldwide offered Paternity Leave and Maternity Leave. India has a long history of including Maternity Benefits within its legislative framework. While India has a centralized policy, many companies use it as a starting point and may expand the advantages in terms of time or compensation.<sup>289</sup>

Every professional woman should have considered whether to stay or go during her pregnancy. The issue is that she is compelled to choose between her career & personal life. As an outcome, pregnancy programs were designed to help moms & their kids throughout their pregnancies, lowering tension & bad ideas in the mom & the improvement of her health. Maternity leave of absence ranging from 12 to India has climbed into the top 10 countries after only 26

weeks. India has emerged as one of the finest places for females to go to work due to its flexible maternal leave mechanism that permits individuals to work from home and offers childcare, & consequently, Unorganized. Unorganized find it easier to access. Consequently, it is feasible to assume that the Maternity Benefit Act was a blessing to professional females, & that this amending Act has offered a favourable atmosphere and safety. All ladies in the country will be safe.

## **5.2. Maternity Benefit Act: Judicial Craftsmanship**

“There is a catena of judgments wherein the Apex court and various High courts of the country have elaborated upon the aspects of women rights and the dimensions of maternity benefits. The Maternity Benefit Act, 1961, stands as a cornerstone of labour legislation in India, specifically addressing the needs of working mothers. Over the years, the Act has undergone judicial scrutiny and interpretation, shaping its implementation and ensuring its relevance in contemporary times. This process of judicial craftsmanship has been instrumental in clarifying ambiguities, expanding the scope of benefits, and strengthening the protection afforded to women employees. The judiciary plays a crucial role in interpreting and enforcing maternity laws, ensuring their alignment with constitutional principles, international standards, and evolving societal norms. Judicial interventions serve to clarify ambiguities, resolve disputes, and address lacunae in the legislative framework, thereby enhancing the efficacy of maternity protection measures. Courts interpret the provisions of the Maternity Benefit Act to determine the scope and applicability of maternity benefits, eligibility criteria, and the obligations of employers. Judicial pronouncements have affirmed the principle of non-discrimination on the basis of pregnancy or maternity, providing remedies for women subjected to discriminatory practices in the workplace. Courts adjudicate disputes related to the denial of maternity benefits, wrongful termination of employment due to pregnancy, and other violations of maternity laws, ensuring that women employees are afforded their rightful entitlements.”

“The judicial aspect of maternity laws in India represents a dynamic and evolving process aimed at upholding the rights and dignity of women employees. Through judicial interpretation and enforcement, the legal framework for maternity protection is continuously refined and strengthened, contributing to the empowerment of women in the workforce and the realization of gender equality objectives. As the judiciary continues to navigate complex issues surrounding maternity rights, its role remains pivotal in advancing the cause of women's rights and welfare in India.”



### **5.2.1. Limitations on Third Child Maternity Leave: Central Civil Services Rules Perspective**

The Supreme Court in *Deepika Singh v. Central Administrative Tribunal*<sup>290</sup> asserted in the present matter the appellant, that is Deepika Singh was employed by the Post Graduate Institute of Medical Research and she was working as a Nursing Officer. After her appointment, she was married to Amir Singh. However, her husband was widowed prior to marriage and had two issues from first marriage. The appellant had also filed an application on 4th May 2015 for the purpose of entry of those two children as her own in her employment records. The appellant Deepika Singh bore a child of her own in June 2019 and she had applied for maternity leave for a period of 6 months as per the “Central Civil Services (Leave) Rules, 1972”. The authorities at her Institute furnished clarification of the appellant concerning the two children of her husband’s first marriage to which she had filed reply. However, her maternity leave was rejected since she had already taken leave of maternity benefits from the two children from husband’s first marriage and the seeking of third child maternity leave is not permissible as per the Central Civil Services Rules.<sup>291</sup> Her extraordinary leave was not counted for the period of leave she had taken during the birth of the third child.

Therefore the appellant moved to the Central Administrative Tribunal wherein on 29.01.2021, the tribunal held that since the applicant had already declared the first two children from husband’s first marriage as her own children, and had taken leaves on many occasions concerning those children, the third child will be considered as her own third child to which the Rules maternity leave provisions would not apply and therefore the rejection by the Institute stands correct as per the Central Administrative Tribunal. The High Court upheld the judgment of the tribunal on the ground of Central Rules concerning ‘two surviving children’ policy which entails the applicants to only avail maternity benefits twice in her life as per the rules. Although she is not the biological mother of the children, however, it is qua her own declaration of the two children of her husband Amar Singh with his first wife as her own that any child born to her would be considered as her third child.

#### **5.2.1.1. Purposive Interpretation of Social Welfare Legislation**

The Apex Court also discussed the provisions of the Child Care Leave under Rule 43-C of the Central Civil Services Rules 1972 which have been framed under the Constitutional mandate of Article 309 of the Constitution of India which provides that a woman government employee who has children below the age of 18 years can claim childcare leave up to a period of 2 years

totalling a period of 730 days for the two minor children in total.<sup>292</sup> It provides for the salary for the child care leave which shall be the same as was paid to the applicant immediately before the leave for the total period of the leave.<sup>293</sup> The Rules furthermore provides that child care leave is allowed to be combined with other sort of leave at dispense of the woman employee.<sup>294</sup> The rules also states that leave for one child can be extended for maximum period of one year.<sup>295</sup> The Rule states that this leave is only for childcare which cannot be debited by the woman employee for any other kind of leave or the leave account of such an employee.<sup>296</sup> The High court had dismissed her appeal on the ground that the appellant does not satisfy the mandate of Rule 43-C of the Rules which disentitles her for claiming child care leave for the third child.

The Apex court also highlighted the Rule 43 of the Central Civil Services Rules 1972 which states that a woman employee under the services of Central Government who has less than two children can claim ‘maternity leave’ for a period of upto one hundred and eighty days from the competent authority.<sup>297</sup> The amount of ‘maternity leave’ shall be equal to her last immediate salary which she has drawn before the leave.<sup>298</sup> It states that on employees coming under the purview of the “Employees’ State Insurance Act, 1948”, the amount of maternity leave shall stand adjusted with the benefits availed under this Act.<sup>299</sup> The provisions as regard to miscarriage and abortion are also provided for maternity leave for a period upto forty-five days and this can be claimed irrespective of the number of the children that woman has birthed, however a medical certificate needs to be produced to that effect as per the Rule 19.<sup>300</sup> The leave is also allowed to be combined with any other leave provided under the course of employment.<sup>301</sup> This rule also provides that this leave is in addition to the ‘due and permissible leaves’ and therefore can be applied even in cases of woman having maternity leave requirement after having availed the maximum number of leaves up to two years.<sup>302</sup> However, these leaves cannot be debited as a replacement for any other leaves.<sup>303</sup>

### **5.2.2. Constitutional Pursuit of Social Justice: A Foundational Principle**

The Supreme Court in the present matter had stipulated all the aforementioned provisions upon which the question of fact and law were based. Upon the purposive interpretation, the court reiterated the case of *KH Nazar v. Mathew K Jacob*.<sup>304</sup> The aspects of social-beneficial legislation were discussed under the judgment that the objects and purpose of any legislation must be viewed liberally and from a purposive perception for the purpose of understanding the legislative intent of

the lawmakers of that legislation so interpreted. It is only after the intention is understood that the legislation should be interpreted.

The Apex court discussed the words of *O. Chinnappa Reddy, J.* in the *Workmen* case, who also underlined this legislative intent especially in the legislations regarding societal welfare and human rights of individuals. As for the perusal of such kind of statutes, the literal construction of the words must be avoided and on the other hand, the judges should concern themselves with the “colour, content and context” of such statutes. The case of *Prenn v. Simmonds* was also discussed wherein the court was of the view that the court should deviate itself from the linguistic considerations of literal interpretations and should not isolate itself in that island.<sup>305</sup> Other observations concerning purposive interpretation were made concerning courts to divulge from ‘etymological excursions’ and ‘semantic luxuries’ as these are immaterial in the “bread and butter” legislations, or to put in simple words, the welfare legislations.<sup>306</sup> The pervasive value must be given to the social justice which is one of the ultimate goals of the Constitution and the role of the court has been discussed to be the one which bridges the gap between the society and the legislations.<sup>307</sup>

Basing the judgment on the purposive interpretation of the Rules discussed herein-above, the court drew similarities of the said Rules with the Maternity Benefits Act of 1961 and reached to an understanding that nonetheless the Act has no application on the rules, however, the Rules were framed on the similar footing of the Act, primarily for evolving and upholding the feminist jurisprudence and equality jurisprudence. The provisions of maternity benefits Act provide that a woman has a right to the payment of maternity benefits in certain situations.<sup>308</sup> The period of maternity relief is the day preceding her date of delivery, actual day of delivery and any period after the day of her delivery for the purpose that the delivery of child by a woman does not hinder her entitlement to the employment per se, and her income source.

### **5.2.3. Constitutional Imperatives: Upholding Women's Rights and Maternity Benefits"**

The case of *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*<sup>309</sup> was appreciated by the court in which the reliance was placed on various provisions of the Constitution of India and international documents like the “*Universal Declaration of Human Rights 1948*”, hereinafter called as the ‘UDHR’, “*Convention on the Elimination of All Forms of Discrimination Against Women*”, herein after called as the ‘CEDAW’, for the purpose of underlying the rights of

pregnant woman who are working on basis of contractual employment. The court had observed that the Rules of 1972 in the present matter have also been laid out under the schematic and objective appreciation of the Article 15 of the Constitution mandating the principles of non-discrimination. The saving clause under Article 15(3) enables the state to make the special laws for the interest of the women and children. The bodily integrity has also been recognised as an integral part of one's right to life by the Apex Court.<sup>310</sup> Article 42 of the Constitution which draws the directive principle of state policy, which are the guidelines for the state to bring about positive legislations in the future also provides that maternity benefits should be recognised statutorily along with ensuring the humane conditions of work.

Article 25 of the UDHR furthermore states that it is the mother and childcare to which specific regard must be given and their care is of fundamental and paramount importance. The CEDAW specifically draws the guidelines for maternity protection both for the purpose of equality and for the purpose of adequate childcare for which Article 11 has been laid out wherein the state parties are required to take proper steps for eliminating discrimination at workplace, recognising right to work as 'inalienable'.<sup>311</sup> *Article 11(2)(b)* of the CEDAW explicitly states that for purpose of eliminating discrimination, the parties shall take steps to prohibit any form of sanction as far as pregnancy or maternity of a woman is concerned, and provide for maternity pay along-with preventing loss of employment, provide social services for childbirth and childcare, and provide for protective measures ensuring safety of women during maternity and childcare.

The Court observed that the aforesaid Rule 43(1) has been brought about in consonance of the international conventions and the constitutional provisions not only for providing relief to women but to ensure proper childcare of two eldest surviving children in terms of their growth, development, healthcare and education. On similar grounds, Rule 43-C has been brought about. The court while appreciating the facts of the case has observed that the policy concerning two eldest surviving children must be given a compassionate view and therefor even though the appellant had already declared the two children of the husband from his previous marriage as her own, the actual child she bore from her marriage must be viewed under the beneficial provisions in this regard.

The general burden taken by a woman for childcaring, and child rearing is such that cannot be equated, be it for the biological or adoptive children. It is as much as equivalent time and efforts required for a woman to spend on the caring of child. The court highlighted the survey conducted

by the “Organisation for Economic Development and Co-operation”, hereinafter called as the ‘OCED’ wherein it was found out that the ‘time-use’ of women in India as far as unpaid work is concerned is three hundred and fifty two minutes per day by a woman, which is up to five hundred and seventy seven percent more than that of ‘time-use’ spent by a man for the unpaid work rendered by him throughout the day.<sup>312</sup> The staggering figure is inclusive of the ‘time use’ for the unpaid work for the childcare. These statistics truly represents the plight of women in India wherein amidst the household or childcare work, which is domestic in nature, provisions like maternity benefits, childcare, etc, becomes all the more paramount for the woman to invoke and exercise at the workplace, becomes a necessity and a pre-requisite.

#### **5.2.3.1. Legal Interpretation: Distinction Between Childcare Leave and Maternity Leave**

The court held that the child-care leaves which have been availed by the appellant cannot be compensated with the ‘maternity leave’. Pursuing the provisions of the Central administrative rules, in consonance with the Maternity Benefits Act, the court read the provisions with a purposive interpretation, which signifies the purpose of these benefits for the continuation of a woman in the services of employment. However, the women are generally forced by the societal pressures to discontinue her services, be it the family of the women, or the employers. The court held that childbirth is the ‘natural incident’ of the life of a woman which must not be construed as a ‘detracting’ incident for terminating or forcing the way out to a woman from services.

#### **5.2.4. Judicial Protection of Working Women: Maternity Relief and Expanded Notions of Family**

The Hon’ble court also evolved the general the conception of the ‘family’ viewed by many as a unit comprises of the male and female biological parents along with the children, which remains as a constant. *Justice D. Y. Chandrachud and Justice A. S. Bopanna* observed that what many ignores is the description of the family which is viewed outside the traditional domain comprising the unmarried partners, single parent, and even the queer relations of lesbian, gay, bisexual, transgender, and queer. The definition of ‘household’ may comprise even one parent for reasons ranging from death, divorce or the separation, judicial or otherwise. These are termed by the court as the ‘atypical manifestations’ which deserves a dual protection both from the law and the social benevolent statutes needing to be introduced. The units or the families which are unconventional or rather disadvantaged must not be ignored or hind-sighted by the black letter of

law. Moreover, these must be regarded as much equal and important as the conventional family units, which have been recognised by the society deserving of the justice. Therefore, the women who partakes a benevolent role in such unconventional set ups must be given benefit of the social welfare legislations. The present matter signifies appellant taking such a role for festering care to the children of her husband's previous marriage and stepping into the shoes of the biological mother of such children. The employer has wrongly applied the law wherein the purpose was defeated, and its application was prevented.

The court held that the appellant is entitled to maternity relief and the denial of the maternity relief by the Central Administrative Tribunal was contrary to the Rule 43 of the Central Services Rules and thereby the impugned order of such denial was set aside. The benefits were also directed by the Apex court to be released to the Appellant within two months from the date of the judgment. The analysis of the judgment reveals that the judicial matrix concerning the notions of family and particularly women has expanded to allow protection to women, especially to working women to the purposive application to the social benevolent legislations in India.

#### **5.2.5. Inclusive Maternity Benefits: Extending Benefits to All Pregnant Women, Irrespective of Employment Status**

Apex Court asserted in *Female Workers (Muster Roll) v. Municipal Corporation of Delhi*<sup>313</sup> the Municipal Corporation of Delhi' regarding maternity leave, had previously limited these benefits to permanent female employees and excluded muster-roll women. The female employees in the latter category demanded maternity leave, and their case was raised by the union. Furthermore, the corporation argued that the "Maternity Benefit Act of 1961" only applied to "industrial" workers and not to women listed on the municipal corporation's muster roll. The court's ruling clarified that when a woman reaches an advanced stage of pregnancy, she should not be obligated to perform strenuous work as it could pose risks to her health and the health of her unborn child. Consequently, the Act mandates that all pregnant women, whether employed regularly or on a muster register, are eligible for a maternity leave covering specific durations both before and after childbirth. This ruling ensures that maternity benefits are extended to all pregnant women, regardless of their employment status.

It was noted that becoming a mother is the most natural event in the life of a woman, the employer while providing protection to women employees in this regard has to be more

considerate and sympathetic and has to understand the practical difficulties which these employees have to undergo during this important and demanding period of life. The court further opined that:<sup>314</sup>

“A just social order can be achieved only when inequalities are obliterated and everyone is provided what is legally due. Women who constitute almost half of the segment of our society have to be honoured and treated with dignity at places where they work to earn their livelihood. Whatever be the -nature of their duties, their avocation and the place where they work; they must be provided all the facilities to which they are entitled ... the employer ... must realise the physical difficulties which a working woman would face in performing her duties at the work place while carrying a baby in the womb or while rearing up the child after birth. The Maternity Benefit Act, 1961 aims to provide all these facilities to a working woman in a dignified manner so that she may overcome the state of motherhood honourably, peaceably, undeterred by the fear of being victimised for forced absence during the pre- or post-natal period.”

It the aforementioned case, it was observed by the court that it is on the touchstone of provisions of the constitution (contained in DPSP) in Article 39, especially in Articles 42 and 43, that the entitlement of the respondents with respect to maternity benefit and the act of the employer (petitioner) in refusing that benefit to its women employees has to be checked in order to determine the justifiability of the denial in question. It was observed that, though article 42 is not enforceable at law, it is very much available for ascertaining the validity of impugned action pertaining to denial of maternity benefits by an executive or administrative action as this article specifically talks about maternity relief along with just and humane condition of work. The court placed reliance on an earlier decided case wherein it was observed that:

“The directive principles which are fundamentals in the governance of the country cannot be isolated from the fundamental rights guaranteed under Part III. These principles have to be read into the fundamental rights. Both are supplementary to each other. The State is under a constitutional mandate to create conditions in which the fundamental rights guaranteed to the individuals under Part III could be enjoyed by all.”<sup>315</sup>

#### **5.2.6. Supreme Court Rebuke: Directing Maternity and Medical Coverage for Ad Hoc Teachers**

The Honourable Supreme Court in “*Rattan Lal and Ors. v. State of Haryana and Ors.*”<sup>316</sup> addresses grievances of ad hoc teachers in the state of Haryana regarding the non-payment of salaries during summer holidays and the denial of other benefits like casual leave, sick leave, maternity leave, and more were addressed. The Court found that the ad hoc teachers were being unjustly deprived of summer holidays, salaries, and various benefits, which are typically available to all public employees, including vacations, healthcare coverage, and maternity leave. This deprivation resulted from the State Government's problematic appointment scheduling. In response, the Hon'ble Supreme Court strongly criticized the state administration's policy of withholding income and benefits, especially maternity and medical coverage, from ad hoc teachers during summer holidays. The Court directed that these benefits should be extended to eligible ad hoc teachers. State of Haryana's ad hoc teachers' grievances about non-payment of salaries during the summer holidays and refusal of other benefits like casual leave, sick leaves, maternity stay, and so on were considered. Summer holidays, along with payroll and entitlements, as well as all other perks accessible to all public employees, such as relaxed vacation, healthcare stay, maternity stay, and so on, are rejected by ad hoc teachers outrageously due to the State Government's deleterious appointment scheduling, according to the Court. The Hon'ble supreme court, strongly criticizing the state administration's policy of denying ad hoc teachers' income and perks during the summer holidays, directed the benefits mentioned above, notably maternity and medical coverage, to those eligible.

#### **5.2.7. Legal Mandates and Women's Health: Necessitated Absence from Employment Due to Childbearing**

The Apex Court in “*B. Shah v. Presiding Officer, Labour Court, Coimbatore and others*”<sup>317</sup> was asked whether the maternity benefit for the term provided by Section 5 should be calculated. Sundays should be included in the break. When the Federal Court ruled to involve Sundays, it followed “Article 42” of the Constitution's beneficial construction guideline favouring women workers. It noted that this benefit was meant to allow women workers not to survive and plenish their lost power, breastfeed their children, maintain their productivity as workers, and maintain their previous productivity levels. During this time, she cannot work and needs more



funds to cover her medical bills. These times are mandated by law to ensure that working women can support themselves and their families while protecting their health. The biological role of childbearing necessitates a woman's temporary absence from employment.

In *Shah v. Presiding Officer, Labour Court, Coimbatore*,<sup>318</sup> the question before the court was relating to the consideration about computation of holidays; whether while calculating the maternity benefit Sundays should be excluded. The court while deciding the matter not only took into consideration the holiday calculation but it went ahead to interpret the intention behind the Act in the light of the doctrine of 'beneficial rule of construction.' It comprehensively discussed the social welfare for women workers and its real implications. It was opined that the benefit incorporated by the Act read in the backdrop of article 42 was aimed at enabling the female worker not only to subsist but also to preserve their health along with the health of the child and maintain their efficiency which will assist in maintaining a balance between productive and reproductive roles. During this crucial time around pregnancy and childbirth, equally important is the financial stability and the income for medical expenses. This is how the court has, within the purview of article 42, conclusively established the welfare motive of the Act conferring rights to women employees keeping into mind the wide dimensions of the maternity protection.

#### **5.2.8. Challenges to Pregnancy Discrimination: The Dichotomy of Legal Interpretation in *Air India v. Nergesh Meerza***

In the case of "*Air India v. Nergesh Meerza*,"<sup>319</sup> "six flight attendants from Air India and Indian Airlines challenged their employer's policy that allowed for the termination of their employment upon the discovery of their first pregnancy. The Indian Apex Court ruled that this policy violated Article 14 of the Indian Constitution, as it was deemed arbitrary and unjustified. However, when air hostesses with two live children became pregnant with their third child, the Supreme Court supported an amendment that effectively compelled them to retire. This amendment was purportedly introduced in the interest of women's health and the national family planning program."

"The Supreme Court's ruling in *Air India v. Nargesh Meerza* had a significant impact on advancing gender equality in India. The case challenged discriminatory workplace regulations that forced air hostesses to resign from their jobs after marriage or first pregnancy. By striking down these regulations as unconstitutional, the judgment affirmed women's right to equality in

employment under Article 14 of the Constitution. The case was a landmark in eliminating gender bias in the workplace and established an important precedent against policies that stereotype women. It influenced many private and public sector organizations to reform discriminatory policies and provide equal opportunities for female employees. The judgment catalyzed further evolution of gender rights in India, paving the way for greater workplace equality.”

“The judgment has significantly impacted workplace equality in India, leading to changes in corporate policies and the elimination of similar discriminatory practices. However, some challenges remain. The judgment set a strong precedent against gender discrimination in the workplace. Many companies that had similar discriminatory policies were forced to change them after the ruling. Air India had to revise its regulations and end its policy of requiring female flight attendants to retire earlier than male flight attendants. Other airlines, like Indian Airlines, also eliminated rules that imposed restrictions, dress codes, or early retirement solely on female cabin crew members.”

“More broadly, the judgment influenced corporate policies beyond just the airline industry. It established gender equality as a constitutional right and made clear that policies based on gender stereotyping would not withstand legal scrutiny. Many companies reviewed and revised their HR policies on recruitment, promotions, benefits, retirement age, etc., to eliminate differential treatment. However, workplace equality remains a challenge in India even today. Pay gaps, lack of women in leadership roles, and subtle discrimination persist. The judgment was an important milestone, but much work remains to achieve complete equality. Ongoing advocacy, evolving case law, and changing attitudes are still needed to create workplaces where men and women enjoy the same rights and opportunities.”<sup>320</sup>

### **5.2.9. Protecting Dignity and Equality: Landmark Supreme Court Verdict on Pregnancy Disclosure and Maternity Rights**

In *Neera Mathur v. Life Insurance Corporation of India*<sup>321</sup> this case, Mrs. Neera Mathur had applied to work at Life Insurance Corporation of India (LIC). Upon clearing the written test and the interview, she was asked to fill a declaration form disclosing personal facts as to pregnancy (if any) and her menstrual cycle. Further, she was required to undergo a medical examination as prescribed by LIC. She submitted her declaration and also underwent a medical examination and was certified as being fit for the job. Thereafter, her training program commenced and, on its

completion, she received an appointment letter with the stipulation that she would be on probation for the first six months and her appointment would be confirmed subject to her performance being satisfactory. During her probation she applied for maternity leave which was granted. On her return to service, she was discharged from employment on the grounds that her service was not satisfactory and that she had failed to disclose personal facts as to her pregnancy and menstruation in her declaration form. Mrs. Mathur appealed to the Supreme Court on the grounds that her right to equality guaranteed under Article 14 of the Indian Constitution had been violated by the arbitrary order of discharge. The Supreme Court ordered LIC to re-instate Mrs. Mathur and set aside the order of discharge on the grounds that there was no evidence to prove that her performance was unsatisfactory and the only reason for termination was her failure to disclose personal facts in her declaration that are not required to be disclosed to an employer. The Court stated that while India is moving forward to achieve the constitutional guarantee of equal rights for women, LIC seemed not to be moving with time. It further recommended that LIC delete such requirements from its declaration form and made a note of the fact that if one indirectly seeks to evade providing maternity leave and benefits to a female candidate by not hiring her if she is pregnant at the time of entering the service, the same may be open to a constitutional challenge. In this case, a female worker was fired from her job because she failed to appropriately state her last menstrual date and the fact that she was pregnant on her employment disclosure form when she joined the company. This woman sought justice in India's Apex Court, alleging that the arbitrary decision dismissal decision had her right to equality as protected by "Article 14" of the country's constitution. The Appellate Court decided that the statement requested in the form was insulting, degrading, and a breach of the employee's dignity and self-respect, and the dismissal decision was quashed. Efforts to escape providing maternity coverage to a female worker by not employing her if she is pregnant would be vulnerable to a constitutional dispute, the Court said in its recommendation to remove such restrictions from the disclosure form.

#### **5.2.10. Comprehensive Maternity and Childcare Rights: A Milestone Directive for Female Employees**

In *Dr. Rachna Chaurasiya v. State of U.P. and others*<sup>322</sup> The Division Bench of Allahabad High Court issued an order to the State Authority directing them to provide maternity breaks to all female employees at total remuneration for 180 days. This directive covers all jobs, including regular, momentary/ad hoc, and contract. The state defendant was also directed to offer 730 days

of childcare leave to all female employees with minor children who work on a permanent, contractual, ad hoc, or casual basis, with the caveat that the child must be 18 years old or older.

#### **5.2.11 Maternity Leave as Social Insurance: Promoting Family Well-being and Support**

In *Anshu Rani v. State Of Uttar Pradesh and ors.*<sup>323</sup> The petitioner, requested for maternity break with the District Basic Education Officer in Bijnor in 2018. In place of the 180 days she had asked for, she was granted 90 days of maternity break with an honorarium from October 1, 2018, to December 29, 2018. She was not explained why her leave was reduced in half. The petitioner complained to the Allahabad High Court, dissatisfied with the seeming failure to act. Avadesh Pratap Singh, the petitioner's learned counsel, pointed to the 'Maternity Benefit Act of 1961', which was amended in 2017 "Maternity Benefit (Amendment) Act, 2017". The petitioner can benefit from the additional 26 weeks of maternity vacation granted under the 2017 amendment, which expanded the standard 8-week leave to 26 weeks. The Court said maternity vacation constitutes social insurance after holding hearings and assistance for families' wellness, as well as assistance for families are the primary goals of the maternity break. the "Maternity Benefit Act of 1961" was enacted by Parliament by Article 42. Executive or administrative actions that deny maternity benefits must be considered under Article 42, which expressly refers to "fair and humane conditions of employment" and "pregnancy relief."

#### **5.2.12. Equal Rights in Motherhood: Advocating for Inclusive Maternity Benefits in Surrogacy Cases**

"In contemporary society, the notion of motherhood transcends biological ties, encompassing a diverse array of familial bonds and nurturing relationships. However, despite advancements in reproductive technology and evolving family structures, disparities persist in the treatment of mothers who conceive through surrogacy. The fundamental principle of equality demands that all mothers, regardless of the method of conception, should be granted the same rights and benefits, including maternity leave and support". In *Pooja Jignesh Doshi v. The State of Maharashtra and Ors*<sup>324</sup> the petitioner sought aid from a surrogate mother to have a second child. The petitioner gained custody of the child after it was born, thanks to the efforts of the surrogate mother. Before the child's birth, the surrogate mother, i.e., the petitioner, demanded and was denied a maternity break. An employee rejected the petitioner's request for leave to care for her baby

because she argued that federal and state leave rules and policies do not permit the maternity break for surrogate children. As an outcome, the topic of whether a surrogate mother has the right to maternity leave has emerged. The High Court of Bombay depended on the same court's ruling in “Dr. Mrs. Hema Vijay Menon v. the State of Maharashtra” without digging into the case's outcome. In this ruling, the High Court looked at motherhood and pregnancy. According to the High Court, in this decision, maternity includes both the time spent pregnant and the time directly following the birth of a child.

A maternity break is intended to preserve the respect of motherhood while also assisting the child in achieving and mother's well-being and the mother-child bond. Maternity break is intended to aid women, and their children in achieving social equality. Making a difference between a biological mother and a surrogacy mother would be degrading to the womanhood and motherhood of the woman who wants to raise a surrogacy child in the same manner she would like a biological child. Article 21 of the Indian Constitution defines the right to life as including the right to motherhood and the freedom to a child's complete maturation. It is tough to understand why the administration would not offer maternity breaks to a mother who has a kid through surrogacy if it can give maternity breaks to an adoptive mother. Parents who provide their eggs and sperm have the right to depart even if their kid is born via surrogacy. Mothers and fathers are entitled to maternity and paternity breaks, respectively.

### **5.2.13. Maternity Breaks for Temporary Workers: Upholding Rights Beyond Statutory and Contractual Obligations**

The Kerala High Court held in *Rasitha C.H. v. State of Kerala & Anr*<sup>325</sup> that women workers are eligible for maternity breaks in their temporary position. "The maternity benefit is not only a statutory advantage or an advantage coming out of a contract," *Justice A Muhamed Mushtaq* said in granting a case brought by Rasitha, who was refused a maternity break by Calicut University since the conditions of her contract did not allow for it. Justice, A Muhammed Mushtaq ruled, "The maternity benefit is neither a legislative benefit nor a benefit arising from an agreement." As the court has repeatedly decided, a woman's right to maternity leave cannot be restricted because of her employment position as a contract worker. "As a result, the University is obliged to provide such benefits regardless of the contract agreement." When the court accepted Rasitha's appeal, it

was ordered that Calicut University pay Rasitha's maternity benefits within two months, which are the same as those paid to other university employees.

#### **5.2.14. Extending Maternity Leave: Recognizing Fundamental Rights over Contractual Norms**

In “*Seema Gupta v. Guru Nanak Institute Management*”<sup>326</sup> this case, The Central Civil Service Rules govern non-State non-profit colleges and universities like the one where the petitioner worked as a professor (CCS Rules). The petitioner requested more time after her first maternity leave of 135 days, and the additional leave expired. Show-cause notices were sent to her, demanding that she return to duty. CCS Rules stated that maternity leave might be extended for up to one year without a medical certificate. Thus, the petitioner relied on this provision in the CCS Rules. Even so, the petitioner had their employment dismissed because of an unlawful leave they had taken. It was decided by the Delhi High Court that the employment and service laws' provisions for maternity coverage should be interpreted in light of Articles 15, 41, and 42 of the Indian Constitution as well as India's duties under the “UDHR” and “CEDAW.” An employee's request to prolong her maternity leave by employment standards is interpreted as an exercise of her fundamental rights rather than a usual execution of a service contract.

Division Bench of the Punjab & Haryana High Court in the case of *Raj Bala vs. State of Haryana and Ors.*,<sup>327</sup> The contention of the State government that several mistresses, teachers, lecturers appointed in different schools and colleges in the States were not entitled to maternity leave on the ground they were contractual appointees was rejected on the basis of the decisions of the Supreme Court in the case of *Rattan Lal and Municipal Corporation* Hence, the state government was directed to grant the benefit of maternity leave to the petitioners. The Court further observed, “...there is hardly any distinction between an ad hoc employee and a contractual employee. Both are engaged for a definite term as may be specified in the letter of appointment. So far as they are performing the same duties and functions and are holding the same post, it will be very difficult to draw the fine line of distinction between these two classes.”

*Ms. Sonika Kohli and Anr. vs. Union of India (UOI) and Ors.*,<sup>328</sup> It was argued that maternity leave was not admissible to contract employees since they were not covered by the Punjab CSR Vol. I, Part-I., and was payable only two permanent/regular female employees. The claim for maternity benefit is founded on the basis of fair play and social justice. In the background of Articles 42, 43 and 39 the Parliament enacted the M.B. Act in 1961 with the objective of regulating

employment of women in certain establishment for certain before and after childbirth and to provide for maternity and certain other benefits. Hon'ble Court opined that to carve out a distinction between contract/ part time teachers and regular teachers, as was done by the Administration in the instant case, is to view this problem in a narrow way. Anyone acquainted with the working of the Constitution and its objective of social and economic justice would without a doubt reject such an argument. Court stated, "The weight of the law is that the contract appointees who cannot be differentiated in any manner with the ad hoc appointees are entitled to the benefit of maternity leave...In our view, all the female teachers appointed on contract basis, are entitled to maternity leave as is admissible to the regular employees in accordance with the rules."

In *Uma Rani, M.S. and Anr. vs. Union of India (UOI) and Ors.*<sup>329</sup> Settling the issues as to the position of contract employees with regard to maternity benefit, Hon'ble Court held, "Since, as per the terms and conditions mentioned above, the applicants are governed by the relevant rules and orders in force from time to time, and, since the maternity rule comes under Special kind of leave (other than Study leave), and the respondents have granted such leave earlier and in view of the principle laid down by the Apex Court in the case of Municipal Corporation of Delhi (supra), Maternity leave cannot be denied on the ground that Rule 43 of the CCS (Leave) Rules applies only in case of female Government servants including an apprentice or that the O.Ms. (supra) do not provide for maternity benefit to the Contract employees. It is pertinent to mention here that since the applicants herein have been appointed on contract basis and are working for about 10/8 years in a Central Government Organization, it is most natural for the female workmen to become mother as already pointed out by the Apex Court "to become a mother is the most natural phenomenon in the life of a woman." Respondents are, therefore, not justified in denying to provide maternity benefit to the female workmen who are working for them for years together".

#### **5.2.15. Ensuring Gender Equality: Challenging Denial of Seniority Due to Pregnancy-Related Course Attendance Barriers**

In "*Gita Mittal and J.R. Midha.*"<sup>330</sup> This case, the petitioners raised concerns about the policies and practices of "The Central Reserve Police Force's (CRPF)" policies and procedures, claiming that they infringed against women CRPF personnel and thereby breached Articles 14 and 16 of the Indian Constitution. The Delhi High Court was asked, among other things, to rule on the legitimacy of denying seniority to women unable to finish required promotional courses owing to

pregnancy by refusing them the option to attend these courses as soon as they were medically stable after delivery.

#### **5.2.16. Maternity Rights for Commissioning Mothers: Challenging Discrimination and Defining Legal Protections**

In “*Rama Pandey v. Union of India*”<sup>331</sup> this case, maternity leave requested by a commissioning mother was declined by the federal government citing her non-biological status. The commissioning mother sought remedy from the Delhi High Court under its writ jurisdiction. During both the prenatal and postnatal phases of the surrogate's pregnancy, a commissioning mother is entitled to maternity leave under Delhi high court rulings since she may be obligated to provide the surrogate with economic, moral, and physical care while she is pregnant. Maternity may only be proved when a pregnancy is born outside of the womb of the commissioning mother, according to the Court, which noted that the Central Civil Service (Leave) Rules did not define “maternity.”

Much before the statutory recognition of the commissioning mother of a surrogate child to be entitled for maternity benefits, the Indian courts have been in favour of the same. In the case of *Hema Vijay Menon*,<sup>332</sup> the court decided in the line of *Rama Pandey v. Union of India*.<sup>333</sup> The court in this case was of the view that motherhood cannot end at the birth of the child, rather it extends beyond and covers child rearing which involves assistance of parents, especially mothers. A commissioning mother cannot be discriminated on account of obtaining the baby through surrogacy. A newborn child requires continuous care and attention. The first year of a new-born's life is crucial involving a tremendous amount of learning and care. The court opined that any other interpretation may lead to the object of the welfare legislation being defeated.

#### **5.2.17. Combating Pregnancy Discrimination: Upholding Constitutional Rights in Employment Cases**

In “*Neetu Bala v. Union of India*”<sup>334</sup> the petitioner who was pregnant, declared ineligible for a Short Service Commission in the Army Medical Corps. The respondents ignored her desire to keep a slot open for her to return to work following the birth of her kid. According to the Kerala High Court, denying employment to women purely because of their pregnancy was discriminatory and unconstitutional, which violated Indian Constitutional Articles 14, 16, and 42. According to the report, this discrimination would breach India's commitments under the “CEDAW,” ILO's



Maternity Protection Convention, and the Universal Declaration of Human Rights. India has pledged to eliminate discrimination against women (UDHR). To put it another way, the woman in this instance had taken issue with the state's decision not to provide her with an appointment to the Short Service Commission because of her pregnancy.

The court, thinking progressively and pragmatically, has been found to criticise the approach of placing the entire responsibility of family planning and health of children on women. This has been found to be not in tune with the guarantee provided by the constitution against non-discrimination on the basis of sex under article 15.<sup>335</sup> Further, the evasion of the provisions concerning maternity benefits available to female candidates by not hiring on account of pregnancy has been considered to be open to a constitutional challenge. In a recent case decided by the High Court Delhi, it has been observed that there is no reason for denying maternity benefits to employees in case of contractual employment. The only fact that distinguishes a female employee in contractual job is that she opted to be a mother and on account of childbearing and childrearing, sought maternity leave from the employer. By denying her rights, she is being forcibly pushed into a choiceless situation as motherhood would amount to loss of job. Even in the absence of rules allowing maternity leave, maternity leave was upheld in this case.<sup>336</sup> The termination order issued by the employer-college against the petitioner was observed to be against equality principle and violative of the right to employment as well as reproductive rights assured under article 21.<sup>337</sup> Similarly, in *Mandeep Kaur v. Union of India*<sup>338</sup> the Supreme Court observed, while deciding the question as to whether the petitioner despite being a contractual employee could still become entitled to maternity benefits that maternity leave has to be granted to women employees irrespective of the fact that they are part of casual, permanent or contractual employment.

#### **5.2.18. Ensuring Equality: Upholding Maternity Rights for Ad Hoc Employees**

The Hon'ble High court stated in "*Mrs. Savit Ahuja v. State of Haryana and others*"<sup>339</sup> that just because the petitioner's employment was ad hoc, she should not be denied maternity break, provided to all other provincial public servants employed regularly. The services of the ad hoc female worker who is pregnant and has reached the delivery stage would be dismissed due to such disentitlement. This would be highly unfair or unjust towards female ad hoc employees based on gender, and it would go against Articles 14, 15, and 16 of the Constitution. Because it exceeds the powers granted by the Constitution, it cannot be upheld. Such disentitlement would result in the services of the ad hoc female employee who is pregnant and has reached the stage of confinement

being terminated. This would be highly unjust and discriminatory against female ad hoc employee on the ground of sex which violates Articles 14, 15 and 16 of the Constitution. Being ultra vires of the Constitution, it cannot be sustained.

#### **5.2.19. Challenging Discrimination: Gender Equality in the Central Reserve Police Force**

In “*Bilju A.T. v. Union of India & Ors*”<sup>340</sup> the Petitioners argued that the regulations and practices of the Central Reserve Police Force (also known as the “CRPF”) were discriminatory against women who worked for the CRPF and, as a result, were in violation of Articles 14 and 16 of the Indian Constitution. The Delhi High Court was asked to decide, among other things, whether it is constitutional to refuse seniority to women unable to accomplish required promotional courses due to pregnancy and to deny them the chance to achieve these courses as soon as they were declared medically fit after delivery.

#### **5.2.20. Equal Rights in Career Advancement: Pregnancy Discrimination and Seniority Denial**

In “*Inspector (Mahila) Ravina v. Union of India & Ors.*”<sup>341</sup> the petitioner could not complete a pre-promotional course due to her pregnancy. After her pregnancy was finished, she completed the course in the next batch. Her seniority would have been restored, but she was not allowed to take the first course. Because the petitioner was “unwilling” to participate in the first pre-promotional training, the CRPF justified denying her seniority. It also explored whether punishing the petitioner for her pregnancy and making her select between having a child. Her career infringed her rights under Articles 21, 14, 15 (1) and 16 (2) of the Indian Constitution when deciding whether the petitioner's pregnancy denotes her lack of willingness or incapability to attend the course.

#### **5.2.21. Upholding Constitutional Rights: Protecting the Rights of Pregnant Women in Employment**

The Madras High Court struck down employment restrictions “*S. Amudha v. Chairman, Neyveli Lignite Corporation*”<sup>342</sup> that defined pregnant women as “temporarily unsuitable” for work, regardless of the type of activity they were to undertake. Invoking this regulation, the respondent tried to delay the petitioner's appointment until after childbirth in this case. Articles 14 and 21 of the Indian Constitution prohibit such a limitation, according to the High Court.

### **5.2.22. Restoring Justice: Delhi High Court's Ruling on Unlawful Dismissal During Maternity Leave**

The Delhi High Court asserted in “*K Chandrika v. Indian Red Cross Society*”<sup>343</sup> that the petitioner's job was abruptly cut off during her maternity leave. The petitioner was not shown to have received the message, as there was no proof. It was decided by the Industrial arbitrator that the worker had no plans to return to work for the company and that she would not be entitled to restoration and other privileges. The Delhi High Court determined that the petitioner's employment had been dismissed unlawfully and unfairly. Ordered reinstatement of Petitioner in service for the sake of calculating compensation for those who have served. In addition, back wages amounting to 50 percent of the base salary were paid. Total salaries were due as back pay under ordinary situations, but the organization was not for business. Thus this was not feasible – yet the court permitted it, nevertheless.

### **5.2.23. Ensuring Maternity Rights: Interpreting Eligibility Under the Maternity Benefits Act**

*F.M. Kolia and Anr. v. Manager, The Tiles and Pottery Works Ltd. and Ors.*”<sup>344</sup> In this case, under the Maternity Benefits Act of 1961, the petitioner requested maternity leave compensation, but her claim was opposed because she had worked just 143 days. The petitioner was prevented from operating during the rainy season since the plant stayed closed because it was a seasonal enterprise that only ran for eight months of the year. For “any other cause,” as defined in Section 2(kkk) of the “Industrial Disputes Act of 1947”, the establishment stays closed. This means she should be compensated for the days she performed during the wet season when the plant was closed. In light of this, the Court found that she had unquestionably completed the 160 days necessary by the Act to be eligible for the benefit under S.5 (2).

### **5.2.24. Ensuring Educational Equality: Upholding Women's Rights in Higher Education During Pregnancy**

The court ruled “*Vandana Kandari v. University of Delhi*”<sup>345</sup> that any action taken by a university or college that prevents or holds back a female student from continuing her education in any semester solely because she couldn't attend classes due to being in the advanced stages of

pregnancy or due to childbirth is an action that goes against the principles of the Constitution. Such actions not only disregard women's rights but also undermine the concept of gender equality.

#### **5.2.25.Ensuring Maternity Rights: Upholding Benefit Access Regardless of Wage Payment Method**

In “*Smt. Neetu Choudhary v. State of Rajasthan and Ors*”<sup>346</sup>, the primary issue before the court was the method of wage payment. The Hon'ble Rajasthan High Court thoroughly examined the facts of the case and made a noteworthy observation. The court emphasized that social welfare legislation demands that justice be served, particularly in matters related to social justice. In the present case, the court stated that the maternity benefits should not be denied to female employees solely because the method of wage payment is unclear or unascertained.

#### **5.2.26. Protecting Maternity Rights: Prohibiting Compulsory Work on Holidays and Ensuring Full Benefits"**

In “*Tata Tea Ltd. v. Inspector of Plantations*”<sup>347</sup> the court stated that according to the Maternity Benefit Act, the employer doesn't have the right to compel her to work on holidays when an employee is availing maternity benefits. Furthermore, it was determined that any payments already made by the employer under the National and Festival Holidays Act should not be deducted from the maternity benefits to which the employees are entitled under the Maternity Benefit Act.

#### **5.2.27. Exploring Social Security Laws in India: Contributory and Non-Contributory Perspectives**

In “*Maniben Maganbhai Bhariyav. District Development Officer*”, different social security laws, broadly split into contributing and non-contributory categories, have been implemented in this largest democratic country in light of the significant number of people working in the organized and unorganized sectors over time. The laws that require contributions from employers and employees and, in some instances, additional assistance or grants from the government are known as contributory laws. At the same time, we are currently concerned with significant non-contributory statutes, including the Employee's Compensation Act of 1923, the Maternity Benefit Act of 1961, and the Payment of Gratuity Act of 1972.

### **5.2.28. Prioritizing Maternal Health: A Case for Equal Treatment in Government Employment**

In *J. Sharmila v. The Secretary to Government, Edu. Deptt. Madras*<sup>348</sup> the question arose regarding the entitlement of a married government employee with two living children to receive full payment for her maternity leave. The petitioner had given birth to twins during her first pregnancy and a single child during her second pregnancy. As a result, the maternity leave was granted based on the delivery of the second child and was not contingent on any criteria related to the third child. The court's ruling emphasized that it is sufficient to assert that if the State government intends to provide protection for a woman during her second childbirth, it should not be determined by the number of children she has throughout those two pregnancies. The significance should solely be considered from the perspective of the health of the female government employee, without regard to the number of children delivered during each pregnancy. Therefore, the petitioner, who utilized her second pregnancy as an opportunity to take maternity leave, is entitled to receive full pay during that period.

### **5.2.29. Upholding Maternity Rights: Recognition of Contractual Employees' Entitlements**

In *"Smt. Archana Pandey v. State of M.P & others"*<sup>349</sup> the central issue was whether contractual employee, the petitioner had the right to maternity leave. After examining various legal precedents, the High Court determined that the Constitution mandates that an employer must provide all necessary facilities for a female employee to give birth. There is no valid reason why a woman working as a contractual employee should be denied the benefits afforded by the Maternity Benefit Act. Consequently, the respondents were directed to provide maternity benefits to the petitioner.

In *Anima Goel Ms. vs. Haryana State Agricultural Marketing Board*<sup>350</sup>. The petition was directed against the orders declining the request of the petitioner to grant her maternity leave. The petitioner was working as a contractual employee; the issue raised was as to whether the petitioner was entitled to the benefit of S.5 of the Maternity Benefit Act. This matter had already been decided by the Hon'ble Supreme Court in the case of *Municipal Corporation of Delhi v. Female Workers (muster, Roll) and Anr*, a view which was upheld in the case of *Smt. Vandana Sharma and Anr. V.State of Haryana and Ors. C.W.P. No. 5518/2002*, decided on April 11, 2002, and other number of petitions.

### **5.2.30. Ensuring Maternity Benefits: Upholding Rights Beyond Contractual Terms**

In the three judges' bench of Supreme Court held in *Dr. Kavita Yadav v. The Secretary, Ministry of Health, and Others*<sup>351</sup> that if a woman had worked in an establishment for 80 days, she would be eligible for full maternity benefits even if such benefits exceed the term of contract.

### **5.2.31. Upholding Maternity Benefits: Ensuring Equality Regardless of Employment Status**

The Himachal Pradesh high court has reiterated in *State Of Himachal Pradesh & Ors. v. Sita Devi*<sup>352</sup> held that every woman, irrespective of her employment status, is entitled to maternity leave. Maternity leave aims to protect dignity of motherhood and ensure the wellbeing of both women and her child.

### **5.2.32. Childcare leave for women is a constitutional mandate: Supreme Court**

The Supreme Court directed in *Shalini Dharmani v. State of Himachal Pradesh*<sup>353</sup> the government of Himachal Pradesh to review its policy on childcare leave (CCL) concerning working mother especially mother of children with special needs. Noting the lack of any policy framework in the state to provide CCL to mothers of differently abled children, the court further directed to constitute a committee headed by state commissioner under the rights of persons with Disability Act 2016 to examine the possible solutions to the present issue.

## **5.3. Conclusion**

Moreover, while India's maternity leave is the third-longest in the world, it only covers 1% of the country's women since the legislation only applies to women who work in the formal and organized sectors, omitting women who work in the informal sector, which employs around 93 percent of the country's workers. Judicial endeavours to interpret various facets of maternity laws in both the private and public sectors in India have been instrumental in ensuring the protection of women's rights and promoting gender equality in the workforce.

In the private sector, courts have addressed issues such as non-compliance with the Maternity Benefit Act, discrimination against pregnant employees, and the provision of maternity benefits for contract workers. Landmark judgments have emphasized the importance of upholding the rights of women to maternity leave, paid leave, and other benefits, regardless of their employment status or contractual arrangements. The judicial interventions in the private sector

regarding maternity laws in India have been pivotal in ensuring the protection of women's rights and fostering a more equitable work environment. Courts have played a proactive role in addressing instances of non-compliance with the Maternity Benefit Act, including cases of discrimination against pregnant employees and challenges in providing maternity benefits for contract workers.

Similarly, in the public sector, judicial interventions have focused on ensuring the effective implementation of maternity laws and policies. Courts have directed government agencies and departments to review their policies on maternity leave, childcare leave, and other benefits, particularly for women with special needs children. These efforts aim to create a supportive work environment that accommodates the needs of pregnant and nursing employees.

Overall, judicial endeavours in both the private and public sectors have played a crucial role in interpreting and enforcing maternity laws in India. By addressing emerging issues, clarifying legal ambiguities, and upholding the rights of women in the workforce, courts have contributed to advancing gender equality and promoting the well-being of mothers and their children across various sectors.

It has been earlier noted that case laws regarding Maternity Benefit Act 1961 are few. Yet a reading of the judicial response to these makes it amply clear that the courts have done all that is within their power to uphold this piece of welfare legislation in its true letter and spirit. Time and again the Apex court has reiterated while pronouncing judgments that the Maternity Benefit Act being a piece of welfare legislation which aims at protecting the health of the pregnant mother and her foetus, must necessarily be given a broad interpretation in favour of the woman worker by applying the beneficent rule of construction. This would be in consonance with the Constitutional guaranty provided under Article 14, 15, 21, 42 upholding principles of equality, non-discrimination, right to life and directive principles of state policy. Thus in various judgments the Apex court clearly laid down that the mode of payment, nature of appointment or service in the form of contractual, regular or non-regular, permanent or temporary cannot be made grounds for denying maternity benefit to female employees. The court recognizes the significance of the reproductive role and freedom of choice to be exercised by women and has ruled against arguments based on gender stereotypes employed by employers to discriminate against their female employees with regard to maternity. It has been emphasized through several case laws that mere

technicalities must not be allowed to defeat the purpose of Maternity Benefit Act, which is to allow women to efficiently balance their reproductive as well as productive roles. .<sup>354</sup>

Therefore, the provisions of Maternity Benefit Act ought to be construed in the light of broader principles enshrined in our Constitutions, Universal Declaration of Human Right, and CEDAW (Convention on Elimination of all forms of Discrimination against women) etc. The Supreme Court has generated a lot of optimism in this regard and has consistently taken a progressive view by laying down that the marital status of the woman, her living arrangement etc., cannot be valid grounds for withholding maternity benefit. The employers need not concern themselves with these. The court has visibly tried to expand the definition of terms such as ‘establishment’, ‘employee’, ‘working day’, etc so as to bring under the protective umbrella of the Act as many working women as possible. No such action by the employer or interpretation of the legislation should be upheld that serves to curtail the personal freedom of the woman who chooses to have a child. The State must recognize the social role of motherhood and extend as much assistance as possible in aiding a woman, who chooses to do both simultaneously- be a mother and work.<sup>355</sup>

Having understood the legislative intent as well as the judicial matrix of maternity laws in the country, the forthcoming chapter endeavours to throw light on the empirical analysis conducted by researcher with reference to the field research with regard to the data on the practical utility of maternity benefits Act upon the working women in both the public as well as the private sector.



## **CHAPTER -VI**

### **IMPLEMENTATION OF MATERNITY BENEFIT LAWS IN THE PRIVATE SECTOR AND PUBLIC SECTOR IN MUMBAI**

#### **6.1. Overview**

Social justice is a preambular characteristic of our Constitution which does not forbear any instance of compromise or lapse upon an individual's fundamental and legal rights. Originating way before the inception of the Constitution of India in 1950, the concept of social justice traces itself way back to the freedom struggle of India, upon which the pillars of the largest democracy of the world were established. While the Constitution was in its making, the members of the Constituent Assembly thought that regardless of whether there was any explicit mention of the words 'socialism' in our constitution, at the time of its enforcement, justice would indeed be secured through the words 'justice: social, economic and political,' in the Constitution. Furthermore, this expression raised several contentions regarding the Preamble's enforceability to consider it an active part of the Constitution. However, one must not forget the implicit measures of social justice being reflected in the fundamental rights enshrined under Article 14 to Article 19 of the Constitution.<sup>356</sup>

Subsequently, in 1976 by the Forty-Second Amendment to the Constitution, the word 'socialism' was explicitly introduced, which was in tune with the aspects of socialism propounded by Karl Marx and Mahatma Gandhi. Maternity benefits were officially and legally recognized in Germany, and in India, such provisions were recognized under Article 42 of the Constitution. From its very inception in 1950, the directive principle of state policy, which is deemed as the goals and aspirations of the makers of the Constitution, was fulfilled when an Act of Parliament called the Maternity Benefits Act was introduced in 1961. This chapter attempts to demonstrate and analyze the empirical research of the researcher concerning the influence of the Maternity Benefits Act upon the socio-legal life of the respondents. This chapter will highlight the repercussions of this Act upon a general and specific population that the researcher has identified, discussed from now on, centred around Mumbai City in the State of Maharashtra in India, which is deemed as the de-facto financial centre of India.<sup>357</sup>

## 6.2. Social-Legal Impact of Maternity Benefits Laws in the De-facto Financial Centre of India, Mumbai

The researcher in this study endeavours to find out the socio-legal ramifications of this Act. There are three significant benchmarks upon which this chapter is based, firstly, to understand and analyze the impact of maternity benefits in the public and private sector in Mumbai; secondly, to ascertain the application of the provisions of the maternity benefits and thirdly, to understand the expectations and the suggestions of the sample population concerning the maternity benefits.

**Geographical area and Population** - Mumbai is one of the thirty-six districts of Maharashtra, India, located in the Konkan division. It was first settled in 1507 and named after the Goddess Mumbadevi. Mumbai has two districts: the Mumbai city and the Mumbai Suburban. The present research concerns the mega-city centre, which has an area of 233.0 square miles and a population of 12,478,447 as per the 2011 census, thereby making it the most populous city of Maharashtra the second most populated city in India. It is also the eighth-most populated country in the whole world. The population of the district is referred to as 'Mumbaikar,' which in the vernacular parlance that is Marathi means the residents of Mumbai. Other demonyms are referred to as Bombayite and Mumbaiiite.

**Figure 6.2. Geographical Indication of Mumbai, Maharashtra**



### 6.3. Field Study

This research has been conducted in line with hybrid legal analysis. Meaning the study uses both doctrinal and non-doctrinal empirical research methods. Doctrinal Legal research has allowed the researcher to envision the research questions and to form a hypothesis based on the existing literature available at the time of initiation of this research. S.N. Jain has defined the scope of doctrinal legal research as “*Doctrinal research involves analysis of case laws, arranging, ordering and systematizing legal propositions and study of legal institutions through legal reasoning or rational deduction.*”

Data from both primary and secondary sources have been utilized, which forms its basis on various propositions of law, the courts and the jurists. Data from primary sources have been used in terms of the Maternity Benefits Act, the Maternity Benefits Rules, The Constitution of India, and The Universal Declaration of Human Rights, to name a few. The secondary sources include authored and edited books, social and legal journals and articles, peer-reviewed research papers, renowned newspapers and newsletters, and national and international archived literature in the form of art and other works.

This chapter stands on the legs of Empirical study, wherein instead of theoretical works, the non-doctrinal methods are employed, which are observational and based on experiments. The first-hand research allows the researcher to understand and analyze the current, unabridged, prima facie social and legal phenomena. The researcher has indulged in assessing the impact of this Pro-woman legislative policy and its making on the respondents. The empirical study method employed in this research is the questionnaire research method. In the words of Goode and Hatt, “*a questionnaire is a device for securing answers to questions by using a form which the respondent fills in himself.*” As per the Oxford’s Learners Dictionary, a questionnaire is “*a written list of questions that several people answer so that information can be collected from the answers.*” In plain words, this legal research methodology tool is used by law researchers to collect data from the respondents to understand their experiences, opinion or attitudes by using a set of questions and giving options to choose from the given list of answers.

### Sampling

The sample used in this questionnaire research method is selected via the disproportionate stratified random sampling technique. The sample population has been divided into two groups,

representing their vocation. Strata one would describe the general population. For the same, two types of questionnaires were prepared. One questionnaire collected data from the general population, and the second from the people representing the legal fraternity. Though the questionnaire methodology has been used to understand the socio-legal amplifications of the Maternity Benefits legislation, which has been primarily foreseen as a woman-oriented social legislation; however, with the advent of time and assimilation of transformative constitutionalism norms set out by the judicial matrix, it becomes imperative to disregard the gender norms in the present sample.

### 6.3.1. General Questionnaire

The general questionnaire has peculiarly assessed the **general population's mindset about their awareness of maternity benefits, especially in the public and private sectors**. This questionnaire has been framed by considering the general awareness and vigilance among the masses, given the literacy rate of the Mumbai Metropolitan district in the State of Maharashtra. This questionnaire comprises eighteen questions, seventeen of which were in the form of multiple-choice questions while on the other hand, while the eighteenth was an open-ended question. Also, particular regard has been given to the linguistic requirements to understand the questions of the present study.

#### Question 1. *Please Specify your age group.*

##### Statistics

Question - 1. Please specify your age group.

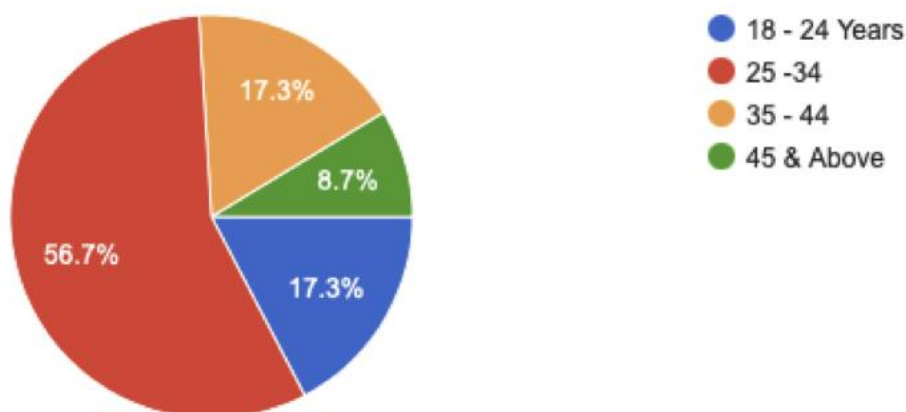
N	Valid	127
	Missing	0

#### Question - 1. Please specify your age group.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	18 - 24 Years	22	17.3	17.3	17.3
	25 -34	72	56.7	56.7	74.0
	35 - 44	22	17.3	17.3	91.3

45 & Above	11	8.7	8.7	100.0
Total	127	100.0	100.0	

**Figure 6.3.1.1.**



#### **Response:**

The Figure above **6.3.1.1. This represents** that 58.7 Percent of the total population is between the age bracket of 25-34 years, while both age brackets of 17.3% have been described by the age brackets of 18-24% and 35-44%, and the remaining 8.7% is represented by the age bracket of 45 years and above.

#### **Analysis**

The general tendency of adults to participate and respond in such studies can be observed through the analysis above. While the participation of young adults of 18-24 age, which is usually associated with students and young professionals, is seen as phenomenally low and at par with the middle age group of 35-44 years, it can be estimated from the data that adults between 25-34 years of age have drastic interest in participating in this study. An estimation is that the respondents born between 1987-1998 have more actively participated in the present study.

#### **Question 2: Please select your employment type.**

##### **Statistics**

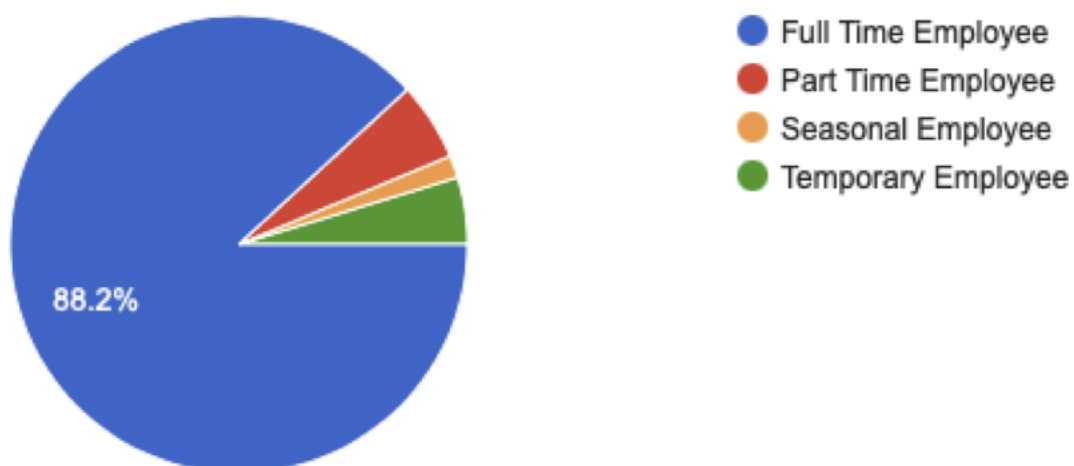
Question - 2. Please select your employment type.

N	Valid	127
	Missing	0

**Question - 2. Please select your employment type.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Full Time Employee	112	88.2	88.2	88.2
	Part Time Employee	7	5.5	5.5	93.7
	Seasonal Employee	2	1.6	1.6	95.3
	Temporary Employee	6	4.7	4.7	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.2.**



## Response

This question signifies the proportional representation of the employment category of respondents wherein the Figure above **6.3.1.2**. This represents that 88.2% of the total respondents come from full-time employment, while 5.5% engage in part-time jobs. Temporary employees represent 4.7% of the sample, leaving a meagre 1.6% of the population to represent the seasonal employment sector in this study.

## Analysis

The response above represents that most respondents work full-time, which also implies a general knowledge about certain aspects of maternity benefits. Needless to point out that though maternity benefits provisions also extend to part-time and temporary employment, the sample suggests that many respondents from a full-time working sector have participated in this study.

### Question 3: *Please Select your Organisation type.*

#### Statistics

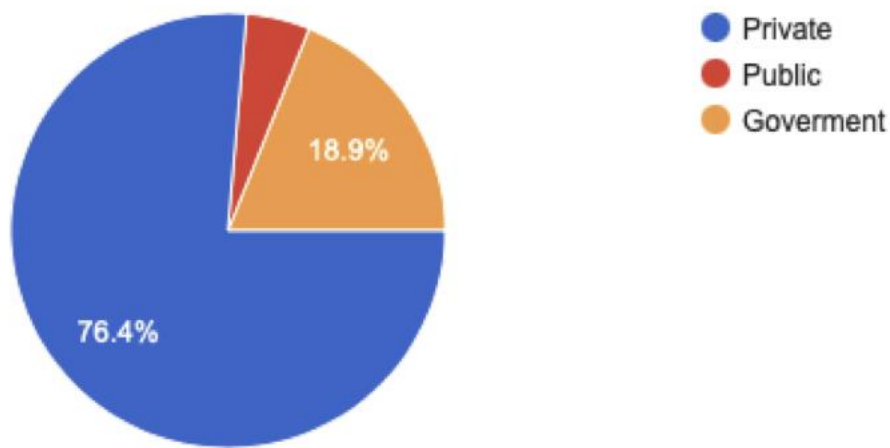
Question - 3. Please select your organization type.

N	Valid	127
	Missing	0

### Question - 3. Please select your organization type.

		Frequenc y	Percent	Valid Percent	Cumulative Percent
Valid	Government	24	18.9	18.9	18.9
	Private	97	76.4	76.4	95.3
	Public	6	4.7	4.7	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.3.**



### Response

**Figure 6.3.1.3.** represents that 76.4% of the respondents in this study are working in the private sector, while on the other hand, 18.9% of the population of respondents are from Government Sector. 4.7% of the sample population represents the public employment sector.

### Analysis

Government Sector represents the government itself, wherein the ownership and control are within the bounds of the Governmental ministries, boards and other bodies. While on the other hand, the Public Sector institutions have at least 51% of the control and hold of the government, while the remaining percentage can be attributed to private bodies or individuals.

The Private sector institutions are fully autonomous and within the control of private entities. In the present study, the data above reveals that a substantial number of the respondents represent the private work sector and institutions. Therefore, the socio-legal impact of maternity benefits would be described from the personal institutional foreground. While merely around one-fourth of the total sample population represents the public and the governmental sector so it is to be kept in mind that three-fourths of the people would not be entitled to specific governmental schemes and facilities as per the vocation and the job profile of the respondents which are working under governmental or semi-governmental jobs profiles.



**Question 4: Please select your profession.**

**Statistics**

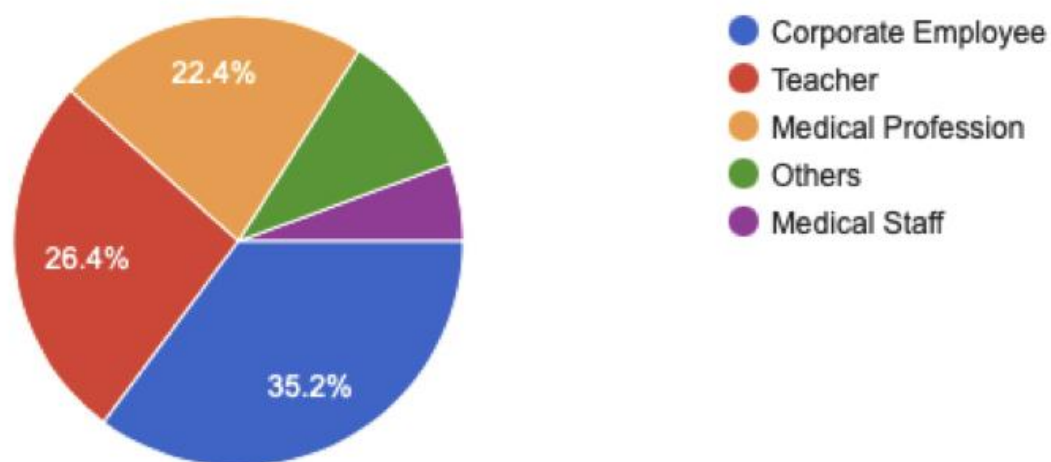
Question - 4. Please select your profession.

N	Valid	127
	Missing	0

**Question - 4. Please select your profession.**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	1.6	1.6	1.6
Corporate Employee	44	34.6	34.6	36.2
Medical Profession	28	22.0	22.0	58.3
Medical Staff	7	5.5	5.5	63.8
Others	13	10.2	10.2	74.0
Teacher	33	26.0	26.0	100.0
Total	127	100.0	100.0	

**Figure 6.3.1.4.**



## Response

**Figure 6.3.1.4** represents the proportion of the sample population's vocations. It can be observed that a majority of respondents belong to the corporate industry. While on the other hand, Teachers and medical profession practitioners represent 26.4% and 22.4%, respectively. Respondents from different professions like technical or pseudo-corporate or works involving personal care and beauty, to name a few, have also been represented by 10.4% of the respondents. The medical staff of different hospitals, clinics, etc., is also represented by 5.6% of the respondents.

## Analysis

This question aims to ascertain the representation of the sample population from the respective fields the respondent belongs to. It can be viewed from the response above that the maximum term of respondents belongs to the corporate area. Therefore, it can also be concluded that most respondents are educated or have minimum education qualifications to secure their job in the corporate sector.

Not only does it implicitly provide for an understanding that literate and literacy has a significant role to play in availing and enforcing legal rights, like that of maternity benefits, but also the above analysis explicitly shows how a random stratified cluster sample of literates allows demonstration of their vocation to be segregated and scrutinized succinctly.

## Question 5: Please specify your marital status.

### Statistics

Question - 5. Please specify your marital status.

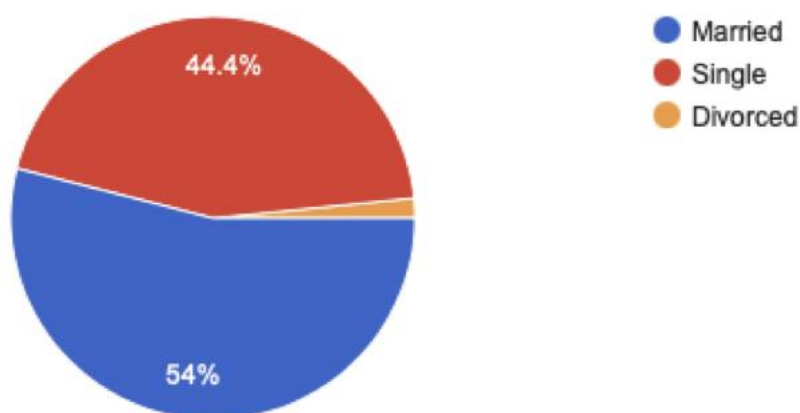
N	Valid	127
	Missing	0

## Question - 5. Please specify your marital status.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	.8	.8	.8

Divorced	2	1.6	1.6	2.4
Married	68	53.5	53.5	55.9
Single	56	44.1	44.1	100.0
Total	127	100.0	100.0	

**Figure 6.3.1.5**



### Response

**Figure 6.3.1.5.** represents that 54% out of the total respondents have been married in their lifetime, and 44.4% of the total population of this sample has been single at the time of data collection. At the same time, the remaining 0.6% of the people in this sample have been divorced.

### Analysis

This question is aimed at finding out the number of respondents who have been married or divorced to understand whether the extent of childbirths is proportional to the proportion of the married population who is or had been married in their lifetime and also to find out how many married respondents with the child have availed the maternity benefits. It is also to be factored that since live-in relationships have been legalized in India. Therefore, the child born to a single parent or couple is also given legal recognition. It is also to be held that this research is without prejudice to marital status and the general population's marriage and succession laws, customs and sentiments. The analysis of the figure above shows that almost an equal proportion of the married

and unmarried population with a bit of representation of the divorced respondents. Therefore, the results of this study would indicate a similar unbiased picture of the knowledgeability about the maternity benefits provisions of the urban married and unmarried population of the sample of this study.

**Question 6: *Are you familiar with maternity leave?***

**Statistics**

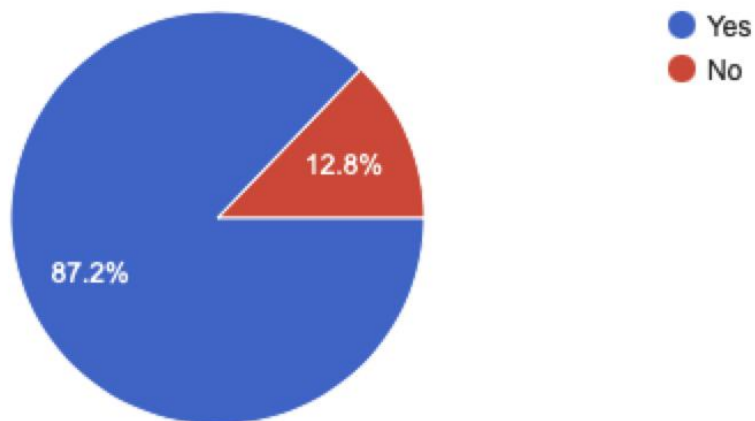
Question - 6. Are you familiar with maternity leave?

N	Valid	127
	Missing	0

**Question - 6. Are you familiar with maternity leave?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	1.6	1.6	1.6
	No	16	12.6	12.6	14.2
	Yes	109	85.8	85.8	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.6.**



## Response

The figure above **6.3.1.6** represents the respondents' familiarity with maternity leaves, which 87.2% of respondents knew about. On the other hand, 12.8% of the respondents have yet to learn about maternity leaves in this study.

## Analysis

This question aims to know whether respondents are aware of the pro-women legislation. Specifically, the country's pro-childhood legislation. On analyzing the data above, it is pretty apparent that a majority of respondents in this study have an awareness of the maternity benefits law in the country concerning the employment of women and their protection of jobs at the time of their maternity and entitlement to the fully paid absence from the work to take care of their child. It is to be kept in mind that regardless of the applicability of the Maternity Benefits Act, this question is seeking their knowledgeability of the maternity benefits and not extending to the relevance of the maternity benefits provisions on their employment.

### Question 7: *If so. Did you use your maternity leave?*

#### Statistics

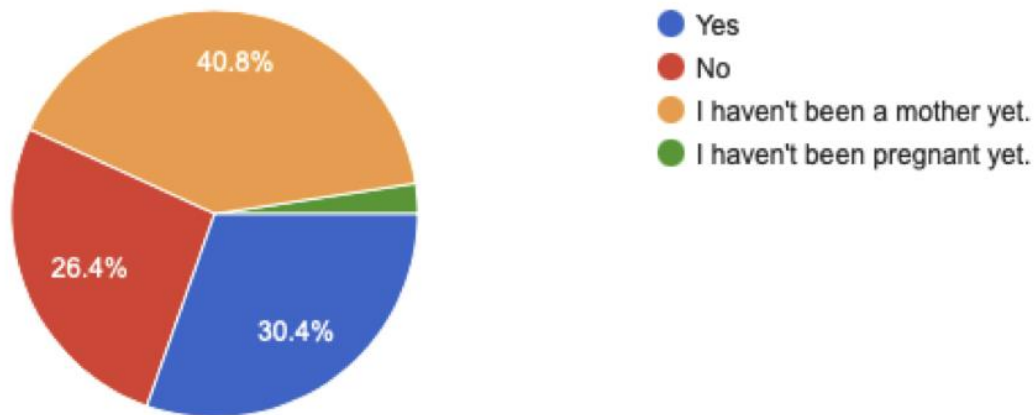
Question - 7. If so, did you use your maternity leave?

N	Valid	127
	Missing	0

### Question - 7. If so, did you use your maternity leave?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	1.6	1.6	1.6
	I haven't been a mother yet.	51	40.2	40.2	41.7
	I haven't been pregnant yet.	3	2.4	2.4	44.1
	No	33	26.0	26.0	70.1
	Yes	38	29.9	29.9	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.7.**



### **Response**

Figure 6.3.1.7 reveals the data collected on the frequency of respondents who have availed of maternity benefits in their lifetime. The data shows that 40.8% of the respondents have not been a mother yet, while 30.4% have had a child and used maternity leaves. The data also shows that 26.4% of the respondents have not received maternity leave despite being pregnant. A small 2.4% of the respondents have not been pregnant.

### **Analysis**

While the majority of respondents have stated that majority of respondents to talking to amount threw forth of the total sample population yet to avail the maternity benefits or come under the scope and purview of maternity benefits, this question was aimed at understanding the usage of the provisions of the Maternity Benefits Act by seeking the relief of maternity leave for pre and postnatal care of the mother and the child respectively up to the period of 26 weeks that is, a period of 8 weeks before the expected delivery date and remaining period of 18 weeks at the time and after the childbirth. As discussed in the previous chapters, a woman with two or more surviving children can avail of a maximum period of 12 weeks as maternity benefits leave period, which can be divided as six months before the delivery and six weeks after the expected delivery date.

The questionnaire also involves the adoptive or commissioning mothers, the biological mothers whose egg is used for creating an embryo, which is planted in any other woman, thereby making another woman a surrogate mother. The questionnaire reveals that despite the general awareness of the people who have participated in this research, 87.2% of the respondents are familiar with the concept of maternity leave, and only 30.4% have used this benefit. Though variables like marriage, wherein only 54% of the respondents are married and out of this 54%, only 30.4% have used maternity leaves, it shows that people aware of these provisions still need to avail it due to multifold reasons.

**Question 8: *Did you get paid during your maternity period?***

**Statistics**

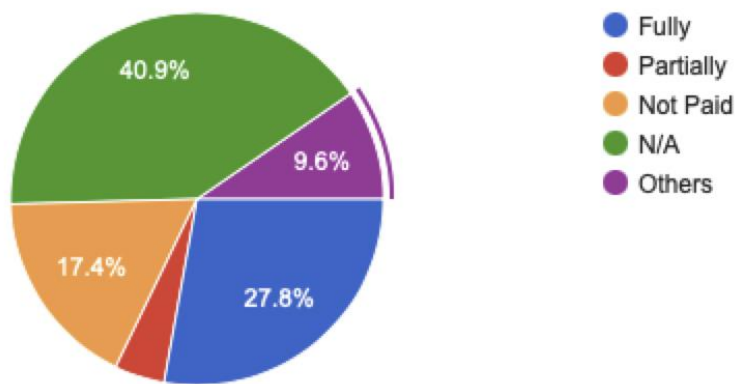
Question - 8. Did you get paid during your maternity period?

N	Valid	127
	Missing	0

**Question - 8. Did you get paid during your maternity period?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		12	9.4	9.4	9.4
	Fully	32	25.2	25.2	34.6
	N/A	47	37.0	37.0	71.7
	Not Paid	20	15.7	15.7	87.4
	Others	11	8.7	8.7	96.1
	Partially	5	3.9	3.9	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.8.**



### Response

**Figure 6.3.1.8** reveals that 40.9% of the respondents are the people in this research to whom the Maternity Benefits Act does not apply. In comparison, 27.8% of the respondents are fully paid off their salaries during their absence from work as leave of maternity benefits. In contrast, 17.4% have not been paid by their employers the maternity benefits for their absence from work, and 4.3% of the respondents have been partially paid the maternity leave benefits. However, 9.6% of respondents fall under the others category.

### Analysis

The other category, which depicts 9.6% of the respondents in the figure above, represents those who have either not availed the maternity leave despite being pregnant or falling under the scope of this Act or are unaware of the benefits of this sort to enable themselves to explore such benefits. A third possibility also lies for the people falling in the others category of those employees whom the employers have not informed about the maternity benefits, which is instead a strict mandate of the Maternity Benefits Act, 1961, under Section 19, which provides for the mandatory exhibition of the Act and the rules made there under to the employees in every establishment at a conspicuous place and in all the languages including the vernacular language which the employees could understand.

### Question 9: Does your organization adhere to the Maternity Act requirements?

#### Statistics



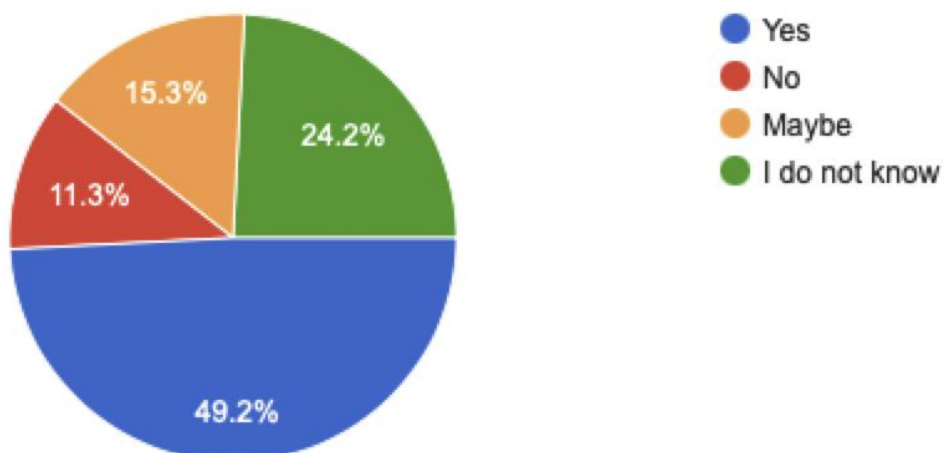
Question - 9. Does your organization adhere to all of the Maternity Act's requirements?

N	Valid	127
	Missing	0

**Question - 9. Does your organization adhere to all of the Maternity Act's requirements?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		3	2.4	2.4	2.4
	I do not know	30	23.6	23.6	26.0
	Maybe	19	15.0	15.0	40.9
	No	14	11.0	11.0	52.0
	Yes	61	48.0	48.0	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.9.**



## **Response**

**Figure 6.3.1.9.** Represents the response of the respondents concerning the adherence to the provisions of the Maternity Benefits Act of 1961 and the relevant rules concerning maternity benefits. It is found that 49.2% of the respondents agree that their respective organizations, which are public, private and governmental in nature and involve full-time, part-time, seasonal and temporal work, adhere to the maternity benefits mandates.

On the other hand, 24.2% of the respondents must be made aware of whether their organizations provide such benefits. 15.3 % of the respondents responded with the answer 'maybe,' which also implies a lack of awareness of the respondents. Lastly, 11.3% of the respondents are confident that their organization does not provide maternity reliefs in terms of maternity benefits, that is to say, that there exists no statutory application of the provision of providing such benefits for the absence of work of employees owing to the childbirth of such employees, or other related causes, ranging from termination of pregnancy, complications arising out of pregnancy, to name a few.

## **Analysis**

Upon analyzing the data above, it can be construed from the responses that one constant is prevalent among the respondents of this study a large number of them are aware of the provisions, and all the more about one-half of the respondents even agree that such requirements are followed at their place of employment with full adherence. However, there needs to be more claiming such conditions owing to the nature of their work or due to reasons best known to the socio-economical mindset of the urban population of Mumbai.

One more peculiar characteristic of the findings being reflected in the answers to this questionnaire, and more specifically this question, is that around one-third of the respondents have either responded with 'I do know' or 'maybe' to the question concerning adherence to the maternity benefits by their organizations. This shows that many respondents, as discussed in the preceding response, are unaware of or concerned about such benefits. Assuming that such respondents do not want to avail such gifts is a tumultuous proposition. Secondly, it would be tantamount for such an employee to deprive herself of such financial benefits. Therefore, a conclusion might be drawn from this understanding that despite being aware of the provisions,

there lie lacunae in availing, claiming or implementing the provisions of maternity benefits on the part of both the employee and the employer.

**Question 10: *Does the employer modify the Act to suit their needs?***

**Statistics**

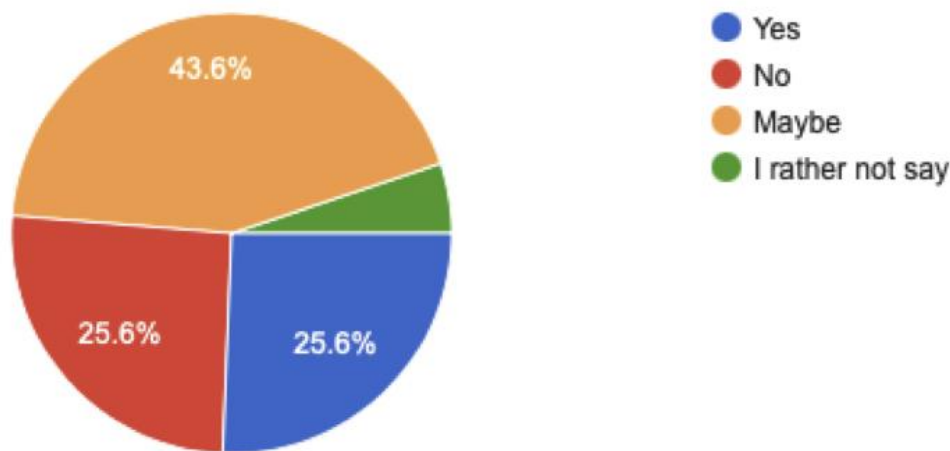
Question - 10. Does the employer modify the Act to suit his or her needs?

N	Valid	127
	Missing	0

**Question - 10. Does the employer modify the Act to suit his or her needs?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		10	7.9	7.9	7.9
	I rather not say	6	4.7	4.7	12.6
	Maybe	51	40.2	40.2	52.8
	No	30	23.6	23.6	76.4
	Yes	30	23.6	23.6	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.10.**



### **Response**

**Figure 6.3.1.10.** States that when respondents were asked about the assumption concerning the employer to modify the provisions of the Maternity Benefits Act, 1961, to suit their needs, the respondents in the majority responded with the answer ‘maybe’ amounting to 43.6%. There is an equal response of 25.6% of the respondents concerning the certainty of respondents’ belief of either ‘yes’ or ‘no’ to modifications of the employers of the mandate of Act for personal gains. As far as the response of ‘I rather not say’ is concerned, a meagre 5.1% of the respondents have been shown to not comment upon the such proposition of the researcher.

### **Analysis**

This question aimed to find out the assumption of the employees concerning their employers about their integrity to change the provisions of the Act to suit their own needs, somewhat defeating the purpose of the Act. It is to be kept in mind that the responses to this question were based upon the individual perception of the employees towards their employers. There is a possibility of personal bias, which will be discussed further under the limitations of this study. However, it would mean that even if a respondent believes that their employer is modifying the provision of the Act, an employer might not have changed the condition.

Analyzing the data above, it can be deduced that a segment of 5.1% of the respondents who, due to their lack of knowledge concerning maternity benefits or lack of interest or hesitation to comment on the credibility of the employers, have chosen not to answer this question.

Furthermore, an equal proportion of respondents either think that employers make changes or do not change the maternity benefits policy per their whims and fancies. However, 43.6% of the respondents need to be sure about this; therefore, the response shows that they either need to learn about the maternity benefits or cannot say for sure about its practicable application.

**Question 11: *When did you take the leave?***

**Statistics**

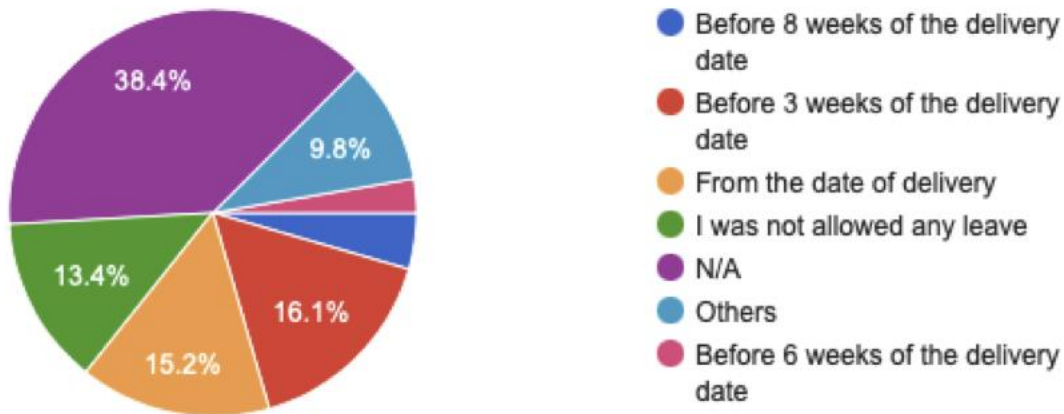
Question - 11. When did you take the leave?

N	Valid	127
	Missing	0

**Question - 11. When did you take the leave?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		15	11.8	11.8	11.8
	Before 3 weeks of the delivery date	18	14.2	14.2	26.0
	Before 6 weeks of the delivery date	3	2.4	2.4	28.3
	Before 8 weeks of the delivery date	5	3.9	3.9	32.3
	From the date of delivery	17	13.4	13.4	45.7
	I was not allowed any leave	15	11.8	11.8	57.5
	N/A	43	33.9	33.9	91.3
	Others	11	8.7	8.7	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.11.**



### **Response**

The figure above is **6.3.1.11**. Represents the answer to the question concerning the time when the maternity benefit period had been initiated, to which 38.4% of the respondents, which constitutes the majority, have stated that this question does not apply to them, meaning thereby the maternity benefits Act does not apply upon them. 9.8 % of the respondents have selected the 'others' option in this questionnaire, indicating that such respondents do not fall under the maternity benefits' purview.

It is observed that 4.5% of the respondents have availed of maternity leave before eight weeks of the delivery. 2.7% of the respondents helped it six weeks before the delivery. 16.1% of the respondents have availed it before the three weeks of the delivery. 15.2% of the respondents benefitted from the date of delivery. 13.4% of the respondents claimed it but were not allowed any maternity relief.

### **Analysis**

This is one of the most pivotal questions concerning the actual maternity benefits claimed, availed, and received by the respondents. It can be observed that only about one-third of the respondents have received maternity benefits from their employers, which is a surprisingly low rate.

Ruling out the ‘Not applicable’ and ‘others’ category of the respondents, which forms almost half of the responses, the remaining 50% of the respondents are the ones who fall within the ambit of claiming and availing the maternity benefits, even though there exist legal and penal provisions for providing maternity benefits to women falling under the purview of the act. The questionnaire response revealed that 13.4% of the respondents had claimed maternity benefits but were not allowed for the same. It is also to be seen that 4.5% of the respondents have availed of maternity benefits before eight weeks of delivery and only 2.7% of the respondents have availed it before six weeks of the delivery, and 16.1% of the respondents have helped it before the three weeks of the delivery. This shows that many respondents have claimed maternity relief before three weeks of delivery out of those who have claimed it.

The recent amendment of 2017 allows a maximum period of eight weeks before the expected delivery date and a remaining period of 18 weeks at the time and after the delivery of the employees to be given maternity benefits. But here, in this case, the study reveals that a maximum number of the employees have claimed maternity benefits only before three weeks of the delivery date.

**Question 12: *How long did you receive a pay while on leave?***

**Statistics**

Question - 12. How long did you receive a pay while on leave?

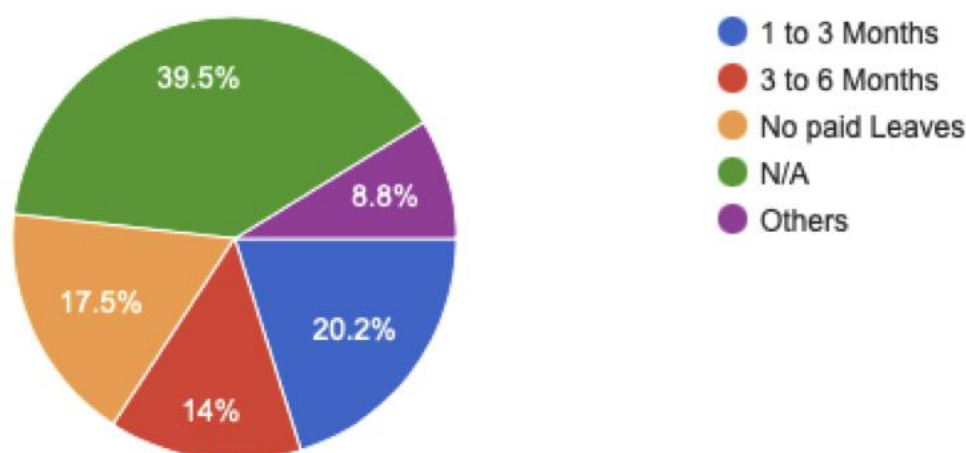
N	Valid	127
	Missing	0

**Question - 12. How long did you receive a pay while on leave?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		13	10.2	10.2	10.2
	1 to 3 Months	23	18.1	18.1	28.3
	3 to 6 Months	16	12.6	12.6	40.9

N/A	45	35.4	35.4	76.4
No paid Leaves	20	15.7	15.7	92.1
Others	10	7.9	7.9	100.0
Total	127	100.0	100.0	

**Figure 6.3.1.12.**



### Response

**Figure 6.3.1.12** shows the responses of the questionnaire participants concerning the maternity relieves the concerning receipt of payment while the respondents were on leave. The data indicates that 39.5% of the respondents were excluded from this maternity payment purview as this question did not apply to them. Of this category of ‘others’ respondents, 8.8% were the ones to whom this question does not use.

Thirdly, 17.5% of the respondents were not given any paid leaves despite their claim for the same. 14% of the respondents paid while they were on leave for a period ranging between 3 to 6 months. 20.2% of the respondents were given maternity pay while on vacation for a period ranging between 1 to 3 months.

### Analysis

Analyzing the figure above shows that about 50% of the respondents have attempted to claim a payment. In contrast, they were on leave. A maximum number of respondents on actual



leave for the absention of work were those who were given pay between 1 to 3 months. It is to be kept in mind that the Act provides for a maximum maternity benefits period of 26 weeks. However, a majority of respondents that is 20.2% under the study were only given maternity benefits for 1 to 3 months, which means between 4 to 12 weeks, which is even less than one-half of the statutorily recognized periods of maternity relief. This question aimed at determining what proportion of the respondents was being paid while on leave. The data also reveals a staggering 17.5% of the respondents who were not given paid leaves, almost equal to the response. A maximum number of respondents are given leaves from 1 to 3 months; thereby, a practically equal number of people were denied payment of salaries while on leave as much as those who received the number of wages while on the rest.

**Question 13: Which factor, family or career, has affected you most after childbirth?**

**Statistics**

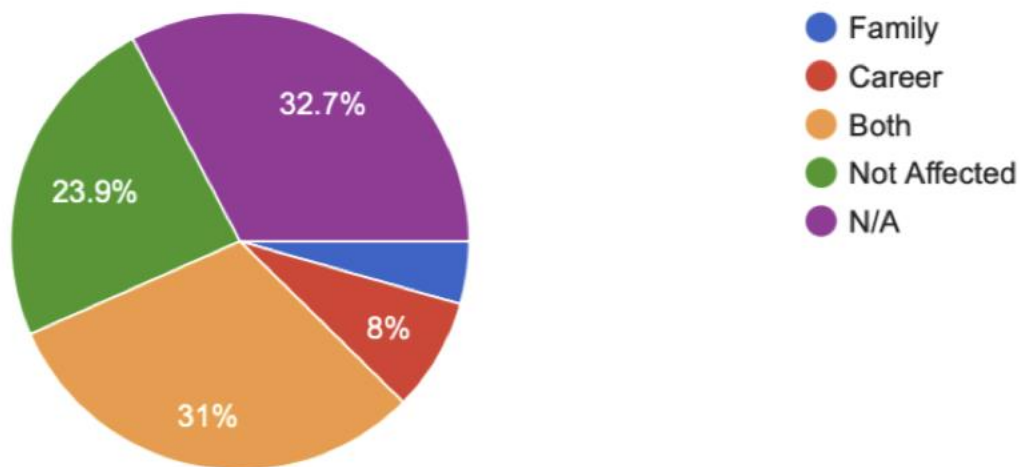
Question - 13. Which factor, family or career, has affected you most after childbirth?

N	Valid	127
	Missing	0

**Question - 13. Which factor, family or career, has affected you most after childbirth?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		14	11.0	11.0	11.0
	Both	35	27.6	27.6	38.6
	Career	9	7.1	7.1	45.7
	Family	5	3.9	3.9	49.6
	N/A	37	29.1	29.1	78.7
	Not Affected	27	21.3	21.3	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.13.**



### **Response**

**Figure 6.3.1.13.** Shows the response of the sample population concerning the aspects and factors most affected after childbirth. 32.7% of the respondents have yet to bore a child. Therefore, this question does not apply to them. On the other hand, 31% of the respondents stated that to be affected by both aspects- the family and - the career after childbirth. 8% of the respondents said their career aspect was most affected after childbirth, and 4.4% stated that their family aspect was the most affected after birth.

### **Analysis**

This question was determined to determine the social impacts of childbirth on the respondents. Upon analyzing the data above, it can be seen that most respondents have been shown to have both aspects being affected by childbirth: the family and the career.

So far as the family aspect is concerned, the addition of a new member and the physical, psychological and socio-political factors are weighed in along with psychological and emotional variables. Respecting the career aspect as well, socio-economical aspects concerning income,

finances, economy, status, self-dependency, and confidence, to name a few, are to be considered after childbirth. However, fewer respondents have shown to rely on one sole factor, per se.

**Question 14: *Do this new maternity benefit Act 2017 benefit women and society?***

**Statistics**

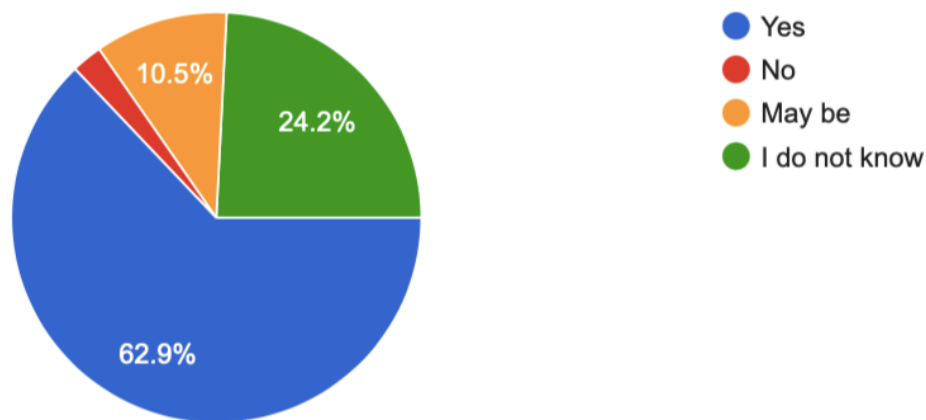
Question - 14. Do you think this new maternity benefit Act 2017 is beneficial to the women and the society ?

N	Valid	127
	Missing	0

**Question - 15. Do you think this new maternity benefit Act 2017 is beneficial to the women and the society ?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		3	2.4	2.4	2.4
	I do not know	30	23.6	23.6	26.0
	May be	13	10.2	10.2	36.2
	No	3	2.4	2.4	38.6
	Yes	78	61.4	61.4	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.14.**



### **Response**

**Figure 6.3.1.14** represents the responses of respondents concerning the question as to whether the provisions of the Maternity Benefits Act 2017 are beneficial to women or not. Most respondents, 62.9%, have affirmatively stated that the Act benefits women. However, the second majority of the respondents, forming 24.2% of the sample population, had indicated that they need to know whether this Act benefits women since they are unaware of the Act. 10.5% of the respondents have stated that even though they know of the Act's provisions, they still determine if such legislation benefits women. Lastly, 2.4% of the sample population has stated that they do not believe these legislation benefits women.

### **Analysis**

The figure above describes the perspective of respondents concerning the amendment to the Maternity Benefits Act and whether it is beneficial to women has introduced many improvements to the existing Act of 1961, ranging from increasing the paid maternity leave period to 26 weeks and introducing the concept of maternity leave for the adoptive and the commissioning mother. It even introduced the idea of the 'work from home' facility for mothers who had childbirth and had availed of the maternity relief period of 26 weeks. This Amendment also introduced a mandatory provision of providing a creche facility for all employments having 50 or more employees and allowed women to visit four times to such creche facility.

Lastly, one landmark amendment also made a statutory requirement on the employer's part to spread awareness and vigilance about such maternity benefits among employees, especially women employees. The respondents have been shown to disagree to some extent with the practical value of the provisions above, as 37.1% of the respondents either need to learn about the requirements or are unsure or do not agree that these provisions are beneficial. Still, 62.9% of the respondents are aware of such conditions and agree with the statement that the Amendment Act of 2017 benefits women.

**Question 15: What are your future hopes/expectations from an employer or government?**

**Statistics**

Question - 15. What are your future hopes/expectations from an employer or government?

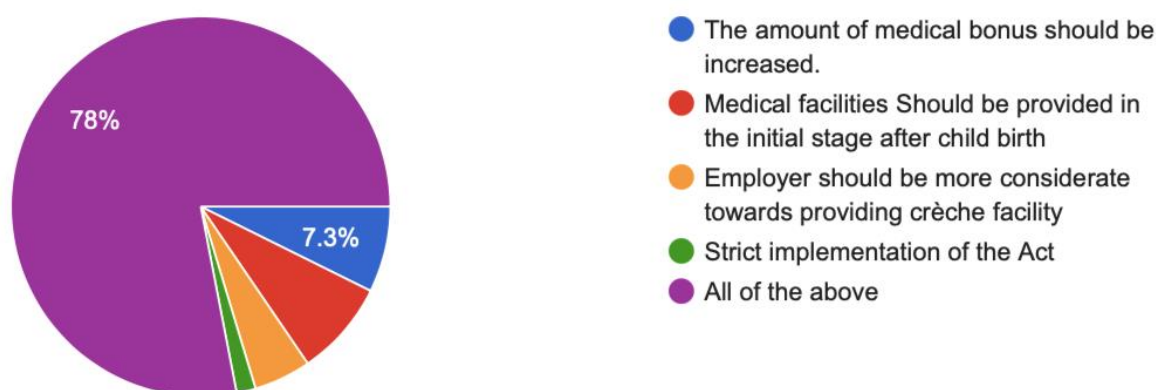
N	Valid	127
	Missing	0

**Question - 15. What are your future hopes/expectations from an employer or government?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	4	3.1	3.1	3.1
All of the above	96	75.6	75.6	78.7
Employer should be more considerate towards providing crèche facility	6	4.7	4.7	83.5
Medical facilities Should be provided in the initial stage after child birth	10	7.9	7.9	91.3
Strict implementation of the Act	2	1.6	1.6	92.9

The amount of medical bonus should be increased.	9	7.1	7.1	100.0
Total	127	100.0	100.0	

**Figure 6.3.1.15.**



## Response

**Figure 6.3.1.15** represents the hopes, expectations and aspirations of the respondents from the employer or the government about pro-women legislation like the Maternity Benefits Act. The respondents have chosen various options, which have been stated in specific points. The questionnaire also contained an ‘all of the above’ option selected by most respondents, amounting to 78% of the total sample population.

So far as other responses are concerned, 8.1% of the respondents chose that Medical facilities Should be provided in the initial stage after childbirth. In comparison, 7.3% of the respondents chose that The amount of medical bonus should be increased. 4.9% of the respondents chose that Employers should be more considerate towards providing crèche facilities, and 1.6% of the respondents rooted for the stricter implementation of the Act.

## Analysis

This question was aimed at determining the aspirations of the respondents, especially from their employers and the Government, including the policymakers, about the amends and improvements concerning maternity benefits, which would allow this legislation to bear more fruits by being beneficial to the birthing mothers.

Though the majority of respondents wanted all the improvements to be made in terms of the provisions concerning medical benefits, better medical bonuses, better conditions concerning creche facilities, and a stricter rather strict application of this Act, which would prevent any miscarriage of social justice and abridgement of the provisions of the Act.

**Question 16: *Are you aware of the maternity break of 6 weeks given in case of miscarriages or medical termination of pregnancy?***

**Statistics**

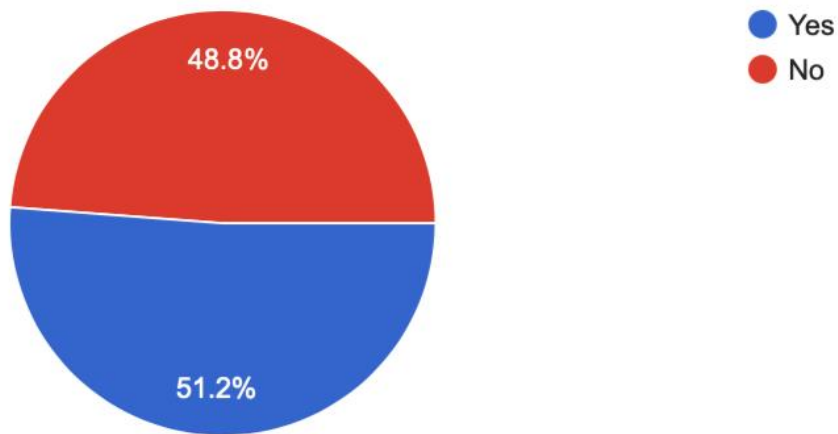
Question - 16. Are you aware of the maternity break of 6 weeks given in case of miscarriage's or medical termination of pregnancy?

N	Valid	127
	Missing	0

**Question - 16. Are you aware of the maternity break of 6 weeks given in case of miscarriage's or medical termination of pregnancy?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	1.6	1.6	1.6
	No	61	48.0	48.0	49.6
	Yes	64	50.4	50.4	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.16.**



### **Response**

**Figure 6.3.1.16** reveals the response of the respondents to their awareness about the medical break provision, wherein 51.2% of the respondents have answered in the affirmative that they are indeed aware of the medical break provision, which provides for six weeks of medical break in cause of miscarriage or medical termination of an employee, while on the other hand, the 48.8% of the respondents are oblivious to this provision and answered in negative for the same.

### **Analysis**

Analyzing the responses shown in the figure above, it is to be noted that the Act intricately provides that the employer is prohibited from employing a woman for six weeks from the date of her miscarriage under Section 4. Therefore, it becomes a statutory prohibition on the employer's part to do so, otherwise attracting penal and punitive measures. The responses indicate that about one-half of the population is aware of this provision of availing a six-week relief period of leave on the grounds of a medical break due to miscarriage or medical termination of pregnancy. About one-half of the sample population needs to be made aware because the same people need to learn about the Maternity Benefits Act, which has been indicative of the initial responses.

**Question 17:** *Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mothers?*



## Statistics

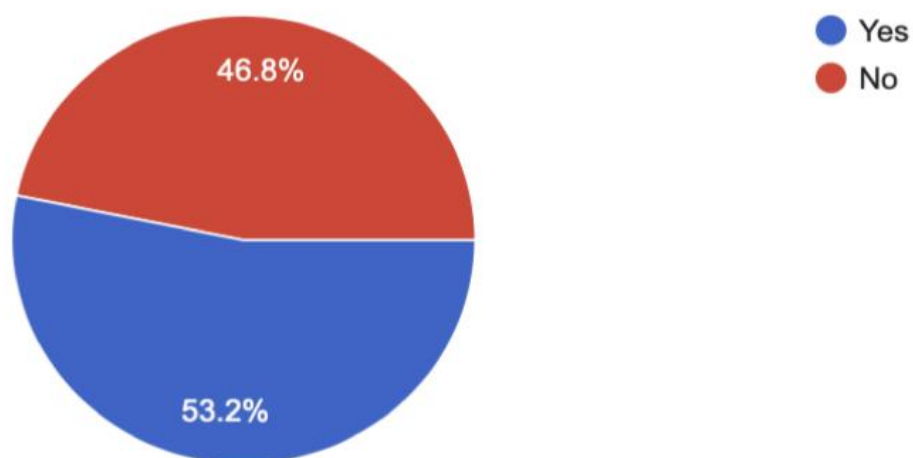
Question - 17. Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mother?

N	Valid	127
	Missing	0

**Question - 17. Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mother?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		1	.8	.8	.8
	No	59	46.5	46.5	47.2
	Yes	67	52.8	52.8	100.0
	Total	127	100.0	100.0	

**Figure 6.3.1.17.**



## Response

**Figure 6.3.1.17** indicates the respondents' answers about the respondents' awareness concerning the twelve weeks of paid maternity relief period in the case of adoptive and commissioning mothers. The responses show that 53.2% of the sample population is aware of such a provision, and the remaining 46.8% of the respondents are unaware of such a condition.

## Analysis

As far as this question is concerned, the Maternity Benefits Amendment Act of 2017 had inserted Section 5, Sub-Section (4), which provides that in case of legal adoption of a child who is below the age of three months or a child who has been birthed by a commissioning mother, the adopting mother or the commissioning mother, as the case may be, are entitled to maternity benefits for a period of twelve weeks from the date of handing over of the child to such adopting or commissioning mother. This question aims to determine the extent of the respondent's understanding of the amendment to the law concerning maternity benefits, under which it can be seen that only about one-half of the respondents were aware of such a provision. On the other hand, half the respondents were completely unaware of such a condition introduced by the amendment.

**Question 18:** *Are you satisfied with all the provisions of the act? Please share your suggestions.*

## Response

The respondents answered the open-ended question with multi-faceted responses. Half of the respondents were satisfied with the provisions of the Act, and the other half were not happy with the requirements of the Act. The suggestions which have been catered under the responses enumerated as:

- In the public and private sectors, maternity leave should be paid for six months.
- Like female government employees, women should also get childcare leave in the private sector.
- The maternity period should be increased from the 9th month of pregnancy to 6 months of the baby's age, and childcare leave should be there for women in every government or private organization.
- There should be strict implementation of the law, and noncompliance should be punishable.
- The implementation should be proper, and both sides should follow all rules.

- The amendment in the provisions needs to be implemented after the research study so that being an employee would benefit the child and mother. I think the workspace should become more mother-friendly, and the focus should not be just on breaks given to women but also that when the woman joins back the office, she should not feel any untoward behaviour by others as well as areas such as creche and breastfeeding area.
- It should be ensured that the facilities are available for new mothers.
- When she is giving birth to the future of the world, everyone must admire her in her professional life as well as in her personal life.
- It should be mandatory to give medical facilities by providing properly paid leave for routine check-ups) and some concession in job work.
- The leaves need to increase more as a six-month-old baby still depends on the mother for basic needs. In the medical community, even a super-specialist is treated as a student, not an employee. They need to extend their work course for six months of maternity leave if taken during the work course, and then they are not paid for an extended period. This has to do away with.
- Some organizations or funds should be present with the institution to provide maternity benefits to postgraduate medical students first; all women should be aware of the Act because working women get so busy that they need to be mindful of their rights.

### **Analysis**

These suggestions are suggestive, remedial, interpersonal and punitive in nature. While the respondents draw significant stress about the awareness of the Act and its recent amendment, another issue most respondents address is the stricter implementation of the Act. Proper and more comprehensive implementation is needed at the ends of the private sector because most respondents are from the private sector. Therefore, the provisions to be effectively implemented uniformly must be addressed and monitored in the private sector.

### **6.3.2. Special Questionnaire**

This questionnaire aims to determine and analyze the socio-legal impact of the maternity benefits laws on the selected sample population. A specific questionnaire for law graduates, legal professionals, and other members of the legal fraternity, like professors and officers, to name a few. This questionnaire contains a set of twenty questions, out of which nineteen are multiple-choice questions. The twentieth is an open-ended question that seeks the respondents' suggestions

and satisfaction level. The questionnaire is designed specifically as a special one assuming the minimum legal education requirement of the respondents, so the questions are more legal and technical. The questions are put forth in an interrogative and statement-assertive manner so that the level of assimilation of such questions can be sufficiently ascertained depending on the respondents' choices.

**Question 1: *Please specify your age group.***

**Statistics**

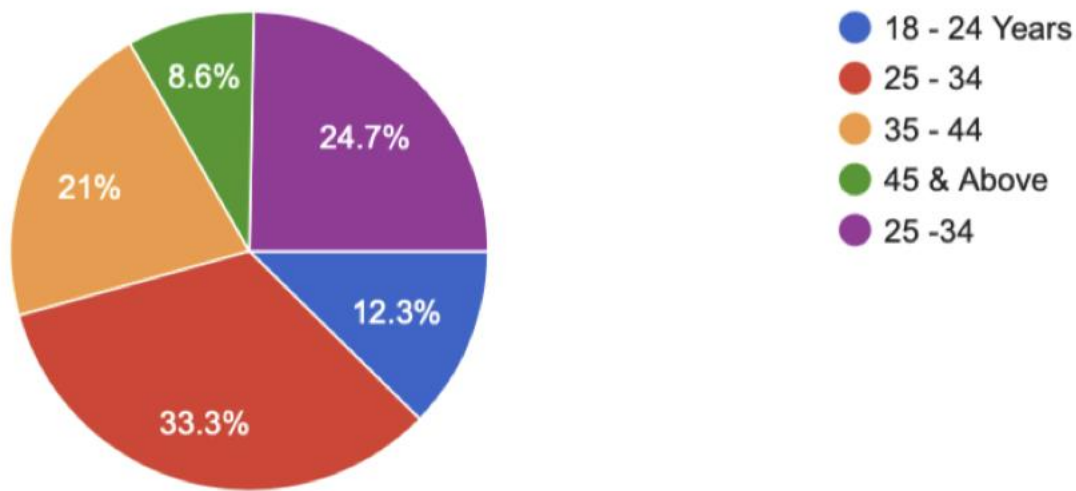
Question - 1. Please specify your age group.

N	Valid	81
	Missing	0

**Question - 1. Please specify your age group.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	18 - 24 Years	10	12.3	12.3	12.3
	25 - 34	27	33.3	33.3	45.7
	25 -34	20	24.7	24.7	70.4
	35 - 44	17	21.0	21.0	91.4
	45 & Above	7	8.6	8.6	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.1.**



### **Response**

The respondents have selected their age brackets in **Figure 6.3.2.1**. Wherein it can be observed that the majority of respondents that is 58% of the respondents belong to the age bracket of 25 to 34 years of age, while the other hand, 21% of the respondents belong to the age bracket of 35 to 44 years of age. 12.3% of the respondents belong to the age group of 18-24 years of age, and lastly, 8.6% of the respondents are more than 45 years and above.

### **Analysis**

This question aims to understand the respondents' age groupings to determine the variables relating to their age as young adults, adults, middle-aged and elderly. Depending upon the age stratification, the research would estimate and compare the data above with the marital status and the application of the maternity benefit act upon the childbirth, miscarriage or termination of pregnancy. The researcher also attempts to ascertain the trends of employment rates among different population generations as a socio-economic phenomenon.

Upon analyzing the response above, it can be observed that a majority of respondents, more than fifty percent, belong to the category of adults between the age group of 25 to 34 years of age. The figure also represents that the middle age adults represent 21 % of the population, and a minor proportion of the sample population is represented by adults 45 years of age and above. The young adults are also characterized by a small sample population, amounting to 12.3%, so a significant representation of respondents is from 25 to 34 years of age.

**Question 2: Please select your employment type.**

**Statistics**

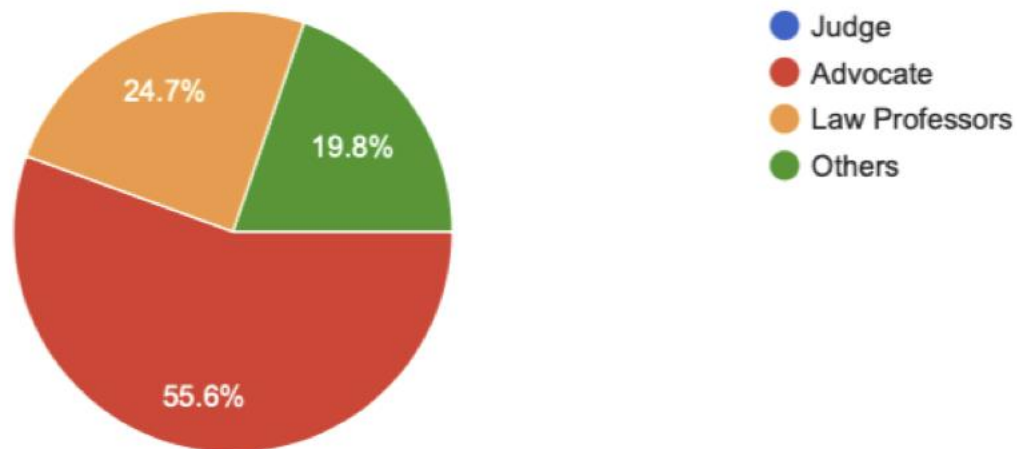
Question - 2. Please select your employment type.

N	Valid	81
	Missing	0

**Question - 2. Please select your employment type.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Advocate	45	55.6	55.6	55.6
	Law Professors	20	24.7	24.7	80.2
	Others	16	19.8	19.8	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.2.**



**Response**

The responses under **Figure 6.3.2.2** represent the vocation of legal professionals who have participated as the sample population for this research. It is shown that 55.6% of the respondents describe the legal practitioners of Mumbai, that is, the advocates who are enrolled as advocates under the Bar Council of India, as per the mandate of the Advocates Act, 1961.

The responses also show that law professors are the second highest-represented vocation in this particular research questionnaire and are characterized by 24.7% of the respondents. The least represented category of respondents is the ‘others’ category which presents the law graduates, law officers, public prosecutors, legal researchers, law scholars and the other category of employees representing or working under the legal branches of various departments and sectors at multiple ranks and classes under public and private organizations. It is pertinent to mention that judges, that is, judicial officers, are not represented in this study.

### Analysis

The objective of the previous question is to determine the representation of the different professions under the legal survey sample population. The responses to this question would enable the researcher to estimate the stratified groups being allowed and provided maternity benefits under the different heads of their respective occupations. It is apparent that the work of advocates, and legal practitioners, is the most represented set of workers who have participated in this research. While the law professors and the ‘others’ category of the legal fraternity also represented the remaining respondents. Unfortunately, the judges are not described in this sample despite several attempts by the researcher. This figure also shows that so far as the legal profession is concerned, most of the respondents are self-employed, indicating that advocacy is the most popular vocation amongst legal professionals.

### Question 3: *Please select your organization type.*

#### Statistics

Question - 3. Please select your organization type.

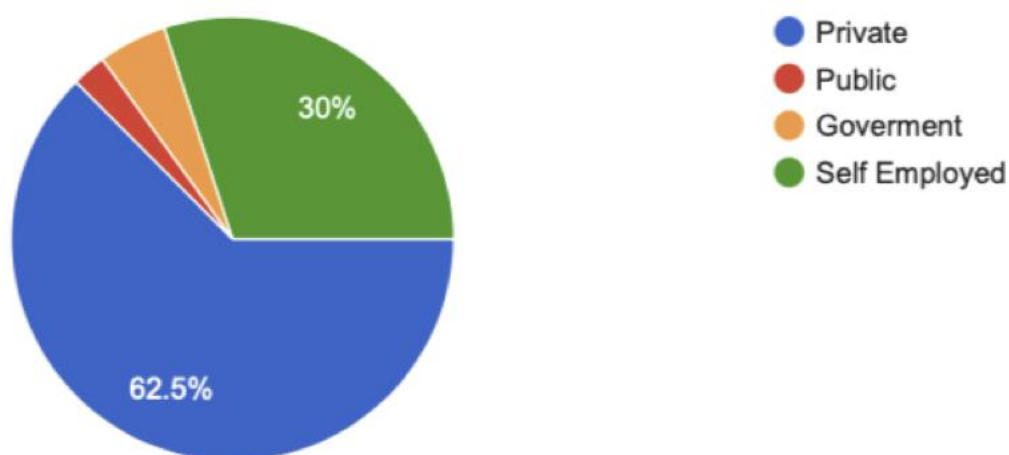
N	Valid	81
	Missing	0

### Question - 3. Please select your organization type.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	1.2	1.2	1.2

Government	4	4.9	4.9	6.2
Private	50	61.7	61.7	67.9
Public	2	2.5	2.5	70.4
Self Employed	24	29.6	29.6	100.0
Total	81	100.0	100.0	

**Figure 6.3.2.3.**



## Response

**Figure 6.3.2.3** represents the organizational representation of the respondents in this study. It can be observed that 62.5% of the respondents describe the private sector of employment. 30% of the respondents are self-employed, therefore not meaning any organizational background. The remaining 5% represents the government sector, and the other 2.5% represents the public sector under this research.

## Analysis

It is peculiar to see that 30% of the respondents are self-employed, who could either be independent practicing advocates or law tutors, etc. They do not represent any organization. However, the interests of the Advocates are protected under the Advocates Act and the rules regulated by the Bar Council of India. It is also to be noted that the public sector is the one which has the governmental undertaking of 51% or more of the total shares capital, and this proportion



is represented the least by merely 2.5% of the sample population. On the contrary, the representation of the governmental sector employees is just double that of the public sector, which is 5%. This figure shows a rather dramatic picture of the private sector and private industry amongst legal professionals, indicating the private law firms, private corporate companies and private educational institutions like colleges and universities. This shows that the results of this particular questionnaire research would be influenced by the private sector all the more than the public and governmental sectors combined, as there is about a seven-fold increase in the sample population in the private sector. So far as the perks of maternity benefits are concerned, it is noted that the establishments that fall within the Act's purview are governmental, public and private. However, it is still to be seen whether the perspective of the specific sample population favours the practical value of the maternity benefits Act. This question also highlights one egalitarian proposition: whether law professionals are adequately represented in the public or private sector and whether there are sufficient opportunities for law professionals in the public and governmental undertakings, which would be a matter of extensive research.

**Question 4: Please specify your marital status.**

**Statistics**

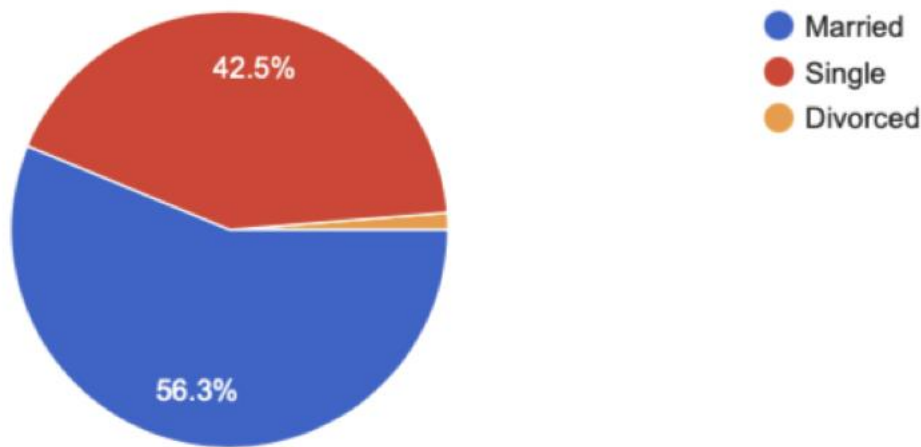
Question - 4. Please specify your marital status.

N	Valid	81
	Missing	0

**Question - 4. Please specify your marital status.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		1	1.2	1.2	1.2
	Divorced	1	1.2	1.2	2.5
	Married	45	55.6	55.6	58.0
	Single	34	42.0	42.0	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.4.**



### **Response**

As far as the responses to this question are concerned, **figure 6.3.2.4. This represents** that 56.3% of the population has been married and 42.5% of the population has been single at the time of the research, and 1.2% of the population has been divorced in their lifetime.

### **Analysis**

Through this question, the researcher aims to determine the marital status of the respondents to see whether the respondents who have been married in their lifetime have bore children during their employment or not and whether they had been granted maternity benefits which are their statutory right or not. The researcher also endeavours to see the proportion of the married or divorced respondents to that of the single respondents and compare whether childbirths and underemployment are proportional to the marriage rates. However, there can be the possibility of childbirth before marriage since transformative constitutionalism has recognized the legality of live-in relationships and the status of children from such relations. The majority of respondents are shown to be married.

**Question 5: *Are you familiar with maternity leave?***

**Statistics**

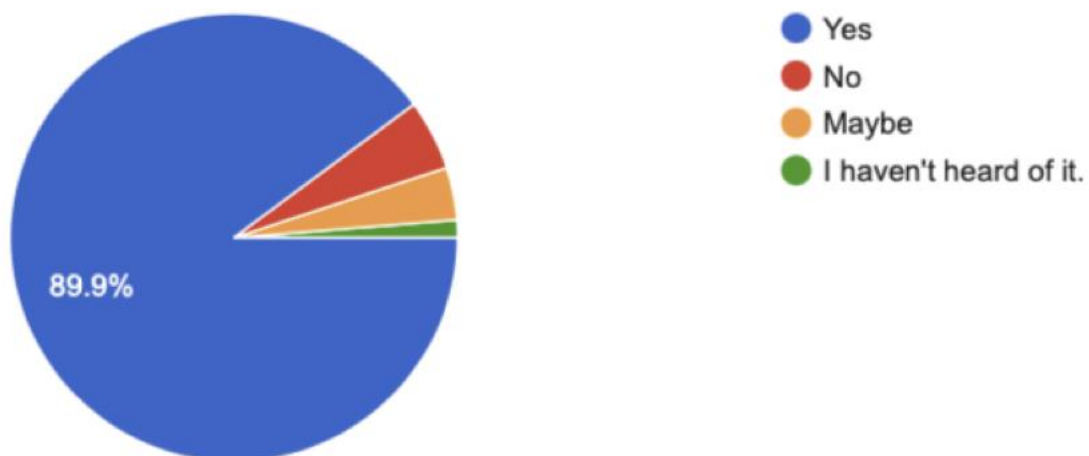
Question - 5. Are you familiar with maternity leave?

N	Valid	81
	Missing	0

**Question - 5. Are you familiar with maternity leave?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	2.5	2.5	2.5
	I haven't heard of it.	1	1.2	1.2	3.7
	Maybe	3	3.7	3.7	7.4
	No	4	4.9	4.9	12.3
	Yes	71	87.7	87.7	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.5.**



## Response

**Figure 6.3.2.5** Represents the responses of the respondents concerning their knowledge about maternity leaves. While 89.9% of the respondents have about maternity leaves, 5.1% of them state that they are unfamiliar with the concept of maternity leaves. Similarly, 1.3% of the respondents have not heard about maternity leaves or maternity benefits. The remaining 3.8% of the respondents answered 'Maybe,' which indicates that they are unsure if they have ever heard or read about the concept of maternity leaves.

## Analysis

On critically analyzing the data specified herein-above, it is observed that a large number of respondents are already aware of the maternity benefits and the concept of maternity leaves owing to their educational backgrounds and the fact that the respondents belonged to the specialized sample population of the law scholars and members of the legal fraternity. However, a small proportion of respondents still needed to answer negatively or more certainty about their familiarity with maternity benefits.

### Question 6: *If so, did you use your maternity leave?*

#### Statistics

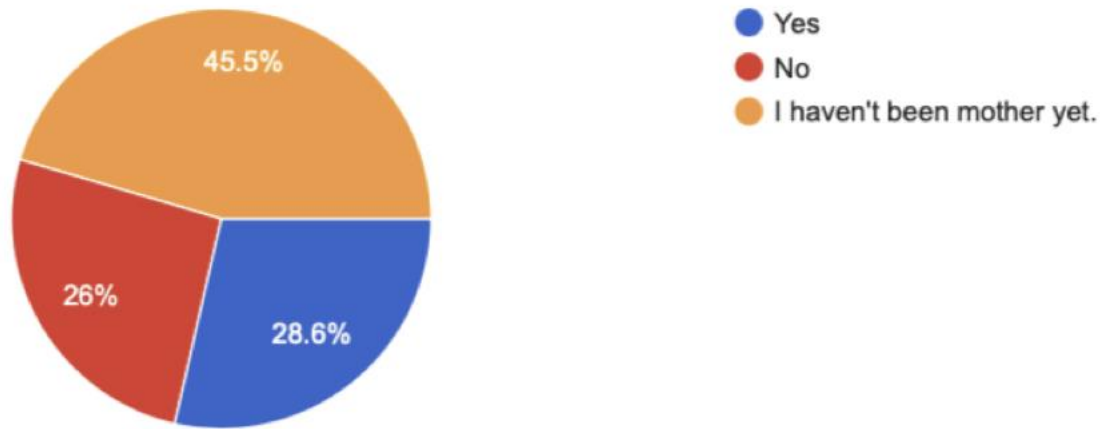
Question - 6. If so, did you use your maternity leave?

N	Valid	81
	Missing	0

### Question - 6. If so, did you use your maternity leave?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		4	4.9	4.9	4.9
	I haven't been mother yet.	35	43.2	43.2	48.1
	No	20	24.7	24.7	72.8
	Yes	22	27.2	27.2	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.6.**



### **Response**

The response to **figure 6.3.2.6** indicates that 45.5% of the respondents have yet to be a mother. While 28.6% of the respondents have used the benefits of maternity leave, 26% have stated that they have not used the help of the maternity leaves.

### **Analysis**

The question deals with the usage of actual maternity benefits by the respondents, to which a majority have stated that they do not fall under the scope of the Act as they have not conceived a baby yet. Furthermore, it is to be noted here that 26% of the sample population had created a baby and still were denied their maternity benefits or did not claim such maternity benefits as per the provisions of the Act. The reasons for not getting such gifts could be multifold, like ignorance of the employer, denial by the employer, or the lack of information or education on the part of the employee, to name a few. It is to be noted that only 28.6% of the respondents managed to get maternity benefits successfully. Therefore, it can be concluded that merely about one-fourth of the sample population had successfully benefitted from the maternity benefits provisions.

### **Question 7: Did you get paid during your maternity period?**

### **Statistics**

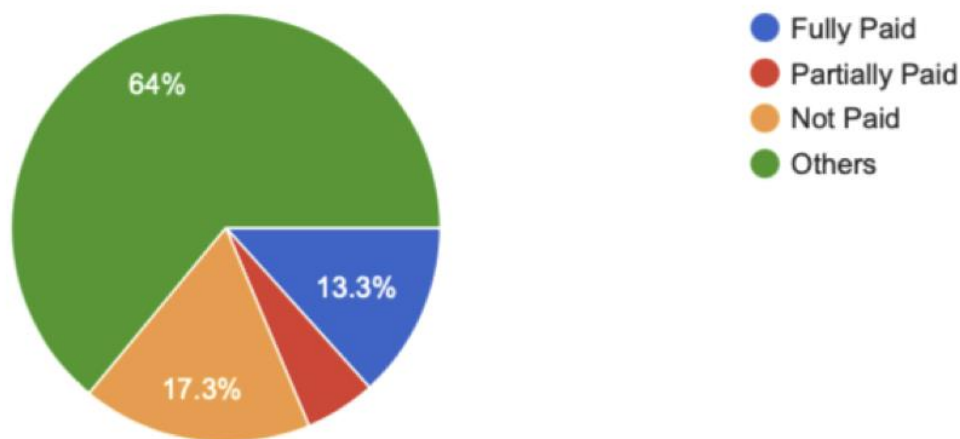
Question - 7. Did you get paid during your maternity period?

N	Valid	81
	Missing	0

**Question - 7. Did you get paid during your maternity period?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		6	7.4	7.4	7.4
	Fully Paid	10	12.3	12.3	19.8
	Not Paid	13	16.0	16.0	35.8
	Others	48	59.3	59.3	95.1
	Partially Paid	4	4.9	4.9	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.7.**



## Response

**Figure 6.3.2.7** Represents the respondents' responses concerning the payment of maternity benefits during their maternity period. It can be seen from the figure above that 64% of the

respondents fall under the ‘others’ category and that they do not come within the scope of claiming the maternity benefits due to reasons like their self-employment or non-bearing of a child, etc. It is shown that 17.3% of the respondents were not paid for their maternity benefits, and 13.3% were fully paid for their maternity benefits. 5.3% of the respondents were also partially paid for their maternity benefits.

### Analysis

This question was aimed at understanding the extent to which organizations pay maternity benefits to their employees. The data above signifies a rather drastic result that merely 13.3% of the respondent’s organizations have complied with their statutory obligation to pay maternity benefits to their employees. In comparison, a small percentage of 5.3% of the employee’s organizations have merely partially paid for such uses. 17.3% of the respondents were denied entirely payment of maternity benefits, which means that these organizations are not complying with the provisions of the Act and attract the invocation of penal provisions.

### Question 8: *Does your organization adhere to the Maternity Act requirements?*

#### Statistics

Question - 8. Does your organization adhere to all of the Maternity Act's requirements?

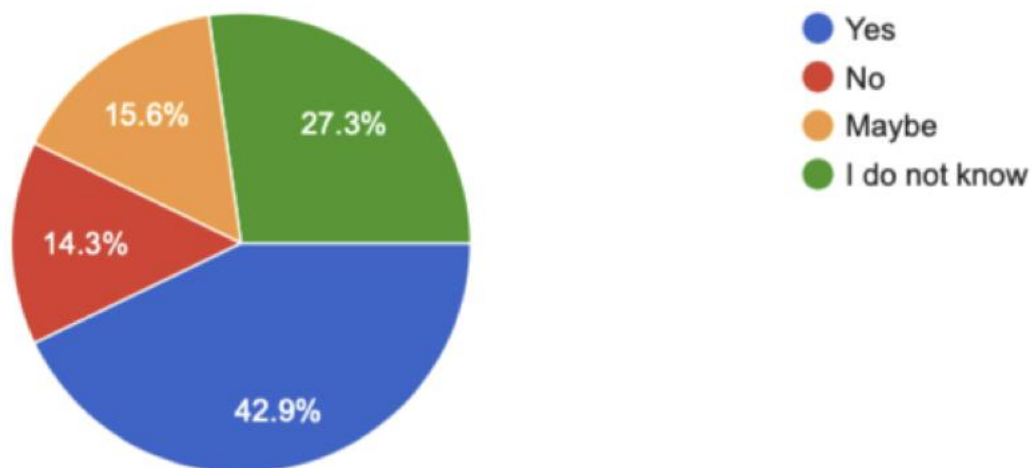
N	Valid	81
	Missing	0

### Question - 8. Does your organization adhere to all of the Maternity Act's requirements?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		4	4.9	4.9	4.9
	I do not know	21	25.9	25.9	30.9
	Maybe	12	14.8	14.8	45.7
	No	11	13.6	13.6	59.3
	Yes	33	40.7	40.7	100.0

Total	81	100.0	100.0	
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**Figure 6.3.2.8.**



### Response

**Figure 6.3.2.8** this relates to the data collected on the respondents' opinions concerning their organizations, wherein 42.9% of the respondents agree that their organizations fully adhere to the statutory requirements of the Maternity Benefits Act. On the flip side, there exists. 27.3% of the respondents need to be aware of this knowledge and know whether their organization complies with the provisions of the Act. Similarly, 15.6% of the respondents also believe that their organization follows the mandate of the Act, but they have yet to avail of it, so they cannot tell for sure. 14.3% of the respondents are confident that their organizations do not adhere strictly since the provisions of the maternity benefits Act are in toto.

### Analysis

Upon analysing **Figure 6.3.2.8**, it is understood that only 42.9% of the organizations, the employees of which had participated in this research, actually adhere to the mandate of the Act. While the Act is a statutory policy passed by the Parliament and is applicable uniformly across the country, it is both arbitrary and unlawful on the part of the employers and the organizations to only partially comply and adhere to its rule. Not only would it defeat the purpose of the Act alone, but it also defeats the Constitutional mandate of maternity relief, touching aspects of the life of both



mother and children in their social, economic, political, financial, educational, and other facets of life.

Counting the 'I do not know' and 'maybe' responses together, the results show that 41.6% of the respondents are neither sure of these provisions or are not aware of it or strongly believe it to be applied but cannot tell with certainty. What 41.6% of the respondents show is that the organizations have also failed to fulfil their mandatory criteria of displaying the Act and the rules at the conspicuous places of employment in vernacular languages for the employers to be aware of the provisions of the Act? The third category of 14.3% strongly disagrees with a negative answer concerning the implementation and adherence of the Act by their organizations, making the overall percentage of more than 55.9% of the respondents not satisfied with their organization's conduct concerning the performance of the Act.

**Question 9: Does the employer modify the Act to suit their needs?**

**Statistics**

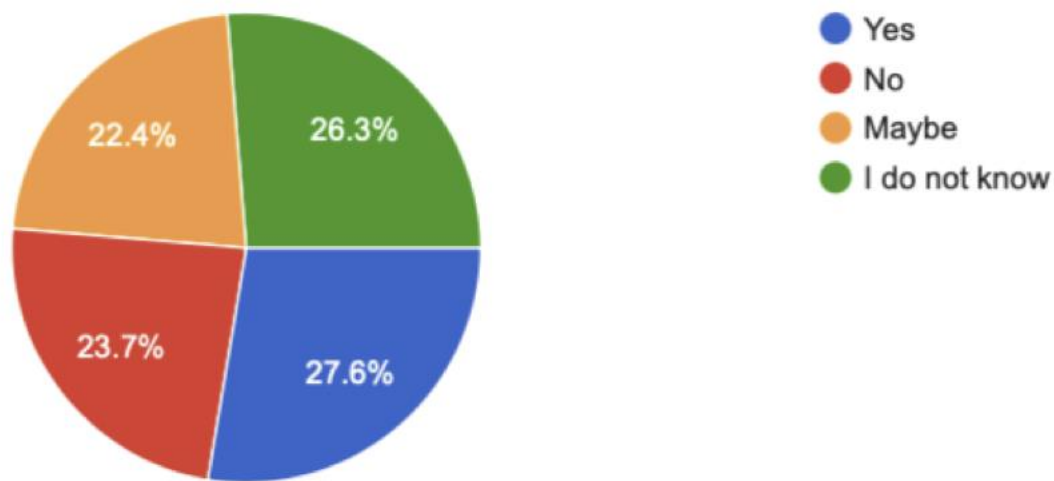
Question - 9. Does the employer modify the Act to suit his or her needs?

N	Valid	81
	Missing	0

**Question - 9. Does the employer modify the Act to suit his or her needs?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		5	6.2	6.2	6.2
	I do not know	20	24.7	24.7	30.9
	Maybe	17	21.0	21.0	51.9
	No	18	22.2	22.2	74.1
	Yes	21	25.9	25.9	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.9.**



### **Response**

The data in Figure 6.3.2.9 represents the response of the particular sample population concerning the employees' perspective on the employer's tendency to amend the provisions of the Act as per their needs. The data shows that 26.3% of the respondents need to know whether the employer modifies the Act to suit their needs. 27.6% of the respondents state that they agree that the employer makes such amends and changes to fulfil their whims and fancies and deprive the employees of the maternity benefits of paid leaves, creche, or any other use. 23.7% of the respondents do not agree with this proposition that the employer amends the Act for their needs and believes that the employer follows the Act properly with strict adherence. Lastly, the remaining 22.4% of the respondents still determine whether employers make such changes and amend them to suit their needs.

### **Analysis**

This question is aimed at finding out the propensity and tendency of the employers to sabotage or defeat the purpose of the Act. The respondent's opinions are collected through the medium of this question, which reveals that there is an almost equal proportion of respondents who believe that the employer firstly, changes the provisions, Secondly, does not change the condition, thirdly, the employer might or might not change the conditions to suit the needs of themselves. Lastly, almost the same proportions of respondents do not know about the Act or its

provisions to state about the same. It can be concluded from those above that the respondents' opinions differ concerning the strict adherence to the Act, as only about one-fourth of the respondents are confident that this Act is implemented correctly. However, Section 21 of the Act lays down the penalties concerning the contravention of this Act, which attracts both fines as well as imprisonment at the hands of the employer. The section also entails the employee retaining the payment of maternity benefits.

**Question 10: *When did you take the leave?***

**Statistics**

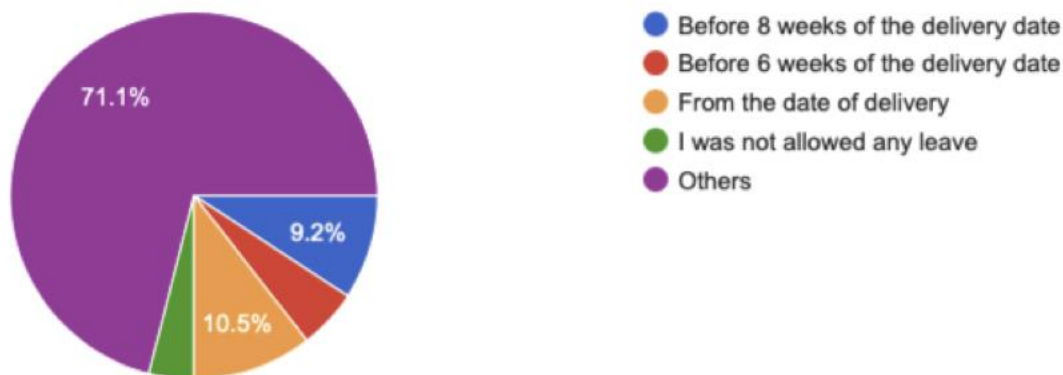
Question - 10. When did you take the leave?

N	Valid	81
	Missing	0

**Question - 10. When did you take the leave?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	5	6.2	6.2	6.2
Before 6 weeks of the delivery date	4	4.9	4.9	11.1
Before 8 weeks of the delivery date	7	8.6	8.6	19.8
From the date of delivery	8	9.9	9.9	29.6
I was not allowed any leave	3	3.7	3.7	33.3
Others	54	66.7	66.7	100.0
Total	81	100.0	100.0	

**Figure 6.3.2.10.**



### **Response**

**Figure 6.3.2.10.** Represents the response concerning the leave taken by the respondents due to their pregnancy and childbirth or any other reason such as termination of pregnancy or miscarriage. 71.1% of the respondents state that they fall under the category of ‘others,’ meaning they do not claim any maternity benefits. On the flip side, 10.5% of the respondents stated that they started their leave period from the date of delivery. 9.2% of the respondents started their leave eight weeks before the expected delivery date. 5.3% of the respondents started their holiday eight weeks before the scheduled delivery date. 3.9% of the respondents stated that they were not allowed any break at the time of their pregnancy and childbirth.

### **Analysis**

Upon analyzing the data above, the obvious first thing is that only 29.9% of the total respondents attempted to take maternity leave, of which 3.9% were denied this statutory right. Therefore, 26% of the respondents were not given maternity leaves out of the total though statutorily, the total period of maternity leaves has been extended to twenty-six weeks under Section 5 sub-section three of the Act by the 2017 Amendment Act, extending the maximum period of 8 weeks before the date of delivery from the previous period of 6 weeks keeping in view the aspects of prenatal care and protection of the mother. However, in the present research, the maximum statutory period of 8 weeks' leave before the delivery has been only availed by 9.2% of the respondents. Furthermore, it is staggering that 10.5% of respondents were allowed leave only from the date of delivery depending upon the occupation type of the respondents or non-adherence on

the part of the employer of the Act for their gains. A more staggering characteristic of this research reveals that 3.9% of the respondents were denied taking maternity leave, thereby deducting their leaves and leading to a probability of indirectly forcing them to join work, risking the health of both the employee's mother as well as the fetus or child.

**Question 11: *Did your employer educate you about the maternity benefits at the time of your appointment?***

**Statistics**

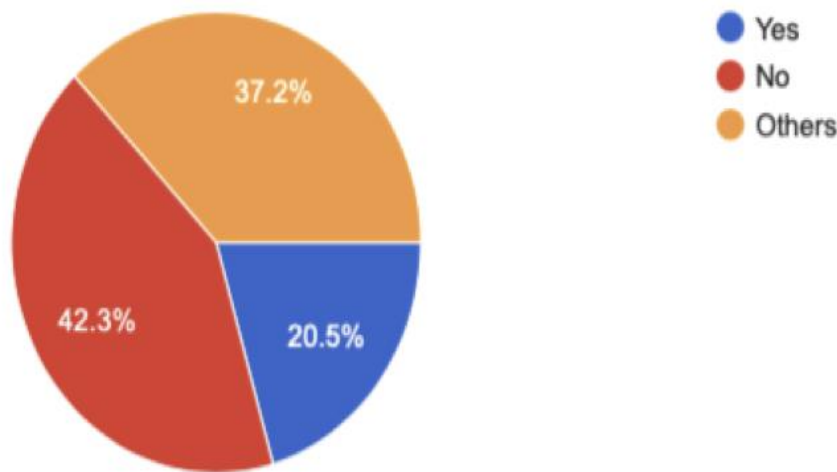
Question - 11. Did your employer educate you about the maternity benefits at the time of your appointment?

N	Valid	81
	Missing	0

**Question - 11. Did your employer educate you about the maternity benefits at the time of your appointment?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid				
No	3	3.7	3.7	3.7
Others	33	40.7	40.7	44.4
Yes	29	35.8	35.8	80.2
Total	16	19.8	19.8	100.0
	81	100.0	100.0	

**Figure 6.3.2.11.**



### **Response**

**Figure 6.3.2.11.** Reveals the data concerning the respondents as to whether they were educated by their employer at the time of appointment or not. Most employees have stated that they must be aware of the employer's maternity benefits provisions. On the flip side, only 20.5% of the employees were informed and educated about the maternity benefits requirements. 37.3% of the respondents have stated the 'others' category, which means that either they are not employed in any organization, self-employed or not working, or they do not fall within the ambit of the Act to render the invocation of the provisions of the Act.

### **Analysis**

The data above shows that most respondents need to be educated about the maternity benefits upon joining such an organization or their date of appointment. This is both unwarranted and illegal on the part of the employers because the same is a statutory requirement under Section 11 A of the Act, which the 2017 Amendment to the Act has inserted. If such contravention occurs, it is punishable under Section 21 of the Act. Only 20.5% of the respondents were educated about this Act, and this figure is somewhat disappointing given the fact that the provision was introduced in 2017 and it has been more than five years since it came into force to which the employers are not yet adhering to and defeating the purpose of this Act.

**Question 12: Which factor, family or career, has affected you most after childbirth?**

**Statistics**

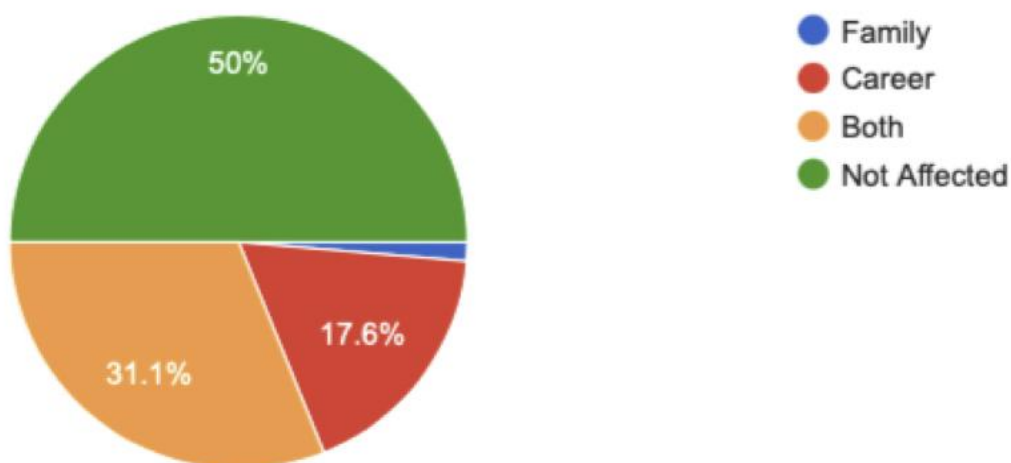
Question - 12. Which factor, family or career, has affected you most after childbirth?

N	Valid	81
	Missing	0

**Question - 12. Which factor, family or career, has affected you most after childbirth?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		7	8.6	8.6	8.6
	Both	23	28.4	28.4	37.0
	Career	13	16.0	16.0	53.1
	Family	1	1.2	1.2	54.3
	Not Affected	37	45.7	45.7	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.12.**



## Response

**Figure 6.3.2.12** shows the respondents' responses concerning aspects of family and career affecting their life after childbirth. 50% of the respondents stated that they were not affected by either family or the career aspect after birth. While on the other hand, 31.1% of the respondents have indicated that they have been affected by both the family and the career aspect. 17.6% of the respondents stated that they were only affected by the career aspect, and the remaining 1.4% indicated that they were only affected by the family aspect after childbirth.

## Analysis

This question aimed to ascertain the socio-legal impact of childbirth equally by the employees working in either public or private sectors. It can be seen that about half of the population was not affected at all by either of these aspects, maybe because they did not have childbirth or they were delighted with their lives after delivery. About one-third of the sample population states that they were affected by families and their careers after giving birth to a child. One unique characteristic and a point of comparison between the generic and specific questionnaires is that they reflect that only a few respondents were affected by the family or career aspect owing to their jobs and childbirths.

### Question 13: Does *this new maternity benefit Act 2017* benefit women and society?

#### Statistics

Question - 13. Do you think this new maternity benefit Act 2017 is beneficial to the women and the society ?

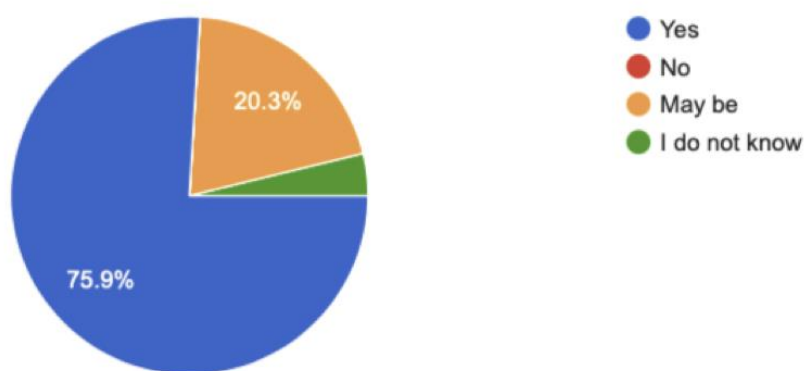
N	Valid	81
	Missing	0

**Question - 13. Do you think this new maternity benefit Act 2017 is beneficial to the women and the society ?**



		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	2.5	2.5	2.5
	I do not know	3	3.7	3.7	6.2
	May be	16	19.8	19.8	25.9
	Yes	60	74.1	74.1	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.13.**



## Response

Figure 6.2.3.13. Represents the respondents' responses concerning their opinion as to whether the Maternity Benefits Act and its amendment in 2017 are beneficial to women as well as a society or not, to which a majority of 75.9% of the respondents have stated it to be beneficial.

While 20.3% of the respondents were unaware of its practical value or could not tell if this Act benefitted society, the remaining 3.8% selected the 'I do not know' option under this question signifying their non-awareness about the said Act. There were no responses to the 'No' vote.

## Analysis

On analyzing the data at hand, it can be seen that a significant majority of the sample population agrees that this Act benefits both women and society. However, there are mixed responses from the remaining respondents, for they need to know or be able to tell accurately if it

helps the community. Regardless, no respondents answered negatively, meaning thereby, there was not even a single response which stated that this Act is not beneficial, therefore somewhat the respondents think that since the Amendment Act extends six weeks of maternity benefits period, provides visitation to creche facilities, and also enables work from home provisions so, therefore, it is either beneficial, or they could not talk about its practical value.

**Question 14: What are your future hopes/expectations from an employer or government?**

**Statistics**

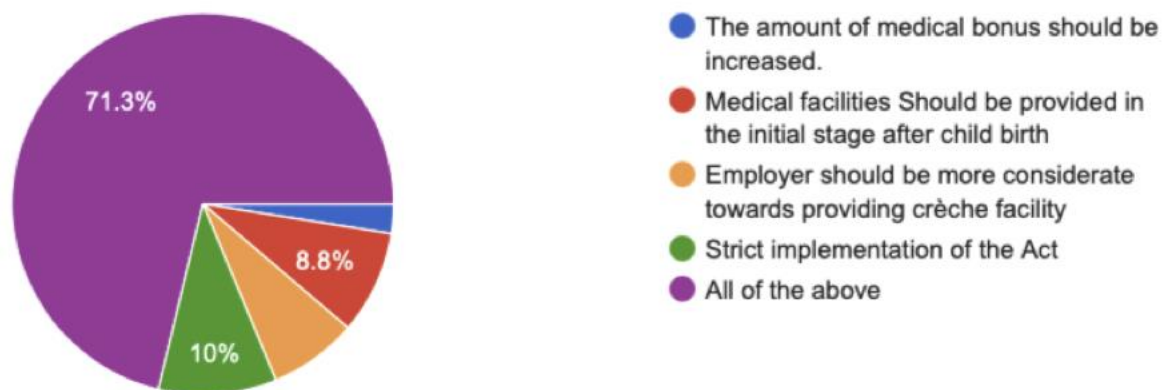
Question - 14. What are your future hopes/expectations from an employer or government?

N	Valid	81
	Missing	0

**Question - 14. What are your future hopes/expectations from an employer or government?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	1.2	1.2	1.2
All of the above	57	70.4	70.4	71.6
Employer should be more considerate towards providing crèche facility	6	7.4	7.4	79.0
Medical facilities Should be provided in the initial stage after child birth	7	8.6	8.6	87.7
Strict implementation of the Act	8	9.9	9.9	97.5
The amount of medical bonus should be increased.	2	2.5	2.5	100.0
Total	81	100.0	100.0	

**Figure 6.3.2.14.**



### **Response**

**Figure 6.3.2.14 Represents** the respondents' expectations from the employer or the Maternity Benefits Act. The respondents have chosen various options, which have been stated in specific points. The questionnaire also contained an 'all of the above' option selected by most respondents, amounting to 71.3% of the total sample population. 8.8% of the respondents chose that Medical facilities should be provided in the initial stage after childbirth, while 2.5% of the respondents selected that the medical bonus should be increased. 7.5% of the respondents chose that Employers should be more considerate towards providing crèche facilities, and 10% of the respondents stated that they want the strict implementation of the Act.

### **Analysis**

The purpose of this question was to determine the aspirations of the respondents from their employers in both the public and the private sector about the improvements concerning maternity benefits which would allow this legislation to be more beneficial to mothers. A majority of respondents wanted all the improvements to be made in terms of the provisions concerning medical benefits, better medical bonuses, better conditions concerning creche facilities, and a stricter rather strict application of this Act which would allow this Act to be revamped in a positive light respecting the needs to the society reflected through the majority of the sample population.

**Question 15: Are you aware of the maternity break of 6 weeks given in case of miscarriages or medical termination of pregnancy?**

## Statistics

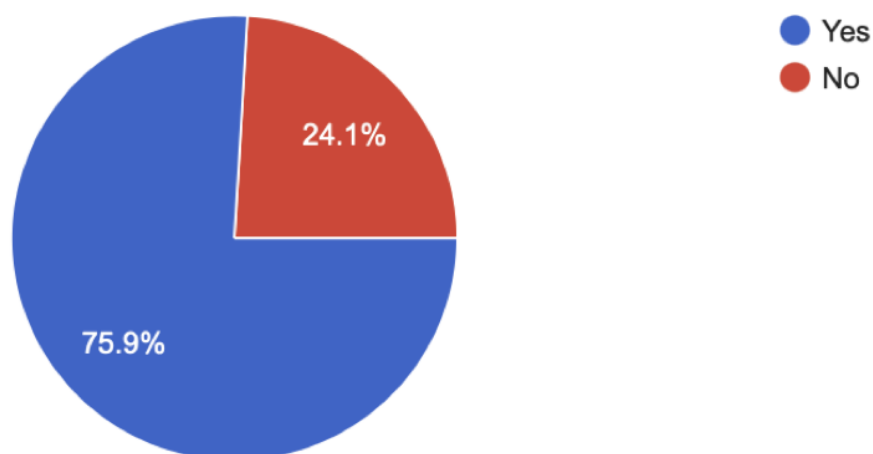
Question - 15. Are you aware of the maternity break of 6 weeks given in case of miscarriage's or medical termination of pregnancy?

N	Valid	81
	Missing	0

**Question - 15. Are you aware of the maternity break of 6 weeks given in case of miscarriage's or medical termination of pregnancy?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	2.5	2.5	2.5
	No	19	23.5	23.5	25.9
	Yes	60	74.1	74.1	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.15.**



## Response

**Figure 6.3.2.15** shows the response of the respondents to their awareness about the six weeks medical break provision wherein 75.9% of the respondents have answered in the affirmative that they are aware of the medical break provision, which provides for six weeks of medical break in cause of miscarriage or medical termination of an employee, while on the other hand, the 24.1% of the respondents are oblivious to this provision and answered in negative as they are not aware of this provision.

## Analysis

From an analytical understanding of **Figure 6.3.2.15**, it is to be noted that the Act provides that the employer is prohibited from employing a woman for six weeks from the date of her miscarriage under Section 4. As discussed in the previous questionnaire, it is a statutory prohibition on the employer's part to do so, otherwise attracting penal and punitive measures. The responses show that most of the population is aware of this provision. Drawing its comparison to the general population questionnaire, it can also be seen that only one-half of the general sample population knew about it. In contrast, here it is more than 75% of the particular sample population from legal background to know about such kind of provision.

**Question 16:** *Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mothers?*

## Statistics

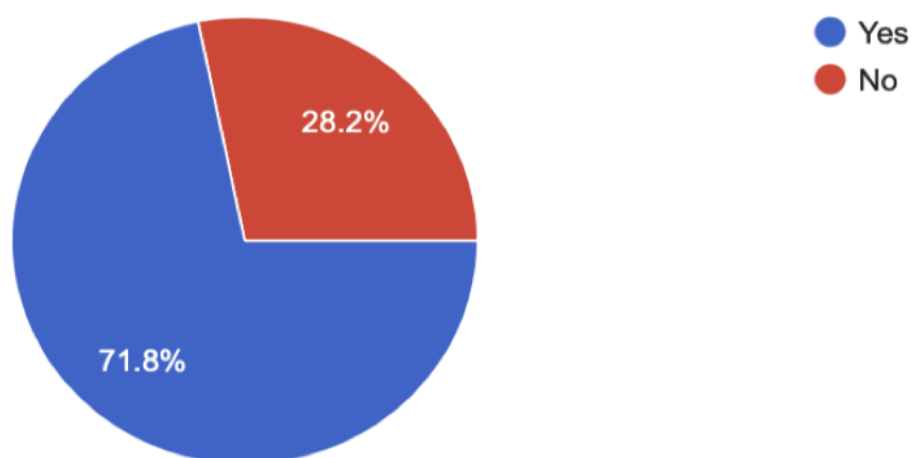
Question - 16. Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mother?

N	Valid	81
	Missing	0

**Question - 16.** Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mother?

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	3	3.7	3.7	3.7
No	22	27.2	27.2	30.9
Yes	56	69.1	69.1	100.0
Total	81	100.0	100.0	

**Figure 6.3.2.16.**



### Response

**Figure 6.3.2.16** shows the respondents' responses about their awareness of the twelve weeks of paid maternity relief for adoptive and commissioning mothers. The answers show that 71.8% of the sample population is aware of such a provision, and the remaining 28.2% of the respondents are unaware of this benefit.

### Analysis

As discussed previously, the Maternity Benefits Amendment Act of 2017 had inserted Section 5, Sub-Section (4), which provides that in case of legal adoption of a child who is below the age of three months or a child who has been birthed by a commissioning mother, the adopting mother or the commissioning mother, as the case may be, are entitled to maternity benefits for a period of twelve weeks from the date of handing over of the child to such adopting or

commissioning mother. This question also endeavours to determine the respondents' understanding of the amendment. It is observed that the participants of this special questionnaire are more aware than the participants of the general questionnaire.

**Question 17: *Are you aware that after the 2017 amendment to Maternity Benefit Act, 26 weeks (six and half months) of paid leave are given to women***

#### **Statistics**

Question - 17. Are you aware that after the 2017 amendment in Maternity Benefit Act, 26 weeks (six and half months) of paid leave are given to women.

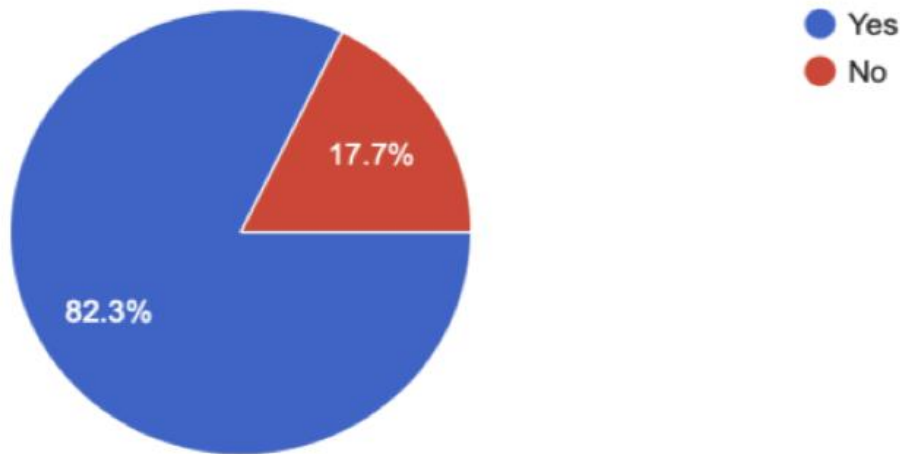
N	Valid	81
	Missing	0

**Question - 17. Are you aware that after the 2017 amendment in Maternity Benefit Act, 26 weeks (six and half months) of paid leave are given to women.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	2.5	2.5	2.5
	No	14	17.3	17.3	19.8
	Yes	65	80.2	80.2	100.0

Total	81	100.0	100.0	
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**Figure 6.3.2.17.**



### Response

**Figure 6.3.2.17** shows the respondents' responses about their awareness of twenty weeks of paid maternity relief as per the amendment of 2017. The answers show that 82.3% of the sample population is aware of such provision, and the remaining 17.7% of the respondents are unaware of such provisions.

### Analysis

To reiterate, the Maternity Benefits Amendment Act of 2017 had inserted provisions to allow maximum of 26 weeks of maternity relief from maternity benefits period of twelve weeks. Like a general questionnaire, this question also aims to determine the extent of respondents' understanding of the amendment to the law concerning maternity benefits, under which it can be seen that most respondents were aware of such a provision. At the same time, only a few needed to be more knowledgeable about it.



**Question 18: Did you know that if a woman dies before availing of the maternity benefits or amount, it will be given to the assigned nominee?**

**Statistics**

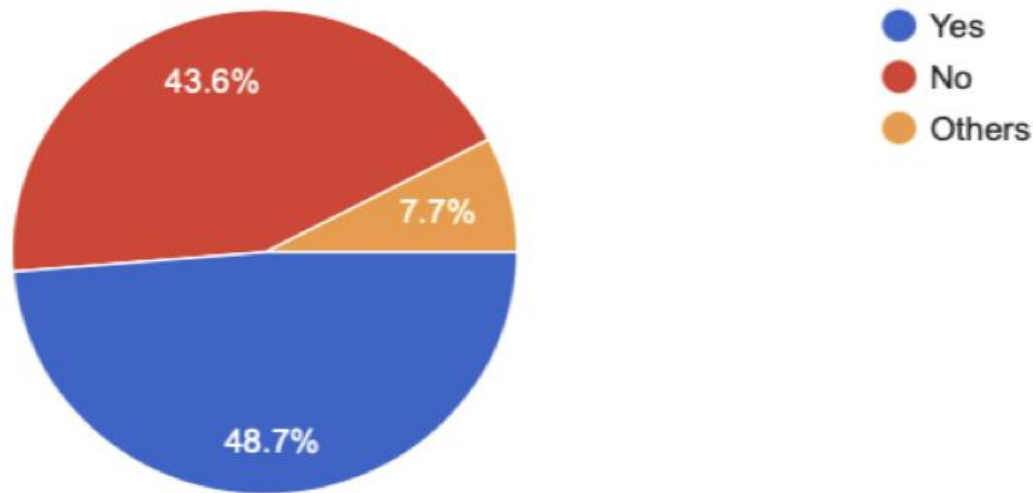
Question - 18. Did you know, if a women dies before availing the maternity benefits or amount, in such case it will be given to the assigned nominee.

N	Valid	81
	Missing	0

**Question - 18. Did you know, if a women dies before availing the maternity benefits or amount, in such case it will be given to the assigned nominee.**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		3	3.7	3.7	3.7
	No	34	42.0	42.0	45.7
	Others	6	7.4	7.4	53.1
	Yes	38	46.9	46.9	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.18.**



### **Response**

**Figure 6.3.2.18.** Represents the data concerning the respondents' knowledge concerning the death of women; the maternity amount would go into the hands of the nominee. 48.7% of the respondents were aware of this provision. While on the other hand, 43.6% of the respondents needed to be made aware of this provision. The remaining 7.7% of the respondents have chosen the 'others' category.

### **Analysis**

Upon analyzing the provisions above, it can be stated that not many respondents belonging to the legal fraternity are aware of this provision provided under Section 7 of the Act, which states that in case of the death of a woman who is entitled to maternity benefits or any amount under the Act, the employer is liable to pay it to the nominee whom the women have mentioned in the notice provided under Section 6 of the Act and in case the women say no nominee. In that case, her legal representative would become entitled to such an amount. In this research, it can be observed that only less than one-half of the total respondents were aware of this provision.

**Question 19:** *Are you aware that there is a provision for legal punishment (minimum three months of imprisonment and minimum Rs. 2000 fine) if the employer fails to pay a women employee during her maternity leave?*

**Statistics**

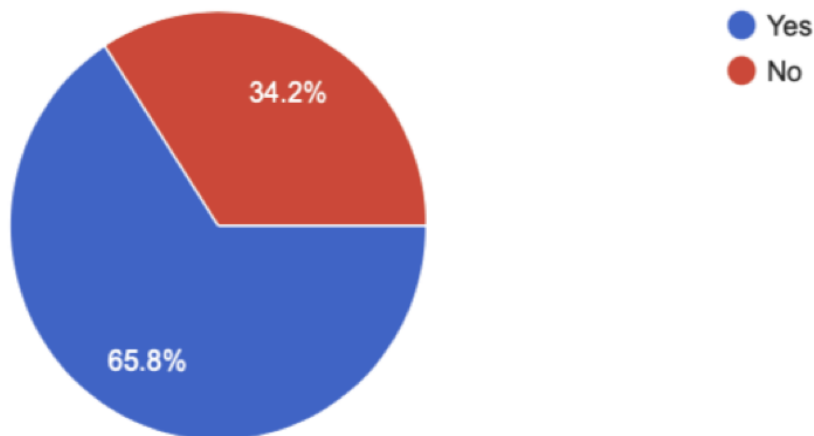
Question -19. Are you aware of the fact that there is a provision for legal punishment (minimum 3 months of imprisonment and minimum Rs. 2000 fine), if the employer fails to pay a women employee during her maternity leave?

N	Valid	81
	Missing	0

**Question -19.** Are you aware of the fact that there is a provision for legal punishment (minimum 3 months of imprisonment and minimum Rs. 2000 fine), if the employer fails to pay a women employee during her maternity leave?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid		2	2.5	2.5	2.5
	No	27	33.3	33.3	35.8
	Yes	52	64.2	64.2	100.0
	Total	81	100.0	100.0	

**Figure 6.3.2.19.**



### **Response**

The response enumerated in **figure 6.3.2.19** represents the respondents' awareness of penal provisions under the Act, to which respondents have stated that 65.8% of the respondents are aware of the same. On the other hand, 34.2% of the respondents need to be made aware of such penal provisions.

### **Analysis**

As far as analysis of this response is concerned, the Act provides for such punishment of imprisonment of up to three months and acceptable up to two thousand rupees upon the employers who contravene with the provisions of this Act. It can be observed that a majority of respondents are aware of this provision because they have legal backgrounds.

**Question 20:** *Are you satisfied with all the provisions of the act? Please share your suggestions.*

### **Response**

- Most Women need to be made aware of this maternity leave. Every working woman should know their rights. Only then can she take action against the authorities.
- The Act is on paper only and needs to be implemented by authority due to the need for knowledge of the general public.
- The Act should also include special leave provisions for mothers with children born with disabilities.
- Some areas must be looked into, and necessary amendments to be executed.

- Only a certain percentage of women employees can avail of the benefits under the Maternity Benefit Act. Others are left to the mercy of the employers of the respective institutions.
- In the more significant interest of society, the provisions of the legislation must be made available to employees in the private sector. Kerala can be taken as an example in this case.
- A special consideration of other pregnancy emergencies which causes the potential mother to be prescribed complete bed rest shall be addressed.
- More effective awareness campaigns need to be there on social media etc., to educate of these benefits to women working.
- More pecuniary and penal sections for strict implementation should be added to the Act through necessary amendments.
- An expecting mother should be given care and knowledge about her benefits. She should be supported by the employer, her colleague, and her family, and the security of her work career in such employment should be guaranteed after the delivery.
- Certain amendments must be made to the existing Act concerning medical facilities and the employers' strict implementation of the Act.

#### **6.4. Addressing Challenges: Implementing Maternity Benefit Laws in the Public and Private Sector**

One of the major challenges in implementing the Maternity Benefit Act is widespread non-compliance by employers. Despite the Act's authority to supersede any employment contract that offers shorter maternity leave periods or unpaid leave, it is common for contracts to ignore these statutory provisions. Employers often do not take adequate measures to ensure maternity protection and may neglect to provide maternity benefits altogether.

This lack of compliance with legal norms not only undermines the rights of women workers, but also increases medical expenses related to children who are not adequately cared for by either parent. These costs are often borne by the employer through medical benefits to dependents and can be mitigated by providing maternity benefits as mandated by the Act.

Additionally, employers may resist providing maternity protection allowances, which include paying female employees on maternity leave. They may hesitate to offer financial support due to concerns about lower profits in the absence of female workers. This reluctance further

hampers the proper implementation of the Act. It is mandatory for employers to follow the legal norms to ensure proper maternity protection for women employees.

Recently, The Government of India has made some important changes to the Maternity Benefit Act, 1961, through the Maternity Benefit (Amendment) Act, 2017.<sup>358</sup> Here's a simplified explanation of what these changes mean<sup>359</sup>:

- **Extended Maternity Leave:** Working women with less than two surviving children now get 26 weeks of maternity leave, increased from the previous 12 weeks.
- **Work from Home Option:** Nursing mothers can now work from home if needed.
- **Mandatory Creche Facilities:** Establishments with fifty or more employees must provide a creche facility for working mothers.
- **Benefits for Commissioning and Adopting Mothers:** The maternity benefit of twelve weeks is extended to 'commissioning mothers' (mothers who use a surrogate) and 'adopting mothers' from the date the child is handed over to them.

These provisions came into effect on April 1, 2017, except for the creche facility, which started on July 1, 2017. Regarding outsourcing employees covered under the Employee State Insurance (ESI) Act 1948, they will receive maternity benefits through this Act. These clarifications are applicable only to Government departments and Public Sector Undertakings (PSUs).<sup>360</sup>

- **Maternity Benefit Implementation: Responsibilities in Contractual Arrangements:** For departments directly contracting with employees, the employer is responsible for providing maternity benefits. The employer is defined differently based on whether it's a government, local authority, or other establishment.<sup>361</sup>

In cases where there's a contract between the principal employer and an agent/contractor/outsourced agency, the responsibility for implementing the Maternity Benefit Act falls on the agent/contractor/outsourced agency. They must provide manpower as required by the principal employer, and they are responsible for ensuring the implementation of the maternity benefit provisions<sup>362</sup>.

- **Maternity Laws in India: Coverage and Fields**<sup>363</sup>
  - The act applies to women in various sectors, including industries, factories, shops, mines, plantations, and other establishments. The Act covers the organised and unorganised sectors as long as the establishment has ten or more employees.
  - The Act mandates maternity benefits in both the public and private sectors.

- Besides the general provisions of the Maternity Benefit Act, other laws provide maternity benefits in specific sectors. For example, the Employees' State Insurance (ESI) scheme, a self-financing social security and health insurance scheme for workers, offers maternity benefits to women in lower-income jobs. The Working Journalists Act and the Factories Act also provide maternity benefits but may have different coverage and benefit provisions.
- Global banks and multinational corporations in India often exceed the minimum legal requirements to provide enhanced maternity benefits. These include extended leave, childcare allowances, flexible hours, and post-natal career development support. This is done to attract and retain talented female employees in a competitive market.

#### **6.4.1. Maternity Protection: An Empirical Examination of Principles and Implementation Challenges**

This present study seeks to assess the adherence to the foundational principles underlying maternity protection and identify the challenges in their implementation. This present study reveals:-

- Adults aged 25-34 show significant interest, while participation among 18-24-year-olds is low. 88.2% of respondents are in full-time employment, 5.5% in part-time, 4.7% in temporary, and 1.6% in seasonal roles. 76.4% work in the private sector, 18.9% in government, and 4.7% in public employment. Private sector dominance underscores the importance of assessing maternity benefits' socio-legal impact, as most respondents are not eligible for government schemes.
- In the study, the distinction between government, public, and private sectors is crucial. Government Sector refers to entities directly owned and controlled by the government, while Public Sector institutions have majority government control but may involve private entities to some extent. Private sector institutions operate autonomously under private control. Since a significant portion of respondents come from the private sector, the focus of assessing maternity benefits' socio-legal impact lies within this sector. It's important to note that only a quarter of the sample represents public and government sectors, indicating that most respondents may not be eligible for specific governmental maternity schemes due to their job profiles.

- The study highlights the vocational distribution among respondents, indicating a predominant presence in the corporate industry. Additionally, 26.4% are teachers, followed closely by medical professionals at 22.4%. Other vocations, including technical roles and personal care services, collectively make up 10.4% of respondents. A smaller proportion, 5.6%, comprises medical staff from various healthcare facilities.
- The study indicates respondents' awareness of maternity leave, with 87.2% showing familiarity while 12.8% are yet to learn about it. This question probes respondents' understanding of pro-women and pro-childhood legislation, particularly maternity benefits laws. The majority's awareness suggests knowledge of laws safeguarding women's employment during maternity and their entitlement to fully paid absence for childcare. It's noteworthy that this inquiry focuses on general knowledge of maternity benefits rather than their direct relevance to respondents' employment situations.
- The present study discusses respondents' perceptions regarding adherence to the Maternity Benefits Act of 1961. It highlights that 49.2% agree their organizations adhere to maternity benefits mandates, while 24.2% require awareness of such benefits, 15.3% are uncertain, and 11.3% believe their organizations don't provide these benefits. Analysis reveals widespread awareness, but many are unsure or unaware, suggesting potential gaps in both availing and implementing maternity benefits.
- The study examines the timing and utilization of maternity benefits among respondents. It finds that 38.4% state maternity benefits don't apply to them, while 9.8% fall outside its purview. Among those applicable, 13.4% were denied benefits, with only 50% claiming them, despite legal provisions. Notably, a significant portion availed benefits before the recommended period, raising questions about adherence to recent amendments allowing benefits up to eight weeks before delivery.
- The study examines respondents' experiences with maternity pay during their leave. Results show that 39.5% were excluded from maternity payment, with 8.8% falling under the 'others' category. Among those eligible, 17.5% were not paid despite claims, while 14% received payment for 3 to 6 months of leave and 20.2% for 1 to 3 months. Notably, many received payments for less than the statutory 26-week period, with an equal number denied payment while on leave.



- The study examines the impact of childbirth on various aspects of respondents' lives. While 32.7% have yet to experience childbirth, 31% report being affected in both family and career aspects, with 8% citing career and 4.4% family as most affected. Analysis suggests that most respondents experience a dual impact on family and career post-childbirth, considering factors like socio-political, psychological, and socio-economic variables. Fewer respondents attribute their experience to a single factor.
- The study delves into respondents' perceptions of the Maternity Benefits Act 2017, revealing that 62.9% believe it benefits women. However, 24.2% express the need for more information about its benefits, while 10.5% are unsure despite awareness, and 2.4% disagree with its beneficial impact. Analysis suggests some respondents question the practical value of the Act's provisions, despite its improvements such as extended maternity leave, creche facilities, and mandatory awareness campaigns.
- The study investigates respondents' expectations from employers and the government regarding pro-women legislation like the Maternity Benefits Act. Most respondents (78%) advocate for comprehensive improvements, including medical facilities, increased medical bonuses, better creche facilities, and stricter implementation of the Act to ensure social justice and adherence to its provisions. Additionally, smaller percentages express specific desires, such as better initial medical care after childbirth (8.1%) and increased medical bonuses (7.3%).
- The study examines respondents' awareness of the medical break provision, with 51.2% aware of its existence, granting six weeks of leave for miscarriage or medical termination, while 48.8% are unaware. Analysis highlights the statutory prohibition for employers to engage a woman for six weeks post-miscarriage, with around half of respondents acknowledging this provision.
- The study examines respondents' awareness of the twelve-week paid maternity relief period for adoptive and commissioning mothers. Results reveal that 53.2% of respondents are aware of this provision, while 46.8% are unaware. Analysis underscores the significance of understanding amendments to maternity benefit laws, highlighting that half of the respondents lack awareness of this particular provision.

- The study explores respondents' opinions on maternity benefit provisions, revealing a divided perspective. Half of the respondents express satisfaction with the Act, while the other half are dissatisfied.
- Suggestions include **extending paid maternity leave to six months in both public and private sectors, implementing childcare leave for women in the private sector akin to government employees, and enhancing maternity leave to the first six months of the baby's life.** There are also calls for stricter law enforcement, mother-friendly workspaces, availability of facilities for new mothers, and admiration for women balancing professional and personal responsibilities. Additionally, respondents advocate for mandatory medical facilities, extended leaves for medical professionals, and fair treatment during maternity leave.
- This study reveals a predominant presence of the private sector, comprising 62.5% of respondents, followed by 30% self-employed individuals, and minimal representation from the government (5%) and public sectors (2.5%). This distribution underscores the significant influence of the private sector on the study's findings, particularly concerning perspectives on maternity benefits. Additionally, it raises questions about the representation and opportunities for legal professionals in public and governmental undertakings, warranting further research.
- This observation underscores the significant dominance of the private sector among legal professionals, including law firms, corporate entities, and educational institutions. With a substantial seven-fold increase in representation compared to the public and governmental sectors combined, the study's findings are likely to be heavily influenced by the perspectives prevalent in the private sector. While maternity benefits are applicable across governmental, public, and private establishments, the study aims to ascertain whether the specific sample population perceives the practical value of these benefits. Additionally, it raises important questions about the representation of law professionals in public versus private sectors and the availability of opportunities in governmental undertakings, suggesting avenues for further research into the egalitarian distribution of legal roles and opportunities.
- This study delves into respondents' experiences with receiving maternity benefits during their maternity periods. The data reveals that a significant portion of respondents, 64%,

falls under the 'others' category, indicating reasons such as self-employment or not having children, rendering them ineligible for maternity benefits. Among eligible respondents, only 13.3% received full payment for their maternity benefits, while 5.3% received partial payment. Alarming, 17.3% were denied any payment, indicating non-compliance with statutory obligations by their organizations. This highlights a significant gap between legal requirements and actual practices in providing maternity benefits, underscoring the need for better enforcement of regulations to ensure employees' rights are upheld.

- This study sheds light on respondents' perspectives regarding their organizations' adherence to the statutory requirements of the Maternity Benefits Act. While 42.9% of respondents affirm their organizations' full compliance with the Act, a concerning 27.3% require awareness about their organization's adherence. Additionally, 15.6% believe their organizations follow the Act but have not availed its benefits to confirm, and 14.3% are confident their organizations do not adhere strictly to the Act.
- Analysis reveals a significant discrepancy between perceived compliance and actual adherence to the Act. With over 55.9% of respondents either unsure, unaware, or dissatisfied with their organizations' conduct regarding the Act, there's a pressing need for improved awareness, enforcement, and accountability to ensure employees' rights and well-being are upheld.
- This study reflects respondents' perspectives on employers potentially amending the Act to suit their needs. Results indicate that 27.6% agree employers make such changes, while 23.7% disagree, believing employers adhere strictly to the Act. Additionally, 26.3% need to ascertain if employers make such amendments, and 22.4% are still evaluating. This highlights varied opinions on employer compliance with the Act, with only a minority confident in its proper implementation.
- The study reveals that most respondents were not educated about maternity benefits by their employers upon appointment, which is a statutory requirement. Only 20.5% received such education, indicating non-compliance with the Act's provisions. The majority of respondents (37.3%) fall into the 'others' category, suggesting they may not be employed or not eligible for maternity benefits under the Act.
- The study reveals that 50% of respondents reported no impact on family or career after childbirth, while 31.1% experienced effects on both aspects. Additionally, 17.6% were

solely affected in their career, and 1.4% in their family life post-childbirth. This data underscores the varying degrees of impact experienced by respondents, shedding light on the complex interplay between family responsibilities and career aspirations.

- This study aimed to understand how childbirth impacts employees across public and private sectors. Results indicate that roughly half of the respondents reported no impact, possibly due to various reasons like not having children or being satisfied post-delivery. Around one-third experienced effects on both family and career, underscoring the intersection of personal and professional life. Interestingly, only a small number of attributed impacts solely to either family or career, suggesting a complex interplay between work and personal responsibilities.

The study presents a comprehensive overview of respondents' perspectives on various aspects related to maternity benefits and the Maternity Benefits Act. It reveals significant findings regarding awareness levels, compliance issues, impacts of childbirth, and expectations from employers and legislation. Key points include the dominance of the private sector, gaps in awareness and compliance, diverse impacts of childbirth on family and career, and the need for comprehensive improvements to maternity benefits legislation. Overall, the study underscores the importance of education, enforcement, and reforms to better support women in the workforce and ensure their rights are upheld.

## **6.5. Exploring Maternity Benefit Implementation: Interview Schedule and Findings**

An interview schedule questionnaire has been prepared with the aim of gaining a comprehensive understanding of the implementation procedures of maternity benefit laws in both the public and private sectors in Mumbai. The structured email questionnaires have been tailored for various stakeholders including the Labour Commissioner, Mumbai, Maharashtra Women's Commission, Mumbai, private/public sector banks, principals of private colleges/government colleges in Mumbai, private/ government hospitals in Mumbai. The objective of this study is to comprehend the implementation procedures of maternity benefit laws in the private sector and the processes involved in filing complaints in case of non-compliance with maternity benefits regulations. All the heads above- mentioned have contributed to the study and the details are presented in Table -

**Table 6.1. - Participation of Stakeholder's / Respondent's for the Study**

<b>Sr. No.</b>	<b>Respondent's Category</b>	<b>Respondent's Size</b>
1.	Labour Commissioner, Maharashtra	1
2.	Maharashtra State Commission for Women	1
3.	Principals of Private Colleges of Mumbai	5
4.	Principals of Govt. Colleges , Mumbai	2
5.	Corporate Sector (Companies) , Mumbai	5
6.	Administrators of Private Hospitals , Mumbai	5
7.	Government Hospitals , Mumbai	3
8.	Executives from Private Banks, Mumbai	5
9.	Executives from Government/ Nationalised Banks , Mumbai	3

#### **6.5.1. Procedure to File Complaints in Case of Non-Compliance of maternity benefit laws**

Ensuring the effective implementation of maternity benefit laws is paramount in safeguarding the rights and well-being of working women. Despite legislative frameworks aimed at protecting maternity rights, instances of non-compliance continue to persist. In such cases, the procedure for filing complaints plays a crucial role in holding accountable those who fail to adhere to these laws. This study embarks on an exploration into the procedure for filing complaints in cases of non-compliance with maternity benefit laws within both the private and public sectors.

The aim is to meticulously examine the procedure for filing complaints and the subsequent redressal mechanisms concerning violations of maternity benefit laws. By delving into the enforcement of maternity rights, this research seeks to provide essential insights for policymakers and stakeholders actively engaged in safeguarding maternity benefits. Empowering individuals to assert their rights and advocating for more effective enforcement mechanisms are pivotal outcomes of this endeavour.

### **6.5.2. Assessing Maternity Benefit Laws: Maharashtra State Commission for Women's Perspective**

An email containing a structured interview schedule *has been dispatched to the Maharashtra State Commission for Women. The purpose is to request an appointment with the chairperson to discuss the procedures for filing a complaint in case private and public sector organizations do not adhere to maternity benefit regulations. The Maharashtra State Women's Commission provided an email including a contact number for researcher to reach out for detailed information. (Annexure - 1)* As per the guided interview schedule the questions that were asked and the responses that were documented are as follows:

#### **QUESTIONS**

1. What is the step-by-step process for filing a complaint?
2. What actions are taken once a complaint is filed?
3. What documentation is required for the complaint process?

#### **RESPONSE**

Every organisation has appropriate goals which are the guiding principles for the organisation. The Maharashtra State Commission stated that regarding the first, second and third questions on the actions taken post-complaint filing and the required documentation for the complaint process, they emphasized that:

- **Guidance and Referral Protocols of the Maharashtra Women's Commission for Addressing Maternity Issues:**

Women facing any issue can *seek assistance from the Maharashtra Women's Commission. If a problem falls under an existing law*, like the Maternity Benefit Act, 1961, The Maternity Benefit Act, (Amendment), 2017, Social Security Code, 2020 *the Maharashtra Women's Commission directs the complainant to the appropriate authority, such as the Labour Commission*. For matters without a specific statutory enactment, the Commission addresses them directly. If a complaint pertains to the Maternity Benefit Act, 1961, the Commission advises the complainant to approach the Labour Commission for resolution, rather than handling it internally.

The Maharashtra Commission for Women (*hereinafter to be referred as 'Commission'*) plays a crucial role in addressing complaints regarding the denial of maternity benefits in the private sector. *Denial of maternity benefits is unfortunately more prevalent in the private sector*

due to various reasons such as lack of awareness, inadequate implementation of laws, and profit-driven policies of some employers.

- **Initiating Action: Procedures for Complaints at the Maharashtra Women's Commission:**

The Commission serves as a *primary platform for women to register complaints related to denial of maternity benefits in the private sector*. Women who face discrimination or denial of their rights can approach the Women's Commission to seek assistance and redressal.

- **Investigation and Mediation:**

Upon receiving complaints, the initiate's investigations to ascertain the validity of the allegations. They may mediate between the aggrieved party and the employer to resolve the issue amicably.

- **Women's Commission Collaborates with Corporates and Private Institutions to Enhance Maternity Benefits:**

The Commission may collaborate with corporate bodies and different private organisations and employer groups in the private sector to promote best practices in maternity benefits and foster a culture of compliance and support for working mothers.

- **Empowering Women: Providing Legal Support for Maternity Rights:**

In cases where mediation fails or legal action is necessary, the commission provides support to women by guiding them through legal procedures and connecting them with legal aid services. If a complaint pertains to the Maternity Benefit Act, 1961, the Commission advises the complainant to approach the Labour Commission for resolution, rather than handling it internally. They may also advocate for policy changes to strengthen maternity benefit provisions in the private sector.

- **Championing Maternity Rights: Advocacy for Policy Reform:**

The commission actively engages with policymakers and stakeholders to advocate for stronger implementation of laws related to maternity benefits in the private sector along with public sector. They may recommend amendments to existing legislation or propose new regulations to safeguard women's rights.

- **Empowering Women: Advocating Maternity Rights through Awareness and Education:**

In addition to addressing individual complaints, the commission works to raise awareness about maternity rights and benefits among women in the private sector. They conduct outreach

programs, workshops, and campaigns to educate women about their entitlements and empower them to assert their rights.

- **Ensuring Maternity Benefit Compliance: The Vital Role of the Commission in the Public Sector:**

The Commission stated that however, government institutions in the public sector are generally expected to adhere to maternity benefit policies as per the law, there can still be instances where women encounter challenges or denial of their entitlements. Despite legal frameworks being in place, issues such as inadequate implementation, lack of awareness among employees and employers, administrative hurdles, and occasional instances of discrimination can still occur. The “commission” plays a crucial role in monitoring the implementation of maternity benefit policies in the public sector. Even if the majority of public sector institutions follow maternity benefit policies, there may still be systemic issues or loopholes that need to be addressed. The commission can identify such issues through its monitoring mechanisms and advocate for policy reforms or improvements in implementation to better protect the rights of women in the public sector. Women working in the public sector who face challenges or denial of maternity benefits can seek assistance from the commission. The commission can provide support, guidance, and legal assistance to help women navigate the redressal process and ensure that their rights are upheld. The public sector generally adheres to maternity benefit policies as per the law, the role of the commission remains crucial in addressing any gaps, ensuring compliance, providing support to women facing challenges, and advocating for improvements to better protect the rights of women in the workforce.

It can be seen from the above responses of the commission that, The Maharashtra Commission for Women play indispensable roles in safeguarding the rights of women in the workforce, particularly concerning maternity benefits. Through their multifaceted approaches encompassing complaint resolution, investigation, mediation, collaboration with stakeholders, legal support, policy advocacy, and awareness campaigns, these commissions address challenges faced by women in both the private and public sectors. Despite legal frameworks being in place, issues such as denial of maternity benefits, inadequate implementation, and lack of awareness, administrative hurdles, and occasional discrimination persist. However, the proactive interventions of the commission serve as vital mechanisms for redressal and systemic improvement.



By advocating for policy reforms, enhancing implementation mechanisms, and empowering women with knowledge and support, the commission contribute significantly to fostering a more equitable and supportive work environment for women across sectors. Ultimately, their efforts not only uphold the rights of individual women but also contribute to advancing gender equality and societal progress as a whole.

### **6.5.3. Interview Schedule Questionnaire for the Labour Commissioner, Mumbai**

According to the guided interview schedule, the following questions were asked, and the corresponding responses were documented. The structured interview questions for the Labour Commissioner, Mumbai, were designed to focus on the formal complaint process, follow-up actions, and required documentation for non-compliance with maternity benefit laws.

#### **Questions:**

1. Could you please describe the procedure for filing a complaint against an organization that is not complying with maternity benefit laws?
2. What subsequent actions does the Labour Commissioner's office take after a complaint is lodged?
3. What documentation is required to accompany a complaint to substantiate the case?
4. Do complaints typically come from employees in the public sector, the private sector, or both?

#### **Response:**

The system established in Maharashtra to address cases of non-compliance with maternity leave appears comprehensive, with a primary goal of safeguarding employees' rights. The engagement of both the Labour Commissioner's office and designated labour officers, endowed with significant authority, demonstrates a structured approach towards tackling the issues raised in the preceding questions. The Labour Commissioner's office provides comprehensive insights into instances of non-compliance with maternity benefit laws.

- **Prioritizing Maternity Benefits: The Role of the Labour Commissioner's Office:**

Firstly, the Labour Commissioner's office manages cases related to maternity benefits, which is crucial for ensuring that employees receive their entitled benefits. Although they don't directly handle termination cases, their focus on compliance with maternity benefit laws is significant. The referral of termination cases to the Labour Court under the Industrial Disputes Act, 1948, ensures that issues of termination following denial of maternity benefits are appropriately addressed within

a legal framework. This separation of responsibilities allows for specialized handling of each aspect of the issue. The authority vested in labour officers under the Industrial Disputes Act, 1947, is indeed substantial, akin to that of a magistrate.

- **Labour Officers as Inspectors: Ensuring Maternity Benefit Compliance:**

During an interview with a researcher, the Labour Commissioner clarified the procedure that Labour Officers are appointed as Inspectors under Section 14 of the Maternity Benefit Act, 1961. This appointment underscores their role in ensuring compliance with the provisions of the Act and enforcing maternity benefits for women in the workforce. A labour officer is appointed as an inspector under the Maternity Benefit Act, 1961. These officers, who are already designated under various labour laws, including the Industrial Disputes Act, 1947 often take on the additional responsibility of inspecting and enforcing compliance with the provisions of the Maternity Benefit Act.

- **Empowering Maternity Benefit Enforcement: The Authority and Process of Inspectors:**

The Inspector holds the authority to address grievances related to maternity benefits or any unpaid amounts under this Act. Upon receiving a complaint or acting on their own initiative, the Inspector can conduct an inquiry. If they find that payment has been wrongfully withheld, they have the power to issue orders for the payment to be made. Those dissatisfied with the Inspector's decision can appeal to the designated authority within thirty days. The decision of the prescribed authority or the Inspector, depending on whether an appeal is made, is final. Any outstanding payments can be collected as overdue revenue.

- **Enhancing Oversight: The Role of Labour Officers in Maternity Benefit Enforcement:**

The labour commission officers *stated during this present interview that the involvement of labour officers, who have considerable powers akin to magistrates, adds a layer of oversight and accountability. Their success rate in resolving cases of maternity benefit, standing at 99 percent, indicates the effectiveness of their interventions in most instances.* This high success rate suggests that the system is proactive and efficient in addressing violations of maternity benefit laws.

- **Challenges and Solutions in Ensuring Maternity Benefits: Insights from the Labour Commissioner's Office:**

The Labour Commissioner's office has disclosed *that they receive 8-10 cases of maternity benefit non-compliance annually. These cases predominantly originate from the private sector, constituting 99% of the reported instances. This suggests a significant need for increased awareness and enforcement efforts to ensure that women in the private sector receive their entitled maternity benefits as per the Maternity Benefit Act, 1961.* The reluctance to provide maternity benefits is indeed evident in cases where employees are terminated upon revealing their pregnancy or when seeking maternity leave. Additionally, some private organizations choose not to hire female employees altogether to avoid the responsibilities and costs associated with maternity benefits. Such practices not only violate the rights of female employees but also perpetuate gender discrimination in the workplace. It underscores the need for strict enforcement of labour laws and heightened awareness campaigns to promote gender equality and protect the rights of women in the workforce. The Labour Commissioner's jurisdiction is confined to cases concerning the absence of maternity benefits. When it comes to instances of termination due to pregnancy or demands for maternity leave, these cases are referred to the Labour Court as per the Industrial Disputes Act of 1947. The Labour Commissioner lacks the direct authority to address such matters, necessitating referral to the Labour Court, established under Section 7 of the Industrial Disputes Act, 1947, for appropriate adjudication.

- **Empowering Labour Courts: Ensuring Adjudication of Industrial Disputes and Maternity Benefit Laws:**

The Labour Commissioner *highlighted that Section 7 of the Industrial Disputes Act, 1947 outlines the establishment of Labour Courts by the appropriate Government for adjudicating specific industrial disputes.* Under this Act, the appropriate government is empowered to establish Labour Courts through official notification in the Official Gazette. These specialized courts are entrusted with the resolution of conflicts arising between employers and employees within the industrial sector. While their primary function revolves around industrial disputes, *Labour Courts also possess the jurisdiction to address issues pertaining to maternity benefit laws, provided they are integrated into the broader industrial dispute framework.* Thus, Labour Courts serve a critical role in ensuring the resolution of disputes and fostering industrial harmony."

#### **6.5.3.1. Streamlined Procedure for Filing Complaints on Maternity Benefit Non-Compliance in Maharashtra**

To file a complaint at the Labour Commissioner's office in Maharashtra, the aggrieved party needs to follow a straightforward procedure:

- **Drafting the Application:** The aggrieved individual or party must draft an application detailing essential information. This includes the name of the company / private sector, public sector, involved, the duration of their service within the organisation, the specific grievances, and the amount of money being claimed as compensation. *Additionally, they are required to file a bond affidavit of INR 100 along with filling out Form 6* of the maternity benefit act.
- **Submission of Application:** The *completed application along with the bond affidavit and Form 6 needs to be submitted to the Labour Commissioner's office*. It's important to note that there is no fee for filing this complaint, and there is no requirement for engaging an advocate or middleman.
- **Summon and Hearing:** *Within 10 to 15 days of filing the complaint, both the aggrieved party and the organization against which the complaint is lodged will receive a summon*. This summon notifies them of the date and time they are required to appear before the Labour Officer for a hearing. The aggrieved party has the option to attend alone or with a blood relation.
- **Settlement Process:** During the hearing, *the Labour Officer facilitates the settlement process. Both parties present their arguments and evidence, and the Labour Officer works towards resolving the dispute*. If a resolution is reached, it is documented accordingly.

The procedure for filing a complaint regarding non-compliance with maternity benefits at the Labour Commissioner's office in Maharashtra is characterized by its systematic and transparent approach. The aggrieved party initiates the process by drafting an application outlining their grievances and submitting it along with necessary documents to the office. Notably, there are no fees associated with this process, and legal representation is not obligatory. Subsequently, both parties involved are summoned for a hearing within a reasonable timeframe, during which the Labour Officer facilitates the settlement process. This forum allows for the presentation of arguments and evidence, aiming to achieve a resolution. Overall, this procedure ensures accessibility and fairness in addressing grievances related to non-compliance with maternity benefit laws in Maharashtra.

#### **6.5.4. Maternity Benefits in Private and government Colleges**

Maternity benefits play a crucial role in supporting the health and well-being of women in the workforce, ensuring their rights are protected during pregnancy and childbirth. This is particularly significant in both private and public sector colleges, where female faculty and staff members contribute substantially to the educational environment.

In this study, researcher explore the maternity benefits offered in private and public sector colleges, examining the policies, practices, and implications for employees. Understanding the differences and similarities between these sectors is essential for promoting gender equality, supporting working mothers, and fostering a conducive work environment. To investigate the maternity benefits offered in private and public sector colleges in Mumbai, a mixed-methods approach was employed.

*A sample of five private colleges and two government colleges was selected randomly to ensure diversity and representation across sectors. In-depth interviews were conducted with the principals of both private and government colleges. These interviews aimed to gain qualitative insights into the implementation of maternity policies, organizational attitudes towards working mothers, and challenges faced in providing adequate support.*

While both private and public sector colleges aim to attract and retain talented individuals, their approaches to maternity benefits may vary due to factors such as funding, regulations, and organizational culture. This study aims to shed light on the current landscape of maternity benefits in private and public sector colleges, highlighting challenges, best practices, and opportunities for advancement.

These questions are well-structured and cover important aspects of maternity benefits in both private and government colleges.

#### **Questions:**

1. Do you provide maternity leave to your female employees? If so, how long and how many are paid versus unpaid?
2. Do you inform the employees about maternity benefits while their joining?
3. What are the eligibility criteria for availing maternity leaves?
4. Do you provide leave to adopting and commissioning mothers?
5. Do you also provide paternity leaves?

**Response:**

- **Maternity Leave Policy:**

*Three private colleges have a specific policy regarding maternity benefits, extending them exclusively to qualified professors who have completed a minimum of two years within the college, particularly those holding a NET/SET/PhD qualification. This policy might be aimed at providing benefits to those who have established a certain level of commitment and expertise within the institution. Such policies can vary from one institution to another based on their priorities and resources. Private colleges have differing policies regarding maternity benefits for non-qualified professors on a contract basis. Typically, these individuals are not eligible for maternity benefits. The duration of maternity leave also varies among colleges, with some offering three months and others providing six months. Whether these leaves are fully or partially paid depends on the specific policies of each college. It's notable that paternity leave is not offered by these private colleges. It appears from this interview, that the other two private colleges have not explicitly outlined their policies regarding maternity benefits for professors. Instead, they defer to the rules set forth by the management.* This suggests that their policies may be less formalized or subject to interpretation based on the management's discretion. In such cases, it's essential for faculty members to seek clarification from the management regarding their entitlement to maternity benefits.

*Principals of both the government colleges acknowledge the importance of providing maternity benefits in accordance with the law. Safeguarding the rights of female employees is crucial for promoting gender equality and ensuring fair treatment in the workplace. Maternity benefits not only support women during pregnancy and childbirth but also contribute to their overall well-being and job satisfaction. By complying with legal requirements related to maternity benefits, government colleges demonstrate their commitment to upholding labour laws and creating a supportive environment for female employees. This recognition from college principals underscores the significance of prioritizing the rights and needs of women in the workforce. Regarding paternity leave the govt. Colleges reveals that paternity leave is provided to male employees according to rules and regulations. As per the Central Civil Services (Leave) Rules, 1972, male employees with less than two surviving children are eligible for 15 days of paternity leave.*

**2. Information Dissemination:**

This study reveals that all *the 5 private colleges selected for the study do not systematically inform employees about maternity benefits upon their appointment*. Failing to inform employees about maternity benefits upon appointment can lead to several challenges, including lack of awareness, confusion, and potential underutilization of available benefits. The revelation from the principals of government colleges underscores a proactive approach to ensuring that employees are informed about maternity benefits. All new employees are informed about maternity benefits through official documents provided during the time of joining the service.

- **Eligibility Criteria:**

In private colleges, *the eligibility criteria for availing maternity leave can vary depending on the institution's policies and practices*. This study reveals that, Private colleges may require employees to have completed a minimum length of continuous service before becoming eligible for maternity leave. In this study, two private colleges reveals that, *this duration typically ranges from six months to one year, and other three colleges stated that this duration typically ranges from two to three years. Maternity leave eligibility may be limited to full-time employees. Part-time or temporary employees may have different eligibility criteria or entitlements based on their employment status and the college's policies*. This eligibility criterion is not disclosed by the principles of private colleges. But it can vary depending on the college's specific policies.

The principles of Government college's reveals that, *in government colleges, the eligibility criteria for availing maternity leave are often governed by labour laws and government regulations*.

- **Adopting and Commissioning Mothers:** Some private colleges asserted that, *Maternity benefits are not extended to adopting and commissioning mothers*.

By excluding adopting and commissioning mothers from maternity benefits, private colleges may inadvertently contribute to inequity and exclusion in the workplace. *Some private colleges do not give any reply to this question*.

Principles of Government colleges reveals that *government colleges do adhere to these provisions and provide maternity benefits to commissioning mothers and adopting mothers as per the amended law*. The Maternity Benefit Act of 1961 was amended in 2017 to provide maternity benefits to commissioning mothers as well as adopting mothers. Under the amended act, both commissioning mothers and women who adopt a child under three months of age are eligible

for 12 weeks of maternity leave. This amendment was a significant step toward recognizing the rights of all mothers, irrespective of the method of childbirth, and providing them with necessary support and benefits.

- ***The study on maternity benefits in private and public sector colleges in Mumbai provides valuable insights into the policies, practices, and implications for employees.***

By exploring the policies, practices, and implications of maternity benefits in these institutions, several key findings have emerged, highlighting both challenges and opportunities for improvement:

- Private colleges exhibit a diverse range of maternity leave policies, often tailored to the qualifications and tenure of employees. While some institutions have formalized policies aimed at supporting experienced faculty, others rely on management discretion, potentially leading to ambiguity and disparities in benefits provision.
- Government colleges demonstrate a commitment to upholding labour laws and promoting gender equality by providing maternity benefits in accordance with legal requirements. This proactive approach not only safeguards the rights of female employees but also contributes to a supportive work environment conducive to job satisfaction and retention.
- The lack of systematic communication about maternity benefits in private colleges underscores the importance of enhancing awareness and transparency among employees. Clear, consistent communication about benefits eligibility and entitlements is essential to ensure equitable treatment and utilization of available benefits.
- The eligibility criteria for maternity leave in private colleges vary widely, often dependent on factors such as tenure and employment status. Standardizing eligibility criteria and ensuring inclusivity for all employees are crucial steps towards promoting fairness and equity in benefits provision.
- Excluding adopting and commissioning mothers from maternity benefits in some private colleges may inadvertently contribute to inequity and exclusion in the workplace. However, government colleges adhere to legal provisions to ensure inclusivity and support for all mothers, irrespective of childbirth method.
- The study highlights the need for clear, consistent, and inclusive maternity leave policies across private and public sector colleges. By prioritizing the rights and needs of women in



the workforce, educational institutions can foster a supportive and equitable work environment conducive to employee well-being and organizational success.

#### **6.5.5. Understanding Maternity Benefits for Women Employees in Private and Government Hospitals under the Maternity Benefit Law**

Maternity benefits are a very important right for working women, ensuring they receive adequate support during pregnancy, childbirth, and the postpartum period. The Maternity Benefit Law plays a crucial role in safeguarding these rights, mandating specific entitlements for women employees across various sectors. This law aims to provide financial security, job protection, and essential healthcare services to expectant and new mothers, thereby promoting their well-being and that of their newborns.

In the context of healthcare employment, the implementation of maternity benefits under this law can vary significantly between private and government hospitals. While both types of institutions are required to comply with the legal standards, the actual delivery of benefits may differ due to variations in organizational resources, policies, and administrative practices.

The aim of this present study is for a detailed examination of how maternity benefits are implemented for women employees in private and government hospitals. By exploring the legal framework, practical application, and the experiences of employees, this analysis aims to shed light on the effectiveness of the Maternity Benefit Law in different healthcare organisations. Ultimately, this will provide valuable insights for policymakers, employers, and employees regarding the strengths and areas for improvement in the current system of maternity benefits.

In the context of this study, the researcher selected and visited *five private hospitals and three government hospitals* to understand the types of maternity benefits provided to women employees in both private and government healthcare institutions. However, private hospitals were not willing to provide detailed information on Maternity related issues.

These questions are well-structured and cover important aspects of maternity benefits in both private and government Hospitals.

#### **Questions:**

1. Do your female employees receive maternity leave? If yes, what is the duration, and how much of it is paid versus unpaid?

2. Do you educate employees about maternity benefits upon their recruitment?
3. Is leave provided to adopting and commissioning mothers?
4. Are paternity leaves also offered?

**Responses:**

The executives of two major corporate hospitals say that *“Absolutely, familiarizing oneself with the Maternity Benefit Act in India is crucial for female doctors, especially those working as consultants in corporate hospitals. Understanding their entitlements to paid maternity leave, medical bonuses, and other benefits ensures they can plan their maternity leave effectively while safeguarding their rights. As you rightly pointed out, staying updated on any amendments or additional policies set forth by their employer is equally important. Consulting legal professionals or human resources personnel can provide clarity on any recent changes and ensure compliance with the law. It's also worth noting that the Maternity Benefit Act serves as a protective measure, promoting the health and well-being of both the mother and the child during the crucial period surrounding childbirth. By adhering to its provisions, female doctors can prioritize their health and familial responsibilities without compromising their professional obligations.*

*In Mumbai, major corporate hospitals often adhere to maternity benefit regimes based on their own internal policies rather than standardized guidelines. This practice suggests a degree of autonomy in decision-making regarding maternity care, potentially reflecting varying approaches to employee welfare and healthcare provision within these institutions. While this flexibility may allow hospitals to tailor benefits to their workforce and operational needs, it also highlights the importance of transparency and accountability in ensuring equitable access to maternity benefits for all employees. Striking a balance between corporate autonomy and regulatory compliance is essential to uphold the rights and well-being of expectant mothers in the workplace. The executives of the private hospital chose not to respond to the second, third, and fourth questions.*

Private hospitals in Mumbai, like other establishments in India, are generally required to comply with the provisions of the Maternity Benefit Act regarding maternity leave for eligible female employees. This Act applies to all establishments, including private hospitals, that employ ten or more people.

*Despite multiple attempts, discussions with executives at three distinct purely private hospitals regarding their maternity compliance procedures have been met with reluctance and evasion. The apparent unwillingness to engage on this matter suggests a potential absence of a comprehensive maternity policy within these healthcare institutions. This void raises concerns regarding the adherence to established standards and protocols crucial for ensuring the safety and well-being of expectant mothers and their infants. The reluctance of hospital executives to address these inquiries underscores the need for greater transparency and accountability within private healthcare facilities, particularly concerning maternity care, which demands meticulous attention to regulatory compliance and best practices.*

The researcher conducted visits to *three government hospitals in Mumbai* to assess compliance with maternity benefits laws within the government healthcare sector. *During these visits, interviews were conducted with the Chief Medical Officers (CMOs) of the respective hospitals. CMO state that, in government hospitals in Mumbai, the policy regarding maternity benefits for female employees generally adheres to the provisions outlined in the Maternity Benefit Act. This Act mandates specific entitlements for women employees, including paid maternity leave, medical bonuses, and other benefits.*

Typically, female employees in government hospitals are entitled to certain duration of paid maternity leave, which varies based on the regulations set forth by the Maternity Benefit Act. This leave allows expectant mothers to take time off from work before and after childbirth to ensure their health and well-being, as well as that of their newborns. Additionally, medical bonuses and other benefits may be provided to support the financial needs of employees during this period. *CMO reveals that paternity leave is provided to male employees according to rules and regulations. As per the Central Civil Services (Leave) Rules, 1972, male employees with less than two surviving children are eligible for 15 days of paternity leave.*

*Government hospitals usually have established procedures in place to facilitate the application and approval of maternity leave for eligible female employees.*

Overall, the policy regarding *maternity benefits for female employees in government hospitals in Mumbai aims to prioritize the health and welfare of expectant mothers while also recognizing their rights as employees.* By adhering to the provisions of the Maternity Benefit Act and implementing supportive policies, government hospitals seek to create a conducive work environment that promotes the well-being of women employees during pregnancy and childbirth.

The present study reveals significant disparities in the implementation of maternity benefits between private and government hospitals in Mumbai. While government hospitals generally adhere to the legal standards set forth by the Maternity Benefit Act, private hospitals often operate according to their internal policies, leading to variations in the delivery of benefits. Moreover, the reluctance of executives at some purely private hospitals to engage in discussions regarding maternity compliance procedures raises concerns about the absence of a comprehensive maternity policy within these institutions. This lack of transparency and accountability underscores the need for greater scrutiny and regulation in the private healthcare sector, particularly concerning maternity care.

In conclusion, addressing these disparities and ensuring the effective implementation of maternity benefits across all healthcare institutions is paramount for promoting the health and well-being of women employees and their newborns. This necessitates collaboration between policymakers, employers, and employees to uphold the rights of expectant mothers and create a supportive work environment conducive to both professional responsibilities and familial duties.

#### **6.5.6. Maternity Benefits in Private and Government or Nationalised Banks**

This study aims to explore and compare the maternity benefits provided by private banks and government or nationalized banks. By examining the policies, duration of maternity leave, financial support, and other related aspects, this analysis seeks to shed light on the disparities and similarities between the two sectors. In the context of this study, the researcher selected and visited *five private banks and three government/ nationalised banks* to understand the types of maternity benefits provided to women employees in both private and government banking sector. However, private banks were not willing to provide detailed information on Maternity related issues. These questions are well-structured and cover important aspects of maternity benefits in both private and government Hospitals.

#### **Questions:**

1. What is the duration of maternity leave provided to female employees in your bank?
2. Are there any eligibility criteria for availing maternity leave benefits?
3. What measures does your bank take to prevent discrimination or bias against pregnant employees or those on maternity leave?

4. How does your bank ensure compliance with applicable laws and regulations governing maternity benefits?

**Responses:**

- **Duration of Maternity Leave**

The duration of maternity leave provided to female employees in our bank is in accordance with the prevailing statutory regulations. In these responses two executive official of private bank does not reveal the duration of maternity leave. *Executive officials of three Private Banks in Mumbai emphasizes the importance of supporting women during childbirth and childcare, ages 28 to 35, as crucial career obstacles. Executives of Private Bank's offers its employees a distinctive range of leave options: Six months of fully paid maternity leave, which can be prolonged by taking unpaid leave as required; 36 days of paid childcare leave annually for mothers or single fathers until the child reaches the age of 2 years; and 180 days of leave for employees undergoing fertility treatment.*

However, executives of the government/ nationalised banks stated that, *the duration of maternity leave provided to female employees typically aligns with the laws and regulations as prescribed by the maternity laws.* In India, female employees are entitled to a maternity leave of up to 26 weeks. However, it's important to note that this may vary based on specific regulations or policies of the bank.

- **Eligibility criteria for availing maternity leave benefits**

In private banks, eligibility criteria for availing maternity leave benefits typically vary based on the bank's policies and may also be influenced by local laws and regulations. Female employees may be required to have completed a minimum duration of service with the bank to qualify for maternity leave benefits. This duration can vary depending on the bank's policy but is often around one year of continuous service. *Employees must be in active employment status at the time of applying for maternity leave to be eligible for the benefits. Female employees seeking maternity leave benefits are typically required to comply with the bank's policies and procedures related to requesting and taking maternity leave.* This may include providing *advance notice to the HR department or their supervisor and completing any necessary paperwork.* Private banks,

as employers, emphasize the importance of adhering to relevant laws and regulations regarding maternity benefits in the jurisdictions where they operate. Consequently, the eligibility criteria for maternity benefits may be structured to align with the legal requirements outlined in labor laws or regulations pertaining to maternity leave.

Eligibility criteria for availing maternity leave benefits in government banks usually include the requirement that the female employee must have completed a certain duration of service with the bank. Additionally, she may be required to provide medical certification confirming her pregnancy and expected due date. **Following is the eligibility criteria followed by the Government Banks :-**

- The employee must have worked for the employer for a minimum of 80 days in the twelve months immediately preceding the expected date of delivery.
- The employee must provide written notice to the employer stating her intention to take maternity leave and the duration of leave.
- Maternity leave can be availed for a maximum period of 26 weeks for the first two children. For the third child onwards, the duration of leave may be reduced to 12 weeks.
- The employer must not terminate the services of a female employee during the period of her maternity leave.
- Maternity leave benefits must be provided in accordance with the provisions of the Maternity Benefit Act, including the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence.

- **Prevention of Discrimination:**

Executives of private bank stated that they have a *zero-tolerance policy towards discrimination or bias against pregnant employees or those on maternity leave*. They asserted that they conduct regular training sessions for managers and staff to promote awareness of employee rights and to foster a culture of inclusivity and respect.

Government banks take various measures to prevent discrimination or bias against pregnant employees or those on maternity leave. *These measures may include implementing policies that ensure equal treatment of all employees regardless of their pregnancy status, providing awareness and sensitivity training to managers and colleagues, and establishing channels for employees to report any instances of discrimination or bias.*

- **Compliance with Laws and Regulations**

Executives of private banks stated that *ensuring compliance with applicable laws and regulations governing maternity benefits is of paramount importance to bank*. They stated that they have dedicated HR personnel who stay updated on legislative changes and ensure that our policies and practices align with the legal requirements. Additionally, they conduct periodic audits to verify compliance and address any discrepancies promptly.

*Executives of Government banks stated that they ensure compliance with applicable laws and regulations governing maternity benefits through strict adherence to legal requirements and continuous monitoring of their policies and practices.* This may involve regular audits, updating policies to reflect changes in legislation, and providing training to HR personnel and managers on compliance matters. Additionally, banks may engage legal experts or consultants to ensure they are fully compliant with all relevant laws and regulations regarding maternity benefits.

This analysis of above-mentioned study reveals that the maternity benefits provided by private banks and government/nationalized banks, highlighting both similarities and differences in their policies and practices. Private Banks, while not always forthcoming with detailed information, generally offer comprehensive maternity leave packages exceeding statutory requirements, including fully paid maternity leave, childcare leave, and support for fertility treatment. Eligibility criteria in private banks often revolve around minimum service duration and active employment status during the leave period. They also emphasize a zero-tolerance policy towards discrimination, supported by regular training sessions.

On the other hand, government/nationalized banks typically align their maternity leave policies with statutory regulations, providing up to 26 weeks of maternity leave. Eligibility criteria may include minimum service duration and the provision of medical certification. They also emphasize preventing discrimination through policies, awareness training, and channels for reporting incidents.

Both sectors prioritize compliance with applicable laws and regulations, with private banks relying on dedicated HR personnel and regular audits, while government banks emphasize strict adherence to legal requirements, continuous monitoring, and staff training.

Overall, this study underscores the importance of maternity benefits in supporting working women and ensuring their well-being during pregnancy and childbirth. It also highlights the role of both

private and government sectors in implementing policies that promote gender equality and create inclusive work environments.

#### **6.5.7. Maternity Benefits in the Corporate Sector: Supporting Working Mothers through Policies and Practices"**

Recognizing the significance of this demographic within the workforce, many corporate entities have implemented comprehensive maternity benefit programs. These programs not only aim to support mothers during the pivotal stages of pregnancy and childbirth but also strive to promote gender equality and work-life balance.

*For this study, five leading corporate sectors have been chosen for study.* Here are some structured interview questions customized to collect information about maternity benefits in the corporate sector.

#### **Questions**

- Can you provide an overview of the maternity benefits offered by your company?
- What is the duration of maternity leave provided to employees in your company?
- How does your company ensure compliance with relevant legal regulations regarding maternity leave and employee rights?
- What measures are in place to protect the jobs and careers of employees who take maternity leave?

#### **Responses**

- **Overview of Maternity Benefits:**

Executives of the top companies stated that they offer comprehensive maternity benefits aimed at supporting expecting mothers throughout their pregnancy and postpartum period. These benefits encompass various aspects such as paid maternity leave, access to prenatal care, flexible work arrangements, and resources for parental support. All the top corporate sectors stated that maternity benefits program is designed to support expecting and new mothers through various stages of their journey into motherhood. They offer a comprehensive maternity leave policy, providing expecting mothers with ample time off before and after childbirth. Their policy typically includes both pre-natal and post-natal leave, ensuring that mothers have sufficient time to rest,



recover, and bond with their newborns. The duration of maternity leave and whether it's fully paid, partially paid, or unpaid varies based on factors such as length of service and local regulations.

- **Duration of Maternity Leave:**

However, typically, maternity leave durations can vary among companies and may be subject to change over time due to factors such as company policies, legal regulations, and industry standards. This duration may vary based on factors such as tenure, position, and regional regulations.

- **Compliance with Legal Regulations:**

Ensuring compliance with relevant legal regulations regarding maternity leave and employee rights is a top priority for all the corporate sectors. They asserted that they regularly review and update their policies to align with local laws and regulations pertaining to maternity benefits and employee rights.

- **Job Protection Measures:**

To safeguard the jobs and careers of employees who take maternity leave, all the corporate sectors has implemented several measures. These include maintaining communication with employees during their leave, offering opportunities for flexible return-to-work arrangements, providing access to resources for career development and advancement post-maternity leave, and ensuring non-discrimination and equal opportunities for career progression.

The executives of top companies in India emphasize their commitment to providing comprehensive maternity benefits aimed at supporting expecting and new mothers throughout their journey into motherhood. These benefits encompass various aspects such as paid maternity leave, access to prenatal care, flexible work arrangements, and resources for parental support.

Their maternity benefits program is designed to ensure that expecting mothers have ample time off before and after childbirth, with policies typically including both pre-natal and post-natal leave. The duration and compensation of maternity leave may vary among companies, influenced by factors such as tenure, position, and regional regulations.

Compliance with legal regulations regarding maternity leave and employee rights is a top priority for these corporate sectors. They regularly review and update their policies to align with local laws and regulations, ensuring that employees receive their entitled benefits.

To safeguard the careers of employees taking maternity leave, these companies implement job protection measures. These measures include maintaining communication with

employees during their leave, offering flexible return-to-work arrangements, providing access to resources for career development post-maternity leave, and ensuring non-discrimination and equal opportunities for career progression.

## **6.6. Conclusion**

The conclusion drawn from the above-mentioned various analyses provided is clear: maternity benefits are crucial for supporting working women throughout their journey into motherhood, ensuring their well-being, and promoting gender equality in the workforce. Across different sectors such as healthcare, education, banking, and corporate industries, there are notable differences in the implementation of maternity benefit policies between private and government institutions.

Private institutions, including hospitals, colleges, banks, and top companies, often offer comprehensive maternity leave packages exceeding statutory requirements. They emphasize support for expecting and new mothers through various benefits such as fully paid maternity leave, childcare leave, flexible work arrangements, and access to prenatal care and resources for parental support. These institutions prioritize compliance with applicable laws and regulations, often implementing internal policies and training programs to prevent discrimination and ensure employee rights.

On the other hand, government institutions typically align their maternity leave policies with statutory regulations, providing maternity benefits in accordance with legal requirements. While their policies may be more standardized, they also emphasize preventing discrimination through policies, awareness training, and channels for reporting incidents. Overall, the analyses underscore the importance of maternity benefits in creating inclusive work environments and supporting the health and well-being of women employees and their newborns. Collaboration between policymakers, employers, and employees is essential to ensure the effective implementation of maternity benefit policies across all sectors, promoting gender equality and societal progress as a whole.

## **CHAPTER - VII**

### **CONCLUSION AND SUGGESTIONS**

#### **7.1. Overview**

Society expects genders to play specific roles. Historically, men have been attributed with the qualities like strength and women with qualities like management and child-rearing. This trend had nurtured in the present time to some extent. But due to globalization and the dawn of technology, women have started to multiply their roles in different areas. From not just being recognized as mothers, women have shown their successful attributes as entrepreneurs, artists, businesswomen, industrialists, engineers, and doctors, to name a few. This role has allowed women to juggle different tasks and stay competitive. The women have started to move shoulder to shoulder with men. However, one biological attribute of biological child rearing remains exclusive for women. Therefore, despite extraordinarily proving themselves, women remain vulnerable to workload while bearing a child due to the physical and psychological toll it takes on becoming mothers. Henceforth, as enumerated in this research, maternity benefits were introduced for women. This research discusses that maternity benefits allow women to properly conduct their pregnancy and childbirth in a preventive and financially sound manner and enable the newborn child to attain proper care and nourishment at the behest of their mother. The provision is a well-rounded enabler for women to strive in an egalitarian manner. The Maternity Benefit Act is a pro-social legislation aiming to provide maternity benefits before and after childbirth to women expecting a child.

This study discussed all the provisions relating to the maternity benefit Act 1961 and mainly dealt with the available literature to determine whether these provisions are manifested in Toto among working women in the public or private sector. This study has endeavoured to Exhaustively ventilates and explore maternity benefits in terms of not only its etymological derivations but also the study delves upon its historical background and its international exploration through various conventions and Declarations. It's legislative ratification in the domestic domain, the fruition of which is the present Maternity Benefit Act, 1961 and its subsequent amendment in 2017.

## 7.2. Testing the Hypothesis

Regarding the testing of the hypothesis, the researchers hypothesized that "The effects of insufficient statutes lead to an indisputable infringement of maternity rights in the private sectors and that India lacks the appropriate and adequate laws and legal mechanism for maternity protection in the private sector." In the present study, upon empirical research, it can be stated that maternity rights in the private sector are infringed upon due to a lack of proper implementation of acts. The suggestions proposed by the respondents in the research also indicate an iota of insufficiency as far as statute is concerned. The private sector especially suffers from intricate lapses as far as provisions relating to maternity breaks and medical bonuses are concerned. (Figure 6.3.1.3.) The empirical research has also shown that the private sector has also led to infringing the mandate of section 11A, which requires intimation to the women both in writing and electronically about every single maternity benefit made available by the provisions of the Act. (Figure 6.3.2.11.)

Not only is there a stark indifference between the proportions of the respondents belonging to the private sector of their lack of knowledge about the provisions offered to them in comparison to the level of awareness amongst the respondents belonging to the public sector, but also one must realize from the parameters of research that there were commonality factors about the improvements which could be furthered to the act. (Figure 6.3.1.15) These improvements amounted to a range of areas touching the extension of the leave period, availability, creche, increment in the bonuses, reduction in unwarranted dismissals and discharge, and so forth. (Figure 6.3.2.14) Most respondents agree that the Act needs to be revamped, thereby implicitly declaring it as short lacklustre legislation. Not only do both the general and the special categories of respondents disagree with the fact that this Act is insufficient, but also the respondents show a discreet lack of interest in the claim of maternity benefits due to their subjective personal beliefs, which may range from their lack of knowledge or disbelief in successfully availing such benefits. (Figure 6.3.1.7. and 6.3.2.6.)

The researcher also hypothesized at the beginning of the research that there need to be more legal mechanisms with various flaws to guarantee maternity benefits which the Constitution had fundamentally recognized as the duty of the state U/A 42 of the Constitution of India. The hypothesis has stated that the Act doesn't safeguard the interest of women. However, it can be seen from the empirical analysis that there indeed exists a legal mechanism for maternity protection in

the private and public sectors. (Figure 6.3.1.6. and 6.3.2.5) Still, the same needs to be adequately implemented as empirical research that many respondents want the strict application of the provision of the Act.

### **7.3. Conclusion**

The study undertaken by the researcher is divided into seven chapters.

#### **Part-A**

Chapter one of the study has highlighted the concept of maternity benefits per se. The chapter introduces not only the research and reviews abundant literature available about maternity benefits but also endeavours to throw light on the problem profile and briefly advances the undertone significance of this research. This research was initiated to propound that women are entitled to the maximum and fulfilled social security measures. Social security is an integral and significant part of any citizen's life in India.

Chapter Two, titled 'Evolution and growth of Maternity Protection Laws in India,' has elaborately discussed the mandates of maternity benefits since its inception and its growth in India and abroad. Though the concept is relatively modern and has its roots only in the dawn of globalization, the International Labour Organisation has been the primary source of providing such provisions and its introduction in Indian laws. The chapter enumerated the policy decisions of the Indian government to ratify the ILO conventions. Furthermore, other Indian policies, like National Maternity Benefit Scheme and Indira Gandhi Matritava Sahayog Yojana, were discussed elaborately in this chapter. The researcher observes that this chapter underlines how the approach of maternity benefits has been adopted in India and the way forward for its improvements taking the model of maternity benefits from Norway, where it is provided for a period of 44 weeks and Canada, where it is supplied up to a period of fifty weeks.

Chapter three, titled "Maternity Benefits: International Perspectives and conventions," discusses the role of supranational organizations and first-world countries in extending and enforcing maternity benefits through their hegemony, socioeconomic, and geopolitical stance. Developed countries like the United Kingdom, Germany and the United States of America have fundamentally contributed towards introducing, revamping and revolutionizing maternity benefits not merely from a perspective of providing physical relief of work with economic benefits of

salaries but also from psychological and physiological and biological spheres so that overall development of a mother, womb and subsequent childbirth is not to be jeopardized. This modernist approach has allowed developing countries like India, Pakistan, Nepal, and other countries to oversee the hurdles that surfaced for women employees going through pregnancy. These provisions allowed the employers and establishments to foresee the issues and the employees to realize the rights which can be claimed and availed by them.

As far as the international convention is concerned, the researcher had already explored the mandates of the international labour organization, which had taken the first chance instead of maternity benefits at a global level. Being a supranational organization, the organization had advanced three conventions in 1919, 1952 and 2000. The most recent convention, which is the maternity protection convention number 183, furthered the breakthrough protectionist regime in terms of its policies concerning health as well as safety hazards, strict entitlement to maternity relief, advanced provisions relating to child healthcare and the quintessential breastfeeding breaks, which are inevitable for maintaining nutrition and growth in the child.

The provisions also extend to women's protection and job security, allowing women to propel financial security even during leave with paid maternity benefits. There is a four-dimensional approach which has been imparted to almost all domestic legislations, namely firstly, the duration of the rest; secondly, the remuneration which is given during the break; thirdly, the job protection of the beneficiary; and fourthly, the monetary benefits and security which are to be streamlined in consonance or segregation as per the time and the need of the beneficiary. Therefore, the international provisions, still evolving, have fundamentally shaped the maternity laws in India and are expected to improve even more.

Chapter Four, titled “Constitutional and Legislative Framework for the Maternity Benefits In India,” discusses the legislative history and the Constitutional mandates of maternity benefits. Social justice comes from the constitutional order of socialism, and socialism has been derived from the purposive interpretation of the Constitution. Socialism is indeed a characteristic of Indian society, which is to be read to be interpreted as a secular democratic socialist. The Constitution of India is *prima facie* a social document aiming to introduce a socio-economic revolution.

The primary purpose and the preambular goal of the Indian Constitution are to bring about fraternity. The fraternity would furthermore promote the unity and the integrity of the nation and uplifts the dignity of the individual. The purpose of the maternity benefits Act has been discussed

widely in Chapter one of the study, which is to protect the pride of motherhood and the dignity of the new person's birth by providing for the full and healthy maintenance of the woman and her child at this critical time when she is not working.

Therefore, it can be concluded that the Act aligns with the Constitutional goals. It is furthermore stated that in every society, securing social justice for one and all is essential simply because such an individual exists in society. Merely the fact of existence is sufficient for an organization to guarantee such constitutional goals. Maternity benefits, on similar lines, draw a qualification that simply because a woman is expecting and falling within the applicability clause of the Act, such a woman is entitled to maternity benefits. Simply put, it is concluded that social justice for expecting mothers equals maternity benefits.

Socialism works on a two-fold narrative: equality of status and opportunity and freedom of thought, expression and belief. Considering these narratives in line with maternity benefits, it can be observed that as far as equality notions are concerned, women are entitled to be protected under special norms of Article 15(3), which does not go against the ideas of equality, instead, acts as an enabling and saving clause for the State to make special laws for the protection of women and children. Regardless, it is the state's discretion concerning what would be deemed special provisions for women and children.

The purpose behind such a provision in Article 15(3) under the Constitution of India was that women and children were always considered vulnerable. Considering the state of affairs, it was an expectation of the Indian society, through its representatives and the Constituent Assembly, to take proactive and rational actions in favour of women and children. The maternity benefits are not just pro-women legislation; the benefits primarily focus on the children. Though the debate on the equality notions of Article 15(1), which states that discrimination is prohibited on the grounds of sex, Article 15(3) does not abrogate or abridge Article 15(1) but merely creates a saving clause for the protection of women and children—article 14 guarantees equality before the law and equal protection of the law. Articles 15(1), 15(2) and 15(3) are not the expectations of Article 14 but are considered extensions of Article 14 of the Indian Constitution.

Chapter Five, “Judicial Framework Regarding Maternity Benefits in India,” Discusses the judicial matrix of the Indian judiciary and the transformative constitutionalism notions which have evolved over the years in India. The chapter highlighted various landmark judgments on India's Supreme Court and High courts. The researcher has discussed landmark judgments like Female

Workers (Muster Rolls) v. Municipal Corporation Delhi, wherein the Apex Court had entitled even the women working in casual work or on muster rolls to be entitled to maternity benefits. Furthermore, in the case of Rattan Lal v. the State of Haryana, the Supreme Court allowed maternity benefits to be extended to ad-hoc teachers. In the case of Bombay Labour Union v. International Franchises Limited, the court had exponentially revolutionized the military norms to support women to continue their service in the military even after their wedding. It dismissed the patriarchal notions of taking leaves or being absent merely because they were married.

In the case of *B. Shah vs Presiding Officer, Labour Court, Coimbatore*, the Apex Court discussed the period of maternity relief to include Sundays or not, and the Court had enunciated upon the Constitutional mandate and the physical, financial and biological needs of the women to be accounted for while calculating holidays being a paid break. The landmark case of *Air India v. Nergesh Mirza* also highlighted the controversy related to dismissing a woman merely because her pregnancy was brought before the Court. The Court held that such regulations that terminated women from their employment due to pregnancy are unjust and arbitrary, violating Article 14 of the Constitution.

## **Part - B**

Chapter Six undertakes a non-doctrinal approach to illuminate prevailing societal attitudes towards maternity benefits. Through a meticulously crafted questionnaire, the researcher sought to unravel insights into both employer compliance with legal mandates and the level of engagement exhibited by employees regarding maternity benefits. This chapter is anchored in empirical data collected directly from respondents, thereby providing a robust basis for analyzing the research hypothesis.

The empirical analysis conducted in this chapter provides invaluable insights into the complex landscape surrounding maternity benefits. It reveals a significant proportion of respondents who either do not actively seek out maternity benefits or encounter barriers in accessing them. These barriers predominantly stem from either shortcoming on the part of employers in implementing legal provisions or a lack of proactive engagement from employees themselves.

Through a systematic examination of real-world responses and experiences, this chapter serves as a crucial phase in testing the hypotheses posited in earlier sections of the research. By



juxtaposing theoretical frameworks with empirical evidence, the researcher can critically evaluate the validity of assumptions and theoretical constructs underpinning the study.

Building upon the nuanced insights gleaned from the empirical analysis, this chapter proffers a set of practical recommendations aimed at mitigating the identified challenges. These recommendations are designed to bridge the gap between statutory provisions and their actual implementation, thereby ensuring that both employers and employees are fully cognizant of their rights and obligations under the Maternity Benefits Act.

Central to the proposed recommendations is the imperative of enhancing awareness and fostering vigilance among all stakeholders. This entails the implementation of targeted educational initiatives geared towards enlightening both employers and employees about the significance of maternity benefits and equipping them with the requisite knowledge to navigate the application process seamlessly. By cultivating a culture of compliance and accountability, organizations can cultivate an environment that is supportive and accommodating to the needs of expectant mothers in the workforce.

Looking ahead, the insights gleaned from this chapter hold profound implications for future policy formulation and organizational practices. By addressing systemic barriers to the utilization of maternity benefits, stakeholders can contribute tangibly towards the creation of a more equitable and inclusive workplace environment that caters to the diverse needs of all employees, regardless of their parental status.

In conclusion, Chapter Six stands as a pivotal milestone in the research journey, furnishing invaluable empirical evidence to inform subsequent analyses and recommendations. By synthesizing theoretical frameworks with real-world observations, this chapter facilitates a nuanced understanding of the multifaceted challenges surrounding maternity benefits and lays the groundwork for meaningful interventions aimed at enhancing access and utilization.

## **7.4. Suggestions**

Some suggestions have been proposed by the researcher, which are related to bringing about some amends in the existing Maternity Benefits Act and, at the same time, introducing some new provisions governing the Maternity Benefits Act and its allied rules and schemes. These suggestions are enumerated below:

### **7.4.1. Legislative Measures**

Some law and policy amends are needed to be introduced; these are discussed herein below:

#### **7.4.1.1. Maternity breaks are to be extended**

The researchers propose that the time provided by the maternity act for maternity breaks shall be extended from 26 weeks to one year. The maternity break time of 26 weeks was developed by the maternity benefits Act of 2017. This amendment has amended sub-section 3 of section 5 to increase the period of maternity breaks from 12 weeks to 26 weeks. Now the researcher proposes that 26 weeks' time period shall be extended to 52 weeks, which would be equal to one year in which prerequisites of childcare like nourishment obtained from breastfeeding, postnatal care like health check-ups and childcare facilities in the realm of family, safety, security and upbringing would be predisposed. This Delineation of protective measures, which comes in the tune of extension of the period, gives umbrella protection to both the mother and the child for them to feel secure and proliferate to thrive and flourish within the adequate time.

Out of this one year of this period which is suggested to be provided to women claiming maternity benefits, a period of 18 weeks can be delivered to women before the birth of the child, and the remaining 34 weeks can be given to women after the birth of the child. Thirty-four weeks can amount to roughly eight months of the period, which is sufficient for a child to remain in the company of their mother to be protected from certain illnesses and other long-term diseases like Nasopharyngitis which is called the common cold, acute Tonsillopharyngitis, which is called swollen tonsils and strep throat which are some respiratory infections caused by bacteria and viruses.

Infants also face ear pain, urinary tract infections, skin infections, and bronchitis, to name a few. The lawmakers must bring about the central legislation to be in tune with Tamil Nadu's government decision to increase the maternity leave of government employees to one year. Though some experts and nutritionists have put forth that breastfeeding beyond six months is a matter of the mother's and family's choice and relies upon other practical issues.

#### **7.4.1.2. Social Security Scheme**

A provision concerning a new social security scheme can be introduced wherein a child who has been born to a mother governing under the provisions of the Act can set up some insurance scheme for the child from the maternity benefits itself. The system would enable a child's social security in terms of his or their health, education and career. The scheme can allow both parents

to contribute as per a monthly or yearly premium, providing interest per the financial budget and other economic factors. This step can provide a stable economic atmosphere for a child born to a working woman. An option to withdraw can also be provided from this scheme so that such funds could be directed towards the wishes of the women employee as per the time and needs. A few projects are already running on similar grounds, like the National Pension Scheme and the Atal Pension Yojana.

#### **7.4.1.3. Establishment of Grievance Redressal Tribunal**

A tribunal for addressing maternity benefits grievances could be established, extending a grievance redressal model to women to have a quasi-judicial intervention in case of violating their statutory rights enumerated under the Act. The powers of the inspectors under Section 17 of the Act are only limited to taking complaints, making enquiries and making orders for such payments; however, it becomes a judicial proceeding under Section 24, and the court of Presidency Magistrate or the Judicial Magistrate First Class takes cognizance of the offences. This procedure can suffer from lapses involved in criminal investigations and prosecutions, which make a pregnant woman who has delivered a child or suffered from miscarriage or medical termination go through long-hauled processes that are technical. Instead, a tribunal has a more remedying tendency to quickly and steadfastly allow women to approach the grievances or even grievances against inspectors' decision for denying maternity benefits and allow justice to be delivered readily and speedily.

#### **7.4.1.4. Capital Expenditure for the Employers**

A new provision could be introduced under the Act wherein a company or establishment having fifty or more employees with not less than twenty women employees should establish a Maternity Benefits Fund, which would have uniformly accumulated contributions. These funds would be readily available for the women claiming maternity benefits quickly without any further delay and serve the Act's purpose. These kinds of funds would be beneficial to both the employee as well as the employer. They would be relieved of the immediate financial burden borne upon them during the absention of the employee. Furthermore, it would be socially beneficial to the community to be assured of maternity benefits as and when claimed under the umbrella protection of this fund.

#### **7.4.1.5. Outsourcing of Creche facilities**

The researcher also proposes that the creche facilities could be outsourced to a safer and healthier environment or surrounding which are safer for children. The creche or daycare facilities are supposed to be nearer to the establishment. However, certain establishments with toxic or lethal processes and substances involved posed danger to children, regardless of their remoteness to establishments. In such cases, it is suggested to outsource the identical to some professional establishment of day-care and creche facility and give relaxation to the employees furthermore to have visiting breaks for the children who are situated at farther facilities. This would safeguard the children's health from direct or indirect threats from hazardous establishments and the employer's capital expenditure, composed of setting up multifunctional hygienic creche facilities within the establishments.

#### **7.4.1.6. Incorporation of Creche facilities within the Establishments**

The researcher also suggests that the creche facilities should be incorporated within establishments that do not deal with lethal or hazardous substances so that the employee could have visitations fixed for at least four times a day, statutorily permissible with the child to a nearby place. This would enable the employee to work efficiently and save time for moving around the workplace and the creche facility. Additionally, it would also save the energy of the employee. These provisions would also serve an employer to safeguard her capital expenditure, which is eaten up by outsourcing or establishing a creche or daycare outside the establishment.

#### **7.4.1.7. Extension of this Act to more establishments**

Though the Act accommodates several establishments under this purview, there exist many smaller establishments and organizations to which this Act is not applicable. There needs to be an extension of provisions of this Act to other establishments so that all women can equally benefit from this legislation. This Act is limited to very few establishments, while the number of employees has also been fixed for availing certain benefits. This is partial and arbitrary for employees who do not fall under this Act's protection. Therefore, it is suggested that Act should be extended to more establishments by way of adequate amendments.

#### **7.4.1.8. Provisions for Paternity Leave**

The Act has been *prima facie* made for the benefit of women and being a pro-women legislation, it does not consider the plight of a to-be father or a becoming father. This causes severe inequality if viewed from an outsider's perspective. Therefore, the researcher proposes that provisions could

be introduced under the Act, which also provides some relief to the fathers of the child under paternity benefits, which would enable them to fill in the shoes of the mother in case of the end of the leave period of the mothers. There could also exist exceptional circumstances wherein no one is available at the domestic setup of the mother's employees to leave their child behind under the care and safety of a family member, wherein paternity leaves could be claimed by the fathers of the child to babysit or parent their child under such extraordinary circumstances.

Providing such facilities would not only bring about a social transformation as far as parenting roles are concerned but also offer more opportunities for women to grow professionally despite their exclusive biological capabilities of bearing the children. The researcher also highlights that one must realize that women are not merely child givers but also individuals with their own goals and aspirations. Paternity leaves are a way forward to ensure additional responsibilities for the father. These provisions can be stated by amending the Act to allow fathers to take leave for a few weeks at a specific time interval. Another possibility that might creep up is the situation wherein women deliberately relinquish their maternity benefits due to the impact it might have on their professional pace. In such cases father may be allowed to avail the paternity leaves to remain present for their infants at such a tender and essential part of their age.

#### **7.4.1.9. Punitive Measures to be Increased**

There also lacks a proper punitive measure under this Act as the maximum punishment that the Act prescribes is the punishment of up to three months and a fine of up to three hundred rupees which are far less as far as the ramifications of the violations of the Act are concerned. In any circumstance wherein the employer forces women to work during maternity or denies maternity benefits or medical bonuses, it can severely impact women and children physically, psychologically and financially. Given these significant impacts of the violation of the Act, as per the researcher, the punishment is far less practicable and should be increased. The researcher promises that the punitive sentencing should be increased to up to one year of imprisonment and a fine of up to ten thousand rupees in case of employer or company violation. This would cause rather a deterrent effect upon employers to strictly adhere to the Act and its rules and not deprive the employees of any benefits under the Act.

#### **7.4.1.10. Leave to be increased for Commissioning Mother and Adoptive Mother**

Upon the comparative analysis of maternity benefits, it has been observed by the researcher that the adoptive or commissioning mothers are granted six months leave period in Singapore. In contrast, on the other hand, in India, the commissioning or adoptive mothers are only provided twelve weeks of leave maximum, which amounts to three months. The researcher states that this period is insufficient for the newly born child to remain in the custody of a parent, be it adoptive or otherwise. Therefore, this period is suggested to be increased up to six weeks for a child to attain the maximum nutrition and care of a mother.

#### **7.4.1.11. Empowered Human Resources**

The human resources department of establishments and organizations should be empowered enough to take executive actions against high officials in case any Act violation occurs. These powers should be defined under the supplemental rules to the Act, along with the representation of the employees and the composition of a specialized committee under the human resources department of the establishment or company. This would assure the opportunity of being Heard to both the employer and the employee and provided an early redressal of grievances concerning maternity benefits.

### **7.4.2. Implementation of Law**

There are also some suggestions in terms of implementation so that the provisions of Maternity benefits are strictly and sufficiently adhered to.

#### **7.4.2.1. Role of Government**

The researcher proposes that the government's role is fundamental in establishing a proper maternity benefits regime. Governmental schemes which are already in existence merely provide such benefits to weaker or economically backward sections of society but do not extend to the employees who belong to the middle branch of the organization. Government has a vital role in disseminating information about maternity benefits in all departments and adhering to the statutory provisions. The manifesto of several political parties has assured and promised benefits on similar grounds to women in the past.

However, such promises remained unfulfilled to some extent, per the general public's opinion. Therefore, it becomes all the more critical for the government to adhere to such provisions

and ensure adequate implementation fully. The appointment of inspectors is yet another vital role of the government as the government has to appoint not only such inspectors in consonance with the Act but also make sure such person has a good standing and is free from ill will or any vices. A proper background check and ensuring the role and responsibilities of such inspectors are played adequately is another government responsibility that shall be exercised without any prejudice. Representation of minorities or vulnerable groups should also be added as the criteria for the appointment of inspectors.

The researcher also proposes that half of the maternity benefits burden should be borne by State Government so that the establishments or employers do not suffer from excessive spending capital expenditure, and the state government could contribute to this social welfare cause.

#### **7.4.2.2. Responsibility of Employers**

Employers also share a particular responsibility towards the employees and society at the more significant level to adhere to the mandates of the Act. This could only be made possible if the employers realize subconsciously that it is their paramount summon bunkum duty towards humankind not to violate provisions relating to the maternity benefits Act. The woman bearing a child is in dire need of rest and a safe environment. Under such circumstances, if the employer violates her rights against maternity benefits, such an employer becomes a subject of punishment under the law and a sinner of humanity. Such kinds of acts should be condemned and punished on the part of the employer. Therefore, the researcher suggests that the employer's roles and responsibilities should be increased under the Act to provide maternity benefits upon notice of the employees and otherwise if the information has not been served upon the employer. If the employer has learned that an employee is subject to maternity benefits, then such an employer shall provide those regardless.

Secondly, employers must organize workshops and other informative programmes for employees to update them about recent changes and amendments to maternity benefits so that no stone is left unturned for the employees to claim their benefits.

Thirdly, the employers can also be added burden of insuring the employees during the period of the maternity benefits so that it becomes a more significant responsibility on the part of the employer to adhere to national or private insurance services during the term of pregnancy of the employees to safeguard them from physical or mental turmoil. Lastly, employers should be required to cause no laches or delay for availing the salaries for the paid leave period of maternity

benefits. If any unusual delay is made, such an act should be punishable. These suggestions would make employers more answerable and empower employees by removing hesitation to claim their rights and confidently doing the same. The employers are not merely employing the employees but also acting as the employees' principal. This relationship with the agency requires trust and inspires confidence to work effectively. This can only be achieved if both employer and employee act for other interests.

#### **7.4.2.3. Responsibility of Employees**

The responsibility of the employee is also equally important. Not only is the employee the exclusive beneficiary of the Act, but the employee also has the primary responsibility of issuing a notice of maternity leave and claiming other benefits like bonuses, nursing breaks, etc. Therefore, when the employer is doing their duty to implement the provisions of the Act by taking all the measures, the responsibility shifts on the employee to claim it. Once the employer has informed the employee about maternity benefits, they still need to claim them. The employee must be at fault for her negligence towards the official duty.

The researcher suggests that responsibility should be enlarged upon employees to follow the employers' instructions properly. Employees should be made to take quizzes or questionnaire tests after they understand the provisions of the Act so that input can be drawn from the qualitative data about their inherited learning acquired through such dissemination of information by the employer, government, etc. It would improve the outreach of the Act and reinforce the knowledge through adequate testing and retesting until the employee entirely imbibes such information about the Act. This kind of activity or practice tends to the employees to increase the claiming of maternity benefits and stand up against any arbitrary action on the part of the employers.

#### **7.4.2.4. Strict Implementation of the Act**

The empirical analysis of this study found that this Act has yet to be implemented strictly. The researcher proposes that the Act should be strictly implemented through all means by increasing the number of inspectors appointed under the Act. Also, the State Government should establish a nodal officer to whom inspectors report concerning the cases of maternity benefits which have surfaced in their respective jurisdictions. The report shall also contain the number of employees who have availed of these benefits and those who have yet to be provided with these benefits. Furthermore, the Act could be more strictly implemented by invoking the penal



provisions upon the violators of the Act. Ensuring that the sentence is served and the fine is imposed, the purpose of the Act could be adequately safeguarded.

### **7.4.3. Miscellaneous**

Some other miscellaneous suggestions are enumerated herein below:

#### **7.4.3.1. Role of Individuals**

No matter how well-oiled the mechanism exists, whether the Parliament or legislature draws well-drafted provisions, or how well-implemented the requirements by establishments or employers are, it all comes to individuals. The empirical research findings also suggest that in many instances, individuals who are employees have lapsed by themselves to claim such provisions. It becomes the responsibility of the citizens or women employees to learn, remain vigilant and educate themselves and others to adhere to the requirements of the Act. When invocation of this Act is required, the employees should help each other in using such provisions.

Individuals can organize support groups, communities, or non-Governmental organizations to approach concerned authorities for claiming or remedying such conditions concerning maternity benefits. Individuals as a group or family units should also support each other in exercising their constitutional, legal and statutory rights. These rights are available for one and all equally, and therefore, all individuals must claim these rights by invoking push and pull factors. The push and pull factors enable the downtrodden and non-vigilant sections to become informed citizens.

#### **7.4.3.2. Awareness and Education**

Awareness and education are the primary methods of invoking the provisions of the maternity benefits Act. However, the Act of 1961 needs to make more effort to enforce this responsibility. The Amendment Act of 2017 obliged the employer to inform all employees of the Act's provisions in writing. The education system needs to improve its infirmities regarding statutory requirements and governmental policies. The researcher advances that the government and establishments should take stringent steps to ensure the proper implementation of the Act. Educating women as well as men is very important. Even by educating men, such benefits could be substantially availed as it is believed that one educated person in a family tends to inform the entire family.

Awareness methods like organizing campaigns, distributing pamphlets, publishing literature, arranging clubs, providing helpline support through toll-free numbers, and disseminating information through print and electronic media like newspapers, radio, television,

podcasts, internet videos, live streaming, etc., are some measures which the researcher proposes, would adequately and sufficiently allow women to be informed about the provisions of maternity benefits. Other methods like organizing lectures and seminars, workshops, conferences, and programmes, to name a few, by experts and industry take-holders like academician, lawyers, professors, doctors, technical experts, and vocational experts are some of the ways which can have a direct and personal approach to revamping the education system among the masses, thereby, enabling them to understand and learn about the laws of the land which are essential for their protection in term if their employments.

The safety of women from sexual harassment at workplace act, 2013, The Factories Act, 1948, The Minimum Wages Act, The Payment of Bonus Act; and The Maternity Benefits Act are some of the legislations which serve the interests of the employees in certain establishments. However, only a particular section of the employees are aware of this Act entirely. Therefore, education and awareness are two critical factors recognized by the researcher to maximize the benefits of the Act.

#### **7.4.3.3. Family Support**

Extension of family support is equally crucial for an employee to take the benefits provided under the Act properly. It is because many families believe that if a woman absences herself from work, not only would deductions be made from her salary for her absence from work, but also she may be dismissed or discharged, losing job security. These misconceptions occur when families or employees need to be adequately aware of the Act and its benefits. This lack of information defeats the purpose of the Act, and therefore, in many cases, the employees' families force them to work under harsh circumstances due to their reservations. The researcher proposes that this issue can be resolved if the employer involves any family member within the maternity benefits scheme, disseminates information in a vernacular or understandable manner to a member of the family, and provides in wiring about job security and financial security about maternity benefits. Also, it becomes the responsibility of the members of the employee's family to build a relationship of trust with the establishment or organization and the employee herself for her to claim benefits in a non-obstructive and peaceful manner till the maximum period of maternity benefits.

#### **7.4.3.4. Judiciary's Role**

Though the Indian judiciary is performing its role to the best of its ability through its numerous landmark judgements and transformative constitutionalism notions, however, it is

suggested by the researcher that the judiciary should take a stringent view of the violations of this Act since it is essential for the perpetrators or violators of this Act to be punished accordingly. Suppose the violations are dealt with by the judiciary speedily and stringently. In that case, the purpose of this Act could be safeguarded by creating a deterrent and reformative impact. No other employer would dare to abridge or manipulate the words of the Act to their benefit and interests. Secondly, the imposition of maximum punishments under the Act also visibly ensures justice delivery. As the aphorism goes, “Justice must not only be done but must also be seen to be done.”

#### **7.4.3.5. Role of NGOs**

Lastly, non-governmental organizations must contribute toward the social welfare of women by sensitizing and coming to the rescue of women for availing, claiming and redressing for their maternity benefits to make this fruitful Act legislation for all women. It is suggested by the researcher to empower NGOs to take positive steps in this direction. Individual participation in such social causes would also make such efforts more attainable.

The present study delves into the multifaceted landscape of maternity benefits, dissecting its historical evolution, international perspectives, legislative framework, and judicial scrutiny in India. Each chapter unfolds a distinct layer of analysis, starting from the conceptualization of maternity benefits and traversing through its legal, constitutional, and societal dimensions.

The comprehensive exploration conducted in Chapter Six of the study provides a profound understanding of the societal attitudes towards maternity benefits, underpinned by empirical data and non-doctrinal analysis. By delving into the perspectives of both employers and employees through a meticulously crafted questionnaire, the chapter sheds light on the complexities surrounding the implementation and utilization of maternity benefits.

The empirical analysis uncovers significant insights, revealing a gap between statutory provisions and their actual application. It identifies barriers hindering access to maternity benefits, stemming from both employer non-compliance and employee engagement. This empirical foundation serves as a crucial basis for evaluating the hypotheses posited earlier in the research, facilitating a nuanced understanding of the challenges inherent in the maternity benefits landscape. Moreover the chapter extends beyond analysis to offer practical recommendations aimed at addressing the identified obstacles. These recommendations span legislative measures, such as extending maternity breaks and introducing new social security schemes, to implementation strategies focused on enhancing awareness and fostering vigilance among stakeholders.

Crucially, the proposed legislative amendments seek to bridge the divide between statutory provisions and their practical implementation. By advocating for measures such as an extension of maternity breaks, establishment of grievance redressal tribunals, and punitive measures for violators, the chapter aims to fortify the legal framework governing maternity benefits.

Furthermore, this study underscores the pivotal role of stakeholders, including government bodies, employers, employees, individuals, NGOs, and the judiciary, in ensuring the effective implementation of maternity benefit laws. It emphasizes the collective responsibility to uphold the constitutional goals of social justice and gender equality, thereby fostering a more inclusive and equitable workplace environment.

The suggestions above are advisory in nature, and the researcher acknowledges that the research is not comprehensive and open to further empirical investigations and doctrinal confirmation. The researcher concludes that despite legislation for maternity benefits in place, the Act is not exhaustive; therefore, it must provide maternity benefits to some women. However, there is a way forward by reminding law enforcers and employers about the Constitutional goals of social justice in a pluralistic society embracing gender equality and protecting the vulnerable sections of society, that is, women and children.

### **7.5. Strengthening the Enforcement of Maternity Benefit Laws in India**

Based on the responses provided by the Maharashtra State Commission for Women and labour commission regarding the procedures for filing complaints in cases of non-compliance with maternity benefit laws, as well as the actions taken and documentation required for the complaint process, several suggestions can be drawn to ensure effective compliance and redressal:

- **Enhanced Awareness Campaigns:**
  - Collaborate with community organizations, NGOs, and media outlets to conduct comprehensive awareness campaigns targeted at both employers and employees.
  - Utilize various mediums such as social media, radio, and community events to disseminate information about maternity rights and benefits.
  - Translate informational materials into local languages to reach a wider audience, especially in rural areas where literacy rates may vary.

- **Streamlined Complaint Filing Process:**
  - Develop an online portal or mobile application for filing complaints, providing step-by-step guidance and easy access to necessary forms and resources.
  - Establish dedicated helplines or email support for individuals seeking assistance in filing complaints, ensuring accessibility for all, including those with limited internet access.
  - Conduct periodic evaluations of the complaint filing process to identify bottlenecks and implement necessary improvements for efficiency.
- **Proactive Investigation and Mediation:**
  - Train Labour Officers and mediators in gender-sensitive approaches to investigation and mediation, ensuring empathy and understanding towards the unique challenges faced by pregnant and nursing women.
  - Implement a fast-track process for urgent cases, such as those involving termination or denial of maternity benefits, to expedite resolution and mitigate further harm to affected individuals.
- **Collaboration with Stakeholders:**
  - Foster partnerships with industry associations, trade unions, and employer federations to promote a culture of compliance and mutual understanding of maternity benefit laws.
  - Organize regular roundtable discussions and workshops to address emerging issues and share best practices in maternity benefits implementation across various sectors.
- **Legal Support and Advocacy:**
  - Establish legal aid clinics or referral services to provide free or subsidized legal assistance to women facing maternity benefit violations, ensuring access to justice regardless of financial constraints.
  - Advocate for the inclusion of maternity rights in workplace policies and collective bargaining agreements, empowering women through collective action and negotiation.

- **Policy Advocacy and Reform:**
  - Engage with policymakers and legislators to advocate for amendments to existing laws and regulations to strengthen maternity benefit provisions and address gaps in enforcement.
  - Conduct research and data analysis to assess the impact of maternity benefit laws on women's employment outcomes and economic security, providing evidence-based recommendations for policy reform.
- **Monitoring and Compliance Enforcement:**
  - Implement regular audits and inspections of workplaces to assess compliance with maternity benefit laws, focusing on industries with historically low compliance rates or high incidences of violations.
  - Establish mechanisms for anonymous reporting of violations to encourage whistle blowing and protect individuals from retaliation by employers.
- **Empowerment through Education:**
  - Integrate information about maternity rights and benefits into school curricula and vocational training programs to educate future generations about their entitlements and responsibilities in the workforce.
  - Engage male allies as advocates for gender equality and maternity rights, challenging traditional gender norms and promoting supportive workplace environments for all employees.

By implementing these comprehensive suggestions, the Maharashtra State Commission for Women, along with the Labour Commissioner's office and other relevant stakeholders, can work towards ensuring effective compliance with maternity benefit laws and promoting gender equality in the workforce.

#### **7.5.1. Enhancing Maternity Benefit Policies: Essential Recommendations for Public and Private Sectors:**

Based on the comprehensive exploration and analyses provided regarding maternity benefits in both private and public sectors, as well as across various industries such as healthcare, education, banking, and corporate sectors, here are some drawn suggestions for enhancing policies and practices related to maternity benefits:

- **Enhanced Transparency and Accountability:**
  - Encourage institutions, particularly private ones like hospitals, banks, and corporations, educational institutions to improve transparency by publicly disclosing their maternity benefit policies and practices.
  - Conduct regular audits to ensure compliance with these policies and promptly address any discrepancies found.
- **Standardization of Policies:**
  - Advocate for the standardization of maternity leave policies across all sectors, based on legal regulations and best practices.
  - Ensure consistency in eligibility criteria, duration of leave, and other benefits to promote fairness and equal treatment for all employees.
- **Awareness and Education:**
  - Promote awareness and education initiatives to ensure that employees, especially women, are well-informed about their maternity benefit entitlements.
  - Conduct regular training sessions, provide informational materials, and establish channels for employees to seek clarification or support.
- **Prevention of Discrimination:**
  - Emphasize the prevention of discrimination and bias against pregnant employees or those on maternity leave.
  - Implement clear policies and procedures to address discrimination, provide training to managers and staff, and establish channels for reporting incidents.
- **Collaboration and Exchange of Best Practices:**
  - Facilitate collaboration and the exchange of best practices among institutions within the same sector and across different sectors.
  - Organize forums, workshops, or conferences where institutions can share experiences, challenges, and strategies related to maternity benefits.
- **Advocacy for Legal Compliance:**
  - Advocate for strict adherence to legal regulations governing maternity benefits across all sectors.
  - Government institutions should lead by example, ensuring compliance with statutory requirements and promoting accountability.

- **Continuous Evaluation and Improvement:**

- Encourage institutions to engage in continuous evaluation and improvement of their maternity benefit policies and practices.
- Solicit feedback from employees, conduct surveys or focus groups, and analyze data on utilization and outcomes to make necessary adjustments.

By implementing these suggestions, institutions can create a more supportive and inclusive environment for working mothers, thereby promoting gender equality and societal progress across various sectors.

In conclusion, it's evident that effective compliance with maternity benefit laws requires a multi-faceted approach involving awareness, streamlined processes, proactive investigation, stakeholder collaboration, legal support, policy advocacy, monitoring, and empowerment through education. By implementing the suggestions outlined above, the Maharashtra State Commission for Women and labour commission can significantly contribute to advancing gender equality in the workforce and ensuring the protection and promotion of maternity rights. This comprehensive strategy not only addresses immediate concerns but also lays the foundation for sustainable change and long-term impact. With concerted efforts from all stakeholders, we can create a more inclusive and supportive environment for women in the workplace, ultimately benefiting society as a whole.

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<sup>1</sup>Shriya Gautam, “Women in Indian Mythology: Seeking Order in the Chaotic Interpretations” (Archaeology of Myths and Mythology, 2008), available at: [https://www.researchgate.net/publication/331439561\\_Women\\_in\\_Indian\\_Mythology\\_Seeking\\_Order\\_in\\_the\\_Chaotic\\_Interpretations](https://www.researchgate.net/publication/331439561_Women_in_Indian_Mythology_Seeking_Order_in_the_Chaotic_Interpretations) (last visited March 12, 2023).

<sup>2</sup>Ibid.

<sup>3</sup>Justice K. S. Puttuswamy (Retd.) and Anr. v. Union Of India And Ors., (2017) 10 SCC 1.

<sup>4</sup>Navtej Singh Johar & Ors. versus Union of India thr. Secretary Ministry of Law and Justice, AIR 2018 SC 4321; Joseph Shine v. Union of India, (2019) 3 SCC 39.

<sup>5</sup>Article 14 accords equality under the law to all [Indian Constitution: Art. 14], while Article 15 pertains to the right to social equality [Indian Constitution: Art. 15], and Article 16 deals with the right to social equality in employment [Indian Constitution: Art. 16]. The right to adequate means of livelihood (Article 39(a)), right to equal pay for equal work (Article 39(d)), and right that the health and strength of workers, both men and women, are not abused (Article 39(e)), right to just and humane conditions of work and maternity relief (Article 42), and right to improvement in employment opportunities and conditions of the working women (Article 46) also have a place in the Constitution of India.

<sup>6</sup>Other elements of social security include sickness (medical care and income support), disability, old age, survivors, unemployment, employment injury, poverty and social exclusion and the “responsibility for the maintenance of children, including the provision in kind to, or in respect of, children, of food, clothing, housing, holidays or domestic help” and of cash income support family benefits as defined by Part VII of Convention No.102” [ILO2010a:20].

<sup>7</sup>H. L. Kumar, Practical Guide to Maternity Benefit Act, (Universal Law Publishing, First Edition, New Delhi, 2017).

<sup>8</sup>J. N. Pandey, The Constitutional Law of India, (Central Law Agency, 46th Edition, Allahabad, 2009).

<sup>9</sup>H. L. Kumar, Practical Guide to Maternity Benefit Act, (Universal Law Publishing, First Edition, New Delhi, 2017).



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<sup>10</sup>Kalra, Aarushi, and Aditi Priya. "Birth Pangs: Universal Maternity Entitlements in India." SSRN Electronic Journal, Elsevier BV, 2019. Crossref. (last visited on January 11, 2023).

<sup>11</sup>Puri, P. A., & Wani, S. A. "Social Security of Women in the form Maternity Benefits: A Human Rights Perspective." *Journal of Positive School Psychology*, 1888-1896 (2022).

<sup>12</sup>Dubey, S. Gender (In) Equality in India: Analysing Maternity Benefits and Parental Leaves.

<sup>13</sup>Sharma, A. "An Understanding of the Transitional Nature of Law around Maternity Benefits in India" (2020).

<sup>14</sup>Logasakthi, D. K. "A comparative analysis on maternity benefits in India with other countries." *European Journal of Molecular & Clinical Medicine*, 7(3), 4928-4938 (2020).

<sup>15</sup>Verma, A., Shukla, R., et al. "An Analysis of Awareness and Implementation of Maternity Benefits Act—A Study in Western Himalayan State of Himachal Pradesh, India." *Annals of Biology*, 36(1), 126-131 (2020).

<sup>16</sup>Dr. Rajeshri Randive. "A Study on Effectiveness and Impact of Maternity Benefit (Amendment) Act, 2017 on Employment in Unorganized Sector concerning Construction Company (West Nagpur, Maharashtra, India)." *International Journal of Advanced Science and Technology*, 29(3), 6298–6311 (2020).

<sup>17</sup>Surabhi Chaturvedi. "Social safety net for maternity protection and early childhood development in India, global evidence on the impact of centre-based quality childcare on maternal employment and early childhood development outcomes." New Delhi: Initiative for What Works to Advance Women and Girls in the Economy (IWWAGE) Working Paper Series (2019).

<sup>18</sup>Dr. Shashi Bala. "Impact of the Maternity Benefit (Amendment) Act, 2017 in the IT/ITES Industry" (2019).

<sup>19</sup>Sanjay Tripathi et al. "Quality of maternity care provided by private sector healthcare facilities in three states of India: a situational analysis." *BMC Health Services Research*, 19:971 (2019). Crossref (last visited on 14 March 2021).

<sup>20</sup>Kalra, A., & Priya, A. "Birth Pangs: Universal Maternity Entitlements in India" (2019). Available at: SSRN 3486671. (Last visited on 12 April 2022).

<sup>21</sup>Siregar, A. Y., Pitriyan, P., et al. "The financing need for expanded maternity protection in Indonesia." *International Breastfeeding Journal*, 14(1), 1-10 (2019).

<sup>22</sup>Hicks, J. "Campaigning for social security rights: Women in the informal economy and maternity benefits." *Agenda*, 33(2), 32-41 (2019).

<sup>23</sup>Chadha-Sridhar, I., & Myer, G. "Feminist Reflections on Labour: The 'Ethics of Care' Within Maternity Laws in India" (2013).

<sup>24</sup>Jadon, M. S., & Bhandari, A. "Analysis of the Maternity Benefits Amendment Act, 2017 and its Implications on the Modern Industrial Discourse" (2019).

<sup>25</sup>"A woman cannot be terminated from work while being pregnant." Available at: <https://www.soolegal.com/roar/a-woman-cannot-be-terminated-from-work-during-her-pregnancy>. (Last visited on September 12, 2023).

<sup>26</sup>Ghosh, S. "Maternity Leave in India - Past Present and Future." *IISUniv. J. S. Sc.*, Vol. 7 & 8(1), 35-41 (2018 & 2019).

<sup>27</sup>Gokulakrishnan, S., & Vezhaventhan, D. "A Study on Maternity Benefit Scheme in India." *International Journal of Pure and Applied Mathematics*, 120(5), 4393-4408 (2018). Available at: <http://www.acadpubl.eu/hub/> (Last visited on May 11, 2021).

<sup>28</sup>Jayakumar, K. "Maternity benefit legislation reinforcing patriarchy, excluding intersectionality." *Journal of Public Affairs and Changes*, 1(2) (2018).

<sup>29</sup>Hoda, A., & Rai, D. K. "Labour regulations in India: Rationalising the laws governing wages." No. 346 Working Paper (2017).

<sup>30</sup>Gopalakrishnan, G., & Brindha, G. "A Study on Maternity Benefit and its Effectiveness in Construction Industry." *International Journal of Civil Engineering and Technology*, 8(10), 130–136 (2017). Available at: <http://www.iaeme.com/IJCIET/issues.asp?JType=IJCIET&VType=8&IType=10> (Last visited on April 17, 2021).

<sup>31</sup>Sharma, G. "An Investigation into Quality of Care at the Time of Birth at Public and Private Sector Maternity Facilities in Uttar Pradesh, India." Ph.D. thesis, London School of Hygiene & Tropical Medicine (2017). Available at: <https://doi.org/10.17037/PUBS.04646087> (Last visited on June 10, 2022).

<sup>32</sup>Sasikumar, S. K. "Bold Initiative to Increase Women's Participation in India's Labour Market: New Measures in Maternity Benefit Act. Policy Perspectives" (2017).

<sup>33</sup>Steurer, L. M. "Maternity leave length and workplace policies' impact on the sustainment of breastfeeding: Global perspectives." *Public Health Nursing*, 34(3), 286-294 (2017).

<sup>34</sup>Jalil, N. S. A. "The Effects of Maternity Policy on Women's Fertility Decision from the Islamic Perspective: An Exploratory Study." *TAFHIM: IKIM Journal of Islam and the Contemporary World*, 10 (2017).

<sup>35</sup>Singh, S. "The Maternity Benefit (Amendment) Bill, 2016: A Critical Analysis" (2016). Available at: <http://creativecommons.org/licenses/by/2.0> (Last visited on September 25, 2022).

- <sup>36</sup>Pradhan, S. K., & Kar, B. "Review of Maternity Protection: Case of Beedi workers and ESIC Efficacy in Odisha." In *Women and Health*, edited by Dr. (Sr.) Jeusin Francis, Jazym Publication, Trichy, 2017.
- <sup>37</sup>Islam, M. Z. "Maternity Benefits in Bangladesh Labor Law: An Empirical Study on Apparel Industry." *Manarat International University Studies*, 4, 1-11 (2015).
- <sup>38</sup>Satpathy, I., Patnaik, B. C. M., et al. "An introspection into awareness of Maternity Benefit Act 1961 in semi-urban area." *International Journal of Management*, 5(9), 13-17 (2014).
- <sup>39</sup>Bala, S. "Implementation of the Maternity Benefit Act" (2012).
- <sup>40</sup>Lingam, L., & Yelamanchili, V. "Reproductive rights and exclusionary wrongs: Maternity benefits." *Economic & Political Weekly*, 46(43), 94-103 (2011).
- <sup>41</sup>Chhachhi, Amrita. "Who Is Responsible for Maternity Benefit: State, Capital or Husband? Bombay Assembly - Debates on Maternity Benefit Bill, 1929" (1998).
- <sup>42</sup>Various authors. "Maternity Leave Policies: An International Survey" (1988).
- <sup>43</sup>Jha, Sadanand. "Maternity Benefits: At Present and Their Future in India" (1976).
- <sup>44</sup>Kumari, Varsha. "Problems and Challenges faced by Urban Working Women in India" (2014). Available at: [ethesis.nitrkl.ac.in/6094/1/E-208.pdf](https://ethesis.nitrkl.ac.in/6094/1/E-208.pdf) (Last visited on January 21, 2021).
- <sup>45</sup>Bala, Shashi. "Implementation of Maternity Benefit Act." NLI Research Studies Series 099/2012, Published by V. V. Giri National Labor Institute (2012).
- <sup>46</sup>Editor. "Maternity and Paternity at work: Law and Practice across the world." International Labour Organisation. Available at [http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_242617.pdf](http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_242617.pdf) (Last visited on August 21, 2022).
- <sup>47</sup>Editor. "The Need for Maternity Benefits for Women Employees." Lawctopus. Available at: <https://www.lawctopus.com/academike/the-need-for-maternity-benefits-for-women-employee/> (Last visited on August 23, 2022).
- <sup>48</sup>Editor. "Women and Industrial Law: Maternity Benefit Act 1961." Lawyers Club India. Available at: [http://www.lawyersclubindia.com/articles/print\\_this\\_page.asp?article\\_id=580,09/08/201](http://www.lawyersclubindia.com/articles/print_this_page.asp?article_id=580,09/08/201) (Last visited on August 21, 2022).
- <sup>49</sup>Vandana Kandari v. University of Delhi, (2010) 170 DLT 755.
- <sup>50</sup>Bala, Shashi. Implementation of Maternity Benefit Act. Available at: [http://www.vvgnli.org/sites/default/files/publication\\_files/099-2012\\_Shashi\\_Bala.pdf](http://www.vvgnli.org/sites/default/files/publication_files/099-2012_Shashi_Bala.pdf), 09/08/2014 (Last visited on August 12, 2022).
- <sup>51</sup>Cohen, Wilbur J. *Social Security in India*. Bulletin, 1953.
- <sup>52</sup>Ferree, Myra Marx. "She works hard for a Living Gender and Class on the Job." In Beth B. Hess and Myra Marx Ferree (Eds.), *Analyzing Gender: A Handbook of Social Science Research*, 322-347. Newbury Park, Calif: Sage, 1987.
- <sup>53</sup>International Labor Code P.743
- <sup>54</sup>(ILO, Indian Employment Law, 1952), P.98.)
- <sup>55</sup>J. Sharmila v. The Secretary to Government, Education Department, The Chief Educational Officer. MANU/TN/3321/2010.
- <sup>56</sup>N. Mohammed Mohideen and Sahna v. The Deputy Commissioner of Labour (Inspection) (2009) ILLJ 177 Mad.
- <sup>57</sup>Royal Commission on Labour, *Report of the Royal Commission on Labour in India* (Government of India 1931).
- <sup>58</sup>Constitution of India 1950, art. 42.
- <sup>59</sup>The Maternity Benefit Act 1961 (Act No. 53 of 1961).
- <sup>60</sup>International Labour Organization (ILO), *C103 - Maternity Protection Convention (Revised), 1952 (No. 103)*, ratified by India on May 27, 1981.
- <sup>61</sup>The Maternity Benefit Act 1961 (Act No. 53 of 1961).
- <sup>62</sup>The Maternity Benefit (Amendment) Act 2017 (Act No. 6 of 2017).
- <sup>63</sup>International Labour Organization (ILO), *C103 - Maternity Protection Convention (Revised), 1952 (No. 103)*, ratified by India on May 27, 1981.
- <sup>64</sup>Royal Commission on Labour, *Report of the Royal Commission on Labour in India* (Government of India 1931).
- <sup>65</sup>The Maternity Benefit Act 1961 (Act No. 53 of 1961).
- <sup>66</sup>International Labour Organization (ILO), *C103 - Maternity Protection Convention (Revised), 1952 (No. 103)*, ratified by India on May 27, 1981.
- <sup>67</sup>The Maternity Benefit Act 1961 (Act No. 53 of 1961).
- <sup>68</sup>The Maternity Benefit (Amendment) Act 2017 (Act No. 6 of 2017).

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<sup>69</sup> The Maternity Benefit (Amendment) Act 2017 (Act No. 6 of 2017).

<sup>70</sup> AIR 1986 SC 180.

<sup>71</sup> (2000) 3 SCC 224.

<sup>72</sup> AIR 1979 SC 1868

<sup>73</sup> (1992) 1 SCC 286.

<sup>74</sup> AIR 1981 SC 1829.

<sup>75</sup> 2004 SCC OnLine Del 1083.

<sup>76</sup> (1977) 4 SCC 384

<sup>77</sup> 2019 SCC OnLine Del 10314.

<sup>78</sup> Jadon, Manvendra. "Story Unspoken: An Analysis of Maternity Benefits Amendment Act, 2017 and Its Implications on the Modern Industrial Discourse." SSRN Electronic Journal, Elsevier BV, 2019. Available at: <https://doi.org/10.2139/ssrn.3329593> (Last visited on February 19, 2023).

<sup>79</sup> Jadon, Manvendra Singh, and Ankit Bhandari. "Analysis of the Maternity Benefits Amendment Act, 2017 and Its Implications on the Modern Industrial Discourse." Christ University Law Journal, vol. 8, no. 2, Christ University Bangalore, July 2019, pp. 63–84. Available at: <https://doi.org/10.12728/culj.15.4> (Last visited on 12 April 2023).

<sup>80</sup> The Maternity Benefit Act, 1961.

<sup>81</sup> Bhate-Deosthali, Padma, et al. "Poor Standards of Care in Small, Private Hospitals in Maharashtra, India: Implications for Public–private Partnerships for Maternity Care." *Reproductive Health Matters*, vol. 19, no. 37, Informa UK Limited, Jan. 2011, pp. 32–41. Available at: [https://doi.org/10.1016/s0968-8080\(11\)37560-x](https://doi.org/10.1016/s0968-8080(11)37560-x).

<sup>82</sup> National Family Health Survey

<sup>83</sup> Economic Survey of Maharashtra 2009-10.

<sup>84</sup> Maharashtra Maternity Benefits Rules. Available at: <https://www.studocu.com/in/document/national-law-university-delhi/jurisprudence/maha-maternity-benefit-rules/31058339> (Last visited on March 25, 2023).

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

<sup>87</sup> *Ibid.*

<sup>88</sup> The Maharashtra Maternity Benefit Rules, 1965. Industries and Labor Department, Sachivalaya, Bombay-32, 28th July 1965.

<sup>89</sup> Marchetti, Sabrina, et al. *Global Domestic Workers: Intersectional Inequalities and Struggles for Rights*. Bristol University Press, 2021.

<sup>90</sup> Bhate-Deosthali, Padma, et al. "Poor Standards of Care in Small, Private Hospitals in Maharashtra, India: Implications for Public–private Partnerships for Maternity Care." *Reproductive Health Matters*, vol. 19, no. 37, Informa UK Limited, Jan. 2011, pp. 32–41. *Crossref*, [https://doi.org/10.1016/s0968-8080\(11\)37560-x](https://doi.org/10.1016/s0968-8080(11)37560-x).

<sup>91</sup> *Ibid.*

<sup>92</sup> Personal interviews with members of Jagruti Gharelu Kamgar Andolan.

<sup>93</sup> *Bombay Labour Union v. International Franchises Pvt. Ltd.*, (1966) 2 SCR 493.

<sup>94</sup> *Air India v. Nergesh Meerza and Ors.*, AIR 1981 SC 1829.

<sup>95</sup> Fagernäs, Sonja. "Labor Law, Judicial Efficiency, and Informal Employment in India." *Journal of Empirical Legal Studies*, vol. 7(2), Wiley, June 2010, pp. 282–321. Available at: <https://doi.org/10.1111/j.1740-1461.2010.01179.x>.

<sup>96</sup> *Anima Goel Ms. v. Haryana State Agricultural Marketing Board*, 2007 (112) FLR 1134

<sup>97</sup> Editor. "Maternity Leave in Private Sector." *Business Standard*. Available at: [https://www.business-standard.com/article/government-press-release/maternity-leave-in-private-sector-117032200706\\_1.html](https://www.business-standard.com/article/government-press-release/maternity-leave-in-private-sector-117032200706_1.html) (Last visited on May 10, 2021).

---

<sup>98</sup>Unorganized Workers Social Security Act, 2008, Section 2(m).

<sup>99</sup>Borate, Neil. "The benefits women are entitled to and the rights they can claim under maternity." Livemint, May 12, 2019. Available at: <https://www.livemint.com/money/personal-finance/the-benefits-women-are-entitled-to-and-the-rights-they-can-claim-under-maternity-1557655754106.html> (Last visited on June 19, 2021).

<sup>100</sup>Maternity Benefit Act, 1961, s. 5A & 5B.

<sup>101</sup>Rajagopalan, Shruti, and Alexander T. Tobarrok. "Premature Imitation and India's Flailing State." *The Independent Review*, vol. 24(2), 2019.

<sup>102</sup>Food Corporation of India Workers Union v. Shri G.R. Majhi and Ors., MANU/DE/9806/2006.

<sup>103</sup>India, Government of India, Ministry of labour and employment. "The Maternity Benefits Amendment Act, 2017.", *The Gazette of India* (2017).

<sup>104</sup>Ranganath, Manjula K. "The awareness and utilization of maternity benefit among women receiving institutional services in a tertiary care center." *International Journal of Community Medicine and Public Health*, vol. 3(6), 2016.

<sup>105</sup>Bala, S. "Implementation of Maternity Benefit Act." NLU Research Studies Series, No. 099/2012, V.V. Giri National Labour Institute, 2012.

<sup>106</sup>Alewell, D., & Pul, K. "The International Regulation of Maternity Leave: Leave Duration, Predictability, And Employer-Co-financed Maternity Pay." *International Business & Economics Research Journal*, vol. 1(2), 2011.

<sup>107</sup>"Benefits and Financial Support for Families - Maternity Pay and Leave." Available at: <https://www.gov.uk/maternity-pay-leave>.

<sup>108</sup>Mander, Rosemary. "The Relevance of the Dutch System of Maternity Care to the United Kingdom." *Journal of Advanced Nursing*, vol. 22(6), Wiley, 1995, pp. 1023–26. Available at: <https://doi.org/10.1111/j.1365-2648.1995.tb03100.x> (Last visited on March 18, 2023).

<sup>109</sup>Ministry of Law and Justice. *The Maternity Benefit (Amendment) Act, 2017*. Available at: [https://labour.gov.in/sites/default/files/maternity\\_benefit\\_amendment\\_act2017\\_.pdf](https://labour.gov.in/sites/default/files/maternity_benefit_amendment_act2017_.pdf).

<sup>110</sup>Blondel, B., and M. J. Saurel-Cubizolles. "An Indicator of Adverse Pregnancy Outcome in France: Not Receiving Maternity Benefits." *Journal of Epidemiology & Community Health*, vol. 45(3), BMJ, 1991, pp. 211–15. Available at: <https://doi.org/10.1136/jech.45.3.211> (Last visited on April 11, 2022).

<sup>111</sup>Employment, Social Affairs & Inclusion, Spain - Birth and Child Care Benefit, Risk during Pregnancy and Breastfeeding. Available at: <https://ec.europa.eu/social/main.jsp?catId=1129&langId=en&intPageId=4789>. Inclusion, Spain - Birth and child care benefit, risk during pregnancy and breastfeeding. Available at: <https://ec.europa.eu/social/main.jsp?catId=1129&langId=en&intPageId=4789>

<sup>112</sup>"Hataraku Japan, Pre and Postnatal Leave (Maternity Leave)." Available at: <https://en.hataraku-japan.jp/contents/tips/sankyuu>.

<sup>113</sup>Vahratian, Anjel, and Timothy R. B. Johnson. "Maternity Leave Benefits in the United States: Today's Economic Climate Underlines Deficiencies." *Birth*, 36(3) Wiley, 177–79 (2009) Available at: <https://doi.org/10.1111/j.1523-536x.2009.00330.x>. (last visited on May 22, 2022).

<sup>114</sup>Phipps, Shelley A. "Maternity and Parental Benefits in Canada: Are There Behavioural Implications?" *Canadian Public Policy / Analyse De Politiques*, 26(4), JSTOR215 (2000), Available at: <https://doi.org/10.2307/3552609>, (last visited on May 23, 2022).

<sup>115</sup>Ministry of Manpower, Singapore Government - Maternity leave eligibility and entitlement. Available at: <https://www.mom.gov.sg/employment-practices/leave/maternity-leave/eligibility-and-entitlement>

<sup>116</sup>Oceanio, Viola D. "Maternity Leave and Gender Equality: Comparative Studies of Indonesia, Malaysia, and Thailand." *Populasi*, 30(2), Universitas Gadjah Mada, 15 (2022). Available at: <https://doi.org/10.22146/jp.80183>. (last visited on May 22, 2022).

<sup>117</sup>Special Provisions on Labor Protection for Female Employees (State Council Decree No. 619). Available at: [https://www.gov.cn/zwgk/2012-05/07/content\\_2131567.htm](https://www.gov.cn/zwgk/2012-05/07/content_2131567.htm)

<sup>118</sup>Lauren Seberos -How Long is Maternity Leave in Mexico? Available at: [https://medium.com/@lauren\\_64337/how-long-is-maternity-leave-in-mexico-fa0a651cc048](https://medium.com/@lauren_64337/how-long-is-maternity-leave-in-mexico-fa0a651cc048)

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<sup>119</sup> Maternity Leave Around the World: A Guide for International Employers. *ShieldGeo* available at: <https://shieldgeo.com/maternity-leave-around-the-world-a-guide-for-international-employers/> (last visited on May 12, 2021).

<sup>120</sup> International Labour Organization (ILO). "Maternity Protection." , available at <https://www.ilo.org/>, visited on May 12, 2024

<sup>121</sup> United Nations (UN). "Maternity Protection Convention, 2000 (No. 183), available at [https://www.unwomen.org/en/news-stories/feature-story/2023/10/facts-and-figures-women-and-girls-during-the-war-in-gaza?gad\\_source=1&gclid=Cj0KCQjw6auyBhDzARIsALIo6v8\\_uGPKed\\_PQTKFPyFTuUUiof3sr2jXXVdTd7Dz599ek5GGwlkXkaAlbdEALw\\_wcB](https://www.unwomen.org/en/news-stories/feature-story/2023/10/facts-and-figures-women-and-girls-during-the-war-in-gaza?gad_source=1&gclid=Cj0KCQjw6auyBhDzARIsALIo6v8_uGPKed_PQTKFPyFTuUUiof3sr2jXXVdTd7Dz599ek5GGwlkXkaAlbdEALw_wcB).

<sup>122</sup> International Labour Organization (ILO). "Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).", available at <https://www.unwomen.org/en/digital-library/publications/2016/12/cedaw-for-youth>, visited at May 12, 2024.

<sup>123</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR), available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, visited on May 21, 2024

<sup>124</sup> *Ibid.*

<sup>125</sup> Lewis, Stephen. "Promoting Child Health and the Convention on the Rights of the Child." *Health and Human Rights*, 2(3), JSTOR, 77 (1997) Available at: <https://doi.org/10.2307/4065157>. (last visited on May 25, 2022).

<sup>126</sup> UN: Universal Declaration of Human Rights (New York, 1948), International Covenant on Economic, Social and Cultural Rights (New York, 1966), International Covenant on Civil and Political Rights (New York, 1966), Convention on the Elimination of All Forms of Discrimination Against Women (New York, 1979), Convention on the Rights of the Child (New York, 1989).

<sup>127</sup> Fourth World Conference on Women: Beijing Declaration and Platform of Action (Beijing, 1995).

<sup>128</sup> UN: Report of the Commission on the Status of Women, E/2010/27 (SUPP) - E/CN.6/2010/11 (SUPP), 54th Session, New York, 2010.

<sup>129</sup> "Resolution of the World Health Assembly Thirty-Second World Health Assembly Who Long-Term Programme for Maternal and Child Health." *World Federation of Occupational Therapists Bulletin*, 5(1) Informa UK Limited, 5–8 (1980) Available at: <https://doi.org/10.1080/14473828.1980.11785429>. (last visited on July 10, 2022).

<sup>130</sup> *Ibid.*

<sup>131</sup> World Health Organization. "Infant and Young Child Nutrition: Global Strategy on Infant and Young Child Feeding, Report of the Secretariat, World Health Assembly, 55th Session." Geneva, 2002.

<sup>132</sup> UNICEF: 1990–2005 Celebrating the Innocenti Declaration on the Protection, Promotion and Support of Breastfeeding, Past Achievements, Present Challenges and the Way Forward for Infant and Young Child Feeding Geneva, 2006.

<sup>133</sup> "ILO, Committee on the Application of Standards – 12/6/2014 – Bangladesh Labor Standards [ILO Convention 82 " *International Labor Rights Case Law*, 1(1), Brill, 123–32 (2015). Available at: <https://doi.org/10.1163/24056901-0010115>. (last visited on July 11, 2022).

<sup>134</sup> "Work Organisation, Labour and Globalisation." *Work Organisation, Labour & Globalisation*, 16(2) Pluto Journals, (2022) Available at: <https://doi.org/10.13169/workorglaboglob.16.2.0001>. (last visited on July 10, 2022).

<sup>135</sup> "International Labour Organization (ILO): Maternity Protection Convention, 2000, and Maternity Protection Recommendation, 2000." *International Legal Materials*, 40(1) Cambridge UP (CUP), 1–10 (2001). Available at: <https://doi.org/10.1017/s0020782900010949>. (last visited on July 11, 2022)

<sup>136</sup> According to Convention No. 183, the term "employed women" comprises all women in an employment relationship, irrespective of: the form of contract (written or oral, express or implied), type of work, where it takes place, type of pay (wage or salary, cash or in-kind). According to the Resolution concerning statistics of the economically active population, employment, unemployment and underemployment, adopted by the Thirteenth International Conference of Labour Statisticians (Geneva, 1982), the "employed" comprise all persons above a specific age who during a specific brief period, either one week or one day, were in "paid employment" or "self-employment". For a complete definition, see: ILO LABORSTAT at <http://laborsta.ilo.org/applv8/data/c2e.html>.

<sup>137</sup> ILO: Maternity at work: A review of national legislation. Second Edition. Findings from the ILO Database of Conditions of Work and Employment Laws, (Geneva, 2010).

<sup>138</sup> Kosanović, Rajko, and Sanja Paunović. "Recommendation of the International Labour Organisation Regarding HIV and AIDS." *Zdravstvena Zastita*, 41(6), Centre for Evaluation in Education and Science (CEON/CEES) 59–70 (2012). Available at: <https://doi.org/10.5937/zz1201059k>. (last visited on July 20, 2022)

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<sup>139</sup> Employment Termination Convention, 1982 (No. 158).

<sup>140</sup> Ibid

<sup>141</sup> Ibid

<sup>142</sup> Promotion of Employment and Protection against Unemployment Convention, 1988 (No. 168).

<sup>143</sup>“From Unemployment to Full Employment.” *Science and Public Policy*, Oxford UP (OUP), (1988) Available at: <https://doi.org/10.1093/spp/15.1.67>. (last visited on August 12, 2022).

<sup>144</sup>“ICU Workers Face More Stress.” *Nursing Standard*, 8(15) RCN Publishing Ltd., (1994). Available at: <https://doi.org/10.7748/ns.8.15.8.s18>. (last visited on July 16, 2022).

<sup>145</sup>“International Labour Conference Adopts Declaration on Fundamental Principles and Rights at Work – Proposed ILO Declaration on Fundamental Principles and Rights at Work.” *International Journal of Comparative Labour Law and Industrial Relations*, 14(3), Kluwer Law International BV, 275–80 (1998). Available at: <https://doi.org/10.54648/ijcl1998023>. (last visited on August 15, 2022).

<sup>146</sup>Brooks, Tequila J. “Redemption and ILO Convention 169: The ILO Committee of Experts and the Guatemala Cement Mining Case.” SSRN Electronic Journal, Elsevier BV, (2010) Available at: <https://doi.org/10.2139/ssrn.3017931>. (last visited on August 18, 2022).

<sup>147</sup>Sarfati, Hedva. “Book Review: International Institute for Labour Studies — ILO the Global Jobs Crisis and Beyond — World of Work Report 2009, ILO and ILS: Geneva, 2009; 117 Pp.: 9789200149088, 50 Swiss Francs (34).” *Transfer: European Review of Labour and Research*, 16(3) SAGE Publications, 449–52. (2010) Available at: <https://doi.org/10.1177/10242589100160030102>. (last visited on September 2, 2023).

<sup>148</sup> ILO: Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities (Geneva, 2005).

<sup>149</sup> As of July 2011, 132 member states ratified Convention No. 144.

<sup>150</sup> ILO Constitution art. 19(5)(b).

<sup>151</sup> ILO: Handbook of procedures relating to international labour Conventions and Recommendations (Geneva, 2006).

<sup>152</sup>“International Labour Organisation (ILO) – Text of the Proposed Convention Concerning Safety and Health in Mines.” *International Journal of Comparative Labour Law and Industrial Relations*, 11(3), Kluwer Law International BV, 278–86 (1995). Available at: <https://doi.org/10.54648/ijcl1995025>. (last visited on August 28, 2022).

<sup>153</sup>Monaghan, Karon. “The Committee of Experts on the Application of Conventions and Recommendations: The Centenary Year.” *King’s Law Journal*, 32(2) Informa UK Limited, 197–206 (2021). Available at: <https://doi.org/10.1080/09615768.2021.1954799>. (last visited on August 22, 2022).

<sup>154</sup> International Labour Organisation, Applying and promoting international labour standards, available at: <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/lang—en/index.htm> (last visited on June 10, 2022).

<sup>155</sup>Jones, Peris Sean. “Powering up the People? The Politics of Indigenous Rights Implementation: International Labour Organisation Convention 169 and Hydroelectric Power in Nepal.” *The International Journal of Human Rights*, 16(4) Informa UK Limited, 624–47. (2012) Available at: <https://doi.org/10.1080/13642987.2011.627175>. (last visited on August 29, 2022).

<sup>156</sup>Benner, Chris. “Labour Flexibility and Regional Development: The Role of Labour Market Intermediaries.” *Regional Studies*, 37(6), Informa UK Limited, 621–33 (2003). Available at: <https://doi.org/10.1080/0034340032000108723>. (last visited on September 13, 2022).

<sup>157</sup> Communication to the Spring European Council: Working together for growth and jobs - A new start for the Lisbon Strategy, Communication from President Barroso in agreement with Vice-President Verheugen, Brussels, (2005).

<sup>158</sup> European Commission: Strategy for gender equality in Europe 2010-2015 (Brussels, EU, 2010).

<sup>159</sup> European Parliament: Texts adopted at the sitting of Wednesday 20 October 2010, P7\_TA-PROV(2010)10-20, (Brussels, EU, 2010).

<sup>160</sup> ECLAC, 2007a, quoted in ILO/UNDP: Work and Family: Towards new forms of reconciliation with social co-responsibility (Santiago, ILO, 2009) p. 29. Organization of American States: “Protocol of San Salvador,” Additional

---

Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, O.A.S. Treaty Series, No. 69, 1988.

<sup>161</sup> African Commission on Human and People's Rights: Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Banjul, 2003).

<sup>162</sup> SADC: Code on Social Security in the SADC (Gaborone, 2007).

<sup>163</sup> Rivkin-Flsh, Michele. "Pragmatic Women and Body Politics and Maternities and Modernities: Colonial and Postcolonial Experiences in Asia and the Pacific: Pragmatic Women and Body Politics.; Maternities and Modernities: Colonial and Postcolonial Experiences in Asia and the Pacific." *Medical Anthropology Quarterly*, 14(1) Wiley, 119–20 (2000). Available at: <https://doi.org/10.1525/maq.2000.14.1.119>. (last visited on September 25, 2022).

<sup>164</sup> H. L. Kumar, *Practical Guide to Maternity Benefit Act*, (Universal Law Publishing, First Edition, New Delhi, 2017)

<sup>165</sup> S. N. Mishra, *Labour and Industrial Laws*, (Central Law Publications, 29<sup>th</sup> Edition, Allahabad, 2021)

<sup>166</sup> Shashi Bala, *Impact of the Maternity Benefit (Amendment) Act, 2017 in the IT/ITES Industry*, NLI Research Studies Series No. 132/2019, available at: [www.vvgnli.gov.in](http://www.vvgnli.gov.in) (last visited on January 29, 2020).

<sup>167</sup> Ibid.

<sup>168</sup> Durga Das Basu, *The Constitution of India*, (LexisNexis, 24<sup>th</sup> Edition, 2019).

<sup>169</sup> Art. 39(e), The Constitution of India.

<sup>170</sup> Art. 39(a), The Constitution of India.

<sup>171</sup> Art. 39(d), The Constitution of India

<sup>172</sup> Art. 46, The Constitution of India.

<sup>173</sup> J. N. Pandey, *The constitutional Law of India*, (Central Law Agency, 46<sup>th</sup> Edition, Allahabad, 2009)

<sup>174</sup> B. Shah v. Presiding Officer, Labour Court, Coimbatore and others" (1977) 4 SCC 384

<sup>175</sup> Air India v. Nergesh Meerza & Ors, (1981) SCC 335.

<sup>176</sup> Mrs. Neera Mathur v. Life Insurance Corporation of India & Anr, (1992) SCC 286.

<sup>177</sup> Mrs. Neera Mathur v. Life Insurance Corporation of India & Anr, SCC (1992) 286.

<sup>178</sup> Pooja Jignesh Doshi v. The State of Maharashtra and Ors., MANU/MH/2480/2019.

<sup>179</sup> Seema Gupta v. Guru Nanak Institute of Management, (2006) 135 DLT 404.

<sup>180</sup> Neetu Bala v. Union of India, (2016) SCC Online P&H 602.

<sup>181</sup> S. Amudha v. Chairman, Neyveli Lignite Corporation, (1989) SCC OnLineMad 234.

<sup>182</sup> Bhavya Bhandari, Basic Structure in the Constitution of India. *International Journal of Trend in Scientific Research and Development*, 2(5) 899–903. (2018), available at: <https://doi.org/10.31142/ijtsrd16994> (last visited on March 13, 2023).

<sup>183</sup> Samraj, C. Jerome. "Manifestations of Academic Untouchability: A Case Study on Implementation of Reservations as per a Central Act in a Central University in Southern India." *SSRN Electronic Journal*, Elsevier BV (2017) Available at: <https://doi.org/10.2139/ssrn.3117322>. (last visited on December 22, 2021).

<sup>184</sup> Impact of Article 21A The Right to Education under the Constitution of India 13(1) *International Journal of Early Childhood Special Education*, Institute for Advanced Studies (2023) available at: <https://doi.org/10.48047/intjecse/v13i1.211205>. (last visited on March 2023).

<sup>185</sup> India: World Breastfeeding Week (1-7 August 2015), "Breastfeeding and Work: Let's Make It Work!" available at: <https://bpni.org/WBW/2015/action-folder-WBW2015-english.pdf> (last visited on July 19, 2020).

<sup>186</sup> The Maternity Benefit Act, 1961 (Act No. 53 of 1961).

<sup>187</sup> The Employees' State Insurance Act, 1948 (Act No. 34 of 1948).

<sup>188</sup> 5 Mines Act, 1952 (Act No. 35 of 1952).

<sup>189</sup> Factories Act, 1948 (Act No. 63 of 1948).

<sup>190</sup> Plantations Labour Act, 1951 (Act No. 69 of 1948).

<sup>191</sup> Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (Act No. 41 of 1992).

<sup>192</sup> National Food Security Act, 2013. (Act No. 20 of 1948).

<sup>193</sup> Ibid.

<sup>194</sup> The preamble of the 2000 convention states that "Noting the need to revise the Maternity Protection Convention (Revised), 1952, and the Maternity Protection Recommendation, 1952, in order to further promote equality of all women in the workforce and the health and safety of the mother and child, and in order to recognise the diversity in

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economic and social development of Members, as well as the diversity of enterprises, and the development of the protection of maternity in national law and practice.”

<sup>195</sup> Assessing National Legislation on Maternity Protection at Work, available at: <http://mprp.itcilo.org/allegati/en/m12.pdf> (last visited on July, 15, 2020).

<sup>196</sup> Ibid.

<sup>197</sup> The Code on Social Security, 2020 (No. 36).

<sup>198</sup> The Code on Social Security, 2020 (No. 36).

<sup>199</sup> Ibid

<sup>200</sup> Ibid

<sup>201</sup> Report of the National Commission on Labour, Volume I (Part II), Ministry of Labour , Government of India 2002 p. 978.

<sup>202</sup> Sec. 4, Maternity Benefit Act, 1961.

<sup>203</sup> The Maternity Benefit Act, 1961

<sup>204</sup> The Maternity Benefit Act, 1961

<sup>205</sup> The Maternity Benefit Act, 1961

<sup>206</sup> The Maternity Benefit Act, 1961

<sup>207</sup> The Maternity Benefit Act, 1961

<sup>208</sup> Ibid.

<sup>209</sup> Sec. 5, Maternity Benefit Act, 1961.

<sup>210</sup> Sec. 2(h) , Maternity Benefit Act, 1961.

<sup>211</sup> The Maternity Benefit Act, 1961.

<sup>212</sup> Substituted for "twelve weeks" by the Maternity Benefit (Amendment) Act, 2017.

<sup>213</sup> Substituted for "twelve weeks" by the Maternity Benefit (Amendment) Act, 2017.

<sup>214</sup> Substituted for "six weeks" by the Maternity Benefit (Amendment) Act, 2017.

<sup>215</sup> AIR 1978 (SC) 12.

<sup>216</sup> AIR 1978 SC 12.

<sup>217</sup> The Maternity Benefit Act, 1961

<sup>218</sup> AIR 1978 SC 12.

<sup>219</sup> The Maternity Benefit Act, 1961

<sup>220</sup> Maternity Benefit Act, 1961, § 5(2).

<sup>221</sup> Delhi v. Female Workers (Muster Roll), 2000 (1) LLJ 846 (SC)

<sup>222</sup> Maternity Benefit Act, 1961, § 5(2).

<sup>223</sup> Delhi v. Female Workers (Muster Roll), 2000 (1) LLJ 846 (SC)

<sup>224</sup> Bharati Gupta v. Rail India Technical and Economical Services Ltd.(RITES), 2006 Lab IC 1407 (SC).

<sup>225</sup> Delhi v. Female Workers (Muster Roll), 2000 (1) LLJ 846 (SC)

<sup>226</sup> Maternity Benefit Act, 1961, § 5(2).

<sup>227</sup> Maternity Benefit Act, 1961, § 6.

<sup>228</sup> The Maternity Benefit Act, 1961, § 6(3).

<sup>229</sup> The Maternity Benefit Act, 1961, § 18.

<sup>230</sup> The Maternity Benefit Act, 1961, § 5(3).

<sup>231</sup> The Maternity Benefit Act, 1961, § 5(4).

<sup>232</sup> The Maternity Benefit Act, 1961, § 5(4).

<sup>233</sup> The Maternity Benefit Act, 1961, § 5(3).

<sup>234</sup> The Maternity Benefit Act, 1961, § 5(4).

<sup>235</sup> The Maternity Benefit Act, 1961, § 5(4).

<sup>236</sup> The Maternity Benefit Act, 1961, § 8.

<sup>237</sup> The Maternity Benefit Act, 1961, § 11.

<sup>238</sup> The Maternity Benefit Act, 1961, § 11(A)(1).

<sup>239</sup> The Maternity Benefit Act, 1961, § 11(A)(2).

<sup>240</sup> The Maternity Benefit Act, 1961, § 7.

<sup>241</sup> The Maternity Benefit Act, 1961, § 9.

<sup>242</sup> The Maternity Benefit Act, 1961, § 9(A).

<sup>243</sup> The Maternity Benefit Act, 1961, § 10.

<sup>244</sup> The Maternity Benefit Act, 1961, § 12(1).

<sup>245</sup> The Maternity Benefit Act, 1961, § 12(2).



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- <sup>246</sup>The Maternity Benefit Act, 1961, § 13.
- <sup>247</sup>The Maternity Benefit Act, 1961, § 19.
- <sup>248</sup>Chugh, Shivani. "Impact of the 73rd Constitutional Amendment Act (1992) on the Empowerment of Women in India." *Asian Man (the) - an International Journal*, 13(2), Diva Enterprises Private Limited, 212 (2019). Available at: <https://doi.org/10.5958/0975-6884.2019.00031.8> (last visited on March 12, 2022).
- <sup>249</sup>National Maternity Benefit Scheme (NMBS), available at <https://www.indiastat.com/data/social-and-welfare-schemes/national-maternity-benefits-scheme-nmbs>, visited on May 12, 2024.
- <sup>250</sup>Mukherjee, Saradiya, and Aditya Singh. "Has The Janani Suraksha Yojana (a Conditional Maternity Benefit Transfer Scheme) Succeeded in Reducing the Economic Burden of Maternity in Rural India? Evidence From the Varanasi District of Uttar Pradesh." *Journal of Public Health Research*, 7(1), SAGE Publications, (2018), p. jphr.2018.957. available at: <https://doi.org/10.4081/jphr.2018.957>. (last visited on February 25, 2022).
- <sup>251</sup>Janani Suraksha Yojana (JSY), available at <https://webapps.ilo.org/dyn/travail/docs/683/JananiSurakshaYojana-Guidelines/MinistryofHealthand-FamilyWelfre.pdf>, visited on May 12, 2024.
- <sup>252</sup>Indira Gandhi Matritva Sahyog Yojna (IGMSY), available at <https://sswcd.punjab.gov.in/en/indira-gandhi-matritva-sehyog-yojna-igmsy#:~:text=Under%20this%20scheme%2C%20the%20women,the%20fulfillment%20of%20specific%20conditi ons.,> visited on April 12, 2023.
- <sup>253</sup>D Kumuda. "Performance of Indira Awas Yojana (Iay) and Rural Development in India." *Indian Journal of Applied Research*, 4(8) The Global Journals 115–17 (2011). Available at: <https://doi.org/10.15373/2249555x/august2014/31>. (last visited on March 12, 2022).
- <sup>254</sup>Manjula.k, Ranganath, "The awareness and utilization of maternity benefit among women receiving services in a tertiary care center" 3(6) *International Journal of Community Medicine and Public Health* (2016).
- <sup>255</sup>Pradhan Mantri Matru Vandana Yojana (PMMVY), available at [https://web.umang.gov.in/landing/departement/pmmvy.html?\\_x\\_tr\\_hist=true](https://web.umang.gov.in/landing/departement/pmmvy.html?_x_tr_hist=true), visited on April 12, 2023.
- <sup>256</sup>*Ibid.*
- <sup>257</sup>Rajasthan Maternity Benefit Scheme (RMBS), available at [https://upload.indiacode.nic.in/showfile?actid=AC\\_RJ\\_83\\_1123\\_000010\\_000010\\_1560763338480&type=rule&file name=rajasthan\\_maternity\\_benefit\\_rules\\_1967\\_.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_RJ_83_1123_000010_000010_1560763338480&type=rule&file name=rajasthan_maternity_benefit_rules_1967_.pdf), visited on May 12, 2023.
- <sup>258</sup>Retrieved from <https://pib.gov.in/newsite/PrintRelease.aspx?relid=126379>, visited on May 12, 2024.
- <sup>259</sup>IWWAGE (2020), India's Emerging Gig Economy: The Future of Work for Women Workers, The Asia Foundation, <https://iwwage.org/wp-content/uploads/2020/08/IWWAGEGig-Economy-Report.pdf>.
- <sup>260</sup>Retrieved from <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2002647#:~:text=2020.,been%20subsumed%20in%20the%20Code.,> visited on May 12, 2024
- <sup>261</sup>(2021), World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_771749.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_771749.pdf).
- <sup>262</sup>Retrieved from <https://www.onsurity.com/blog/maternity-benefits-in-india-under-code-on-social-security-2020/>, visited on May 12, 2024
- <sup>263</sup>Code on Social Security; available at <https://www.simpliance.in/blog/code-on-social-security-2020/>. Visited on May 11, 2024 .
- <sup>264</sup> Available at [https://labour.gov.in/sites/default/files/ss\\_code\\_gazette.pdf](https://labour.gov.in/sites/default/files/ss_code_gazette.pdf), Visited on May 11, 2024.
- <sup>265</sup>*Ibid*
- <sup>266</sup>*Ibid*
- <sup>267</sup>*Ibid*
- <sup>268</sup>*Ibid*
- <sup>269</sup>*Ibid*
- <sup>270</sup>*Ibid*
- <sup>271</sup>*Ibid*
- <sup>272</sup>*Ibid*
- <sup>273</sup> Indian Government on Social Security Benefits for Gig Workers; available at <https://gig4u.co/blog/indian-government-on-social-security-benefits-for-gig-workers#:~:text=The%20ESIS%20extends%20its%20coverage,and%20that%20of%20their%20dependents.,> visited on May 12, 2024
- <sup>274</sup>*Ibid*
- <sup>275</sup>*Ibid.*

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<sup>276</sup>Ibid

<sup>277</sup>Ibid

<sup>278</sup>No. 11020/01/2017-Estt. (L) Government of India Ministry of Personnel PG & Pensions Department of Personnel & Training, available at <https://dopt.gov.in/sites/default/files/CCSAMENDMENTRULES.PDF>, visited on May 12, 2024.

<sup>279</sup>No. 11020/01/2017-Estt. (L) Government of India Ministry of Personnel PG & Pensions Department of Personnel & Training, available at <https://dopt.gov.in/sites/default/files/CCSAMENDMENTRULES.PDF>, visited on May 12, 2024.

<sup>280</sup>Ibid.

<sup>281</sup>Ibid.

<sup>282</sup>Ibid.

<sup>283</sup>Ibid.

<sup>284</sup>Ibid.

<sup>285</sup>Ibid.

<sup>286</sup>2024 SCC OnLine SC 653

<sup>287</sup>The Indian Express, Retrieved from <https://indianexpress.com/article/opinion/columns/how-sc-verdict-on-childcare-leave-opens-up-possibilities-for-women-9291069/>, visited on May 12, 2024.

<sup>288</sup>Singla, Ananya. “Maternity Benefit Amendment Act (2017): A ‘Humble Gift’ Causing Motherhood Penalty in India.” *The Graduate Inequality 1*(1), Graduate Inequality Review, (2022) available at: <https://doi.org/10.56298/w9kss9hvwv>. (last visited on January 22, 2023).

<sup>289</sup>Bhate-Deosthali, Padma, et al. “Poor Standards of Care in Small, Private Hospitals in Maharashtra, India: Implications for Public–private Partnerships for Maternity Care.” *Reproductive Health Matters*, 19 (37) Informa UK Limited., 32–41 (2011) available at: [https://doi.org/10.1016/s0968-8080\(11\)37560-x](https://doi.org/10.1016/s0968-8080(11)37560-x). (last visited on April 21, 2023).

<sup>290</sup>*Deepika Singh v. Central Administrative Tribunal*, 2022 SCC OnLine SC 1088

<sup>291</sup>Central Civil Services Rules 1972, Rule 43

<sup>292</sup>Central Civil Services Rules 1972, Rule 43-C (1).

<sup>293</sup>Central Civil Services Rules 1972, Rule 43-C (2).

<sup>294</sup>Central Civil Services Rules 1972, Rule 43-C (3)

<sup>295</sup>Central Civil Services Rules 1972, Rule 43-C (4).

<sup>296</sup>Central Civil Services Rules 1972, Rule 43-C (5).

<sup>297</sup>Central Civil Services Rules 1972, Rule 43 (1).

<sup>298</sup>Central Civil Services Rules 1972, Rule 43 (2).

<sup>299</sup>Employees’ State Insurance Act, 1948 (34 of 1948).

<sup>300</sup>Central Civil Services Rules 1972, Rule 43 (3).

<sup>301</sup>Central Civil Services Rules 1972, Rule 43 (4)(a).

<sup>302</sup>Central Civil Services Rules 1972, Rule 43 (4)(b).

<sup>303</sup>Central Civil Services Rules 1972, Rule 43 (5).

<sup>304</sup>*KH Nazar v. Mathew K Jacob*, (2020) 14 SCC 126.

<sup>305</sup>*Prenn v. Simmonds*, (1971) 1 WLR 1381.

<sup>306</sup>*Surendra Kumar Verma v. Central Govt. Industrial Tribunal- cum-Labour Court*, 1981 SCR (1) 789.

<sup>307</sup>*Badshah v. Urmila Badshah Godse*, (2014) 1 SCC 188.

<sup>308</sup>Maternity Benefits Act, 1961, s.5

<sup>309</sup>*Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, 2000 (3) SCC 224.

<sup>310</sup>*Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

<sup>311</sup>Hintjens, Helen. “UNIFEM, CEDAW and the Human Rights-based Approach.” *Development and Change* 39(6), Wiley, 1181–92.(2008) available at:<https://doi.org/10.1111/j.1467-7660.2008.00513.x>. (last visited on April 12, 2023).

<sup>312</sup>Organisation for Economic Co-operation and Development, 'Time-Use' (OECD Stat), available at:<[https://stats.oecd.org/Index.aspx?datasetcode=TIME\\_USE#](https://stats.oecd.org/Index.aspx?datasetcode=TIME_USE#)> (last visited on April 1, 2023).

<sup>313</sup>*Municipal Corporation of Delhi v. Respondent Female Workers (Muster Roll) &Anr.* AIR 2000 SC 1274.

<sup>314</sup> *Municipal Corporation of Delhi v. Female Workers (Muster Roll) and Anr.* (2000) 3 SCC 224.

<sup>315</sup> *Mohini Jain v. State of Karnataka* (1992) 3 SCC 666.

<sup>316</sup>“*Rattan Lal and Ors. v. State of Haryana and Ors.*” MANU/SC/0354/1985.

<sup>317</sup>“*B. Shah v. Presiding Officer, Labour Court, Coimbatore and others*” (1977) 4 SCC 384.

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- <sup>318</sup> Shah v. Presiding Officer, Labour Court, Coimbatore, 1978 AIR 12
- <sup>319</sup> Air India v. Nergesh Meerza, 1982 SCR (1) 438.
- <sup>320</sup> The Supreme Court Ruling in, after marriage or first pregnancy; available at <https://legalfly.in/air-india-v-nargesh-meerza/#:~:text=The%20Supreme%20Court's%20ruling%20in,after%20marriage%20or%20first%20pregnancy,> visited on April 12, 2024.
- <sup>321</sup> Mrs. Neera Mathur v. Life Insurance Corporation of India & Anr. (1992) SCC 286.
- <sup>322</sup> Dr. Rachna Chaurasiya v. State of U.P. and others, Civil Misc. Writ Petition No. 24627 of 2017.
- <sup>323</sup> Anshu Rani v. State of Uttar Pradesh and Ors., Writ - A No. 3486 of 2019.
- <sup>324</sup> Pooja Jignesh Doshi v. The State of Maharashtra and Ors., MANU/MH/2480/2019.
- <sup>325</sup> Rasitha C.H. v. State of Kerala & Anr, WP(C) No. 4407 of 2018.
- <sup>326</sup> Seema Gupta v. Guru Nanak Institute of Management, 135 DLT 404 (2006).
- <sup>327</sup> Raj Bala vs. State of Haryana and Ors, 2002(3) RSJ 43.
- <sup>328</sup> Ms. Sonika Kohli and Anr. vs. Union of India (UOI) and Ors., 2004 (3) SLJ 54 (CAT).
- <sup>329</sup> Uma Rani, M.S. and Anr. vs. Union of India (UOI) and Ors., 2008 (3) SLJ 346 (CAT).
- <sup>330</sup> Gita Mittal and J.R. Midha, WP(C) No. 13193/2009.
- <sup>331</sup> Rama Pandey v. Union of India, 221 DLT 756 (2015).
- <sup>332</sup> Hema Vijay Menon v. State of Maharashtra, 2015 SCC OnLine Bom 6127.
- <sup>333</sup> Rama Pandey v. Union of India, 2015 SCC OnLine Del 10484 .
- <sup>334</sup> Neetu Bala v. Union of India, SCC OnLine P&H 602(2016).
- <sup>335</sup> Navtej Johar v. Union of India (2018) 10 SCC 1.
- <sup>336</sup> Manisha Priyadarshini v. Aurobindo College-Evening & Ors., MANU/DE/0995/2020.
- <sup>337</sup> Ibid.
- <sup>338</sup> MANU/HP/0599/2020.
- <sup>339</sup> Mrs. Savita Ahuja v. State of Haryana and others., SLR 735 1988(1).
- <sup>340</sup> Bilju A.T. v. Union of India & Ors., SCC OnLine Del 2152(2013).
- <sup>341</sup> Inspector (Mahila) Ravina v. Union of India & Ors. MANU/DE/3946/2015.
- <sup>342</sup> S. Amudha v. Chairman, Neyveli Lignite Corporation SCC OnLine Mad 234(1989).
- <sup>343</sup> K Chandrika v. Indian Red Cross Society 131 (2006) DLT 585.
- <sup>344</sup> F.M. Kolia and Anr v. Manager, The Tiles and Pottery Works Ltd. and Ors, 22 GLR 528 (1981).
- <sup>345</sup> Vandana Kandari v. University of Delhi, 170 (2010) DLT 755.
- <sup>346</sup> Smt. Neetu Choudhary v. State of Rajasthan and Ors, 2005(5) RDD 1144 (Raj).
- <sup>347</sup> Tata Tea Ltd. v. Inspector of Plantations, (1992) ILLJ 603 Ker.
- <sup>348</sup> J. Sharmila v. The Secretary to Government, Edu. Deptt. Madras, W.P. (MD) No 13555 of 2009.
- <sup>349</sup> Smt. Archana Panedy v. State of M.P & others, Writ Petition No. 15523 of 2016.
- <sup>350</sup> [2007 (112) FLR 1134]: [2007] IILLJ 64 P H, 2008 [1] SLJ 121 P H.
- <sup>351</sup> Dr. Kavita Yadav vs The Secretary, Ministry of Health And Others 19 August, 2019.
- <sup>352</sup> State Of Himachal Pradesh & Ors vs Sita Devi on 25 July, 2023.
- <sup>353</sup> Shalini Dharmani vs State of Himachal Pradesh (2024).
- <sup>354</sup> Available at <https://vvgnli.gov.in/sites/default/files/2012-099.pdf>, visited on April 12, 2024.
- <sup>355</sup> Available at <https://vvgnli.gov.in/sites/default/files/2012-099.pdf>, visited on April 12, 2024.
- <sup>356</sup> Anya Behera and Ankita Mehra, “Maternity Benefit in the Corporate Sectors” 4 IJLMH 101-108 (2021).
- <sup>357</sup> Archana Sharma, “Discrimination against Women at Workplace in India: A Legal Perspective,” 4 GNLU Journal of Law Development and Politics 23 (2014).
- <sup>358</sup> Government of India letter No. S-36012/03/2015-SSI dated 12.04.2017, available at [https://pblabour.gov.in/pbLabourStaticSiteAdmin/uploads/91539dd8-8190-4293-9268-e4a61a4a6a8e\\_maternity%20benefit%20notification.pdf](https://pblabour.gov.in/pbLabourStaticSiteAdmin/uploads/91539dd8-8190-4293-9268-e4a61a4a6a8e_maternity%20benefit%20notification.pdf), visited on May 12, 2024.
- <sup>359</sup> Ibid
- <sup>360</sup> Ibid
- <sup>361</sup> Ibid
- <sup>362</sup> Ibid
- <sup>363</sup> Available at <https://www.forbesindia.com/article/explainers/maternity-leave-policy/92921/1>, visited on May 12, 2024.

## Bibliography

### Articles and Research Papers

1. Abeyratne, R. (2012). Socioeconomic Rights in the Indian Constitution: Towards a Broader Conception of Legitimacy. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2189277>
2. Agrawal, I., & Singh, A. (2016). Article 16 of the Indian Constitution: Overcoming Past Discriminations. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2721686>
3. Amir, S. I. (2022). Article 14 of indian constitution. *International Journal of Health Sciences*, 14912–14915. <https://doi.org/10.53730/ijhs.v6ns2.8952>
4. Aparna, M. (2006). Article 21 of Indian Constitution - Mandate for Life Saving. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.906704>
5. Ara, S. (2015). Gender and jobs: Evidence from urban labour market in India. *The Indian Journal of Labour Economics*, 58(3), 377–403. <https://doi.org/10.1007/s41027-016-0027-2>
6. Arora, V. (1985). Quest for Socialism. *India Quarterly: A Journal of International Affairs*, 41(2), 292–294. <https://doi.org/10.1177/097492848504100216>
7. Asia Pacific, I. (2008). The Validity of Reservations and Declarations to CEDAW: The Indian Experience. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1146815>
8. Austin, F. (2011). The benefits of a maternity dietetic service for obese and underweight pregnant women. *Journal of Human Nutrition and Dietetics*, 24(4), 376–377. [https://doi.org/10.1111/j.1365-277x.2011.01177\\_3.x](https://doi.org/10.1111/j.1365-277x.2011.01177_3.x)
9. Badigannavar, V., & Kelly, J. (2012). Do Labour Laws Protect Labour in India? Union Experiences of Workplace Employment Regulations in Maharashtra, India. *Industrial Law Journal*, 41(4), 439–470. <https://doi.org/10.1093/indlaw/dws038>
10. Balfour, M. (1922). Maternity Conditions in India. *The Lancet*, 199(5154), 1161–1162. [https://doi.org/10.1016/s0140-6736\(01\)33159-8](https://doi.org/10.1016/s0140-6736(01)33159-8)
11. Barker, D. A. (1911). Factory Legislation in India. *The Economic Journal*, 21(84), 643. <https://doi.org/10.2307/2221765>
12. Bhandari, B. (2018). Basic Structure in the Constitution of India. *International Journal of Trend in Scientific Research and Development*, Volume-2(Issue-5), 899–903. <https://doi.org/10.31142/ijtsrd16994>

13. Bhatia, N. (2020). A Look at Collective Bargaining and Its Impact on Labour Law Legislation in India. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3558743>
14. Boyd, S. B. (2016). The Trouble with Marriage: Feminists Confront Law and Violence in India by Srimati Basu. *Canadian Journal of Women and the Law*, 28(1), 241–247. <https://doi.org/10.3138/cjwl.28.1.241>
15. Bruun, N. (2015). Women's Human Rights. CEDAW in International, Regional and National Law. *Nordic Journal of Human Rights*, 33(2), 184–186. <https://doi.org/10.1080/18918131.2015.1035936>
16. Byrnes, A. C., & Freeman, M. (2012). The Impact of the CEDAW Convention: Paths to Equality. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2011655>
17. Campbell, M., & Swenson, G. (2016). Legal Pluralism and Women's Rights After Conflict: The Role of CEDAW. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2805359>
18. Chadha, A. (2018). Law Relating to Sexual Harassment of Women at the Workplace in India: A Critical Review. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3171264>
19. Chattopadhyay, P. (2010). The Myth of Twentieth-Century Socialism and the Continuing Relevance of Karl Marx. *Socialism and Democracy*, 24(3), 23–45. <https://doi.org/10.1080/08854300.2010.513610>
20. D. P. E. (1949). The Indian Labour Year Book 1946. Government of India, Ministry of Labour, Labour Bureau. *International Affairs*, 25(4), 544–544. <https://doi.org/10.1093/ia/25.4.544a>
21. D'Souza, E. (2010). The employment effects of labour legislation in India: a critical essay. *Industrial Relations Journal*, 41(2), 122–135. <https://doi.org/10.1111/j.1468-2338.2009.00558.x>
22. D'Souza, E. (2010). The employment effects of labour legislation in India: a critical essay. *Industrial Relations Journal*, 41(2), 122–135. <https://doi.org/10.1111/j.1468-2338.2009.00558.x>
23. Dalley, G. (1981). Maternity benefits: Their present role and future development. *The Journal of Social Welfare Law*, 3(4), 329–334. <https://doi.org/10.1080/09649068108414195>
24. Ennals, S. (1991). Maternity benefits. *BMJ*, 302(6772), 342–343. <https://doi.org/10.1136/bmj.302.6772.342>
25. Freeman, M. (2017). CEDAW: focus on reproductive rights. *djbZ*, 20(1), 5–5. <https://doi.org/10.5771/1866-377x-2017-1-5>

26. Funk, N. (1987). Socialism and democracy. *Socialism and Democracy*, 3(1), 85–91.  
<https://doi.org/10.1080/08854308908427971>
27. Gochhayat, S. A. (2011). Understanding of Right to Abortion Under Indian Constitution. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1754455>
28. Halperin-Kaddari, R. (2020). Parenting Apart in International Human Rights Family Law: A View from CEDAW. *Jerusalem Review of Legal Studies*, 22(1), 130–146.  
<https://doi.org/10.1093/jrls/jlaa003>
29. Halperin-Kaddari, R. (2021). CEDAW Commentary Final Draft: Discrimination against Women. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4060102>
30. Hannum, H. (1998). The UDHR in National and International Law. *Health and Human Rights*, 3(2), 144. <https://doi.org/10.2307/4065305>
31. Harmony over maternity benefits. (1992). *The Lancet*, 340(8826), 1032.  
[https://doi.org/10.1016/0140-6736\(92\)93038-o](https://doi.org/10.1016/0140-6736(92)93038-o)
32. Hasan, S. (2016). Factors influence on Primigravida's knowledge regarding exclusive breastfeeding benefits in Maternity Teaching Hospital: Erbil city - Kurdistan region – Iraq. *Zanco Journal of Medical Sciences*, 20(3), 1505–1513.  
<https://doi.org/10.15218/zjms.2016.0051>
33. Hintjens, H. (2008). UNIFEM, CEDAW and the Human Rights-based Approach. *Development and Change*, 39(6), 1181–1192. <https://doi.org/10.1111/j.1467-7660.2008.00513.x>
34. Improvement of Labour Legislation as a Basis for Effective Functioning of Contract Regulation of Labour and Other Related Relations. (2017). *Актуальные Проблемы Российского Права*. <https://doi.org/10.17803/1994-1471.2017.75.2.144-151>
35. in Development, P. F. L. (2004). CEDAW- Restoring Rights to Women. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2660724>
36. in Development, P. F. L. (2009). South Asia Inter Governmental Peer Learning Cedaw: Reporting and Implementation. *SSRN Electronic Journal*.  
<https://doi.org/10.2139/ssrn.2690161>
37. Increases in Maternity Benefits. (1953). *The Lancet*, 261(6761), 634.  
[https://doi.org/10.1016/s0140-6736\(53\)91760-7](https://doi.org/10.1016/s0140-6736(53)91760-7)
38. International Labour Law Reports On, E. (1994). INDIA: Supreme Court of India. *International Labour Law Reports Online*, 15(1), 579–587.  
<https://doi.org/10.1163/22116028-90000038>

39. International Labour Law Reports On, E. (2021). India. *International Labour Law Reports Online*, 39(1), 33–43. <https://doi.org/10.1163/22116028-03901005>
40. Jadon, M. (2019). Story Unspoken: An Analysis of Maternity Benefits Amendment Act, 2017 and Its Implications on the Modern Industrial Discourse. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3329593>
41. K, N. (2018). Women's Status and Legal Rights in Indian Constitution. *Contemporary Social Sciences*, 27(2), 102–111. <https://doi.org/10.29070/27/57470>
42. Kaas, L. (2006). Does Equal Pay Legislation Reduce Labour Market Inequality? *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.947072>
43. Kalra, A., & Priya, A. (2019). Birth Pangs: Universal Maternity Entitlements in India. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3486671>
44. Kerr, I. J. (2004). Labour control and labour legislation in colonial India: a tale of two mid-nineteenth century acts. *South Asia: Journal of South Asian Studies*, 27(1), 7–25. <https://doi.org/10.1080/1479027042000186405>
45. Khan, M. I. (2021). Consequences of Labour Migration on Wages and Employment: Evidence from India. *The Indian Journal of Labour Economics*, 64(1), 23–47. <https://doi.org/10.1007/s41027-020-00294-7>
46. Korshunova, T. I., & Motsnaya, O. V. (2022). Platform work and the changing of definitions of employee and employer. *Russian Journal of Labour & Law*, 12, 76–91. <https://doi.org/10.21638/spbu32.2022.107>
47. Kumar, A. (2022). Recent Issues in Politics, Preamble and Constitution of India: An Overview. *Indian Journal of Public Administration*, 69(1), 8–21. <https://doi.org/10.1177/00195561221109063>
48. M. C. (1921). Maternity and Child Welfare in India. Vol. I. No 1. March 1921. The Organ of the Lady Chelmsford All-India League for maternity and child welfare. Published quarterly. — Calcutta, impr. Superintendent Government. In-8, 56 p., pl. *Revue Internationale De La Croix-Rouge Et Bulletin International Des Sociétés De La Croix-Rouge*, 3(30), 636. <https://doi.org/10.1017/s1026881200182431>
49. Maternity and Child Welfare in India. (1921). *The Lancet*, 197(5083), 239. [https://doi.org/10.1016/s0140-6736\(01\)23352-2](https://doi.org/10.1016/s0140-6736(01)23352-2)
50. Maternity Benefits. (1952). *The Lancet*, 259(6700), 201. [https://doi.org/10.1016/s0140-6736\(52\)91423-2](https://doi.org/10.1016/s0140-6736(52)91423-2)
51. Maternity Hospitals and Maternity Benefits at Dundee (1915). *The Lancet*, 186(4796), 240. [https://doi.org/10.1016/s0140-6736\(01\)43579-3](https://doi.org/10.1016/s0140-6736(01)43579-3)

52. Maternity in India. (1936). *The Lancet*, 228(5888), 31. [https://doi.org/10.1016/s0140-6736\(00\)81715-8](https://doi.org/10.1016/s0140-6736(00)81715-8)
53. Matthias, C. (1994). The Rights of Maternity Benefits. *Agenda*, (22), 6. <https://doi.org/10.2307/4065728>
54. Merging and Simplification of Labour Legislation through Codes: The Process Needs to Draw Insights through Qualitative Research Initiatives. (2018). *Space and Culture, India*, 6(3). <https://doi.org/10.20896/saci.v6i3.349>
55. Mitra, A. (2012). Affirmative Action for Women in Indian Constitution. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2129663>
56. Mondal, J., & Pandey, M. (2018). Maternity Legislations: A Comparative Study between India and USA. *Management Insight - the Journal of Incisive Analysers*, 14(1). <https://doi.org/10.21844/mijia.14.01.6>
57. Moolman, J. (1997). Talking about Maternity Benefits. *Agenda*, (35), 73. <https://doi.org/10.2307/4066094>
58. Mukherjee, S., & Singh, A. (2018). Has the Janani Suraksha Yojana (A Conditional Maternity Benefit Transfer Scheme) Succeeded in Reducing the Economic Burden of Maternity in Rural India? Evidence from the Varanasi District of Uttar Pradesh. *Journal of Public Health Research*, 7(1), jphr.2018.957. <https://doi.org/10.4081/jphr.2018.957>
59. Narayan, V. A., & Sindhu, J. (2018). A historical argument for proportionality under the Indian Constitution. *Indian Law Review*, 2(1), 51–88. <https://doi.org/10.1080/24730580.2018.1516112>
60. Nedumaran, G., & M, M. (2019). Dr Ambedkar: Architect of the Indian Constitution. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3551998>
61. Ngaba, S. (1995). CEDAW: Eliminating Discrimination against Women. *Agenda*, (27), 81. <https://doi.org/10.2307/4065976>
62. Potter, D. S. (1910). The Movement For International Labour Legislation. *The Economic Journal*, 20(79), 347. <https://doi.org/10.2307/2221028>
63. Raj, T. K. (2021). Private discrimination, public service and the constitution. *Indian Law Review*, 6(1), 17–36. <https://doi.org/10.1080/24730580.2021.1950338>
64. Ramaseshan, G. (2008). The OP-CEDAW as a Mechanism for Implementing Women's Human Rights: An Analysis of Decisions Nos. 6-10 of the Cedaw Committee under the Communications Procedure of the OP-CEDAW. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1469998>



65. Rao, V. (1970). The Gandhian Alternative To Western Socialism. *India Quarterly: A Journal of International Affairs*, 26(4), 331–352.  
<https://doi.org/10.1177/097492847002600401>
66. Ribeiro, A. T. (2015). Crisis and Labour Law. *European Labour Law Journal*, 6(3), 259–281. <https://doi.org/10.1177/201395251500600305>
67. Rizvi, D. A. J., & Wasti, S. A. (2015). Labour Legislation/Policy and the Gender (Female) Aspects of Labour Laws in Pakistan. (From Pre-Independence Till 2010). *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2633124>
68. Rodi, K. (2009). CEDAW. *djbZ*, 12(2), 68–69. <https://doi.org/10.5771/1866-377x-2009-2-68>
69. Rubin, R. (2016). Despite Potential Health Benefits of Maternity Leave, US Lags Behind Other Industrialized Countries. *JAMA*, 315(7), 643.  
<https://doi.org/10.1001/jama.2015.18609>
70. Salisbury, L. (2005). Ineligible for maternity benefits. *Nursing Standard*, 19(23), 31–31. <https://doi.org/10.7748/ns.19.23.31.s46>
71. Sharma, R. (2002). Social Conflict and Social Assimilation : Constitution, Politics and Administration in India. *Indian Journal of Public Administration*, 48(4), 617–634. <https://doi.org/10.1177/0019556120020405>
72. Singh, D. S. B. (2011). Social Justice and Indian Constitution. *Indian Journal of Applied Research*, 3(7), 578–579. <https://doi.org/10.15373/2249555x/july2013/182>
73. Singh, G. (2018). Review of: Tom Barnes (2016) Informal Labour in Urban India: Three Cities, Three Journeys. *Global Labour Journal*, 9(3).  
<https://doi.org/10.15173/glj.v9i3.3676>
74. Singh, J. (2023). Unemployment Fluctuations in Urban Labour Market in India. *The Indian Journal of Labour Economics*. <https://doi.org/10.1007/s41027-022-00417-2>
75. Singla, A. (2022). Maternity Benefit Amendment Act (2017): A ‘Humble Gift’ Causing Motherhood Penalty in India. *The Graduate Inequality Review*, 1(1).  
<https://doi.org/10.56298/w9kss9hvwy>
76. Social Justice Provision in Indian Constitution. (2020). *International Journal of Political Science*, 6(3). <https://doi.org/10.20431/2454-9452.0603001>
77. Srikanth, N. (2017). Remembering the Father of Indian Constitution - Dr. B R Ambedkar and his Role in Framing Indian Constitution. *International Journal of Trend in Scientific Research and Development*, Volume-2(Issue-1), 995–1001.  
<https://doi.org/10.31142/ijtsrd7170>

78. Thomas, R. E. (2022). Critical comparison of maternity and delivery care patterns in Kerala and India using data from the National Family Health Surveys. *Journal of Medical Science and Clinical Research*, 10(06). <https://doi.org/10.18535/jmscr/v10i6.10>
79. Upadhyaya, S., & Endow, T. (2015). Shyam Sundar K.R.: Labour law and governance reforms in India; Some Critical Perspectives. *The Indian Journal of Labour Economics*, 58(3), 525–528. <https://doi.org/10.1007/s41027-016-0033-4>
80. Vyas, M. (2020). Impact of Lockdown on Labour in India. *The Indian Journal of Labour Economics*, 63(S1), 73–77. <https://doi.org/10.1007/s41027-020-00259-w>
81. Wielenga, K. D. (2019). The Emergence of the Informal Sector: Labour legislation and politics in South India, 1940–60. *Modern Asian Studies*, 54(4), 1113–1148. <https://doi.org/10.1017/s0026749x18000306>

## Books

1. Ananth, V. K. (2015). *Indian Constitution and Social Revolution* (Vol. 16).
2. Anderman, S. D. (2000). *Labour Law: Management Decisions and Workers' Rights*.
3. Austin, G. (1999). *The Indian Constitution: Cornerstone of a Nation*. <https://doi.org/10.1604/9780195649598>
4. Baer, J. A. (1999). *Our Lives Before the Law: Constructing a Feminist Jurisprudence*.
5. Baines, B., Barak-Erez, D., & Kahana, T. (Eds.). (2012). *Feminist Constitutionalism: Global Perspectives*.
6. Barnett, H. (2012). *Sourcebook on Feminist Jurisprudence*. Routledge Cavendish. <https://doi.org/10.1604/9781843142843>
7. Barnett, H. (2013). *Introduction to Feminist Jurisprudence*. Routledge Cavendish.
8. Bharadwaj H., S. K. (2015). *Women Rights, Laws and Schemes in India*. Germany: GRIN Publishing.
9. Bhaskar, D. K. (2020). *Important Articles of Indian Constitution: Detailed Analysis with Case Study*.
10. Bowman, C., Rosenbury, L., Tuerkheimer, D., & Yuracko, K. (2017). *Feminist Jurisprudence: Cases and Materials*.
11. Boyd, S. B. (Ed.). (1997). *Challenging the Public - Private Divide: Feminism, Law, and Public Policy*. <https://doi.org/10.1604/9780802076526>

12. Brown, J. C., & Small, S. (1985). *Maternity Benefits* (Vol. Vol. 9).
13. Chakrabarty, B. (2017). *Indian Constitution: Text, Context and Interpretation*.
14. Chapalgaonker, N. (2015). *Mahatma Gandhi and the Indian Constitution*. Routledge India.
15. Cybil, K. V. (Ed.). (2019). *Social Justice: Interdisciplinary Inquiries from India*. Routledge India.
16. Diduck, A., & O'Donovan, K. (Eds.). (2007). *Feminist Perspectives on Family Law*. Routledge Cavendish. <https://doi.org/10.1604/9780203945384>
17. Ehrenberg, R. G. (1997). *Gender and Family Issues in the Workplace*. United States: Russell Sage Foundation.
18. Felipe, J. (2006). *Labor Markets in Asia: Issues and Perspectives*. United Kingdom: Palgrave Macmillan UK.
19. Gibson, K. L. (2018). *Ruth Bader Ginsburg's Legacy of Dissent: Feminist Rhetoric and the Law*.
20. Giri, V. V. (1972). *Labour Problems in Indian Industry*. India: Asia Publishing House.
21. Goldstein, L. F. (Ed.). (1992). *Feminist Jurisprudence: The Difference Debate*. <https://doi.org/10.1604/9780847677443>
22. Gordon, V., Rauhaus, B. M. (2019). *Maternity Leave: Policy and Practice*. United States: Taylor & Francis.
23. Haerens, M. (2005). *Social Justice*. Greenhaven Press, Incorporated. <https://doi.org/10.1604/9780737729610>
24. Harris, H. J. (2012). *Maternity Benefit Systems in Certain Foreign Countries*.
25. Heathcote, G. (2013). *The Law on the Use of Force: A Feminist Analysis*. Routledge.
26. Hirway, I. (1986). *Denial of Maternity Benefits to Women Workers in India*. <https://doi.org/10.1604/9788120401549>
27. Hodson, L., & Lavers, T. (Eds.). (2019). *Feminist Judgments in International Law*. Hart Publishing.
28. Hunter, R., McGlynn, C., & Rackley, E. (Eds.). (2010). *Feminist Judgments: From Theory to Practice*. Hart Publishing.
29. Jhappan, R. (Ed.). (2002). *Women's Legal Strategies in Canada*.
30. Johnson, R. (2002). *Taxing Choices: The Intersection of Class, Gender, Parenthood, and the Law*. <https://doi.org/10.1604/9780774809566>
31. Joshi, R. (1977). *The Indian Constitution and Its Working*.
32. Kalsem, K. (2012). *In Contempt: Nineteenth-Century Women, Law, and Literature*.

33. Kannabiran, K. (2013). *Tools of Justice: Non-Discrimination and the Indian Constitution*. Routledge India. <https://doi.org/10.4324/9780203085523>
34. Khosla, M. (2012). *The Indian Constitution: Oxford India Short Introductions*.
35. Knop, K. (Ed.). (2004). *Gender and Human Rights* (Vol. Vol. 12).
36. Llc, B. (Ed.). (2010). *Indian Feminists: Vandana Shiva, Amrita Pritam, Sarojini Sahoo, Evangeline Anderson Rajkumar, Malati Choudhury, Aroti Dutt, Saroj Nalini Dutt*.
37. MacDonald, G. (2012). Gender, Sexualities and Law. *Canadian Journal of Women and the Law*, 24(2), 489–495. <https://doi.org/10.3138/cjwl.24.2.489>
38. Maternity protection and benefits in 92 countries. (1963). United States: U.S. Government Printing Office.
39. Maternity Protection at Work: Revision of the Maternity Protection Convention (revised), 1952 (No. 103), and Recommendation, 1952 (No. 95). (1999). Switzerland: International Labor Office.
40. Mayeri, S. (2011). *Reasoning from Race: Feminism, Law, and the Civil Rights Revolution*.
41. Mayeri, S. (2014). *Reasoning from Race: Feminism, Law, and the Civil Rights Revolution*.
42. Mehta, P. I., & Verma, N. (2002). *Human Rights under the Indian Constitution: The Philosophy and Judicial Gerrymandering*. <https://doi.org/10.1604/9788176291262>
43. Monitoring International Labor Standards: Techniques and Sources of Information. (2004). United States: National Academies Press
44. Morris, G. S., & Deakin, S. (1995). *Labour Law*. MICHIE. <https://doi.org/10.1604/9780406010254>
45. Mukherjee, R. (1999). *Women, Law and Free Legal Aid in India*. <https://doi.org/10.1604/9788176290982>
46. Munton, J. R. (2021). *Labour Law: An Introduction to the Law of Work*.
47. Naffine, N. (1990). *Law and the Sexes: Explorations in Feminist Jurisprudence*.
48. Powers, M., & Faden, R. (n.d.). *Social Justice: The Moral Foundations of Public Health and Health Policy*.
49. Punekar, S. D. (1950). *Social insurance for industrial workers in India*. London: Oxford University Press.
50. Ram, M. R. (n.d.). *Indian Constitution*.
51. Ranjan, S. R. (2013). *Human Values As Enshrined in Indian Constitution: An Empirical Study*.
52. Richardson, J., & Rackley, E. (Eds.). (2012). *Feminist Perspectives on Tort Law*. Routledge. <https://doi.org/10.4324/9780203122822>

53. Sapru, T. B. (2015). *The Indian Constitution - Scholar's Choice Edition*.
54. Sapru, T. B. (2015). *The Indian Constitution*.
55. Scales, A. (2006). *Legal Feminism: Activism, Lawyering, and Legal Theory*.  
<https://doi.org/10.1604/9780814798454>
56. Schneider, E. M. (2000). *Battered Women and Feminist Lawmaking and the Struggle for Equality*. <https://doi.org/10.1604/9780300083439>
57. Scott-Femenella, T., & Chama, S. (2018). *Social Justice: A Look at Issues Confronting the 21st Century*. Cognella Academic Publishing.
58. Self, R., & Company Ltd. Staff, T. P. (1994). *Tolley's Employment and Maternity Benefits*. Tolley. <https://doi.org/10.1604/9780854596324>
59. Sharma, S. N. (1991). *Personal Liberty under Indian Constitution*.  
<https://doi.org/10.1604/9788171003044>
60. Singh, I. P. (1989). *Women, Law and Social Change in India*.  
<https://doi.org/10.1604/9788170271352>
61. Singh, M. P., & Chaube, S. K. (Eds.). (1997). *Indian Constitution: A Review*.  
<https://doi.org/10.1604/9788124105573>
62. Smith, P. (Ed.). (1999). *Feminist Jurisprudence*.
63. *Social Justice: Economic Restructuring and Job Loss*. (1992).
64. Subrahmanya Aiyar, V. R. (2010). *The Indian Constitution*.
65. *The Indian Constitution, an Introductory Study*. (2012).
66. Thomas, T. A., & Boisseau, T. J. (Eds.). (2011). *Feminist Legal History: Essays on Women and Law*.
67. Thornton, M. (Ed.). (1996). *Public and Private: Feminist Legal Debates*.  
<https://doi.org/10.1604/9780195536621>
68. Wekesser, C., Swisher, K. L., & Rohr, J. (Eds.). (1990). *Social Justice*. Greenhaven Press, Incorporated. <https://doi.org/10.1604/9780899084572>
69. West, R., & Bowman, C. G. (Eds.). (2019). *Research Handbook on Feminist Jurisprudence*.
70. Wikipedia, S. (2011). *Indian Women: Indian Feminists, Indian Women's Magazines, Indian Women in War, Women's Organisations in India, Women's Rights in India*.
71. Women at Work. (1977). Switzerland: International Labor Office.

## Web Sources

- Indian Maternity Benefit (Amendment) Act, 2017 (Sajai Singh, Lakshmi Ramachandran, Craig A. de Ridder, Jeffrey D. Hutchings) <https://www.pillsburylaw.com/en/news-and-insights/indian-maternity-benefit-amendment-act-2017.html>
- Maternity Benefits, Act Under the Maternity Benefits Act, 1961 <http://www.helpinelaw.com/employment-criminal-and-labour/METB/maternity-benefits-under-the-maternity-benefits-act-1961.html#:~:text=Business%20Law-,Maternity%20Benefits%20Act%201961%2C%20Act%20Under%20The%20Maternity%20Benefits%20Act,maternity%20and%20certain%20other%20benefits.>
- The Maternity Benefit Act, 1961 and Maternity Benefit (Amendment) Act, 2017 and Creche Facility <https://blog.ipleaders.in/the-maternity-benefit-act/>
- Maternity Benefit Act, 1961 (Case Laws <http://www.whatishumanresource.com/Maternity-Benefit-Act-1961>
- All about Maternity Benefit Act, 1961 By- Sayali Diwadkar <https://www.latestlaws.com/articles/all-about-maternity-benefit-act-1961-by-sayali-di-wadkar/>
- The benefits women are entitled to and the rights they can claim under maternity <https://www.livemint.com/money/personal-finance/the-benefits-women-are-entitled-to-and-the-rights-they-can-claim-under-maternity-1557655754106.html>
- India's seemingly generous maternity law benefits merely 1% of its women, Manavi Kapur. <https://qz.com/india/1715618/indias-maternity-leave-policy-benefits-only-1-percent-working-women/#:~:text=In%202017%2C%20the%20country%20passed,with%20at%20least%2010%20employees.>
- Maternity Leave in India Increased To Six Months <https://www.mondaq.com/india/employee-benefits-compensation/583462/maternity-leave-in-india-increased-to-six-months> State govt raises maternity leave to 180 days, Ashraf Jamal <https://timesofindia.indiatimes.com/city/allahabad/State-govt-raises-maternity-leave-to-180-days/articleshow/4209332.cms>
- Maternity Leave in India – Law, Leave & Benefits <https://www.taxmann.com/blogpost/2000001824/maternity-leave-in-india-law-leave-benefits.aspx>

- Maternity Benefits in India: For Whom, The Laws and Limitations  
<https://maternity.com/maternity-benefits-in-india-for-whom-the-laws-limitations/>
- India Maternity and Paternity Leave Policy (For Reference of application)  
file:///C:/Users/namra/Downloads/Adobe\_India-MaternityAndPaternityLeavePolicyUpdated\_2018.pdf

**MATERNITY BENEFIT ACT, 1961**  
**(No. 53 of 1961)<sup>1</sup>**

**[12<sup>th</sup>. December, 1961]**

*An Act to regulate the employment of women in certain establishment for certain period before and after child-birth and to provide for maternity benefit and certain other benefits.*

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows: -

**1. Short title, extend and commencement.** -- (1) This Act may be called the Maternity Benefit Act, 1961.

(2) It extends to the whole of India <sup>2</sup>[\* \* \*]

(3) It shall come into force on such date as may be notified in this behalf in the Official Gazette, --

<sup>3</sup>[(a) in relation to mines and to any other establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, by the Central Government, and]

(b) in relation to other establishments in s State, by the State Government.

NOTES. – This Act came into force in relation to mines in the territories to which it extends on the 1<sup>st</sup>. November 1963 – *Vide* S.O. No. 2920, dated 5<sup>th</sup>. October, 1963, published in the *Gazette of India*, Part II, Sec. 3 (ii), dated 12<sup>th</sup>. October, 1963. This Act came into force in the whole of Uttar Pradesh with effect from 22<sup>nd</sup>. February 1974, *vide* notification No. 512 (V)-2/36-5-13 (V) 72, dated 22<sup>nd</sup>. February 1974.

**2. Application of Act.** -- (1) It applies in the first instance, to every establishment being a factory, mine or plantation <sup>4</sup>[including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances]:

Provided that the State Government may, with the approval of the Central Government, after giving not less than two months' notice of its intention of so doing, by notification

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<sup>1</sup> Received the assent of the President on the 12<sup>th</sup>. December, 1961 and published in the Gazette of India, Extraordinary, dated 13<sup>th</sup>. December 1961. For Statement of Objects and Reasons *see Gazette of India*, Extraordinary, Part II, dated 6<sup>th</sup>. December 1960.

<sup>2</sup> Words “except the State of Jammu and Kashmir” omitted by Act 51 of 1970, Sec. 2 and Sch.

<sup>3</sup> Subs. by Act 52 of 1973, Sec. 2, w.e.f. 1-3-1975 – *Vide* notification No. S.O. 113A (E), dated 27-2-1975.

<sup>4</sup> Subs. by Act 52 of 1973, S.3.



In the official on In the official *Gazette*, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

(2) <sup>5</sup>[Save as otherwise provided in <sup>6</sup>[sections 5A and 5B] nothing contained in this Act] shall apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948 (84 of 1948), apply for the time being.

**3. Definitions.** -- In this Act, unless the context otherwise requires, --

- (a) "appropriate Government" means in relation to an establishment being a mine <sup>7</sup>[or an establishment where persons are employed for the exhibition of equestrian, acrobatic and other performances], the Central Government and in relation to any other establishment, the State Government;
- (b) "child" includes a still-born child;
- (c) "delivery" means the birth of a child;
- (d) "employer" means –
  - (i) in relation to an establishment which is under the control of the Government, a person or authority appointed by the Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;
  - (ii) in relation to an establishment which is under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;
  - (iii) in any other case, the person who are the authority which has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

[<sup>8</sup>(e) "establishment" means –

- (i) a factory;
- (ii) a mine;
- (iii) a plantation;
- (iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatics and other performances; or

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<sup>5</sup> Subs. by Aci 21 of 1972, S.2.

<sup>6</sup> Subs. by Act 53 of 1976, sec. 2, for "section 5A". Act 53 of 1976 came into force w.e.f. 1-5-1976 – Vide notification No. S.O. 337 (E), dated 30-4-1976.

<sup>7</sup> Added by Act 52 of 1973, S. 4.

<sup>8</sup> Subs. by Act 52 of 1973, S. 4.

- (v) an establishment to which the provisions of this Act have been declared under sub-section (4) of section 2 to be applicable;]
- (f) “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);
- (g) “Inspector” means an Inspector appointed under section 14;
- (h) “maternity benefit” means the payment referred to in sub-section (1) of section 5;
- (i) “mine” means a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (35 of 1952)
- (j) “miscarriage” means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage the causing of which is punishable under the Indian Penal Code (45 of 1860);
- (k) “plantation” means a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);
- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “State Government” in relation to a Union territory, means the Administrator thereof;
- (n) “wages” means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes –
  - (1) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;
  - (2) incentive bonus; and
  - (3) the money value of the concessional supply of foodgrains and other articles,
 but does not include –
  - (i) any bonus other than incentive bonus;
  - (ii) overtime earnings and any deduction or payment made on account of fines;
  - (iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and
  - (iv) any gratuity payable on the termination of service;
- (o) “woman” means a woman employed, whether directly or through any agency, for wages in any establishment.

NOTES. – Sec 3 (f). – A factory does not include a mine subject to the operation of the Mines Act, 1952, or a railway running-shed.

Sec. 3 (j) – The definition of miscarriage is similar to the definition as given in Sec. 2 (14-B) of the Employees’ State Insurance Act, 1948.

**4. *Employment of, or work by, women prohibited during certain period.*** -- (1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.

(3) Without prejudice to the provisions of section 6, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period specified in sub-section (4) any work which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be –

- (a) at the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;
- (b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 6.

**5. *Right to payment of maternity benefit.*** -- (1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day.

***Explanation.*** – For the purpose of this sub-section, the average daily wage means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, or one rupee a day, whichever is higher.

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit for a period of not less than one hundred and sixty days in the twelve months immediately preceding the date of her expected delivery:

Provided that the qualifying period of one hundred and sixty days aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration.

***Explanation:*** - For the purpose of calculating under this sub-section the days on which a woman has actually worked in the establishment, the days for which she has been laid-off during the period of twelve months immediately preceding the date of her expected delivery shall be taken into account.

(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks, that is to say, six weeks up to and including the day of her delivery and six weeks immediately following that day:

Provided that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

Provided further that where a woman, having been delivered of a child dies during her delivery or during the period of six weeks immediately following the date of her delivery, leaving behind in either case the child, the employer shall be liable for the maternity benefit for the entire period of six weeks immediately following the day of her delivery but if the child also dies during the said period, then for the days up to and including the day of the death of the child.

NOTES. – The term “week” means a cycle of seven days including Sundays;  
*B. Shah V. Presiding Officer*, A.I.R. 1978 S. C. 12.

<sup>9</sup>**[5-A. Continuance of payment of maternity benefit in certain cases. --** Every woman entitled to the payment of maternity benefit under this Act shall, notwithstanding the application of the Employees’ State Insurance Act, 1948 (34 of 1948), to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under Sec. 50 of that Act.]

<sup>10</sup>**[5-B. Payment of maternity benefit in certain cases. --** Every woman –

- (a) who is employed in a factory or other establishment to which the provisions of the Employees’ State Insurance Act, 1948 (34 of 1948), apply;
- (b) whose wages (excluding remuneration for overtime work) for a month exceed the amount specified in sub-clause (b) of clause (a) of section 2 of that Act; and
- (c) who fulfils the conditions specified in sub-section (2) of section 5, shall be entitled to the payment of maternity benefit under this Act].

**6. Notice of claim for maternity benefit and payment thereof. --** (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in such form as may be prescribed, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.

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<sup>9</sup> Ins. By Act 21 of 1972, S. 3.

<sup>10</sup> Ins. By Act 53 of 1976, S. 3.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.

(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment until the expiry of six weeks after the day of her delivery.

(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on the production of such proof as may be prescribed that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Act if she is otherwise entitled to such benefit or amount and in any such case an Inspector may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.

NOTES. — See also Sec. 50 of the Employees' State Insurance Act, 1948, for conditions under which a woman becomes qualified to claim maternity benefit under this Act.

**7. *Payment or maternity benefit in case of death of a woman.*** -- If a woman entitled to maternity benefit or any other amount under this Act, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 5, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 6 and in case there is no such nominee, to her legal representative.

**8. *Payment of medical bonus.*** -- Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of twenty-five rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

**9. *Leave for miscarriage.*** -- In case of miscarriage, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit for a period of six weeks immediately following the day of her miscarriage.

**10. *Leave for illness arising out of pregnancy, delivery, premature birth of child, or miscarriage.*** -- A woman suffering illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall, on production of such proof as may be prescribed, be entitled in addition to the period of absence allowed to her under section 6, or, as the case may be, under section 9, to leave with wages at the rate of maternity benefit for a maximum period of one month.

**11. *Nursing breaks.*** -- Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course

of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months.

**12. Dismissal during absence or pregnancy.** -- (1) Where a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.

(2) (a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided that where the dismissal is for any prescribed gross misconduct the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.

(b) Any woman deprived of maternity benefit or medical bonus or both may, within sixty days from the date on which the order of such deprivation is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefits or medical bonus or both, shall be final.

(c) Nothing contained in this sub-section shall affect the provisions contained in sub-section (1).

**13. No deduction of wages in certain cases.** -- No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Act shall be made by reason only of –

- (a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3) of section 4 : or
- (b) breaks for nursing the child allowed to her under the provisions of section 11.

**14. Appointment of Inspectors.** – The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their function under this Act.

**15. Powers and duties of Inspectors.** -- An Inspector may, subject to such restrictions or conditions as may be prescribed, exercise all or any of the following powers, namely: -

- (a) enter at all reasonable times with such assistants, if any, being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where women are employed or work is given to them in an

establishment, for the purposes of examining any registers, records and notices required to be kept or exhibited by or under this Act and require their production for inspection;

- (b) examine any person whom he finds in any premises or place and who, he has reasonable cause to believe, is employed in the establishment:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself:

- (c) require the employer to give information regarding the names and addresses of women employed, payments made to them, and applications or notices received from them under this Act; and
- (d) take copies of any registers and records or notices or any portions thereof.

**16. *Inspectors to be public servants.*** -- Every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**17. *Power of Inspector to direct payments to be made.*** -- (1) Any woman claiming that maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld, may make a complaint to the inspector.

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an enquiry or cause an inquiry to be made and if satisfied that payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders.

(3) Any person aggrieved by the decision of the Inspector under sub-section (2) may, within thirty days from the date on which such decision is communicated to such person, appeal to the prescribed authority.

(4) The decision of the prescribed authority where an appeal has been preferred to it under sub-section (3) or of the Inspector where no such appeal has been preferred, shall be final.

(5) Any amount payable under these sections shall be recoverable as an arrear of land revenue.

**18. *Forfeiture of maternity benefit.*** -- If a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of section 6 for any period during such authorized absence, she shall forfeit her claim to the maternity benefit for such period.

**19. *Abstracts of Act and rules thereunder to be exhibited.*** -- An abstract of the provisions of this Act and the rules made thereunder in the language or languages of the

locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

**20. Registers, etc.** – Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

**21. Penalty for contravention of Act by employers.** -- If any employer contravenes the provisions of this Act or the rules made thereunder he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall in addition recover such maternity benefit or amount as if it were a fine, and pay the same to the person entitled thereto.

**22. Penalty for obstructing Inspector.** -- Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Act or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees or with both.

**23. Cognizance of offences.** -- (1) No prosecution for an offence punishable under this Act or any rule made thereunder shall be instituted after the expiry of one year from the date on which the offence is alleged to have been committed and no such prosecution shall be instituted except by, or with the previous sanction of, the Inspector;

Provided that in computing the period of one year aforesaid, the time, if any, taken for the purpose of obtaining such previous sanction shall be excluded.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any such offence.

NOTES. – Sections 21 to 23 deal with penalties under the Act and procedure to try offences committed under this Act.

**24. Protection of action taken in good faith.** -- No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

**25. Power of Central Government to give directions.** -- The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution the provisions of this Act and the State Government shall comply with such directions.

**26. Power to exempt establishments.** -- If the appropriate Government is satisfied that having regard to an establishment or a class of establishments providing for the grant of benefit which are not less favourable than those provided in this Act, it is necessary so to



do, it may, by notification in the *Official Gazette*, exempt subject to such conditions and restrictions, if any, as may be specified in the notifications, the establishment or class of establishments from the operation of all or any of the provisions of this Act or of any rule made thereunder.

**27. Effect of laws and agreements inconsistent with this Act.** -- (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act:

Provided that where under any such award, agreement, contract of service or otherwise, a woman is entitled to benefits in respect of any matter which are more favourable to her than those to which she would be entitled under this Act, the woman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that she is entitled to receive benefit in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude a woman from entering into an agreement with her employer for granting her rights or privileges in respect of any matter, which are more favourable to her than those to which she would be entitled under this Act.

**28. Power to make rules.** -- (1) The appropriate Government may, subject to the condition of previous publication and by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for –

- (a) the preparation and maintenance of registers, records and muster rolls;
- (b) the exercise of powers (including the inspection of establishments) and the performance of duties by Inspectors for the purposes of this Act;
- (c) the method of payment of maternity benefit and other benefits under this Act in so far as provision has not been made therefore in this Act;
- (d) the form of notices under section 6;
- (e) the nature of proof required under the provisions of this Act;
- (f) the duration of nursing breaks referred to in section 11;
- (g) acts which may constitute gross misconduct for purposes of section 12;
- (h) the authority to which an appeal under clause (b) of sub-section (2) of section 12 shall lie, the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;
- (i) the authority to which an appeal shall lie against the decision of the Inspector under section 17; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;

- (j) the form and manner in which complaints be made to Inspectors under sub-section (1) of section 17 and the procedure to be followed by them when making inquiries or causing inquiries to be made under sub-section (2) of that section;
- (k) any other matter which is to be, or may be, prescribed.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session <sup>11</sup>[or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session, aforesaid,] both Houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**29. Amendment of Act 69 of 1951.** -- In section 32 of Plantation Labour Act, 1951, --

- (a) in sub-section (1), the letter and brackets “(a)” before the words “in the case of sickness,” the word “and” after the words “sickness allowance”, and clause (b) shall be omitted.
- (b) In sub-section (2), the words “or maternity” shall be omitted.

**30. Repeal.** -- On the application of this Act. –

(i) to mines, the Mines Maternity Benefit Act, 1941 (19 of 1941); and Maternity Benefit Act, 1929 (Bom. Act VII of 1929), as in force in that territory, shall stand repealed.

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<sup>11</sup> Subs. by Act 52 of 1973, S. 5.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 6] नई दिल्ली, मंगलवार, मार्च 28, 2017/चैत्र 7, 1939 (शक)  
No. 6] NEW DELHI, TUESDAY, MARCH 28, 2017/CHAITRA 7, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th March, 2017/Chaitra 7, 1939 (Saka)

The following Act of Parliament received the assent of the President on the 27th March, 2017, and is hereby published for general information:—

### THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017

No. 6 OF 2017

[27th March, 2017.]

An Act further to amend the Maternity Benefit Act, 1961.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 2017.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

53 of 1961.

2. In the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in section 3, after clause (b), the following clause shall be inserted, namely:—

Amendment  
of section 3.

“(ba) “commissioning mother” means a biological mother who uses her egg to create an embryo implanted in any other woman.”

3. In the principal Act, in section 5,—

Amendment  
of section 5.

(A) in sub-section (3)—

(i) for the words “twelve weeks of which not more than six weeks”, the

words “twenty-six weeks of which not more than eight weeks” shall be substituted;

(ii) after sub-section (3) and before the first proviso, the following proviso shall be inserted, namely:—

“Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery;”;

(iii) in the first proviso, for the words “Provided that”, the words “Provided further that” shall be substituted;

(iv) in the second proviso, for the words “Provided further that”, the words “Provided also that” shall be substituted;

(B) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(5) In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.”.

4. In the principal Act, after section 11, the following section shall be inserted, namely:—

“11A. (1) Every establishment having fifty or more employees shall have the facility of crèche within such distance as may be prescribed, either separately or along with common facilities :

Provided that the employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her.

(2) Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.”.

Insertion of  
new section  
11A.

Crèche  
facility.

DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 914]

नई दिल्ली, शुक्रवार, मार्च 31, 2017/चैत्र 10, 1939

No. 914]

NEW DELHI, FRIDAY, MARCH 31, 2017/CHAITRA 10, 1939

श्रम और रोजगार मंत्रालय

अधिसूचना

नई दिल्ली, 31 मार्च, 2017

का.आ. 1026(अ).— केन्द्रीय सरकार, प्रसूति प्रसुविधा (संशोधन) अधिनियम, 2017 (2017 का 6) की धारा 1 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा —

(i) 1 अप्रैल, 2017 जिससे उक्त अधिनियम के प्रावधान, सिवाय धारा 3 की उप-धारा (5); तथा

(ii) 1 जुलाई, 2017 जिससे उक्त अधिनियम की धारा 3 की उप-धारा (5),

प्रवृत्त होंगे, ऐसी तारीख नियत करती है।

[फा. सं. एस-36012/03/2015-सा.सु.-I]

मनीष कुमार गुप्ता, संयुक्त सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi, the 31st March, 2017

S.O. 1026(E).— In exercise of the powers conferred by sub-section (2) of section 1 of the Maternity Benefit (Amendment) Act, 2017 ( 6 of 2017), the Central Government hereby appoints—

(i) the 1<sup>st</sup> day of April, 2017 as the date on which the provisions of the said Act, except sub-section (5) of section 3; and

(ii) the 1<sup>st</sup> day of July, 2017, as the date on which sub-section (5) of section 3 of the said Act,

shall come into force.

[F.No.S-36012//03/2015-SS-I]

MANISH KUMAR GUPTA, Jr. Secy.

1833 GI/2017

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# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 934]

नई दिल्ली, सोमवार, अप्रैल 03, 2017/चैत्र 13, 1939

No. 934]

NEW DELHI, MONDAY, APRIL 03, 2017/CHAITRA 13, 1939

श्रम और रोजगार मंत्रालय

शुद्धिपत्र

नई दिल्ली, 3 अप्रैल, 2017

का.आ. 1049(अ.).—दिनांक 31 मार्च, 2016 के का.आ. सं. 1026(अ.) के द्वारा भारत के राजपत्र, असाधारण, भाग-II, खण्ड-3, उप-खण्ड (ii) में प्रकाशित भारत सरकार, श्रम और रोजगार मंत्रालय की दिनांक 31 मार्च, 2017 की अधिसूचना संख्या 914 में 'धारा 3 की उप-धारा (5)' शब्दों और अंकों के लिए दोनों स्थानों पर 'धारा 4 की उप-धारा (1)' शब्द और अंक पढ़े जाएं।

[फाइल सं. एस-36012/03/2015-सा.सु.-I]

मनीष कुमार गुप्ता, संयुक्त सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

CORRIGENDUM

New Delhi, the 3rd April, 2017

S.O. 1049(E).—In the Government of India, Ministry of Labour and Employment notification No.914 dated 31<sup>st</sup> March,2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 1026 (E) dated the 31<sup>st</sup> March, 2016,—for the words and figures 'sub-section (5) of section 3', the words and figures 'sub-section (1) of section 4' may be read at both the places.

[F.No.S-36012/03/2015-SS-I]

MANISH KUMAR GUPTA, Jt. Secy.

1876 GI/2017

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and Published by the Controller of Publications, Delhi-110054.

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# APPENDICE - III

AS INTRODUCED IN LOK SABHA

**Bill No. 121 of 2020**

## THE CODE ON SOCIAL SECURITY, 2020

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### ARRANGEMENT OF CLAUSES

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#### CHAPTER I

##### PRELIMINARY

#### CLAUSES

1. Short title, extent, commencement and application.
2. Definitions.
3. Registration and cancellation of an establishment.

#### CHAPTER II

##### SOCIAL SECURITY ORGANISATIONS

4. Constitution of Board of Trustees of Employees' Provident Fund.
5. Constitution of Employees' State Insurance Corporation.
6. National Social Security Board and State Unorganised Workers' Board
7. Constitution of State Building Workers Welfare Boards.
8. Disqualification and removal of a member of any Social Security Organisation.
9. Procedure for transaction of business of Social Security Organisation, etc.
10. Executive Heads of Central Board and Corporation.
11. Supersession of Corporation, Central Board, National Social Security Board or State Unorganised Workers' Board or the Building Workers' Welfare Board.
12. State Board, Regional Boards, local committees, etc.
13. Entrustment of additional functions to Social Security Organisations.

#### CHAPTER III

##### EMPLOYEES PROVIDENT FUND

14. Appointment of officers of Central Board.
15. Schemes.
16. Funds.
17. Contribution in respect of employees and contractors.
18. Fund to be recognised under Act 43 of 1961.
19. Priority of payment of contributions over other debts.
20. Chapter not to apply to certain establishment.
21. Authorising certain employers to maintain provident fund accounts.
22. Transfer of accounts.
23. Appeal to Tribunal.

CLAUSES

- 56. Determination of amount of gratuity.
- 57. Compulsory insurance.
- 58. Competent authority.

CHAPTER VI

MATERNITY BENEFIT

- 59. Employment of, or work by, women prohibited during certain period.
- 60. Right to payment of maternity benefit.
- 61. Continuance of payment of maternity benefit in certain cases.
- 62. Notice of claim for maternity benefit and payment thereof.
- 63. Payment of maternity benefit in case of death of a woman.
- 64. Payment of medical bonus.
- 65. Leave for miscarriage, etc.
- 66. Nursing breaks.
- 67. Creche facility.
- 68. Dismissal for absence during pregnancy.
- 69. No deduction of wages in certain cases.
- 70. Forfeiture of maternity benefit.
- 71. Duties of employer.
- 72. Power of Inspector-cum-Facilitator to direct payments to be made.

CHAPTER VII

EMPLOYEE'S COMPENSATION

- 73. Reports of fatal accidents and serious bodily injuries.
- 74. Employer's liability for compensation.
- 75. Compensation in case of death of or injury in plantation.
- 76. Amount of compensation.
- 77. Compensation to be paid when due and damages for default.
- 78. Method of calculating monthly wages for purposes of compensation.
- 79. Review.
- 80. Commutation of half-monthly payments.
- 81. Distribution of compensation.
- 82. Notice and claim.
- 83. Special provisions relating to accidents occurring outside Indian territory.
- 84. Medical examination.
- 85. Contracting.
- 86. Remedies of employer against stranger.
- 87. Insolvency of employer.



**Bill No. 121 of 2020**

**THE CODE ON SOCIAL SECURITY, 2020**

A

**BILL**

*to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

**CHAPTER I**

**PRELIMINARY**

5       **1.** (1) This Act may be called the Code on Social Security, 2020.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

10

Short title,  
extent,  
commencement  
and application.

section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).

(4) The appropriate Government may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund, in such manner as may be prescribed. 5

(5) Where an employer fails to make any payment by way of premium in respect of the insurance referred to in sub-section (1) or by way of contribution to an approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Chapter (including interest, if any, for delayed payments) forthwith to the competent authority. 10

*Explanation.*— In this section, "approved gratuity fund" shall have the same meaning as assigned to it in sub-section (5) of section 2 of the Income-tax Act, 1961. 43 of 1961.

Competent  
authority.

**58.** (1) The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification. 15

(2) Where more than one competent authority has been appointed for any area, the appropriate Government may, by general or special order, regulate the distribution of business among them. 20

(3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under reference to assist him in holding the inquiry relating thereto. 25

## CHAPTER VI

### MATERNITY BENEFIT

Employment  
of, or work  
by, women  
prohibited  
during certain  
period.

**59.** (1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy. 30

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

(3) Without prejudice to the provisions of section 62, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do, during the period specified in sub-section (4), any work which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus or is likely to cause her miscarriage or otherwise to adversely affect her health. 35

(4) The period referred to in sub-section (3) shall be—

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery; 40

(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 62.

*Explanation.*— For the purposes of this section, the expression "any work of arduous nature" shall mean any work which involve or require strenuous effort or is difficult and tiring in nature. 45

**60.** (1) Subject to the other provisions of this Code, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day.

Right to payment of maternity benefit.

5        *Explanation.*—For the purposes of this sub-section, "the average daily wage" means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, subject to the minimum rate of wage fixed or  
29 of 2019.        revised under the Code on Wages, 2019.

10        (2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery.

15        *Explanation.*— For the purposes of calculating the period under this sub-section, the days on which a woman has actually worked in the establishment, the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the expected date of her delivery shall be taken into account.

20        (3) The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the expected date of her delivery:

      Provided that the maximum period entitled to maternity benefit by a woman having two or more surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:

25        Provided further that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

      Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer  
30        shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

*Explanation.*— For the purposes of this sub-section, "child" includes a stillborn child.

35        (4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

40        (5) In case the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

45        **61.** Every woman entitled to the payment of maternity benefit under this Chapter, shall, notwithstanding the application of Chapter IV to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 32.

Continuance of payment of maternity benefit in certain cases.

**62.** (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Chapter may give notice in writing in such form as may be prescribed by the Central Government, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Chapter may be paid to her

Notice of claim for maternity benefit and payment thereof.

or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than eight weeks from the date of her expected delivery. 5

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.

(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed by the Central Government that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed by the Central Government that the woman has been delivered of a child. 10 15

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Chapter if she is otherwise entitled to such benefit or amount and in any such case an Inspector-cum-Facilitator may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order. 20

Payment of maternity benefit in case of death of a woman.

**63.** If a woman entitled to maternity benefit or any other amount under this Chapter, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 60, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 62 and in case there is no such nominee, to her legal representative. 25

Payment of medical bonus.

**64.** Every woman entitled to maternity benefit under this Chapter shall also be entitled to receive from her employer a medical bonus of three thousand five hundred rupees or such amount as may be notified by the Central Government, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

Leave for miscarriage, etc.

**65. (1)** In case of miscarriage, or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy. 30

(2) In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation. 35

(3) A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy shall, on production of such proof as may be prescribed by the Central Government, be entitled, in addition to the period of absence allowed to her under section 62, or, as the case may be, under sub-section (1), to leave with wages at the rate of maternity benefit for a maximum period of one month. 40

Nursing breaks.

**66.** Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of such duration as may be prescribed by the Central Government, for nursing the child until the child attains the age of fifteen months. 45

Creche facility.

**67. (1)** Every establishment to which this Chapter applies, in which fifty employees or such number of employees as may be prescribed by the Central Government, are employed 50

shall have the facility of crèche within such distance as may be prescribed by the Central Government, either separately or along with common facilities:

Provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the intervals of rest allowed to her:

5        Provided further that an establishment may avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation or group of establishments who may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.

10        (2) Every establishment to which this Chapter applies shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit available under this Chapter.

15        **68.** (1) When a woman absents herself from work in accordance with the provisions of this Chapter, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service:

Dismissal for  
absence during  
pregnancy.

20        Provided that the discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus under this Chapter, shall not have the effect of depriving her of the maternity benefit or medical bonus:

25        Provided further that where the dismissal is for any gross misconduct as may be prescribed by the Central Government, the employer may, by order in writing, communicated to the woman, deprive her of the maternity benefit or medical bonus, or both.

30        (2) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed under sub-section (1), may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to the competent authority, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, or discharged or dismissed, shall be final.

35        **69.** No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Chapter shall be made by reason only of—

No deduction  
of wages in  
certain cases.

(a) the nature of work assigned to her by virtue of the provisions contained in section 59; or

(b) breaks for nursing the child allowed to her under the provisions of section 66.

40        **70.** A woman who works for remuneration during the period she has been permitted by an employer to absent herself for availing the maternity benefits provided under this Chapter shall not be entitled to receive maternity benefit for such period.

Forfeiture of  
maternity  
benefit.

**71.** An abstract of the provisions of this Chapter and the rules relating thereto in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

Duties of  
employer.

45        **72.** (1) Any woman claiming that,—

(a) maternity benefit or any other amount to which she is entitled under this Chapter and any person claiming that payment due under this Chapter has been improperly withheld;

Power of  
Inspector-  
cum-  
Facilitator to  
direct  
payments to  
be made.

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Chapter, may make a complaint to the Inspector-cum-Facilitator.

(2) The Inspector-cum-Facilitator may, on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that— 5

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his order in writing;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Chapter,

may pass such orders as he deems just and proper according to the circumstances of the case. 10

(3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government.

(4) The decision of the authority referred to in sub-section (3), where an appeal has been preferred to it under that sub-section or of the Inspector-cum-Facilitator where no such appeal has been preferred, shall be final. 15

## CHAPTER VII

### EMPLOYEE'S COMPENSATION

Reports of fatal accidents and serious bodily injuries.

**73.** (1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring in his premises which results in death or serious bodily injury, the person required to give the notice shall, within seven days of the death or serious bodily injury, send a report to the competent authority giving the circumstances attending the death or serious bodily injury: 20

Provided that where the State Government has so specified, the person required to give the notice may instead of sending such report to the competent authority send it to the authority to whom he is required to give the notice. 25

*Explanation.*— For the purposes of this sub-section, "serious bodily injury" means an injury which involves, or in all probability will involve the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days. 30

(2) The State Government may, by notification, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the competent authority. 35

(3) Nothing in this section shall apply to establishments to which Chapter IV, relating to Employees' State Insurance Corporation, applies.

Employer's liability for compensation.

**74.** (1) If personal injury is caused to an employee by accident or an occupational disease listed in the Third Schedule arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter: 40

Provided that the employer shall not be so liable—

(a) in respect of such injury which does not result in the total or partial disablement of the employee for a period exceeding three days; and 45

(b) in respect of such injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to—

## **APPENDICE – IV**

### **General Respondents Questionnaire**

**Question - 1.** Please specify your age group.

- a) 18 - 24 Years
- b) 25 -34
- c) 35 - 44
- d) 45 & Above

**Question - 2.** Please select your employment type.

- a) Full Time Employee
- b) Part Time Employee
- c) Seasonal Employee
- d) Temporary Employee

**Question - 3.** Please select your organization type.

- a) Private
- b) Public
- c) Government

**Question - 4.** Please select your profession.

- a) Corporate Employee
- b) Teacher
- c) Medical Profession
- d) Others

**Question - 5.** Please specify your marital status.

- a) Married
- b) Single
- c) Divorced

**Question - 6.** Are you familiar with maternity leave?

- a) Yes
- b) No

**Question - 7.** If so, did you use your maternity leave?

- a) Yes
- b) No
- c) I haven't been a mother yet.

**Question - 8.** Did you get paid during your maternity period?

- a) Fully
- b) Partially
- c) Not Paid
- d) N/A

**Question - 9.** Does your organization adhere to all of the Maternity Act's requirements?

- a) Yes
- b) No
- c) Maybe
- d) I do not know

**Question - 10.** Does the employer modify the Act to suit his or her needs?

- a) Yes
- b) No
- c) Maybe

**Question - 11.** When did you take the leave?

- a) Before 8 weeks of the delivery date
- b) Before 3 weeks of the delivery date
- c) From the date of delivery
- d) I was not allowed any leave
- e) N/A



**Question - 12.** How long did you receive a pay while on leave?

- a) 1 to 3 Months
- b) 3 to 6 Months
- c) No paid Leaves
- d) N/A

**Question - 13.** Which factor, family or career, has affected you most after childbirth?

- a) Family
- b) Career
- c) Both
- d) Not Affected
- e) N/A

**Question - 14.** Do you think this new maternity benefit Act 2017 is beneficial to the women and the society ?

- a) Yes
- b) No
- c) May be
- d) I do not know

**Question - 15.** What are your future hopes/expectations from an employer or government?

- a) The amount of medical bonus should be increased.
- b) Medical facilities Should be provided in the initial stage after child birth
- c) Employer should be more considerate towards providing crèche facility
- d) Strict implementation of the Act
- e) All of the above

**Question - 16.** Are you aware of the maternity break of 6 weeks given in case of miscarriage's or medical termination of pregnancy?

- a) Yes
- b) No

**Question - 17.** Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mother?

- a) Yes
- b) No

**Question 18** Are you satisfied with all the provisions of the Act. Please share your suggestions.

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## **APPENDICE – V**

### **Legal Respondents Questionnaire**

**Question - 1.** Please specify your age group.

- a) 18 - 24 Years
- b) 25 - 34
- c) 35 - 44
- d) 45 & Above

**Question - 2.** Please select your employment type.

- a) Judge
- b) Advocate
- c) Law Professors
- d) Others

**Question - 3.** Please select your organization type.

- a) Private
- b) Public
- c) Government
- d) Self Employed

**Question - 4.** Please specify your marital status.

- a) Married
- b) Single
- c) Divorced

**Question - 5.** Are you familiar with maternity leave?

- a) Yes
- b) No

**Question - 6.** If so, did you use your maternity leave?

- a) Yes
- b) No
- c) I haven't been mother yet.

**Question - 7.** Did you get paid during your maternity period?

- a) Fully Paid
- b) Partially Paid
- c) Not Paid
- d) Others

**Question - 8.** Does your organization adhere to all of the Maternity Act's requirements?

- a) Yes
- b) No
- c) Maybe
- d) I do not know

**Question - 9.** Does the employer modify the Act to suit his or her needs?

- a) Yes
- b) No
- c) Maybe
- d) I do not know

**Question - 10.** When did you take the leave?

- a) Before 8 weeks of the delivery date
- b) Before 6 weeks of the delivery date
- c) From the date of delivery
- d) I was not allowed any leave
- e) Others

**Question - 11.** Did your employer educate you about the maternity benefits at the time of your appointment?

- a) Yes
- b) No
- c) Others

**Question - 12.** Which factor, family or career, has affected you most after childbirth?

- a) Family
- b) Career
- c) Both
- d) Not Affected

**Question - 13.** Do you think this new maternity benefit Act 2017 is beneficial to the women and the society ?

- a) Yes
- b) No
- c) May be
- d) I do not know

**Question - 14.** What are your future hopes/expectations from an employer or government?

- a) The amount of medical bonus should be increased.
- b) Medical facilities Should be provided in the initial stage after child birth
- c) Employer should be more considerate towards providing crèche facility
- d) Strict implementation of the Act
- e) All of the above

**Question - 15.** Are you aware of the maternity break of 6 weeks given in case of miscarriage's or medical termination of pregnancy?

- a) Yes
- b) No

**Question - 16.** Are you aware of the 12 weeks of paid maternity leave given to adoptive or commissioning mother?

- a) Yes
- b) No

**Question - 17.** Are you aware that after the 2017 amendment in Maternity Benefit Act, 26 weeks (six and half months) of paid leave are given to women.

- a) Yes
- b) No

**Question - 18.** Did you know, if a women dies before availing the maternity benefits or amount, in such case it will be given to the assigned nominee.

- a) Yes
- b) No
- c) Others

**Question -19.** Are you aware of the fact that there is a provision for legal punishment (minimum 3 months of imprisonment and minimum Rs. 2000 fine), if the employer fails to pay a women employee during her maternity leave?

- a) Yes
- b) No

**Question 20 :** Are you satisfied with all the provisions of the act. Please share your suggestions.

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## **APPENDICE - VI**

### **INTERVIEW SCHEDULE**

**1. Interview Schedule Questions for the Maharashtra State Commission for Women: Procedure for Filing Complaints about Denial of Maternity Benefits.**

- i. What is the step-by-step process for filing a complaint?
- ii. What actions are taken once a complaint is filed?
- iii. What documentation is required for the complaint process?

**2. Interview Schedule Questions for the Labour Commissioner, Mumbai: Procedure for Filing Complaints About Denial of Maternity Benefits**

- i. Could you please describe the procedure for filing a complaint against an organization that is not complying with maternity benefit laws?
- ii. What subsequent actions does the Labour Commissioner's office take after a complaint is lodged?
- iii. What documentation is required to accompany a complaint to substantiate the case?
- iv. Do complaints typically come from employees in the public sector, the private sector, or both?

**3. Interview Schedule questions for Private and public Sector Colleges regarding Maternity Benefits.**

- i. Do you provide maternity leave to your female employees? If so, how long and how many are paid versus unpaid?
- ii. Do you inform the employees about maternity benefits while their joining?
- iii. What are the eligibility criteria for availing maternity leaves?
- iv. Do you provide leave to adopting and commissioning mothers?
- v. Do you also provide paternity leaves?

**4. Interview Schedule Questions for Private and Government Hospitals on Providing Maternity Benefits**

- i. Do your female employees receive maternity leave? If yes, what is the duration, and how much of it is paid versus unpaid?
- ii. Do you educate employees about maternity benefits upon their recruitment?
- iii. Is leave provided to adopting and commissioning mothers?
- iv. Are paternity leaves also offered?

**5. Interview Schedule questions regarding Maternity Benefits provided in Private and Government or Nationalized Banks**

- i. What is the duration of maternity leave provided to female employees in your bank?
- ii. Are there any eligibility criteria for availing maternity leave benefits?
- iii. What measures does your bank take to prevent discrimination or bias against pregnant employees or those on maternity leave?
- iv. How does your bank ensure compliance with applicable laws and regulations governing maternity benefits?

**6. Interview Schedule Questions regarding policy of Maternity benefits provided in corporate sector**

- i. Can you provide an overview of the maternity benefits offered by your company?
- ii. What is the duration of maternity leave provided to employees in your company?
- iii. How does your company ensure compliance with relevant legal regulations regarding maternity leave and employee rights?
- iv. What measures are in place to protect the jobs and careers of employees who take maternity leave?



## Fwd: Inquiry Regarding Maternity Benefits Laws in Maharashtra, India

Inbox

**Shivani Kherwal**

to me

11:30 AM (29 minutes ago)

----- Forwarded message -----

From: **Shivani Kherwal** <[shivani.kherwal@gmail.com](mailto:shivani.kherwal@gmail.com)>  
Date: Fri, 24 May 2024 at 10:42 AM  
Subject: Fwd: Inquiry Regarding Maternity Benefits Laws in Maharashtra, India  
To: Prakash Rawat <[prackashrawat@outlook.com](mailto:prackashrawat@outlook.com)>

----- Forwarded message -----

From: **Shivani Kherwal** <[shivani.kherwal@gmail.com](mailto:shivani.kherwal@gmail.com)>  
Date: Fri, 17 May 2024 at 11:05 AM  
Subject: Inquiry Regarding Maternity Benefits Laws in Maharashtra, India  
To: [labourcommissioner@maharashtra.gov.in](mailto:labourcommissioner@maharashtra.gov.in) <[labourcommissioner@maharashtra.gov.in](mailto:labourcommissioner@maharashtra.gov.in)>

Respected Sir/Ma'am,

My name is Shivani, and I am currently pursuing my Ph.D. on Maternity Benefit in India from Lovely Professional University, Punjab, with a focus on analyzing its implementation in private sectors.

As part of my research, I am seeking to gather detailed information on the procedures and steps involved in filing complaints against private companies that fail to comply with maternity benefit regulations. I would greatly appreciate your assistance in providing some insights on the following:

What is the step-by-step process for filing a complaint when a private organization does not adhere to maternity benefit laws?

What actions can be taken once a complaint is filed?

Are there any specific documents or evidence required to support such a complaint?

What are the common challenges faced by employees when filing these complaints?

How does the labor commission handle and process these complaints to ensure compliance?

Your expertise and insights would be incredibly valuable to my research, and I would be grateful for any information or guidance you can provide.

Thank you very much for your time and consideration.

Warm regards,  
Shivani  
Ph.D. Scholar  
Lovely Professional University, Punjab  
8108368938

## Fwd: Acknowledgement of your Email Re: Request for Appointment to Discuss Maternity Benefits Compliance Procedure

Inbox

**Shivani Kherwal**

to me

11:33 AM (27 minutes ago)

----- Forwarded message -----

From: **Maharashtra State Commission for Women Bandra** <[mscwmahilaayog@gmail.com](mailto:mscwmahilaayog@gmail.com)>

Date: Thu, 16 May 2024 at 4:04 PM

Subject: Acknowledgement of your Email Re: Request for Appointment to Discuss Maternity Benefits Compliance Procedure

To: <[shivani.kherwal@gmail.com](mailto:shivani.kherwal@gmail.com)>

**We are in receipt of your email.**

**For further assistance regarding your email kindly contact office on 26592707**

**For any Counselling assistance contact Suhita Helpline on 155209**

--

***Regards,******Maharashtra State Commission for Women, Mumbai.***

Reply

Forward



## Fwd: Request for Appointment to Discuss Maternity Benefits Compliance Procedure

Inbox

**Shivani Kherwal**

to me

11:31 AM (29 minutes ago)

----- Forwarded message -----

From: **Shivani Kherwal** <[shivani.kherwal@gmail.com](mailto:shivani.kherwal@gmail.com)>

Date: Fri, 24 May 2024 at 10:43 AM

Subject: Fwd: Request for Appointment to Discuss Maternity Benefits Compliance Procedure

To: Prakash Rawat <[prakashrawat@outlook.com](mailto:prakashrawat@outlook.com)>

----- Forwarded message -----

From: **Shivani Kherwal** <[shivani.kherwal@gmail.com](mailto:shivani.kherwal@gmail.com)>

Date: Thu, 16 May 2024 at 4:03 PM

Subject: Request for Appointment to Discuss Maternity Benefits Compliance Procedure

To: [mscwmahilaayog@gmail.com](mailto:mscwmahilaayog@gmail.com) <[mscwmahilaayog@gmail.com](mailto:mscwmahilaayog@gmail.com)>Cc: <[vijayarahatkar@gmail.com](mailto:vijayarahatkar@gmail.com)>

Respected Ma'am,

I hope this email finds you well. My name is Shivani, and I am currently working on a thesis paper focusing on maternity benefits in the private sector in India. As part of our research, we are exploring the procedures for addressing instances where private companies fail to comply with maternity benefit regulations.

We are keen to understand the step-by-step process for filing a complaint in such cases and the subsequent actions that can be taken. Given your expertise in this area, we believe your insights would be invaluable to our research.

Would it be possible to schedule a brief meeting or call at your earliest convenience to discuss this matter further?

Please let us know a time that works best for you, and we will do our best to accommodate it. We are available for a meeting tomorrow, if that suits your schedule.

Thank you very much for considering our request. We look forward to the opportunity to speak with you.

Shivani,  
Assistant Professor  
KES' JP Law College  
8108368938

Reply

Forward



### **List of Publications**

<b>S. No.</b>	<b>Journal Name</b>	<b>Title of the Paper</b>
1	International Journal of Law Management & Humanities	Comparative Analysis of Maternity Relief Laws in India vis-à-vis Singapore & Sri Lanka
2	International Journal of Law Management & Humanities	Position of Women in the Private Sector with special reference to the Maternity Benefit Act and other Allied Laws
3	Indian Journal of Psychology	Maternity Benefit Policies and Workplace Diversity: A Theoretical Exploration

### **List of Conferences**

<b>S. No.</b>	<b>Journal Name</b>	<b>Title of the Paper</b>
1	“Rights of Women, Children and Human Rights in the 21st Century”	“Position of Women in the Private Sector with Special Reference to the Maternity Benefit Act and other allied Laws”
2	International Conference on Feminine Hygiene Management- Beyond Taboo - ICHFM-2022	“Feminine Hygiene Management- Beyond Taboo”