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## Between Cradle and Career: An Analysis of Legal Protections and Policy Gaps for Indian Working Mothers

By

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### Abstract

**Objective:** This paper examines how Indian mothers navigate through the challenging terrain “between cradle and career” by critically examining the relationship between maternal and professional responsibilities. The Maternity Benefit Act of 1961, as amended in 2017, which requires 26 weeks of paid leave and includes provisions for creche facilities and remote work, is the primary focus of this paper. Although these legislative provisions provide financial stability and work security throughout the perinatal period, their actual enforcement reveals a major paradox. The longer leave period totally funded by the employer frequently serves as a double-edged sword, unintentionally fostering systematic gender discrimination in hiring and retention procedures. The paper also analysis the global trends in Maternity protection.

**Methodology:** This paper uses a systematic review and meta-analysis of peer reviewed research papers published between 1993 and 2025 that used survey method. Extensive searches of databases like PubMed, Scopus and JSTOR were used to find relevant studies. The inclusion criteria was empirical data from across the globe.

**Findings:** This paper highlights important policy gaps that impede full workplace inclusion, going beyond the difficulties associated with maternity. It also examines the growing need for menstruation leave as an essential development in labour law to institutionalize reproductive health support beyond pregnancy. The paper highlights that maternity benefits provisions alone are insufficient to achieve true gender parity, rather a comprehensive socio legal reformative system that includes flexible work-from-home options, menstruation leaves, government funded benefits for both employer and employee can be a solution.

**Keywords:** Maternity Benefit Act, Menstrual Leave, Work-life Balance, Gender Parity, Labor Policy, Reproductive Health.

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### 1. Work–Life Integration for Women

The term “work-life balance” first appeared in the UK in the late 1970s and gained widespread usage in the 1980s, mostly in reaction to the demands placed on working women during the women’s liberation movement. Although the phrase “work-life balance” is not thought to have been created by a single individual,

it came from the work of scholars examining shifting labour trends in the late 20th century.

Renowned economist and sociologist Juliet Schor’s work has had a significant impact on contemporary debates concerning labour trends, overwork, and consumer culture. Her seminal work, “*The Overworked American: The Unexpected Decline of Leisure*” (1991), critically examines the increasing loss of leisure time in



modern societies and describes the structural factors that result in longer workdays (Schor, 1991). Schor is recognized for popularizing the concept of work-life balance in scholarly and public discourse during the 1990s. Her work not only brought attention to the socioeconomic consequences of excessive work, but it also generated broader discussions about the need for more egalitarian and sustainable work arrangements, particularly in light of shifting labour markets and family relations.

Schor's work focuses on how women are disproportionately affected by workplace demands, especially working mothers who oversee both paid and unpaid labour. The relationships between consumerism, gender, and economic inequality are also examined. She exposes structural inequities ingrained in economic institutions by critically engaging with cultural norms that value production while devaluing caregiving. Her works delve deeper into alternative economic models, such as shorter workdays, sustainable consumerism, and labour reorganization to improve general well-being. These observations are especially pertinent to current policy discussions because they emphasize the need to match labour laws with social realities in order to prevent economic expansion from sacrificing individual well-being and family obligations. (Meeropol, 1992)

A person's professional identity is fundamentally shaped by their employment, however juggling work and personal life can be challenging. Maintaining a balance between one's work and various aspects of life has drawn increasing attention from the public in recent years as more workers understand the need of what is now referred to as "work-life balance". Since the beginning of the work-life balance (WLB) debate in the 1990s, there have been significant developments in the social, demographic, and professional spheres. (Lewis et al., 2007)

Work-life "imbalance" has increased as a result of people's growing obligations to both their personal and professional lives. As a result, the concept of WLB has grown in importance for people in contemporary society. In order to achieve a comprehensive sense of well-being, including family contentment, psychological health, and general life satisfaction, they are now more focused on striking a balance between paid job and personal and familial obligations. (Akanji et al., 2020)

Over the years, WLB knowledge has assisted firms in understanding their needs for human capital and in figuring out how to create environments that foster better working relationships, which in turn boost productivity and help them reach their objectives. As a result, this has motivated academics to carry out in-depth research on a variety of WLB-related topics over the years. Numerous models that have attempted to describe the dynamics of this area of human resource management have emerged as a result. The analyses of WLB constructs during the course of the year have progressed from the early stage, which is the transformation stage, to the advancement stage. Numerous WLB theories have been developed as a result. Nevertheless, there isn't a single, widely recognized fundamental framework or construct for the various facets of work-life balance, despite the

abundance of ideas and models. As a result, businesses employ the WLB model that best fits their goals. (Khateeb, 2021)

For workers, especially working women, striking a balance between work and personal life is crucial. Changes brought forth by the pandemic, such as the widespread use of work-from home (WFH) models, have made work-life balance more difficult. This is especially true in India, where women are increasingly working in the service industry, which accounts for more than 55% of the country's GDP according to the 2023-2024 annual report of IBEF. (IBEF Annual Report | Insights on India's Economic Growth & Development, n.d.)

A study was conducted in Ahmedabad using Purposive sampling method on working women in Ahmedabad's service industry who were given a structured questionnaire. The study primarily looked at work-life balance (WLB) concerns among female employees. To successfully fulfil the research objectives, hierarchical cluster analysis was used to analyse the gathered data. The findings show that among working women, improved job satisfaction (JS) is positively correlated with a healthy work-life balance. Additionally, by emphasizing the interdependence of personal and professional well-being, the study highlights wider implications for families, couples, organizations, and society at general. It also implies that human resource departments inside organizations are essential to the creation and execution of WLB policies. These actions enhance organizational performance and productivity in addition to improving employee well-being. (C. Shah et al., 2025)

Women find it difficult to reconcile their personal and professional life. The lack of domestic assistance during lockdowns for household chores or childrearing during the pandemic intensified the load on women. On the one hand, working women were required to take care of all household duties; on the other hand, working from home was unrestricted. Because they were afraid of losing their jobs or having their pay cut, workers were made to put in more effort and work longer hours without complaining. Work-life balance has a significant influence on job satisfaction and is closely linked to stress, child care, household chores, and family support. (Maharani & Tamara, 2024)

In today's society, more and more women are trying to balance the responsibilities they have to their families with the demands of their careers. Given the increasing number of women entering the profession, it is critical to have a thorough understanding of the unique difficulties that working mothers face in their role as parents. Stress levels among parents may rise as a result of the challenges of juggling job and family obligations, which may have an impact on mothers' wellbeing and the dynamics of their families.

Another study was conducted providing important insights into the particular constraints and coping strategies faced by 200 working mothers in Chennai TIDEL Park. The results show that mothers with two children report the highest levels of stress, however there is no discernible difference in stress levels between age groups. The report also emphasizes on the different difficulties faced by working mothers, with "Expectation Adjustment" being the most

important problem. Further the study reveal that working mothers use a variety of coping mechanisms to deal with these difficulties and reduce stress. These include putting an emphasis on personal wellness, creating support networks, upholding limits, and effectively managing their productivity. In order to help working women manage their dual responsibilities and improve their general well-being, the study emphasizes the significance of putting in place comprehensive support systems, such as laws encouraging work-life balance and access to reasonably priced childcare. (Khan et al., 2025)

Another 2025 study of 305 urban Indian earning mothers, published in *"Humanities and Social Sciences Communications"*, shows a stark contrast where in about half of the stakeholders 51% see the concept of the *"supermom"* as an empowering source of strength, while the other half of the stakeholders 49% see it as a socially constructed *"trap"* or *"myth"* that causes a great deal of stress, guilt, and fatigue. The study makes use of symbolic interactionism and shows that although some people find joy and success in balancing several responsibilities, others are tormented by the unreasonable social expectation to *"do it all"*, particularly in a culture that places all childcare duties on women. (S. S. Shah et al., 2025)

## 2. Structural and Social Challenges Faced by Working Mothers

The plight of working mothers, in India, or to say in any country is not or cannot be equated with that of any man. Working mothers are the backbone of families, where most of the household work is also shouldered by women. The role in raising children and the entire family is very heavy on working women. Because they are able to successfully balance job and parenting, working mothers play crucial roles in both their households and at work. It's important to understand that both of these roles are quite demanding, and it will be challenging to fulfill one without abandoning the other. In addition to being dedicated to their jobs, women also play a variety of roles as wives, mothers, daughters, and daughter-in-law. In addition to being the family's pillars, they also serve as the only housekeepers and earners. In order to sustain a successful profession and financial independence, a woman may insist on working. Additionally, there are single working mothers who manage the home and continue to provide financial support for their family while juggling all of these obligations.

There are several issues which demand attention as far as women are concerned, these issues are pressing and hence the women are not only affected but the society as a whole, these are:

### Psychological Issues

It has been seen that working mothers experience psychological anguish, worry, frustration, and a host of other negative feelings as a result of internal conflicts relating to various jobs. It can be seen that this psychological distress is a mental condition of emotional distress marked by bodily symptoms of despair and anxiety. A study conducted by Whelan (2014) (Whelan, n.d.) to investigate the role conflict of working mothers with many factors (identity, coping, and life satisfaction). The findings demonstrated that

working mothers' perceptions of themselves throughout their lives are influenced by work-family responsibilities. It also has an impact on the related areas. Additionally, part-time working mothers receive support from their family and have higher levels of self-efficacy than full-time working mothers.

In a study conducted by Behera and Padhi (1993) (Behera & Padhi, 1993) 126 working moms in the teaching profession in Berhampur, South Orissa, took part in a survey that looked at role conflict. It was found that working moms have a high level of role conflict, and that the degree of congruency and conflict is significantly influenced by their social and economic origins.

### Family Conflicts

Women tend to prioritize their families over their careers. Consequently, compared to their male counterparts, women report much higher levels of family-job conflict, which is frequently accompanied by higher levels of mental and physical strain. Stress, melancholy, and irritation increase with the number of work-family conflicts women report. This suggests that women managers seldom receive support and assistance from their businesses and society, even in the face of higher hurdles and equal career demands for both genders. As a result, there is a growing global trend of working mothers quitting their jobs to care for their families. Twenty-five percent of first-time Indian moms abandon their occupations to raise their children, according to the Social Development Foundation of Assocham (*Moms Giving up Careers to Raise Kids*, 2015).

According to estimates, 60% of working women struggle to establish and preserve a work-family balance. Because of this, self-care is often neglected. Working mothers must realize that maintaining their whole well-being, which includes their mental, emotional, spiritual, and physical health, is an important investment that will ultimately save time and energy, even though it might feel intimidating to add to an already heavy burden.

### Patriarchal Construct

The parenting conundrum is a reflection of a social convention that implies a woman must forgo advancement in her work and income in order to have a kid. The idea that men are primarily in charge of the family's financial security while women are viewed as secondary income earners is simply reinforced by the possibility that women may suffer consequences as a result of this mindset throughout their careers. These societal norms and attitudes cannot be easily and effectively changed. It may take years to bring about a change in society, and working mothers may encounter other difficulties as well.

### Infrastructural issues

The women are not only affected by the conflict of their families, but also the fact that employees often fail to provide the right infrastructure for them to rejoin after maternity break. These women are in a state of dilemma, when they leave their young nursing child at home or in private daycare centres.

The crèche mandate under *"the 2017 Amendment to the Maternity Benefit Act"* has remained largely unrealised in practice, with most

covered employers failing to establish functional facilities, thereby frustrating women's capacity to return to work post-delivery.

Women who are working mothers not only require support from their workplace, but also all the assistance in getting back from the maternity break, which includes nursing breaks, creche facilities, flexible working hours, and child care leaves.

According to estimates, 60% of working women struggle to establish and preserve a work-family balance (IIMA *Launches Report on the Status of Women's Empowerment in India – Visible Progress but Challenges Remain* | IIMA, n.d.). Because of this, self-care is often neglected. Working mothers must realize that maintaining their whole well-being, which includes their mental, emotional, spiritual, and physical health, is an important investment that will ultimately save time and energy, even though it might feel intimidating to add to an already heavy burden.

### 3. Regulatory Framework in India: An Analysis of Maternity and Labour Laws

Enacted in direct response to the constitutional duty under Article 42 (The Constitution Of India, 1950, Article 42) "to ensure fair and humane working conditions and maternity relief", "the Maternity Benefit Act, 1961" (The Maternity Benefit Act, 1961) is the main piece of legislation controlling maternity entitlements for working women in India. Even while Article 42 is a Directive Principle that judges cannot directly implement, the Supreme Court has consistently affirmed its role as an interpretive lens for assessing the validity of executive and parliamentary action relevant to working women.

Before the passing of the Act, maternity protection was ensured among several sector-specific laws, most remarkably the Bombay Maternity Benefit Act of 1929 (The Bombay Maternity Benefit Act, 1929) and the Mines Maternity Benefit Act of 1941 (The mines Maternity Benefit Act, 1941). As a result, different states and industries had significantly different rights, qualifying conditions, and benefit durations. With the express purpose of eliminating these differences and establishing a single national framework, the 1961 Act was created, repealing all pertinent prior legislation.

The Amendment of 2017 (The Maternity Benefit (Amendment) Act, 2017) introduced several substantial changes which are beyond the expansion of leave duration. "The Maternity Benefit (Amendment) Act, 2017", has been a momentous milestone in India's Labor welfare framework, specifically for women working in India's formal sector. The Act amends the 1961 law by increasing paid maternity leave for women with fewer than two surviving children from 12 to 26 weeks (The Maternity Benefit (Amendment) Act, 2017, Sec 5(3)). The Act also introduces new provisions such as "maternity leave for adoption and commissioning mothers, creche facilities in establishments with 50 or more employees, and work-from-home option post-leave" (The Maternity Benefit (Amendment) Act, 2017, Sec 11).

The main aim of the Act is to promote a gender-inclusive workplace and support maternal and child health. However,

challenges of implementation and the Act's limited reach in the informal sector have sparked debate over its inclusivity and effectiveness. Factories, mines, plantations, and any shops or businesses with ten or more employees are all covered by the Act. With permission from the Central Government, the relevant State Government may extend the Act's provisions to any other class of firms.

As long as they have worked for at least 80 days in the 12 months before to the expected delivery date, pregnant women, adoptive moms, commissioning or surrogate mothers, and women who have had a miscarriage are all eligible. The primary benefit under the Act, paid maternity leave, was further expanded by the 2017 Amendment.

Women with fewer than two surviving children are entitled to 26 weeks of paid leave, of which up to 8 weeks may be availed before the expected date of delivery and the remaining 18 weeks thereafter. Women with two or more surviving children retain the pre-amendment entitlement of 12 weeks, divided equally before and after delivery.

Commissioning mothers and women who lawfully adopt children under three months of age are eligible for 12 weeks of benefits starting on the day the child is given to them. In addition to leave, the Act provides a medical bonus to all eligible women in cases where the employer does not offer free prenatal, confinement, and postnatal care (The Maternity Benefit (Amendment) Act, 2017, Sec 5(4) and Sec 5(5)). This bonus was initially set at 1,000 rupees, but it was later increased to 2,500 rupees by the Central Government, with a statutory provision for periodic revision up to a maximum of 20,000 rupees (The Maternity Benefit (Amendment) Act, 2017, Sec 8). Miscarriage or medical pregnancy termination (six weeks), tubectomy (two weeks), and illness resulting from pregnancy, delivery, premature birth, or miscarriage (up to one extra month) are all eligible for additional paid leave entitlements; the latter serves as an extended benefit for women who continue to be incapacitated after the regular leave period.

Beyond extending the length of leave, the 2017 Amendment brought forth a number of other noteworthy modifications. In a significant legislative recognition of modern flexible work arrangements, Section 5(5) permits women to work from home after the maternity leave period ends on terms mutually agreed with the employer, provided that the nature of the employment permits. Section 11A requires crèche facilities for any business that employs fifty or more people, either individually or through shared facilities. Women are entitled to four employer-approved crèche visits per workday. In addition to their regular rest intervals, women who return to work after giving birth are entitled under Section 11 to two fifteen-minute nursing breaks every working day until the child turns fifteen months old.

In order to address the ongoing information asymmetry that has historically restricted women's practical access to their statutory rights, the Amendment also requires all establishments to notify women in writing and electronically of all entitlements available under the Act at the time of initial appointment. Section 4 of the

Act forbids any employer from knowingly hiring a woman during the six weeks immediately following delivery, miscarriage, or medical termination of pregnancy. It also protects pregnant women from being assigned hard work, work requiring prolonged standing, or any work likely to interfere with the pregnancy or cause miscarriage during the one month prior to the six-week pre-delivery window.

The woman's consent is not necessary for these protections to function. Section 12 offers complete protection against termination, making it illegal for an employer to fire a woman who is absent due to maternity benefits, to give her a notice of termination that expires during her absence, or to change the terms of her employment in a way that would be detrimental to her. If the woman is asked to be fired for gross misconduct, the employer must notify her in writing, and she has sixty days to file an appeal with the relevant appellate body. Fines between two thousand and five thousand rupees and prison for a minimum of three months and a maximum of one year are imposed for disobeying the Act's principal provisions. (The Maternity Benefit (Amendment) Act, 2017, Sec 15).

The beneficial rule of construction, which is suited for social security law, has led the courts to routinely adopt a broad and purposeful interpretation of the Act. The Supreme Court ruled in *B. Shah v. Labour Court, Coimbatore* (B. Shah v. Labour Court, Coimbatore AIR 1978 SC 12) that maternity benefits are paid for the whole continuous period of actual absence, including Sundays and wage-less rest days, rather than just for sporadic working days. This ensures that the benefit functions as a true income substitute that permits recuperation, nursing, and the maintenance of productive efficiency. In that judgment, the Court established the fundamental rule that laws falling under Article 42 must be interpreted to allow women workers to effectively perform both their reproductive and productive duties.

A service rule forcing air hostesses to retire upon becoming pregnant was overturned in *Air India v. Nargesh Meerza* (Air India v. Nargesh Meerza AIR 1981 SC 1829) as being blatantly irrational and in violation of Article 14 of the Constitution. The Court called the requirement that women refrain from having children as a condition of employment "callous, cruel, and a retrograde act to Indian womanhood" characterizing such rules as medically and legally baseless. It also ordered the Corporation to remove the infringing law.

In *Neera Mathur v. Life Insurance Corporation of India* (Neera Mathur v. Life Insurance Corporation of India AIR 1992 SC 392) the Court ordered the reinstatement of a woman who had been fired during her probationary period for allegedly concealing her pregnancy in a declaration form. The Court also ordered the LIC to remove all columns from its appointment forms that required women to disclose private medical information, including the date of their most recent menstruation, calling such disclosure requirements "embarrassing if not humiliating."

In *Municipal Corporation of Delhi v. Female Workers* (Municipal Corporation of Delhi v. Female Workers AIR 2000 SC 1275), the

Supreme Court ruled that casual and daily wage workers engaged on muster rolls are equally entitled to maternity benefits as regular employees, significantly expanding the Act's scope. The Court reasoned that the Directive Principles in Articles 39 and 42 require an inclusive interpretation extending the Act's benefits to all working women regardless of tenure or nature of engagement, and that nothing in the Act restricts its protections to those in formal or permanent employment. This decision greatly increased the legislation's practical reach.

Supreme Court of India affirmed the Delhi High Court's decision in *Sri Aurobindo College (Evening) v. Manisha Priyadarshini* (Sri Aurobindo College (Evening) v. Manisha Priyadarshini SLP (Civ.) No. 7369 of 2020) that it encroach upon Articles 14, 16, and 21 of the Constitution where an ad-hoc and contractual employee's tenure is not renewed during her maternity leave. Regardless of the sectoral or contractual nature of employment, the Court ordered the institution to pay fifty thousand rupees in costs. The Court made it clear that maternity leave cannot be used as a reason to terminate services and that the constitutional guarantee of equality cannot be violated by equating motherhood with a loss of livelihood.

Maternity rights are fundamental human rights that ensure the health, dignity, and employment security of women during and after pregnancy. These rights encompass maternity leave, healthcare access, protection against workplace discrimination, and the right to return to work post-childbirth. Maternity benefits find its root right from Constitution of India. Though the Constitution doesn't explicitly mention about these benefits but Constitution empowers and protects these benefits under various articles. Women's motherhood journey is protected through the blend of fundamental right and Directive Principles of State Policy.

In the case of *Suchita Srivastava v. Chandigarh Administration* (Suchita Srivastava v. Chandigarh Administration [2009] 13 S.C.R. 989), SC held that "a women's right to make reproductive choices is also a dimension of "personal liberty" as understood under Article 21.

DPSPs play a crucial role in sustaining the welfare state vision and acting as the state's compass in addition to fundamental rights. Article 39 (The Constitution of India, 1950, Art 39) of the Indian Constitution establishes a number of policy guidelines that the State must adhere to. One of the most important of these guidelines is that the State must specifically focus its policies on ensuring that workers, both men and women, are healthy and strong and that young children are not mistreated. This guarantees that pregnant and postpartum working women are neither exploited or subjected to adverse working conditions. Consequently, providing them with a secure setting in which to work and grow.

Article 42 of Indian constitution is one of the most important articles which directly directs the State to make provision regarding maternity relief and humane work conditions for women. One of the most cardinal legislations so made was the Maternity Benefits Act, 1961.



The most structurally significant of these decisions was *Dr. Kavita Yadav v. Secretary, Ministry of Health and Family Welfare* (Dr. Kavita Yadav v. Secretary, Ministry of Health and Family Welfare Civil Appeal No. 5010/2023), in which the Supreme Court held that contractual and fixed-term employees are entitled to full maternity benefits even where those benefits extend beyond the tenure of their contract, closing a loophole that had previously left large numbers of women in temporary employment without protection.

The Supreme Court of India in May 2024 held that maternity leave is a constitutional right for all women, regardless of the number of children they have. This was reaffirmed in its May 2025 judgement in *K. Umadevi v. Government of Tamil Nadu* (K. Umadevi v. Government of Tamil Nadu Civil Appeal No. 2526 of 2025), which clarified that the 2017 Amendment only restricts the length of leave based on the number of children, but not eligibility itself, meaning no woman can be completely denied leave.

In the case of B. Kavitha in the year 2025, the Madras High Court categorically condemned as outdated and cruel the practice of companies refusing maternity leave on moralistic grounds pertaining to a woman's marital status or the timing of her pregnancy. This ruling changed the trajectory of jurisprudence. In the meantime, the Supreme Court's 2024 decision in *Shalini Dharmani v. State of Himachal Pradesh* (Shalini Dharmani v. State of Himachal Pradesh Special Leave to Appeal (C) No.16864/2021) increased rights by finding that the denial of childcare leave itself breaches Articles 14, 15, and 21, recognizing that forcing women to choose between working and taking care of others is illegal.

The Allahabad High Court's decision in *Saumya Tiwari v. State of U.P.* (Saumya Tiwari v. State of U.P. WRIT - C No. 20885 of 2021), which held that a university's failure to establish any rules for pregnant students violated their fundamental rights and ordered it to create provisions for examination concessions and prenatal and postnatal support for students across all courses, is arguably the most philosophically expansive decision in this line of cases.

The judicial insistence that no organization, be it the state, an employer, or a university, may impose contractual, procedural, or moralistic obstacles on a woman's maternity rights is what unites all of these rulings. The gap that still exists, however, is significant: the great majority of Indian women who work in the unorganized sector are unlikely to ever have access to these courtrooms, and while judicial expansion of rights is commendable, it cannot replace the administrative and legislative reforms required to reach them.

#### 4. Global Standards on Maternal Employment Protection

According to the International Labour Organization's maternity protection norm, maternity leave should last at least 14 weeks, with cash compensation equal to at least two-thirds of prior wages under Convention No. 183, and at least six weeks following childbirth. Because it displays the minimum floor rather than the global norm, that baseline is significant. In reality, national regulations differ

greatly, and some nations mix maternity leave with parental leave rather than providing a single, independent maternity entitlement. (*Maternity Protection*, n.d.)

Laws of any country, often establish minimum standards for maternity leave and frequently offer government reimbursements for maternity leave. Longer durations can be offered by businesses, although not necessarily. As a result, maternity leave regulations differ between countries in terms of the length of leave and the percentage of income received during that period.

Globally, maternity leave laws are a patchwork of political, economic, and cultural components, each of which is specific to the values and interests of a particular nation. Scandinavian nations are models of robust support for new parents throughout Europe. A commitment to advancing work-life balance and gender equality is demonstrated by the comprehensive laws in Norway and Sweden that grant mothers lengthy periods of "paid leave up to 59 weeks in Norway" (*Paid Parental Leave and Social Sustainability in the Nordic Countries*, n.d.) and "480 days in Sweden" (*Leave Policy in Sweden / Skuad 2025 Guide*, n.d.).

Even though national laws specify the minimum number of weeks needed for maternity leave, several nations allow parents to extend their leave. In the Northern European nation of Estonia, "mothers are entitled to 20 weeks of fully compensated maternity leave in addition to an additional 62 weeks of optional "bonus" parental leave". (*Maternity Benefit and Maternity Leave / Sotsiaalkindlustusamet*, n.d.)

Depending on whether the father or mother works, the cost of these optional weeks may change. For example, "after at least 16 weeks at 100% pay, there are 44 more weeks at 73.1% pay" in Austria. In Austria, mothers are expected to take time off between eight weeks before and eight weeks after giving birth. (*Maternity Allowance*, n.d.)

"The Family and Medical Leave Act" (FMLA) mandates that covered companies in the US provide at least 12 weeks of unpaid family leave following the birth or adoption of a child. There are a few exceptions to this rule, including when an employer has fewer than 50 employees, when the expecting parent has been employed there for less than a year, and when the employee's pay falls within the top 10% of the company. "Companies are permitted to give new parents a partial pay check and extend the FMLA's minimum 12-week unpaid leave requirement if they so want". (3 FAM 3530 THE FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA) AND PAID PARENTAL LEAVE, n.d.)

"The Family and Medical Leave Act" (FMLA) mandates that covered companies in the United States of America provide at least 12 weeks of unpaid family leave following the birth or adoption of a child. This regulation includes a few exceptions, such as "when an employer employs fewer than 50 people, when the expectant parent has worked there for less than a year, and when the employee's salary is in the top 10% of the organization. Businesses are allowed to extend the FMLA's minimum 12-week unpaid leave requirement in addition to providing new parents with a partial

paycheck if they so want”.(Family and Medical Leave (FMLA), n.d.) Many countries South America, including Chile, start maternity leave several weeks before the child's due date. In Chile, mothers must begin their leave six weeks before their due date and extend it for an extra 12 weeks after that, the period may be changed if the due date is mistaken.(Leaves and Time Off in Chile - Chile Maternity Leave | CXC, n.d.)

The Department for Work and Pensions administers the Statutory Maternity Pay (SMP) scheme, which provides maternity benefits in the United Kingdom. Here are some details on UK maternity benefits. The “52 weeks of maternity leave that female employees are entitled to might begin 11 weeks before to the due date and end 52 weeks after giving birth. “Ordinary Maternity Leave” refers to the first 26 weeks of leave, and “Additional Maternity Leave” refers to the latter 26 weeks”. Additionally, the UK offers paternity leave, which permits qualified workers to take up to two weeks of

paid time off within 56 days of the birth of their kid.(Maternity Pay and Leave, n.d.)

The United States, stands out among developed nations since it does not have paid maternity leave that is required by law. Families are severely impacted financially by the 12 weeks of unpaid leave that the Family and Medical Leave Act (FMLA) permits. Canada, on the other hand, offers a more supportive atmosphere, beginning with 15 weeks of paid maternity leave and continuing with greater choices for shared parental leave.(Canada, 2015)

India stands out for providing many working moms with 26 weeks of paid leave, which is more than the ILO requirement and more robust than many other nations in terms of duration alone. But time is not the only factor that affects the overall level of protection; other factors include who pays, workplace flexibility, breastfeeding breaks, job security regulations, and coverage for adoptive or surrogate moms. This implies that a nation may be powerful on paper in one area but deficient in real-world assistance in another.

**Table 1.1 : Comparative analysis of the Maternity Laws across the globe**

Country	Typical statutory leave	Pay / benefit level	Coverage style	Notable point
<b>India</b>	26 weeks for first two children; 12 weeks thereafter	Paid leave under the Maternity Benefit Act	Maternity-specific	Strong leave length relative to many countries
<b>United States</b>	12 weeks under FMLA	Unpaid at federal level	Job-protected leave, not paid maternity leave	No federal paid maternity leave guarantee
<b>United Kingdom</b>	52 weeks total leave	39 weeks paid: 90% for first 6 weeks, then statutory rate	Maternity-specific, with shared parental options	Long leave, moderate pay replacement
<b>Austria</b>	16 weeks	Benefit varies by social insurance rules; commonly treated as full wage replacement in practice under maternity protection systems	Maternity-specific	Shorter than UK/India, but still a protected statutory regime
<b>Sweden</b>	480 days total parental leave	Income-based parental benefit for most days, then a minimum benefit period	Parent-sharing system	One of the world's most generous family-leave models
<b>Norway</b>	49 weeks at 100% pay, or 59 weeks at 80% pay	High wage replacement through social insurance	Parental-leave system	Very strong balance of time off and pay
<b>Canada</b>	15 weeks maternity benefit, plus parental benefits	Typically 55% of insurable earnings up to a cap	Social-insurance based	Good combined system, especially when parental leave is included

The intricate play between tradition and advancement, economy and social welfare, is fundamentally reflected in the differences in maternity leave policies. Generous nations encourage gender equity and family well-being, often through a combination of government support and employer contributions. On the other hand, the United States absence of comprehensive policies highlights the complex relationship between communal responsibility and individual rights. Lastly, the development of maternity leave laws shows a nation's ability to reconcile the needs

of its labour force with more general social and economic demands, changing the nature of family life and labour force participation for coming generations.

### 5. Identifying Policy Gaps and Proposing Legal Reforms

There is still a gap between implementation and the laws, even if a number of rights that are suitable for working mothers have been added to the regulations. This discrepancy is caused by a lack of government or state financing, inadequate infrastructure, and



employees' disregard for regulations created especially for women.

Although the Maternity Benefit (Amendment) Act, 2017 is a labour welfare landmark, its implementation has exposed serious structural problems and policy shortcomings that limit its wider impact.

The Act has a number of flaws as well as structural locations that highlight different gaps and potential fixes, some of which are:

#### ***The gap of Formal-Informal sector to be bridged***

One of the primary problems is the lack of focus on formal employment, which leaves the vast informal workforce which includes home-based businesses, agriculture, and domestic work unprotected. Additionally, the lack of a centralized monitoring or grievance resolution system and the ignorance of eligible women, especially in semi-urban areas, hinder the policy's reach and accountability.

Extension of the maternity protection to informal sector workers through incorporation with schemes like "Pradhan Mantri Matru Vandana Yojana" (PMMVY)(Pradhan Mantri Matru Vandana Yojana - Home, n.d.) or through a universal maternity benefit framework is critical. For industries with a significant percentage of female participation, including domestic work or self-employment, special provisions may be implemented. To guarantee that women in the unorganized and informal sectors are not left behind, policy convergence is essential. Maternity benefits should be in line with programs like the Pradhan Mantri Matru Vandana Yojana (PMMVY) and pertinent labor rules.

#### ***Financial burden on the employees is to be distributed***

The most significant of these is that maternity benefits are solely the financial responsibility of individual firms. Because companies in the private and informal sectors frequently avoid hiring married or pregnant women to avoid liability, the well-documented disincentive effects of this design directly undercut the Act's purpose of preserving women's work during maternity.

In order to make the Act more inclusive and impactful, a multi-pronged policy revision is essential. Firstly, the government should consider reducing a cost-sharing model – similar to countries like Germany and Australia where maternity leave is partly funded through social insurance or public schemes, reducing the burden on employers.

The Employee's State Insurance Act (The Employee's State Insurance Act, 1948), which divides the expense of maternity benefits through a tripartite contributory insurance fund to which the government, companies, and employees all participate may support this. In order to socialize the cost of benefits and remove the structural incentive for employers to discriminate against women of reproductive age, the National Commission on Labor has recommended the creation of an analogous National Contribution Fund that would apply to all establishments covered by the Act and receive contributions from all three sources.

The amount of benefit, which is calculated at the average daily wage, has also drawn criticism for being inadequate in light of the higher costs of nutrition, healthcare, and caregiving related to maternity; academics have called for an increase to at least double the daily wage in order to bring the Act into compliance with the ESI standard. There are still coverage gaps for workers in smaller companies that don't comply with the law, and it has been proposed that the Act be expanded to all companies, regardless of their size.

Finally, notwithstanding the 2017 disclosure requirement, women workers who are economically poor and illiterate continue to have a knowledge gap that limits their practical access to rights. It would require ongoing awareness campaigns, stringent enforcement by the Inspectorate apparatus, and legislative reform toward a contributing funding model to align the Act's practical operation with its constitutional purpose of achieving social justice for working women.

#### ***Maternity benefits to be family inclusive***

The underlying gender presumptions in the law are another serious issue. The Act's only emphasis on maternity, which ignores the role of fathers and other caregivers, promotes the notion that women are primarily in charge of childcare. There is no guarantee of crèche services near fathers' places of employment or provision for paternity leave, despite the growing number of single fathers and dual-career households. This shows a patriarchal bias in caregiving policy and impedes the development of more equitable, family-focused workplace changes. These issues show that in order to narrow the implementation gap, inclusive adjustments, institutional oversight, and shared financial boundaries are essential.

While Norway requires a part for fathers, nations like Sweden offer gender-neutral parental leave (480 days), that is divided amongst the parents. India needs to stop considering caregiving as the exclusive domain of mothers and provide these services to working women who are heteronormative as well as men and transgender individuals who have children. In order to facilitate shared parenting and lessen the burden on women, this calls for an inclusive, gender-neutral caregiving law.

#### ***Infrastructural changes Required to be made***

Expanding accessible and reasonably priced childcare facilities is urgently needed, especially through integrated community-based crèches under the Integrated Child Development Services (*Services under the Integrated Child Development Services | Department of Women and Child Development, n.d.*) or in collaboration with private and civil society organizations. The maternal penalty can be lessened and women's re-entry into the workforce facilitated by encouraging flexible work schedules and shared parental duties, such as paternity leave.

Although nursing breaks and crèche facilities are officially provided by the Act, most working women still view these as aspirational rather than practical. Nursing breaks, which give a mother the opportunity to breastfeed or express milk during working hours, are essential for the health of the infant as well as for a mother's physical comfort and her ability to work at all.

However, there are no established guidelines regarding the frequency, duration, or privacy conditions of these breaks, so employers are left to decide how to implement them.

Similar to this, the crèche mandate, which mandates that businesses with fifty or more employees provide daycare facilities within a certain distance, has been largely disregarded because of unclear regulations, a lack of clarity regarding whether the threshold applies to all employees or just women employees, and a near total lack of consequences for non-compliance.

In order to strengthen these provisions, government-subsidized community crèche clusters must be established near commercial and industrial zones, the crèche threshold must be gradually lowered, and specific, unambiguous delegated legislation on nursing breaks must be issued. This will allow smaller employers to fulfil their responsibilities collectively rather than being overburdened by the infrastructure costs.

It is equally important to formalize flexible working alternatives as enforceable rights rather than managerial favors, such as the ability to work from home, flexible hours, and gradual return-to-work timetables. The 2017 Amendment featured a work-from-home clause, but it was essentially unenforceable because it was entirely dependent on the nature of the job and the employer's agreement.

Childcare leave, which is currently available for central government employees but has no statutory counterpart in private sector law, needs to be extended across all establishments as a recognized entitlement that both parents can use in order to more fairly distribute the burden of caregiving and reduce the pressure that almost entirely falls on mothers to sacrifice professional continuity for family responsibilities.

Similarly, flexible work schedules such as shortened work weeks, staggered shifts, or hybrid arrangements should be acknowledged as a right that women can exercise for a set period of time following maternity leave, with employers having to demonstrate a genuine operational necessity before refusing.

The Act will continue to fall well short of its promise until these provisions are treated as enforceable entitlements rather than optional courtesies. Together, nursing breaks, crèche access, childcare leave, and flexible working arrangements form an interconnected ecosystem of support that addresses not just the weeks immediately surrounding childbirth but also the much longer and more professionally precarious period of early motherhood.

### **Robust Mechanism for Compliance**

The compliance and grievance redressal architecture of the Maternity Benefit Act, 1961, as amended in 2017, is one of its most seriously underdeveloped aspects.

In its current form, it is so structurally flawed that employers who violate it face essentially no significant legal or financial repercussions. Section 21 of the Act stipulates penalties for non-compliance, which include imprisonment for up to a year, a fine of up to five thousand rupees, or both. However, this penal ceiling,

which was set decades ago and has never been updated, is so insignificant in today's economic terms that it is functionally ineffective as a deterrent, especially for large commercial establishments for whom the amount of the fine is not a significant burden.

In order to implement a substantive legislative intervention, Section 21 would need to be amended to include graduated, turnover-linked financial penalties that are calibrated to the size and economic capacity of the offending establishment. This would be based on the proportionality model that is increasingly being used in contemporary regulatory frameworks. This way, the consequences of non-compliance would be rationally related to the employer's ability to comply rather than remaining a nominal and uniformly trivial imposition.

The enforcement framework created by Section 17 of the Act, which assigns inspectors for implementation reasons, is likewise insufficient and needs extensive statutory reinforcement. In its current form, Section 17 grants inspection authority without establishing reporting standards, obligatory inspection frequencies, digital record-keeping requirements, or accountability procedures for inspectors who neglect to respond to documented complaints. A revised Section 17 should include provisions for personal accountability in the event that enforcement duties are neglected, mandate annual inspections of all covered establishments, and require inspectors to submit digital compliance reports that are accessible through a national monitoring dashboard.

Compliance verification would become a systematic and auditable state function if this structural transformation were combined with sufficient funding and inspectorate training.

To address the wide range of negative employment actions that now fall outside the explicit prohibition of Section 12 of the Act, which prohibits the dismissal or termination of a woman during or on account of her maternity-related absence, significant legislative extension is required.

The Supreme Court's recent rulings upholding maternity rights as constitutional rights, makes it abundantly evident that the practical harm experienced by working mothers typically takes the form of more subtle forms of discrimination or retaliation, such as demotion, denial of promotion, salary reduction, transfer to unfavorable roles, or purposeful non-renewal of fixed-term contracts, rather than outright dismissal.

The absence of an explicit statutory prohibition on these categories of adverse action creates a lacuna that employers exploit with near-total impunity, and which the courts have been compelled to address through constitutional interpretation in the absence of clear legislative guidance. Amending Section 12 to enumerate these specific forms of adverse treatment as prohibited conduct, with the burden of justification placed upon the employer rather than the aggrieved woman, would substantially close this enforcement gap and align the Act with the constitutional jurisprudence that has developed around it.

The most structurally necessary change to the Act is probably its complete absence of a precise, time-bound grievance redressal system. Nowadays, if a woman feels that her statutory rights have been infringed, she must go through general labor dispute forums, which are infamously sluggish, difficult, and practically inaccessible to women in lower-paying occupations who cannot afford to pursue drawn-out legal proceedings.

A new clause should be included, ideally right after Section 17, to establish specialized Maternity Rights Grievance Cells at the district level, staffed by experienced officers, with a mandatory thirty-day disposal timeline for complaints and the power to grant interim respite.

Lastly, using information from Periodic Labour Force Survey (*Periodic Labour Force Survey (PLFS) – Quarterly Bulletin [October-December 2020]*, n.d.), Employees State Insurance Corporation (*Employees' State Insurance Corporation | Ministry of Labour & Employment, Government of India*, n.d.), or labour inspections, strong monitoring and enforcement systems must be put in place to monitor compliance and efficacy. Enforcement can be strengthened with clear instructions, incentives for compliance, frequent audits, and a central monitoring system. In order to translate progressive legislation into real results, a gender-equitable workforce requires institutional, financial, and structural assistance.

Ultimately, maternity support must evolve from a limited legal right to a comprehensive framework that protects, empowers, and uplifts all Indian working women, regardless of their location, industry, or socioeconomic status. Only by employing such an integrated approach can India close the gender gap in workforce participation and build a more inclusive and equitable labour market. With a progressive legislative scope and inconsistent results, “*the Maternity Benefit (Amendment) Act, 2017*” has had a mixed effect on India’s labour market. The extension of postpartum leave has lessened the pressure on women to return to work too soon; employer-sponsored programs at these companies have frequently reported improved employee satisfaction and retention following childbirth, but this has not been properly tested in research.

Although the Act has raised awareness of maternity rights, its ability to improve parity and women’s long-term involvement in the workforce is still limited in the absence of other comprehensive reforms and inclusion measures.

## 6. Discussion

The study demonstrates that while the Maternity Benefit Act, 1961 (India), as amended in 2017, is a positive move for safeguarding the health and job security of mothers, its implementation exposes underlying disparities in the Indian labour market. While extending paid maternity leave to 26 weeks is beneficial for caring for infants and preserving financial stability, it often reinforces employer biases, leading to subtle forms of discrimination in hiring and advancement. This demonstrates a deeper tension between formal legal protections and long-standing workplace attitudes that

nonetheless denigrate women’s reproductive functions. Additionally, the absence of a comprehensive framework for reproductive health particularly the lack of statutory acknowledgment of menstrual leave highlights a critical lacuna in labour policy. By limiting assistance to the postpartum phase, current legislation ignores the ongoing physiological realities that affect women’s participation in the workforce. The findings also demonstrate that, in the absence of concurrent institutional improvements, such as accessible childcare facilities, flexible work schedules, and gender-sensitive corporate cultures, legislative initiatives alone are insufficient. The study highlights the need for an intersectional and comprehensive policy approach given the sociocultural context of India, where women are disproportionately responsible for providing care. To reduce the gap “between cradle and career”, maternity-centric protections must ultimately give way to a more inclusive and adaptable legal framework.

## 7. Way Forward for Gender-Responsive Workplaces

A sustainable path toward gender-responsive workplaces requires a more profound rearrangement of work culture and policy design, going beyond compliance-driven initiatives. Future changes must emphasize shared responsibility over placing the whole burden of care on women, even though the Maternity Benefit Act, 1961 (India) has laid a substantial basis. Gender-neutral parental leave helps dispel stereotypes and reduce discrimination against female employees in the workplace by encouraging fathers to assume more caregiving obligations.

Equally important is the institutionalization of flexible work ecosystems, such as hybrid models, adaptive working hours, and outcome-based performance evaluation systems. These tactics can more effectively satisfy a variety of needs without compromising productivity. Policymakers should consider including comprehensive reproductive health measures, like menstrual leave and wellness aid, within labor legislation in order to sustain worker engagement.

Organizational capacity development initiatives, such as gender sensitization training, explicit promotion criteria, and anti-discrimination monitoring systems, are essential for promoting an inclusive workplace. Investing in easily accessible and reasonably priced childcare services both within and outside of the office may help alleviate the cumulative stress that working mothers experience. To establish gender responsive workplaces, the government, businesses, and society must collaborate to reconsider work arrangements in a way that promotes care, equity, and dignity as fundamental to economic progress.

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