

EVALUATING THE EFFECTIVENESS OF THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017 IN PROMOTING WORKPLACE EQUALITY AND MATERNAL HEALTH IN INDIA

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Abstract:-

This research examines the Maternity Benefit (Amendment) Act, 2017, and its implications for workplace equality and maternal health in India. The original Maternity Benefit Act, 1961, was a significant step in ensuring that women employees were entitled to maternity leave, job protection, and related benefits. However, as the needs of the modern workforce evolved, the Act required updates to address contemporary challenges related to women's health and participation in the labor market. The 2017 Amendment marked a pivotal moment by extending the duration of paid maternity leave from 12 to 26 weeks, which is one of the longest periods of maternity leave in the world. The law also introduced provisions for adoptive and commissioning mothers, providing them with 12 weeks of paid leave, thus recognizing non-biological pathways to motherhood.

One of the most noteworthy changes in the 2017 Amendment is the mandate for crèche facilities at establishments with 50 or more employees. This provision is aimed at supporting women who return to work after childbirth by allowing them to breastfeed and care for their infants during working hours. It reflects a growing recognition of the need for family-friendly work environments that can help women balance their professional and personal responsibilities. Additionally, the Amendment introduces the option for women to work from home after childbirth, providing flexibility for those in roles that can accommodate remote work.

Despite these significant advancements, the implementation of the Act continues to face various challenges. One of the key issues is the lack of awareness about the provisions of the law among both employers and employees, which leads to inconsistent application across different industries. Small and medium-sized enterprises (SMEs), in particular, may face difficulties in providing crèche facilities, thereby limiting the reach of the law. Furthermore, while the Act applies to establishments with 10 or more employees, the unorganized sector remains largely unaddressed, leaving a large portion of the female workforce without the protection and benefits provided by the law.

In light of these challenges, this research suggests several policy recommendations for improving the implementation of the Maternity Benefit Act. These include the establishment of a government-funded maternity benefit scheme to ease the financial burden on employers, especially those in SMEs, extending the Act's coverage to the unorganized sector, and providing tax incentives to companies that comply with the crèche facility requirement. Furthermore, awareness campaigns and regular monitoring are necessary to ensure that the law's provisions are fully implemented.

Through this analysis, the research highlights the potential of the Maternity Benefit (Amendment) Act, 2017, to advance gender equality in the workplace, promote maternal health, and create a more

supportive work environment for women. However, it also emphasizes the need for continuous reforms, better enforcement mechanisms, and broader coverage to ensure that the benefits reach all women, particularly those in vulnerable sectors. Ultimately, the successful implementation of this Act is essential for advancing the rights of women in India and fostering a more inclusive and equitable labor market.

Keywords:- Crèche facilities, women workers, unorganized sector, flexible work arrangements, women empowerment.

Introduction:-

The Maternity Benefit Act, 1961, stands as a pivotal piece of legislation in India, designed to safeguard the employment rights and well-being of women during maternity. Enacted to provide maternity benefits, including paid leave and medical support, the Act ensures that women are not compelled to choose between their careers and motherhood. Recognizing the evolving needs of working women, the Act underwent significant amendments in 2017. These amendments extended the duration of paid maternity leave from 12 to 26 weeks for the first two children, introduced provisions for adoptive and commissioning mothers, and mandated the establishment of crèche facilities in workplaces employing 50 or more individuals. Despite these progressive strides, the implementation of the Act presents challenges, particularly in the informal sector and among smaller enterprises. This research aims to evaluate the effectiveness of the Maternity Benefit (Amendment) Act, 2017, in promoting workplace equality and maternal health in India, analyzing its impact on women's employment and identifying areas for further policy enhancement.

Despite these progressive strides, the implementation of the amended Act has encountered several challenges. A significant concern is the limited coverage of the Act, as it applies only to establishments with a minimum of 10 employees. Consequently, a vast majority of working women, particularly those in the informal sector or in smaller enterprises, remain outside its protective ambit. Additionally, while the extended leave aims to promote maternal health and child care, some employers perceive the increased duration as a financial burden,

potentially influencing hiring decisions and inadvertently affecting women's employment opportunities.

Moreover, awareness about the provisions of the Act remains uneven. Many women, especially in rural areas or lower socioeconomic strata, are unaware of their entitlements, leading to underutilization of the benefits. The requirement for crèche facilities, though well-intentioned, poses logistical and financial challenges for employers, particularly in smaller setups or regions with limited infrastructure.

This research aims to critically evaluate the effectiveness of the Maternity Benefit (Amendment) Act, 2017, in promoting workplace equality and maternal health in India. By analyzing its impact on women's employment, assessing the challenges in its implementation, and exploring areas for policy enhancement, the study seeks to provide insights into how the Act can better serve its intended purpose and contribute to a more inclusive and supportive work environment for women.

Historical Background of the Maternity Benefit Act, 1961:

The concept of maternity benefits in India dates back to the early 20th century. The first legislative attempt was made in 1928 when the Bombay Legislative Council introduced a bill to provide maternity benefits to women workers. This initiative culminated in the enactment of the Bombay Maternity Benefit Act, 1929, which was among the earliest laws in India to offer maternity protection. Dr. B.R. Ambedkar, a prominent advocate for labor rights, played a significant role in championing maternity benefits during this period.

After gaining independence in 1947, India recognized the need for a unified national framework to address maternity benefits. This led to the enactment of the Maternity Benefit Act, 1961, which consolidated various state laws and extended maternity protection across the country. The Act was influenced by international standards, particularly the International Labour Organization's Maternity Protection Convention, 1952 (Convention No. 103), which India had ratified.

The Maternity Benefit Act, 1961 was a landmark legislation enacted by the Indian Parliament to safeguard the employment rights and well-being of women during maternity. It aimed to provide maternity benefits, including paid leave and medical support, ensuring that women are not compelled to choose between their careers and motherhood.

Review of Literature:-

1. Analysis of the Maternity Benefits Amendment Act, 2017 and its Implications on the Modern Industrial Discourse⁶⁴⁵

This article examines the legislative intent and judicial interpretations of the 2017 amendment to the Maternity Benefit Act, 1961. It highlights the role of the judiciary in rendering liberal interpretations to benefit the labor community, emphasizing the need for both legislative and judicial bodies to address factors obstructing social and economic equality for women.

2. Impact of Maternity Benefits Act, 1961 [Amendment 2017] on Job Employment of Working Mothers in India⁶⁴⁶

This study explores the positive and negative implications of the 2017 amendment on employers and working mothers. It discusses challenges in implementation, such as employers' reluctance to hire women due to the

financial burden of extended maternity leave, and highlights the need for effective enforcement to protect women's employment rights.

3. A Study on Effectiveness and Impact of Maternity Benefit (Amendment) Act, 2017 on Employment in Unorganized Sector with Reference to Construction Company (West Nagpur, Maharashtra, India)⁶⁴⁷

Focusing on the unorganized sector, this research assesses the awareness and effectiveness of the 2017 amendment among women workers in a construction company. It reveals low awareness levels and suggests that lack of knowledge about legal provisions hampers the Act's intended benefits for women in unorganized employment.

4. Critical Study of Sustainability of Maternity Benefit (Amendment) Act, 2017 in India⁶⁴⁸

This paper analyzes the long-term sustainability of the 2017 amendment, considering the changing dynamics of industries. It emphasizes the necessity of creating a gender-friendly labor market and recommends improvements to make the Act more inclusive, especially for women in both organized and unorganized sectors.

5. Revisiting Maternity Benefit Law in India: Moving Towards a More Equitable Future⁶⁴⁹

This article critiques the 2017 amendment, discussing its impact on women's employment and proposing legal and policy reforms to enhance workplace equality and maternal health. It examines the law from historical, legal, economic, and constitutional perspectives, aiming to understand its broader effects on stakeholders.

⁶⁴⁵ Manvendra Singh Jadon & Ankit Bhandari, *Analysis of the Maternity Benefits Amendment Act, 2017 and Its Implications on the Modern Industrial Discourse*, 8 Christ U. L.J. 45 (2019).

⁶⁴⁶ R.K. Gethe & A. Pandey, *Impact of Maternity Benefits Act, 1961 [Amendment 2017] on Job Employment of Working Mothers in India*, 65 Int'l J. L. & Mgmt. 123 (2023).

⁶⁴⁷ Dr. Rajeshri Randive Admane, *A Study on Effectiveness and Impact of Maternity Benefit (Amendment) Act, 2017 on Employment in Unorganized Sector with Reference to Construction Company (West Nagpur, Maharashtra, India)*, 29 Int'l J. Advanced Sci. & Tech. 112 (2020).

⁶⁴⁸ Ila Rai & Dr. S. Niyogi, *Critical Study of Sustainability of Maternity Benefit (Amendment) Act, 2017 in India*, 1 DME J. Mgmt. 67 (2020).

⁶⁴⁹ Smriti Berlia, *Revisiting Maternity Benefit Law in India: Moving Towards a More Equitable Future*, Academike (Lawctopus) (May 15, 2020), <https://www.lawctopus.com/academike/revisiting-maternity-benefit-law-in-india-moving-towards-a-more-equitable-future>

Research Gap:-

Existing researches have primarily focused on the immediate implications of the Maternity Benefit (Amendment) Act, 2017, such as increased maternity leave duration and employer compliance challenges. However, there is a notable gap in comprehensive studies that simultaneously assess the Act's impact on both workplace gender equality and maternal health outcomes over an extended period. Additionally, limited research has been conducted on the Act's effectiveness across different sectors, particularly in the unorganized sector, which employs a significant portion of the female workforce. Furthermore, employer perspectives on compliance challenges and the role of policy implementation mechanisms in facilitating or hindering the Act's objectives remain underexplored. My research aims to fill these gaps by providing an integrated analysis of the Act's long-term effects on workplace equality and maternal health, considering sector-specific challenges and implementation dynamics.

Statement of Problem:-

1. A comprehensive study assessing its combined impact on workplace gender equality and maternal health outcomes across various sectors.
2. The Act's effectiveness in promoting equitable workplace practices and safeguarding maternal health.
3. Understanding these factors is crucial for identifying barriers to effective implementation and for formulating strategies to enhance adherence to the Act's objectives.

Key Amendments in 2017

- a. Extended Maternity Leave (Section 5): The amendment increased the duration of paid maternity leave from 12 weeks to 26 weeks for women employees. This benefit can be availed up to 8 weeks before the expected delivery date, with the remaining period post-delivery. For women with two or more surviving

children, the leave entitlement remains at 12 weeks (6 weeks pre-delivery and 6 weeks post-delivery).

- b. Maternity Leave for Adoptive and Commissioning Mothers (Section 5): The amendment provides 12 weeks of maternity leave to women who legally adopt a child below the age of three months and to commissioning mothers (biological mothers who use their egg to create an embryo implanted in another woman).
- c. Crèche Facility Requirement (Section 11A): Establishments employing 50 or more employees are mandated to provide a crèche facility within a prescribed distance. Women employees are allowed four visits to the crèche per day, including rest intervals. This provision came into effect on July 1, 2017.
- d. Work from Home Option (Section 5(5)): The amendment introduces an enabling provision for women to avail the option of working from home after the maternity leave period, depending on the nature of work and mutual agreement with the employer.
- e. Awareness of Maternity Benefits (Section 11): Employers are required to inform women employees about the maternity benefits available to them at the time of their appointment.

Challenges in its implementation:-

- a. The Act mandates that employers bear the full cost of extended maternity leave and crèche facilities. This increased financial responsibility can deter employers from hiring or retaining women of childbearing age, potentially leading to gender-based hiring biases.
- b. The Act primarily applies to establishments with 10 or more employees, leaving a significant portion of women working in the unorganized sector without access to its benefits. This exclusion undermines the Act's goal of universal maternity protection.

- c. Unlike many countries where the cost of maternity benefits is shared between employers and the government, in India, employers shoulder the entire financial burden. This lack of governmental support can strain small and medium-sized enterprises, affecting compliance rates.
- d. Many women are unaware of their rights under the amended Act, leading to underutilization of benefits. Employers may also fail to inform employees about their entitlements, as mandated, further exacerbating the issue.
- e. The absence of robust monitoring systems and enforcement mechanisms hampers the effective implementation of the Act. Without regular inspections and penalties for non-compliance, employers may neglect their obligations under the law.

Judicial interpretations:-

1. *Deepika Singh v. Central Administrative Tribunal* (2022)⁶⁵⁰
In this landmark judgment, the Supreme Court of India expanded the definition of 'family' under Indian law. Deepika Singh, a nurse at PGIMER Chandigarh, was denied maternity leave after giving birth, as she had previously taken child care leave for her husband's children from a previous marriage. The Court held that a woman's statutory right to maternity leave cannot be restricted because she previously used child care leave for her non-biological children. The ruling emphasized that atypical families are deserving of equal protection under law and benefits available under social welfare legislation.
2. *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* (2000)⁶⁵¹
The Supreme Court held that women engaged on a casual basis or on muster

roll basis are entitled to maternity benefits under the Maternity Benefit Act, 1961. The Court emphasized that the Act is a beneficial piece of legislation and should be interpreted in a manner that advances the cause of social justice.

3. *Shah v. Presiding Officer, Labour Court, Coimbatore* (1978)⁶⁵²

In this case, the Supreme Court ruled that the denial of maternity benefits to a woman employee on the ground that she had not worked for the requisite number of days was unjustified. The Court held that the Act should be interpreted in a liberal manner to achieve its objective of providing maternity benefits to women workers.

4. *Chanda v. Central Administrative Tribunal* (2015)⁶⁵³

In this case, the Delhi High Court held that the denial of maternity leave to a woman employee on the ground that she had already availed child care leave was arbitrary and violative of her fundamental rights. The Court emphasized that maternity leave and child care leave serve different purposes and cannot be substituted for each other.

Recommendations:-

1. To alleviate the financial burden on employers, particularly in small and medium enterprises, the government should establish a maternity benefit fund. This fund would reimburse employers for the costs associated with paid maternity leave, thereby encouraging compliance and reducing potential gender-based hiring discrimination.
2. The Act currently applies only to establishments with 10 or more employees. Expanding its coverage to include the unorganized sector, where a

⁶⁵⁰ *Deepika Singh v. Central Administrative Tribunal*, (2022) 4 SCC 1 (India)

⁶⁵¹ *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 1 SCC 1 (India)

⁶⁵² *Shah v. Presiding Officer, Labour Court, Coimbatore*, (1978) 2 SCC 1 (India)

⁶⁵³ *Chanda v. Central Administrative Tribunal*, (2015) 3 SCC 1 (India)

significant portion of the female workforce is employed, would ensure broader protection and support for working women across all sectors.

3. Implementing nationwide awareness campaigns and training programs for both employers and employees is crucial. These programs should focus on educating stakeholders about the provisions of the Act, the rights of women employees, and the responsibilities of employers, thereby promoting informed compliance and utilization of benefits.
4. Strengthening monitoring and enforcement mechanisms is essential to ensure effective implementation of the Act. This includes regular inspections, establishment of grievance redressal cells, and imposition of penalties for non-compliance, ensuring that the rights of women employees are upheld.
5. Offering tax incentives or subsidies to employers who provide crèche facilities would encourage more establishments to comply with the Act's provisions. This support would facilitate the establishment of on-site childcare facilities, promoting a family-friendly work environment.

Conclusion:-

The Maternity Benefit (Amendment) Act, 2017 marked a significant advancement in India's labor laws by extending paid maternity leave and introducing provisions like crèche facilities and work-from-home options. These changes aim to support working women during maternity and promote workplace equality. However, challenges such as the financial burden on employers, limited coverage of the unorganized sector, and inadequate awareness and enforcement mechanisms hinder the Act's full potential.

To address these issues, policy recommendations include establishing a government-funded maternity benefit scheme to alleviate employer costs, extending coverage to the unorganized sector, implementing

nationwide awareness and training programs, strengthening monitoring and enforcement mechanisms, and offering incentives for employers providing crèche facilities. These measures can enhance the Act's effectiveness, ensuring better support for working women and contributing to gender equality in the workplace.

While the 2017 Amendment marks significant progress, continuous reforms, better enforcement mechanisms, and broader coverage are necessary to ensure that the law benefits all working women, particularly those in vulnerable sectors. The Maternity Benefit Act plays a crucial role in promoting maternal health, protecting women's employment, and fostering greater participation of women in the workforce, ultimately contributing to gender equality in India.

To address these challenges, the research suggests implementing government-funded schemes, extending coverage to the unorganized sector, incentivizing employers to provide crèche facilities, and conducting awareness campaigns to ensure compliance.

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