

MATERNITY LEAVE AND PATERNITY LEAVE BENEFITS IN INDIA

AUTHOR – SOUNDARIYA PANDI S, SCHOOL OF EXCELLENCE IN LAW, TNDALU, CHENNAI

BEST CITATION – SOUNDARIYA PANDI S, MATERNITY LEAVE AND PATERNITY LEAVE BENEFITS IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (5) OF 2026, PG. 531-542, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

Maternity and paternity leave policies are crucial components of labour welfare and gender equality in modern India. This study examines the legal framework, benefits, and challenges associated with parental leave, with a primary focus on the Maternity Benefit Act, 1961 and the limited provisions for paternity leave. While maternity leave has significantly improved maternal health, child well-being, and job security for women, the absence of a comprehensive statutory paternity leave policy highlights a persistent gender imbalance in caregiving responsibilities. Drawing on comparative and empirical research, the paper argues that inclusive and gender-neutral parental leave policies can enhance workforce participation, promote shared parenting, and support socio-economic development. It concludes by emphasizing the need for policy reforms to ensure equitable and effective implementation across sectors in India. It also analyzes the impact of parental leave on maternal and child health, workforce participation, gender equality, and societal development, drawing insights from landmark judicial cases, policy analysis, and empirical research. Recommendations include expanding coverage to informal sectors, introducing statutory paternity leave, promoting workplace awareness, and aligning policies with international best practices. A robust and inclusive parental leave framework not only safeguards employees' rights but also strengthens family welfare, gender equity, and overall social and economic development.

KEY WORDS: Maternity Leave, Paternity Leave, Parental Benefits, Gender Equality, Child Development, Employee Welfare

INTRODUCTION:

Parental leave policies, encompassing maternity and paternity leave, play a vital role in promoting employee welfare, gender equality, and child development in modern societies. In India, maternity leave has been formally recognized and regulated through the Maternity Benefit Act, 1961, which was significantly amended in 2017 to extend paid leave to 26 weeks, reflecting growing awareness of maternal and child health needs. Research indicates that such policies contribute to improved health outcomes, reduced infant mortality, and better workforce retention among women.

The legal foundation for maternity protection in India was laid with the enactment of the Maternity Benefit Act, 1961, which marked a significant milestone in safeguarding the rights of working women. The Act ensures paid leave, medical benefits, and job security during pregnancy and childbirth. Its amendment in 2017, which extended paid maternity leave to 26 weeks, positioned India among countries with relatively progressive maternity leave provisions. Studies have shown that such policies not only improve maternal and child health outcomes but also contribute to better employee retention and organizational productivity. At the same time, research indicates that extended maternity leave may also have complex effects on women's

employment opportunities and wage equality, revealing the need for balanced policy design.

Despite these advancements, the framework for paternity leave in India remains fragmented and underdeveloped. Currently, paternity leave is largely limited to certain categories of government employees, typically offering around 15 days of leave, while the private sector lacks a uniform statutory mandate. Scholars argue that this disparity perpetuates traditional gender roles, where caregiving responsibilities are predominantly assigned to women, thereby reinforcing inequality both at home and in the workplace. The absence of a comprehensive paternity leave law also undermines the broader objectives of maternity benefits, as it fails to promote shared parenting and equal responsibility. Globally, there has been a shift toward gender-neutral parental leave policies, recognizing the importance of shared parenting responsibilities and their positive impact on family well-being and workplace equality. In the Indian context, despite progressive reforms in maternity benefits, the absence of robust paternity leave legislation highlights a significant policy gap.

In the Indian context, socio-cultural factors, economic constraints, and the dominance of the informal sector further complicate the effective implementation of parental leave policies. A significant portion of the workforce remains outside the formal legal framework, limiting access to maternity benefits and virtually excluding paternity leave altogether. Additionally, employers often perceive maternity leave as a financial burden, which may inadvertently influence hiring practices and contribute to gender-based discrimination.

This study aims to examine the legal framework, benefits, and challenges associated with maternity and paternity leave in India. It further explores the socio-economic implications of these policies and emphasizes the need for a more inclusive and balanced parental leave system to support both parents while fostering gender equality and sustainable development.

CONCEPT OF PARENTAL LEAVE

Parental leave refers to a period of authorized absence from work granted to parents (both mothers and fathers) to take care of their newborn, newly adopted, or recently fostered child. It is a broader concept that includes maternity leave, paternity leave, and shared parental leave, aimed at supporting child care and promoting work-life balance.

MATERNITY LEAVE

Maternity leave means the time a woman is allowed to take off from work during pregnancy and after the birth of her child, while still receiving job protection and, in many cases, full salary. It is given so that the mother can rest, recover, and take care of her newborn without worrying about losing her job⁷¹⁶.

In India, maternity leave is mainly provided under the Maternity Benefit Act, 1961. According to the latest amendment in 2017, a woman can take up to 26 weeks of paid leave, which can be used before and after childbirth. This law also provides other benefits such as medical bonuses, breaks for nursing the child, and in some cases, crèche (daycare) facilities at the workplace⁷¹⁷.

The main purpose of maternity leave is to protect the health of both mother and baby and to ensure that women are not treated unfairly at work because of pregnancy. It helps mothers recover physically and emotionally and also allows proper care and bonding with the child. Studies show that longer maternity leave can lead to better health for babies and lower chances of infant illness or death.

However, there are still some problems. Many women in India, especially those working in the informal sector, do not get these benefits. Also, some employers may hesitate to hire women because of the cost of providing maternity leave. Experts suggest that along with maternity leave, paternity leave should also be improved

⁷¹⁶ Bala, S. (2012). Implementation of Maternity Benefit Act.

⁷¹⁷ Tiwari, D., & Singh, J. (2021). Maternity Benefits Act 1961 with Amendment of 2017.

so that both parents can share responsibility equally.

DURATION:

The duration of maternity leave in India is clearly defined under the Maternity Benefit (Amendment) Act, 2017.

- A woman is entitled to 26 weeks (about 6 months) of paid maternity leave.
- Out of these 26 weeks, up to 8 weeks can be taken before delivery, and the remaining leave is taken after childbirth.

Special Cases:

- For women who already have two or more children, the leave is reduced to 12 weeks.
- For adoptive mothers (adopting a child below 3 months) and commissioning mothers (surrogacy cases), the leave is 12 weeks from the date of receiving the child.

Rights of Women During Maternity Leave

Under the Maternity Benefit Act, 1961, women are given several important rights during maternity leave to protect their health, job, and dignity at the workplace. These rights ensure that pregnancy does not negatively affect their employment.

1. Right to Paid Maternity Leave: A woman has the right to receive full salary (wages) during her maternity leave period.

2. Right to Job Security: An employer cannot dismiss, remove, or reduce the rank of a woman during maternity leave. This ensures job protection.

3. Right Against Dismissal During Pregnancy: It is illegal for an employer to terminate a woman because of pregnancy or while she is on maternity leave.

4. Right to Nursing (Breastfeeding) Breaks: After returning to work, a woman is entitled to two nursing breaks per day to feed her child until the child reaches about 15 months of age.

5. Right to Medical Bonus: If the employer does not provide free medical care, the woman has the right to receive a medical bonus.

6. Right to Leave for Miscarriage or Illness: Women are entitled to additional leave in case of miscarriage, medical termination of pregnancy, or illness related to pregnancy.

7. Right to Safe Working Conditions: A pregnant woman cannot be made to do heavy or harmful work that may affect her health or the baby.

PATERNITY LEAVE

Paternity leave means the leave given to a father after the birth or adoption of a child, so that he can take care of the newborn and support the mother. It is an important part of parental leave that promotes shared responsibility in childcare. In India, unlike maternity leave, there is no single comprehensive law that provides paternity leave for all employees. However, central government employees are allowed about 15 days of paternity leave, which can be taken before or after the child's birth. In the private sector, paternity leave depends on company policies, and many organizations either provide limited leave or none at all.⁷¹⁸

The concept of paternity leave is based on the idea that both parents should be equally involved in raising a child. Earlier, childcare was seen mainly as a mother's responsibility, but modern thinking recognizes the important role of fathers in early child development. Research shows that when fathers take paternity leave, it leads to better emotional bonding with the child, reduced stress for mothers, and improved family well-being.⁷¹⁹

Despite these benefits, paternity leave in India is still underdeveloped. Scholars argue that the absence of proper laws reinforces gender inequality, as women continue to bear most of the childcare burden. There have been proposals like the Paternity Benefit Bill, 2017, but it has not yet been fully implemented. Overall,

⁷¹⁸ Mukherjee, A. (2022). Analysis of Paternity Leave in India

⁷¹⁹ Singh, G. (2022). Need for Paternity Leave Policies.

paternity leave is an important step toward gender equality, work-life balance, and healthy family development, and there is a growing need to strengthen its legal framework in India.

Legal Position in India

Unlike maternity leave, paternity leave is not universally governed by a single law in India. However:

- Central Government employees are granted paternity leave under service rules
- There have been proposals like the Paternity Benefit Bill, 2017, but it has not yet become law

Duration of Paternity Leave

- For Central Government employees: 15 days of paid leave
- Usually taken before or within 6 months of childbirth
- In the private sector: depends on company policies (not mandatory)

Importance of Parental Leave in the Modern Workplace

Parental leave has become an essential part of the modern workplace as it supports both employees and organizations in multiple ways. It is no longer seen only as a welfare measure but as a strategic policy that promotes productivity, equality, and employee well-being.

1. Promotes Work-Life Balance

Parental leave allows employees to balance their professional and personal responsibilities, especially during childbirth or adoption. This reduces stress and helps employees return to work with better focus and motivation ⁷²⁰.

2. Improves Employee Productivity

Research shows that employees who receive adequate parental leave are more satisfied and loyal, which increases productivity and reduces

burnout. When employees feel supported, they perform better in the long run⁷²¹.

3. Enhances Gender Equality

Parental leave, especially when available to both parents, helps in reducing gender inequality. It encourages fathers to participate in childcare and reduces the burden on women, leading to more equal opportunities at work.⁷²²

4. Increases Employee Retention Organizations that offer parental leave experience lower employee turnover. Employees are more likely to stay with companies that support their family needs, reducing hiring and training costs.⁷²³

5. Supports Child and Family Well-being:

Parental leave ensures that parents can spend crucial early time with their child, leading to better physical and emotional development. It also strengthens family relationships

6. Boosts Organizational Reputation

Companies that provide good parental leave policies are seen as employee-friendly and socially responsible, which helps attract skilled talent and improve employer branding.

7. Reduces Gender Pay Gap

By encouraging shared parenting, parental leave helps reduce career interruptions for women, thereby narrowing the gender wage gap.

8. Contributes to Economic Growth

At a broader level, parental leave policies help maintain labour force participation, especially among women, which contributes to overall economic development.

OBJECTIVES OF THE STUDY

1. To analyse maternity leave provisions in India
2. To examine paternity leave policies
3. To evaluate the importance of parental leave in the modern workplace

⁷²¹ (Kenzheali, 2024; Ren & Siew, 2023)

⁷²² (Doucet & McKay, 2020; Rocha, 2021)

⁷²³ (Gault et al., 2014)

⁷²⁰ (Heymann et al., 2017)

4. To identify challenges and gaps in parental leave policies
5. To suggest improvements for maternity and paternity leave benefits

LEGAL FRAMEWORK OF MATERNITY LEAVE IN INDIA

The legal framework governing maternity leave in India is primarily based on constitutional provisions, statutory laws, and labour regulations, with the Maternity Benefit Act, 1961 forming the core legislation. This framework aims to protect the dignity of motherhood and ensure the welfare of both mother and child.

1. CONSTITUTIONAL PROVISIONS

Article 14 – Right to Equality

- Guarantees equality before law and equal protection
- Any discrimination in maternity benefits violates this article

Article 15(3) – Protective Discrimination

- Allows the State to make special provisions for women and children
- Legal basis for maternity laws like the Maternity Benefit Act

Article 16 – Equality of Opportunity in Employment

- Ensures equal opportunity in public employment
- Discrimination due to pregnancy or maternity is unconstitutional

Article 21 – Right to Life and Dignity

- Includes right to health, dignity, and reproductive choice
- Maternity benefits are part of a woman's right to live with dignity

Article 39(e) & (f) – Directive Principles

State must ensure:

- Protection of health of women workers
- Proper development of children

Article 42 – Just and Humane Conditions of Work

- Directly deals with maternity relief
- States: “The State shall make provision for just and humane conditions of work and maternity relief.”

Article 43 – Living Wage and Decent Conditions

- Ensures workers receive decent standard of life
- Supports maternity benefits indirectly

Article 45 – Child Care and Development

- Focuses on early childhood care and education
- Supports maternity protection policies

MATERNITY BENEFIT ACT, 1961 (AS AMENDED IN 2017)

Section 3 – Definitions

- Defines key terms like “woman,” “wages,” “employer,” and “establishment.”
- Broad interpretation ensures maximum inclusion of women workers.

Section 4 – Prohibition of Employment During Certain Periods

- A woman cannot work: 6 weeks after delivery/miscarriage
- Employer cannot assign hazardous or heavy work during pregnancy

Section 5 – Right to Maternity Benefit

- Core provision of the Act
- Provides 26 weeks paid leave (after 2017 amendment)
- Condition: Woman must have worked at least 80 days

Section 5(4) & 5(5) – Special Provisions

- Adoptive/commissioning mothers: 12 weeks leave
- Work-from-home option after leave

Section 6 – Notice of Claim

- Woman must give notice to employer about maternity leave
- Employer must allow leave accordingly

Section 8 – Medical Bonus

If employer does not provide medical care → medical bonus must be paid

Section 11 – Nursing Breaks

- Two nursing breaks per day until child is 15 months old
- Promotes child health and breastfeeding rights

Section 21 & 22 – Penalties

- Violation leads to:
 - Imprisonment up to 1 year, or
 - Fine, or both

CODE ON SOCIAL SECURITY, 2020

The Code on Social Security, 2020 consolidates various labour laws in India and incorporates maternity protection mainly through provisions derived from the Maternity Benefit Act, 1961 (as amended in 2017). While it strengthens maternity relief within a social security framework, it does not establish a statutory regime for paternity benefits.

Section 2 – Definitions

This section lays the foundation by defining important terms such as employee, employer, wages, and establishment, which determine the scope and applicability of maternity benefits. The inclusive definitions aim to extend protection to a broader category of workers, including those in organized sectors and potentially unorganized sectors through schemes⁷²⁴

Section 60 – Employment of Women

This provision regulates the employment of women during the period surrounding childbirth. It ensures that no employer engages

a woman during the prohibited period after delivery and restricts assignment of hazardous or physically strenuous work during pregnancy. The section reflects the constitutional mandate under Article 42 for humane working conditions⁷²⁵.

Section 61 – Right to Maternity Benefit

Section 61 is the core provision that guarantees maternity benefit to eligible women. It recognizes the right to paid maternity leave and ensures that women receive wages during their absence due to pregnancy and childbirth. This provision mirrors the enhanced leave period introduced by the 2017 amendment and reinforces maternity protection as a social security right⁷²⁶.

Section 62 – Payment of Maternity Benefit

This section deals with the manner and conditions of payment. It ensures that maternity benefits are calculated based on the average daily wage and are paid for the entire period of absence. It safeguards timely financial support, which is crucial for maternal and child health.⁷²⁷

Section 63 – Notice of Claim for Maternity Benefit

Section 63 provides procedural clarity by requiring a woman to give notice to her employer regarding her maternity leave. It ensures that employers are informed in advance and are obligated to provide the benefits accordingly. This section strengthens administrative accountability.⁷²⁸

Section 64 – Nursing Breaks

This provision entitles women to nursing breaks after returning to work. It promotes breastfeeding and child health by allowing mothers to care for their infants during working hours. The provision reflects a welfare-oriented approach to postnatal care.

⁷²⁵ (Sharma, 2021)

⁷²⁶ (Jadon & Bhandari, 2019)

⁷²⁷ (Bala, 2012)

⁷²⁸ (Shivakumar & Manogari, 2023)

⁷²⁴ . (Negi & Rawat, 2025)

Section 65 – Crèche Facility

Section 65 mandates establishments with a specified number of employees to provide crèche facilities. It supports working mothers by ensuring access to childcare within or near the workplace, thereby improving work-life balance and retention of women employees.

Section 67 – Prohibition of Dismissal During Maternity Leave

This section protects women from dismissal, discharge, or disadvantage during maternity leave. It ensures job security and prevents discrimination on the grounds of pregnancy, reinforcing constitutional guarantees under Articles 14 and 21.

Section 68–70 – Penalties and Enforcement

These provisions prescribe penalties for non-compliance with maternity benefit requirements. Employers who fail to provide benefits or violate provisions may face fines or imprisonment. These sections ensure enforceability and deterrence.⁷²⁹

APPLICABILITY AND ELIGIBILITY CRITERIA

I. Maternity Benefits in India

➤ Applicability

The Maternity Benefit Act, 1961 (as amended in 2017) and now incorporated under the Code on Social Security, 2020, applies to:

- Establishments such as factories, mines, plantations, shops, and establishments employing 10 or more persons
- Primarily covers the organized sector, though recent reforms aim to extend benefits to unorganized, gig, and platform workers through schemes.

➤ Eligibility Criteria

A woman is entitled to maternity benefits if:

- She has worked for at least 80 days in the 12 months preceding the expected date of delivery

- She is employed in an establishment covered under the Act

This 80-day rule is the core eligibility condition, ensuring that even temporary or contractual workers may qualify if they meet the minimum working period.

Additionally:

- Benefits apply to biological mothers, adoptive mothers, and commissioning mothers (surrogacy cases)
- No wage ceiling is prescribed under the Act (unlike ESI, which has limits)

II. Paternity Benefits in India

➤ Applicability

Unlike maternity benefits, paternity leave is not governed by any comprehensive statutory law in India. Its applicability is limited to:

- Central Government employees
- Certain State Government employees
- Private sector employees (only if company policies provide it)

Thus, paternity benefits are not universally applicable and depend largely on employer discretion.

➤ Eligibility Criteria

For government employees (as per service rules):

- Male employees are eligible for 15 days of paternity leave
- Leave can be taken before or within 6 months of childbirth
- Applicable for up to two surviving children

In the private sector:

- Eligibility depends entirely on organizational policy
- No uniform legal standard exists.

⁷²⁹ (Bhagat, 2024)

MATERNITY LEAVE BENEFITS

Maternity leave in India provides a wide range of health, financial, and employment-related benefits to women, ensuring protection during pregnancy and after childbirth.

The most important benefit is paid leave, which allows women to take time off (up to 26 weeks) while continuing to receive wages. This ensures financial stability during a critical period. Studies show that paid maternity leave improves maternal health, reduces stress, and supports child development, especially in the early months.

Another major benefit is job security, where the employer cannot dismiss or discriminate against a woman during maternity leave. This protection encourages women to continue in the workforce without fear of losing employment.

Maternity leave also includes health-related benefits such as medical bonus, nursing breaks, and protection from hazardous work. These provisions ensure proper pre-natal and post-natal care, which is essential for both mother and child.

Additionally, provisions like crèche facilities and work-from-home options help women balance professional and family responsibilities. These benefits contribute to higher female workforce participation and retention.

Overall, maternity benefits are considered an investment in human capital, improving long-term outcomes for children and promoting gender welfare.

PATERNITY LEAVE BENEFITS

Paternity leave, though not fully codified in India, provides important social and family-related benefits where available.

The primary benefit is that it allows fathers to participate in early childcare, which strengthens the emotional bond between father and child. Research shows that paternal involvement contributes positively to a child's cognitive and emotional development.

Paternity leave also helps in reducing the burden on mothers, especially during the postnatal period. This promotes shared parenting responsibility and supports the recovery and well-being of the mother.

Another key benefit is the promotion of gender equality in the workplace. When both parents are given leave, employers are less likely to discriminate against women in hiring and promotions.

It also improves work-life balance for fathers, allowing them to engage in family life without compromising job security. In organizations where paternity leave is available, it has been linked to higher employee satisfaction and productivity.

However, due to the absence of a uniform law, these benefits are limited and inconsistent in India, mostly available only to government employees or through company policies.

IMPACT OF PARENTAL LEAVE IN INDIA

Parental leave in India, encompassing both maternity and paternity benefits, has far-reaching social, economic, and workplace impacts.

1. *Health and Child Development*: Paid maternity leave ensures proper prenatal and postnatal care for mothers, improving both maternal and infant health. Studies show longer maternity leave correlates with higher child survival rates, better nutrition, and cognitive development. When fathers take paternity leave, children benefit from early paternal involvement, which positively affects emotional and social growth.⁷³⁰

2. *Gender Equality*: Parental leave policies reduce gender discrimination in hiring and promotions. By encouraging shared parenting responsibilities, paternity leave helps normalize male participation in domestic work, easing the disproportionate burden on women. This fosters

⁷³⁰ (Dhanuka & Banthia, 2021).

workplace inclusivity and career continuity for women.⁷³¹

3. Workforce Participation and Retention: Maternity benefits increase female workforce participation by providing job security during childbearing years. Companies offering parental leave report higher employee retention, reduced absenteeism, and increased loyalty.

4. Economic Productivity: By ensuring women can return to work after childbirth, parental leave contributes to human capital development and long-term economic growth. Fathers' leave also indirectly improves productivity by supporting family stability and reducing stress-related absenteeism.

5. Social Well-being: Parental leave promotes a balanced family life, reduces postnatal depression among mothers, and strengthens family bonds. Shared leave helps in creating a more equitable society, emphasizing caregiving as a shared responsibility.

6. Limitations and Challenges: Despite legal provisions for maternity leave, paternity leave is limited and inconsistent in India. This reduces the full potential impact of parental leave on gender equality and child development.⁷³²

CHALLENGES IN IMPLEMENTATION OF PARENTAL LEAVE IN INDIA

Despite legal provisions for maternity leave and some government policies for paternity leave, India faces several challenges in effectively implementing parental leave. These challenges span legal, organizational, social, and economic dimensions.

1. Limited Applicability in Informal Sector

- The Maternity Benefit Act and Code on Social Security primarily cover the organized sector, leaving out a large portion of India's workforce in the informal sector, agriculture, and gig economy.

- Many women working as domestic help, contract laborers, or in small enterprises remain unprotected.

2. Lack of Statutory Paternity Leave

- Unlike maternity leave, paternity leave is not legally mandated in India for most private sector employees.
- Fathers' involvement in childcare is largely dependent on employer discretion, limiting the potential for shared parenting and gender equality.

3. Financial and Operational Burden on Employers

- Extended maternity leave (26 weeks) can be perceived as a financial burden, especially for small and medium enterprises (SMEs).

Employers may hesitate to hire women of childbearing age due to perceived costs or disruption.

4. Lack of Awareness

- Many employees and even some employers are unaware of their rights and obligations under the Maternity Benefit Act or Social Security Code.
- This results in underutilization of benefits, particularly in smaller firms or rural areas.

5. Workplace Culture and Gender Bias

- Societal and organizational norms often discourage women from availing maternity leave fully.
- Men taking paternity leave may face stigma or lack of support, further discouraging shared parental responsibility.

6. Monitoring and Enforcement Issues

- Limited inspection and monitoring mechanisms reduce the effective enforcement of maternity benefits.

⁷³¹ (Pradeep & George, 2021).

⁷³² Mukherjee, 2022; Dadke, 2024).

- Penalties for non-compliance exist, but implementation is weak, particularly in smaller establishments.

7. Limited Support Services

- While crèche facilities and nursing breaks are mandated, many workplaces lack proper infrastructure.
- Women returning to work may struggle with childcare responsibilities, affecting retention.

8. Socioeconomic Inequalities

- Women from lower-income groups, informal jobs, or rural areas face greater difficulties accessing benefits.
- Awareness, documentation, and eligibility criteria often exclude vulnerable populations.

LANDMARK CASES ON MATERNITY BENEFITS IN INDIA

Municipal Corporation of Delhi v. Female Workers (Muster Roll)⁷³³

Facts:

- Female workers employed on muster roll basis claimed maternity benefits.
- Employer argued they were temporary/casual workers, thus ineligible under the Maternity Benefit Act, 1961.

Judgment:

- Supreme Court ruled that temporary, casual, and part-time workers are entitled to maternity benefits.
- Emphasized that maternity protection is a fundamental human right and must be interpreted liberally.

Significance:

- Extended maternity benefits to workers beyond regular employment.
- Strengthened protection for women in the informal/contractual sector.

Air India v. Nergesh Meerza⁷³⁴

Facts:

- Air India had a rule that female flight attendants could not continue employment after a certain age or maternity leave.
- Ms. Meerza challenged this as discriminatory against pregnant women.

Judgment:

- Supreme Court struck down discriminatory service rules related to pregnancy.
- Recognized maternity leave as a right integral to gender equality.

Significance:

- Reinforced non-discrimination in employment due to pregnancy.
- Highlighted that maternity benefits are part of Article 14 (Equality) and 21 (Right to Life and Dignity).

C.B. Muthamma v. Union of India⁷³⁵

Facts:

- Ms. Muthamma, an Indian Foreign Service officer, challenged gender-based service rules, including maternity leave restrictions.

Judgment:

- Supreme Court held that gender-based discrimination in employment violates Article 14.
- Reinforced women's right to maternity protection and career continuity.

Significance:

- Landmark case establishing constitutional basis for maternity benefits in public employment.

⁷³³ (2000) 3 SCC 224

⁷³⁴ 1981, 4 SCC 335

⁷³⁵ 1979, 4 SCC 260

Key Takeaways from Landmark Cases

- ✓ Maternity protection is a fundamental right, not just a statutory benefit.
- ✓ Temporary, contractual, and casual female workers are included under the Maternity Benefit Act.
- ✓ Employers cannot discriminate, harass, or terminate women due to pregnancy or maternity leave.
- ✓ Judicial interpretation links maternity benefits to Articles 14, 15(3), 21, and 42 of the Constitution.
- ✓ Encourages a pro-women and welfare-oriented approach to maternity laws in India.

RECOMMENDATION

1. Extend parental leave coverage to include informal, gig, and platform workers, ensuring all mothers and fathers have access to statutory benefits.
2. Introduce statutory paternity leave of 2–4 weeks across public and private sectors to encourage shared parenting responsibilities.
3. Provide full paid maternity and paternity leave, ensuring financial security so parents can focus on childcare without economic stress.
4. Implement awareness programs for employees and employers about parental rights, eligibility, and utilization of leave benefits.
5. Encourage crèche facilities, nursing breaks, and flexible work arrangements to support working parents returning to work.
6. Strengthen monitoring and enforcement mechanisms with inspections, reporting, and penalties for non-compliant employers.

7. Offer financial incentives or tax benefits to organizations that provide extended parental leave and childcare support.

CONCLUSION

Parental leave, encompassing maternity and paternity benefits, is a crucial element of employee welfare, social security, and gender equality in India. The legal framework, primarily through the Maternity Benefit Act (1961, amended 2017) and the Code on Social Security, 2020, provides substantial protection for working women, including paid leave, job security, nursing breaks, crèche facilities, and medical support. These measures have not only improved maternal and child health outcomes but have also contributed to the retention of female employees in the workforce, ensuring continuity of careers and reducing gender disparities in employment. Despite these achievements, the absence of statutory paternity leave for most employees highlights a significant gap in India's parental benefit system. Limited awareness, inadequate implementation, lack of employer compliance, and social stigma surrounding men taking leave further hinder the full potential of parental leave policies. Research and case studies indicate that shared parenting responsibilities, supported by both maternity and paternity leave, lead to better child development, stronger family bonds, and greater workplace equality.

To maximize the impact of parental leave, India must focus on expanding coverage to informal and gig workers, introducing paid paternity leave, strengthening enforcement mechanisms, promoting family-friendly workplace policies, and providing incentives for organizations that implement robust parental support systems. Aligning domestic policies with international best practices, such as flexible shared leave, can ensure that parental responsibilities are fairly distributed between mothers and fathers.

Ultimately, an effective parental leave system is not merely a statutory obligation but a strategic investment in human capital, social welfare,

and economic growth. By supporting parents, India can foster healthier families, increase female workforce participation, reduce gender inequality, and create a more inclusive and progressive society where childcare and career development coexist harmoniously. Parental leave, therefore, is both a fundamental right and a societal necessity, critical for building a balanced, equitable, and productive nation.

REFERENCE

1. Bala, S. (2012). Implementation of Maternity Benefit Act. Vigyanik Vikas. <https://vvnli.gov.in/sites/default/files/2024-01/2012-099.pdf>
2. Negi, R., & Rawat, N. (2025). Maternity Benefit Regime in India. Labour & Welfare Journal, 3(1), 55–72
3. Muralitharan, I. (2022). Right of Maternity Benefits as a Fundamental Right. International Journal of Labour & Law, 9(2), 259–275. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/injloiw9§ion=259
4. Dhanuka, A., & Banthia, K. (2021). Paternity Benefit Leaves in India: Need and Legal Framework. International Journal of Public & Social Law, 3(4), 45–59. <https://ijpsl.in/wp-content/uploads/2021/09/Paternity-Benefit-Leaves-in-India.pdf>
5. Chaudhary, N. S., et al. (2025). Employee Perspectives on Maternity Benefits in India. International Journal of Organizational Analysis, 33(11), 4544–4558. <https://www.emerald.com/ijoa/article-pdf/33/11/4544/10858859/ijoa-06-2024-4555en.pdf>
6. Pradeep, N. A., & George, M. (2021). Paternity Leave Policies and Gender Gap in India. DME Journal, 12(3), 102–118. <https://dmejournals.com/index.php/DMEJL/article/download/116/59>
7. Mukherjee, A. (2022). Analysis of Paternity Leave in India. International Journal of Labour Management & Human Studies, 16(2), 78–90. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ijlmhs16§ion=55
8. Chaudhary, N. S., et al. (2025). Employee Perspectives on Maternity Benefits in India. International Journal of Organizational Analysis, 33(11), 4544–4558. <https://www.emerald.com/ijoa/article-pdf/33/11/4544/10858859/ijoa-06-2024-4555en.pdf>
9. Pradeep, N. A., & George, M. (2021). Paternity Leave Policies and Gender Gap in India. DME Journal, 12(3), 102–118. <https://dmejournals.com/index.php/DMEJL/article/download/116/59>
10. Mukherjee, A. (2022). Analysis of Paternity Leave in India. International Journal of Labour Management & Human Studies, 16(2), 78–90. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ijlmhs16§ion=55