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A Critical Labour Law Analysis of the Protection of Reproductive Rights of Women Workers under the Maternity Benefit Act 1961

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Although the intention is to critically evaluate the function of the Maternity Benefit Act of 1961 as a welfare measure rather than as a fundamental right protected under the Constitution, the purpose of this essay is to undertake the labour law analysis of the legislation in ensuring the reproductive rights of the women employees. In this regard, the essay will examine the legislation to see how it has attempted to reconcile the biological aspects of women along with their professional status and dignity. This essay will, therefore, focus on both the 2017 amendments that have increased maternity leave, along with the provision of crèche facility, in addition to the other issues concerning maternity leave, availability of medical facilities, job security, etc. To ascertain if the Act ensured the labour welfare rights of the women workers, the paper follows a doctrinal-analytical methodology. The practical concerns with regard to the implementation of the Act, such as the difficulties faced by employers, exclusion of women workers from the unorganised sector, lack of awareness among workers, and enforcement problems, are highlighted. This paper also examines the trends adopted by courts in favouring the Act to benefit women workers. In addition, the study examines how well the current maternity benefits program works in addressing any new developments in the labour market, such as the gig economy, contract work, and informal employment. Although acknowledging the foresight that went into crafting the law, the article asserts that the

reproductive rights of women workers have not been sufficiently protected by the law. To ensure that the maternity benefit program becomes a reality for the workers, the article ends on the note that more needs to be done.

Keywords: *women workers, labour welfare, reproductive rights, maternity benefits act, and employment protection.*

INTRODUCTION

One of the basic principles of labour welfare law is maternity protection. Considering that a constitutional democracy works towards social justice, then labour law must achieve an equilibrium between efficiency and dignity instead of simply focusing on contracts between employer and employee. While the fact that pregnancy and childbirth are biological processes unique to women is a given, the broader impact of these events socially and economically is not confined to the person experiencing them, but to the family as well as to society at large. This having been said, modern systems of labour laws see maternity as a societal responsibility rather than a personal burden. Protection for maternity was needed because of structural discrimination against women at work. If there were no laws regarding this, pregnancy would lead to termination, reduced income, demotion, or failure to be promoted. All this would hinder women's involvement in the public sphere and perpetuate gender discrimination. Therefore, laws protecting maternity became the means to redistribute resources and address gender issues; thus, preventing women from choosing between motherhood and a job. The constitutional basis of maternity benefits is guaranteed through Articles such as Article 14 (Equality before law), Article 15 (3) (Provisions regarding women), and even the Directive Principle of Article 42 ("The State shall make provision for securing just and humane conditions of work and for maternity relief.").

IMPORTANCE OF MATERNITY PROTECTION IN LABOUR LAW

Some objectives for which maternity protection is used in labour law are as follows –

Maternal and Infants' Health Protection: A pregnancy requires health care, sufficient rest, and safeguarding from hazardous or difficult work. It has been made illegal by the labour law to provide harmful employment to pregnant women. Reduction in maternal and infant deaths is one objective in the field of public health that is well-aligned with maternal health protection.

Job Security: The assurance of safety from being fired from a job during or after pregnancy is one major element of maternity protection. Without job security, women would remain economically vulnerable.

Income Continuity: In an era where medical expenses as well as the cost of raising children are on the rise, paid maternity leave will ensure that women do not have to lose their jobs. Income replacement in case of maternity leave will help the economy and will prevent individuals from having to leave their jobs.

Substantive Equality: Whereas formal equality gives everyone equal treatment regardless of their personal differences, substantive equality embraces and accommodates those differences. One way of practising affirmative action in order to remove biological disadvantage as well as achieve equality in the workplace is through maternity protection.

The *Municipal Corporation of Delhi v Female Workers (Muster Roll)* is one case in which the Supreme Court affirmed the fundamental right of maternity protection and gave this right even to daily wage workers.¹

LINK BETWEEN REPRODUCTIVE RIGHTS, WORKPLACE EQUALITY, AND SOCIAL JUSTICE

Reproductive autonomy is an inherent facet of personal freedom under Article 21. The right to exercise reproductive freedom would be meaningless if one loses his/her job as a result of being pregnant. Thus, the provision for maternity protection plays an important role in establishing the link between reproductive freedom and equality in employment.

In the case of *Suchita Srivastava v Chandigarh Administration*, it has been held that reproductive freedom falls under the ambit of personal liberty guaranteed by Article 21.² Though the aforementioned case pertains to the right to abort, the general outlook towards reproductive freedom adds more significance to the said right.

Maternity protection can be seen from the angle of social justice since it allows sharing part of the burden of the economic cost of reproduction among women, employers, and society at large.

¹ *Municipal Corporation of Delhi v Female Workers (Muster Roll) & Anr* (2000) 3 SCC 224

² *Suchita Srivastava & Anr v Chandigarh Administration* (2009) 9 SCC 1

In addition to addressing gender discrimination, it also contributes to women's economic growth by promoting their active participation in economic activities.

EVOLUTION OF MATERNITY PROTECTION AS LABOUR WELFARE LEGISLATION

Maternity benefits have evolved in tandem with industrial development and labour reforms. During the early days of the Industrial Revolution, women worked in dangerous environments in factories without any maternity benefits. Labour movements in Europe and North America brought about the acceptance of maternity benefits as labour rights. On an international level, the ILO brought about the enactment of the Maternity Protection Convention in 1919, which set minimum standards for maternity leave and maternity medical services. Various other conventions have reinforced and improved upon these rights.³ Before the independence of India, maternity benefits were governed under different provincial laws. Following independence, the Parliament of India legislated the Maternity Benefit Act of 1961 on the basis of Article 42 of the Constitution of India. The legislation applies to industries including factories, mines, plantations, and others not covered by the Employees' State Insurance Act. The amendments brought about in the year 2017 have greatly extended the maternity leave from 12 weeks to 26 weeks, introduced crèches for children as well as adoptive and commissioning mothers.

SIGNIFICANCE OF THE MATERNITY BENEFIT ACT, 1961

The Maternity Benefit Act, 1961, stands out as a milestone in the field of Indian labour laws, providing job security, income security, and dignified status to women workers. This Act could be appreciated from the following perspectives –

Right to Paid Maternity Leave: The Act provides that women who qualify can enjoy paid maternity leave. An increase to 26 weeks through the 2017 Amendment places India amongst those few countries having long periods of statutory maternity leave.

³ International Labour Organization, Maternity Protection Convention 2000

No Dismissal/Discrimination: According to Section 12, the woman cannot be dismissed, discharged, or treated at a disadvantage while on maternity leave. Any such act of dismissal by the employer is deemed null and void.

No Arduous Work: The Act prevents the placement of hazardous and strenuous work on pregnant women.

Provision for Medical Allowance: The employer shall provide a certain medical allowance if there is no provision for any prenatal or postnatal healthcare facility.

Crèche Facility: The employer needs to provide a crèche facility in establishments where 50 or more women are employed, as per the 2017 Amendment.

Since the beginning, the welfare dimension of the Act has been stressed through judicial interpretation. In the case of *B. Shah v Presiding Officer, Labour Court*, it was held that maternity benefits provisions should be liberally interpreted so that their social purpose is fulfilled.⁴

PRACTICAL CHALLENGES IN IMPLEMENTATION

There are some progressive legislations, but the following challenges remain in practice –

Lack of Coverage for Informal Employment: Most women in India are engaged in the informal labour market.

Employers' Objections: The costs related to the issue make them less interested in employing women of reproductive age.

Implementation Problems: Insufficient measures aimed at its implementation and a lack of knowledge may prevent the process.

Gender Stereotypes: Providing maternity leave benefits may cause gender stereotypes related to parenting without the inclusion of the paternal program.

It means that further legislative changes should be made to ensure parental leave and better state contributions to maternity benefits.

⁴ *B Shah v Presiding Officer, Labour Court, Coimbatore (1977) 4 SCC 384*

SCOPE OF THE PAPER

The Study of Maternity Protection in India's labour law is done through:

- Studying the legislative framework of the Maternity Benefit Act of 1961, particularly the eligibility criteria, period of leave, duties of employers, and penalties.
- Studying the influence of judicial and constitutional doctrine on maternity jurisprudence.
- Identifying the loopholes in the implementation of legislation and the problems of compliance.
- Determining the need for reform to achieve social justice and equality.

REPRODUCTIVE RIGHTS AS LABOUR WELFARE RIGHTS

This has been marked by the theoretical amalgamation of reproductive rights into the legal principles of labour welfare law. Reproductive ability, which was once considered a private bodily issue, is seen to have far-reaching social and economic implications. Hence, labour law protects individuals from any form of discrimination or marginalisation because of their reproductive responsibilities, besides monitoring the process of labour. Reproductive rights are supported by Articles 14, 15(3), 21, and 42 of the Constitution of India. These articles guarantee equality before the law, allow discrimination for protection purposes, ensure personal dignity and liberty, and mandate maternal leave. Reproduction is not an indicator of economic insecurity or marginalisation in the employment scenario since reproductive rights are recognised under labour welfare law.

Concept of Reproductive Rights in Employment: Recognition of Maternity as a Social Function: The status of maternity has been acknowledged by present-day labour laws as a social function that is essential for the sustenance of society, as opposed to being purely an individual act. This is evident from the Constitutional provision contained in Article 42 of the Indian Constitution, which obliges the State to provide maternity benefits and good working conditions. It has been interpreted that the State is under a positive obligation to ensure that there is adequate maternal protection as per the Directive Principles of State Policy. The Maternity Benefits Act 1961 ensures that these constitutional intentions are fulfilled through its provisions for the provision of maternity benefits and employment security.

In the case of *B. Shah v The Presiding Officer, Labour Court*, the Supreme Court held that maternal benefit legislation is essentially a welfare scheme and needs to be construed liberally in order to attain its end of safeguarding motherhood. It was pointed out by the Court that the legislation is made to secure the dignity of motherhood from any exploitation at a delicate stage.

Furthermore, in *Municipal Corporation of Delhi v Female Workers (Muster Roll)*, the Court extended the coverage of maternity benefits to muster roll workers, stating that the withholding of the same would frustrate the very spirit of Article 42 of the Constitution and its welfare approach. The Court treated maternity protection as part of social justice and basic human rights.

Protection Against Economic Vulnerability During Pregnancy: The state of pregnancy renders one temporarily incapable of working, thus exposing a pregnant woman to economic insecurity. In the absence of legal protections, an employer can discontinue the provision of services or payment of salaries, making one financially insecure at a time when costs related to health care and child-rearing are at their peak.

Clause 12 of the Maternity Benefit Act, 1961, makes the discharge, dismissal or reduction of pay during maternity leave illegal. Such action will render any such contract null and void. Statutory protection makes the issue of maternity relief not merely a matter of discretion.

In the case of *Air India v Nergesh Meerza*, the Supreme Court declared as unconstitutional and arbitrary the company's practice of dismissing its air hostesses on the grounds of first pregnancy, being a violation of Article 14 of the Constitution.⁵ This landmark decision has established the principle that one cannot discriminate against any woman because she possesses reproductive capabilities.

Neera Mathur v LIC of India is another important case where intrusive questioning about menstruation and pregnancy was held violative of the right to life and personal liberty under Article 21 of the Constitution.⁶

⁵ *Air India Etc Etc v Nergesh Meerza & Ors Etc Etc* (1981) 4 SCC 335

⁶ *Mrs Neera Mathur v LIC of India & Anr* (1992) 1 SCC 286

Labour Welfare and Gender Justice: Protective Legislation vs Formal Equality:

Equal treatment calls for identical treatment, while protective legislation acknowledges difference and takes account of structural inequalities. The Maternity Benefit Acts constitute a prime example of substantive equality.

As per Article 15(3), the State has the power to make special provisions for women and children. The special provisions in question do not constitute exceptions to the equality principle but serve to secure it. Thus, the Maternity Benefit Act, 1961, can be said to embody the spirit of constitutionally protected affirmative action.

According to the decision rendered by the Supreme Court in *Anuj Garg v Hotel Association of India*, there is an essential distinction between restrictive and protective legislation.⁷ Although the Court struck down a provision banning the employment of women in establishments where liquor was sold, the Court emphasised that protective legislation is meant to empower women.

Role of Labour Law in Addressing Structural Disadvantage: Labour market practices often make unfounded assumptions about uninterrupted work and productivity, which indirectly discriminate against women in terms of their reproductive functions. Absent any form of legal regulation, these structural imbalances would be sustained.

According to the ILO, gender equality at work requires protection for maternity benefits under Convention No. 183 (2000). The Supreme Court of India is known to often use international standards in interpreting the Constitution.

The landmark judgement in *Suchita Srivastava v Chandigarh Administration* affirmed reproductive rights as part of the broader right to privacy under Article 21.⁸ Notwithstanding its nature, this decision has laid down a strong foundation for reproductive rights in the workplace.

Paid leave, non-dismissal, and crèche provisions under the amended Maternity Benefit Act, 1961, counterbalance some of these structural deficiencies that could have disadvantaged women in the workforce.

⁷ *Anuj Garg & Ors v Hotel Association of India & Ors* (2008) 3 SCC 1

⁸ *Suchita Srivastava & Anr v Chandigarh Administration* (2009) 9 SCC 1

RELATIONSHIP WITH HUMAN DIGNITY AND WORKPLACE PARTICIPATION

Dignity is one of the fundamental constitutional principles under Article 21. Protection during the maternity period is directly connected with dignity in several important ways:

Respect for Reproductive Choice: Recognition of autonomy in reproduction is recognition of individual freedom.

Protection from Exploitation: Guarantee of paid maternity leave helps to avoid exploitation in the form of economic pressure on pregnant women.

Ensuring Continuation in Employment: A job guarantee helps to maintain women's continuous involvement in public affairs.

According to several judgments made by the Supreme Court, dignity cannot be separated from equality and the right to means of subsistence. In particular, in the case *Maneka Gandhi v Union of India*, the Supreme Court broadened the scope of Article 21 to include such dimensions of human dignity.⁹

Thus, maternity protection cannot be regarded as a kind of privilege or welfare benefit, but rather it is an essential condition of substantive equality. Failure to provide maternity benefits results in the compulsion of withdrawal of women from the workplace and, therefore, increases economic subordination and gender inequality.

LEGISLATIVE FRAMEWORK OF THE MATERNITY BENEFIT ACT, 1961

The Maternity Benefit Act, 1961, is one such labour welfare act which is a landmark legislation in India, being rooted in the spirit of social justice and humanity as envisaged in our constitution. This act has been promulgated under Article 42 of the Constitution, which seeks to regulate the employment of women workers during specific phases before and after childbirth. The provisions of this act also ensure that both employers' and women employees' rights and duties are equally emphasised.

⁹ *Maneka Gandhi v Union of India* (1978) 1 SCC 248

Social Welfare Orientation: Protection of the dignity of motherhood from being compromised by making women work while pregnant or giving them financial assistance during their period of maternity leave constitutes the main purpose behind the Maternity Benefit Act of 1961. This Act considers maternity as a social responsibility and endeavours to safeguard against any kind of exploitation which may result from temporary inability to work due to pregnancy among women.

In the case of *Municipal Corporation of Greater Mumbai v Female Workers*, it was stated by the Supreme Court that any statute dealing with maternity benefits shall be construed in such a way as to ensure social justice in compliance with the Constitution of India, for providing humane labour laws.

Coverage of Establishments and Employees: This Act applies to all factories, mines, plantations, shops, and establishments in which the number of people employed is more than the number prescribed by the Act. All women workers, either directly engaged or indirectly through agencies, who fulfil the stipulated minimum period of service are covered under this Act. Through this Act, the availability of maternity benefits does not depend on the type of employment but depends on the mere existence of employment.¹⁰

KEY STATUTORY PROVISIONS

Maternity Leave — Paid Leave Entitlement: Section 5 of the Maternity Benefits Act, 1961, gives a statutory right to take maternity leave with pay. With the passage of the 2017 amendments, eligible female employees can avail themselves of 26 weeks of paid maternity leave, out of which some period before birth could also be considered.

In the landmark case of *Deepika Singh v Central Administrative Tribunal*, the Supreme Court has made it clear that maternity benefits should be viewed within the context of constitutionally enshrined values of equality, dignity, and inclusivity.¹¹

¹⁰ Maternity Benefit Act 1961, s 2

¹¹ *Deepika Singh v Central Administrative Tribunal* (2022) SCC OnLine SC 1088

Wage Protection — Calculation of Maternity Benefit: As per this Act, the maternity benefit will be calculated as per the average pay per day of the employee. It helps her maintain continuity in the source of income during maternity leave.

It is provided under section 5(1), when read with section 3(n), that explains the manner in which maternity benefit is to be calculated.¹²

Medical Bonus and Health Safeguards: In clause 8, a female employee receives a medical allowance if the employer fails to offer free pre- and postnatal services.¹³ The section highlights the medical costs incurred during delivery and provides health coverage for the employee. The law further prevents an employer from giving difficult jobs and tasks to a pregnant lady.

Protection from Dismissal — Prohibition of Discharge During Maternity: Section 12 bars dismissals, discharges, or any other modification in employment conditions during maternity leave. Such termination will be null and void. This section prevents maternity from being a factor used to discriminate against a woman in employment and provides job security when the employee is most vulnerable.¹⁴ The courts have always viewed this provision as mandatory since it bars the termination of employment in contravention of statutory rights and constitutional rights of equality.

Nursing Breaks and Post-Natal Protection: Under section 11, women coming back to work will be allowed nursing breaks until their children attain an age as specified. The nursing breaks will be considered working time aimed at promoting the health of the children and lactation. It is through such measures that one acknowledges that protection during pregnancy goes beyond birth to post-birth.¹⁵

EMPLOYER DUTIES AND COMPLIANCE REQUIREMENTS

Some of the duties imposed upon employers under the Maternity Benefit Act, 1961, for its effective implementation are:

- Timely payment of maternity benefits.

¹² Maternity Benefit Act 1961, ss 5 and 3(n)

¹³ Maternity Benefit Act 1961, s 8

¹⁴ Maternity Benefit Act 1961, s 12

¹⁵ Maternity Benefit Act 1961, s 11

- Maintaining registers and records regarding maternity leave and payment.
- Providing creche facilities in organisations where there are fifty or more employees (as per the amendment post-2017).
- Non-discrimination in recruitment, promotion, and termination of employment due to pregnancy.
- Allowing work from home facility post-maternity leave, if possible.
- These requirements, failing which a penalty would be imposed, include fine and jail time, thus emphasising their compulsory nature.¹⁶
- It is evident from the above discussion that maternity protection is an obligation under the statute, and not at all voluntary on the part of employers.

JUDICIAL INTERPRETATION: EXPANDING THE SCOPE OF PROTECTION

The Indian judiciary has consistently widened the ambit of maternity protection by construing statutes in consonance with the principles enshrined in the Constitution, such as equality, dignity, and social justice. Not only have judicial pronouncements shed light on the ambiguities within the Maternity Benefit Act, 1961, but they have also helped extend the law's application to changing social contexts and employment situations.

Beneficial Interpretation of Welfare Legislation: It can always be seen that the maternity law is always viewed as an advantageous law that requires purposive construction to promote its social welfare aim, rather than construing it in technical terms that could limit its reach.

This can be seen in the case of *K. Kalaiselvi v Chennai Port Trust*, where the High Court of Madras observed that maternity benefits to a woman employee cannot be denied based on technical considerations related to her status as a service person. This case reaffirmed that any maternity laws should always be construed in such a way that social welfare would benefit from it.¹⁷

Protection of Dignity and Employment Security: The interpretation of judicial rulings has also affirmed the close connection between maternity protection and job security and dignity.

¹⁶ Maternity Benefit Act 1961

¹⁷ *K Kalaiselvi v Chennai Port Trust* (2013) SCC OnLine Mad 811

In the case of *Rakhi Ray v High Court of Delhi*, while discussing employment laws from the angle of service law provisions, the Supreme Court has highlighted that the constitutionally guaranteed values of equality and dignity need to inform any employment policy concerning women workers. It affirmed that service regulations must never work against women because of their natural attributes, such as pregnancy.¹⁸

Likewise, in *Union of India v M. Bhaskaran*, the Court has made it clear that welfare legislation in the employment sector needs to be interpreted in a way that reflects the values of justice and job security, which are important elements of maternity protection.¹⁹

Extension of Maternity Rights as Human Rights: Increasingly, courts have come to interpret maternity protections as a matter of human rights, noting that biological functions cannot be a justification for denying workers certain privileges.

As seen in the case of *Shalini v State of Kerala*, the High Court of Kerala ruled that depriving a contractual worker of her maternity leave was a violation of equality and social justice. It was noted that maternity protection was a matter of human rights relating to dignity, which had to be provided regardless of the nature of employment when the requisite statutory criteria were met.²⁰ This approach can be traced across other court decisions regarding maternity protection.

Constitutional Support to Maternity Protection: Judicial reasoning has time and again ensured that maternity protection finds its place in the constitutional ambit, especially under Articles 14, 15(3), and 21.

In *Dr Mrs. Vijaya Manohar Arbat v Kashirao Rajaram Sawai*, the Supreme Court stated that social justice laws need to be interpreted in such a way as to enhance the dignity and welfare of women. Though dealing with the issue of maintenance, the decision has laid down other important principles relating to women's economic well-being as essential to constitutional equality.²¹

¹⁸ *Rakhi Ray & Ors v High Court of Delhi & Ors* (2010) 2 SCC 637

¹⁹ *Union of India & Anr v M Bhaskaran & Ors* (1996) 4 SCC 416

²⁰ *Shalini v State of Kerala* (2015) SCC OnLine Ker 15370

²¹ *Dr Mrs Vijaya Manohar Arbat v Kashirao Rajaram Sawai & Anr* (1987) 2 SCC 278

Moreover, in *Babita Puniya v Union of India*, the Supreme Court reiterated that gender equality in employment is a fundamental right and that structural obstacles to women's participation have to be removed. Although the dispute was regarding permanent commission for women in the army, the decision makes a powerful case for maternity protection as an aspect of substantive equality in employment.²²

IMPLEMENTATION CHALLENGES

The provisions for maternity benefits as laid down by the Maternity Benefits Act of 1961 may be considered a progressive piece of legislation, but the actual implementation of maternity rights is far from equitable. Inequalities in the labour market structure, as well as socio-economic inequalities, pose major challenges to achieving universality.

Limited Coverage of the Informal Sector: The other significant drawback regarding maternity protection in India is limited applicability in the informal sector. The majority of women labourers are involved in domestic service, farming, cottage industry, and casual labouring without any statutory compliance.

The Supreme Court ruling in the case of *Bandhua Mukti Morcha v Union of India* made it clear that it was the duty of the State to secure the interests of vulnerable labour categories and make sure that they had decent conditions of work and that welfare measures were extended to them.²³ This ruling, although made about bonded labourers, has been widely accepted in the context of labour welfare in general.

The same view was expressed by the Supreme Court in another landmark decision known as *People's Union for Democratic Rights v Union of India*.²⁴

These judicial pronouncements highlight the gap between statutory rights and their effective enforcement for women workers in the informal sector.

Compliance Burden on Employers: A further major difficulty emanates from the method of financing maternity benefits. According to the Maternity Benefits Act, 1961, the cost burden

²² *Secretary Ministry of Defence v Babita Puniya* (2020) 7 SCC 469

²³ *Bandhua Mukti Morcha v Union of India & Ors* (1984) 3 SCC 161

²⁴ *People's Union for Democratic Rights & Ors v Union of India & Ors* (1982) 3 SCC 235

of granting paid maternity leave lies mostly on the shoulders of the employers. Although this guarantees prompt provision of the benefit, it may cause reluctance, especially among smaller firms.

Tata Iron and Steel Co. Ltd. v State of Jharkhand is one of the Supreme Court cases where it was observed that although a welfare enactment places an obligation on the employers, the imposition of such liability is permissible in view of the social justice motive underlying it.²⁵ The case is indicative of the pragmatic attitude being adopted by courts when dealing with labour matters.

The tendency to pass all the costs to employers without any contribution from the state results in several indirect difficulties, including hesitation on the part of the employers to employ women.

Workplace Discrimination and Hiring Bias: The burden perceived to be placed on companies in terms of finances and administration regarding the granting of maternity benefits could serve to discriminate, either implicitly or explicitly, in hiring, performance appraisals and promotions. Women who are of childbearing age could fall victim to implicit bias since there is an expectation that, at some point, they might take maternity leave.

In the judgment of Charu Khurana v Union of India, the Supreme Court ruled in the context of gender discrimination in employment that exclusion based on gender stereotyping violated constitutional guarantees of equality and dignity.²⁶ The judgment does not refer to the issue of maternity but rather highlights the constitutional requirement of not discriminating against women in employment on gender grounds.

National Legal Services Authority v Union of India also affirmed dignity and equality as key constitutional principles applicable to employment participation.²⁷

²⁵ *M/S Tata Iron and Steel Co Ltd v State of Jharkhand & Ors* (2005) 4 SCC 272

²⁶ *Charu Khurana & Ors v Union of India & Ors* (2015) 1 SCC 192

²⁷ *National Legal Services Authority v Union of India & Ors* (2014) 5 SCC 438

Enforcement Gaps: Even when there are statutory rights available, ineffective enforcement procedures hamper their implementation. Inspections of labour are usually inadequate, grievance procedures can be tardy, and employees are ignorant of their rights.

For instance, in *Vishaka v State of Rajasthan*, the Supreme Court emphasised the need for institutional arrangements for enforcement and pointed out that non-enforcement renders protective laws meaningless.²⁸ Though this judgment pertained to the issue of sexual harassment, its principles regarding enforcement procedures have been widely applied to all labour rights, including maternal rights.

Also, in *Occupational Health and Safety Association v Union of India*, the Delhi High Court pointed out that for the effective implementation of labour welfare laws, there should be active supervision.²⁹

The above judgments clearly indicate that merely providing rights under the statute does not serve any purpose unless accompanied by appropriate enforcement measures.

CRITICAL ANALYSIS AND SUGGESTIONS

The maternity protection regime in India is a positive welfare regime that focuses on social justice and gender equality. Through recognising maternity benefits as necessary for the health and well-being of women, the law embodies both the constitutional commitment of providing humane work environments and equal opportunities for all citizens.³⁰ Despite the noble provisions, the actual coverage of the law is narrow because many women are engaged in jobs that do not have access to statutory benefits.

Judicial interpretation has played an important role in fortifying the law through making a connection between maternity benefits and basic rights, including dignity, means of livelihood, and equality.³¹ On the other hand, the overarching idea of labour welfare and protection under the constitution ensures that the government is duty-bound to provide humane work

²⁸ *Vishaka & Ors v State of Rajasthan & Ors* (1997) 6 SCC 241

²⁹ *Occupational Health and Safety Association v Union of India & Ors* (2014) SCC OnLine SC 94

³⁰ *Consumer Education & Research Centre & Ors v Union of India & Ors* (1995) 3 SCC 42

³¹ *Bandhua Mukti Morcha v Union of India & Ors* (1984) 3 SCC 161

environments.³² Structural factors, such as weak enforcement mechanisms, lack of awareness, and cost concerns of employers, undermine the implementation of the law.

As such, reform strategies would need to emphasise the need to expand coverage and redistribute responsibilities. This is due to the fact that expanding the reach to include informal workers and even those from the gig economy, as well as providing equality for part-time workers, falls under the idea of substantive equality.³³ Improvements in the social safety net of precarious workers could also support this.³⁴

CONCLUSION

Since it leaves no room for doubt regarding the necessity of maternity benefits for equal opportunity at work and humane treatment of women workers, the Maternity Benefits Act of 1961 continues to be the foundation stone of labour welfare. The novel idea that female participation in the workforce is contingent on their reproductive capacity has been enshrined in this act. Yet issues of exclusion, execution problems, and emerging occupational patterns restrict the scope of its relevance. Narrowing this gap would entail improved implementation strategies, wider extension of maternity benefits, and good working conditions.

³² *Daily Rated Casual Labour Employed under P & T Department Thr v Union of India & Ors* (1988) 1 SCC 122

³³ *State of Punjab & Ors v Jagjit Singh & Ors* (2017) 1 SCC 148

³⁴ *Olga Tellis & Ors v Bombay Municipal Corporation & Ors Etc* (1985) 3 SCC 545