

The Implementation of the Maternity Benefit Act in India

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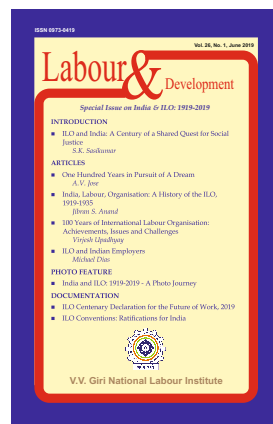
Ellina Samantroy
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V.V. Giri National Labour Institute

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The Implementation of the Maternity Benefit Act in India

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¹ Maternity Benefit act 1961; Maternity Benefit Amendment Act, 2017



List of Abbreviations

AIWC	:	All India Women's Conference
CEDAW	:	Convention on the Elimination of All Forms of Discrimination Against Women
ESI	:	Employees State Insurance
ILO	:	International Labour Organization
ILC	:	International Labour Conference
LFPR	:	Labour Force Participation Rate
NSO	:	National Statistical Office
NSSO	:	National Sample Survey Office
OSH	:	Occupational Safety and Health
PFLS	:	Periodic Labour Force Survey
PMMVY	:	Pradhan Mantri Matru Vandana Yojana
WPR	:	Worker Population Ratio



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Preface

Maternity protection has remained central to the discourse on promoting gender equality and inclusive work environments. Globally, the maternity protection provisions have not only contributed in protecting maternal and child health but have also protected women from economic vulnerabilities and improved work force participation of women.

The International Labour Organisation (ILO) since its inception, through various conventions and recommendations has prioritised maternity provisions for all women. The International labour standards provide guidelines and framework for drafting of legislative provisions towards protection of workers and promotion of their well-being. India, as one of the founding members of the ILO has always been positive about the international labour standards and has attempted to align several national legislations in compliance with international standards. In this direction the Maternity Benefit Act of 1961 and the later amendment of 2017 were introduced to protect women's rights at the workplace and address the gaps in the labour market thereby aligning them with global developments on workplace protection.

In this context the present study engages in understanding the enforcement of the Maternity Benefit (Amendment) Act, 2017 in India while focusing on the status of the enforcement of the act, implementation challenges and implications of the legislation on women's employment. The study seeks to identify best practices and recommend improvements to enhance the effectiveness of maternity benefit policies. The findings of the study emphasise on the need for better implementation and monitoring mechanisms for ensuring maternity benefits uniformly across the country.

The study is a significant contribution towards legislative and policy framework on maternity protection. It shall inform policy makers and law enforcement departments on addressing the challenges in ensuring maternity protection. I am sure the study will be invaluable in guiding policy makers, legal practitioners, scholars, trade unions, civil society organisations and all others working towards enhancing women's economic participation and ensuring access to social protection.

Dr. Arvind
Director General

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Chapter 1 : Introduction

1.1 Context

Maternity protection is essential for ensuring that women of reproductive age can participate in the workforce by safeguarding their right to work under secure and equitable conditions, particularly during maternity and ensuring access to fair working environments. Such provisions are pivotal in advancing gender equality and fostering an inclusive workplace environment. Maternity protection encompasses a range of legislative measures and policies to support women in balancing their work with family responsibilities, thereby promoting greater female workforce participation and retention.²

It has been observed that in countries with effective maternity protection and care policies the number of women in the workforce has significantly increased and they have remained employed for longer duration (Samantroy, 2015; Beneria, 2010; Low & Marcos, 2015). Effective maternity protection is typically ensured through comprehensive legislation and policies, often aligned to international labour standards such as the *Maternity Protection Convention of the ILO (C183)*, 2000. This convention promotes the maternity provisions in national law and practice through shared responsibility of the government and society.³ The Convention C 183 defines maternity protection and sets benchmarks for member countries to develop their legislative and policy framework towards promoting maternity rights.

The ILO has long prioritized maternity protection at work with the *Maternity Protection Convention (No. 3)*, adopted at the first *International Labour Conference* in the year 1919, establishing gender equality standards with provisions of paid leave along with job security for women during childbirth. ⁴This was further expanded by the *Maternity Protection Convention (Revised)*, 1952 (No. 103) and the *Convention (No. 183)*, 2000. The ILO has long recognised the importance of safeguarding maternity rights through various conventions and recommendations. In this direction, the ILO has approved three conventions (3, 103, and 183) in the years 1919, 1952 and 2000 to successfully integrate both 'reproductive' and 'productive' duties of women, as well as to prevent unfair treatment in the workplace based on their reproductive function (ILO, 2010).

These conventions and their respective recommendations have enlarged the scope of maternity protection to meet the changing needs for women's workplace rights. The conventions emphasise the necessity of providing comprehensive maternity benefits to ensure the well-being of mothers and children. They emphasise non-discrimination, job security, and adequate remuneration during maternity leave, which are crucial for supporting women in the workforce. Additionally, the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, which India ratified makes it obligatory

² <https://mprp.itcilo.org/allegati/en/m3.pdf>

³ https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CODE%3AC183

⁴ https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312148



for the states to guarantee equal rights for women and elimination of discrimination against women, particularly in employment and maternity benefits, ensuring women have equal labour market opportunities.⁵

The International standards on maternity protection are also in accordance with the *Equal Remuneration Convention* (No. 100, 1951) and the *Discrimination (Employment and Occupation) Convention* (No. 111, 1958), which uphold the ILO's mandate of social justice. These conventions specify safety precautions for expectant and new mothers, including various health risks before and after childbirth, entitlement to paid leave, access to child and maternal health care, breaks for breastfeeding, defence against maternity-related discrimination and termination, and the assurance of the ability to resume employment following maternity leave.⁶

As a founding member of the International Labour Organisation (ILO), India has actively worked to align its labour laws with these international standards. The ILO's principal mechanisms for setting international labour standards include "Conventions" and "Recommendations" with Conventions being "legally binding" treaties and Recommendations are "non-binding guidelines" that help shape national policies. India carefully considers ratifying Conventions to ensure that its domestic laws are already in alignment with international norms before making any legally binding commitments.⁷

Comprehensive maternity protection legislation typically includes provisions for maternity leave, access to healthcare services, job security, creche facilities, and flexible work arrangements. In addition, parental leave policies are an integral aspect of maternity protection. These measures are essential as they enable women to navigate the challenges of pregnancy, childbirth and early childcare without compromising their economic stability or career progression.

Despite global improvements in women's employment rates, significant disparities persist, revealing greater gender gaps in labour force participation rates (LFPR). The *World Employment and Social Outlook Report* of the ILO in 2022 reported that women's LFPR worldwide was 47.4 per cent which was in stark contrast to the participation of men which was 72.3 per cent, resulting in a notable gap of 24.9 percentage points indicating that there are twice as many economically inactive women as there are men participating in the workforce. These discrepancies are particularly pronounced in regions such as South Asia, the Arab States, and North Africa where women's workforce participation rates are significantly low compared to men by approximately one-third (ILO, 2022). Amongst various other factors, maternity and childcare have remained one of the significant challenges affecting women's workforce participation. There are deep-

⁵ <https://www.socialprotection.org/gimi/gess/ShowWiki.action?wiki.wikiId=80#:~:text=Virtually%20every%20country%20around%20the,ILO%20member%20States%20since%201919.>

⁶ https://webapps.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_242615.pdf

⁷ <https://labour.gov.in/lcandilasdivision/india-ilo#:~:text=The%20approach%20of%20India%20with,of%20the%20interest%20of%20labour.>



rooted structural barriers preventing women's full integration into the labour market that need to be addressed through targeted policy interventions.

Maternity protection policies play an important role in addressing these barriers and creating an inclusive and equitable labour market for women workers by ensuring that women are not disadvantaged due to pregnancy or caregiving responsibilities. It involves several essential components from the perspective of economic stability, health, and job security. These safeguards aid women's financial and job security throughout the pregnancy and childbirth. Thus, Maternity protection is the first important step in a complete set of care policies that support women's economic empowerment, avert formalisation and foster the well-being of individuals and societies, particularly in light of demographic shifts (Alfers, 2016). The absence of maternity coverage during pregnancy and after childbirth often leads women to take up more precarious, lower-paying jobs in the informal economy to care for their children. This situation results in women returning to work early, putting both their and that of their child's health at risk (ILO, 2015).⁸

In recent decades, various initiatives towards achieving gender equality and improving the well-being of women in the workplace have gained prominence across the world. Provisions related to maternity have been central to policy discourses on social protection both nationally and internationally. In India, although the country has not ratified the ILO' C 183, the government has been ensuring maternity protection through the implementation of the *Maternity Benefit Act 1961*. It was further amended and came to be known as *The Maternity Benefits Amendment Act of 2017*. The amendment was crucial in the direction of aligning maternity protection with international labour standards. The new amendment increased maternity leave from 12 weeks to 26 weeks, way ahead of ILO C183's requirement of 14 weeks of maternity leave.⁹ This amendment also included several other provisions which are discussed in subsequent chapters.

The present study is contextualized within a broader discourse of gender and social protection while recognising the importance of integrating social reproduction in labour legislations. From a broader theoretical perspective, the study relies on evidence from legal scholarship around issues of social reproduction and social protection.

1.2 Theoretical Perspectives on social reproduction and 'right to care'

The discourse on social reproduction has remained central to the understanding of the intrinsic relationship between women's paid and unpaid work. Feminist scholars have made significant contributions to the understanding of social reproduction processes, notably regarding biological reproduction of labour force including caregiving, childcare, work-family balance and their participation in economic activities (Katz, 2001)¹⁰. 'Social reproduction' encompasses activities and work that

⁸ ILO (2015) Social protection for maternity: key policy trends and statistics, Social protection policy paper No. 15. Geneva: International Labour Organisation <https://www.social-protection.org/gimi/gess/Media.action?id=14874>

⁹ https://labour.gov.in/sites/default/files/maternity_benefit_amendment_act2017_.pdf

¹⁰ Katz, C. (2001) 'Vagabond Capitalism and the Necessity of Social Reproduction', *Antipode* 33(4): 709-28



sustain the population including the reproduction of individuals' physical and mental capacities within specific historical and geographical contexts. It includes the provision of essential resources such as food, clothing, housing, and transportation and the development of the necessary skills for individuals (Picchio, 2003). Scholarships on work and labour law have historically disregarded the extensive unpaid domestic and care work predominantly carried out by women and how the gendered division between paid and unpaid labour results in adverse distributional outcomes for women. The gendered division between social and economic reproduction is the primary institutional foundation for women's subjugation in capitalist society. Women's involvement in family caregiving influences how employers value their work and shapes their own decisions regarding how much they work, ultimately leading to lower earnings (Rittich, 2002; Fraser, 2017).

Some studies have highlighted how the 'motherhood penalty' is a significant contributor to the gender disparity in women's income and their participation in the workforce compared to men (Budig & England, 2001; Gangl & Ziefle, 2009; Staff & Mortimer, 2012; Cooke, 2014; Goldin, 2014). Mothers frequently experience discrimination at work in addition to the challenges associated with their gender, such as women being considered less competent, lack of commitment towards work, being less reliable, etc. (Halpert et al., 1993). The cultural conceptions of the maternal role conflict with cultural conceptions of the "ideal worker" position, resulting in the "motherhood penalty" on salaries and assessments of professional performance and appropriateness (Blair-Loy, 2003; Ridgeway & Correll, 2004). The caregiving responsibilities thus influence women's entry into the workforce who are often directed towards lower-paying jobs due to occupational segregation. Even those with advanced education usually find themselves limited to professions such as teaching or nursing, which traditionally align with familial responsibilities. This explicit bias reduces the perceived value of paid and unpaid caregiving roles (Folbre, 2014). Women with children have traditionally been more inclined to work part-time than women without children, likely because it is more compatible with the demands of raising children. In contrast, fathers have been much less likely than childless men to work part-time, possibly due to societal norms associated with male roles as primary breadwinners (Townsend, 2002). Discrimination against mothers and disparities in employment consistency and the hours they work are examples of penalties imposed due to caregiving responsibilities (Folbre and Smith, 2017).

Within the debates on social reproduction, the role of labour legislations are extremely significant in the context of recognising and valuing care work. Though there has been a disconnect between social reproduction theory and legal scholarship, feminist legal scholars have extensively engaged with the question of reproductive labour (Kotiswaran, 2023, Fudge, 1997)¹¹. To enable women to grow into more complete individuals, feminist scholars proposed strategies and regulations to lessen the caregiving load on them, with maternity benefit legislation being central in addressing this challenge. There is extensive research on the overall impacts of maternity leave on wages and workforce participation

¹¹ Kotiswaran P (2023). Laws of Social Reproduction. Annual Review of Law and Social Science No 19, pp 145-64



across the world. It was observed that maternity leave increases the likelihood of a woman returning to her employer after giving birth in certain countries like the US, Britain, and Japan. Also, women who utilise maternity leave to sustain continuous employment post-childbirth tend to earn higher wages subsequently compared to those who do not (Waldfoegel et al, 1999).

Feminist scholars in labour law are thus questioning whether the traditional foundational principles of labour law, which are aimed at addressing unequal power dynamics between employers and employees, are adequate for the field. Stewart (2011), advocates for grounding normative positions in the ethic of care, emphasizing relationships and connections over individualism. Busby & Fudge (2011), propose adapted versions of the capabilities approach as conceptual frameworks to achieve a comprehensive understanding of substantive equality. Thus, Feminist scholars emphasize that care work is not exclusively women's issues; they represent issues of social responsibility and global justice with a pressing need for labour laws to prioritize social reproduction (Busby 2011; Stewart 2011).

In this context, the present study aims to assess the implementation and enforcement practices of the *Maternity Benefit (Amendment) Act, 2017* in India and tries to identify and address the issues and challenges in efficiently implementing the law. The study explores the evolution of the Maternity Benefit Amendment Act 2017 thereby situating it within international frameworks, particularly ILO's *Maternity Protection Convention, C 183* (2000) and Recommendation No. 191) and emphasising the critical role of the legislation in furthering women's rights and labour force participation. On the whole, the study tries to engage with how the amendment in the maternity legislation has impacted female labour force participation in India and provides recommendations towards strengthening the legislation.

1.3 Study Objectives

This study provides an overview of the *Maternity Benefit (Amendment) Act, 2017* and its critical role in promoting women's employment. The effective enforcement of the legislation and the role of the labour inspectorate has been critical for analysing the enforcement strategies, addressing gaps in enforcement and documenting some of the good practices.

The specific objectives of the study are as follows:

- To understand the provisions under the Maternity Benefit Legislation pre and post-amendment.
- To understand the International Labour Standards related to Maternity Protection and the provisions implemented in countries that have ratified them.
- To assess the number of inspections carried out under the Maternity Benefit (Amendment) Act, 2017 and total number of cases filed by the inspectors, trade unions and NGOs under act .
- To understand the conviction rate and punishments under the Maternity Benefit (Amendment) Act, 2017



- To identify good practices on maternity protection and provide policy recommendations for effective enforcement of the legislation.

1.4 Methodology

The proposed study aims to evaluate the enforcement and implementation of India's Maternity Benefit Amendment Act 2017 at both Central and State government levels. To achieve this, the research first involves a thorough review of existing literature, including scholarly articles, journals, government reports, policy documents, and various national and international publications. The study is based on analysis of secondary data from the Periodic Labour Force Survey (PLFS) for the years 2017-18 to 2022-23 to understand the employment trends and patterns among women, access to employment contacts and social security in the 15-59 age group.

The study uses qualitative approaches to have a more nuanced understanding of the issues and relies on key informant interviews (KIIs) with different stakeholders namely; labour department officials from both central and state governments, trade union representatives, NGOs, employers association, academicians and experts in the domain of labour law. The primary objective of these KIIs was to gain insights into identifying the gaps/challenges in enforcing these laws, understanding the variations in implementation across different states and highlight the best practices that could serve as models for effective policy enforcement and implementation. In addition data on the number of cases filed, inspections conducted, and convictions related to labour law violations from the labour departments of both central and state governments.

By combining these methodological approaches, the study aims at providing a thorough analysis of the current status of maternity benefit legislation in India that can guide policy recommendations enhancing the enforcement and impact of maternity laws safeguarding women's rights in the workplace.



Chapter 2 : International Labour Standards and Cross Country Experiences on Maternity Protection.

2.1 The Context

The *International Labour Organization* (ILO) has played a key role in setting up international labour standards on labour protection and rights with maternity being a prominent one. Maternity Protection has been one of the major areas of focus of the ILO since its inception. The first International Labour Conference (ILC), held in 1919, marked a significant milestone with the adoption of the first maternity protection convention (No. 3), followed by the *Revised Maternity Protection Convention of 1952* (No. 103), and the *Maternity Protection Convention of 2000* (No. 183). The influence of these conventions extends far beyond simple ratification, as almost every country has introduced some type of maternity protection legislation. Although this Convention is generally enforced through national laws and regulations, member States may often use collective agreements and arbitration awards, to implement maternity provisions (ILO, 2010).

These ILO standards take the form of “conventions” and “recommendations,” developed through tripartite discussions, which guide member states to align their legislations with ILO conventions. The ILO ensures maternity protection through conventions and recommendations that guide member countries in drafting maternity protection policies including safeguards against health and safety, provisions for paid maternity leave, breastfeeding breaks, maternity-related discrimination etc.

The present chapter provides an overview of ILO conventions concerning maternity protection and their recommendations highlighting the ratification status and related financing provisions in various countries.

2.2 ILO Conventions on Maternity Protection

The Maternity Protection Convention of 1919 (No. 3) was the first ILO standard addressing the employment conditions for women both before and after childbirth in public, private sectors, industrial and commercial sectors. It established fundamental principles of maternity protection, including 12 weeks of maternity leave, health benefits, and income replacement during leave, and breaks for breastfeeding. The Convention also emphasised employment protection by prohibiting dismissal while on maternity leave or any notice period overlapping with the rest.¹²

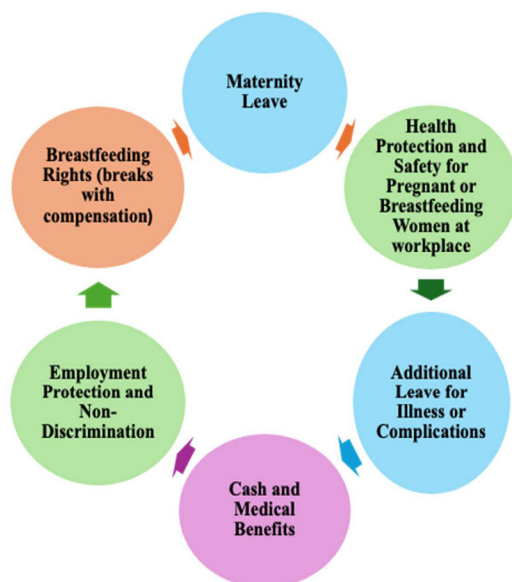
Further, the *Maternity Protection Convention No. 103 (Revised), 1952*, expanded the protections to a broader range of workers, including those in non-industrial, agricultural, industrial sectors and domestic workers. This convention enhanced protections by extending the total period of maternity leave for illnesses related to pregnancy or childbirth and providing medical benefits. It also established a minimum standard for cash maternity benefits that should be sufficient to support both the mother and her child at a “decent standard of living,” which should be at least “two-thirds of the mother’s prior earnings.”¹³

¹² <https://mprp.ilo.org/allegati/en/m5.pdf>

¹³ https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312248

Maternity Protection Convention, 2000 (No. 183) followed by **Maternity Protection Recommendation, 2000 (No. 191)** has been a recent convention on maternity that has a broader scope as compared to the previous conventions. C 183 has increased the scope of maternity protection to include all employed women, encompassing those in non-traditional or informal occupations. It also extends the minimum maternity leave from the 12 weeks specified in earlier Conventions to 14 weeks including 6 weeks of mandatory postnatal leave. It has provisions for additional leave for health issues such as pregnancy or childbirth. The convention also mandates cash benefits during leave amounting to at least two-thirds of previous earnings or an equivalent amount, access to essential health care (prenatal, childbirth, and postnatal) services, along with health protections ensuring that pregnant and nursing women do not do harmful work. The Convention also reflects about at least one paid breastfeeding break per day along with provisions for employment protection and non-discrimination. The **Recommendation No. 191** proposes a more extensive leave provisions of 18 weeks. Furthermore, it strengthens job security, mandating prevention of discrimination related to maternity, in hiring forbidding pregnancy testing during the recruitment except in special circumstances. In addition, Recommendation No. 191 advocates for the creation of breastfeeding facilities at workplaces (Figure 2.1)¹⁴

Figure 2.1 Scope for Maternity Protection: Convention No. 183



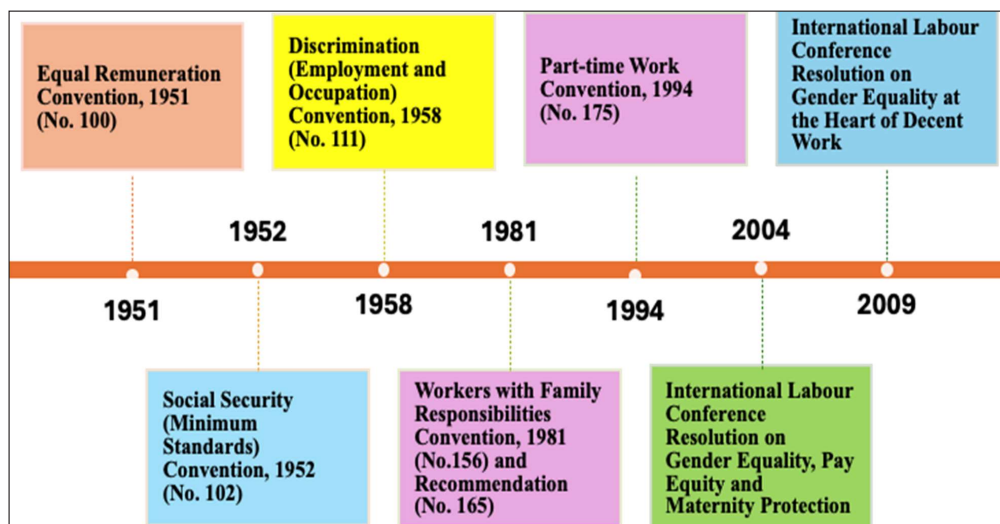
(Source: Authors own representation based on https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183)

The International Labour Organisation (ILO) acknowledges that apart from maternity leave, employees need various other benefits such as paternity leave or parental leave provisions to balance their work-life with family responsibilities. Though the Convention C 183 does not include paternity leave however, many countries have such provisions in their national laws highlighting the increasing recognition of the father's role during childbirth and childcare. Parental leave on the other hand offers a longer-term care

¹⁴ <https://mprp.itcilo.org/allegati/en/m5.pdf>

provision for either parent of a new-born or young kid, which usually comes after maternity or paternity leave.¹⁵ The conventions on maternity protection are also aligned with other ILO standards that promote gender equality, as well as the need for changes in the traditional roles for men and women (Fig 2.2).¹⁶

Figure 2.2 International Labour standards related to Maternity Protection at work



(Source: Authors own representation based on information derived from <https://mprp.ilo.org/allegati/en/m5.pdf>)

2.3 Ratification status of the Convention on Maternity Protection

Maternity protection legislation has been enacted in the majority of countries worldwide ensuring maternal health and well being of the women workers. Presently, a total of 44 countries have ratified the Maternity Protection Convention 2000 (No. 183).¹⁷

In a recent report of the ILO wherein an analysis of 185 countries revealed that the majority of the nations have implemented legal measures for maternity leave. However, the findings indicate differences in how they comply with the ILO *Maternity Protection Convention, 2000* (No. 183). As far as the compliance of ILO standard of 14 weeks leave provision (to be increased to 18 weeks) it was found that 120 countries have adopted the 14-week minimum standard for maternity leave. Furthermore, 52 countries have provisions for 18 weeks of maternity leave, benefiting around 3 out of 10 mothers the world over. Since 2011, there has been subsequent progress with 23 countries exceeding the ILO's stipulated leave period for 14-weeks reflecting the significant influence of international labour standards even in countries that have not ratified the convention. Despite these advancements, 64 countries still offer less than 14 weeks of maternity leave, leaving 30 percent of potential mothers worldwide without sufficient time for recovery and childcare. Presently, 123 countries have provisions for fully paid maternity leave, which benefits 90 percent of mothers globally though the maternity

¹⁵ *Maternity at work: a review of national legislation* / International Labour Office, Conditions of Work and Employment Branch.-- Second edition. - Geneva: ILO, 2010

¹⁶ <https://mprp.ilo.org/allegati/en/m5.pdf>

¹⁷ https://normlex.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312328.



leave payment benefits in 13 nations remain less than two-thirds of prior wages, while maternity leave is either unpaid or not offered in 3 countries (ILO, 2022). Further, the role of maternity financing is extremely critical in the context of ensuring maternity protection in different countries.

2.4 Maternity Financing Provisions

Maternity financing is an important indicator to assess implications of maternity and health benefits on women workers towards promoting gender equality. The WHO has reported that countries that rely on public sources make greater progress towards universal health coverage (Fox et al 2019). In developing countries the role of the State becomes significant with regard to maternity funding. Maternity cash benefits can be obtained through several schemes such as 'contributory-like social insurance' 'non-contributory', 'tax-financed such as social assistance,' and 'employer's liability provisions'. Apart from the same, the 'collectively financed schemes' funded by insurance, taxes, or a combination of the two can also help promote equitable distribution of the costs and responsibilities.¹⁸

Article 6 of the ILO Convention ensures that women on maternity leave receive cash benefits according to national laws, sufficient to maintain their and their children's health and living standards which should be at least two-thirds of previous earnings, or similar. Women who don't qualify for such benefits should receive support from social assistance. Medical care, including prenatal and postnatal services, must be provided. Benefits should be funded through public funds or social insurance, without burdening the employers unless specified by national laws or agreements (Text Box 2.1).¹⁹

Text Box 2.1: ILO Convention C 183, Article 6²⁰

1. Provision for cash benefits for women on leave under Articles 4 or 5, as per national laws or practices.
2. cash benefits for the woman and child to promote their wellbeing
3. Cash benefits for leave under Article 4 must be at least two-thirds of the woman's previous earnings, or the earnings used to calculate the benefits.
4. If different methods determine cash benefits for leave under Article 4, the amount must be comparable to the average amount from the previous calculation.
5. Each Member must ensure that majority women eligible for this Convention can meet the conditions for receiving cash benefits.
6. If a woman doesn't qualify for benefits under national laws, she shall be entitled for social assistance.
7. Healthcare benefits must cover prenatal, childbirth, postnatal, and necessary hospitalization care, in line with national laws and practices.
8. To safeguard women leave benefits under Articles 4 and 5 should be funded through public funds or social insurance or as specified by national law. Employers are not individually responsible for these costs unless provided by national law or agreed upon by the government and employer and worker organizations at the national level.

(Source: ILO Convention No. 183, Article 6)

¹⁸ <https://www.social-protection.org/gimi/gess/Media.action?id=14874#:~:text=Worldwide%2C%20the%20vast%20majority%20of,replacement%20during%20their%20maternity%20leave.>

¹⁹ <https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::>

²⁰ <https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::>



The issue of employer liability for maternity leave has been an important area of debate as it imposes considerable financial burdens on employers, who bear the total costs of maternity leave and employee replacement. Often, to lessen these expenses, employers may practice discriminatory practices related to recruiting and employment. Thus, on maternity financing practices the ILO Conventions Nos. 3 and 103 highlight that employers should not bear individual responsibility for maternity benefits. Rather, mandated 'social insurance' or 'public funds' should be used for such benefits. This strategy is essential for easing discriminatory practices in the labour market. For the women workers employed in the informal sector or working as independent contractors, the ILO guidelines discuss the need for non-contributory social assistance. In the year 2021, two-thirds of mothers lived in countries whose social safety programmes pay for maternity leave payments. However, 20 percent of mothers continue to remain vulnerable to discriminatory practices, as 45 countries continue with employers to fully cover the cost of maternity leave. Since 2011, only 8 countries switched from employer liability to mixed or social security plans.²¹

An ILO study in 2014 discusses various methods the countries have adopted for financing maternity cash benefits during maternity leave. The most common funding sources were found to be: (1) "contributory schemes", (2) "employer liability", and (3) a mixed system with both the above approaches. A less common method of financing maternity benefits is through public funds (non-contributory schemes). A total of 185 countries were surveyed of which 58% of countries provided cash maternity benefits through national social security systems while 25% of countries had employers covering the full cost. In 16% of the countries, there was a shared system between employers and social security systems. Only 1% of the countries do not offer benefits. The study also found that in the developed countries, 88% use social security for maternity benefits, with no country relying solely on employers. For maternity leave, Denmark, Germany, and the UK combine social security with employer responsibility with just one industrialised economy ie. the USA which does not provide maternity benefits.²²

Text Box 2.2 Maternity Protection for Informal sector : Good Practices

*The **Pradhan Mantri Matru Vandana Yojana (PMMVY)** is a Centrally Sponsored flagship scheme by the Ministry of Women and Child Development, Government of India, designed to support pregnant women and lactating mothers. The scheme is to provide maternity benefits to women belonging to socially and economically disadvantaged sections of society. The maternity benefit is to be provided to a woman for the first two living children provided the second child is a girl. For the first child the maternity benefit of ₹5,000/- is provided in two instalments under PMMVY and the beneficiary is also entitled to receive the cash incentive as per approved norms towards Maternity Benefit under Janani Suraksha Yojana (JSY) after institutional delivery so that on an average, a women gets ₹6,000/-.*

For the second child, the benefit of ₹6,000/- is to be provided subject to second child is a girl child, in one installment after the birth. Cases of miscarriage/still births are to be treated as fresh cases for providing maternity benefit under the scheme.

²¹ https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_242615.pdf

²² https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_242615.pdf

Further, as per the new guidelines for 'Mission Shakti', applicable with effect from 01.04.2022, the scheme (PMMVY 2.0) seeks to promote positive behavioral change towards girl child by providing additional cash incentive for the second child, if that is a girl child. Thus, for the second child, the benefit of ₹6,000/- is to be provided in one instalment post birth. This would contribute towards improving Sex Ratio at Birth by discouraging female feticide. Also, in case of miscarriage/stillbirth, the beneficiary will be treated as a fresh beneficiary in the event of any future pregnancy (Source :<https://www.myscheme.gov.in/schemes/pmmvy>)

2.5 Comparative Analysis of Maternity Protection: Ratifying vs. Non-Ratifying Countries under ILO Convention C-183

The *Maternity Protection Convention, 2000* (C-183) has been ratified by some countries but not by others. However, both the countries that ratified and those that did not exhibit a strong commitment to improving maternity protection, although their measures to achieve this differ significantly.

2.5.1 Ratifying Countries

Among the countries that have ratified the Maternity Protection Convention, C-183, there is substantial variation in maternity leave duration, pay, and funding sources. Maternity leave ranges from 14 to 52 weeks, with most countries relying on social security systems to fund these benefits. However, some countries also rely on a mixed approach that combines employer contributions with social security payments (Table 2.1). None of the countries depended solely on employer contributions to finance their maternity provisions, which highlights their key achievements.

Table 2.1: Countries Ratifying C-183 of the International Labour Convention (Maternity Protection Convention, 2000)

Country	Period of Leave	Pay	Source of Payment
Albania	52 weeks	80% for the first 21 weeks and 50% for the remainder of the time period	Social Security
Antigua and Barbados	14 weeks	100% for the first 7 weeks and 60% for the last 7 weeks	Mixed (60% social security all 13 weeks plus 40% from employer for first 6 weeks)
Austria	16 weeks	100%	Social Security
Azerbaijan	18 weeks (70 days before childbirth and 56 days after childbirth)	100%	Social Security
Belarus	18 weeks	100%	Social Security
Belize	14 weeks	100%	Social Security

Country	Period of Leave	Pay	Source of Payment
Benin	14 weeks	100%	Mixed (50 % is by Social Security and 50% is by Employee)
Bosnia and Herzegovina	28 days before the date of delivery and for a total delivery of One year	50%-100%	Social Security
Bulgaria	19 weeks	90%	Social Security
Burkina Faso	14 weeks	100%	Social Security
Cuba	18 weeks	100%	Social Security
Cyprus	16 weeks	75%	Social Security
Czech Republic	28 weeks	70%	Social Security
Djibouti	26 weeks	100%	Mixed (50% Social security and 50% Employer)
Dominican Republic	26 weeks	100%	Mixed (50% social Security and 50% employers)
El Salvador	16 weeks	100%	Social Security
Germany	14 weeks	100%	Mixed (50% social Security and 50% employers)
Hungary	24 Weeks	70%	Social Security
Italy	21 weeks	80%	Social Security
Kazakhstan	18 weeks	100%	Social Security
Latvia	16 weeks	80%	Social Security
Lithuania	18 weeks	100%	Social Security
Luxemburg	16 weeks	100%	Social Security
Mali	14 weeks	100%	Social Security
Mauritius	14 weeks	100%	Social Security
Montenegro	52 weeks	100%	Social Security
Morocco	14 weeks	100%	Social Security
Netherlands	16 weeks	100%	Social Security
Niger	14 weeks	100	Mixed
North Macedonia	39 weeks	100	Social Security
Norway	Parents are entitled to a total of 12 months' leave for birth and after the birth. These 12 months include the mother's right to leave for up to 12 weeks during the pregnancy and six weeks of leave reserved for the mother after the birth.		
Panama	14 weeks	100	Social Security

Country	Period of Leave	Pay	Source of Payment
Peru	Workers are entitled to 14 weeks of maternity leave : 49 days of prenatal leave and 49 days of post-natal leave,		
Portugal	17 weeks	100 for first 17 weeks and 80 for the remainder	Social Security
Republic of Moldova	18 weeks	100%	Social Security
Romania	18 weeks	85%	Social Security
Portugal	17 weeks	100 for first 17 weeks and 80 for the remainder	Social Security
Republic of Moldova	18 weeks	100%	Social Security
Romania	18 weeks	85%	Social Security
San Marino	21 weeks	100%	Social Security
Sao Tome and Principe	14 weeks	100%	Social Security
Senegal	14 weeks	100%	Social Security
Serbia	16 weeks	100%	Social Security
Slovakia	28 weeks	65%	Social Security
Slovenia	15 weeks	100%	Social Security
Switzerland	14 weeks from the birth of child	80%	Social Security

(Source: Derived from the Department of Labour Official Website in various countries Websites)

2.5.2 Non-Ratifying Countries

Non-ratifying countries that have not adopted Convention 183 still demonstrate a commitment to maternity protection, similar to ratifying countries with well-developed maternity legislation. These non-ratifying countries provide maternity leave ranging from eight weeks to over twenty-six weeks, funded through a combination of social security, mixed models, and employer liability (see Appendix 1). Most social security systems are financed by contributions from both employers and employees, which helps alleviate the financial burden on individual employers. However, a significant number of non-ratifying countries still rely primarily on employer contributions to fund maternity provisions, placing the financial responsibility solely on employers.²³

²³ International Labour Office. (2015). *Social protection for maternity: Key policy trends and statistics* (Social protection policy paper No. 15). Geneva: ILO. Retrieved from [https://www.social-protection.org/gimi/gess/Media.action?id=14874#:~:text=Maternity%20cash%20benefits%20can%20be,schemes\)%20and%20employer's%20liability%20provisions.](https://www.social-protection.org/gimi/gess/Media.action?id=14874#:~:text=Maternity%20cash%20benefits%20can%20be,schemes)%20and%20employer's%20liability%20provisions.)



Thus, both the ratifying and non-ratifying countries are actively working towards improving maternity protection. India is one of the non-ratifying countries and despite not having ratified the ILO convention, India has a robust maternity protection legislation, with some provisions exceeding those of the ILO convention. Notably, India offers 26 weeks of maternity leave, which is significantly more generous than the requirements set by the ILO. While there is still a reliance on employers for maternity financing, the government has introduced various policies and programs to support women in the informal sector who are not covered by these legal protections and ensure broader access to support for all women.

2.6 Challenges in achieving effective coverage

Though Maternity protection is vital for women and their children, still a large number of women are outside the ambit of these protections either in law or in practice especially those who work in non-traditional or precarious occupations, within the informal economy. Furthermore, according to a recent ILO survey, only 44.9 percent of self-employed women who give birth obtain maternity financial benefits (ILO, 2023). On the other hand, women in the informal sector face discrimination, unsafe working environments, absence of job protection, low incomes, limited freedom of association, insufficient representation in collective bargaining, and inadequate access to social insurance with women more frequently employed in hazardous work conditions in the informal economy. Thus, the ILO Convention No. 183 and Recommendation No. 191, provide for the need for a legal framework that promotes equality and prohibits discrimination, as well as guarantees that define statutory rights and are supported by mechanisms for their enforcement.²⁴

2.7 Summing Up

The chapter explores the International Labour Organization's (ILO) role in setting global standards for maternity protection to help member countries in developing maternity protection policies. It highlights the importance of maternity financing in promoting gender equality, detailing various schemes such as contributory social insurance, non-contributory schemes, tax-financed assistance, and employer liability provisions. It also provided a comparative analysis of maternity protection in ratifying versus non-ratifying countries under ILO Convention C-183, reflecting on the presence of effective maternity policy and legislation even in the non-ratifying countries.

²⁴ https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_870823.pdf



Chapter 3 : Labour Market Trends: Women's Workforce Participation in India

3.1 The Context

The Indian labour market has witnessed incredibly low participation rates of women in the workforce over the last decade. There have been significant variations in workforce participation of women across different states with a greater percentage of women employed informally. Women's concentration in the informal sector has remained a major challenge for policy makers, particularly in the context of ensuring employment protection and social security benefits. Women are generally engaged in certain kinds of employment in the non-agricultural sector (manufacturing, construction, services etc.) mostly in low paying jobs which have limited social security coverage including maternity benefits amongst others. Also, the lack of regular employment contracts often denies them access to social security.

As reported by the Periodic Labour Force Surveys (PLFS) the country has witnessed a 13.9 percentage points increase in the women workforce participation from 22 per cent in (2017-18) to 35.7 per cent in (2024). Though the increase has mostly been attributed to an increase in self-employment of women, the role of governmental intervention for promoting women's employment cannot be denied. However, the quality of employment has been a concern as women are mostly engaged in low paying jobs and there has been persistent gender gaps in labour market participation. Some of the studies have highlighted the U-shaped pattern in female labour supply in relation to economic development behind the low participation of women. This indicates that when incomes are low, women are in the labour force to a great extent. However, with increasing incomes due to expansion of market and new technology, women's labour force participation falls and with improvement in education, women move back to paid labour thereby indicating a U-shaped curve. This indicates that at lower development stages, the need for labor outweighs substitution effects, while at higher income levels, substitution effects become more prominent (Goldin, 1994; Das et al., 2015).

Several scholars have reflected on the supply and demand side factors influencing female labour force participation. Factors such as increasing household incomes, the educational level, and social stigma against educated women pursuing lower-status jobs have been identified on the supply side. On the demand side, the lack of growth in job opportunities suitable for educated women against the rising number of educated women has contributed to a significant number of women leaving the workforce (Klasen and Pieters, 2012). Other factors identified behind low labour force participation of women are deeply ingrained patriarchal norms; increasing household incomes, unpaid and caregiving work and scarcity of quality jobs for women (Chatterjee et. al 2018). Lack of suitable job opportunities that align with household responsibilities, family dynamics, education levels, and employment preferences has also significantly contributed to less number of women participating in the labour market in India. Further, women are pushed to the informal sector choosing certain kinds of work that helps them to manage their family duties (e.g., child care and elder care) with men being



major earners. (Chowdhury, 2011; Kapsos et al., 2014; Desai, 2017; Deshpande, 2019; Deshpande and Kabeer, 2021).

On the other hand, in spite of high economic growth in India, there has been a lack of substantial job creation with limited formal employment opportunities. This situation has led many workers into self-employment, leaving them vulnerable to market fluctuations (Chakraborty, 2020). Economic growth has not led to greater employment diversification in India with two-thirds of women remaining in agriculture, facing uncertainties. According to the PLFS data, more rural workers are engaged in the informal sector than urban workers. It is similar for rural women with more rural women engaged in the informal sector than women in urban areas.²⁵

In this context, it is important to understand the current labour market trends for women workers, their participation in the informal sector, quality of employment, employment contracts and social security to have a nuanced understanding about their challenges in accessing social security. The present chapter discusses the contemporary developments in the labour market vis a vis women's access to employment conditions and social security which will provide an in-depth understanding about women's position in the labour market, their challenges in accessing better employment opportunities and protection of their overall well-being.

3.2 Labour Force in India

As per the Periodic Labour Force Survey (PLFS) 2022-23, the total labour force comprises 540 million workers with 369 million men and 171 million women reflecting considerable gender disparity in the labour force.²⁶ Studies have attributed the decision for women to join the labour force are often determined by a range of social and economic factors like fertility, educational attainment, age at marriage, social norms etc. In India, lower participation of women in the labour force is often attributed to factors such as increased educational attainment among young women, insufficient job opportunities, impact of household income on women's participation and issues related to measurement of women's work etc. (Verik, 2014; Kapsos et al., 2014). The participation of men and women in the labour force is marked by substantial rural-urban differentials and subsequent gender gaps.

3.3 Formal Informal Sector Workers

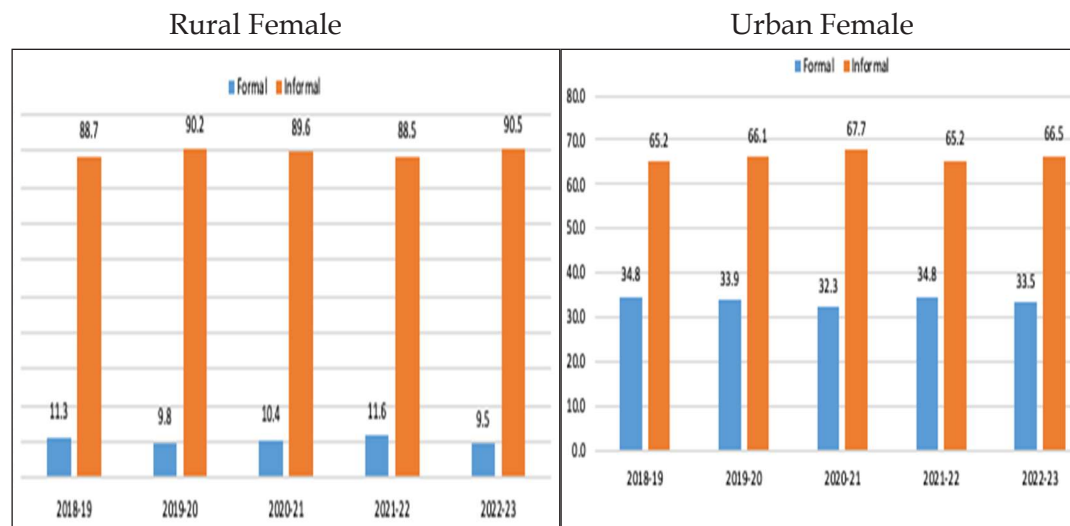
The National Commission for Enterprises in the Unorganized Sector (NCEUS) provides a comprehensive definition of the informal sector as "unincorporated private enterprises" owned by individuals or households engaged in the production and sale of goods and services. Furthermore, informal workers are described as those working in the informal sector or within households, excluding regular employees who receive social security benefits from their employers (NCEUS, 2007). The Figure (3.1) provides an overview of the share of formal and informal workers, particularly women for the years 2018-19 to 2022-23. In rural areas, participation of women in the formal sector has decreased from 11.3 percent in 2018-19 to 9.5 percent in 2022-23. While, in the informal sector the

²⁵ https://www.indiaspend.com/uploads/2021/03/26/file_upload-446784.pdf

²⁶ Calculated from PLFS 2022-23

share of women remained high at 90.5 percent in 2022-23 which has increased from 88.7 percent in 2018-19. This reflects on the limited formal employment opportunities for rural women. Urban women's share in the formal sector was 33.5 percent in 2022-23, a slight decrease from 34.8 percent in 2018-19. The proportion of women in the informal sector rose to 66.5 percent in 2022-23, up from 65.2 percent in 2018-19. The rural-urban comparison highlights more rural women working in the unorganised sector than urban women. According to a report by ILO unpaid care work often hinders women from accessing better jobs, forcing them into lower-skilled or part-time roles with caregiving responsibilities leading to higher rates of self-employment and informal work, with fewer social security benefits (ILO, 2018). Thus, women in informal work are often in lower-paying jobs, leading to larger gender pay gaps compared to the formal sector. Sectors dominated by women generally pay less, with workers who are home-based or involved in domestic activities earning less than male-dominated fields like the construction sector (Chant and Pedwell, 2008).

Fig. 3.1: Share of Formal and Informal Sector Women Workers Age (15 -59 Years)



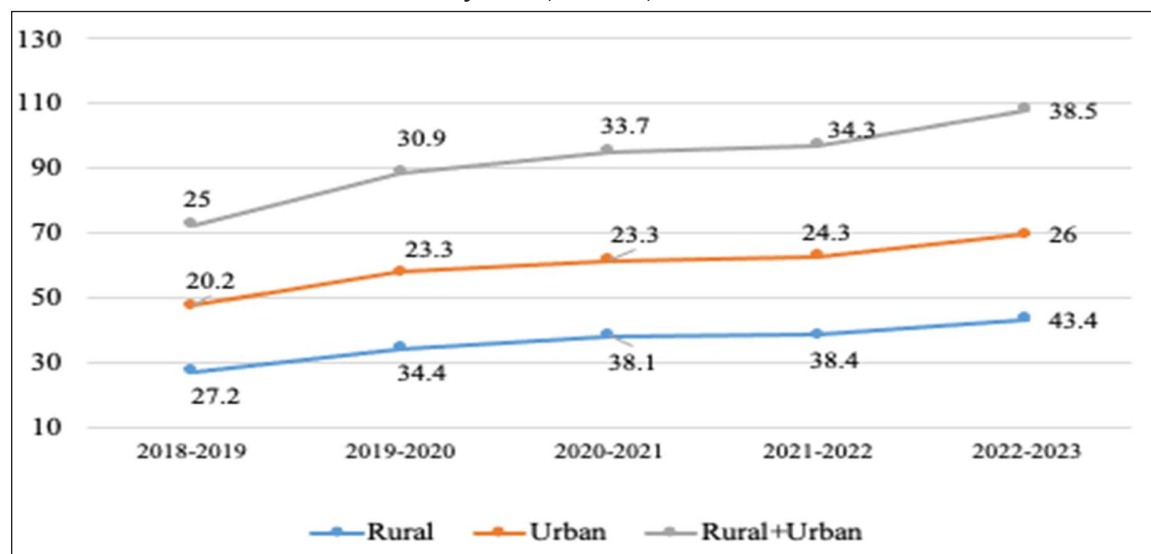
(Source: Calculated from Unit level estimates of PLFS 2018-2023)

3.4 Women's Participation in the Workforce

The Women's Participation Rate (WPR) in India has shown a notable upward trend between 2018 and 2023, as per the Periodic Labour Force Survey data. Overall, the WPR for women aged 15-59 has increased by 13.5 percent from 25 percent in 2018-19 to 38.5 percent in 2022-23, highlighting a positive trend in women's participation in the workforce. This increase is notable especially in the rural areas, where the WPR increased by 16.2 percent from 27.2 percent in 2018-19 to 43.4 percent 2022-23. In contrast, women's participation in the urban areas has increased from 20.2 percent in 2018-19 to 26 percent in 2022-23 indicating a slow rise in urban employment. When examining the trends between rural and urban areas, it is evident that a greater proportion of rural women participate in the workforce as compared to

their urban counterparts. The employment in rural areas is mostly in low paying occupations with women working as “unpaid family workers”, “own account workers” whereas in the urban areas the service sector is the source of regular jobs for women (Fernandez & Puri, 2023). Thus, the disparity between rural and urban areas highlights the need for policy interventions to enhance women’s employment opportunities in urban areas.

Fig. 3.2: WPR (in percent) in usual status (ps+ss) Age Group: 15-59 years (Female) All India



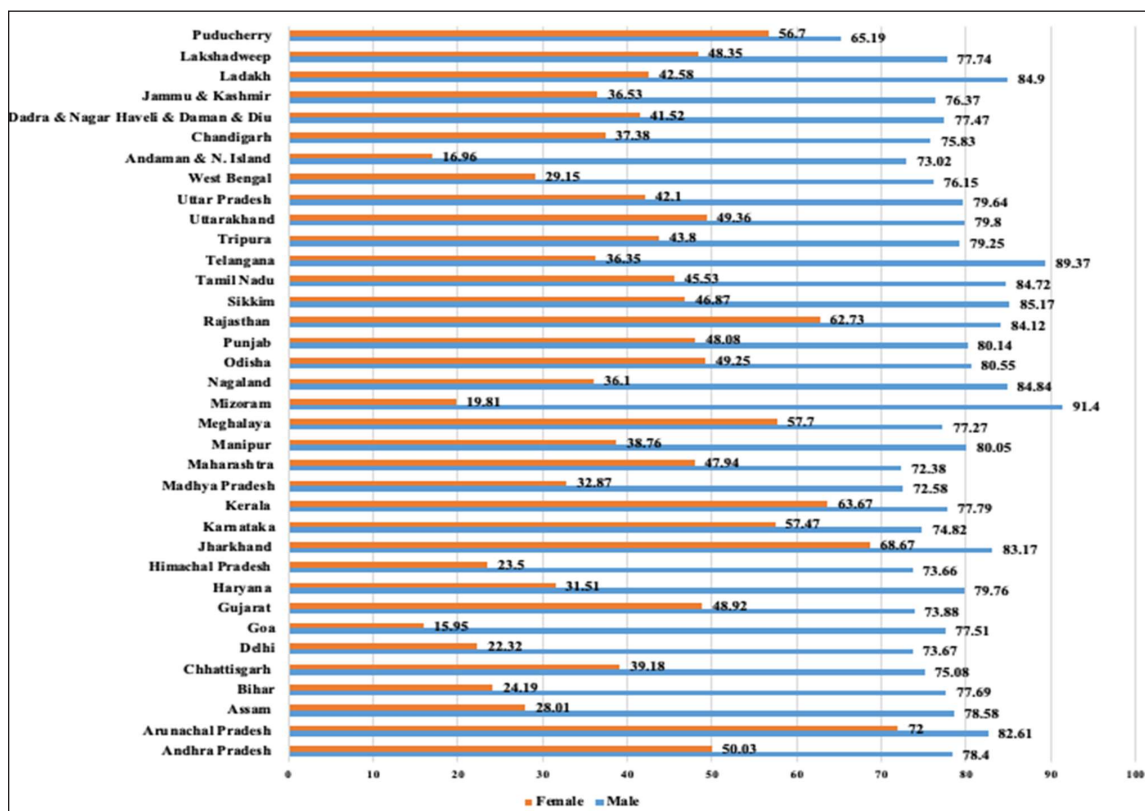
(Source: Calculated from Unit level estimates of PLFS 2018-2023)

3.5 State Wise Workforce Participation

The PLFS 2022-23 showed large regional variations in the WPR for women in the 15-59 age group across the States and Union Territories (Fig 3.3). The states that have reported higher WPR include Arunachal Pradesh (72 percent), Jharkhand (68.67 percent), Kerala (63.67 percent) and Rajasthan (62.73percent). States like Meghalaya and Karnataka also show higher WPR at 57.7 percent and 57.47 percent respectively. Also, there are significant gender gaps in WPR in these regions. The low performing States and union territories include Mizoram (19.81 percent), Himachal Pradesh (23.5 percent), Bihar (24.19 percent), Assam (28.0 percent), West Bengal (29.15percent) and Haryana (31.51percent) who report lower WPRs. Additionally, union territories like Goa (15.95 percent), Andaman and Nicobar (16.96 percent) and New Delhi (22.32 percent) demonstrate the lowest workforce participation for women.

The labour market participation of women varies greatly for urban and rural areas due to various reasons. Agriculture based rural economy and the diverse sectoral composition in urban regions are some of the major factors behind the above mentioned trend. This sectoral difference is the main reason for the varying rates of female labor force participation (FLPR) between varied regions (Kapsos et al. 2014).

Fig. 3.3: State-wise WPR Age (15 - 59 years)

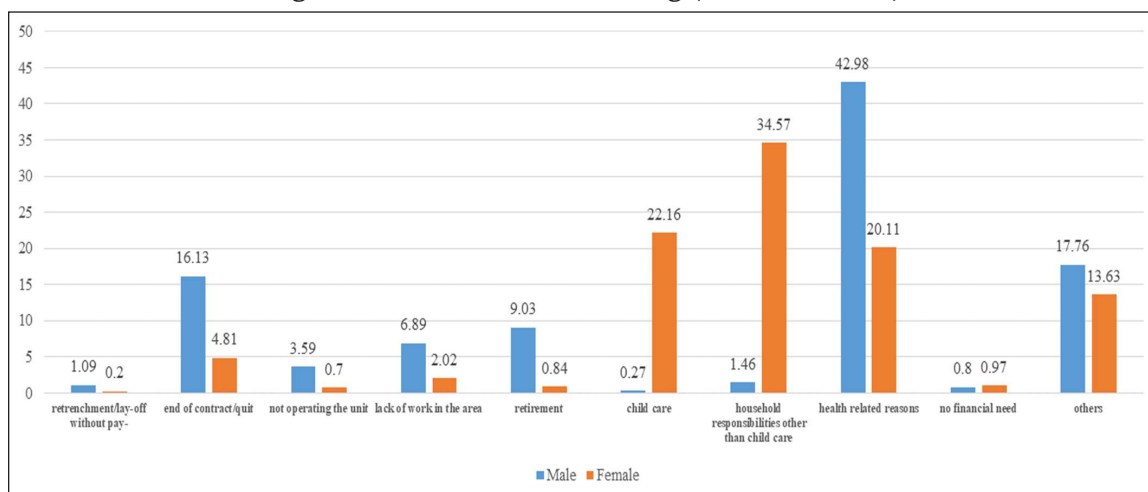


(Source: Calculated from Unit level estimates of PLFS 2022-2023)

3.6 Reason for not working

The evidence derived from PLFS data on the reasons for absence of women from the labour market has revealed that a greater percentage of women (34.57 percent) were not participating in employment due to household responsibilities other than childcare. On the contrary only 1.46 percent reported the same reason for not participating in employment during the year 2022-23 (Fig 3.4). This situation is a reflection of gender disparity in the distribution of household tasks and the constraints for women to continue in the labour market. Another prominent reason reported by women was childcare (22.16 percent) in which men's participation was not even 1 percent, highlighting the disproportionate burden of unpaid caregiving on women. The other reasons reported by women for not participating in the labour market are health related reasons (23.2 percent) and other reasons (16.3 percent). There is no denying the fact that sharing of domestic responsibilities, improving childcare facilities and enhancing healthcare services are necessary to promote greater gender equality in labour market participation.

Fig. 3.4 Reason for not working (Rural + Urban)



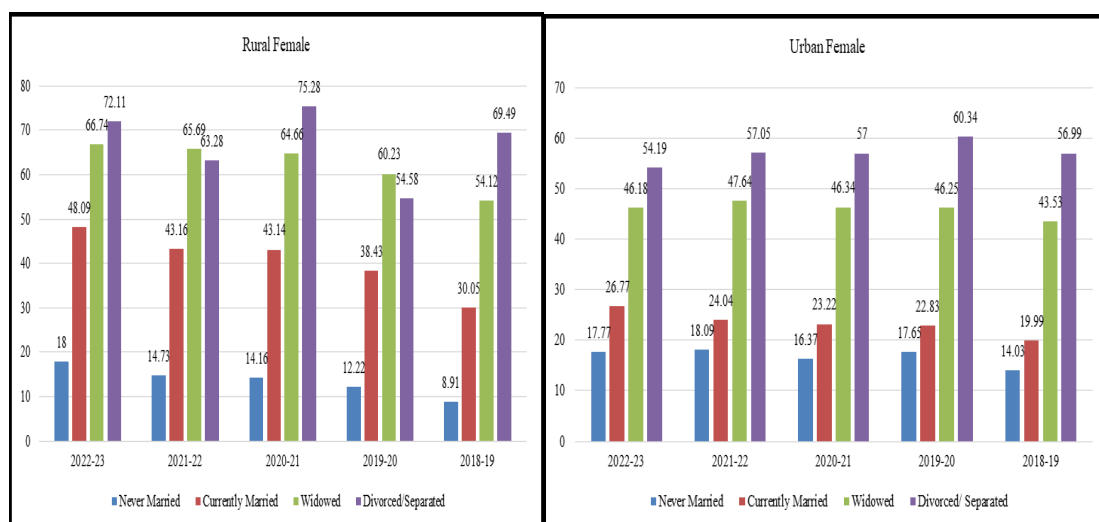
(Source: Calculated from Unit level estimates of PLFS 2022-2023)

3.7 Workforce Participation of Women and Marital Status

The PLFS data revealed that during 2018 to 2023 there were significant differences in WPR among women in the 15-59 age group across rural and urban areas based on their marital status.

It was evident that divorced and separated women workers had a greater participation in the workforce (65.13 percent). Also, women workers who were widowed had a participation rate of 60.24 percent in 2022-23 which had increased from 50.48 percent in 2018-19. On the other hand, the currently married women workers had a workforce participation rate of 42.51 percent. However, the lowest WPR was reported amongst the never married women with a participation rate of 17.92 percent (Fig 3.5). The lower workforce participation among never-married women may be due to a greater number of women pursuing higher education.

Fig. 3.5: Marital Status and WPR 15-59 years



(Source: Calculated from Unit level estimates of PLFS 2018-2023)

3.8 Employment status

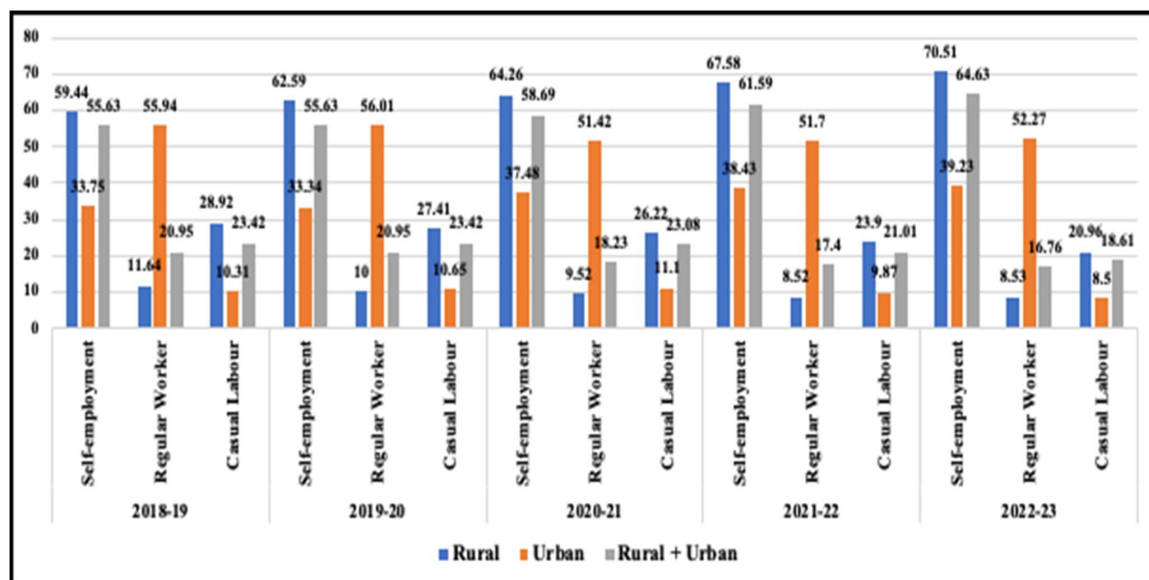
An analysis of the broad employment status of women workers reveals that self-employment had increased during 2018-19 to 2022-23 by 9 percentage points (Fig 3.6). The increase was prominent in rural areas which witnessed a significant increase in self-employment by 11.7 percent (i.e. from 59.44 percent to 70.51 in 2022-23). On the contrary, regular employment and casual employment for women workers had declined during the same period.

In rural areas, the percentage of women employed as regular workers decreased from 11.64 percent in 2018-19 to 8.53 percent in 2022-23 reflecting on a declining trend towards stable and secure employment opportunities for women in rural areas. However, there has been a decline in the share of casual workers from 28.92 percent in 2018-19 to 20.96 percent in 2022-23 highlighting a transition towards self-employment from informal and less stable forms of work.

Further, in urban areas though regular employment for women workers had declined from 55.9 percent in 2018-19 to 52.2 percent during 2022-23 the concentration of regular employment has been greater than rural areas where only 8.53 percent workers were in regular employment. This reflects on the need for appropriate policy intervention to promote regularisation of jobs in rural areas and protection of self-employment through access to social security. A positive development has been the decline in percentage of casual laborers in urban areas from 10.31 percent in 2018-19 to 8.5 percent in 2022-23, suggesting improvement in the quality of employment opportunities (Fig 3.6).

Some studies have reported that the service sector in urban areas has provided regular and salaried positions for women as compared to rural areas. Key industries in this sector, including health sector, education sector, mass media, telecommunications, transport which employs most women with regular salaries or wages. While in rural areas there is predominance of agricultural employment with women mostly working as unpaid helpers and self-employed workers (Fernandez & Puri, 2023).

Fig. 3.6: Employment status of women workers (15 - 59 years) Female

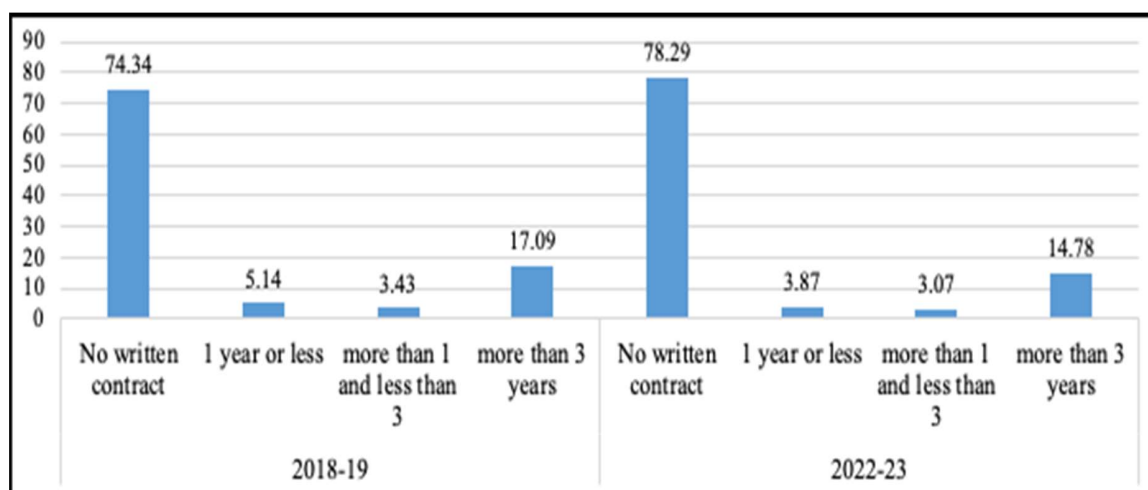


(Source: Calculated from Unit level estimates of PLFS 2018-2023)

3.9 Job contract

With regard to access for job contracts, it was evident that a greater percentage of women workers did not have access to job contracts. In 2022-23, 78.29 percent of women were employed without a written job contract, a slight increase from 74.34 percent in 2018-19, suggesting higher informal job opportunities for women compared to formal arrangements. On the other hand, the percentage of women with job contracts exceeding three years has decreased from 17.09 percent to 14.78 percent during 2022-23 reflecting a declining trend in long-term employment agreements. Furthermore, the proportion of women with a job contract between one and three years has remained almost stable. These trends reflect on the challenges which women face in terms of job security and access to social security provisions (Fig 3.6).

Fig. 3.7: Access to Job contracts for Women Workers (15 -59 years)



(Source: Calculated from Unit level estimates of PLFS 2018-19, 2022-2023)

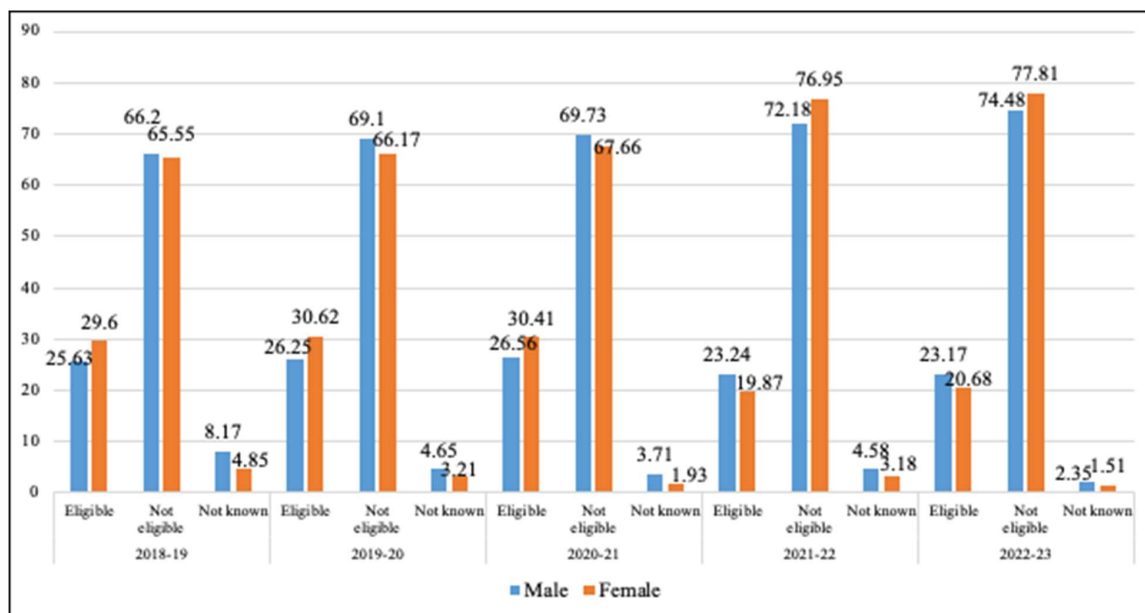
*Note: job contract is calculated for regular wage and casual workers.

3.10 Eligibility of Social Security Benefit

As per the PLFS, a noticeable disparity in social security benefits between men and women was evident with a greater percentage of women (77.81 percent) deprived of access to social security as compared to men (74.48 percent) during 2022-23. It was revealed that only 20.68 percent of women were eligible for social security benefits. Further, there has been a decreasing trend in women's eligibility for social security by 9 percentage points from 29.6 percent in 2018-19 to 20.68 percent during 2022-23. The proportion of women not eligible for social security benefits has increased sharply from 65.55 percent during 2018-19 to 77.81percent in 2022-23 (Fig 3.7). Though a similar trend is observed among men the gaps between both have remained significant.

This widening gap highlights the limited access of social security provisions to women workers and indicates women are slipping away from the social safety net.

Fig. 3.8 Year wise Social security benefit (15 - 59 years) - All workers Rural +Urban

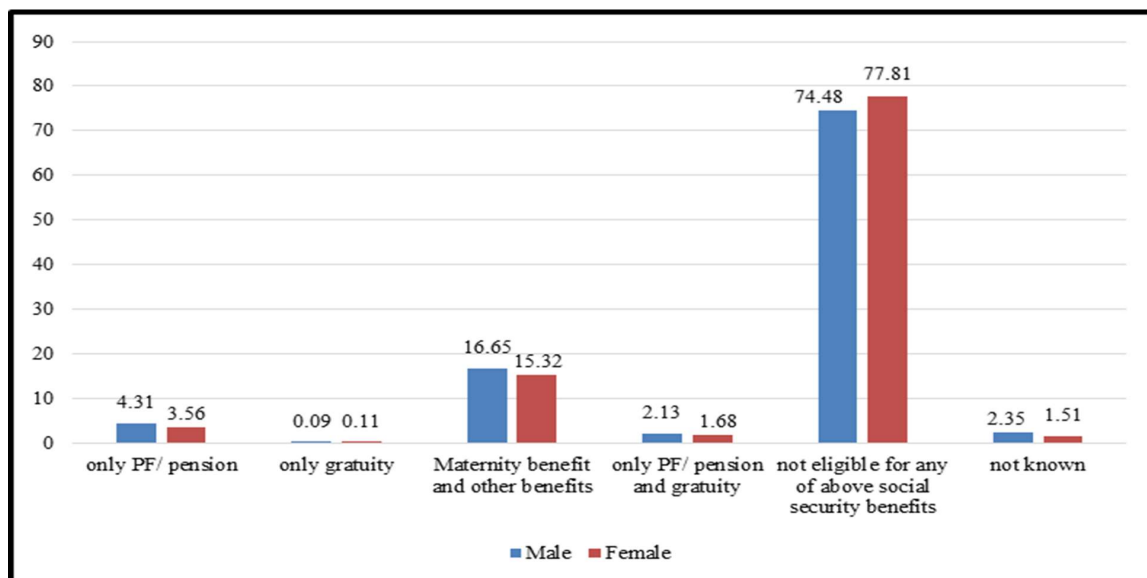


(Source: calculated from PLFS Unit Level Data 2018-2023)

3.11 Extension of Social Security Benefit

The PLFS for 2022-23 reveals a stark disparity in terms of access to various kinds of social security benefits as captured by the survey. Amongst workers having access to social security benefits, it was evident that maternity and other benefits were extended to 15.3 percent of women workers. It was revealed that 3.56 percent of women are eligible for Provident Fund (PF)/ Pension benefits, 1.68 percent of women are eligible for only PF/pension and gratuity combined and only 0.11 percent for gratuity. These figures highlight a significant gap in social security coverage, with women being disproportionately affected. Though maternity protection is an important social security coverage with respect to women there are significant data limitations with regard to capturing of maternity protection data as the data on maternity benefits is combined with other social security provisions. The lack of detailed and disaggregated data fails to accurately reflect the true extent of maternity-related benefits reaching to women workers thereby leaving a critical gap in understanding and addressing the needs of working women. This inadequate data reflects on the need for revisiting the data sets in terms of improvement in methodology for effectively capturing extension of maternity protection for informing policies aimed at improving social security and labor market participation for women (Fig 3.8).

Fig. 3.9 Extension of Social Security Coverage Age (15 - 59 years) - Rural +Urban



(Source: Calculated from Unit level estimates of PLFS 2022-2023)

3.12 Summing Up

The chapter has clearly reflected on the situation of women in the labour market, challenges experienced by them for not participating in the workforce and their access to effective social protection. Although there are some encouraging developments such as a modest decrease in informal sector employment in urban areas and a reduction in casual labor, major issues remain. Women still experience lower participation rates compared to men, with rural women heavily concentrated in the informal and self-employed sector and a growing gap in the extension of social security benefit eligibility. The increase in informal employment for women workers and a decrease in their long-term job contracts has been a matter of serious concern that requires adequate policy intervention. Regional differences in the employment situation of women adds to the complexity of the problem reiterating the need for targeted policy interventions in regions. The above mentioned trends highlight the pressing need for focused policies and reforms to improve job security, formal employment opportunities and better access to social security provisions for women with an emphasis on addressing the gender gaps and fostering a more equitable labour market.



Chapter 4 : The Maternity Protection in India: Regulation and Enforcement

4.1 Context

Maternity protection has always remained a priority in policy debates in India even before the country attained independence. The emphasis on maternal and new-born health has been central to debates in the Constituent Assembly.²⁷ The discussions around maternity benefits dates back to the Bombay Legislative Council in 1920 with the 'Bombay Maternity Benefit Bill', presented the same year. The contribution of Dr B.R. Ambedkar was noteworthy with regard to the provisions in the bill. The first legislation on maternity in India was the Bombay Maternity Benefit Act of 1929 (Dreze et al., 2021).

Another prominent legislation was the 1943 Punjab Maternity Benefit Act, which provided monetary assistance to female employees. Thereafter, the 1948 Factories Act addressed maternity-related rights for women workers post-independence.²⁸ The 1946 Bhore Committee Report also emphasised the insufficient provisions of childcare facilities and the lack of implementation of the same in various establishments in pre-independence India.²⁹ It was the Women's India Association founded in 1920 later renamed as All India Women's Conference (AIWC) which played a significant role in opposing unjust dismissals of women without pay and promoting maternity benefits for female employees in Jamshedpur's steel sector. It continued advocating for improved working conditions for women on plantations and in mines. It was largely due to the AIWC's attention to women's labour rights and circumstances in its fourth, fifth, and sixth conferences that the Maternity Benefit Act of 1961 was eventually passed. Women's organisations demanded all-encompassing support services, such as housing, crèches, prenatal and postnatal care, and access to female physicians. Although the organised sector benefited greatly from these efforts and the Act's constraints, the large unorganised sector and unpaid domestic workers were left behind (Fig 4.1)³⁰

The Maternity Benefit Act of 1961 was the first and the most important legislation in India to provide working women with benefits and protections during and after childbirth. The legislation was enacted due to the emergence of wage and casual labour systems that allowed enterprises to implement hiring and firing policies at their discretion with pregnant women workers being particularly vulnerable to unexpected job loss (Uma & Kamath, 2019).

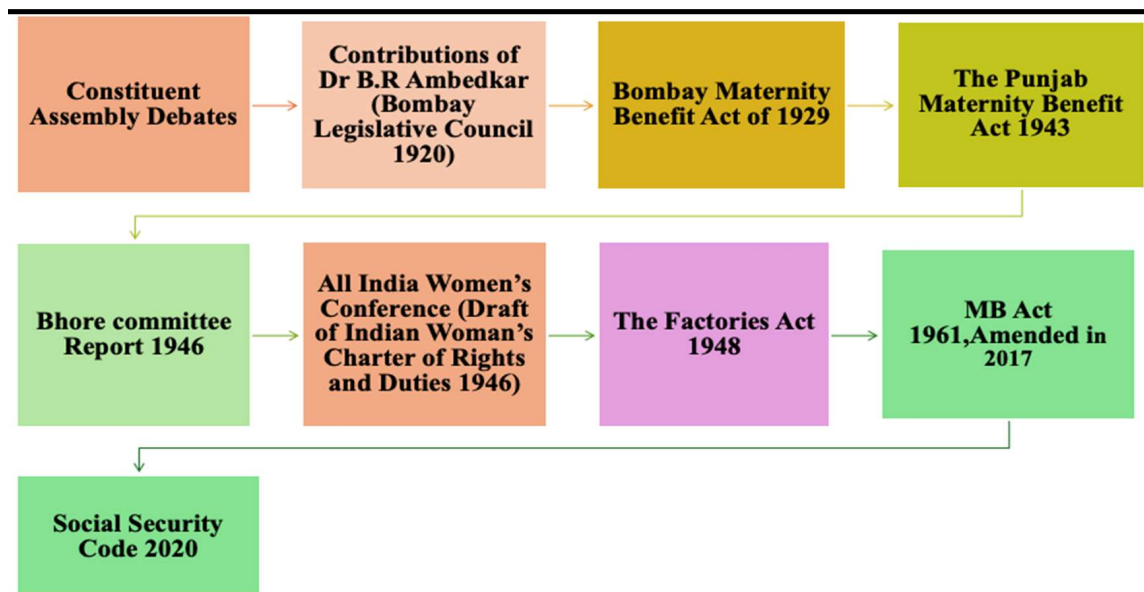
²⁷ <https://indiankanoon.org/doc/1936637/>

²⁸ https://labour.gov.in/sites/default/files/factories_act_1948.pdf

²⁹ <https://nihfw.ac.in/Doc/Reports/bhore%20Committee%20Report%20VOL-1%20.pdf>

³⁰ https://www.academia.edu/6370362/Maternity_Project_new

Fig. 4.1 Maternity Protection Laws in India: Historical Development



(Source: Authors own representation)

The Maternity Benefit Act, a key piece of legislation designed to promote women's participation in the labour market underwent significant changes after the 2017 amendment. Some of the important changes include increased maternity leave, work-from-home alternatives, policies requiring creches, and rewards for commissioning and adoptive mothers.³¹ These benefits are also available to women workers within the Employees' State Insurance (ESI) Act of 1948. Every woman is entitled to the payment of maternity benefit under the Maternity Benefit Act and continues to be covered under this Act until she becomes qualified to claim benefit under the ESI Act 1948.³² Presently the Maternity Benefit Amendment Act, 2017 is subsumed under the Code of Social Security, 2020 along with the women workers under (ESI) Act. There are provisions for women workers within the unorganised sector with section 45 and Section 109(1) within the Code providing for welfare schemes to be formulated for these workers.³³

In this context the present chapter provides a comprehensive analysis of Maternity Benefit legislation. It delves into the evolution of the legislation, subsequent amendment and key court judgments that have shaped the legislation over the years. The chapter also examines the implementation and enforcement of the Act across Centre and the States. The chapter is based on evidence derived from the data received from various labour departments of the state government, insights from interviews with various stakeholders (Officers of the Labour Department, Trade Union Leaders, Employers Representatives and Representatives from the NGO's). The analysis provides an understanding of the Act by evaluating both successes and areas for improvement for effective enforcement of the legislation.

³¹ https://labour.gov.in/sites/default/files/maternity_benefit_amendment_act2017_.pdf

³² <https://pib.gov.in/PressReleaseDetail.aspx?PRID=2002647>

³³ <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2002647#:~:text=2020,been%20subsumed%20in%20the%20Code.>



4.2 The Maternity Benefit (Amendment) Act 2017 ³⁴

4.2.1 Application of the Act

The Act applies to (a) “factories, mines, plantations, including government-owned, and establishments employing individuals for the performances of equestrian and acrobatic or similar acts” (b) “shops or establishments within state law employing ten or more persons in the past twelve months.”³⁵

4.2.2 Key definitions

Appropriate Government means in relation to an establishment being a mine (or an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances), the Central Government and in relation to any other establishment of the State Government.

Establishment means a factory, a mine, a plantation and an establishment where persons are employed for the exhibition of equestrian, acrobatic and other performance.

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. It includes cash allowances (including dearness allowance and house rent allowances), incentive bonus, and the money value of the concessional supply of food grains and other articles. However, it does not include any bonus other than incentive bonus, over-time earnings and any deduction or payment made on account of fines, any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman and any gratuity payable on the termination of service.

Commissioning Mother means a biological mother who uses her egg to create an embryo implanted in any other woman.

Child includes a still born child.

4.2.3 Employment of, or work by women prohibited during certain periods

(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).

(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) No pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period 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 fetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

³⁴ Note: Excerpts from the key provisions of the Act have been taken from The Maternity Benefit Act, 1961 and The Maternity Benefit (Amendment Act) 2017 available at :https://labour.gov.in/sites/default/files/the_maternity_benefit_act_1961_0.pdf

³⁵ https://labour.gov.in/sites/default/files/the_maternity_benefit_act_1961_0.pdf



4.2.4 Right to payment of maternity benefits

(1) A woman shall be entitled subject 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 i.e. the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.

(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.

(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 date of her expected delivery. For women with two or more surviving children, the leave provision shall be twelve weeks of which not more than six of weeks shall precede the expected date of her delivery.

- Provided that a woman dies during this period, the maternity benefit shall be payable only for the days upto and including the day of her death.
- If a woman dies during the delivery of her child or during the period immediately following the date of her delivery, leaving behind the child, she is entitled for the maternity benefit for the entire period. However, if the child also dies then maternity if provided up to and including the date of the death of the child

4.2.5 Maternity Leave for Adoptive and Commissioning Mothers

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.

4.2.6 Provision for Work from Home

The amendment in the act has introduced a provision for work from home which states that if the nature of work assigned to a woman is of such nature that she may work from home, the employer shall allow her to do so after availing of the maternity benefit for such period on conditions as the employer and the woman may mutually agree.

4.2.7 Notice of claim for maternity benefit and payment

(1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing 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.

(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 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 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.

4.2.8 Continuance of payment of maternity benefit in certain cases

If a woman is entitled to maternity benefit or where the employer is liable for maternity benefit, the employer shall pay such benefit to the person nominated by the woman in the notice given and in case there is no such nominee, to her legal representative.

4.2.9 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 (9) 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.

4.2.10 Payment of medical bonus

Every woman entitled to maternity benefit shall also be entitled to receive from her employer a medical bonus, of Rs 3500, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

4.2.11 Leave for miscarriage

In case of miscarriage or medical termination of pregnancy, 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 or, as the case may be, her medical termination of pregnancy.

4.2.12 Leave with wages for tubectomy operation

In case of tubectomy operation, 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 two weeks immediately following the day of her tubectomy operation.



4.2.13 Leave for illness arising out of pregnancy, delivery, premature birth of child, miscarriage, medical termination of pregnancy or tubectomy operation

A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage, medical termination of pregnancy or tubectomy operation shall, on production of such proof be entitled, in addition to the period of absence allowed to her, leave with wages at the rate of maternity benefit for a maximum period of one month.

4.2.14 Nursing breaks

Every woman who has delivered a child and 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 15 minutes duration for nursing the child until the child attains the age of fifteen months.

4.3.15 Provision of Creche Facilities

Every establishment which has fifty or more employees shall have the facility of creche which such distance as may be prescribed either separately or along with common facilities. The employer shall allow four visits a day to the creche by the woman and shall also include the interval for rest allowed to her.

Responsibility of the Employer

The employers are required to inform female employees about maternity benefits on joining the organization in both written and electronic formats.³⁶

4.2.16 Dismissal during absence of pregnancy

(1) When 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.

(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 or 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 discharged or dismissed shall be final.

4.2.17 Appointment of Inspectors

The appropriate government may, by notification in the Official Gazette, appoint such

³⁶ https://labour.gov.in/sites/default/files/maternity_benefit_amendment_act2017_.pdf



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 functions under this Act.

4.2.18 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 person 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 register, 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.

4.2.19 Power of Inspector to direct payments to be made

- (1) Any woman claiming that-
 - (a) 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;
 - (b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Act, 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 inquiry or cause an inquiry to be made and if satisfied that-
 - (a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders;
 - (b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may pass such orders as are just and proper according to the circumstances of the case.
- (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 this section shall be recoverable by the Collector on a certificate issued for that amount by the Inspector as an arrear of land revenue.

4.2.20 Abstract 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.

4.2.21 Maintaining Registers

Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

4.2.22 Penalty for contravention of Act by employer

If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he/she shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

4.2.23 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 ²⁰[one year], or with fine which may extend to five thousand rupees, or with both.

4.2.24 Cognizance of offences

(1) Any aggrieved woman, an office-bearer of a trade union registered under the Trade Unions Act, 1926 (16 of 1926) of which such woman is a member or a voluntary organization registered under the Societies Registration Act, 1860 (21 of 1860) or an Inspector, may file a complaint regarding the commission of an offence under this Act in any court of competent jurisdiction and no such complaint shall be filed after the expiry of one year from the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

4.2.25 Powers of the Central Government

The Central Government can issue necessary directives to State Governments for the implementation of this Act, and the State Governments must follow these directives regarding the Act's provision.³⁷

³⁷ https://hrylabour.gov.in/staticdocs/labourActpdfdocs/Maternity_Benefit_Act.pdf



Text Box 4.1: Maternity Provisions for Building and Other Construction Workers

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, under Section 22, outlines the functions of the Boards, which include the responsibility to make payments of maternity benefits to female beneficiaries.

Additionally, Section 35 addresses the provision of creches for children of female workers. It mandates that:

1. In workplaces where more than 50 female building workers are employed, suitable rooms for children under the age of six must be provided and maintained.
2. These rooms must meet the following conditions:
 - Adequate accommodation for children.
 - Proper lighting and ventilation.
 - Clean and sanitary maintenance.
 - Trained women must be in charge of the rooms, ensuring proper care of the children and infants.

Source: <https://clc.gov.in/clc/acts-rules/building-and-other-construction-workers>

4.3 Maternity Benefit Amendment Act 2017: Key Changes

The Maternity Benefit (Amendment) Act, 2017, marks a significant improvement over previous legislation, reflecting a broader commitment to enhancing maternal and child welfare (Text Box 4.1). With specific provisions like the extension of maternity leave, leave for “adoptive and commissioning mothers,” the mandate for “creche facilities in establishments with fifty or more employees,” as well as “work-from-home arrangements” for nursing mothers, the importance of “informing employees about their maternity benefits” the amendment makes a major contribution to improving the support system for working women during and after their pregnancy. With this amendment, India exceeds the standards set by the International Labour Organisation (ILO), providing the longest duration of paid maternity leave (Uma & Kamath, 2019). The Maternity Benefit Act of 1961 (MBA) has important provisions for women who are working in formal “establishments” under this Act. However, the legislation has several challenges with regard to its extension to the informal sector where a significant proportion of women have been working in low paid employment and lack access to regular social security. The government introduced the *Unorganised Workers Social Security Act, 2008* to provide maternity benefits within the informal sector.³⁸ Other schemes such as the “Pradhan Mantri Matru Vandana Yojana (PMMVY)” are considered the equivalent of maternity benefits for the unorganised sector workers.³⁹ The text box below (Text box 4.2) provides a comparison of key changes in the provisions of the maternity benefit act after the amendment in 2017.

³⁸ <https://jils.blog/2022/01/27/maternity-benefits-for-building-and-other-construction-workers-in-india-a-regulatory-quagmire/>

³⁹ https://geographicinsights.iq.harvard.edu/files/geographicinsights2/files/pradhan_mantri_matru_vandana_yojana_pmmvy_policy_brief.pdf

Text Box 4.2: Maternity Benefit Act Comparison Table (1961- 2017)

The Maternity Benefit Act, 1961	The Maternity Benefits (Amendment) Act, 2017
Maternity Leave Provisions	
12 weeks	26 weeks (For a woman with two or more children, maternity leave is 12 weeks)
Provisions for Adoptive and Commissioning Mothers	
No provision.	12 weeks of leave for adoptive mothers & commissioning mothers.
Creche Facilities	
No provision.	Creche facilities at establishments with 50 or more employees.
Work-from-home provisions	
No provision	Work from home provisions once the women have availed the maternity benefit based on mutual agreement between the employer and employee.
Employer to inform the women of maternity Benefits	
No provision	In writing or electronically

(Source: Prepared by the authors based on the Maternity Benefit Legislation)

4.4 Enforcement of the Maternity Benefit Amendment Act, 2017: Central and State Government

The Maternity Benefit Amendment Act, 2017 Act applies to all establishments including those belonging to the government. The enforcement of the Maternity Benefit Act involves several key processes. The Act provides for the Inspectors to be appointed who have the authority to enter establishments where women are employed to inspect records, registers, and notices. They can question individuals on the premises but cannot force them to incriminate themselves and they are also empowered to request detailed information from employers about employees, payments, and notices. If complaints are made inspectors conduct inquiries and can issue directives or orders to resolve the issues. Decisions made by inspectors or prescribed authorities are final, but appeals can be made. Obstructing an inspector or failing to produce required records can result in penalties. The Central Government can also direct State Governments on how to implement the Act, and these directives must be followed.⁴⁰

In this context, the enforcement data for the Maternity Benefit Amendment Act, 2017, was requested by the V.V.Giri National Labour Institute from the Central and State Government Labour Departments for establishments under their jurisdictions. The data was requested from the years 2017 to 2024 to effectively assess the enforcement status of this legislation. Out of all the states and union territories, 15 of them shared enforcement data

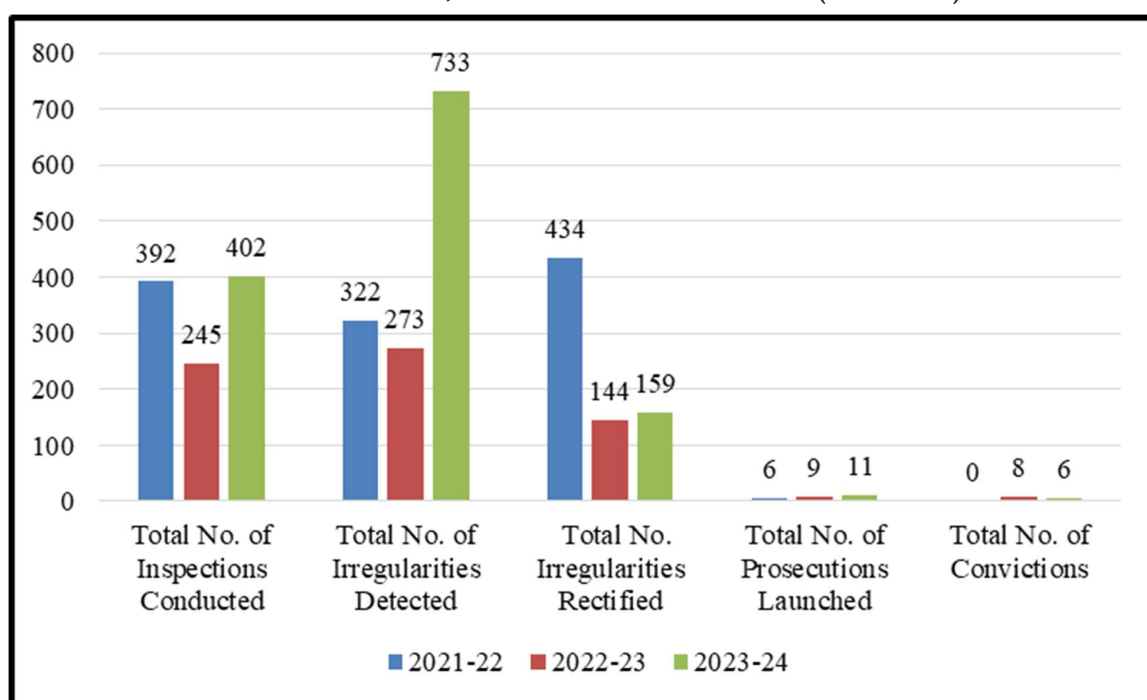
⁴⁰ <https://clc.gov.in/clc/sites/default/files/MATERNITY%20BENEFIT%20ACT.pdf>

from their respective labour department's thereby enabling a comprehensive mapping of the implementation across India. Based on the data received by the Central and respective State governments, several key observations and insights have emerged, shedding light on the effectiveness and challenges in enforcing maternity benefit provisions in different regions.

4.4.1 Review of the Enforcement of Maternity Benefit Act Amendment Act, 2017, Central Government Data (2017-2024)

The following section provides an in-depth analysis of the enforcement of the Maternity Benefit Act Amendment Act, 2017 for the Central government (Table 4.1). The information collected was based on critical parameters such as the number of inspections conducted (Text Box 4.3), irregularities detected (Text Box 4.4), Irregularities rectified (Text Box 4.5), Prosecutions launched (Text Box 4.6) and conviction rate (Text Box 4.7). This data is essential for understanding about how the Act has been implemented and where further improvements may be needed to ensure effective protection of maternity benefits.

**Fig. 4.2 Maternity Benefit Amendment Act, 2017:
Enforcement Data, Central Government Data (2017-2024)**



(Source: Data received from the Office of the CLC, 2021-2024)

1. Inspections Conducted

The Labour inspectors are empowered under the act to carry out inspections of establishments. The following table (Table1) provides trends in inspection under the Centre sphere.

Text Box 4.3: Trends in Inspection (2017-2024)

2021-22: There were 392 inspections conducted.	A variation in the number of inspections is evident from the data shared from the central sphere. In 2023-24, there was a notable increase in inspections following a decline in 2022-2023; indicating potential improvements in the enforcement measures undertaken by the Central government.
2022-23: The number of inspections decreased to 245.	
2023-24: Inspections increased to 402.	

(Source: Data received from Office of the CLC, 2021-2024)

2. Irregularities Detected

Text box 4.4: Total Irregularities Detected (2017-2024)

2021-22: 322 irregularities detected.	The notable increase in irregularities detected in 2023-24, despite the increase in inspections, indicates a higher level of non-compliance of the act.
2022-23: 273 irregularities detected.	
2023-24: 733 irregularities detected.	

(Source: Data received from office of the CLC, 2021-2024)

With regard to the nature of irregularities, it was revealed that mostly the irregularities were related to non-display of notices, non-production of records etc. The following information is derived from the key stakeholder's interview.

"There are no establishments in the circus, so the identification number does not come out of it; in mines, there are establishments, so we have conducted around 4000-5000 inspections. We have conducted around 4000-5000 inspections post-amendment. Still, the number of irregularities is only due to the non-display of notice, non-production of records, non-maintenance of records, etc. There are some other irregularities, but they are not related to the non-payment of maternity benefits" (Chief Labour Commissioner, Government of India)

3. Irregularities Rectified

Text Box 4.5: Total Irregularities Rectified (2017-2024)

2021-22: 434 irregularities were rectified.	There has been a significant drop in the cases of irregularities rectified in 2022-23, compared to 2021-22, still the numbers have slightly improved in 2023-24. This suggests that while rectification measures may have been less effective in 2022-23, there has been improvement in the subsequent year.
2022-23: The number rectified dropped to 144.	
2023-24: There was a slight increase to 159 irregularities rectified.	

(Source: Data received from Office of the CLC, 2021-2024)



4. Prosecutions Launched

Text Box 4.6: Total Number of Prosecutions Launched (2017-2024)

2021-22: 6 prosecutions were launched.	The rising number of prosecutions launched highlights an improved enforcement practices and strict actions against non-compliance.
2022-23: This number increased to 9.	
2023-24: There was a further increase to 11 prosecutions.	

(Source: Data received from Office of the CLC, 2021-2024)

5. Convictions

Text Box 4.7: Total Number of Convictions (2017-2024)

2021-22: No convictions were recorded.	Though the conviction rate has witnessed improvement in 2022–2023 is indicative of a better legal response towards non compliance; however, there were fewer convictions in 2023–2024 reflecting stricter penal provisions.
2022-23: 8 convictions were achieved.	
2023-24: 6 convictions were recorded.	

(Source: Data received from Office of the CLC, 2021-2024)

4.4.2 Review of the Maternity Benefit Act Amendment Act, 2017 in States and Union Territories

The following section provides an analysis of the enforcement of the Maternity Benefit Act Amendment Act, 2017 by the State governments and Union Territories. The information gathered is based on critical parameters, including the number of inspections conducted, total number of cases filed by the inspectors, Trade Unions & NGO, conviction rates, punishments. Data was sought from the labour departments of all the States and Union Territories for the years 2017 to 2024. The responses are received from 15 States and Union Territories. The data is essential for assessing the effectiveness of implementation of the act and identifying areas for improvement to ensure effective protection of maternity benefits (Table 4.2).

- The State of Assam conducted a significant number of inspections (1,898) and filed 40 cases. The state has an impressive conviction rate of 87.5 percent, with 35 punishments imposed on violation. They State reported that the presence of a regular monitoring system, proactive field officers and awareness campaigns at regular intervals for tea garden women workers in collaboration with NGOs contributed to the effective enforcement of the legislation
- States such as Mizoram and Union Territories like Jammu and Kashmir and Andaman & Nicobar Island have reported 0 (zero) inspections indicating lack of appropriate enforcement mechanisms in these States. The state of Mizoram reported that they plan to undertake an initiative to conduct inspections in this regard in the near future.
- In the State of Arunachal Pradesh, 04 inspections were conducted under the Maternity Benefit Amendment Act, 2017. There were no cases filed by inspectors, trade unions,



or NGOs resulting in lack of convictions. In order to achieve compliance with the Act, there is a need to strengthen enforcement measures.

- In the state of Bihar a total of 94 inspections were conducted, though, only 1 case was filed under the Act. The total number of convictions were 05 with the absence of any punishments indicating a gap in effective implementation of penal provisions. This scenario highlights the need for better enforcement mechanisms to ensure compliance with the Act.
- The State of Goa, had extremely limited inspection with only 01 inspection being carried out under the Maternity Benefit Amendment Act, 2017. There were no cases filed by inspectors, trade unions, or NGOs related to the Act. Consequently, there were no convictions during this period indicating the need for strengthening enforcement mechanisms in the State.
- Similarly, the State of Haryana reported only 01 inspection carried out under the Act. It was reported that 132 cases were filed by inspectors, trade unions, and NGOs highlighting the proactive role of other stakeholders (trade unions and NGOs) along with the labour inspectors who are empowered under the Act to file cases. Further, the Haryana government had imposed a fine of Rs. 14000/- for non-payment of maternity benefit. The data highlights potential issues with the conviction and punishment and a need for strengthening compliance and accountability under the Act.
- In Meghalaya, a total of 248 inspections were conducted under the Act. The state had a regular practice of inspections conducted to ensure the compliance with the provisions of the Maternity Benefit Amendment Act, 2017. However, no cases were filed by inspectors, trade unions and NGOs, and consequently no convictions or punishments recorded.
- Information regarding enforcement was not provided by Nagaland since the state has not amended the Maternity Benefit rules under the Act. However, the amendment is under consideration with the government.
- In the States of Rajasthan 02 inspections were carried out with no cases, no conviction rate and no punishments. However, Tripura has reported 142 inspections with 0 conviction and no punishments. Also the state of Uttarakhand has reported 8 inspections under the Act. Despite these inspections, none of these states reported about cases being filed by inspectors, trade unions, and NGOs.
- The state of Tamil Nadu has emerged as one of the prominent states in the southern region reporting a high inspection rate (8,531 inspections). The state has also imposed a fine of Rs. 1000 towards non-payment of maternity benefit. Further, the State reported about 01 pending cases of conviction from the previous year. The high inspection carried out in the state reflects on effective enforcement practices in the State.
- In the State of Uttar Pradesh, while data was only received for the years 2023 and 2024, the enforcement of the Act has shown a positive trend. In 2023-24,

942 inspections were conducted, though this figure dropped to 239 in 2024. The number of irregularities detected increased from 175 in 2023-24 to 279 in 2024. Correspondingly, the number of irregularities rectified also increased from 26 to 41 from 2023-24. Significantly, the amount of penalty has increased from 23,000 in 2023-24 to 37,100 in 2024. These figures reflect on extremely effective enforcement mechanisms adopted by the government of Uttar Pradesh, though some challenges remain in securing convictions.

The table below (Table 4.2) provides a comprehensive picture of state wise enforcement data. The table also provides an analysis of the comments provided by various State governments and Union Territories.

**Table 4.2: Maternity Benefit Amendment Act, 2017:
Enforcement Data for states and Union Territories (2017-Present)**

S. No	State	Number of Inspections Conducted	Total Number of Cases Filed by the Inspectors, Trade Unions & NGOs	The Conviction Rate	Total Number of Punishments	Remarks
1.	Assam	1898	40	87.5%	35	1. Monthly inspections are conducted by the District Level officers under the Commissioner ate of Labour. Necessary directions are issues in cases of non-compliances and subsequent prosecutions are launched if directions are not followed. 2. Regular monitoring is undertaken All stakeholders are also sensitized and awareness is generated for effective implementation of the Act.

S. No	State	Number of Inspections Conducted	Total Number of Cases Filed by the Inspectors, Trade Unions & NGOs	The Conviction Rate	Total Number of Punishments	Remarks
						3. For tea garden women workers awareness camps are being organised in collaboration with different NGOs. The field level officers are proactive in their efforts, remain in regular touch with the NGOs and extend necessary co-operation as and when required.
2.	Andaman & Nicobar Island	0	0	0	0	The A & N Administration vide its circular dated 30th January, 2023 ensured effective implementation of the Maternity Benefit Amendment Act, 2017 to the eligible female DRMs/ Contractual workers of the A&N Administration.
3.	Arunachal Pradesh (Itanagar)	4	0	0	0	There are no specific good practices maintained by the department, However, all the Labour Officers i/c labour officers have been appointed as inspector for effective enforcement of the said Act.

S. No	State	Number of Inspections Conducted	Total Number of Cases Filed by the Inspectors, Trade Unions & NGOs	The Conviction Rate	Total Number of Punishments	Remarks
4.	Bihar	94	1	5	0	Nil
5.	Goa	(1) Only one inspection has been carried out under the Maternity Benefit (Amendment) Act, 2017	No cases have been filed by inspectors, trade unions, or NGOs under the Maternity Benefit (Amendment) Act 2017	There have been no convictions under the Maternity Benefit (Amendment) Act 2017	There have been no punishments, including terms of imprisonment or fines, under the Maternity benefit (Amendment) Act, 2017	Regular Inspections on Complaint Basis: The Labour Department conducts regular inspections promptly upon receiving complaints under the Maternity Benefit (Amendment) Act, 2017. This proactive approach ensures that any potential violations are addressed swiftly and effectively.
6.	Haryana	1	132	0	14000/ (Fine amount given)	Nil
7.	Jammu & Kashmir	1531	0	0	0	Nil
8.	Meghalaya	248	No cases have been filed against any violation of the Act.	None, due to reasons stated at Sl. No.2 above	None, due to reason stated at Sl.No.2 and 3 above	Inspections are being carried out regularly to ensure the provisions of the Maternity Benefit Amendment Act, 2017 are complied with
9.	Mizoram		0	0	0	Inspection has not been carried out under the Act. However, the department is planning to take initiative to conduct inspection in this regard in the near future

S. No	State	Number of Inspections Conducted	Total Number of Cases Filed by the Inspectors, Trade Unions & NGOs	The Conviction Rate	Total Number of Punishments	Remarks
10.	Nagaland					As per the "Maternity Benefit Amendment Act, 2017," corresponding Nagaland Maternity Benefit Rules amendment has not been done, which is under consideration with the government, as such the requisite information sought cannot be provided immediately.
11.	Rajasthan	2	0	0	0	Nil
12.	Tamil Nadu	8531	0	1(previous year pending case)	1000/- (Fine amount given)	Nil
13.	Tripura	142	0	0	0	Nil
14.	Uttarakhand	8	0	0	0	Nil
15.	Uttar Pradesh	942 (2023-24) 239 (2024-25)	175 (2023-24) 279 (2024-25)	26 (2023-24) 41 (2024-25)	23000 (2023-24) 37100 (2024-25)	Nil

(Source: Data received from labour departments of States and Union Territories, 2021-2024)

4.5 Gaps in Implementation of the Act

The enforcement of the Maternity Benefit Amendment Act, 2017 is vital for ensuring the effective implementation of the act and protection of women's right to maternity at work. The discussion above has highlighted that the Central government had a limited number of establishments (Mines and Circus) within its purview . However, the increase in the number of inspections, detection of irregularities and imposition of penalty reflects on the effective role of the Central labour department to ensure compliance. With regard to the States, there are notable variations in the implementation of the Act. Some States were performing exceptionally well (Assam, Uttar Pradesh, Tamil Nadu, Bihar and Jammu and Kashmir) in terms of Inspection, convictions and penalty while other States needed to initiate mechanisms for effective enforcement of the Act and measures to improve compliance.

However, the data highlights the need for establishment of effective implementation and monitoring mechanisms. States with better enforcement indicators can provide valuable models, while others need to work towards achieving better compliance and reporting.



The study has limitations in terms of providing a comprehensive analysis on enforcement due to lack of data received from some of the states. For a thorough assessment, it is essential to receive information from all the states. Additionally, one of the States shared enforcement data for only two years, which further restricts the scope of the study.

4.6 Recent initiatives and Good practices adopted by various State Governments

The insights derived from different States and Union territories have also reported about certain good practices on the effective implementation of the Maternity Benefit act. Some of the good practices are discussed in text boxes below (4.8; 4.9; 4.10; 4.11).

Text Box 4.8: Good Practices:

State Labour Department, Government of Andaman & N. Island

The A & N. Administration vide its Circular dated 30th January, 2023 ensured effective implementation of the Maternity Benefit Amendment Act, 2017 to the eligible female Daily Rated Mazdoor (DRMs) / Contractual workers of the A&N Administration.

(Source: Data Collected from State Labour Department)

The extension of maternity benefit act to contractual workers is an important step for ensuring better coverage under the legislation.

Text Box 4.9: Good Practices: State Labour Department, Government of Tripura

1. Under the Maternity Benefit scheme of the “Tripura building and other Construction Workers Welfare Board,” financial assistance of Rs. 8000/- is being given to the female registered construction workers of the wives of female registered construction workers. In case of miscarriage financial assistance of Rs. 4000/- is provided.
2. Maternity leave with pay of a maximum of 3 months shall be provided to the female registered construction worker who has been working as a construction worker for not less than one year as per the unskilled minimum rate of wages for the Building and other Construction Workers notified by the Labour Department. Govt. of Tripura

(Source: Data Collected from the State Labour Department)

Text Box 4.10: Good Practices: State Labour Department, Government of Assam

1. Monthly inspections are conducted by the District Level officers under the Commissionerate of Labour, Government of Assam. Necessary directions are issued in cases of non-compliance and subsequent prosecutions are launched if directions are not followed.
2. Regular monitoring is undertaken and all stakeholders are also sensitized and awareness is generated for effective implementation of the Act.
3. For tea garden women workers awareness camps are being organised in collaboration with different NGOs. The field-level officers are proactive in their efforts, remain in regular touch with the NGOs and extend necessary cooperation as and when required.

(Source: Data Collected from the State Labour Department)



Text Box 4.11: Good Practices: State Labour Department, Government of Jammu and Kashmir

Regular inspections are being conducted in every district by Assistant labour Commissioners and Simultaneously awareness is being generated about the Maternity benefit Act among the employees working in different establishments.

(Source: Data Collected from the State Labour Department)

4.7 Key Stakeholders Perspective on the Maternity Benefit Amendment Act, 2017

In addition to the data collected from various state governments, interviews were conducted with key stakeholders, including labour department officials, trade union representatives, members from NGO and representatives from employer associations. These discussions aimed to identify existing loopholes and explore ways to further strengthen enforcement of the Act. This section integrates the State level information with insights derived from key stakeholder interviews thereby providing an overview of the current enforcement mechanisms. The discussion also highlights the issues and challenges and provides suggestions for enhancing the implementation of the Act. Some key insights gathered from these interviews are discussed below:

4.7.1 Perspectives from the Labour Department: Central and State Government

1. Monitoring Mechanism

- Under the Maternity Benefit Amendment Act of 2017, there is a lack of a centralised monitoring framework towards strengthening the enforcement of the Act, particularly with respect to its implementation by State governments. Presently, there is no established monitoring mechanism at the ministry level dedicated to overseeing this process ⁴¹(Text box 4.12).

Text box 4.12: Insight from Key Informant Interview

"At present, there is no monitoring mechanism at the Labour ministry level though from time to time, the ministry interacts with state government officials and insists on ensuring compliance with various labour laws"

(Chief Labour Commissioner, Government of India)

(Source: Interview with Chief Labour Commissioner, Government of India)

- The limitations of the Maternity Benefit Amendment Act, 2017 are due to structural constraints as far as the enforcement process is concerned. The central labour department has no coordination or joint working mechanisms with the state labour departments on maternity legislation nor there do any provision for data sharing on enforcement practices. The labour department at the Central sphere has jurisdiction restricted to equestrian and mining sectors with most of the industries being outside the purview. Therefore, the ability to enforce maternity laws is constrained by its limited jurisdiction and the enforcement of important labour regulations remains a challenge due to these jurisdictional limitations⁴².
- ##### **2. Challenges in implementation and sharing of the responsibility with the Trade Unions and Voluntary Organisations.**

The labour inspectors are entrusted with the responsibility of enforcing multiple labour laws impeding the effective implementation of specific regulations such as the Maternity

⁴¹ Excerpt of the interview with Chief Labour Commissioner, Government of India

⁴² Excerpt of the interview with RLC, Trivandrum

Legislation. The labour inspectorate also has several challenges with regard to lack of gender sensitive training on labour inspection or awareness on carrying out gender responsive inspection. However, the Act has also granted powers and responsibilities to trade unions and voluntary organizations to file complaints or assist women workers in filing complaints, thereby expanding the framework for enforcement and support in safeguarding maternity benefits.⁴³ Since the trade unions and the voluntary organisations have greater experience in working with women's groups/organisations, their role is extremely significant towards better enforcement of the legislation (Text box 4.13).

Text box 4.13: Insight from Key Informant Interview

"Although the inspectors are the primary authority, we cannot blame them solely for any issues concerning effective implementation and compliance-related loopholes. In this direction, the act has given powers and responsibilities to trade unions or voluntary organisations too. They have an important role in this"

(Chief Labour Commissioner, Government of India)

(Source: Interview with Chief Labour Commissioner, Government of India)

3. Financial burden on the Employers

The responsibility for provisioning maternity benefits is predominantly placed on employers which can lead to discouragement amongst employers to engage women workers. The existing framework suggests that employers are entirely accountable (100 percent funding) towards maternity entitlements that makes it difficult for smaller businesses to comply with the provisions. Thus, the issue of financing remains a significant barrier for universal implementation of the Maternity Benefit Act. This financial burden on employers is widely recognized as a key factor in contributing to non-compliance and preventing the Act from achieving its full potential.⁴⁴ The cross country experiences on maternity financing as shared in the previous chapters has revealed that most of the countries that had ratified ILO's maternity Convention 183 had a contributory or mixed model towards maternity financing.

4. Issues of Worker Threshold in Maternity Benefit Amendment Act, 2017

The "10 or more persons" threshold stipulated in the Maternity Benefit Act (which includes all types of employees whether employed directly or indirectly, including casual, contractual, ad-hoc, or temporary workers) and other social security laws is being widely misused, undermining the effectiveness of the Act. Many organizations avoid compliance by categorizing employees as contract or casual workers. For example, in some establishments, although there may be 50 workers present, the official employee count is kept below 10 through strategic segmentation and outsourcing practices. This deliberate approach results in many workers particularly women being denied their rightful maternity benefits.⁴⁵

Another barrier to the effective implementation of the Maternity Benefit Act is the misinformation or lack of awareness regarding its "10-worker threshold" clause among employers. Although the Act uses the phrase "10 or more persons" to include regular, permanent, contractual, temporary, part-time, or fixed-term employees, it is often misunderstood. Most employers assume that the Act applies only if they directly hire 10 or more employees, thereby excluding any manpower deployed through third-party arrangements.

⁴³ Excerpt of the Interview with Chief Labour Commissioner, Government of India

⁴⁴ Excerpt from the Former Joint Labour Commissioner, Government of West Bengal

⁴⁵ Excerpt from the interview with Former CLC, Government of India

5. Lack of Prioritization and Enforcement Challenges

Enforcement of the Maternity Benefit Act reveals significant loopholes not due to weaknesses in the state machinery but because of inadequate prioritization of the Act. Since discussions about the Act began in 2017, it has been a topic of conversation, yet enforcement remains a low priority. The central government has limited authority in sectors except mines and circuses that further limits the scope for enforcement. Although Section 25 grants the central government the power to direct state governments, responsiveness at the state level is lacking. While other labour laws receive considerable attention, the Maternity Benefit Amendment Act, 2017 remains far below the list of priorities. Despite global focus on gender issues and closing gender gaps, maternity benefits continue to be inadequately enforced.⁴⁶

Enforcement of the Maternity Benefit Act in the Unorganized Sector

The enforcement of the Act is a significant challenge particularly in the unorganized sector. Inspectors often focus on the organized sector, where compliances are more or less in place. However, the real issue lies in the unorganized sector, where the Act need to apply effectively, such as in cases involving contractors with multiple establishments. While established companies like Public Sector Undertakings (PSU's) may offer maternity benefits to their regular employees, there is little scrutiny of how maternity benefits are handled for the thousands of contract workers in these environments. This oversight leaves a substantial gap in protection for those in less regulated, unorganized settings.⁴⁷

Recommendations for Strengthening Implementation

- To ensure effective implementation of labour laws and protection of workers, it is essential to increase awareness among all stakeholders, including employers, trade union representatives, NGOs, and labour inspectors. These stakeholders need to fully understand their responsibilities and be adequately trained in key actions, such as evidence collection, case filing, and the necessary steps to take for compliance and enforcement.⁴⁸
- Capacity-building programmes need to be conducted for labour inspectors, NGOs, state labour departments and state women's commissions to enhance their effectiveness. Additionally, it is crucial to empower women by informing them of their rights, thereby fostering a more informed and proactive approach to labour rights and protections.⁴⁹ Sensitisation of women employees and employers through workshops and seminars may be helpful in the implementation of the Act of 2017 along with Act of 1961.⁵⁰
- Regular Inspections: Government may formulate a quarterly inspection scheme especially for compliance of the Act of 2017.⁵¹

⁴⁶ Excerpt from the interview with Former CLC, Government of India

⁴⁷ Excerpt from the interview with Former, CLC, Government of India

⁴⁸ Excerpt from the interview with Chief Labour Commissioner, Government of India.

⁴⁹ Excerpt from the interview Chief Labour Commissioner, Government of India

⁵⁰ Excerpt from the interview with Former DLC, Government of Uttar Pradesh.

⁵¹ Excerpt from the interview with Former DLC, Government of Uttar Pradesh.

- To enhance the effectiveness of the monitoring process, measures such as establishment-wise monitoring could prove beneficial. The compliance needs to be assessed across various sectors, including factories, plantations, beedi and cigar industries, shops and establishments, hospitals and nursing homes, schools and colleges, contract labour, outsourced workers, and both organized and unorganized sector establishments. It is crucial to monitor these sectors separately to address their distinct needs and challenges. Special attention needs to be given to the unorganized sector during these assessments, as it often involves more vulnerable workers who may require additional support. These measures will help in strengthening the overall enforcement of the Maternity Benefit Amendment Act and improving compliance across all relevant sectors.⁵²
- To ease the financial burden on employers a new model where the costs are shared between the government and employers could improve financial liquidity and facilitate broader compliance may be considered.⁵³
- The maternity benefit needs to apply to all organizations regardless of the number of employees by revising the threshold of minimum 10 workers to include all, the contract worker, casual and fixed-term employees. For extending maternity benefits to the informal sector and to address the challenges faced by self-employed workers, the government needs to enhance the quantum of benefits under social security schemes. Further, there is a need for effective awareness generation and promotion of education campaign to inform the stakeholders that the Act does not discriminate amongst regular, permanent, contractual, temporary or part-time or fixed-term employees categories of workers and the establishment is covered under the MB Act if total manpower summing up the above category is 10 or more.⁵⁴
- There is a need for State Level Monitoring Mechanism through sensitizing labour inspectors about its critical importance, especially in addressing gender gaps. A robust enforcement mechanism needs to involve not only central but also state-level monitoring, ensuring regular feedback and updates through periodical meetings. State governments play a crucial role in providing accurate insights and recommendations, as the central government alone cannot cover every region comprehensively. Frequent interactions with employer associations are also essential.⁵⁵

4.7.2 Perspectives from Employers Association ⁵⁶

- **Challenges for Employers Under the Maternity Benefit Amendment Act 2017:** There have been noticeable improvements in employee satisfaction and retention related to maternity benefits. The enhanced maternity benefits have led to significant positivity among employees and have contributed to an increase in the female workforce. However, Employers face several challenges in complying with the provisions of the Act. There has been an increase in the additional resource cost of

⁵² Excerpt from the interview with Former DLC, Government of Uttar Pradesh

⁵³ Excerpt from the interview with Former Joint Labour Commissioner, Government of West Bengal and Assistant Professor, GIM).

⁵⁴ Excerpt from the interview with Former Joint Labour Commissioner, Government of West Bengal and Assistant Professor, GIM).

⁵⁵ Excerpt from the interview with Former DLC, Government of Uttar Pradesh

⁵⁶ Excerpt from the interview with ASSOCHAM

HR budgets. The Act can disrupt productivity and impose a significant financial burden, particularly on small-scale industries and new start-ups. These businesses struggle with the costs associated with hiring and training replacement staff during maternity leave, which adds to their financial strain. Additionally, the applicability of Section 5, which mandates certain benefits, is a particular concern for smaller enterprises due to the economic impact of these provisions.

- **Addressing Creche Facility Challenges in Urban Service Sector:** The requirement for creche facilities is problematic for service sector entities in urban and metro areas where space constraints make it difficult to comply unlike in large manufacturing units where space is more readily available.
- **Approach to Addressing challenges:** The transfer of economic benefits to employees under the Act is obligatory to employers' organisations and most of the organisations are doing it. It may be proposed that a joint survey of ASSOCHAM with VVGNI and especially for targets on SMEs or Startup organisations may be taken up for response. Additionally, ASSOCHAM suggested that the government can initiate a special budgetary package to provide financial support to women employees in SMEs and startups. This support would help alleviate the financial burden on these organizations which will distress violations without negatively impacting either employers or employees. Further, amendments need to be made to include more comprehensive benefits, strengthen enforcement and ensure better compliance. These changes need to be based on industry feedback and specific responses to relevant questions. Additionally, the government may launch a campaign to raise awareness about the Act. Employers need to be encouraged to incorporate the benefits of the act into job offers and employment contracts for female employees.

4.7.3 Perspectives from Trade Unions and NGOs for Addressing Gaps in Maternity Protection

- **Challenges in Enforcement and Coverage:** The Act has witnessed amendments aimed at increasing the benefits offered. While both government and private sectors generally comply with the maternity benefit rules, issues persist, particularly with outsourced and contractual employees. In direct employer-employee relationships, benefits are provided, but outsourced employees often face difficulties as both the principal and direct employers may refuse to pay maternity benefits. Additionally, the Act's applicability is limited to establishments that meet a minimum number of employees, leaving those in smaller operations without access to these benefits. Compounding this issue, some employers have refused to issue employment letters or acknowledge the employment status of workers, further denying them their rightful maternity benefits.⁵⁷
- **Addressing Gaps in Maternity Benefits: Proposal for a Universal Maternity Fund:** Workers in sectors such as construction, agriculture, domestic service, or piece rate employment are currently excluded from the Maternity Benefits Act of 1961, preventing them from accessing maternity benefits. To address this gap, a

⁵⁷ Excerpt from the interview with General Secretary, AITUC

Universal Maternity Fund, similar to the Employees State Insurance (ESI) fund, can be established to cover these workers. The government would allocate a portion of the fund through the annual budget, with employers contributing premiums to this fund through various welfare funds. For instance, premiums for construction workers could be covered by the Construction Welfare Fund. Additionally, employers would need to acknowledge the worker's employment formally by providing an employment letter, particularly for unorganized workers and those in small factories. It is also noted that while workers under ESI schemes can access medical facilities during hospitalization, they are unable to use ESI schemes for outpatient treatment.⁵⁸

- **Implementation and Monitoring Challenges:** The current landscape reveals significant shortcomings in labour laws related to maternity protection, with inadequate strategies for implementing, monitoring, and enforcing relevant legislation and policies. These gaps represent major drawbacks in the system.⁵⁹
- **Trade Union Challenges:** Trade unions face substantial challenges in collaborating with the government, complicating efforts to address these issues. Given these circumstances, there is a need to encourage tripartite consultations by the government and facilitate social dialogue on maternity protection to improve the situation.⁶⁰
- **Applicability to Informal Sector:** There is a pressing need to increase the applicability of the act to the informal sector. Women in the unorganized sector are deprived of maternity benefits due to lack of formal employer-employee relationship. Further there is lack of provision for creches as stipulated by the maternity act. To address this issue, it is essential to increase the coverage of the act to establishments with less than 10 workers making it applicable to the entire informal sector. While this presents a significant challenge, expanding the act in this way would effectively meet the needs of women workers.⁶¹
- **Integration of Government Schemes:** Integrating existing government schemes such as ICDS, Paalna-ghar and Aanganwadi with maternity benefits is important to support informal workers. By decentralising the implementation and involving the government, a collaborative approach can benefit all parties involved.⁶²
- **Lack of Insufficient Union Representation:** There is a significant absence of trade unions in the workplace and women's representation of trade unions is limited.⁶³

⁵⁸ Excerpt from the interview with General Secretary, AITUC

⁵⁹ Excerpt from the interview with Secretary, INTUC

⁶⁰ Excerpt from the interview with Secretary, INTUC

⁶¹ Excerpt from the interview with Secretary, INTUC

⁶² Excerpt from the interview with Secretary, INTUC

⁶³ Excerpt from the interview with Secretary, INTUC



Text box 4.14: Insight from Key Informant Interview

"Women, who often require the strongest defense from unions remain less organized, resulting in their issues being frequently overlooked. To strengthen their union power, trade unions must prioritize the organization of women and address their specific rights and challenges. Advocating for social justice inherently requires a commitment to gender justice, as it is essential to include women's rights within the broader union agenda. By doing so, unions can create a more equitable and inclusive movement that truly represents all workers"

(Secretary, INTUC)

- **Universal data on Maternity Benefit Act:** The Ministry of Labour lacks clarity on the number of employers providing creches across different sectors along with the states which needs to be addressed.⁶⁴
- **Awareness Issues:** There is a significant lack of awareness regarding maternity benefits among workers and even women's groups are potentially side-lining the real issues.⁶⁵
- **Care Economy:** The concept of the care economy is relatively new, having gained attention in the past few years, suggesting an evolving conversation around the value of care work, need for care infrastructure and its implications for policy.⁶⁶

4.8 Prominent Judgements

To understand the evolution of the Maternity Benefit Amendment Act of 2017, this study has examined key judicial decisions that have influenced the evolution of maternity legislation in India. We have reviewed approximately eight judgments related to cases filed under this Act. The cases have been systematically organized to understand the significant role of the judiciary in providing a refined interpretation of the Maternity Benefit Act and ensuring that the provisions of the Act are interpreted in a manner consistent with fundamental rights enshrined in the Constitution. It is important to see the role of important court judgements in influencing legislative reforms.

1. **Air India Vs. Nargeesh Meerza, Air 1981 SC 1829**

Brief Facts of the Case

This is one of the landmark cases in Labour law about women's rights and gender discrimination in the workplace. The case came into focus when Air India, one of the leading airlines, imposed certain restrictions on its flight attendants. There were several discriminatory policies in place, including termination of employment due to pregnancy, marriage, or reaching the stringent age of 35 years, whichever occurred first while the male flight attendants did not face any such discrimination. Nargeesh Meerza the petitioner herein, filed a writ petition before the Bombay High Court under Articles 14, 15, 16 of the Indian Constitution. Article 14 and 15 guarantees equality before the law and prohibiting discrimination on the basis of

⁶⁴ Excerpt from the interview with Working Group Member, Forces

⁶⁵ Excerpt from the interview with Working Group Member, Forces

⁶⁶ Excerpt from the interview with Working Group Member, Forces



caste, creed, colour or religion and article 16 talks about the equal opportunity in public employment.

Legal Issues Involved

- 1) Whether the termination policy based on pregnancy is lawful?
- 2) Whether there was Gender discrimination involved on the basis of gender?

Judgement

The Apex Court herein delivered what could be said a split verdict as it even struck down the pregnancy clause holding it unconstitutional and violative of Article 14. However, it upheld the provision regarding the termination of service upon the third pregnancy. Further, the judges were of the view that the different retirement ages for air hostesses and their male counterparts is not unlawful or discriminatory and hence would not attract the equality clause. Moreover, the court also held that the clause of restriction on marriage within the first four years is not arbitrary in nature. The judgment by the Apex court played a huge significance, for the maternity benefits and recognised the right of women regarding certain stereotypes which are set in the workplace.

2. Female Workers Vs. Mcd Delhi, Air 2000, SC 1274

Brief Facts of the Case

The case, supported by Delhi Municipal Workers Union (UNION) the female workers of the Municipal Corporation of Delhi (MCD) who were on the muster roll demanded equal maternity benefit rights as to that of the regular female workers however the demand was denied by the MCD because the nature of their employment wasn't regularized. Herein, the Union stated that the MCD provides employment to many employees and female workers (muster roll) and they are only made to work in that capacity for years and also put light in the nature of duties and responsibilities performed by these female workers are same as those of the regular employees and yet they are denied of the maternity benefits. There was also the reflection of the dismissive attitude of the corporation towards the female workers on muster rolls.

Legal Issues Involved

Whether the female workers who are on muster rolls are liable to get maternity benefits under the act?

Judgement

The court opined that the female workers no matter the type of employment or the work done by them are liable for the benefits under the Maternity Benefit Act just like the regular employees. Moreover, the judges talked about Article 11 of the Convention on the Elimination of all Forms of Discrimination Against Women which states that the state has to take all the appropriate measures to ensure that there is no discrimination against women in the workplace and to abolish if any from employment.



3. **M. Asiya Begum Vs Union of India & Ors, W.P. No. 20797 of 2018**

Brief Facts of the Case

The Petitioner had two children out of her first pregnancy; both of them were twins. Subsequently, The Petitioner became pregnant for the second time thus seeking maternity relief. However, Since she was a Central govt. employee; Central Civil Service (Leave) Rules, 1972 applied to her; of which Rule no. 43(1) states that “A female Government servant (including an apprentice) with less than two surviving children may be granted maternity leave by an authority competent to grant leave for a period of 180 days from the date of its commencement.”

Legal Issues Involved

Whether the Petitioner is eligible for the Maternity Benefits for the second time?

Judgement

The court ruled that the petitioner is not entitled to maternity benefits for the second time as she already has two surviving children. The court based its decision on the rationale that when twins are born they are delivered one after another, and their age and their inter-se elderly status is also determined by virtue of the gap of time between their arrivals thus amounting to two deliveries.

4. **Pooja Jignesh Doshi Vs State of Maharashtra, 2019 Scc online Bom 1433**

Brief Facts of the Case

The Hon'ble Bombay High Court gave a landmark judgment in this case. The petitioner, Dr. Pooja Jignesh Doshi, was unable to bear a second child and hence opted for surrogacy. A surrogate mother gave birth to their baby on 5 November 2012. Prior to the birth, the petitioner sought maternity leave to care for the surrogate child. The leave was denied on the grounds that the Leave Rules and policy do not permit maternity leave for a surrogate child hence creating a loophole or unclarified boundaries.

Legal Issues Involved

Whether a woman is entitled to maternity leave for a child born through surrogacy?

Judgement

This judgment herein by the court reinforced the right to maternity leave for mothers of children born through surrogacy. The court held that the petitioner is entitled to maternity leave for a child born through surrogacy. The court relied on two previous decisions which helped in the deciding of the matter:

- a) *Dr. Mrs. Hema Vijay Menon vs. State of Maharashtra* (Writ Petition No. 3288 of 2015)
- b) *Rama Pande vs. Union of India* (Delhi High Court, 17 July 2015)

These decisions further established that parents who have provided the ova and sperm are entitled to leave in case of birth by surrogacy - maternity leave for the



mother and paternity leave for the father. The court also directed that the Earned Leave and Half-pay Leave availed by the petitioner should be converted into maternity leave for the purposes of her leave account. It also recognized the need for parental care in cases of surrogate births, treating them on par with natural births for the purpose of leave entitlements.

5. Smt. Richa Shukla Vs State of U.P. and Ors. (2019), [Writ Petition No. 32394 (Ss) of 2019]

Brief Facts of the Case

The Hon'ble Allahabad High Court in the case extended the right to maternity leave to contractual employees in government service, addressing a gap in labour protections. Smt. Richa Shukla was employed as a contractual teacher in a government school in Uttar Pradesh. She became pregnant and applied for maternity leave. Her application for maternity leave was rejected on the grounds that she was a contractual employee. Smt. Shukla filed a writ petition in the Allahabad High Court challenging the denial of maternity leave.

Legal Issues Involved

1. Whether contractual employees are entitled to maternity leave.
2. Whether denial of maternity leave to contractual employees violates constitutional and statutory provisions.

Judgement

The Allahabad High Court ended up ruling in favor of Smt. Richa Shukla, holding that the Contractual employees are entitled to maternity leave, and the denial of such leave is unconstitutional. The Court emphasized that the right to maternity leave flows from Article 42 of the Constitution, which provides for just and humane conditions of work and maternity relief. The judgment stated that the right to maternity leave is an integral part of the right to life under Article 21 of the Constitution. The Court held that denying maternity leave to contractual employees violates the principle of equal pay for equal work and is discriminatory. The judgment emphasized that maternity leave is essential for the health and well-being of both the mother and the child. The Court directed the state government to grant maternity leave to the petitioner and to frame appropriate rules for granting maternity leave to all contractual employees.

6. Hamsa Nandini Nanduri Vs Union of India, Writ Petition(S)(Civil) No(S).960/2021

Brief Facts of the Case

This is a landmark judgement by the Hon'ble Apex Court as it dealt with the discrimination faced by adoptive mothers in regard to availing maternity benefits under the Maternity Benefit Act. Herein, Petitioner Hamsaanandini Nanduri, who has been an adoptive mother since 2017, bringing up her two young adopted children was an uphill and incredibly difficult task because of the discriminatory provisions under the Maternity Benefit Act. When the Petitioner went for adoption through



the **Central Adoption Resource Authority (CARA)**, she was given the option of adopting two children who were related by birth and CARA did not want them to be separated. She agreed to adopt the four-and-half-year-old girl and her two-year-old brother. The petitioner who was also a lawyer working with a law firm, sought maternity leave from her employer, who told her that she was entitled to only six weeks' leave for each child.

Legal Issues Involved

Whether the present legislation is discriminatory towards the adoptive mothers and are they entitled to the same reliefs as to that of the maternity leave?

Judgement

The hon'ble Supreme Court was of the opinion in this case that it is a just cause and issued notice to Centre on plea against restrictive conditions on maternity leave of adoptive mothers. The Petitioner herein made many compelling points wherein she also emphasised on the fact that since many children have been orphaned due to the covid and some other casualties it would be favorable to rethink the present law in motion regarding the adoptive mothers.

7. Sita Devi Vs State of Himachal Pradesh and others. Cwp No. 647 of 2020

Brief Facts of the Case

The respondent was a female employee who was granted maternity benefits by the Himachal Pradesh Administrative Tribunal. The state challenged the order of the Tribunal. The state contends that the respondent maternity certificate was submitted after 20 years should not counted for the service period and that the respondent had completed only 8 years of service on the date.

Legal Issues Involved

Whether the denial of maternity benefits by the state amounts to violation of fundamental rights?

Judgement

The court ruled that the Under Article 21 of the Indian constitution right to life includes the right to motherhood thus emphasizing the importance of facilitating the birth of a child for a working woman. The court observed that the main objective of the act is to ensure social and economic justice for the women.

Thus, the court dismissed the appeal filed by the State that the denial of the maternity benefits is a violation of fundamental rights and other rights as conferred by Article 29 and Article 39D of the Constitution of India.

8. Govt. of Nct Delhi Vs Rehmat Fatima, 2024 Scc online Del 1749

Brief Facts of the Case

This is a landmark judgement taken by the Hon'ble Delhi Court in the favor of women for availing the Maternity Benefits Act as it is one of their fundamental



rights. The respondent was initially appointed as a stenographer contractually with the Delhi State Consumer Forum on 07-02-2013. The contractual period was set for one year. Following the initial contract, the respondent's contractual engagement was extended. These extensions were either without any break or with a notional break of one or two days. The respondent had served in her position diligently and willfully proving to be a reliable employee for over five years, demonstrating unblemished service during her tenure from 2013. On 28-02-2018, while still under contractual engagement, the respondent applied for the maternity leave. She requested leave for 180-days, commencing from 01-03-2018, in accordance with the provisions of the Maternity Benefit Act, 1961. The appellants had declined the respondent's request for maternity leave benefits citing the impending expiration of the respondent's contractual engagement on 31-03-2018, as grounds for denial. On this basis, she filed a writ petition in the Hon'ble Court.

Legal Issues Involved

Whether the Respondent would be granted Maternity leave extending her course of employment?

Judgement

The Court was of the opinion that *"In fact, we are surprised that the Govt. of NCT of Delhi, which is giving great publicity to the steps being taken to promote the interest of women in Delhi and has under its recently announced scheme i.e., Mukhyamantri Mahila Samman Yojna promised to pay all adult women in the city except those who are tax-payers/ government employees or are drawing pension, a monthly sum of Rs.1,000/- in the future has chosen to file such a misconceived appeal to assail an order which grants the benefits under the Act to a young woman, who has with utmost dedication served in the Delhi State Consumer Forum over 5 years."* The single judge herein didn't just gave the judgement in the favour of the respondent but also imposed fine of Rs. 50,000 of the appellants.

4.9 Summing Up

This chapter has provided a detailed analysis of the enforcement of the legislation through information derived from various State governments and key stakeholders. The information from the State governments have reflected on inter-state variations in the enforcement of the act. The insights derived from interaction with key stakeholders had provided a diverse perspective and the significant role played by different stakeholders in effective enforcement of the act. The judicial decisions in the form of court judgements reflect on how these judgments have shaped the interpretation of maternity legislation, ensuring alignment with constitutional rights. On the basis of above discussion and insights derived from the analysis, guidelines for stakeholders on effective enforcement of maternity benefit act has been drafted for reference (Text box 4.14). These guidelines outline the role of different stakeholders who are responsible for implementation of this act.

Text Box 4.15: Guidelines for Stakeholders on Enforcement of Maternity Benefit (Amendment) Act, 2017⁶⁷

Labour Inspectors	
Inspection Authority	<ul style="list-style-type: none"> ➤ An Inspector may enter any premises or place where women are employed at all reasonable times, accompanied by assistants from the government or any local or public authority as deemed necessary. ➤ This is for the purpose of examining any registers, records, and notices required by this Act and to require their production for inspection.
Examination of Individuals	<ul style="list-style-type: none"> ➤ An Inspector may examine any person found on the premises whom he has reasonable cause to believe is employed there. <p>Note: No person shall be compelled to answer any question or provide evidence that may incriminate themselves.</p>
Information Request	<ul style="list-style-type: none"> ➤ An Inspector may require the employer to provide information regarding the names and addresses of women employed, payments made to them, and any applications or notices received from them under this Act.
Document Review	<ul style="list-style-type: none"> ➤ An Inspector may take copies of any registers, records, or notices, or any portions thereof for examination.
Inquiry Authority	<p>The Inspector may, on their own motion or upon receiving a complaint, conduct an inquiry or cause an inquiry to be conducted. If satisfied that:</p> <ul style="list-style-type: none"> ➤ Payment has been wrongfully withheld, the Inspector may direct that the payment be made according to their orders. ➤ The woman has been discharged or dismissed during or due to her absence from work as per the Act, the Inspector may issue just and proper orders based on the circumstances.
Filing a Complaint	<ul style="list-style-type: none"> ➤ Any woman claiming maternity benefit or any other amount entitled under this Act, as well as any person claiming that payment due under Section 7 has been improperly withheld, may file a complaint with the Inspector. ➤ Additionally, a woman may complain if her employer has discharged or dismissed her during or due to her absence from work according to the provisions of this Act.
Employers	
Exhibition of Abstract	<ul style="list-style-type: none"> ➤ An abstract of the provisions of this Act and the rules made thereunder must be exhibited in the language or languages of the locality in a conspicuous place within every part of the establishment where women are employed.

⁶⁷ Maternity Benefit act 1961; Maternity Benefit Amendment Act, 2017

Maintaining Registers	<ul style="list-style-type: none"> ➤ Every employer is required to prepare and maintain registers, records, and muster-rolls in the manner prescribed by the Act.
Penalty for Non-Compliance	<ul style="list-style-type: none"> ➤ If an employer fails to pay any amount of maternity benefit to a woman entitled under this Act ➤ Discharges or dismisses such a woman during or due to her absence from work in accordance with the provisions of this Act. ➤ They shall be punishable with imprisonment for not less than three months, which may extend to one year, and with a fine of not less than two thousand rupees, which may extend to five thousand rupees.
Prohibition of Employment Post-Delivery	<ul style="list-style-type: none"> ➤ No employer shall knowingly employ a woman in any establishment during the six weeks immediately following her delivery, miscarriage, or medical termination of pregnancy.
Protection for Pregnant Women	<ul style="list-style-type: none"> ➤ No pregnant woman shall be required by her employer to perform any work that is arduous, involves long hours of standing, or may interfere with her pregnancy or the normal development of the fetus. This includes work that may cause miscarriage or adversely affect her health.
Maternity Leave for Adoptive Mothers and Commissioning Mothers	<p>Employers shall provide the following:</p> <ul style="list-style-type: none"> ➤ A woman who legally adopts a child below the age of three months is entitled to maternity benefit. The maternity benefit is for a period of twelve weeks from the date the child is handed over to her. ➤ A commissioning mother is also entitled to maternity benefit for the same duration of twelve weeks. This period starts from the date the child is handed over to her.
Provision for Work from Home	<ul style="list-style-type: none"> ➤ The Act allows for work from home if the nature of the work assigned to a woman permits it. ➤ The employer shall allow the woman to work from home after she has availed of maternity benefits. ➤ The conditions for working from home must be mutually agreed upon by the employer and the woman.
Leave for Miscarriage/ Tubectomy Operation/ Related Illnesses	<ul style="list-style-type: none"> ➤ In the case of miscarriage or medical termination of pregnancy, a woman is entitled to leave with wages at the rate of maternity benefit for six weeks. ➤ In the case of a tubectomy operation, a woman is entitled to leave with wages at the rate of maternity benefit for two weeks. ➤ A woman suffering from illness arising from pregnancy, delivery, premature birth of a child, miscarriage, medical termination of pregnancy, or tubectomy operation is entitled to additional leave with wages at the rate of maternity benefit for a maximum period of one month.



Entitlement to Medical Bonus/ Amount of Medical Bonus/ Conditions for Bonus	<ul style="list-style-type: none"> ➤ Every woman entitled to maternity benefit shall also be entitled to receive a medical bonus from her employer ➤ The medical bonus shall be Rs 1,000 ➤ The medical bonus is applicable if no pre-natal and post-natal care is provided by the employer free of charge.
Nursing Breaks for Women/ Duration of Breaks/Eligibility	<ul style="list-style-type: none"> ➤ Every woman who has delivered a child and returns to duty after delivery shall be allowed two nursing breaks during her daily work. ➤ These breaks are in addition to the interval for rest allowed to her. ➤ The breaks for nursing shall be of the prescribed duration. ➤ Nursing breaks are permitted until the child attains the age of fifteen months.
Creche Facility Requirement	<ul style="list-style-type: none"> ➤ Every establishment with fifty or more employees must provide a crèche facility. ➤ The creche should be located at a prescribed distance and can be either a separate facility or part of common facilities. ➤ Employers must allow women employees up to four visits to the crèche each day. ➤ These visits must include the interval for rest that is allowed to the woman.
Trade Unions	
Complaint Filing	<ul style="list-style-type: none"> ➤ An office-bearer of a trade union registered under the Trade Unions Act, 1926 (16 of 1926) may assist the aggrieved woman in filing the complaint.
Awareness programmes	<ul style="list-style-type: none"> ➤ The trade unions may conduct awareness programmes to sensitise the workers on maternity rights ⁶⁸
Voluntary Organisations	
Complaint Filing	<ul style="list-style-type: none"> ➤ A voluntary organization registered under the Societies Registration Act, 1860 (21 of 1860) can also file a complaint on behalf of the aggrieved woman.

(Source: Authors own representation)

⁶⁸ Note : As per suggestions received from different stakeholders



Chapter 5: Conclusion and Policy Recommendations

The present study has emphasized on the importance of maternity protection to enable women to fully participate in the workforce even during their reproductive age. Such provisions help foster gender equality and create a more inclusive work environment. Maternity protection involves a range of legislative provisions to help women balance their work and family responsibilities, thus, promoting higher female workforce participation. Studies have shown a positive correlation between effective maternity protection policies and an increase in women's workforce participation (Low and Marcus, 2015; Beneria 2010). The International Labour Organization (ILO) has been instrumental in safeguarding maternity rights through three key conventions C3 (1919), C103 (1952), and C183 (2000) to integrate women's reproductive and productive roles and promote an equitable work environment for women.

Focusing on the labour market trends in India concerning women, the study highlighted the challenges and improvements for women in the labour market. The study further examined India's Maternity Benefit Act of 1961 and the Maternity Benefit Amendment Act of 2017. It outlined the evolution of this legislation, tracing its development through pivotal court judgments that have shaped the interpretation and application of the act over the years. The analysis has delved into the implementation of the act across various States, revealing both regional disparities and the challenges faced in enforcing the legislation. By integrating data from the Central government and State level along with the stakeholder interviews, the study has assessed the impact of the act on women's labour force participation and identified areas where improvements are needed.

The study aimed at uncovering the enforcement practices of India's Maternity Benefit Amendment Act of 2017 at the Central and State levels to understand the current status of implementation of maternity benefit legislation in order to inform policy and provide recommendations on protecting the rights of women workers effectively through this legislation.

An in-depth review of the enforcement of the act, particularly in Central government establishments for 2023–24 has revealed an increase in inspections suggesting enhanced enforcement efforts but at the same time an increase in irregularities was also reported. It was observed that although the number of prosecutions had increased, the conviction rate remained low. State-specific analysis revealed substantial differences in implementation strategies with some States having reported more effective monitoring mechanisms, initiatives undertaken on awareness generation penalties imposed etc. The insights from key judicial decisions analysed in the study have revealed the significant role of court rulings in refining the interpretation of maternity benefits to align with constitutional rights and drive legislative reforms.

The Maternity Benefit Amendment Act 2017, has the potential to significantly improve women's participation rates (WPR) in the workforce. The introduction of Social Security Code, 2020 that extends social security coverage to both organized and unorganized has incorporated maternity rights into this framework, serving as a transformative measure for safeguarding maternity entitlements to workers. Notably, the amendment is gender-sensitive, recognizing the dynamics of household gender relations by allowing men access to creches thereby promoting shared parental responsibilities. The shift towards flexible working arrangements can empower women to better balance their professional and



family lives. Furthermore, findings from the PLFS reveal critical gaps in job contracts and social security, indicating that the fixed-term provisions under the Industrial Relations Code could play a vital role in the effective implementation of maternity benefits, ultimately fostering a more inclusive workforce. Some of the policy recommendations that have emerged from the study are as follows:

Policy Recommendations

Revising the Definition of Appropriate Government in the Maternity Benefit Act Harmonizing Enforcement with the Industrial Disputes Act

The definition of Appropriate Government (Government which is responsible to enforce the Act) requires amendment. The 'disputes' (either pertaining to non-payment of benefit or termination of employment) arising out of the MB Act is of similar nature to those of Industrial Dispute Act 1947. Yet in situations of relief sought under the MB Act, the woman employee has to seek justice through a different jurisdiction, labour enforcement apparatus and official practice. It becomes quite difficult for them to create a new set of 'institutional information' for a particular relief under one Act. Hence, the Appropriate Government definition of the MB Act 1947 may be made in accordance with ID Act 1947 in order to harmonise enforcement of the legislation.⁶⁹

Maternity Financing System

- A well-developed maternity financing system such as a Universal Maternity Fund aligned with ILO guidelines could help in addressing the existing gaps in maternity benefits financing. This fund could be supported through government allocations and employer contributions from current welfare funds/social security funds or could integrate contributory and non-contributory schemes, tax-financed assistance, and collectively funded options together.
- To address the challenges concerning easing the burden of maternity benefits predominantly on employers, particularly smaller businesses, it is essential to explore alternative financing solutions. This could involve shared responsibility between employers and the government to ease the financial burden on individual businesses.
- To support compliance with the Maternity Benefit Amendment Act, 2017, particularly for small-scale industries and startups, it is essential to provide financial assistance or subsidies to alleviate the costs of hiring and training replacement staff during maternity leave. Additionally, reconsidering the applicability of Section 5 for smaller enterprises could help mitigate the economic impact of mandated benefits. For urban service sector entities, flexible guidelines regarding creche facilities and pooling of resources can be done to accommodate space constraints and ensuring compliance.

Establishing a Monitoring and Compliance Mechanism

- To strengthen the enforcement of the Maternity Benefit Amendment Act of 2017, it is essential to establish a robust enforcement mechanism at the Central government level. This may include a joint mechanism for information exchange on maternity enforcement. Furthermore, a dedicated monitoring body needs to be created to

⁶⁹ Based on supplementary notes provided by RLC, Trivandrum.



oversee the implementation of the act and ensure compliance across all industries, not limited to those under the jurisdiction of the Central government.

- It is recommended that an inter-state coordination mechanism be established to facilitate the sharing of enforcement mechanisms and best practices, particularly aimed at improving compliance in low-performing States.
- The government needs to take the lead in fostering tripartite consultations and facilitating social dialogue on maternity protection. By actively engaging trade unions, employers, and government representatives, the government can help address challenges and enhance maternity protections for workers.
- To enhance the effectiveness of the monitoring mechanism, establishing sector-specific assessments is essential to ensure compliance across various industries, including factories, plantations, and both organized and unorganized sectors.
- A state-level monitoring mechanism is crucial. State governments can provide valuable insights and recommendations, as the Central government has limited jurisdiction and may not be able to comprehensively cover all regions. Frequent interactions with employer associations are also essential to ensure effective implementation and compliance.
- Women-specific Acts such as the Maternity Benefit Act, the Equal Remuneration Act, and women-specific provisions under the Factories Act and Occupational Health and Safety (OHS) regulations require effective coordination, monitoring, and data sharing with the respective state governments, as these Acts are enforced by states for a number of industries within their jurisdiction.

In this regard, a Women's Cell can be constituted to coordinate, collect, and interpret relevant data to ensure effective implementation and oversight.

Comprehensive Data Collection Mechanism

- Collecting comprehensive data on the enforcement of the Maternity Benefit Amendment Act, 2017, will help in identifying compliance status and challenges. The data can be collected by the office of the Chief Labour Commissioner under the Ministry of Labour and Employment.
- Presently, Maternity benefit is merged with other social security benefits in the PLFS data calculation hence data on maternity benefits is not comprehensive and has limitations with regard to understanding the coverage. Since maternity benefit is an important social security right that can promote female labour force participation, it is important to revisit the methodology of capturing extension of maternity benefits to women workers.

Empowering Inspectors: Capacity-Building for Effective Enforcement

- Inspectors need to be informed about their powers and responsibilities regarding the enforcement of the Maternity Benefit Amendment Act, 2017. It is crucial to organize capacity-building programmes that focus on their specific roles. These programmes can be aimed at providing comprehensive training on various aspects of the Maternity Benefit Act, with particular emphasis on inspections, evidence collection, case filing procedures and compliance



Empowering NGO's/ Trade Unions: Capacity-Building for Effective Enforcement

- Capacity-building programmes for NGOs, State labour departments need to be conducted to enhance their effectiveness.

Revising Employee Status Threshold

- To address the misuse of the 10-worker threshold in the Maternity Benefit Act, it is crucial to revise the definition of employee status to prevent organizations from avoiding compliance by classifying workers as contract or casual.

Awareness Generation

- To ensure effective implementation of labour laws and protection, it is crucial to enhance awareness among all stakeholders, including employers, trade union representatives, NGOs, and labor inspectors. This can be achieved through comprehensive training programs, regular workshops.
- Empowering women by informing them of their rights is essential for promoting labor protections for women workers. Workshops and seminars to sensitise women workers can be helpful.
- Launching a campaign to raise awareness about the Act is essential, encouraging employers to incorporate its benefits into job offers and employment contracts.

Extending Maternity Benefits to the Unorganized Sector

- To improve enforcement of the Maternity Benefit Amendment Act, 2017, it is essential to extend the provisions to the unorganized sector, where compliance is often lacking. A system for regular monitoring in the unorganized sector will help ensure that all workers receive the maternity benefits they are entitled to.

Integrating Government Schemes with Maternity Benefits

- Integrate existing government schemes like ICDS, Paalna-ghar, and Aanganwadi with maternity benefits to support informal workers. Decentralising implementation and involving local governments can create a collaborative approach that benefits all stakeholders.

Appendix Tables

Table: 1 Share of Formal and Informal Sector Women Worker - Age (15 -59 Years)

Worker	Male		Female	
	Formal	Informal	Formal	Informal
	2022-23			
Rural	11.6	88.3	9.5	90.5
Urban	33.5	66.5	33.5	66.5
Rural + Urban	19.5	80.5	15.4	84.6
	2021-22			
Rural	12.5	87.5	11.6	88.5
Urban	33.1	66.9	34.8	65.2
Rural + Urban	19.9	80.1	17.6	82.5
	2020-21			
Rural	10.9	89.1	10.4	89.6
Urban	31.3	68.7	32.3	67.7
Rural + Urban	18.5	81.5	16.1	83.9
	2019-20			
Rural	9.9	90.1	9.8	90.2
Urban	31.0	69.0	33.9	66.1
Rural + Urban	17.9	82.1	16.8	83.2
	2018-19			
Rural	10.7	89.3	11.3	88.7
Urban	32.3	67.7	34.8	65.2
Rural + Urban	18.3	81.7	18.0	82.0
	2017-18			
Rural	10.8	89.2	10.7	89.3
Urban	30.2	69.8	35.6	64.5
Rural + Urban	17.6	82.4	17.9	82.1

(Source: calculated from PLFS Unit Level Data 2017-2023)

Table: 2 WPR (in percent) in Usual Status (ps+ss) Age Group: 15-59 Years, All India

WPR (15-59 years)	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
2018-2019	75.8	27.2	73.7	20.2	75.1	25
2019-2020	77.5	34.4	75.1	23.3	76.7	30.9
2020-2021	77.0	38.1	75.3	23.3	76.5	33.7
2021-2022	78.7	38.4	76.2	24.3	77.9	34.3
2022-2023	81.6	43.4	76.8	26.0	80.2	38.5

(Source: calculated from PLFS Unit Level Data 2018-2023)

Table: 3 State wise WPR Age (15 - 59 years)

State	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
Andhra Pradesh	79.23	55.59	74.73	23.82	78.4	50.03
Arunachal Pradesh	83.44	76.54	75.77	32.41	82.61	72
Assam	78.13	28.76	79.33	26.63	78.58	28.01
Bihar	87.32	26.84	77.21	24.04	77.69	24.19
Chhattisgarh	75.78	47.03	73.26	16.36	75.08	39.18
Delhi	73.41	23.22	74.11	20.58	73.67	22.32
Goa	71.43	4.31	77.68	16.3	77.51	15.95
Gujarat	75.04	57.53	70.71	22.8	73.88	48.92
Haryana	81.35	36.12	74.17	13.56	79.76	31.51
Himachal Pradesh	74.31	24.51	67.13	12.44	73.66	23.5
Jharkhand	83.7	76.95	81.43	34.72	83.17	68.67
Karnataka	76.16	62.55	67.8	31.97	74.82	57.47
Kerala	81.05	70.26	69.37	46.98	77.79	63.67
Madhya Pradesh	74.59	31.04	67.65	37.6	72.58	32.87
Maharashtra	73.5	51.52	71.01	44.08	72.38	47.94
Manipur	80.4	40.53	78.42	30.94	80.05	38.76
Meghalaya	79.13	62.8	67.55	35.87	77.27	57.7
Mizoram	91.99	19.42	78.59	28.4	91.4	19.81
Nagaland	85.91	38.91	82.23	29.18	84.84	36.1
Odisha	83.11	56.62	70.4	17.42	80.55	49.25
Punjab	81.15	51.37	74.83	28.61	80.14	48.08
Rajasthan	85.82	70.46	76.93	32.93	84.12	62.73
Sikkim	87.7	55.64	77.8	22.07	85.17	46.87
Tamil Nadu	86.3	58.5	82.72	28.5	84.72	45.53
Telangana	85.25	56.21	91.46	25.48	89.37	36.35
Tripura	79.63	55.11	78.77	28.84	79.25	43.8
Uttarakhand	81.82	56.64	75.2	33.26	79.8	49.36
Uttar Pradesh	81.9	47.91	76.01	32.42	79.64	42.1
West Bengal	73.08	25.61	78.06	31.75	76.15	29.15
Andaman & N. Island	83.72	10.22	69.55	18.97	73.02	16.96
Chandigarh	77.7	40.7	73.71	33.56	75.83	37.38
Dadra & Nagar Haveli & Daman & Diu	77.12	50.14	77.91	29.94	77.47	41.52
Jammu & Kashmir	74.13	52.04	77.77	27.27	76.37	36.53
Ladakh	87.57	47.92	81.54	35.99	84.9	42.58
Lakshadweep	80.44	60.99	73.36	27.77	77.74	48.35
Puducherry	64.48	58.35	72.18	39.85	65.19	56.7

(Source: calculated from PLFS Unit Level Data 2022-2023)

Table:4 Marital Status and WPR 15-59 years

	Rural				Urban				Rural + Urban			
	Never Married	Currently Married	Widowed	Divorced/ Separated	Never Married	Currently Married	Widowed	Divorced/ Separated	Never Married	Currently Married	Widowed	Divorced/ Separated
	2022-23											
Male	48.2	97.99	88.93	90	46.51	96.26	79.06	89.41	47.65	97.53	86.29	89.8
Female	18	48.09	66.74	72.11	17.77	26.77	46.18	54.19	17.92	42.51	60.24	65.13
	2021-22											
Male	45.13	97.3	85.92	88.16	45.5	95.67	77.35	87.53	45.25	96.83	83.9	87.94
Female	14.73	43.16	65.69	63.28	18.09	24.04	47.64	57.05	15.79	37.83	59.75	61.2
	2020-21											
Male	43.78	97.47	93.17	92.06	45.02	95.62	73.83	81.41	44.17	96.92	88.29	87.77
Female	14.16	43.14	64.66	75.28	16.37	23.22	46.34	57	14.89	37.43	58.35	67.77
	2019-20											
Male	41.28	97.04	89.47	85.41	42.9	95.55	80.56	87.8	41.84	96.58	87.12	86.33
Female	12.22	38.43	60.23	54.58	17.65	22.83	46.25	60.34	14.14	33.73	55.35	56.77
	2018-19											
Male	37.18	96.61	85.84	92.92	41.81	94.55	69.32	84.39	38.79	95.98	81.76	89.96
Female	8.91	30.05	54.12	69.49	14.03	19.99	43.53	56.99	10.73	27.05	50.48	64.24

(Source: calculated from PLFS Unit Level Data 2018-2023)

Table: 5 Employment status Age (15 - 59 years)

Employment Status	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
	2022-23					
Self-employment	56.25	70.51	37.06	39.23	50.96	64.63
<i>Own account Worker</i>	41.33	27.23	26.39	25.47	37.21	26.9
<i>Employer</i>	3.17	0.36	5.99	1.39	3.95	0.55
<i>Unpaid Family Helper</i>	11.75	42.92	4.68	12.37	9.8	37.18
Regular Worker	15.58	8.53	49.15	52.27	24.84	16.76
Casual Labour	28.17	20.96	13.79	8.5	24.2	18.61
	2021-22					
Self-employment	56.06	67.58	37.55	38.43	50.65	61.59
<i>Own account Worker</i>	41.54	24.39	28.32	25.33	37.67	24.58
<i>Employer</i>	2.43	0.58	4.63	0.76	3.08	0.62
<i>Unpaid Family Helper</i>	12.09	42.61	4.6	12.34	9.9	36.39
Regular Worker	16.05	8.52	48.03	51.7	25.41	17.4
Casual Labour	27.89	23.9	14.42	9.87	23.94	21.01
	2020-21					
Self-employment	57.14	64.26	38.12	37.48	51.46	58.69
<i>Own account Worker</i>	43.31	21.44	29.88	24.61	39.3	22.1
<i>Employer</i>	2.02	0.33	3.63	0.65	2.5	0.39

Employment Status	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
<i>Unpaid Family Helper</i>	11.81	42.49	4.61	12.22	9.66	36.2
Regular Worker	14.91	9.52	47.07	51.42	24.51	18.23
Casual Labour	27.95	26.22	14.81	11.1	24.03	23.08
2019-20						
Self-employment	56	62.59	36.74	33.34	49.93	55.63
<i>Own account Worker</i>	43.07	19.56	28.55	21.95	38.5	20.13
<i>Employer</i>	1.84	0.46	4	0.72	2.52	0.52
<i>Unpaid Family Helper</i>	11.09	42.57	4.19	10.67	8.91	34.98
Regular Worker	15.13	10	49.22	56.01	25.87	20.95
Casual Labour	28.87	27.41	14.04	10.65	24.2	23.42
2018-19						
Self-employment	55.08	59.44	36.91	33.75	49.93	55.63
<i>Own account Worker</i>	43.38	20.93	28.57	23.17	38.5	20.13
<i>Employer</i>	1.84	0.47	4.12	1.13	2.52	0.52
<i>Unpaid Family Helper</i>	9.86	38.04	4.22	9.45	8.91	34.98
Regular Worker	15.48	11.64	48.94	55.94	25.87	20.95
Casual Labour	29.44	28.92	14.15	10.31	24.2	23.42

(Source: calculated from PLFS Unit Level Data 2018-2023)

Table: 6 Job contract for women Age (15 -59 years)

	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
2022-23						
No written contract	87.29	85.9	64.57	62.35	79.24	78.29
1 year or less	2.12	2.38	6.83	6.98	3.79	3.87
more than 1 and less than 3	1.71	1.25	5.21	6.87	2.95	3.07
more than 3 years	8.88	10.47	23.39	23.79	14.02	14.78
2021-22						
No written contract	87.18	85.03	68.34	65.72	80.2	78.67
1 year or less	2.12	4.02	6.27	7.18	3.65	5.06
more than 1 and less than 3	1.43	1.47	4.2	5.23	2.46	2.71
more than 3 years	9.27	9.48	21.19	21.87	13.68	13.56
2020-21						
No written contract	84.7	70.87	70.45	67.3	78.33	69.12
1 year or less	3.76	9.77	6.17	6.71	4.83	8.27
more than 1 and less than 3	1.55	2.37	3.76	4.16	2.53	3.25
more than 3 years	9.99	16.99	19.63	21.82	14.3	19.36
2019-20						
No written contract	86.17	73.67	72.59	71.01	79.78	72.2
1 year or less	3.18	6.46	6.16	6.57	4.59	6.52
more than 1 and less than 3	1.51	2.11	2.85	3.82	2.14	3.06
more than 3 years	9.13	17.76	18.4	18.59	13.5	18.22

	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
	2018-19					
No written contract	86.54	73.45	76.78	75.13	82.04	74.34
1 year or less	2.5	6.29	3.46	4.12	2.94	5.14
more than 1 and less than 3	1.47	3.34	3.19	3.51	2.26	3.43
more than 3 years	9.49	16.92	16.58	17.24	12.75	17.09
	2017-18					
No written contract	86.84	72.58	78.93	76.03	83.28	74.42
1 year or less	2.23	6.3	3.02	3.25	2.59	4.67
more than 1 and less than 3	1.36	2.95	2.48	2.51	1.86	2.71
more than 3 years	9.57	18.17	15.57	18.22	12.28	18.19

(Source: calculated from PLFS Unit Level Data 2017-2023)

Table:7 Year wise Social security benefit Age (15 - 59 years) - All workers Rural +Urban

Social Security Benefit	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
	2022-23					
Eligible	13.86	11.42	40.14	40.04	23.17	20.68
Not eligible	83.42	86.97	58.19	58.65	74.48	77.81
Not known	2.72	1.61	1.67	1.31	2.35	1.51
	2021-22					
Eligible	14.41	10.3	38.26	39.35	23.24	19.87
Not eligible	80.06	86.1	58.77	58.32	72.18	76.95
Not known	5.53	3.6	2.97	2.33	4.58	3.18
	2020-21					
Eligible	17.64	21.69	37.6	39.45	26.56	30.41
Not eligible	78.16	76.65	59.28	58.34	69.73	67.66
Not known	4.2	1.66	3.12	2.21	3.71	1.93
	2019-20					
Eligible	16.88	21.31	36.89	38.18	26.25	30.62
Not eligible	78.29	75.51	58.66	58.59	69.1	66.17
Not known	4.83	3.18	4.45	3.23	4.65	3.21
	2018-19					
Eligible	16.54	21.1	36.26	37.17	25.63	29.6
Not eligible	73.63	73.9	57.5	58.12	66.2	65.55
Not known	9.83	5	6.24	4.71	8.17	4.85

(Source: calculated from PLFS Unit Level Data 2018-2023)

Table: 8 Extension of Social Security Coverage Age (15 - 59 years)

Social Security Benefit	Rural		Urban		Rural + Urban	
	Male	Female	Male	Female	Male	Female
2022-23						
only PF/ pension	2.89	1.98	6.9	6.89	4.31	3.56
only gratuity	0.09	0.13	0.09	0.07	0.09	0.11
Maternity benefit and other benefits	9.67	8.69	29.36	29.2	16.65	15.32
only PF/ pension and gratuity	1.22	0.63	3.79	3.89	2.13	1.68
not eligible for any of above social security benefits	83.42	86.97	58.19	58.65	74.48	77.81
not known	2.72	1.61	1.67	1.31	2.35	1.51
2021-22						
only PF/ pension	3.86	2.19	7.4	6.8	5.17	3.71
only gratuity	0.11	0.08	0.16	0.08	0.13	0.08
Maternity benefit and other benefits	9.18	7.44	26.71	29.27	15.67	14.63
only PF/ pension and gratuity	1.27	0.59	3.99	3.2	2.28	1.45
not eligible for any of above social security benefits	80.06	86.1	58.77	58.32	72.18	76.95
not known	5.53	3.6	2.97	2.33	4.58	3.18
2020-21						
only PF/ pension	4.88	5.83	8.69	9.22	6.59	7.5
only gratuity	0.44	0.38	0.54	0.76	0.48	0.57
Maternity benefit and other benefits	10.69	14.17	24.37	26.27	16.8	20.12
only PF/ pension and gratuity	1.63	1.3	4	3.2	2.69	2.24
not eligible for any of above social security benefits	78.16	76.65	59.28	58.34	69.73	67.66
not known	4.2	1.66	3.12	2.21	3.71	1.93
2019-20						
only PF/ pension	4.85	4.64	9.41	9.35	6.98	7.24
only gratuity	0.7	0.45	0.61	0.33	0.66	0.38
Maternity benefit and other benefits	9.61	14.63	23.86	25.79	16.28	20.79
only PF/ pension and gratuity	1.72	1.59	3.02	2.71	2.33	2.21
not eligible for any of above social security benefits	78.29	75.51	58.66	58.59	69.1	66.17
not known	4.83	3.18	4.45	3.23	4.65	3.21
2018-19						
only PF/ pension	4.77	5.44	9.63	9.06	7.01	7.36
only gratuity	0.68	0.38	0.43	0.34	0.57	0.36
Maternity benefit and other benefits	9.26	13.65	23.3	24.73	15.72	19.52
only PF/ pension and gratuity	1.83	1.62	2.9	3.05	2.33	2.37
not eligible for any of above social security benefits	73.63	73.9	57.5	58.12	66.2	65.55
not known	9.83	5	6.24	4.71	8.17	4.85
2017-18						
only PF/ pension	6.07	6.24	9.57	9.54	7.65	8
only gratuity	0.46	0.45	0.49	0.34	0.47	0.39
Maternity benefit and other benefits	9.03	11.42	21.28	23.75	14.55	18
only PF/ pension and gratuity	1.56	1.63	3.13	2.88	2.27	2.29
not eligible for any of above social security benefits	69.48	72.83	56.6	56.34	63.67	64.04
not known	13.41	7.44	8.92	7.15	11.39	7.28

(Source: calculated from PLFS Unit Level Data 2022-2023)

Table 9 : List of Non-Ratifying countries and Status of Maternity Leave

Countries	Period of Leave	Pay	Source of Payment
Afghanistan	12 weeks	100%	N.A.
Algeria	14 weeks	100%	Social Security
Angola	12 weeks	100%	Social Security
Argentina	13 weeks	100%	Social Security
Armenia	20 weeks	100%	Social Security
Bahamas	13 weeks	100% for 12 weeks; 66.7% for 1 week	Mixed (2/3 social security for 13 weeks; 1/3 employer for 12 weeks)
Bahrain	60 days of Paid leave plus 15 days of unpaid leave	100%	The King of the Kingdom of Bahrain
Bangladesh	17 weeks	100%	Ministry of Labour and Employment (Bangladesh)
Belgium	15 weeks	82% for 4 weeks; 75% for remainder, with a maximum	Social Security
Bolivia	13 weeks	95%	Social Security
Botswana	12 weeks	50%	Employers liability
Brazil	17 weeks	100%	Social Security
Burundi			Social Security
Cabo Verde	14 weeks	90%	Social Security
Cambodia	12 weeks	50%	Constitution of the Kingdom of Cambodia
Cameroon	14 weeks	100%	Social Security
Canada	15 weeks	55% (up to max. of \$29,205 p.a.); for low-income families, up to 80%	Social Security
Central African Republic	14 weeks	50%	Social Security
Chad	14 weeks	100%	Social Security
Chile	24 weeks	100%	Social Security
China	18 weeks	100%	Regional Governments of China
Comoros	14 weeks	100%	Employer's Liability
Congo	15 weeks	100%	Social Security
Costa Rica	17 weeks	100%	Mixed (50% social security, 50% employer)
Cote d'Ivoire	14 weeks	100%	Social Security
Democratic Republic of Congo	14 weeks	67%	Employer's Liability
Denmark	18 weeks	100%	Mixed (Both Social Security and Employers Liability)
Dominica	12 weeks	60%	Social Security
Ecuador	12 weeks	100%	Mixed (75% Social Security and 25% Employers Liability)
Egypt	12 weeks	100%	Mixed (75% Social Security and 25% Employers Liability)
Equatorial Guinea	12 weeks	75%	Social Security
Eritrea	14 weeks	N.A.	Social Security
Estonia	14 weeks	100%	Social Security
Eswatini	12 weeks	100% for 2 weeks; unpaid remainder	Employers Liability

Countries	Period of Leave	Pay	Source of Payment
Ethiopia	13 weeks	100%	Employers Liability
Finland	18 weeks	70%	Social Security
France	16 weeks	100%	Social Security
Gabon	14 weeks	100%	Social Security
Gambia	12 weeks	100%	Employers Liability
Georgia	18 weeks	100%	Social Security
Ghana	12 weeks	100%	Employers Liability
Greece	17 weeks	100%	Social Security
Grenada	13 weeks	100% for 8 weeks; 65% for remainder	Mixed (65% social security all 13 weeks plus 35% from employer for first 8 weeks)
Guatemala	12 weeks	100%	Mixed (maternity: 2/3 social security, 1/3 employer)
Guinea	14 weeks	100%	Mixed
Guinea Bissau	9 weeks	100%	Mixed
Guyana	13 weeks	70%	Social Security
Haiti	12 weeks	100% for 6 weeks; unpaid remainder	Employer liability
Honduras	12 weeks	100% for 10 weeks; unpaid remainder	Mixed (2/3 social security, 1/3 employer)
India	26 weeks	100%	Employer liability
Iceland	13 weeks	80%	Social Security
Indonesia	Female workers/ labourers are entitled to a 1.5 (one-and ahalf) month period of rest before the time at which they are estimated by an obstetrician or a midwife to give birth to a baby, and another 1.5 (one-and-a-half) month period of rest thereafter.	100%	The Ministry of Manpower (Indonesian: Kementrian Ketenagakerjaan) of the Republic of Indonesia & The Employer
Iran			Social Security Organization of the Islamic Republic of Iran
Iraq	14 weeks	100%	N.A.
Ireland	26 weeks	80%, with a maximum, for 26 weeks; unpaid remainder	Social Security
Jamaica	12 weeks	100% for 8 weeks; unpaid remainder	Employers Liability
Japan	14 weeks	60%	N.A.
Jordan	10 weeks	100%	N.A.
Kenya	12 weeks	100%	Employers Liability
Kuwait	10 weeks	100%	N.A.
Kyrgyzstan	18 weeks	7 × minimum wage	Social Security
Lao's People Democratic Republic	13 weeks	70%	N.A.
Lebanon	14 weeks	100%	N.A.
Lesotho	12 weeks	100%	Employers Liability

Countries	Period of Leave	Pay	Source of Payment
Libya	14 weeks	50% (to be paid by employer) In case of self employment 100%	In case of self employment; paid by the Social security
Madagascar	14 weeks	100%	Mixed (50% Social Security and 50% Employers Liability)
Malawi	8 weeks	100%	Employers Liability
Malaysia	8 weeks	100%	N.A.
Maldives	8 weeks	100%	N.A.
Malta	18 weeks	100% for 14 weeks; rest unpaid	Mixed (50% social security and 50% Employers Liability)
Mauritania	17 weeks	100%	Social security
Mexico	12 weeks	100%	Social security
Mongolia	17 weeks	70%	N.A.
Mozambique	12 weeks	100%	Social Security
Myanmar	12 weeks	66.7%	N.A.
Namibia	12 weeks	100%	Social Security
Nepal	14 weeks	N.A.	N.A.
Nicaragua	12 weeks	100%	Mixed (60% Social Security and 40% employers Liability)
Nigeria	12 weeks	50%	Employers Liability
Pakistan		180 days for the birth of the first child, 120 days for the second, and 90 days for the third, 100%. For additional children unpaid leave can be granted.	
Paraguay	12 weeks	50% for 9 weeks; unpaid remainder	Social Security
Philippines	15 weeks 100%, applicable also to miscarriages. 7 days' 100% parental leave per year for solo parents until the child is 18, or indefinitely if the child has a disability.	14 days' paid paternity leave for married workers. Seven days' 100% parental leave per year for solo parents until the child is 18, or indefinitely if the child has a disability.	
Poland	26 weeks	100%	Social Security
Republic of Korea	12 weeks	100%	N.A.
Russian Federation	20 weeks	100%	Social Security
Rwanda	12 weeks	100% for first 6 weeks and 20% for the remainder period	Employers Liability
Seychelles	14 weeks	Flat rate for 12 weeks rest unpaid	Social Security
Sierra Leone	14 weeks	100%	Employers Liability
Somalia	14 weeks	50%	Employers Liability
South Africa	17 weeks	60%	Social Security
South Sudan			
Spain	16 weeks	100%	Social Security
Sri Lanka	12 weeks	100%	Social Security

Countries	Period of Leave	Pay	Source of Payment
Sudan	8 weeks	100%	Social Security
Suriname			
Sweden	12 weeks	80%	Social Security
Syrian Arab Republic	7 weeks	70%	N.A.
Tajikistan	20 weeks	100%	Social Security
Thailand			
Togo	14 weeks	100	Mixed (50% Social Security and 50% Employers Liability)
Tonga			
Trinidad and Tobago	14 weeks	100% for the first 7 weeks and 50% for the remainder period	Mixed (2/3 Social Security and 1/3 Employers Liability)
Tunisia	4 weeks	66.7%	Social Security
Turkmenistan	16 weeks	100%	Social Security
Turkiye	16 weeks	66.7%	Social Security
Uganda	10 weeks	100%	Employers Liability
Ukraine	18 weeks	100%	Social Security
United Arab Emirates	45 days 100% (plus an additional unpaid leave, there is total of 100 days' maternity leave)		
United Kingdom of Great Britain	52 weeks	90% for first 6 weeks, maximum 90% for next 32 weeks and rest unpaid	Social Security
United Republic of Tanzania	12 weeks	100%	Social Security
United States of America	Varies throughout the country	Varies throughout the country	Varies throughout the country
Uruguay	14 weeks	100%	Social Security
Uzbekistan	18 weeks	100%	Social Security
Venezuela	26 weeks	100%	Social Security
Vietnam	4-6 months	100%	N.A.
Yemen	8 weeks	100%	N.A.
Zambia	12 weeks	100%	Employers Liability
Zimbabwe	14 weeks	100%	Employers Liability

Table 10 : Maternity Benefit Amendment Act, 2017: Enforcement Data, Central Government Data (2017-2024)

Particulars	2021-22	2022-23	2023-24
Total No. of Inspections Conducted	392	245	402
Total No. of Irregularities Detected	322	273	733
Total No. Irregularities Rectified	434	144	159
Total No. of Prosecutions Launched	6	9	11
Total No. of Convictions	0	8	6

(Source: Data received from the Office of the CLC, 2021-2024)



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