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## COMPARATIVE STUDY OF MATERNITY BENEFIT LAWS ACROSS DIFFERENT COUNTRIES

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### ABSTRACT:

Maternity benefits are necessary to safeguard the financial security and health of working mothers and their children. However, maternity benefit regulations in different countries differ significantly in terms of the duration of leave, wage compensation, employer obligations, and government support. This study analyzes the maternity benefit policies of various nations, with a focus on developed and emerging economies. In countries such as Sweden, Canada, and the UK, significant paid maternity and parental leave, often funded by the government, ensures mothers financial stability. On the other hand, the United States is the only developed nation without a federally mandated paid maternity leave program. Rather, unpaid leave is provided by the FMLA. On the other hand, while developing nations like India provide extensive maternity leave, they also place a financial burden on businesses, which may result in hiring practices that discriminate against women. The report also highlights significant challenges, including ignorance, budgetary constraints, and the exclusion of unorganized sector workers from maternity benefits. This study looks at global trends, finds best practices, and recommends policy reforms to increase employer involvement, prolong government-funded maternity leave, and promote shared parental leave in order to improve gender equality. Adopting universal maternity benefit standards might significantly improve the wellbeing of mothers and children while also fostering a more diverse and equitable workforce worldwide.

**Keywords:** Maternity benefit, working mothers, global trends.

### Introduction:

Workplace policies concerning maternity leave are essential parts of labor laws that safeguard the rights of employed mothers, ensuring their health and welfare are protected during pregnancy, childbirth, and after childbirth.

In India, laws regarding maternity leave have transformed greatly, particularly with the Maternity Benefit (Amendment) Act, 2017, which provides 26 weeks of leave to qualified women. This leave can be taken at the choice of the woman, either after delivery or during the pre-delivery phase.

Maternity leave policies differ greatly across the globe in terms of duration, compensation, and job security. Some countries offer extended paid leave, while many provide unpaid leave or alternative benefits. For instance, nations such as Canada, Germany, and Sweden have government-funded maternity benefits, whereas, in India, it is primarily determined by the employer.

Through this article, we will conduct a comparative analysis of maternity leave laws in India compared to other nations, which encompasses global best practices and the distinctions. We will also examine the length of paid maternity leave, the obligations of

employers, and how countries manage their finances. By the conclusion, one will understand how India compares on the global maternity leave policy spectrum and what modifications could be implemented to enhance maternity benefits for women in the labor force.

### **Maternity Benefit (Amendment) Act, 2017:**

The Maternity Benefit (Amendment) Act, 2017 applies throughout India and is relevant to all mines, plantations, shops, establishments, and factories in both organized and unorganized sectors where ten or more employees have been engaged in the last twelve months. Women who have been employed for over 80 days in a workplace are qualified for maternity benefits. These benefits are applicable to all women working in any role, either directly or through an agency, including those who are on contracts or working as consultants. According to this Act, every woman has the right to 26 weeks of maternity leave, on the condition that the leave does not start more than eight weeks prior to the due date. If a woman has two or more children, she will only be entitled to 12 weeks of maternity leave, which must not be taken earlier than six weeks before the expected delivery date. The Act also provides benefits to mothers who adopt and commissioning mothers (women who donate eggs for surrogacy). A woman who legally adopts a child under the age of three months or is a commissioning mother qualifies for 12 weeks of maternity leave, which begins from the date the child is given to her. The entitlement to maternity benefits guarantees that every woman receives wages at the average daily rate for the entire duration of her maternity leave, covering the time before delivery, the day of delivery, and the following leave period. Additionally, workplaces with 50 or more staff must offer crèche facilities within a specified distance, enabling women to access the crèche four times daily, including during their rest periods. Moreover, the Act provides an option for working from home, given that the job allows for this flexibility. This provision is valid post-maternity leave and requires mutual

agreement between the employer and employee. Employers are required to inform female employees about their maternity benefits at the time of hiring, ensuring that this information is communicated in writing or electronically. Any employer who does not provide maternity benefits, dismisses, or terminates a woman due to her pregnancy or maternity leave may incur penalties, including imprisonment for a minimum of three months (which can be extended to one year) and a fine ranging from Rs. 2000 to Rs. 6000. Women encountering such violations have the right to file complaints with the designated Inspector. It is crucial to understand that women who utilized 12 weeks of maternity leave before the amendment was enacted on April 1, 2017, cannot claim the extended 26-week leave. However, those who were already on maternity leave at the time the law took effect are entitled to the enhanced benefits.

### **Comparison of Indian law with other countries:**

Certain international standards exist that direct nations in setting a baseline for the essential actions required to ensure basic rights for pregnant women in the workforce. For example, the World Health Organization (WHO) requires 24 weeks of paid leave for expectant mothers, while the International Labor Organization (ILO) establishes the benchmark at 14 weeks. Numerous developed and developing nations have implemented legislation to support maternity benefits, with each having its unique stipulations. This comparison reviews the maternity benefit regulations in developed countries such as the USA, Canada, Netherlands, and Sweden, along with developing nations like Thailand, Malaysia, the Philippines, and Indonesia.

The United States of America (USA) stands out as the only developed nation that lacks national legislation ensuring maternity benefits. Employers typically have the liberty to create their own guidelines regarding maternity leave. Based on a study by the Bureau of Statistics in the USA, a mere 11% of women employed in

private companies have access to paid maternity leave. The sole legal obligation is to provide women with 12 weeks of unpaid maternity leave, during which they cannot be terminated. Nonetheless, nearly 40% of working women in the USA are not eligible for even this unpaid leave. The absence of maternity benefits in the USA underscores a capitalism-driven mentality that prioritizes profit over fundamental human rights. In contrast, India's maternity benefit legislation is significantly more advanced, guaranteeing financial independence and job security for pregnant, adoptive, and commissioning mothers. However, even though India performs better than the USA, other developed countries offer considerably more assistance to working mothers.

The Netherlands provides extensive maternity benefits that extend beyond just paid leave. Every new parent receives a maternity care package that contains essentials like knitted hats, sleeping bags, toys, and snowsuits for infants. The nation also offers secure, clean, and standardized public daycare services for children up to the age of seven, allowing mothers to keep working without anxiety. In contrast, the Indian legislation regarding crèche facilities is unclear, and the government does not assume responsibility for creating these facilities—placing the entire obligation on employers. The Netherlands exemplifies a model for India to emulate by creating public daycare centers to assist working mothers. In Sweden, maternity and parental leave regulations are notably progressive. Both parents must take a minimum of eight weeks of leave, and an additional 61 weeks can be allocated between the mother and father as preferred. This strategy challenges conventional gender roles, acknowledging that both parents share the duty of child-rearing. In contrast, India lacks parental leave policies, with paternity leave restricted to just 15 days in a few workplaces. Sweden's parental leave legislation establishes an admirable benchmark that India

could aspire to meet in order to close the gap in its maternity benefit regulations.

Canada offers maternity benefits through federal programs with the exception of Québec, where distinct provincial regulations are in effect. The criteria for maternity benefits in Canada are quite straightforward, akin to those in India. The primary requirements involve being employed in insurable work, having a drop in weekly earnings exceeding 40%, and accumulating at least 600 hours of insurable employment. Nevertheless, Canada affords greater protections for parents. Women are entitled to 15 weeks of maternity leave via employment insurance, where they receive 55% of their salary or \$573 per week (whichever amount is lower). Moreover, parental leave benefits present two choices: a standard leave of 40 weeks (in which five weeks are allocated for each parent, and the remaining 35 weeks are shareable), and an extended leave of 69 weeks (during which one parent can take 61 weeks, while the other is required to take eight weeks). During the extended leave, parents only receive 33% of their usual salary or \$344 per week (whichever figure is lower). In contrast, Indian maternity leave does not provide for parental leave options, placing the entire responsibility of childcare on women. In addition, maternity benefits in Canada are funded at the federal level, whereas in India, the employer bears the responsibility for these benefits. This results in more effective enforcement in Canada, where government supervision guarantees adherence to the regulations.

Among developing nations, Malaysia grants 90 days of fully compensated maternity leave to both public and private sector workers who fulfill eligibility requirements. Prior to 2021, only the public sector offered 90 days of leave, while the private sector was restricted to 60 days. Nevertheless, following an amendment in 2021, both sectors are now required to offer 90 days of fully compensated leave. To be eligible, women must have been employed by their employer for no less than 90 days in the last

four months. Maternity leave may be taken 14 to 30 days prior to delivery with a doctor's recommendation. Unlike India, Malaysia does not have a policy for paternity leave, although private companies may choose to provide it voluntarily. In comparing Malaysia's maternity regulations to those of India, India allows for a longer maternity leave duration but imposes stricter eligibility requirements.

Thailand revised its maternity benefit legislation in 2018, extending maternity leave from 90 days to 98 days. Nonetheless, paternity leave is not available in the country. Although Thailand's fully compensated leave duration is considerable, the Indian framework offers greater job security for pregnant workers.

Indonesia grants 12 weeks of fully paid maternity leave as per its social security statute. A distinct aspect of Indonesia's maternity benefits is that if a woman passes away during or following childbirth, her family continues to receive her full salary for 12 weeks. This guarantees that the needs of the newborn are addressed, and the family has sufficient time to heal from the bereavement.

The Philippines has recently enacted Republic Act No. 11210, which has extended fully paid maternity leave from 60 days to 150 days. This law applies to employees in both the public and private sectors, encompassing women working in the informal economy. A notable aspect of the Philippines' legislation is that maternity benefits are granted irrespective of the mother's citizenship, marital status, or in instances of miscarriage. Additionally, the law stipulates strict requirements for the timely distribution of benefits. In comparison to India, the laws in the Philippines are more comprehensive and clearly outlined, simplifying the process for women to obtain their entitlements.

Overall, drawing comparisons between India's maternity benefit laws and those of other nations reveals both advantages and aspects that require enhancement. Although India surpasses the USA in delivering job security and financial independence to mothers, it falls short

compared to developed countries such as Sweden, Canada, and the Netherlands, which provide options for parental leave, accessible public daycare, and government-supported maternity benefits. The absence of paternity leave and state-funded maternity benefits in India places working women at a disadvantage. By observing countries such as the Netherlands, Sweden, and the Philippines, India could broaden its maternity legislation to include parental leave, implement public daycare facilities, and enhance clarity regarding crèche regulations, ultimately fostering a more equitable and supportive setting for working parents.

Here are several supplementary aspects concerning the comparison of India's maternity benefit regulations with those of other nations:

A. Financial Burden on Employers vs. Government Support:

- In India, the full financial responsibility of maternity benefits rests with employers, creating difficulties in compliance, particularly for small and medium enterprises (SMEs).
- Conversely, Canada, Sweden, and the Netherlands offer maternity benefits funded by the government or through social security schemes, which lessens employer opposition and promotes better execution.
- Government-supported maternity benefits in India might result in improved enforcement and broader coverage, which would be advantageous for both employees and employers.

B. Paternity Leave and Gender Equality:

- India does not have an all-encompassing paternity leave policy, providing merely 15 days of paternity leave in some government and private organizations.
- Sweden, Canada, and the Netherlands acknowledge that both parents are essential in child-rearing, implementing shared parental leave

policies that require fathers to take time off as well.

- Implementing compulsory paternity leave in India would enhance gender equality, foster shared parenting, and alleviate the career pressures on women.

#### C. Childcare and Public Daycare Facilities:

- The Netherlands and Sweden offer high-quality, government-supported daycare services for young children, allowing mothers to work without anxiety.
- In India, legislation requires workplaces with 50 or more employees to provide a crèche service, but implementation is still lacking.
- Daycare centers supported by the government would assist working women in returning to work while ensuring child care needs are met.

#### D. Maternity Leave for Informal Sector Workers:

- In India, a considerable segment of the female workforce is engaged in the informal sector, which includes domestic work, agriculture, and small-scale enterprises.
- Unlike in the Philippines, where all working women, including those in the informal sector, are entitled to maternity leave, many informal sector workers in India do not receive such benefits.
- Expanding maternity benefits to informal workers in India would help guarantee that all women, irrespective of their employment type, attain financial and job stability during maternity.

#### E. Job Security and Workplace Discrimination:

- Although Indian legislation prohibits dismissal due to pregnancy, numerous women encounter unofficial discrimination, such as being overlooked for

promotions or compelled to resign after maternity leave.

- Conversely, European nations offer enhanced protections that guarantee mothers can return to their previous job or a similar position without facing discrimination.
- More robust enforcement measures in India could safeguard against workplace discrimination targeting pregnant women and new mothers.

#### F. Flexibility in Maternity and Parental Leave:

- Indian law requires six months of uninterrupted maternity leave, yet it lacks provisions for flexibility regarding how the leave can be utilized.
- Countries such as Canada and Sweden permit parents to divide their leave into several segments or to work part-time while still receiving benefits.
- Implementing a more adaptable leave system in India could assist women in more effectively managing both work and childcare responsibilities.

#### G. Health and Well-being of Mother and Child :

- Maternity benefits encompass not just time away from work but also guarantee the health of both the mother and child.
- Nations such as Sweden and the Netherlands offer postnatal care services, including home visits from nurses and counseling sessions for new mothers.
- India could implement postnatal healthcare services to assist new mothers in transitioning back to work while preserving their physical and mental health.

#### H. Adoption and Surrogacy Leave:

- India's Maternity Benefit (Amendment) Act, 2017 grants 12

weeks of maternity leave for adoptive and commissioning mothers (surrogacy).

- Nonetheless, this is significantly less than the 26 weeks allotted for biological mothers, resulting in a disparity in benefits.
- Countries like Canada and Sweden offer equal parental leave for all parents, irrespective of whether the child is born biologically or through adoption/surrogacy.
- India ought to think about providing equal benefits to adoptive and commissioning mothers to guarantee equitable treatment.

I. Extended Leave for Special Circumstances:

- Nations such as Canada and the Philippines offer extended leave for complex pregnancies, premature births, and medical conditions impacting the child.
- The laws in India lack specific provisions for mothers requiring extra recovery time due to medical complications.
- Implementing extended leave options in India could enhance support for mothers facing high-risk pregnancies or postpartum health challenges.

J. Public Awareness and Accessibility:

- Numerous women in India, especially in rural and semi-urban regions, are unaware of their maternity rights and face difficulties in claiming benefits.
- Conversely, developed nations run awareness initiatives through workshops, online platforms, and hotlines to inform women about their rights.
- India needs to enhance awareness campaigns and establish more straightforward

procedures for claiming maternity benefits to guarantee increased coverage and enforcement.

**Conclusion:**

Maternity benefits are essential for ensuring the financial stability, health, and welfare of employed mothers and their children. Although India's maternity benefit regulations, especially the Maternity Benefit (Amendment) Act, 2017, provide a progressive leave duration of 26 weeks, several deficiencies remain when compared to global best standards. Countries such as Sweden, Canada, and the Netherlands offer government-sponsored maternity benefits, shared parental leave, and extensive childcare assistance, which lessen the burden on employers and foster gender equity. Conversely, India assigns the financial obligation entirely to employers, which may deter the recruitment of women and contribute to workplace bias.

Moreover, India does not have strong paternity leave policies, accessible childcare services, or maternity benefits for workers in the informal sector, resulting in inadequate support for many women. Nations like the Philippines and Canada broaden maternity benefits to encompass all working women, including those in informal jobs, ensuring enhanced inclusiveness. To improve maternity benefit policies, India ought to think about introducing government-funded maternity leave, mandating paternity leave, enhancing crèche facilities, and extending benefits to informal sector employees.

By embracing global best practices and ensuring more effective enforcement of current laws, India can foster a more equitable and supportive work atmosphere for women. Enhancing maternity benefits is not only a social necessity but also an economic imperative, as it has the potential to increase workforce engagement, promote gender equality, and boost overall national productivity. A well-structured maternity benefit framework will empower working mothers, foster a

healthier future generation, and aid in creating a more inclusive labor market.

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