



Pregnancy and Workplace Challenges Faced by Employed Women in India: A Legal Perspective

***Rinki Singh, Research Scholar, Department of Law, Jagannath University, Jaipur**

****Dr.Alaknanda Rajawat, Associate Professor, Department of Law, Jagannath University, Jaipur**

Abstract

Pregnancy is an important phase in the life of an employed woman and requires adequate legal, social, and institutional protection to safeguard her health, dignity, and employment. Despite constitutional guarantees and statutory protections in India, pregnant women continue to face challenges such as workplace discrimination, job insecurity, denial or inadequate implementation of maternity benefits, unequal treatment, excessive workload, lack of suitable facilities, and difficulties in balancing work and family responsibilities. This article examines these challenges from a legal perspective, with particular emphasis on the Maternity Benefit Act, 1961, as amended in 2017, and relevant constitutional and labour laws. It also analyses the gap between legal provisions and their practical implementation, particularly in relation to awareness, discrimination, gender pay inequality, and social and cultural barriers. The study argues that statutory protection alone is insufficient without effective enforcement, workplace flexibility, institutional accountability, and gender-sensitive policies. Effective implementation of maternity laws is therefore essential to ensure equality, dignity, health, job security, and economic participation of employed women in India.

Key words: Employed women, Workplace, Pregnancy, Gender pay gap, Awareness, Challenges

Introduction

Although working women have become more self-reliant and increasingly aware of their rights, including the right to work, the right to equal and fair treatment, maternity benefits, and rights relating to property and maintenance, a large number of women remain unaware of these legal rights. The quality of life of working women is influenced by various factors, including their roles and responsibilities in the workplace and family, age at marriage, level of education and literacy, and maternity status. Despite considerable progress, significant disparities continue to exist between men and women in terms of empowerment and participation in social, economic, and professional spheres in India. Consequently, many women continue to face difficulties in attaining respected and equal positions both in society and in the workplace. The lack of balanced socio-economic development is another important factor contributing to this gender gap. Women face numerous challenges arising from both the existing legal framework and prevailing societal norms. As women enter the workforce in increasing numbers, they continue to encounter barriers relating to employment opportunities, wages, career advancement, and workplace equality. The problems faced by working women are not confined to India but remain a significant subject of discussion and concern in many countries across the world.

Historical Background:

The history of pregnancy and workplace challenges faced by employed women in India is closely connected with the broader development of women's rights, labour protection, and social justice. Traditionally, Indian society was largely patriarchal, and women's primary responsibilities were associated with household management, childcare, and family duties. Women who engaged in paid employment, particularly during pregnancy, often had limited legal protection and were exposed to unsafe working conditions, inadequate maternity leave, loss of wages, and employment insecurity. The absence of specific maternity-related protections made it difficult for women to continue their employment without compromising their health and well-being.

During the colonial period, the growth of industries, plantations, mines, factories, and other organized forms of employment increased the participation of women in the workforce. However, working women, including pregnant women, frequently faced difficult working conditions and inadequate social protection. Early labour legislation gradually recognized the need to protect women workers, particularly in relation to working hours, occupational safety, and maternity. These developments laid the foundation for the later adoption of comprehensive maternity protection legislation in independent India.

The adoption of the Constitution of India in 1950 marked a significant turning point in the legal status of women. The Constitution guarantees equality before the law and equal protection of laws under Article 14, prohibits discrimination on grounds including sex under Article 15, and permits special provisions for women and children under Article 15(3). Article 16 provides equality of opportunity in matters of public employment, while Article 42 directs the State to make provisions for securing just and humane conditions of work and maternity relief. These constitutional provisions established an important legal foundation for protecting employed women during pregnancy and maternity.

A major legislative development was the enactment of the Maternity Benefit Act, 1961, which sought to regulate maternity benefits and provide employment protection to women during pregnancy and after childbirth. The Act represented an important step towards recognizing maternity as a matter of labour welfare and social justice rather than merely a private family responsibility. The Maternity Benefit (Amendment) Act, 2017 subsequently introduced significant changes, including an increase in maternity leave for eligible women from 12 weeks to 26 weeks in specified circumstances and provisions relating to crèche facilities for establishments meeting the prescribed threshold.

Despite these legal developments, the historical problem has not completely disappeared. The increasing participation of women in the modern workforce has brought new challenges, including discrimination based on pregnancy, career stagnation, workplace pressure, job insecurity, inadequate implementation of maternity benefits, and difficulties in balancing employment and family responsibilities. Thus, the historical development of maternity protection in India demonstrates a gradual transition from limited labour protection to a rights-based approach centered on equality, dignity, health, and social security.

The contemporary legal framework therefore reflects India's continuing effort to reconcile women's reproductive roles with their right to participate equally in economic and professional life. However, effective implementation of existing laws and the development of supportive workplace policies remain essential to ensure that pregnancy does not become a barrier to women's employment, career advancement, or economic independence.

Legislative Trend:

The legislative framework concerning pregnancy and workplace challenges faced by employed women in India has undergone significant transformation over time. The approach has gradually shifted from limited labour welfare measures to a broader rights-based framework emphasizing equality, dignity, maternity protection, and social

security. The Constitution of India provides the fundamental basis for protecting employed women through Articles 14, 15, 16, and 42. Article 15(3) specifically permits the State to make special provisions for women and children, while Article 42 directs the State to provide for just and humane conditions of work and maternity relief.

A major development in this area was the enactment of the Maternity Benefit Act, 1961, which established statutory maternity protection for women employed in covered establishments. The legislation sought to protect women from the adverse employment consequences of pregnancy and childbirth by providing maternity benefits, leave, and safeguards against dismissal during the protected period. It also recognized the importance of nursing breaks and other facilities necessary for women returning to employment after childbirth.

The Maternity Benefit (Amendment) Act, 2017 marked a significant advancement in maternity protection. The amendment increased maternity leave from 12 weeks to 26 weeks for eligible women for the first two surviving children, while providing 12 weeks for women having two or more surviving children. It also introduced provisions concerning adoption and commissioning mothers and required prescribed establishments with 50 or more employees to provide crèche facilities. The amendment further recognized the possibility of working from home, subject to the nature of the work and mutual agreement between the employer and employee.

Another important legislative trend has been the movement towards a broader and more integrated labour-law framework. The Code on Social Security, 2020 incorporates provisions relating to maternity benefits within the social-security framework and reflects the legislative objective of extending social-security protection to workers. At the same time, workplace equality and protection from harassment have been strengthened through legislation such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which provides an institutional mechanism for addressing sexual harassment and promoting a safe working environment for women. Despite these progressive developments, significant implementation challenges remain. Many women, particularly those employed in the informal and unorganized sectors, may not receive effective maternity protection in practice. Concerns also persist regarding pregnancy-based discrimination, termination of employment, denial of benefits, inadequate workplace facilities, and lack of awareness of legal rights. Consequently, the present legislative trend is increasingly focused not merely on providing maternity leave but on creating an environment in which women can continue their professional careers without being disadvantaged because of pregnancy or motherhood.

Challenges Faced by Employed Women during pregnancy:

Employed women in India face several legal, social, economic, and workplace-related challenges during pregnancy and maternity. Pregnancy-based discrimination may occur in recruitment, allocation of duties, performance appraisal, promotion, transfer, and other conditions of employment. Many women experience fear of job loss, non-renewal of employment contracts, reduction in responsibilities, or adverse treatment after disclosing their pregnancy. Another significant challenge is the impact of maternity on career progression, as women may face delays in promotion, reduced professional opportunities, or exclusion from important assignments, commonly described as the “motherhood penalty.” Balancing professional responsibilities with pregnancy, childbirth, childcare, and family obligations is also a major concern, particularly where employers do not provide flexible working arrangements. Inadequate workplace facilities, including proper rest areas, nursing facilities, childcare support, and crèche facilities, may further affect women's ability to continue employment after childbirth. In addition, lack of awareness about maternity rights and available legal remedies prevents many women from effectively claiming the benefits available to them. Women employed in the informal and unorganized sectors may face even greater difficulties because of limited job security and inadequate access to maternity benefits and social security. Although Indian law provides various protections relating to maternity, a significant gap may remain between statutory provisions and their effective implementation at the workplace. Therefore, ensuring effective enforcement of maternity-related laws, eliminating workplace discrimination, providing supportive working

conditions, and promoting gender-sensitive organizational policies are essential for protecting the dignity, equality, employment security, and career advancement of employed women during pregnancy and maternity.

Legal Protection of Women:

The Indian legal framework provides various constitutional and statutory safeguards to protect women from discrimination and to ensure maternity protection at the workplace. The Constitution of India guarantees equality before the law and equal protection of laws under Article 14 and prohibits discrimination on the ground of sex under Article 15. Article 15(3) empowers the State to make special provisions for women and children, while Article 16 ensures equality of opportunity in matters of public employment. Article 21 protects the right to life and personal liberty, which has been interpreted to include the right to live with dignity. Further, Article 42 directs the State to make provisions for securing just and humane conditions of work and maternity relief. The Maternity Benefit Act, 1961, as amended in 2017, is a principal legislation providing maternity benefits to eligible women employees, including maternity leave, nursing breaks, and other protections. The law also contains safeguards against dismissal or disadvantage during maternity-related absence. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides protection against sexual harassment and establishes mechanisms for the prevention and redressal of complaints at the workplace. In addition, the Code on Social Security, 2020 contains provisions relating to maternity benefits and social security. Judicial decisions have further strengthened the protection of women's reproductive rights, dignity, equality, and employment security. Despite these constitutional and statutory safeguards, effective implementation remains a major challenge, particularly in the informal and unorganised sectors. Therefore, stronger enforcement, greater awareness of legal rights, gender-sensitive workplace policies, and effective institutional mechanisms are necessary to ensure meaningful legal protection for employed women during pregnancy and maternity.

Judicial Aspects:

The Indian judiciary has played a significant role in strengthening the legal protection of employed women during pregnancy and maternity. Indian courts have consistently recognized that maternity is not merely a private or biological matter but is closely connected with the fundamental rights of equality, dignity, livelihood, health, and reproductive autonomy. In *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, the Supreme Court extended the principle of maternity benefits to women engaged as muster-roll workers and emphasized that maternity protection is an important aspect of social justice. In *B. Shah v. Presiding Officer, Labour Court, Coimbatore*, the Supreme Court adopted a beneficial interpretation of maternity legislation and held that maternity benefits should be interpreted in a manner that advances the welfare and dignity of women workers. In *Neera Mathur v. Life Insurance Corporation of India*, the Supreme Court protected the privacy and dignity of a woman employee in relation to questions concerning pregnancy and motherhood. More recently, courts have emphasized that pregnancy or availing maternity leave cannot be a legitimate ground for adversely affecting a woman's employment, promotion, career progression, or professional status. The judiciary has therefore moved beyond a purely welfare-oriented approach towards a rights-based approach, recognizing maternity protection as an integral component of gender equality and workplace dignity. These judicial developments demonstrate that employers and public authorities have a constitutional responsibility to ensure that women do not suffer discrimination or professional disadvantage because of pregnancy or maternity. Nevertheless, effective implementation of these judicial principles remains essential for ensuring substantive equality for employed women in India.

Conclusion

Due to lack of awareness, the implementation of the rights regarding maternity benefits are underutilization. Approximately 90% of the female most of India's workers are involved in the unofficial economy, and they are

often ineligible for formal maternity benefits.¹ Pregnancy is an important stage in a woman's life, but employed women in India continue to face several challenges in the workplace during pregnancy and maternity. These challenges include discrimination in recruitment and promotion, denial of maternity benefits, excessive workload, inadequate workplace facilities, job insecurity, unequal treatment, and difficulties in balancing professional and family responsibilities. Although India has established a comprehensive legal framework to protect the rights of pregnant and working women, including the Maternity Benefit Act, 1961, as amended in 2017, significant gaps remain between legal protection and its effective implementation. The law provides important safeguards such as maternity leave, protection against dismissal, nursing breaks, and crèche facilities in applicable establishments.

The major challenge is therefore not merely the existence of legislation but its effective enforcement. Greater awareness among women regarding their legal rights, stronger monitoring mechanisms, effective grievance-redressal systems, and greater accountability of employers are essential. Workplaces should adopt pregnancy-friendly policies, provide reasonable flexibility, ensure safe working conditions, and prevent discrimination based on pregnancy or maternity.

A gender-sensitive approach is necessary to ensure that motherhood does not become a barrier to women's career advancement or economic independence. Effective implementation of maternity protection laws, combined with supportive workplace policies and social awareness, can contribute significantly to achieving substantive equality and dignity for employed women in India. Thus, protecting the rights of pregnant women at the workplace is not only a statutory obligation but also an essential component of gender justice, social security, and inclusive economic development.

References:

* Research Scholar, Department of Law, Jagannath University, Jaipur

** Associate Professor, Department of Law, Jagannath University, Jaipur

1. Basu, D. D., *Introduction to the Constitution of India*, LexisNexis, New Delhi.
2. Jain, M. P., *Indian Constitutional Law*, LexisNexis, New Delhi.
3. Malik, P. L., *Industrial Law*, Eastern Book Company, Lucknow.
4. Srivastava, S. C., *Industrial Relations and Labour Laws*, Vikas Publishing House, New Delhi.
5. Goswami, V. G., *Labour and Industrial Laws*, Central Law Agency, Allahabad.
6. The Maternity Benefit Act, 1961.
7. The Maternity Benefit (Amendment) Act, 2017.
8. The Equal Remuneration Act, 1976.
9. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
10. The Code on Social Security, 2020.
11. The Factories Act, 1948.
12. *B. Shah v. Presiding Officer, Labour Court, Coimbatore*, (1978) 4 SCC 257.

13. *Air India v. Nergesh Meerza*, (1981) 4 SCC 335.
14. *Neera Mathur v. Life Insurance Corporation of India*, (1992) 1 SCC 286.
15. *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224.
16. *Rama Pandey v. Union of India*, 2015 SCC OnLine Del 10064.
17. *Deepika Singh v. Central Administrative Tribunal*, (2022) 7 SCC 1.

