



## Article

# Legal and Economic Perspectives on Balancing Protection and Productivity in the Maternity Benefit Act, 2017

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**Abstract:** The paper is a critical analysis of the Maternity Benefit Act of 2017 in India where I I have analyzed the provisions of this act both philosophically and economically to learn how this act affects the workforce participation and gender equality of women. It also investigates the manner in which the Act focuses on protecting maternal health and encouraging the entry of women into the workforce in addition to the possible economic impacts on the employers and the economy in general. Also, the review summarizes available evidence on the effectiveness of maternity laws in promoting work-life balance and reducing post-maternity attrition, which identifies areas in which the policy can further be improved. The paper shall explore the nuances of enacting such legislation into a multicultural economic environment, not only in regard to the positive impacts it has by improving the rights of women, but also its failures in terms of attaining universal application and hermit. It also examines how relationships in society towards the role of women are perceived to influence the effectiveness of such progressive laws even when the government attempts to harmonize the legal frameworks in relation to societal values of social justice. This review also explores the interplay between maternal protection and economic productivity whereby individual empowerment is most important; it is also a significant contributor to the economic growth and sustainable development on the national level.

**Keywords:** Maternity Benefit Act, 2017; Women's Workforce Participation; Gender Equality; Economic Impact; Policy Refinement; Work-Life Balance; Post-Maternity Attrition; Social Justice; Sustainable Development.

## INTRODUCTION

The Maternity Benefit Act of 2017 is due to be a significant endeavor by the Indian legislature to create better maternal protection and promote female involvement in the work force that preceded it, such as the Bombay Maternity Benefit Bill of 1929. This amendment tremendously extended payable maternity leave, which was normally of 12 weeks, brought in the options of creche facilities and even the possibility of working at home in case of nursing mothers, which radically changed the face of workplace support to women in organizations employing above ten individuals. This is a progressive legislative step that requires a critical review of its effectiveness in striking a balance

between protective provisions in favor of new mothers and the economic condition of employers especially in a diverse and developing economy such as India (Sharma & Chaudhary, 2024). In this paper, the legal provisions in the 2017 Act will be critically reviewed and their economic implications on Indian labor law will be analyzed and evaluated on the participation of women in the Indian labor force and the compliance by employers. It also examines the impact of these policy changes in providing gender equality in workplaces as well as overall expectations in society on the role of mothers. In particular, the focus of this review will be to examine the perceived success of the implementation of the 2017 amendments, awareness levels among working

mothers in areas such as media, IT, and aviation, in relation to their entitlements, such as creche facilities and work-from-home options (Mukherjee & Saha, 2023). More so, it will explore the opinions about these advantages and the gaps that existed between intent and reality of the implementation of the law based on the empirical understanding and available scholarly reviews. This type of analysis would help comprehend the subtle effect of the increased maternity benefits in the environment of a middle-income country, particularly in the context of comparison to results of similar actions that have taken place in high-income countries. In turn, the purpose of the current paper is to thoroughly review the effect of the Act on firm behaviour and employee performance and output, adding to the existing limited research on maternity leave extensions in low- and middle-income countries. It will also examine the difficulties and achievements of the Act implementation, taking into consideration the advantages and disadvantages of raising awareness of women about their rights or how responsive employers to the new requirements, such as providing childcare centers and flexible working hours, are. The review will address the existing knowledge gaps to determine the relationship between these legislative changes and the current socio-economic systems and how these changes will either enable or inhibit the rapprochement of women in their careers and general gender normativity among the Indian population in the workforce (Saxena, 2024).

### Historical Evolution of Maternity Benefit Legislation

The history of maternity benefit legislation in India, and its embryonic phase to the changing 2017 amendment, is characterized by a slow but steady societal acceptance of women, and their economic value through their reproductive abilities. These early legislations began with the Bombay Maternity Benefit Bill of 1929 and many of them had built up basic protection covering child birth prior to what we now consider comprehensive, including maternity leave and the various other provisions. Later changes and additions continue to expand coverage of these benefits in different forms but there were still vast differences and constraints especially with regards to the informal sector and the financial burden that could be caused to employers (Kanchi & Lingam, 2016). In July 2017, the Maternity Benefit Act attempted to rectify these shortfalls, increasing the lengths of leave and requiring creche provision, with the hope that such improvements might remove some of the barriers to working mothers during the post- and pre-maternity period and improve maternal protection in general. In spite of these positive shifts, the image of the main duty of a woman remains centered around housework and raising

kids, which is why the possible problem of the society that cannot be leveraged with the help of laws alone can be observed. In addition, the economic effects of the 2017 amendment especially to small and medium-sized businesses and informal sector pose some relevant issues on the rational allocation of the costs and benefits related to the extended maternity arrangements. This review shall thus critically review the historical procession of the legislation and assess the expectations and the unanticipated effects of the legislation on the employer practices and female employment trends in India (Makwana & Makwana, 2025). The reason why policies supporting work-life balance are still needed today in light of this historical study is that it would go beyond maternity leave to give employees actual gender equality in institutions. It also sheds light on how such transformations in legislation historically have sought to balance between the twin goals of protecting maternal wellbeing and accessing economic roles a dynamic of tension that still serves to frame up modern policy discussions. Besides, through examining these historic debates, especially that on the suggestion to have maternity benefits be pegged on the number of children alive, one can find a resounding backing of women health as the major reason why the benefits should be offered regardless of family size. This historical background also brings out the embedded societal expectations that put the main childcare and housework duties on to women, irrespective of their careers, an understanding that modern laws are meant to reverse. Nonetheless, even in the context of the legislative progress, a major part of women, especially those who work in the unorganized sphere, still have to endure quite a number of issues, such as insufficient maternity leaves and elevated exposure to exploitations (Singh & Kumari, 2024).

### Legal Perspectives on the 2017 Amendment

Maternity Benefit Act of 2017 has made splashes on the horizons of maternal protection in India by increasing the paid maternity leave by 12 weeks to 26 weeks; providing an option of commissioning and adopting a mother, by compelling to install and provide creche facilities where establishments with over 50 employees work. The work-life balance was another area where the provision of arrangements facilitating the work-from-home arrangement was provided through this change in legislation, and the objective was to bring greater gender equality to the work environment (Sen, 2022). However, regardless of these noble goals, the fact that women workers and other groups of marginalized people are not included in the informal sector and are not offered these benefits by the Act has received significant criticism, signifying the underlying shortcomings of the scope of the Act as well as its ability to even-out current socio-economic disparities. Such inequality does not only weaken the universal character of the maternity

protection but also further pushes this bifurcated system where workers in the formal sector are well programmed whilst formal sector workers go mostly unprotected and this, therefore, increases vulnerabilities among a large pool of the female labor force ([rani, 2020; Ratnesh et al., 2019](#)).

### **Alignment with International Labor Standards and Conventions**

Although the 2017 amendment is progressive in several aspects, it nevertheless does not live up to some international standards, namely the full coverage of all working women, as the conventions such as CEDAW promote ([Chakraborty, 2023](#)). In particular, India has not ratified some of the important ILO conventions on the protection of maternity that have such provisions as the right to breastfeed during working hours, which has not been explicitly spelled out in the present Act. Such a lapse is a gap that deserves to be characterized as critical because the time to properly nurse an infant may help to influence the health outcomes of the infants as well as the capacity of the mother to be re-integrated into the labor force ([Singh, 2016](#)). Moreover, the absence of clear specifications to occupational protection of expectant employees in most workplaces also contributes to the exposure of pregnant women, who especially have to work in physically strenuous jobs.

### **Constitutional Validity and Gender Equality Principles**

The Maternity Benefit Act and the 2017 amendment to it, in particular, can be discussed in terms of the constitutional protections of equality and non-discrimination in India, and its adherence to international standards of gender equality. Although the extended leave policy and other mandates such as creche attempts to minimize gender inequality, the policy nevertheless introduces a lot of complexities in terms of how their employers perceive it and how they might discriminate against women in their career developments, which should be further analyzed on how their policies are created and applied in reality to reduce their impact on gender inequality. Though such measures are typically positive, can make hiring and promoting women counterproductive to their employers due to the higher perceived expenses of providing maternity leave and other related amenities ([Singh et al., 2023](#)).

### **Challenges in Enforcement and Implementation**

Nevertheless, although the amendment of 2017 is comprehensive in its nature, there remains a lot of difficulties in its enforcement, especially when it comes to small and medium-sized enterprises and the enormous informal sector. These businesses do not always have financial ability and logistical infrastructures to meet the required requirements and as such, the majority of them do not comply, and

a gap between what the law states and the way it is practiced can exist. This awareness gap is even worsened by the fact that the female employees have no knowledge about their rights as they are not more empowered to assert their rights, and that has resulted in the negligence of their rights through the under use of the provisions of the Act. Additionally, the vagueness of certain statements like the option of working from home and the relevance or inapplicability of the Act to the contractual or consultant employee also bring additional obstacles in its effective application.

### **Judicial Pronouncements and Legal Interpretations Post-2017**

The judicial interpretation has since made clear in some areas of the ambiguity in the Act, but the discrepancies in the lower court cases remain, and more detailed directives are in order to provide consistency in the law application. These judicial intrusions tend to struggle with weighing the protective nature of the law against the economic realities of the employers to decide the definition of what is deemed to be an appropriate government to be applied and what would be the punishment of disobedience. Besides, the lack of specifications as to the sharing of financial burdens between the employers and the government concerning the provision of creche facilities remains a debatable point, which, in most cases, results in long-lasting legal disputes and slow adoption of much-needed support systems.

### **Economic Perspectives on the 2017 Amendment**

The economic implications of the Maternity Benefit Act, 2017, causes a multi-faceted set of costs and benefits to both employers and employees as well as to the wider economy and it is therefore important to carefully analyse its effects on the labour markets, firm behaviour and gender balancing, thereby requiring the economic implications of the Maternity Benefit Act, 2017. As much as the Act intends to encourage the female workforce and curb the post-maternity loss rate, there have been concerns that the act may lead to huge financial liabilities on businesses especially the small and medium sized ones, which may result to discrimination in hiring women. This economic stress is further aggravated by the fact that the whole financial deal of maternity benefits inclusive of paid leave, are borne by only the employers contrary to some other countries where the social security institutions incur the financial burden or state management in form of subsidies. This fiscal asymmetry tends to discourage employers to keep women in the business who are the child bearing age as more post maternity attrition and a reluctance to hire women particularly in the smaller ones can be noticed. As a matter of fact, approximately half of women leave the labor market

after their maternity leave, which suggests that the better benefits do not necessarily spur more women into long-term employment despite the presence of more systemwide obstacles (Gupta & Kothe, 2024). Such disproportionate cost on employers, sometimes results in inadvertent motherhood penalty, where women are no longer competitive in the workplace and employers are motivated not to hire them despite the good intentions of the legislation. This has been especially worrying considering that there are a number of employers in the field, more so those in the MSME sector, who do not have the financial means or incentives to absorb such extra costs and as such, excluding women out of some job opportunities has almost become a fact (Goel & Mittal, 2023). This is a negative consequence to the main aim of the Act to encourage female employee participation and requires a re-appraisal in cost-sharing arrangements to facilitate the fair sharing of cost on maternity benefits amongst stakeholders. This discussion also highlights the importance of considering alternative financing options, including government subsidies or collective social security payments, to help reduce the negative economic consequences on the employers and make sure that the benefits provided by the maternity leave is implemented in sustainable way. Some of these alternative models, widely used in several developed countries, are usually a government subsidy of maternity insurance programs, or a tax deduction against statutory maternity payments, which offloads the immediate financial burden on employers. Such shift to the collective financing arrangements may be potentially helpful to avoid the discriminatory nature of the individual employer liability arrangements as it will increase the financial base and create the necessity to allocate costs related to maternity protection with more fairness. Further, the analysis of global best practices demonstrates that the full development of the maternity protection policy is usually accompanied by a significant system of publicly funded social insurance that actually neutralizes the maternity benefits and their direct connection to the current costs of the employers and, therefore, the discriminatory behavior of hiring the employees. This solution would not simply allow women to have a stronger role in the labor market, but also create a more competitive, and inclusive economic situation by making sure that the expenses of the reproductive labor would be shared and not privatized to individual employers.

### Conclusion

Although the Maternity Benefit Act, 2017 is a progressive move to improve the participation and welfare of women in the workforce, it has paradoxically brought about complexities which unwillingly lead to discriminatory employment practices and high economic costs on businesses. This

dichotomy requires that its implementation framework, especially with regard to how it is going to be financed and on what enforcement mechanisms should be implemented, should be critically reassessed so that the Act does not violate its intended social and economic goals by meddling with the workforce and marginalizing women in the labor market. An overview of the stipulations in the Act and how they contribute practically to shaping their real-world effects shows that the policy requires a profound change to incorporate anti-economic employer incentives, and by the same breath consolidate the employee protection rights enjoyed by female workers. Such changing should take into account a fairer contribution of maternity benefits, which could be in form of government subsidies, social insurance programs or tax breaks to ease the burden on a single enterprise. Additionally, an effective monitoring and evaluation system will be essential in order to determine how the Act affects the female labor force participation rates, the hiring decisions made by firms, as well as the overall economic environment, and make amendments to the policy accordingly. This involves a subtle comprehension of how vendor attitudes towards maternity leave as an expense and not an investment in human capital, are part of the problems encountering women of reproductive age accessing and staying in employment. Furthermore, though the act is meant to encourage gender equality, its present form will unintentionally create a greater burden on women with their reproductive health, which will negatively affect their labor market performance and will even lead part of them to leave the workplace and have children. Consequently, possible directions of future research would examine how the requirements of maternity leave are perceived by the employers to investigate what difficulties they face and how they affect the hiring decisions and retention of women employed. This may entail an exploration of the economic costs to business especially SMEs and the possibility of government intervention to remove these costs to allow people to have a more inclusive and equal labour market with women.

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