

Maternity Benefits Amendment Act 2017: An Economic Imperative

Dr. P. Neeraja

Assistant Professor

Dept. of Women's Studies

Sri Padmavati Mahila Visvavidyalayam, Tiurpati

Dr. G. Indira Priyadarsini

Assistant Professor

Dept. of Law

Sri Padmavati Mahila Visvavidyalayam, Tiurpati

World Economic Forum (WEF) has recently released Gender Gap Index-2019, that shows India has slipped four places to rank 112th globally in terms of gender gap amid widening disparity in terms of women's health and survival and economic participation and has slipped to 149th in economic participation. According to the Deloitte report titled Empowering Women & Girls in India the female labour force participation (FLPR) has had a decadal fall from 36.7 per cent in 2005 to 26 per cent in 2018, with 95 per cent (195 million) women employed in the unorganised sector.

It is very evident from above data, that, gender gap is still winding in the country. That can be removed or narrowed down by taking proactive gender friendly policies and legislations. Economic independence of women is also one of the affirmative steps in removing gender gap. Hence labour force participation of women needs to be promoted. Women's labour force participation in India has fallen and is among the lowest in the world. It is only slightly above Saudi Arabia and Pakistan. The 2017 amendments to the Maternity Benefit Act of 1961 were a bold policy action to help solve the problem. Amendment of Maternity Benefit Act seems to be one of the revolutionary steps in addressing the falling of female labour force participation besides launching of employment programmes with special provisions to female employment such as MGNREGA, PMEGP, MUDRA etc. In 2017, the Parliament of India passed an amendment to the Maternity Benefit Act, 1961 (MB Act), which brought about three key changes. While the MB Act had previously granted female employees maternity leave, the amendment increased the duration of leave entitlement from 12 weeks to 26 weeks. Further, the amendment also introduced leave for adoptive mothers and surrogate mothers. Finally, the amendment mandated that every establishment with 50 or more employees shall have the facility of a crèche.

As per the 'India Development Report' by World Bank India has one of the lowest female participation rates in the workforce; it merely stands at 27%, whereas countries like China and Brazil boasts of good participation rates somewhere in between 65-70%. Through the Maternity Benefit (Amendment) Act, the government intends to empower women by increasing their workforce participation and overall well-being and also to protect the dignity of "Motherhood" by providing the complete & health care to the women & her child when she is not able to perform her duty due to her health condition. There is need for maternity benefits so that a woman is to be able to give quality time to her child without having to worry about whether she will lose her job and her source of income. To safeguard working women and their rights to remain self-reliant and economically independent, maternity benefits are required.

The MB Act was instituted to ensure that young mothers' ability to participate in the workforce is not hindered because of childbearing and child-rearing responsibilities. Women have customarily had a primary role when it comes to childcare, even when they have spouses. For working women who do not have adequate support in care giving, this often becomes an impediment to their ability to work efficiently. In order to combat this and give female employees the time and space required for a new child, the law mandates employers to provide female employees with paid leave. With the amendment, the requirement to provide a crèche has also been introduced to encourage women to return to work without having to worry about leaving their young children unattended. Since the Amendment was aimed to ensure the health of women employees pursuant to giving birth, and to also ensure safety of the new born child, it appeared to be a positive development for women employees in the private sector. However, the implementation of the Amendment has been inadequate and ineffective.

Many Indian women quit employment after marriage and childbirth. According to a study by the Associated Chambers of Commerce and Industry of India, 100 new mothers interviewed in 10 Indian cities exited employment post-childbirth (ASSOCHAM India 2015). This reflects a gendered division of labour, wherein motherhood—the dominant marker of femininity—returns women in paid public employment to full-time domesticity to fulfil their "primary" roles. These women either lack accessible, affordable, secure childcare assistance or family support, or have internalised dominant notions of womanhood and may be conflicted about public employment versus childcare priorities.

The act's extended and different categories of paid maternity leave, work from home options and crèche provisions, potentially reaching 1.8 million formal sector women workers, contribute to easing pressures of combining paid public work with unpaid care

work, for which women bear the principal responsibility. This may increase the numbers of post maternity returnees and retention of women employees over time, enhancing their right to decent work and access to material and non-material resources. Women's incomes and public-sphere learning have multiplier effects on development as they tend to invest these in families and communities, creating social and economic capital (World Bank 2014).

In a cross-country analysis, the IMF found that – despite unfavorable cyclical developments and over and above the effects of education, family status, exposure to automation, and opportunities for part-time work – access to childcare and paid maternity leave enabled women who want to work to do so. This explains much of the growth of women's participation in Europe and other advanced economies.

Data from around the globe shows that access to maternity leave reduces the risk of infant mortality, and improves breastfeeding rates and duration which has a positive bearing on the child's physical and mental health. Studies also show that adequate maternity leave (of at least 12 weeks) helps prevent postpartum depression and stress in new mothers. On the economic front, there is ample evidence to suggest maternity leave does not hurt businesses and is actually good for the economy—women workers who have access to maternity leave are more likely to return to the workforce, allowing their firms to not just retain but also attract the best talent.

If we look into other side, cases are there where employers do not want to employ women as they would then be required to sponsor them for a 26-week long paid maternity leave. Therefore, the amended MB Act seems to have become a bane for women working in the private sector discouraging employers to employ them. Today, India aims to be an economic superpower with the fastest growing economy, hence without encouraging female labour force. Woman is giving birth not only for her benefit but for the society. Hence, the Government and society, both of which are equally important stakeholders in the process of ensuring employment opportunities for women, would contribute and share the responsibility of ensuring that women have equal access to employment and other approved benefits.

To conclude, empowering women and providing fair representation will play a vital role in the economic growth and sustainable development of our country. In the absence of support from the government, timely intervention or necessary incentives the endeavour will remain unfulfilled. As long as half the population of India is at a disadvantage in the labour ecosystem, it is imperative for concerted efforts, both from the government and the industry, to allow more women to participate and to promote decent work opportunities for women across social strata.

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