



REALITY OF WOMEN WORKERS UNDER THE MATERNITY BENEFITS ACT, 1961

Prapti Rajeev*

ABSTRACT

The Maternity Benefits Act, 1961¹, was enacted to protect the rights of working women by ensuring maternity leave, job security, and other benefits during pregnancy and postpartum periods. The Act applies to establishments employing ten or more persons and provides for 26 weeks of paid maternity leave, nursing breaks, and a prohibition on dismissal during pregnancy.² However, the reality for women workers in India often falls short of the Act's provisions. While dwelling deep into the topic, even after providing benefits as the name suggests, the women workers of the rural areas are still unaware of the benefits that exist for them, and they continue to do the work even after reaching the last term of pregnancy, which can be highly risky. In essence, though the Maternity Benefits Act, 1961, is an important step toward the achievement of gender equity at work, its practical impact in the real world is restricted by systemic issues, gaps in enforcement, and exclusion of informal workers, pointing to the requirement for more holistic policy reforms and stronger implementation mechanisms. The Maternity Benefits Act of 1961 undoubtedly takes the rights of working women in India forward but remains limited by structural and systemic hindrances. The informal economy also constitutes a significant share of the female workforce, and the Act leaves no protection for them. Other factors that dilute the actual effectiveness of the Act for the organized sector include employers' resistance, discriminatory recruiting practices, and weak enforcement. These gaps will be bridged only by policy reforms that extend coverage to informal workers, implement a government-supported funding mechanism, and strengthen awareness and

*BA LLB, THIRD YEAR, CHRIST ACADEMY INSTITUTE OF LAW, BENGALURU.

¹ Maternity Benefits Act, 1961

² “Maternity Benefit Act” (Chief Labour Commissioner) <<https://clc.gov.in/clc/acts-rules/maternity-benefit-act>>

enforcement measures. It is only then that the Act can fulfill its potential in promoting gender equity and ensuring comprehensive maternity support for all working women in India.

Keywords: \Job Security, Postpartum, Discriminatory, Enforcement, Informal Workers, Gender Equity.

INTRODUCTION

A statute known as the Maternity Benefit Act of 1961 governs women's employment before, during, and following childbirth. By offering maternity benefits and other protections, it seeks to protect the health and welfare of female employees. According to the Supreme Court, the Maternity Benefit Act of 1961 seeks to provide working women with all the amenities they need in a dignified way so they can transition into motherhood "honourably, peacefully, undeterred by the fear of being victimized for forced absence during the pre or postnatal period." The legislation aims to ensure that the act of embracing motherhood does not penalize the woman. This enables them to live with finesse and dexterity in the delicate balance between professional obligations and the onerous demands of pregnancy and early motherhood. One of the vital features of the Maternity Benefits Act is providing paid maternity leave, which recognizes the physiological as well as psychological needs of women during this transformative period. It also includes provisions for maternity-related medical benefits, the proper maintenance of which is also necessary for the healthy progression of pregnancy and delivery for the women.

At the very least, very laudable as the legislative intent may be, questions do seem to crop up about the effectiveness of the Act in meeting the diverse needs of women across different sectors and types of employment structures when viewed in light of its actual implementation and ground-level impact. Despite these laws, women workers, especially those in the informal and unorganized sectors, meet several challenges in accessing their maternity benefits. There are complications introduced by lack of information, reluctance from employers, and attitudinal factors that encourage discrimination. The maximum amount of time a woman can get maternity benefits is 26 weeks, with no more than 8 weeks before the anticipated delivery date.³ The Maternity Benefit Act (India) focuses on protecting the employment of pregnant women

³ Amended by the Maternity Benefit (Amendment) Act 2017, Section 5 (3)

by prohibiting employers from assigning them tasks that could harm their health. In simple terms, this section⁴ States:

- **No Hard Work During Pregnancy:** A pregnant woman cannot be given work that is too physically demanding or could harm her or her baby. This includes tasks that require long hours of standing or any job that could affect her pregnancy.
- **No Dismissal Due to Pregnancy:** An employer cannot dismiss or terminate a woman just because she is pregnant. Also, any conditions in her contract that could lead to her dismissal during maternity leave are invalid.
- **No Reduction in Benefits:** The employer cannot reduce a woman's salary or benefits while she is on maternity leave.

This section aims to ensure job security and a safe working environment for women during pregnancy. In the organized sector, the Act protects women, but employer resistance, workplace discrimination, and ignorance are major issues. Among the women in the unorganized sector, who constitute the majority of the female workforce, the coverage is very limited due to a lack of enforcement and gaps in coverage. Domestic workers, daily wage labourers, and women working in the informal sector hardly get these rights and thus are exposed at the time of pregnancy. Moreover, the provision of the Act that entails fully paid maternity leave by employers has resulted in discouragement or refusal to hire females, thereby sustaining gender-based discriminatory recruitment. The amendments of the Act -which include the introduction of creche facilities and extending their leave provisions- with positive effects on conditions are being undertaken unevenly.

STATEMENT OF THE PROBLEM

Through this study, the various challenges that can be observed are Access to maternity benefits remains inadequate, especially among women in the informal sector, mainly because of education gaps, weak enforcement of rights, and refusal of employers to abide. It is surprising that even in the formal sphere, maternity-related discrimination and job security during and after pregnancy are the most widespread. Socioeconomic and institutional barriers stand on the road to full achievement of maternity rights. The vast gulf between the legal entitlements

⁴ Section 4 of Maternity Benefits Act, 1961

offered by the Act and the reality of women workers' experience is an urgent call to examine and redress gaps in the implementation and delivery of policies.

OBJECTIVES OF THE STUDY

The Maternity Benefits Act, 1961, has proven to be vivid, leading to various understandings. This paper intends to satisfy the following objectives:

- To examine the effectiveness of the various government mechanisms in enforcing the Maternity Benefits Act, 1961.
- To analyze the awareness level among the women workers about their rights under the Maternity Benefits Act, 1961.
- To provide recommendations for improving the implementation of the act.

RESEARCH QUESTIONS

This paper aims to support the stated hypothesis and seeks to respond to the following questions in pursuit of that goal:

- Whether the implementation of the Maternity Benefits Act, 1961, varies between urban and rural areas, and what are its challenges.
- How do factors like income level, education, and employment type affect women's access to the benefits of the Act?

RESEARCH HYPOTHESIS

The Act does not effectively protect the rights of all women workers because there are said to be some disparities in the area of awareness and access to the same, especially women who belong to the informal sector or the low-income groups. It can be further stated that women in the formal and organized sector have better access to maternity benefits, while a large proportion of women in the unorganized sector remain unaware of the same and hence face systemic challenges for claiming these benefits.

RESEARCH METHODOLOGY

For this article, in order to collect the various relevant data regarding the women workers be it in formal sector or informal sector, various article of different authors were reviewed in order

to find the research gaps and what could be the scope of improvement in the same. Simultaneously, various landmark judgments along with few case briefs were referred to in order to complete this article.

LITERATURE REVIEW

For this paper, considerable reliance was placed on the reports, studies, and papers previously presented through journals and presentations. A list of these is included below:

1. “Implementation of Maternity Benefits in Rural India: Challenges and Opportunities” by Meera Rajan and Vivek Nair⁵ delves into the disparities in maternity benefit implementation between urban and rural areas, with a focus on rural women’s lack of awareness and access. They propose policy changes to address infrastructural and enforcement shortcomings.

CATEGORY	PERCENTAGE/ AMOUNT
Working women covered under maternity benefits	6.5% of total working women
Mothers with infants (<1 year) covered	4.7% of working women
Maternity benefits coverage in rural areas	Lower than urban areas due to fewer formal jobs.
Budget allocation for maternity benefits (2020-21)	Rs. 1300 crores
Required budget for maternity benefits (annually)	Rs. 14000 crores
Budget shortfall for maternity benefits (2020-21)	Rs. 12700 crores

Financial limitations in such cases impede effective implementation, particularly in resource-poor rural areas. The procedure to access maternity benefits is normally cumbersome, with long documentation and process requirements. Women in rural villages might find it difficult to present required documents such as Aadhaar cards, and bank passbooks and might get stuck with the online application procedure, resulting in delays or benefit denial. The use of maternal

⁵ Meera Rajan and Vivek Nair, ‘Implementation of maternity benefits in rural India’ [2022]

care services is strongly differentiated by income. It has been reported that poorer families, who are also more likely to be in employment guarantee schemes such as the National Rural Employment Guarantee (NREG), might face a decrease in facility-based births, which can be either from financial restrictions or opportunity costs involved in obtaining care.

2. "Gender Equity in Indian Workplaces: The Role of the Maternity Benefits Act, 1961" by Anil Kumar and Neha Gupta⁶ Focuses on the Act's contribution to gender equity in the organized workforce. It highlights the Act's progressive amendments while critiquing the lack of coverage for informal workers and small enterprises. The Maternity Benefit Act seeks to ensure gender equality by protecting women's employment during pregnancy and enabling an equilibrium between work and family duties. Through paid leave and requiring supportive facilities, the Act motivates women to continue working.

A major chunk of India's women labour force remains employed in the unorganized sector, which in turn tends to remain out of the umbrella of the Act. This aspect restricts the applicability of the Act towards achieving gender equality throughout all sectors of employment. Though the Act requires certain benefits, implementation relies on employer cooperation. Extended maternity leave and other facilities might be viewed by some employers as money-drainers and could hence result in discriminatory hiring against women of childbearing age. The Act does not mention paternity leave, which perpetuates traditional gender roles by leaving childcare duties mostly on women. Adding paternity leave may encourage mutual parental responsibilities, which would encourage gender equality at home and in the job market.

Research gaps: This research is needed to assess the impact of the Act on women working in the informal sector and find ways to provide maternity benefits to them and also research employer attitudes towards the provisions of the Act, levels of compliance, and the economic costs of offering maternity benefits can provide information on potential facilitators and barriers to effective implementation. The use and effectiveness of required crèche facilities and work-from-home arrangements can provide information for policy changes to improve support for working mothers. Research into the likely effect of the implementation of statutory

⁶ Anil Kumar and Neha Gupta, 'Gender Equity in Indian workplaces' [2021]

paternity leave on gender relations at home and in the workplace can give a better insight into what steps need to be taken towards achieving genuine gender equality.

3. "Maternity Rights and Informal Sector Women Workers in India" by Shalini Desai⁷ examines the exclusion of women in the informal economy from the Maternity Benefits Act. It advocates for alternative policies, such as social insurance schemes, to bridge the gap in access. In the above article, the author has specifically targeted what the women in the informal sector of the country face. Based on this few research gaps have been observed:

Research Gaps: There is a need for comprehensive data on the number of women working in different informal sectors and their maternity-related challenges. Correct data would guide policy-making and targeted interventions. Assessing the efficacy of existing maternity benefit programs, including those under the National Food Security Act of 2013, in covering informal sector workers is important. Identifying the access barriers can inform policy reforms. Studies on community-based support systems, micro-insurance programs, and employer-sponsored schemes may yield lessons on viable models for expanding maternity benefits to informal workers. Longitudinal studies that analyze the health outcomes among mothers and children in the informal economy can call attention to the implications of weak maternity care and emphasize the necessity for policy responses. Meeting these challenges and research needs demands a multi-faceted strategy of policy reforms, community outreach, and sound data collection to ensure that maternity rights are available to all Indian women workers across their sector of employment.

4. "Assessing the Impact of the Maternity Benefits Act: A Review of Legal and Practical Challenges" by Priyanka Singh and Aditi Sharma⁸ explores the challenges in implementing the Maternity Benefits Act, particularly in the informal sector. The authors analyze enforcement gaps, the employer-funded model, and the need for government interventions to ensure compliance. From the article written by the authors, various legal and practical challenges were observed:

Most of India's working women are working in the unorganized sector, which is frequently outside the ambit of the Act. This reduces the scope of the Act to cover all working women

⁷ Shalini Desai, 'Maternity Rights and Informal Sector women workers in India' [2020]

⁸ Priyanka Singh and Aditi Sharma, 'Assessing the impact of maternity benefits Act: A review of legal and Practical challenges, [2019]

with maternity benefits. As many as 93.5% of working women in India cannot be given maternity benefits as they are involved in unorganised employment or they are working in small units which are exempt from the Act.⁹ The employers' financial burden to offer extended maternity leave and benefits hangs exclusively on employers. This might be very costly to small and medium enterprises, possibly resulting in discrimination during hiring against women of childbearing age.¹⁰ There is limited knowledge among employers and employees about the provisions of the Act. Combined with weak enforcement provisions, this leads to non-compliance and denial of benefits to eligible women. The Act does not mention paternity leave or joint parental responsibilities, maintaining the old gender roles and leaving the care of children mostly to women. Moreover, the crèche facility requirement is limited to organisations with 50 or more workers, excluding many workplaces.

IMPLEMENTATION OF THE ACT

The implementation of the Maternity Benefits Act, 1961, varies significantly between urban and rural areas in India due to differences in economic structures, employment patterns, and access to resources. This disparity highlights the challenges in ensuring equitable maternity protections for women across these regions.

Urban Areas –

Better Enforcement in Formal Workplaces: The Act is better implemented in organized sectors such as IT, education, healthcare, and corporate jobs in urban areas. Such employers are usually regulated by labour authorities and are aware of legal obligations; hence, more compliance is also addressed, mentioning the various facilities that a new mother gets in her working space, including nursing rooms, crèche facilities¹¹, and also that her children are given a comfortable space to stay.

⁹ Rajeshwari TSK and others, “94% Working Indian Women without Workplace Maternity Benefits” *News laundry* (August 12, 2024) <<https://www.newslaundry.com/2024/08/12/94-working-indian-women-without-workplace-maternity-benefits?>>

¹⁰ Geeks for Geeks, “Maternity Benefit Act, 1961: Objectives, Provisions, Impact and Challenges” *Geeks for Geeks* (December 6, 2023) <<https://www.geeksforgeeks.org/maternity-benefit-act-1961-objectives-provisions-impact-and-challenges/>>

¹¹ Hindustan Lever Employees' Union v. Hindustan Lever Ltd. [1994] SUPPL. (4) SCR 723, <https://indiankanoon.org/doc/157595362/>

The challenges include resistance from Small and Medium Enterprises (SMEs): Most urban SMEs and startups are financially constrained and do not want to fully comply with the provisions of the Act, such as paid maternity leave and crèche facilities. A significant proportion of urban women, including domestic workers, street vendors, and garment factory workers, are employed informally and remain excluded from the Act's coverage.

Rural Areas –

Limited Awareness and Coverage: In the countryside, most women are engaged in the informal and unorganized sectors- agriculture, daily wage labour, and home-based industries. These modes of employment, as such, are generally outside the purview of the Act. Women have no formal protection under maternity. Moreover, ignorance of legal rights makes fewer women take advantage of the Act. The challenges are, often, in rural women who are employed in conditions where labour laws, including the Maternity Benefits Act, are not implemented or acknowledged. The availability of health services, childcare services, and monitoring mechanisms is always scarce in rural settings; therefore, it is challenging to execute the Act. In rural settings, conventional gender roles and patriarchalism may deter women from taking advantage of the benefits or enforcing their rights.

COMMON ISSUES IN BOTH SECTORS

Firstly, Exclusion of Informal Sector Workers, the Act mainly targets establishments with 10 or more employees, thus leaving out a vast proportion of the female workforce in both urban and rural sectors. The employer-funded maternity benefits model leaves the entire burden on employers, which is a disincentive to hire or support women employees¹² Poor implementation of the Act is also attributed to inadequate government oversight and understaffing of labour inspectors, especially in small enterprises and informal setups.

Lack of Awareness: Many women, especially in rural areas, are not aware of their rights under the Act, hence underutilizing the benefits available. While urban areas show better implementation of the Maternity Benefits Act, challenges persist even there, especially for informal sector workers. In rural areas, though coverage is very limited, the Act brings in little change because of poor enforcement and weak awareness. This calls for specific measures such

¹² Municipal Corporation of Delhi v. Female Workers (Muster Roll) [2000] (2) SCR 171, <https://indiankanoon.org/doc/808569/>

as extending coverage to informal workers, subsidising maternity benefits through the government, and increasing awareness campaigns. Strengthening infrastructure and enforcement machinery would help bridge the urban-rural divide in ensuring even-handed maternity protection for all women at work.

THE IMPACT OF DIFFERENT FACTORS ON THE IMPLEMENTATION OF THE ACT

The benefits of the Maternity Benefits Act, 1961, are highly dependent on income level, education, and type of employment. All these factors determine a woman's awareness, eligibility, and ability to claim maternity rights under the law.

Income Level: Women in higher-income brackets, working in an organized sector, are generally expected to receive maternity benefits simply because they are regularly and formally employed, and employment can be guaranteed along with their legal protection. Higher compliance with labour laws can be seen among employers of this section to avoid penalties, damage to reputation, etc. Maternity benefits are hardly reached by women belonging to the lower-income groups. These are mostly informal or unorganized sector employees who rarely get maternity benefits as the Act applies only to establishments having 10 or more workers and does not hold the employers responsible in an informal setup. Economic constraints compel them to continue working during pregnancy or resume work soon after delivery, which further deteriorates their health and well-being. They are also less likely to approach courts for redressal as the costs and complexities involved are too high.

Education: Educated women are more likely to be aware of their rights under the Act and how to claim them. They are mostly working in the formal sectors where legal compliance is better enforced. Educated women are also more empowered to demand their rights and challenge non-compliance. Women with a low level of education, especially women in rural areas or unorganized sectors, are not very aware of their maternity rights. Due to this reason, even when they become eligible to claim benefits through legal procedures, they still do not receive them. Education equips women with knowledge of the law, bureaucratic procedures, and rights. In turn, illiteracy fosters reliance on informal or exploitative work settings where maternity benefits are not considered.

Type of Employment: Women employed in organized sectors like government jobs multinational companies or regulated private enterprises are the main beneficiaries under the Act. These sections are legally compliant because labour inspections, union advocacy, and corporate policies align with legal mandates. Women employed in informal sectors, such as domestic work, daily wage labour, or small businesses, often lack legal protection. The Act's applicability to establishments with 10 or more employees excludes a vast majority of women working in informal setups. Self-employed women or those in the gig economy fall entirely outside the ambit of the Act, leaving them without any maternity protection. The concept of maternity benefits varies sector-wise as well. Workers belonging to the IT industry may enjoy the most benefits of this Act since they belong to an organized sector and are backed by every facility.

Maternity benefits are widely implemented in sectors like IT or education. In sectors like agriculture, construction, or home-based industries, compliance is negligible, leaving women unsupported. Income level, education, and employment type are critical determinants of access to maternity benefits under the Act. Women in higher-income, educated, and formally employed categories enjoy greater access to and awareness of these benefits. Conversely, women in low-income, less educated, and informally employed categories face severe barriers due to systemic exclusions, lack of enforcement, and inadequate awareness. The inequities can be addressed by extending the coverage of the Act to informal and self-employed workers, conducting widespread awareness campaigns, and implementing government-supported maternity benefit schemes to ensure inclusive access for all women.

RECOMMENDATIONS

Enhancing Enforcement Mechanisms: Create specialized monitoring institutions at state and district levels to monitor compliance by employers¹³ and carry out routine inspections and surprise audits, particularly in industries with a large number of female employees. Enforce stricter sanctions for non-adherence and ensure that transgressions are punished with suitable fines or imprisonment.

Increasing Coverage for Informal Sector Workers: Informal workers, such as domestic workers and farm workers, are not covered.¹⁴ Implement universal maternity benefits by

¹³ Section 17 and 21 of The Maternity Benefits Act, 1961

¹⁴ Section 2 of the Maternity Benefits Act, 1961

covering unorganized sector workers by amending the Act or consolidating with the Unorganized Workers' Social Security Act, 2008. Increase the Pradhan Mantri Matru Vandana Yojana (PMMVY) to give complete wage compensation (rather than the existing ₹5,000 aid). Promote self-registration portals where informal women workers can register and avail of maternity benefits.

Raising Awareness & Accessibility: Preventing employers from laying off or discriminating against women due to maternity grounds, but a lot of workers are not aware of this protection.¹⁵ Carry out countrywide awareness campaigns to inform women, particularly in rural regions, about their rights under the Act. Create special helplines and mobile apps through which employees can make complaints anonymously. Simplify the process of benefit claims through the digitization of applications and facilitating support through local Panchayats and NGOs.

Strengthening Workplace Maternity Care: The act requires crèche facilities for organizations with 50 or more employees.¹⁶ Enforce stringent implementation of crèche facility requirements and promote shared crèche schemes for smaller organizations. Encourage flexible work arrangements such as work-from-home and part-time work arrangements for new mothers. Establish post-maternity reintegration programs to help women return to the workplace following childbirth.

CONCLUSION

The Maternity Benefits Act, 1961, is one of the most critical legislative steps towards ensuring the health, welfare, and job security of working women during pregnancy and postpartum periods. Although the Act has significantly improved conditions for women in the organized sector through paid maternity leave, job protection, and workplace accommodations, practical realities reveal significant gaps in implementation and inclusivity.

KEY FINDINGS

Women working in the formal sectors with controlled workplaces have enjoyed most of the benefits that the Act has provided, such as 26 weeks of paid leave and nursing breaks. Maternity benefits are considered to be a cost to the employer, and therefore, some employers indirectly

¹⁵ Section 12 of the Maternity Benefits Act, 1961

¹⁶ Section 11A of the Maternity Benefits Act, 1961

discriminate in recruitment and promotion. A vast majority of Indian women work in the unorganized sector, including domestic work, daily wage labour, and agriculture, where the Act's provisions are either unenforced or entirely inapplicable. The lack of social security mechanisms for informal workers leaves them without adequate support during maternity. Many women, particularly in rural and unorganized sectors, are unaware of their rights under the Act. Weak enforcement mechanisms and a lack of effective monitoring add to the problem, enabling many employers to avoid compliance. The employer-funded model of maternity benefits has created a perception of women as "costly hires," thereby reinforcing gender biases in hiring decisions and limiting women's access to employment opportunities. This makes a shared or government-supported funding model imperative to ease the perceived financial burden on employers. Although amendments to the Act- including crèche facilities and extended leave- have been designed to build on support for working mothers, their implementation is patchy, especially in small and medium enterprises.