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MATERNITY PROTECTION AND THE PURSUIT OF WORKPLACE EQUALITY: BEARING LIFE, BEARING RIGHTS

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Abstract

The Code on Social Security, 2020 represents a progressive consolidation of India's labour welfare regime with respect to maternity protection. Despite its forward-looking mandate, significant structural and practical obstacles continue to prevent the legislation from delivering substantive equality to working women. Women of childbearing age face discrimination in hiring, obstruction of career advancement, the persistent societal expectation that they must choose between professional ambition and motherhood, and a critical absence of institutional support infrastructure.

This paper examines India's maternity protection laws and judicial precedents, with particular attention to deficiencies in practical implementation. It critically analyses the absence of gender-neutral parental leave, persistent workplace stigma, statutory non-recognition of assisted reproductive technologies (ART), and the wholesale exclusion of informal sector workers from protections under the Code.

Drawing on primary research—a structured survey of 155 respondents in Maharashtra, analysed using chi-square, McNemar, ANOVA, and correlation tests—and secondary doctrinal and comparative analysis, the paper benchmarks India's framework against international models, particularly Sweden's gender-neutral parental leave system. The paper advances specific legislative recommendations grounded in the constitutional mandate of Articles 14, 15, and 42 of the Constitution of India.

Keywords: *Code on Social Security 2020, Maternity Benefits, Gender-Neutral Legislation, Labour Law, Workplace Discrimination, Parental Leave, Assisted Reproductive Technologies, Informal Sector.*

I. Introduction

India finds itself at an important turning point in the path of women empowerment. Women in India have always been instrumental in determining the course of India in the realms of governance, culture, science and national security – and continue to be so, as evidenced by Operation Sindoor recently. However, underlying this picture of progress lies a structural dilemma that women who join the workforce are faced with a labour market where being a mother carries professional costs. The 'motherhood penalty', the discrimination suffered by women on account of having children in terms of wages, promotions and job stability is among the most intransigent features of India's occupation structure.

There is no ambiguity when it comes to the constitutional requirement. While Articles 14 and 15 provide for equal treatment under the law without any discrimination on the ground of sex, Article 42 obliges the state to provide just and humane working conditions and maternity benefits.^{1,2} Collectively, these provisions bring maternity benefits into the realm of fundamental constitutional responsibility rather than discretionary legislation.

The data collected from successive rounds of the National Family and Health Survey (NFHS: 1992-93 to 2019-21) reveal that women in the age group 20-29 years, who are at the prime period for their professional development, are also most fertile in India.³ In this structural coincidence between professional and reproductive lives, it becomes apparent that the quality of maternity protection legislation is the determinant factor for women's participation in the economy as equal citizens. Where the law is lacking, discrimination occurs in the market.

¹ Constitution of India 1950, art 42: 'The State shall make provision for securing just and humane conditions of work and for maternity relief.'

² Constitution of India 1950, arts 14 and 15. Article 14 guarantees equality before law; art 15 prohibits discrimination on grounds of religion, race, caste, sex, or place of birth.

³ International Institute for Population Sciences (IIPS), National Family Health Survey (NFHS-1 to NFHS-5) (IIPS) <<https://www.nfhsiips.in>> accessed 1 July 2025.

The Code on Social Security, 2020 has subsumed the Maternity Benefit Act, 1961, consolidating maternity benefit provisions within Chapter VI (Sections 59–72).⁴ Although this convergence may signify an advance on legislation, it does not address the basic conflict inherent in employer cost, woman's work, and maternity protection. The purpose of this paper is to test whether the existing legal system is constitutionally and empirically adequate, and to recommend some concrete reform policies in this regard.

This paper will be structured as follows: Section II outlines the quadruple problem in maternity protection; Section III provides an overview of the academic discussion and highlights the basic deficiency; Section IV gives the research methodology; Section V examines the statute, judgment, and empirical aspects; Section VI gives comparative analysis with international systems; and finally Sections VII and VIII give the conclusions and policy recommendations respectively.

II. Problem Statement

The problems that arise in the context of protecting mothers in India have multiple aspects, including the economic, occupational, sociocultural, and institutional ones. Each one of these aspects is important independently; however, all of them combine to create a system in which the legal protection of motherhood exists alongside the effective undermining of the same.

- **Economic pressure:** The provision of additional rights to mothers is seen by many employers—in particular, by MSMEs and start-ups, which altogether employ about 40% of the Indian working population—as an economic burden without any compensation. Contrary to countries that have a government-supported system of parental leave, in India, all costs associated with the provision of a 26-week entitlement to mothers fall upon the employers, providing a clear economic rationale for their reluctance to hire young women.
- **Career obstruction:** Fears around maternity leave provisions cause delayed promotions, pay freeze, reduced job responsibility post-maternity, and informal discrimination of women taking up their legal rights. Stigma attached to maternity leave is not just personal; it is

⁴ Code on Social Security 2020 (No 36 of 2020), Ch VI, ss 59–72. These provisions consolidate and supersede the Maternity Benefit Act 1961 (No 53 of 1961).

systematic, entrenched in performance appraisal, project allotment, and career planning processes, which consider the period of leave as an irrevocable professional decline.

- **Social stigma:** Deeply rooted stigma surrounding marriage and maternity causes discrimination against women in recruiting and promotion due to their constitutional right to reproduction. Women are regularly questioned about their marital status and pregnancy plans while recruiting—practice expressly banned by the Supreme Court in *Neera Mathur* but remains prevalent all the same.
- **Gaps within the institution and legislation:** Non-existence of universal childcare facilities, non-inclusion of informal sector employees (who represent the vast majority of India's female labor force), non-consideration of ART pregnancy, almost total non-existence of mandatory paternity leave, and lack of enforcement agency render the whole framework incapable of achieving any true gender equality at workplace. This is no minor flaw in the system; these are fundamental gaps.

III. Literature Review

The history of legislation on maternity benefits in India dates back to the enactment of the Bombay Maternity Act of 1929, which is one of the earliest laws of its kind in Asia, and was enacted as an attempt to implement the provisions of ILO Convention No. 3 (1919) according to the international consensus that the expense of maternity cannot be placed wholly on the mother. The central Maternity Benefits Act, 1961, has been influenced by both pre-constitution examples as well as ILO Maternity Protection Convention No. 103 (1952).⁵

But the existing empirical literature has been very critical about this amendment. Kaur (2023), through the use of the regression discontinuity approach, proves through employment data from the Centre for Monitoring Indian Economy (CMIE) that the 2017 amendment has brought about a statistically significant decrease in the hiring of females in firms above the threshold point—whereby a law has delivered results exactly opposite to what it was supposed to deliver.⁶ Sharma (2023) corroborates this finding, documenting that the amendment's burden

⁵ ILO, Maternity Protection Convention (No 103) (ILO 1952), revised by Convention No 183 (2000).

⁶ S Kaur, 'Maternity Benefit Act: Doing More Harm Than Good? Labour Market Consequences of Paid Maternity Leave Extension in India' (2023) 10(11) TIJER <<https://tijer.org/tijer/papers/TIJER2311109.pdf>> accessed 1 July 2025.

disproportionately affects MSMEs and start-ups, many of which respond not by complying but by avoiding the trigger through informal hiring arrangements or reduced female recruitment.⁷

The qualitative research does not offer a better scenario either. According to Gupta (2023), there are clear examples of discrimination at the work place such as constructive discharge, denial of promotion, and exclusion from important projects in retaliation for taking up maternity leave offered by the staff.⁸ Afridi, Bishnoi, and Solanki (2023) provide the total impact in their findings that women's employment levels in the high reproductive age group have fallen by over 30% post-amendment of 2017. The impact on wages is estimated to be 2-4%, driven by cost minimization policies of employers.⁹

Kumar (2024) places this literature in a comparative international context and points out that countries which have placed the cost burden of maternity leave on social insurance funds, rather than on employers—Germany, Sweden, and Japan—are not facing any similar negative consequences in terms of employment. This shows that it is the design of the law in India and not the intent behind the law that has led to these perverse outcomes identified in the literature. The crucial deficiency in all this literature is that there is a clear disconnect between statute and reality.

IV. Research Methodology

A. Method and Research Design

Secondary analysis of the doctrine had been complemented by empirical research using a well-structured questionnaire-based survey. The research approach used for the study was descriptive and empirical. This would allow an analysis of the weaknesses in the existing

⁷ P Sharma, 'Legal Protection of Maternity Benefits in India' (2023) IJARSCT <<https://ijarsct.co.in/Paper16902.pdf>> accessed 1 July 2025.

⁸ R Gupta, 'A Study on Reality of Women Workers under Maternity Benefit Act' (2023) 6(4) IJLMH <<https://ijlmh.com/wp-content/uploads/The-Study-on-Reality-of-Women-Workers-under-Maternity-Benefit-Act.pdf>> accessed 1 July 2025.

⁹ F Afridi, S Bishnoi and A Solanki, 'All is Not Well: Unintended Consequences of Maternity Leave Policy in India' (Ideas for India, 12 June 2023) <<https://www.ideasforindia.in/topics/social-identity/all-is-not-well-unintended-consequences-of-maternity-leave-policy-in-india>> accessed 1 July 2025.

legislation as well as the actual work place experiences of women making decisions on the topic. Multiple choice and open ended questions were included in the questionnaire to reduce any possibility of acquiescence and social desirability biases.

B. Geographical Scope and Sampling

The survey was confined only to those individuals who lived in Maharashtra. Such delimitation guarantees that the information collected represents the situation in one and the same jurisdiction where industry is diverse, ranging from the organized industries and finance in Mumbai to unorganized industries in the rural parts. All interviewees were women since this research focuses on women's issues with regard to maternity protection legislation.

C. Research Approach and Statistical Analysis

A mixed methods design that combined quantitative data collected through surveys with qualitative research involving doctrine and comparative analysis was adopted in the study. The quantitative data were analyzed using the following tests: (i) Chi-Square Tests of Association to test for association among categorical variables; (ii) McNemar's Test for matched pair data to test for difference between two related dichotomous variables; (iii) One-way ANOVA to test for difference between groups of perception scores within different age categories; and (iv) Correlation to test for association between continuous variables. The significance level for all tests was set at 0.05.

D. Research Objectives

The aim was to: (1) examine the sufficiency of the existing legal structure in protecting maternal rights; (2) evaluate the effect of obligations arising from maternity on women's work and career opportunities; (3) assess the viability of gender neutral parental leave to tackle structural inequalities in caregiving; and (4) establish whether there is need for legislation in relation to ARTs in the maternity protection context.

E. Limitations

Geographically speaking, the study confines itself to urban Maharashtra; it is biased towards the perspectives of the workers only. Furthermore, the study sample consists of only 155 female

respondents, who may or may not be representative of the various categories of workers. Despite being statistically significant, the results of the study should be taken as suggestive in nature. Informal sector workers are under-represented in the sample. Future research may look at replicating this study in other states, in the perspectives of both employers and workers.

V. Analysis

A. Historical Background

Article 42 of the Constitution states that the State should make laws for securing just and humane conditions of work and maternity relief, and has been interpreted by the Supreme Court to mean that it is an affirmative obligation of the State to enact legislation to protect the worker, and not just enact any form of legislation.¹⁰ The legislative history of the law for maternity protection in India is almost one hundred years old – The Bill providing maternity benefits was introduced in the Bombay Legislative Council on 28 July 1928; the Bombay Maternity Act of 1929 was passed. After independence, the Union Parliament enacted the Maternity Benefit Act on 12 December 1961.¹¹

B. The Need and Significance of the Legislative Framework

The practical background of the proposed intervention is clear and documented. In 2013, the World Bank conducted a study according to which, only 27% of women older than 15 years were engaged in work activity in India—one of the lowest indicators of female labour force participation in the G20 group. A 2015 survey conducted among 1,000 working women in Delhi and NCR region showed that only 18–34% of married women remain in their job positions after childbirths because of maternity leave regulations.¹² Maternity protection laws are thus not just social policies—they are labour market intervention laws intended to ensure that women with

¹⁰ Constitution of India 1950, art 42.

¹¹ Code on Social Security 2020. The Maternity Benefit Act 1961 received Presidential assent on 12 December 1961.

¹² Centre for Monitoring Indian Economy (CMIE), Consumer Pyramids DX (CMIE) <<https://consumerpyramidsdx.cmie.com>> accessed 1 July 2025.

professional potential do not leave labour force precisely at the time when the professional potential costs the most.¹³

C. Statutory Framework and Judicial Developments

The interaction between statute and judicial interpretation has substantially shaped the scope of maternity protections in India. Three foundational precedents merit detailed examination:

(i) Municipal Corporation of Delhi v. Female Workers (Muster Roll), AIR 2000 SC 1274; (2000) 3 SCC 224

It is held by the Supreme Court that the provisions of Maternity Benefits Act, 1961 are equally applicable to casual and muster roll workers, and that it would be wholly erroneous to construe that the benefits are confined only to the regularised employees. According to the Bench of S. Saghir Ahmad J., the Corporation was directed to provide maternity benefits to women muster roll workers having completed three or more years of continuous service, and this judgment interpreted the principles of Article 11 of CEDAW as being incorporated into the terms of employment.

(ii) Neera Mathur (Mrs.) v. Life Insurance Corporation of India, (1992) 1 SCC 286; AIR 1992 SC 392

The SC criticized the procedure followed by the LIC where there were provisions in the employment declaration form mandating women to reveal the details regarding their menstruation and pregnancies, which was described by the Court as 'embarrassing if not humiliating', as well as violation of right to privacy under Article 21. The Bench, through K. Jagannatha Shetty J., declared that the termination of employment of a nursing lady who was terminated from employment because she did not disclose her pregnancy at the time of joining be quashed, with a direction to the LIC to delete the offensive columns from all declaration forms.¹⁴ This case continues to remain a fundamental precedent on right to privacy in employment; however, the prohibition on

¹³ Constitution of India 1950, arts 14, 15 and 42.

¹⁴ Neera Mathur (Mrs) v Life Insurance Corporation of India (1992) 1 SCC 286; AIR 1992 SC 392. Bench: K Jagannatha Shetty and Yogeshwar Dayal JJ. Decided: 31 October 1991.

reproduction-related inquiry made during the recruitment process continues to remain ignored, which is evident from the survey findings.

(iii) Deepika Singh v. Central Administrative Tribunal, (2022) SCC OnLine SC 1088

In this groundbreaking judgement in 2022, the Supreme Court, through D.Y. Chandrachud and A.S. Bopanna JJ., observed that it would not amount to a denial of maternity leave to a nursing officer employed at PGIMER Chandigarh where she has been given child care leave earlier for her husband's children born in his first marriage before joining the employment. The Court observed that previous granting of child care leave cannot deprive the employee of her statutory entitlement of maternity leave, and, more importantly, has acknowledged that the traditional meaning of the term 'family' has to give way to changing social circumstances which include blended families, single parent family and unconventional domestic set-ups. This observation is directly relevant to the thesis of the paper that the code should be amended so as to take into consideration pregnancy through ART and other caregiving arrangements.¹⁵

D. Research Findings and Identification of Structural Gaps

The primary research illuminated structural deficiencies often overlooked in policy discourse. Key findings are organised below around the five tested hypotheses.

Hypothesis 1: Maternity Leave Obligations and Employer Hesitation in Hiring

Statistical Parameter	Result
Chi-Square Statistic (χ^2)	45.00
Degrees of Freedom	4

¹⁵ Deepika Singh v Central Administrative Tribunal (2022) SCC OnLine SC 1088; Civil Appeal No 5308 of 2022. Bench: DY Chandrachud and AS Bopanna JJ. Decided: 16 August 2022.

p-value	$3.97 \times 10^{-9} (< 0.05)$
Decision	Null Hypothesis Rejected

The highly significant p-value confirms a strong statistical association between employer reluctance to hire women of reproductive age and the perception that maternity leave retards career advancement, corroborating Kaur (2023)¹⁶ and Afridi et al. (2023).¹⁷ The finding suggests that maternity leave is functioning not as a welfare entitlement but as a labour market signal—one that employers use to discount women candidates, producing a form of statistical discrimination with measurable employment effects.

Hypothesis 2: Discrimination in Recruitment and Post-Maternity Employment

The test by McNemar was performed to find out if those who were asked about their marital or reproductive intentions in the interview process also experienced any form of discrimination after taking maternity leave. The findings revealed that there was indeed systematic discrimination at both stages, hence proving that the discrimination is not only episodic in nature but continuous throughout the entire lifecycle of an individual's employment period from recruitment right through to re-entry back into work.

Hypothesis 3: Impact of Maternity Leave on Career Progression

ANOVA was conducted on a composite perception score measuring respondents' views on promotion opportunities, childcare infrastructure adequacy, and societal expectations. The 26–35 age group—the cohort at the peak of both career development and reproductive activity—returned the highest mean score (2.90), indicating the sharpest awareness of structural barriers.

Age Group	Mean Score	Interpretive Note
18–25	2.40	Moderate concern

¹⁶ Kaur.

¹⁷ Afridi, Bishnoi and Solanki.

26–35	2.90	Highest — peak career-reproduction overlap
36–45	2.53	Moderate concern
Above 45	2.75	Elevated — lived experience
F = 3.756	p = 0.0163 (< 0.05)	Null Hypothesis Rejected

Hypothesis 4: Gender-Neutral Parental Leave and Workplace Barriers

The results of the Chi-Square test gave us a p-value of 0.917, which means that no statistically significant relationship was found between support for gender-neutral leave policies and perceptions of workplace obstacles in this particular study sample. Nonetheless, the results of the descriptive statistics clearly demonstrated that there is a high level of support for mandatory paternity leave as one of the ways to redistribute care-giving duties and eliminate the signaling effect of the maternity leave of women. This can be caused by the lack of heterogeneity within the studied sample.

Hypothesis 5: Weak Enforcement and the Absence of a Dedicated Regulatory Body

Statistical Parameter	Result
Chi-Square Statistic (χ^2)	43.14
Degrees of Freedom	4
p-value	9.69×10^{-9} (< 0.05)
Decision	Null Hypothesis Rejected

Those who felt that existing legal measures were insufficient were highly predisposed to having undergone discrimination after their maternity leave period. This suggests that there is a structural link between non-enforcement and the discriminatory effects rather than simply an associated relationship. In the absence of a specialized monitoring authority with the necessary experience regarding compliance in matters of maternity leave protection, discrimination remains unchecked.

E. Structural Gaps Identified

- **Weak infrastructure for enforcing the code:** The Code does not have any mechanism for its enforcement by way of an agency devoted solely to overseeing compliance with the provisions of the Code. The general inspection agencies do not have the authority and expertise required to identify and penalise discrimination in the way revealed by the research findings.
- **Gender-specific parental leave:** There is no paternity leave in the Code as well, which makes it clear that child rearing is seen to be something only females do. The Deepika Singh case shows how courts are becoming aware of alternative forms of care-giving and this needs to be incorporated into law now.
- **No system of institutional accountability:** There is no requirement placed on the employers to account for any hiring/promotion/dismissal decisions made by them regarding women using their maternity leave. **Non-recognition of ART pregnancies:** Women who conceive through IVF or other assisted reproductive technologies occupy a legislative void. They receive no statutory protection during the treatment phase—which can involve significant medical leave requirements—and may face discrimination based on treatment-related absences that are not covered by any existing statutory provision.
- **Omission of informal sector workers:** Female workers in the informal economy sector who make up the vast majority of India's female workers, especially in sectors like domestic work, agriculture, and small scale trading, are completely omitted from the provisions of the Code on Maternity Protection, leading to the creation of an inherently discriminatory dual system wherein only formal sector workers get protection.

VI. Comparative Analysis with International Standards

The study of international parental leave policies highlights both the extent of structural shortcomings in India and the avenues that can be taken to reform the system through legislation. According to the ILO report on care work published in 2022, two essential features of an effective parental leave policy include a social funding mechanism that spreads the burden of reproduction to the broader society rather than individual firms; and neutrality to gender in regard to eligibility. India does not meet either requirement.¹⁸

Among the best protected countries, there is Bulgaria that grants maternity leave for 58.6 weeks at 90% of the usual income, as well as provisions for continued payments at 1 month per month until the child turns two years old – all of which are funded by the country's social insurance system, and therefore does not affect the employer's incentives in hiring people.¹⁹ Sweden – the world's best example of parental leave policy design – grants 68 weeks of parental leave at 80% of the income level, accessible for both parents equally, and provides special options for twins, among other things. Since this program is paid out by Försäkringskassan (the Swedish social insurance agency), the cost is shouldered by neither the employer nor affects his/her hiring preferences.²⁰

The Indian case is different from both cases because it is structured in a way that is distinct from the two schemes. Maternity leave for a period of 26 weeks, which is granted only to females and not to parents, has an employer responsibility to the exclusion of any government contribution or social security backup.²¹ This is what is bound to happen and, as Afridi et al. (2023) show, did happen empirically in the Indian case where the revision of 2017 created negative employment and salary incentives leading to 30% reduction in the reproductive age groups' female employment rate and 2-4% female salary cut.²²

¹⁸ ILO, Care at Work: Investing in Care Leave and Services for a More Gender Equal World of Work (ILO Publications 2022) <<https://www.ilo.org/media/334136/download>> accessed 1 July 2025.

¹⁹ Times of India, '7 Countries with the Most Generous Maternity Leave Policies' (Times of India, 2024) <<https://timesofindia.indiatimes.com/life-style/parenting/moments/7-countries-with-the-most-generous-maternity-leave-policies/articleshow/122811058.cms>> accessed 1 July 2025.

²⁰ Swedish Institute, 'Gender Equality and Parental Leave in Sweden' (Sweden.se) <<https://sweden.se/life/equality/gender-equality>> accessed 1 July 2025.

²¹ Code on Social Security 2020, s 60.

²² Afridi, Bishnoi and Solanki; see also Kaur.

What is at stake in the comparison of the Swedish social insurance system and the Indian burden on the employer is not simply a question of differences in legislative techniques; the two systems differ in their basic understanding of the social responsibility for reproduction. The Swedish system is based on the idea that the cost of creating the new generation is the collective responsibility of the society paid by all taxpayers and firms via social insurance payments. In the Indian system, it is the individual cost of the person who employs a woman while she is pregnant—an obviously rational but socially destructive idea, which should be changed in any substantial legislative reform.

VII. Conclusion

Code on Social Security, 2020 is an important yet structurally deficient tool for the protection of pregnant working women. The Code has built upon previous legislative protections while extending the leave and creating new responsibilities regarding crèche facilities. This is no doubt a step in the right direction. Nevertheless, as shown through the evidence provided in this research paper, the Code is failing on all fronts due to inadequate implementation, structural exclusion, and basic economic misallocation of the responsibility of childbirth as per the constitutional rights of Articles 14, 15, and 42.

The women workforce remains discriminated against in the processes of hiring, while on the job, and after returning from leave. Despite the good intentions behind it, the amendment introduced in 2017 has been used by risk-averse employers as a means to discourage the hiring of women, an occurrence that cannot happen if the cost of maternity leave is socialised rather than shouldered by the employer. The lack of gender-neutral parental leave perpetuates an inefficient and inequitable caregiving system where the cost of reproduction is borne by women and their employers and not society. Most of the female workforce in India is engaged in the informal sector and receives no legal protection whatsoever. A woman conceived through ART faces a gap in the law that widens with each new advance in the field of reproduction. This is the gap that the Supreme Court has started filling through the case of Deepika Singh.

The constitutional obligation is clear – Articles 14, 15, and 42 combine to mandate a system in which women are able to be economically active with reproductive autonomy without fear of reprisal. A legal system in which women must make this impossible choice has failed the

constitutional obligation. The changes proposed in this paper, based on constitutional obligations, research, and international best practices, are not an extra improvement but a bare minimum that will bring the Indian system of maternity protection into compliance with its constitutional obligations.^{23,24}

VIII. Policy Recommendations

Based on the research findings and comparative analysis, the following legislative and policy reforms are proposed:

- Setting up of an exclusive committee for enforcement, evaluation, grievance handling and legislation review called “Maternity Protection Monitoring Committee” in the Center as well as the States, which would be similar to the National Commission for Women but its jurisdiction would be limited to issues concerning maternity.
- Institution of rules of gender representation during hiring, to apply in all establishments above a certain specified size, along with corresponding reporting and auditing rights and penalty in case of non-compliance.
- Demanding from all establishments above a certain size to regularly submit to the committee reports on hiring, promotions, non renewal and termination of contracts related to women employees taking maternity leave.
- Appointing of Inspector cum Facilitators by the Appropriate Government, trained in maternity protection laws, with power to inspect establishments and summon documents and pass interim orders on investigation.
- The creation of statutory gender-neutral parental leave which includes paternity leave that must be not less than four weeks at full pay for all establishments of whatever size, with costs being subsidized by the suggested Maternity Aid Fund.
- The legislative recognition of pregnancies conceived through assisted reproductive technologies (ART), such as in vitro fertilization, surrogacy, and embryo transfer, with the

²³ Constitution of India 1950, art 14.

²⁴ Constitution of India 1950, arts 15 and 42.

consequent expansion of maternity leaves, anti-discrimination during the treatment process, and medical leave in accordance with the demands of treatment.

- Legislative recognition of postpartum mental disorders, such as postpartum depression and postpartum anxiety disorder, with the subsequent creation of mandatory responsibilities for the employers to provide confidential counseling and additional paid leaves if needed.
- The creation of a state fund called “Maternity Aid Fund” which would be funded through a small fee from the company’s profit and general budget funds, thus reimbursing completely maternity leaves’ costs for MSMEs and partially covering those costs for larger establishments.
- Employees in the informal sector are brought under the maternity protection umbrella by means of a system of registration, muster roll maintenance by committees, and a streamlined procedure for filing a claim without needing any formal employment proof.
- The requirement of crèches to be made mandatory for all establishments having 10 or more employees (as against 50 at present) along with statutory rights to flexible or work from home option for at least six months post maternity leave.

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