

JUDICIAL INTERVENTION IN MATERNITY PROTECTIONS: ADVANCING REPRODUCTIVE JUSTICE AND ECONOMIC RIGHTS IN INDIA

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ABSTRACT

Reproductive justice means being able to make informed decisions about one's own body. Maternity leave and benefits are an important aspect of reproductive justice, as women are able to carry out a safe pregnancy and childbirth with dignity and without economic insecurity. In India, maternity benefits ensure job security, continuity of income and access to healthcare during and after pregnancy. India's commitment to maternity protections can be seen through judicial interventions. The Supreme Court through landmark judgements such as *Suchita Srivastava vs Chandigarh Administration*, 2009, has recognized maternity leave as a facet of the right to life, health and personal liberty under Article 21 of the Constitution. More recently, in *K. Umadevi vs State of Tamil Nadu*, 2025, the court declared maternity leave and benefits to be a constitutional right, even beyond the two-child norm. Although maternity leave has been considered a fundamental right and given statutory protection under the Maternity Benefit Act, 1961, as amended in 2017, the Act primarily focuses on the formal sector and does not provide direct legal protection to working women in the informal sector. While courts in India have helped by recognizing maternity benefits as a basic right, challenges such as employer non-compliance, lack of awareness and workplace discrimination significantly reduce their effectiveness. There remains a clear gap between what the Constitution promises in terms of reproductive justice and what women, especially those working in the informal sector, actually experience in daily lives. This paper looks at whether judicial intervention has helped close this gap.

Keywords: Reproductive justice, Judicial intervention, Maternity benefits, Economic rights, Labour law reforms

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I. INTRODUCTION

Over the past few years, Indian judiciary has delivered some significant decisions ensuring that rights pertaining to reproductive rights of women are a vital part of their basic human rights which are protected under the constitution and the fundamental rights.³ Reproductive justice does not merely mean the freedom to take decisions pertaining to women's reproductive health but also means that those choices are made in such conditions so that they uphold their dignity, autonomy and security. Maternity protections are at the centre of reproductive justice because they directly affect the health of women, employment, and the economic rights as well. The ability of women to carry pregnancies safely and without losing employment as well as dignity is an important and crucial indicator of a just society.

The jurisprudence of reproductive justice has been increasing substantially, primarily through judicial interpretations. In terms of maternity benefits and maternity rights, judicial interventions over the years have resulted in it becoming a constitutional right under Article 21 and hence advancing reproductive justice and economic rights. The Indian Constitution, through fundamental rights recognises the vitality of material equality and not just formal equality and the courts have acted as protector of these rights.

In recent years, the discourse surrounding maternity protections has also expanded due to changing patterns of employment, increasing participation of women in various professions and changing understandings of family and caregiving structures. The rise of contractual employment, gig work and part-time labour has exposed significant lacunas within conservative labour law frameworks, particularly in extending social security and maternity protections to women outside the formal sector. At the same time, courts have highly identified that reproductive justice does not confine itself just to childbirth but also includes caregiving, bodily autonomy, privacy and the ability to take part equally in economic and social life. This shift reflects a broader constitutional vision that seeks to balance women's reproductive roles with their economic independence and professional aspirations. Consequently, maternity protection today is not just a welfare measure but an important part of social justice, gender

³ REPRODUCTIVERIGHTS.ORG,
<https://reproductiverights.org/wp-content/uploads/2020/12/RR-Indian-Courts-Web.pdf> (last visited on Aug. 28, 2025).

equality and inclusive constitutional governance. However, despite these advances, many challenges and gaps exist.

The need for this research emerges from the fact that despite having a strong constitutional foundation and legislative support, maternity protections often fail to reach the women in vulnerable and informal work settings. The problem does not only lie in legal recognition but also in implementation, accessibility and structural inequality. Therefore, a major question arises as to the extent to which the judicial intervention has succeeded in bridging the gap between the law and actual living experience. To address this question, it is required to look beyond judicial pronouncements and legislative provisions. By critically examining constitutional principles, important judicial pronouncements, legislations and practical challenges, this paper seeks to evaluate the court's role in shaping a stronger and just maternity protection system.

The paper explores the concept of reproductive justice and maternity rights. It deals with maternity protections as a part of reproductive justice and explores them as an intersection of law, gender and Labour. This study not only aims to highlight the progressive role of Indian judiciary but also to delve into its limitations in ensuring the accessibility, inclusivity, and effectiveness of maternity protections.

II. UNDERSTANDING REPRODUCTIVE JUSTICE AND MATERNITY RIGHTS

A. Concept and Definition

The World Health Organization (WHO) defines reproductive health as, a person's complete physical, mental, and social well-being in matters related to the reproductive system and its functions, and not just the absence of disease or illness. Sexual and reproductive health encompasses a wide range of services, including maternal and perinatal health care. Access to these services is considered a human right and should be universally available to all individuals throughout their lives, as an essential part of achieving universal health coverage.⁴ Hence, reproductive health including maternal health services, is a human right.

“Reproductive Justice means that every person has the right to make their own decisions about their body, sexuality, gender, and reproductive life. It also means that women and girls should

⁴ WHO.INT, <https://www.who.int/westernpacific/health-topics/reproductive-health> (last visited on Aug. 26, 2025).

have equal social, economic, and political support and resources so they can make safe, informed, and healthy choices for themselves, their families, and their communities.”⁵ In India, reproductive justice includes safe motherhood and access to health services, freedom from workplace discrimination during pregnancy, economic support to balance livelihood and childcare, and the recognition of women’s dignity and autonomy.

Reproductive rights are the rights wherein an individual gets a right to make their own sexual and reproductive decisions. “The term reproductive rights refer to both the legal protections that a government puts into place to allow someone autonomy over their body and their ability to make their own reproductive choices. Many people believe that reproductive rights are inherent to the human individual and cannot, or should not, be restricted in any way by legislation”⁶

Maternity rights are beyond health rights, these also bridge the gap between healthcare and economic survival, ensuring that a woman never has to decide between raising a child and earning a living. Because of this motherhood is much more than a simple biological event; it is as complex social and economic reality as well as a concern and is heavily dictated by variables like woman's access to education and her placement in workforce and an economic standing that determines her access to healthcare and healthy nutrition.

B. Child-Rearing and Caregiving As “Real Labour” - Feminist Approach

Analysing women's transition into the formal workforce i.e. organized labour, requires an equal valuation of the vital domestic caregiving roles they have traditionally held. Rather than denouncing this work, it can be more constructive to recognize and conceptualize care work as a legitimate and valuable form of labour in its own right. This approach acknowledges the essential social and economic contributions of care work and supports a more inclusive understanding of labour that encompasses both paid and unpaid efforts, thereby validating women's full range of experiences and roles.⁷

Feminist scholars pointed out that society enforces a gendered division, placing men in public roles like work and politics, while women remain in the private sphere responsible for domestic

⁵ BLACKRJ.ORG, <https://blackrj.org/our-causes/reproductive-justice/> (last visited on Aug. 26, 2025).

⁶ STUDY.COM, <https://study.com/academy/lesson/reproductive-rights-definition-healthcare-abortion.html> (last visited on Aug. 25, 2025).

⁷ Ira Chadha-Sridhar & Geetika Myer, Feminist Reflections on Labour: The “Ethics of Care” Within Maternity Laws in India, 13 SLR 2, 3 (2017).

tasks and family care, hence ignoring women's child-rearing and childcare as real labour. Labour law has historically focused on factory workers, recognising productive work and dismissing care work as secondary and repetitive. Feminist scholars such as Held, Sara Ruddick, and Eva Kittay spoke in favour of proper identification and valuation of caregiving labour in the societal frameworks and legal systems. Held argues that while care is undeniably a form of labour, it also encompasses much more, highlighting its multifaceted nature that goes beyond traditional definitions of work. This perspective calls for a deeper understanding and appreciation of caregiving as both an economic and social practice essential to the fabric of society.⁸ Some of them argued that this care work, if unpaid and ignored, can lead to women being dependent and trapped in the loop of inequality.

C. Intersection of Gender, Class and Economic Status

In India, maternity protection benefits are not the same for all women because it is shaped by gender norms, class divisions, economic inequalities, etc. which results in an experience of discrimination. It is sometimes seen as 'woman's problem' or 'woman's issue' and stereotypes like taking care of children is a woman's responsibility. Such stereotype and discrimination and bias is seen often at workplaces where employers hesitate to hire, promote such women fearing loss of productivity. Hence, in India social attitudes are still a barrier though judiciary has tried to dismantle it.

The statutory protections provided are often non-existent for women in informal sector. Poverty and economic status become a major barrier in India because for such women pregnancy can mean a loss of income and economic vulnerability. Poor and marginalised women face heavy burdens like pressure to continue working during pregnancy because of financial need, like in agriculture work.

The scale of this exclusion is substantial. According to data from the Periodic Labour Force Survey (PLFS) 2023-24, over 90 per cent of working women in India are engaged in the informal sector, primarily as self-employed or casual workers in agriculture, construction, and domestic work.⁹ The share of self-employed women in the total employed female workforce rose sharply to 67.4 per cent in 2023-24, up from 51.9 per cent in 2017-18, with the increase driven largely by necessity-based and unpaid household enterprise rather than productive

⁸ *Id.* at 7-8.

⁹ 'What's Going On with India's Female Labour Force Participation?', *IDR Online* (22 April 2026) <<https://idronline.org/article/gender/whats-going-on-with-indias-female-labour-force-participation/>> accessed 19 August 2026.

economic opportunity.¹⁰ As a result, the overwhelming majority of women workers operate entirely outside the statutory framework of the Maternity Benefit Act, 1961, leaving them without access to paid leave, job protection, or healthcare support during pregnancy.

D. International Perspective - Maternity Rights as Human Rights

Human rights instruments, International Conventions, labour organisations, among others, have recognised maternity protections to be essential in terms of social justice, health and gender equality, and have influenced Indian legislations and judicial interventions.

The Universal Declaration of Human Rights (UDHR) has established a principle for recognizing maternity protections as a fundamental human right. Article 25(2) states that mothers and children should receive special care and support, recognizing that such protection is important for ensuring human dignity and equality.¹¹

Article 10(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, requires countries to provide special protection to mothers pre and post the birth of a child. This includes paid leave or leave with proper social security benefits to support the health and well-being of mothers.¹² India has signed this convention.

Article 11(2) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979, requires countries to stop women from being dismissed from work because of pregnancy or maternity. It also ensures paid maternity leave or similar social benefits without loss of employment or seniority, protecting women's workplace rights during and after pregnancy.¹³

The International Labour Organization (ILO), through Convention No. 183 on Maternity Protection, 2000, has set international standards for protecting working mothers. The convention provides for at least 14 weeks of maternity leave with proper financial benefits. It

¹⁰ 'Share of Self-Employed Women Increased to 67% in 2023-24: PLFS Data', *Business Standard* (26 September 2024) <https://www.business-standard.com/economy/news/share-of-self-employed-women-increased-to-67-in-2023-24-plfs-data-124092601012_1.html> accessed 19 August 2026.

¹¹ UN.ORG, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited Aug 29, 2025)

¹² OHCHR.ORG,

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, (last visited Aug 24, 2025)

¹³ OHCHR.ORG,

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>, (last visited Aug 23, 2025)

also protects women from being dismissed during maternity and ensures healthcare services and nursing breaks for the health and well-being of mothers.¹⁴

The UN's 2030 Agenda for Sustainable Development highlights the importance of maternity protection across several goals which includes SDG 3 which promotes maternal and infant health by advocating for access to reproductive healthcare and safe working conditions during pregnancy. SDG 8 which recognises maternity protection as integral to decent work and SDG 5 which emphasises its part in increasing gender equality by enabling women to maintain labour market participation and economic independence.

III. STATUTORY PROVISIONS, CONSTITUTIONAL PROVISIONS AND POLICIES RELATING TO MATERNITY BENEFITS

A. Constitutional Provisions

Through both fundamental rights and directive principles of state policy, the Indian Constitution establishes a comprehensive system to protect women's maternity rights. In order to provide a secure and encouraging atmosphere where women can enjoy parenthood without sacrificing their dignity, health, or financial stability, these articles serve as guidelines for both the government and employers.

Article 14 of the Constitution of India gives equality before the law and equal protection of the laws to every person.¹⁵ Courts have consistently struck down the denial of maternity benefits and discrimination against women employees as violations of Article 14. The principle of equality under this article implies substantive equality, not merely formal equality, recognizing that women may require special protections, such as maternity benefits, to ensure true equality.

Similarly, Article 15(3) of the Constitution empowers the state to enact laws providing special protection for women and children. This provision acknowledges that formal equality alone is insufficient to achieve true gender equality, thereby allowing for measures that address the specific needs and challenges faced by women and children.¹⁶ This provision lays foundation for affirmative actions like maternity leave and other reproductive health benefits.

¹⁴ NORMLEX.ILO.ORG,
https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183,
(last visited Aug 24, 2025)

¹⁵ INDIA CONST. art. 14.

¹⁶ *Id.* art. 15(3).

Article 21 of the Constitution of India states that no person shall be deprived of their life or personal liberty except according to a procedure established by law.¹⁷ Article 21 has played a vital role in expanding maternity protections. The judiciary has consistently interpreted the right to life under Article 21 to encompass the right to live with dignity, including access to healthcare and safe conditions during pregnancy and childbirth. This broader interpretation ensures that maternity rights are protected as integral to a person's fundamental right to life.

Beyond the fundamental rights, legislative and judicial approaches to maternity protections have been greatly influenced by the Directive Principles of State Policy, notwithstanding their non-enforceability and non-justiciability. Specifically, Article 39(e) and (f) require the State to make sure that the health and strength of workers, especially women, and to protect childhood and youth from exploitation and conditions harmful to health. These principles serve as important policy guidelines to promote maternal and child welfare.¹⁸ Article 42 of the Constitution explicitly directs the State to provide just and humane conditions of work, including maternity relief. This article served as the primary constitutional foundation for the enactment of the Maternity Benefit Act, 1961, which aims to protect and support the rights of working women during pregnancy and maternity.¹⁹ Article 47 of the Constitution imposes a duty on the State to improve the level of nutrition and the standard of living of the people. This responsibility is directly connected to maternal and child health, particularly during pregnancy, as better nutrition and living conditions are essential for the well-being of both mother and child.²⁰

The Supreme Court has invoked Article 42 in conjunction with Article 21 to affirm that maternity protections are fundamental to upholding human dignity and promoting social justice. This judicial approach underscores the importance of safeguarding the rights and well-being of women during pregnancy and motherhood as essential components of constitutional rights.

B. Legal and Statutory Provisions

In India, statutes are crucial to the realization of the constitutional guarantees found in the Directive Principles of State Policy (DPSPs) and fundamental rights. The Maternity Benefit Act of 1961 is the most important of the many laws pertaining to maternity protection.

¹⁷ *Id.* art. 21.

¹⁸ *Id.* arts. 39(e) & 39(f).

¹⁹ *Id.* art. 42.

²⁰ *Id.* art. 47.

Maternity protection was initially proposed in the Bombay Legislative Council on July 28, 1928, with the backing of prominent figures such as B. R. Ambedkar. Following independence, on December 12, 1961, the Indian government passed the Maternity Benefit Act, which, in accordance with international norms, provided conditional benefits for pregnancy, childbirth, and related complications.

The Maternity Benefit Act, 1961 was enacted to regulate the employment of women in certain establishments during and after childbirth and to provide maternity benefits. The act was enforced across all establishments whether factories, mines, plantations, or government-owned facilities and also covered venues where individuals were employed to perform equestrian, acrobatic, or similar acts. It also applied to any shop or establishment employing ten or more people. The key enhancement of the 1928 act over its minimal original form was extending its provisions to industrial, agricultural, and commercial establishments.²¹

To be able to qualify for maternity advantages under the Act, a woman must satisfy certain criteria. First, she must work at a place that falls under the Act, such as a factory, mine, plantation, shop, or any other workplace employing ten or more people. Second, she must have worked at least 80 days in the same workplace during the 12 months leading up to her anticipated delivery date. Importantly, whether her employment is permanent, temporary, or contractual does not impact her eligibility, as long as the other conditions are met.

Under the act, the primary benefit is paid maternity leave as outlined in section 5: women with less than two alive children are eligible for 26 weeks, whereas those with two or more children receive 12 weeks. This leave may be used up to eight weeks before the anticipated due date, with the rest taken after childbirth.²² Section 9 of the Act entitles women who has had a miscarriage or undergo a medical termination of pregnancy to six weeks of paid leave. This leave is approved right after the incident, provided medical documentation is submitted. This provision guarantees women sufficient time to physically and emotionally recover from such experiences.²³ Under Section 9A, a woman who has a tubectomy surgical procedure for sterilizations entitled to two weeks of paid leave after the surgery. This provision recognizes the importance of post-operative recovery and helps women make reproductive health choices without jeopardizing their jobs.²⁴ Section 10 of the Act covers health issues that can result from

²¹ Mihir Madhekar, Aayush Khurana, Ashish Bagewadi & Devang Dhingra, An Overview of the Maternity Benefits Act in India and Comparison with Select Countries, 7 IJRAR 100, 103 (2020).

²² The Maternity Benefit Act, 1961, s. 5, No. 53 of 1961 (India).

²³ *Id.* s. 9.

²⁴ *Id.* s. 9A.

pregnancy, childbirth, premature birth, miscarriage, or medical abortion. In such cases, women are eligible for an extra one month of paid leave. This safeguard prevents women from being compelled to return to work too soon while managing serious health issues.²⁵ Following their return to work after maternity leave, women are entitled under Section 11 to two nursing breaks each day until their child turns 15 months old. These breaks, beyond standard rest periods, are intended to assist with breastfeeding and infant care, enhancing the health and welfare of both mother and child.²⁶

The Maternity Benefit (Amendment) Act, 2017 represented a major reform in Indian labour legislation, especially regarding the rights and well-being of working women. It was introduced to bring Indian maternity laws in line with international standards and to meet the changing needs of working mothers in today's workforce. The Act increased paid maternity leave to 26 weeks for women having fewer than two surviving children, while keeping the 12-week benefit for those with two or more. It also provided 12 weeks of leave to adoptive mothers of infants under three months and commissioning mothers utilizing surrogacy. To assist with childcare, businesses employing 50 or more staff are now required to offer a crèche, permitting women four daily visits that include rest breaks. Moreover, the Act offers a flexible work-from-home arrangement after maternity leave, provided both parties agree and the nature of the job permits it. Employers must also provide women with written and electronic notifications about their maternity entitlements at the time of hiring, promoting clarity and awareness of their rights.²⁷ In India, the Maternity Benefit Act serves as the main law for maternity protection, complemented by other labour and social security laws. Among the earliest is the Employees' State Insurance (ESI) Act, 1948, providing health and financial assistance during sickness, pregnancy, and work-related injuries, alongside the Factories Act, 1948, which originally contained maternity benefit provisions now largely superseded by the Maternity Benefit Act, 1961. Nevertheless, it safeguards pregnant workers by prohibiting hazardous tasks, night shifts, and heavy lifting. It also demands clean restrooms, proper airflow, and essential medical services to help maintain their health. The Code on Social Security, 2020 consolidates existing labour laws, such as the Maternity Benefit Act and the Employees' State Insurance Act.

A major recent legislative move in this area is the introduction of the Maternity Benefit for Women in the Unorganised Sector Bill, 2023, in the Rajya Sabha. The Bill aims to remedy the

²⁵ *Id.* s. 10.

²⁶ *Id.* s. 11.

²⁷ Nandini N., An Analysis of the Maternity Benefit Act, 1961, 6 IJRPR 7921, 7925 (2025).

long-standing omission of women who are working in the unorganised sector from formal maternity protection legislation. The bill introduces state-funded maternity benefits and welfare provisions tailored for these workers. It establishes a National Maternity Welfare Board and a Maternity Benefit Fund to guarantee financial and healthcare assistance throughout pregnancy and childbirth. The Bill acknowledges that women working in domestic roles, agriculture, construction, home-based jobs, and other informal sectors frequently face a lack of job security, paid leave, and access to social security benefits.²⁸ Although the Bill has not yet been enacted, it reflects an important policy shift towards extending reproductive justice and social security protections beyond the organised sector. Its introduction also highlights the growing acknowledgment that maternity protection must be viewed as a universal socio-economic right rather than a privilege limited to formal employment structures.

Another important recent legislative development is the introduction of the Paternity and Parental Benefit Bill, 2025, which reflects the growing recognition that childcare and caregiving responsibilities should not fall solely upon women. The Bill seeks to provide paternity leave and parental benefits to fathers and other caregivers, thereby promoting a more gender-inclusive approach to family welfare and labour rights.

It recognises that the absence of paternity leave reinforces traditional stereotypes that childcare is exclusively a woman's responsibility, which indirectly contributes to workplace discrimination against women. By encouraging shared parenting responsibilities, the Bill aims to advance substantive equality within both the family and the workplace. The bill proposes mandated paid paternal leave for all employees, aiming for equal parenting roles and improved work-life balance. It includes provisions for 8 weeks of paid leave and 8 weeks of shared parental leave, building upon previous 2017 proposals.

C. Policies - Government Schemes, Welfare Programmes and Workplace Policies

Considering women's social and economic rights including ensuring a safe pregnancy, postnatal care, and protection of women from wage loss during and post the period of pregnancy, the Government of India over the years has launched and introduced various schemes, welfare programmes and workplace policies.

²⁸ KSANDK.COM,

<https://ksandk.com/newsletter/india-introduces-maternity-benefit-for-women-in-unorganised-sector-bill/>,
(last visited Aug. 27, 2025).

National Health Mission's Janani Suraksha Yojana (JSY) is a safe motherhood scheme started to reduce the deaths of mothers and newborn babies. The scheme encourages poor pregnant women to deliver their babies in hospitals and health centres. It was launched on 12 April 2005 by the Prime Minister and is being implemented in all States and Union Territories, with special focus on low-performing states. JSY is fully funded by the Central Government and provides cash assistance along with pregnancy and post-delivery healthcare services.²⁹ This scheme replaced the National Maternity Benefit Scheme.

Another similar initiative is the Janani Shishu Suraksha Karyakaram (JSSK), introduced on June 1, 2011, by the Government of India under the National Health Mission. It offers free and cashless maternity care to all pregnant women giving birth in government health facilities, as well as to newborns or infants up to thirty days old who are ill. The benefits cover free normal and C-section deliveries, medicines, diagnostic tests, blood, meals during hospitalization, and free transportation to and from the hospital, among other things. Therefore, promoting institutional deliveries and reducing maternal and infant mortality. It has been implemented in several states, including Assam and Tamil Nadu, among others.

In 2017, the Pradhan Mantri Matru Vandana Yojana (PMMVY) replaced the Indira Gandhi Matritva Sahyog Yojana (IGMSY). This scheme was introduced to support the health and nutrition of pregnant and breastfeeding women by providing cash benefits to mothers during pregnancy and after childbirth.³⁰

The Pradhan Mantri Matru Vandana Yojana (PMMVY) is a centrally sponsored scheme launched by India's Ministry of Women and Child Development to support pregnant women and breastfeeding mothers. The scheme provides maternity benefits to women from economically and socially weaker sections. These benefits are available for the first two living children, but for the second child, the benefit is given only if the child is a girl.³¹ This scheme covers employed women, aged 19 years and suffer wage loss due to pregnancy. It excludes those women who are in regular government or PSU jobs or who are already receiving similar benefits. For the first child, women are provided financial assistance of Rs. 5,000/- in two instalments on pregnancy registration, antenatal care, childbirth registration and child

²⁹ NHM.GOV.IN, <https://www.nhm.gov.in/index1.php?lang=1&level=3&sublinkid=841&lid=309> (last visited on Aug. 24, 2025).

³⁰ PRESS INFORMATION BUREAU, <https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=101782®=3&lang=2> (last visited Aug. 24, 2025).

³¹ MY SCHEME, <https://www.myscheme.gov.in/schemes/pmmvy> (last visited Aug. 25, 2025).

immunization, along with additional benefits under the Janani Suraksha Yojana, making it around Rs. 6,000/-.

Additionally, under the updated guidelines for 'Mission Shakti', effective from 01.04.2022, the scheme (PMMVY 2.0) aims to encourage positive behavioural change regarding the girl child by offering an extra cash incentive for the second child, provided that child is a girl. Therefore, for the second child, the ₹ 6,000 benefit is to be disbursed in a single payment after birth. This would help improve the Sex Ratio at Birth by discouraging the selective abortion of female foetuses. In the case of miscarriage or stillbirth, the beneficiary will be considered a new beneficiary for any subsequent pregnancy.³²

Government of India launched Ayushman Bharat on the recommendation of the National Health Policy, 2017, to achieve the goal of health care for all. The scheme was started in line with the Sustainable Development Goals (SDGs) and the idea of ensuring that no one is left without healthcare services. In February 2018, the Government announced the setting up of 1,50,000 Health and Wellness Centres (HWCs) by improving existing Sub Centres and Primary Health Centres. These centres aim to provide better primary healthcare services closer to people's homes. They offer services related to maternal and child health, treatment for diseases, free essential medicines, and diagnostic tests.³³ This scheme is India's largest government-funded health insurance programme. Under the Pradhan Mantri Jan Arogya Yojana (PMJAY-Ayushman Bharat), pregnant women from poor families are given health insurance coverage of up to ₹5 lakh, which covers maternity and childbirth expenses.

The Employees' State Insurance Act of 1948 provides insured women with medical treatment and paid maternity leave, among other workplace policies. If a woman has contributed for at least 70 days during the qualifying period, maternity benefits include full wage payments for up to 26 weeks in the event of pregnancy, six weeks in the event of miscarriage or medical termination of pregnancy, and an extra month of leave for illness resulting from pregnancy. Additionally, disablement payments, which are payable from the first day of incapacity (if it lasts longer than three days), guarantee around 90% of salaries for insured individuals during temporary disability brought on by an occupational injury. Central government employees' leave entitlements are governed by the Central Civil Services (Leave) Rules, 1972, which

³² *Id*

³³ NATIONAL HEALTH AUTHORITY, <https://nha.gov.in/PM-JAY> (last visited Aug. 25, 2025).

encompass a variety of leave kinds, such as 180 days of maternity leave, leave for child adoption, and paternal leave for men.

IV. COMPARATIVE PERSPECTIVE - GLOBAL APPROACHES TO MATERNITY PROTECTION

A comparative study of maternity protection laws across different jurisdictions shows that many countries increasingly recognize maternity benefits as an important part of social security, gender equality and labour welfare. While India has made significant progress through constitutional interpretation and legislative reforms, several foreign models provide broader and more inclusive protections, particularly through state-supported social insurance systems and shared caregiving policies.

In the United Kingdom, maternity protections are provided by way of the Statutory Maternity Pay (SMP) and Maternity Allowance. Eligible women are given a paid maternity leave while retaining employment protection.

Employers initially provide payments but are reimbursed substantially by the government, it reduces the financial weight on private employers. This shared funding model helps in minimising workplace discrimination against women during hiring and promotions.³⁴

Canada also adopts a social insurance-based system under its Employment Insurance programme, where maternity and parental benefits are provided collectively by collections made by employers and employees.³⁵ This approach ensures that maternity protection is treated as a matter of public welfare rather than merely an employer's obligation.

In contrast, the United States has comparatively weaker maternity protections at the federal level. The Family and Medical Leave Act (FMLA), 1993 only guarantees unpaid leave for eligible employees and does not mandate universal paid maternity leave, resulting in financial insecurity for many women.³⁶

³⁴ IONOS DIGITAL GUIDE,
<https://www.ionos.co.uk/digitalguide/startup/grow-your-business/maternity-leave-holidays/>, (last visited. May 05, 2026).

³⁵ GOVERNMENT OF CANADA,
<https://www.canada.ca/en/services/benefits/ei/ei-maternity-parental.html>, (last visited May. 05, 2026).

³⁶ UNITED STATES DEPARTMENT OF LABOR,
<https://www.dol.gov/general/topic/benefits-leave/fmla>, (last visited May. 06, 2025).

Sweden has one of the most generous parental leave systems in the world. Parents are given 480 days of paid leave for each child, which can be shared between both parents. Out of these, 105 days are specially reserved for mothers after childbirth. Parents receive about 80% of their salary for 390 days, while the remaining 90 days are paid at a fixed lower amount.³⁷

In Sweden, maternity and parental benefits are paid through social insurance schemes, so employers do not have to bear the full cost. The country provides long parental leave that can be shared by both parents, encouraging equal responsibility in taking care of children and reducing discrimination against women at the workplace. This system recognises that childcare is not only a woman's duty but a shared responsibility of both parents and society. Norway similarly provides paid parental leave funded through public social security mechanisms, ensuring economic security during childbirth and early childcare.³⁸

V. JUDICIAL INTERVENTION IN MATERNITY PROTECTIONS IN INDIA

Judiciary has been instrumental in reshaping maternity protections from narrow statutory assurance to now broad spectrum of constitutional rights and has interpreted the Statutes and the Constitution purposively to invalidate discriminatory workplace policies, rules regarding pregnancy.

In one of the earliest cases i.e. *Bombay Labour Union vs International Franchises Pvt. Ltd.* (1965), the Supreme Court, struck down a company rule that made women quit their jobs after getting married, stating that the rule was unfair, discriminatory and pointed out that getting married doesn't make a woman less capable at work and that maternity leave can be handled without punishing her. The judgment also made it clear that courts can step in when workplace rules are unreasonable.³⁹ This case was one of the early signs that Indian law was starting to support gender equality at work. Early court decisions established two lasting rules. Firstly, maternity laws are meant to help and should be interpreted generously. Secondly, treating someone unfairly because of pregnancy goes against the Constitution's promise of equality.

³⁷ FORSAKRINGSKASSAN, <https://www.forsakringskassan.se/english/parents/if-you-are-expecting-a-child/checklist-for-expectant-parents> (last visited May 06, 2025).

³⁸ INFO NORDEN, <https://www.norden.org/en/info-norden/parental-benefit-sweden> (last visited May. 06, 2025).

³⁹ *Bombay Labour Union v. International Franchises Pvt. Ltd.*, AIR 1966 SC 942 (India).

In the case *B. Shah vs Presiding Officer, Labour Court*, the Supreme Court ruled that the term “week” under the Maternity Benefit Act includes rest days like Sundays and benefits should include Sundays and cannot be left out by employers to reduce benefits as the law is meant to support and protect workers.⁴⁰

In the case of *Air India vs Nergesh Meerza*, the Supreme Court held that the such employment rules are invalid, unfair and violative of Articles 14, 15 and 16 which dismiss an air hostess for becoming pregnant or marrying within four years of joining as pregnancy cannot be used as a reason to force someone out of their job.⁴¹

Judicial attention then shifted from salary calculations to deeper concerns of dignity and privacy. In *Neera Mathur vs LIC*, the Supreme Court criticized such job application/ forms which invade privacy by asking personal gynaecological information and ruled that using such details to deny someone probation was a violation of their privacy and basic dignity.⁴²

The Kerala High court, in the case of *Ram Bahadur Thakur (P) Ltd. vs Chief Inspector of Plantations*, 1989, upheld a woman worker’s right to maternity benefits under the Maternity Benefit Act, 1961. Her employer had denied the claim stating she had not completed the required 160 days of work. The Kerala High Court held that four half days be equated to full days, totalling 161. It stressed that social welfare laws must be interpreted liberally to protect women’s workplace rights.⁴³ In *Rattan Lal and Ors. Vs. State of Haryana and Ors.* (1985), The Supreme Court held that the ad hoc i.e. temporary teachers should get the same service benefits as regular teachers.⁴⁴

A major shift occurred in *Municipal Corporation of Delhi vs Female Workers (Muster Roll)*, 2000 judgement wherein Supreme Court dismissed the argument that the Maternity Benefit Act didn’t apply to casual workers. The Court emphasized that maternity protection is a matter of human dignity and constitutional rights and it granted benefits regardless of the workers’ temporary status. This landmark judgment has since supported legal recognition of ongoing employment and equal treatment for workers in unstable or informal jobs.⁴⁵

⁴⁰ *B. Shah v. Presiding Officer, Labour Court*, (1977) 4 SCC 384 (India).

⁴¹ *Air India v. Nergesh Meerza*, (1981) 4 SCC 335 (India).

⁴² *Neera Mathur v. Life Insurance Corporation of India*, (1992) 1 SCC 286 (India).

⁴³ *Ram Bahadur Thakur (P) Ltd. v. Chief Inspector of Plantations*, (1989) 2 LLJ 20 (India).

⁴⁴ *Rattan Lal v. State of Haryana*, AIR 1987 SC 478 (India).

⁴⁵ *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224 (India).

In *Punjab National Bank by Chairman and Anr. vs Astamija Dash and Astamija Dash vs. Punjab National Bank and Anr*, the court looked at the Bank's rules which didn't include maternity leave or other benefits that women are entitled to under the Maternity Benefit Act, 1961. The court said this was unfair, especially in the case of a woman who had suffered a miscarriage. It explained that equality under Article 14 of the Constitution isn't just about treating everyone the same it also means recognizing different needs and giving fair treatment based on individual circumstances.⁴⁶

Though not directly about jobs, important reproductive rights cases have shaped how courts think about maternity benefits. In *Suchita Srivastava vs Chandigarh Administration*, 2009 case, SC affirmed that reproductive choice is part of the right to privacy, dignity and bodily autonomy under Article 21. It emphasized that consent is central, even within the limits of the Medical Termination of Pregnancy (MTP) Act.⁴⁷

Later it was affirmed by the judiciary that, in the case of *X vs Principal Secretary, Health & Family Welfare, NCT of Delhi*, 2022, abortion up to 24 weeks are universally accessible to women, completely independent of their marital standing. It interpreted Rule 3B broadly and rejected distinctions based on marriage. This focus on equality and autonomy has influenced workplace rulings, where maternity leave is increasingly seen as part of reproductive justice, not just a discretionary benefit.⁴⁸

In *Vandana Kandari vs University of Delhi*, 2010, the judiciary acknowledged that the law must not permit mediocrity to take root in the educational system through legal provisions, but it emphasized that the Act seeks to promote dignified motherhood and aligns with the Constitution's provisions for special care and support for women and children. Hence, relaxation of eligibility rules is permissible for female students if they are not able to attend classes because of late-stage pregnancy.⁴⁹

In *Kakali Ghosh vs Chief Secretary, A & N Administration*, 2014, Kakali Ghosh had requested two years of leave to support her son during his school exams, but the authorities only granted her 45 days. The Court found no valid reason for denying the rest and clarified that the rules allow CCL to be taken in multiple spells or all at once depending on the situation. The Supreme

⁴⁶ *Punjab National Bank by Chairman and Anr. vs. Astamija Dash and Astamija Dash vs. Punjab National Bank and Anr*, 2008 (14) SCC 370 (India).

⁴⁷ *Suchita Srivastava v. Chandigarh Administration*, AIR 2009 SC 2359 (India).

⁴⁸ *X v. Principal Secretary, Health & Family Welfare Department, Government of NCT of Delhi*, (2022) 10 SCC 1 (India).

⁴⁹ Chadha-Sridhar & Myer, *supra* note 7, at 18.

Court ruled that a female government employee has the legal right to utilize her entire 730 days of Child Care Leave entitlement in one single stretch or consecutively without any mandatory breaks or uninterrupted period.⁵⁰

In *P. Geetha vs Kerala Livestock Development Board Ltd.*, the Kerala High Court faced the question of whether a woman could claim maternity leave if her child was born through surrogacy. The Court ruled that she was not eligible for leave as maternity leave under the Act is meant to support women who experience the physical demands of pregnancy and childbirth. The judgment clarified that the Maternity Benefit Act is focused on safeguarding the health of the birth mother not on childrearing responsibilities so leave could not be granted for either the pre-natal or post-natal period in such cases.⁵¹

In *Deepika Singh vs Central Administrative Tribunal, 2022*, SC held that maternity leave and childcare leave are separate rights. It ruled that a woman cannot be denied maternity leave for her own child because she earlier took childcare leave for her spouse's children. The Court also recognized "atypical families" like single-parent, blended and queer households, affirming their equal protection under social welfare laws.⁵²

Referring to this case and international conventions, the Court held in the landmark case of *K. Umadevi v. State of Tamil Nadu, 2025*, that children from a dissolved marriage cannot disqualify a woman from claiming maternity benefits for her first child in a new marriage. In this case, a government school teacher was denied maternity leave under FR 101(a) because she had two children from a previous marriage, despite the fact that they were in her ex-husband's custody and her current pregnancy was from a second marriage. While Madras High Court upheld her right to maternity benefits as a welfare measure, Division Bench reversed the decision citing a state policy that restricted leave to women with fewer than two surviving children. On appeal, SC ruled that maternity leave is a component of reproductive rights under Article 21 and must be interpreted liberally, balancing state population control policies with constitutional guarantees. It set aside the Division Bench's judgment and directed the State to grant leave and release the benefits within two months.⁵³

In the latest *Hamsaanandini Nanduri v. Union of India (2026)*, the Court further strengthened the constitutional understanding of maternity and reproductive rights in the context of modern

⁵⁰ *Kakali Ghosh v. Chief Secretary, Andaman & Nicobar Administration*, (2014) 15 SCC 300 (India).

⁵¹ *P. Geetha v. Kerala Livestock Development Board Ltd.*, 2015 SCC OnLine Ker 71 (India).

⁵² *Deepika Singh v. Central Administrative Tribunal, 2022* SCC OnLine SC 1088 (India).

⁵³ *K. Umadevi v. State of Tamil Nadu, 2025* INSC 781 (India).

employment structures and gender justice. The case highlighted the continuing barriers faced by working women in accessing effective maternity protections despite statutory guarantees. The Court emphasized that maternity benefits cannot be treated merely as employment concessions but must be viewed as integral to dignity, equality and reproductive autonomy under Articles 14, 15 and 21 of the Constitution. It reiterated that constitutional protections must evolve alongside changing forms of labour and social realities, particularly for women engaged in precarious and non-traditional work arrangements. The judgment reflects the judiciary's growing recognition that reproductive justice includes not only formal legal rights but also meaningful socio-economic support that enables women to balance motherhood and livelihood with dignity.⁵⁴

Additionally in the same case, the Supreme Court recommended and called upon the Central Government to introduce, draft and legislate statutory provisions for paternity leave, noting that child rearing responsibilities must be shared equally between both parents and requires equal participation from both parents.⁵⁵

VI. GROUND REALITIES - GAPS & CHALLENGES

Judiciary has intervened and advanced maternity protections and reproductive justice. But gaps and challenges still exist some of which are as follows: -

A. Limited Scope of Legislations

For working women, the Maternity Benefit Act, 1961 mainly applies in settings and places like factories, shops and offices that meet certain size requirements. But many women in India such as those who work seasonally, casually, in homes, on farms or are self-employed aren't covered by this law. Even though the courts have sometimes expanded maternity benefits to casual workers, the law itself still leaves them out which is a major problem.

A private member's bill, titled "The Maternity Benefit for Women in the Unorganised Sector Bill, 2023," was also introduced in Rajya Sabha to offer state-backed maternity benefits to women in the unorganised sector through the creation of a National Maternity Welfare Board, a Maternity Benefit Fund, and related matters.⁵⁶ But it has not yet been passed into law.

⁵⁴ Hamsaanandini Nanduri v. Union of India, 2026 INSC 246 (India).

⁵⁵ *Id.*

⁵⁶ DIGITAL SANSAD,

The Union Government has stated that the existing Code on social security, 2020 already contains enabling provisions to frame welfare schemes which include health and maternity benefits. However, this code has not yet come into force and specific, guaranteed entitlements and implementation mechanisms for informal workers are largely left to future scheme notifications which again creates gap in coverage.

B. Vague Eligibility Conditions

To get maternity benefits under the law, a woman should have worked for minimum 80 days in the past year and her workplace must have at least 10 employees. These rules leave out many women who work on short-term jobs, gig work or irregular shifts even though they make up a large part of the female workforce.

C. Employer Evasion

Some employers avoid giving maternity benefits by using short-term contracts, hiring workers casually or through contractors or by not signing up for official benefit schemes. While courts have tried to stop this in individual cases, the widespread use of such hiring practices still makes it easy for employers to deny women their legal rights.

D. Workplace and Hiring Discrimination

Many employers treat women unfairly when hiring especially if they've recently had a baby or are likely to have children. Such women are often seen as a liability because of the cost of maternity leave and other related things. Due to this, women may not be considered for promotions, forced to quit after having a child and sacrifice their career. This kind of treatment creates a stigma and is against right to equal treatment at work.

Empirical data confirms that this discrimination is widespread and systematic. A 2026 survey conducted by Naukri, covering over 50,000 women professionals across more than 50 industries, found that one in two women hesitated to disclose their marriage or maternity plans during job interviews out of fear of bias, with the reluctance rising with professional experience.⁵⁷ The Aon Voice of Women Study 2024, one of the largest pan-India surveys of working women covering over 24,000 respondents across more than 560 companies, found that 75 per cent of working mothers experienced a career setback of one to two years upon returning

https://sansad.in/getFile/BillsTexts/RSBillTexts/Asintroduced/06_Maternity%20benefit_KRsuresh-E29202470731PM.pdf?source=legislation, (last visited, Aug 29, 2025)

⁵⁷ 'What Women Professionals Want: Voices @ Work', *Naukri* (6 March 2026) <<https://www.naukri.com/blog/50-women-hide-marriage-maternity-plans-amid-bias-fears/amp/>> accessed 19 August 2026.

from maternity leave, with nearly 40 per cent reporting a negative impact on their pay directly attributable to having taken maternity leave.⁵⁸ These findings demonstrate that legal prohibitions on discrimination, while necessary, are insufficient without robust enforcement mechanisms and a structural shift in how employer obligations are financed.

E. Accessibility and the Digital Divide

Today, many government maternity schemes ask women to register online, link their Aadhaar and complete digital verification. However, women in rural areas and poverty ridden communities or who are digitally illiterate miss out on the support and benefits that they are entitled to. This gap in access makes existing social and economic inequalities even worse.

F. Social Attitudes, Population Pressure and Poverty

In India, many people still hold outdated views that see women mainly as caregivers which often discourages them from working outside the home. Due to poverty and exploding population, many women do not have choice but to resume work immediately after childbirth often in unsafe and unfair circumstances. Because of this the mother as well as the child are at risk.

G. Constitutional Principles Vs Reality

The Indian Constitution strongly supports maternity protections through rights and policy guidelines. But in reality, many women in unstable or informal jobs still face unfair treatment and don't get these protections. For example, while the Supreme Court in *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* (2000) extended maternity benefits to daily-wage workers, in practice most casual and contractual women workers still remain excluded because employers exploit legal loopholes or fail to implement benefits.

H. Gaps in The Maternity Benefit (Amendment) Act, 2017

This Act was praised for increasing maternity leave from 12 to 26 weeks. But despite this improvement, the law has several major problems. It places the total cost of maternity leave on employers which has led many to avoid hiring women who might have children, making workplace inequality worse.

⁵⁸ 'Maternity Penalty: 75% Mothers Face Career Hurdles After Leave – Report', *Business Standard* (10 August 2024) <https://www.business-standard.com/india-news/maternity-penalty-75-mothers-face-career-hurdles-after-leave-report-124081000274_1.html> accessed 19 August 2026.

Empirical evidence corroborates this concern. A TeamLease Services survey estimated that the 2017 Amendment could result in job losses for approximately 1.1 to 1.8 million women across ten major sectors within the first year of implementation, as employers, particularly small and medium enterprises, sought to reduce their exposure to the full cost of extended maternity benefits.⁵⁹ This cost-burden model, under which the employer bears the full financial liability for maternity leave without any state subsidy, distinguishes India from comparator jurisdictions such as Sweden, Canada, and the United Kingdom, where maternity and parental benefits are funded through social insurance systems and thereby distributed across society rather than being borne solely by individual employers.

I. Maternity Protections and the Gig & Platform Economy

In recent years, many women in India have started working in the gig and platform economy through apps and online platforms such as food delivery, domestic work and freelancing services. These jobs provide flexible working hours, but women working in this sector usually do not receive or get maternity benefits and social security protections.

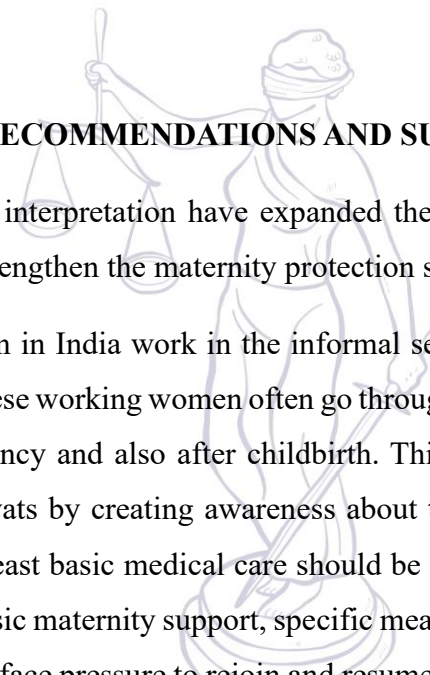
The Maternity Benefit Act, 1961 mainly applies to traditional employer-employee relationships. Given that gig workers are frequently categorized as “independent contractors” and not employees, platform companies avoid providing paid maternity leave, healthcare support and job security during pregnancy. As a result, women working in the gig economy often face financial insecurity and are forced to resume working even during pregnancy due to economic need.

The Code on Social Security, 2020 although recognises gig and platform workers, it does not clearly guarantee maternity benefits for them. This creates a major gap in the law and leaves a huge number of women workers outside the protection of maternity laws. Hence, there is a need to extend maternity protections and social security benefits to women who are working in the gig and platform economy to make sure there is reproductive justice and economic security.

The urgency of this gap is underscored by the projected expansion of gig work in India. The Economic Survey 2025-26 projects that non-agricultural gig work could constitute up to 6.7 per cent of India's total workforce by 2029-30, rising from approximately 1 crore gig workers

⁵⁹ ‘Maternity Benefits May Cost 1.8 Million Indian Women Their Jobs’, *Gulf News* <<https://gulfnews.com/amp/story/world%2Fasia%2Findia%2Fmaternity-benefits-may-cost-18-million-indian-women-their-jobs-1.2242854>> accessed 19 August 2026 (reporting TeamLease Services survey).

in 2024-25 to an estimated 2.35 crore by that year.⁶⁰ Women currently constitute approximately 28 per cent of the platform economy workforce, a share that is expected to grow alongside expanding service sectors such as domestic care, beauty services, and home-based enterprises.⁶¹ Without dedicated, enforceable maternity protections for this segment, a structurally significant and rapidly growing proportion of India's female workforce will continue to lack support at one of the most economically and physically vulnerable periods of their lives.



VII. RECOMMENDATIONS AND SUGGESTIONS

Judicial intervention and interpretation have expanded the meaning of maternity rights but, ensuring justice and to strengthen the maternity protection system reforms are necessary.

A huge number of women in India work in the informal sectors where maternity protections almost do not exist and these working women often go through many social as well as economic difficulties during pregnancy and also after childbirth. This sector can be regulated through local bodies like Panchayats by creating awareness about the rights of women for maternity protection. Similarly, at least basic medical care should be available at the grassroot level. To ensure that women get basic maternity support, specific measures should be provided as a large number of Indian women face pressure to rejoin and resume work immediately after childbirth due to financial constraints.

Maternity rights must be provided to everyone i.e. women, irrespective of where they work or what kind of job they do. This would include women who work on contracts, for daily wages, are self-employed or work from home. To bring this to reality, maternity benefits should stay with the workers no matter where they work and not limited to some establishments.

There is need to make the procedures simple to get maternity benefits through various government schemes because women who do not have access to digital platforms or who are unaware of the schemes. This means using simple words and sharing information through

⁶⁰ 'India's Gig Economy Is Growing Faster than Its Protections', *East Asia Forum* (9 April 2026) <<https://eastasiaforum.org/2026/04/09/indias-gig-economy-is-growing-faster-than-its-protections/>> accessed 19 August 2026; 'Gig and Platform Economy in India', *PW Only IAS* <<https://pwonlyias.com/current-affairs/gig-and-platform-economy-in-india/>> accessed 19 August 2026.

⁶¹ Anand Nandkumar and Ankita Sharma, 'Women's Inclusion in the Gig Economy: An Unfulfilled Promise' (Indian School of Business), cited in 'Gig Work, Big Gaps: Women in India's Gig Economy', *Lee Kuan Yew School of Public Policy* (11 July 2025) <<https://lkyspp.nus.edu.sg/gia/article/gig-work--big-gaps--women-in-india-s-gig-economy>> accessed 19 August 2026.

trusted local people like Anganwadi workers, ASHAs and self-help groups. Tools like community radio, street plays and village meetings can reach women who don't read or use smartphones. They should be told about their rights like paid leave, medical care and crèche facilities under laws such as the Maternity Benefit Act and ESI Act. When women know what they're entitled to, they're more likely to ask for it and get the support they need.

At the workplace, the use of the word "rights" often creates resistance or a negative impression among employers. In some cases, the employers do not hire women employees to evade the maternity protection obligations. Therefore, it is necessary to promote education and literacy about gender issues and the hardships faced by women during the pre- and post-maternity periods both in organized as well as unorganized sectors.

The comparative analysis of foreign countries shows that India should move towards a system where the cost of maternity benefits is shared through social insurance, instead of making employers bear the entire financial burden alone. Countries such as Sweden, Norway and Canada fund maternity and parental benefits through state-supported social security systems, which reduces workplace discrimination against women and promotes greater gender equality in employment. India can adopt a similar approach by creating a national maternity social insurance fund financed jointly by the State, employers and social security contributions. Such a system would not only reduce employers' reluctance to hire or promote women but would also ensure wider coverage for women working in informal, contractual and gig sectors.

Code on Social Security, 2020 can be amended to include specific, enforceable chapters on informal sectors rights, moving away from "notified schemes" that are subject to bureaucratic discretion. Further, India should gradually encourage shared parental leave policies so that caregiving responsibilities are distributed more equally between both parents, thereby challenging traditional gender stereotypes and advancing substantive equality in the workplace.

The 2017 law dictate that any establishment with a workforce exceeding 50 individuals must offer day care i.e. must provide crèche facilities, but it hasn't worked well. Many employers don't follow the rule or offer poor-quality care because the guidelines are unclear and enforcement is weak. To fix this, there should be clear rules on safety, staff, location and hours so mothers across all shifts can use them. Instead of each company building its own crèche, shared childcare centres in industrial areas and tech parks should be promoted. Government and NGO-run crèches can also support women in informal jobs. Better monitoring and complaint systems can make these services more reliable and help more women stay in work.

The Government should consider enacting the Maternity Benefit for Women in the Unorganised Sector Bill, 2023 and the Paternity and Parental Benefit Bill, 2025 to strengthen maternity and parental protections in India. These proposed legislations can grant benefits and vital protections to the informal and unorganised sectors workforce while also fostering an environment where domestic care duties are shared more equitably at home. Their implementation would help create a more inclusive, accessible and gender-sensitive system of social security and labour welfare in India.

In India, change should be brought in social attitudes of the masses and stereotypes regarding this. Stricter regulation and putting the maternity protection laws effectively in practice are required, especially in the public sector even within government employment. Stronger accountability mechanisms and proper monitoring would ensure that the rights and benefits guaranteed under the law actually reach the intended beneficiaries.

VIII. CONCLUSION

In India, maternity protection has gradually evolved from being only a statutory benefit to becoming an important constitutional and human rights issue. Through progressive interpretations of Articles 14, 15(3), 21 and 42, the judiciary has recognised that motherhood cannot become a ground for discrimination, loss of employment or denial of dignity. These developments reflect the growing acceptance of reproductive justice and the need to protect women's rights in the workplace.

However, despite legal protections, many women working in informal, contractual, domestic and gig sectors continue to face financial insecurity and lack of social protection during maternity. This highlights the deep inequalities within the labour system where access to reproductive rights often depends on economic and employment status. Therefore, India must move towards a more inclusive and welfare-oriented system by extending social security to all women workers and ensuring proper implementation of existing laws. Further research may analyse the impact of recent proposed parental and maternity benefit reforms and the continuing role of judicial interpretation and judicial developments in strengthening reproductive justice and economic rights in India. Ultimately, maternity protection is not only a labour issue but also a matter of social justice, constitutional morality and human dignity.



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