

Intersecting Law and Labour: A Comparative Analysis of Maternity Benefit Policies in India and Sri Lanka

Chaitali Wadhwa¹, Prof Dr Shaharyar Asaf Khan²

¹Asst. Prof. and PhD Research Scholar, School of Law, Manav Rachna University

²Professor, School of Law, Manav Rachna University

Abstract

Through this paper, the authors conduct a comprehensive comparative examination of the maternity benefit policies in India, and the neighbouring country of Sri Lanka. By providing an analysis from the perspective of the dynamics of labour force participation, the authors aim to evaluate assumptions of gender that are impacted by socio-economic conditions of maternal workforce support mechanisms. The paper begins by revealing gender disparities in labour force participation rate, which underscore the need for effective maternity policies. Drawing upon empirical data collected by the researchers and the legal framework of the Indian subcontinent, the authors address the maternity-related experiences of women employees in Delhi working in the public sector. Following this, the paper proceeds to analyze the Sri Lankan policy architecture, highlighting the structural and conceptual nuances that distinguish the island nation's approach. The comparative assessment of the two countries reveals the differences in their institutional trajectories, normative interpretations, and socio-economic conditions that shape the policies. By adopting a feminist jurisprudential approach, the authors critically interrogate the extent to which these maternity benefit provisions challenge or reinforce prevailing gender power structures, work-family reconciliation pressures, and the valuation of reproductive labour. The core argument of the paper rests on the foundation that inadequate maternity benefits can hinder women's professional advancement and economic independence, which further perpetuates gender inequality. By examining the roles of the State, employers, and influence of societal attitudes in mediating the lived experiences of working mothers, the authors are able to identify gaps between legislative intent and implementation realities. Ultimately, the conclusion is to propose a series of recommendations in policies, and intervene in the institutional frameworks to enhance the gender-transformative potential of maternity benefit frameworks. This comparative investigation contributes to the broader scholarly discourse on the intersections of labour policies, gender equity, and sustainable development in postcolonial South Asian contexts.

Keywords: *Maternity benefits, gender equality, labour force participation, feminist lens, policy reforms*

I. INTRODUCTION

Pregnancy, childbirth, and motherhood are experiences unique and inherent to women that profoundly shape their lives. The biological processes ensure the continuity of the human race – after all, “motherhood is the mother of all civilization”. Child-rearing is a life-changing experience for women and also contributes to a country’s economy and their standard of living.

Contextualizing Maternity Benefits in the Workplace

Traditional gender roles confined women to the domestic sphere, limiting their involvement in the public domain. Education and urbanization paved a path for women to challenge these roles and question

their rights in society, justifying their involvement in the tertiary sector of an economy. The intersection of motherly duties with professional commitments meant that women now faced obstacles while balancing their careers with domestic responsibilities and caring for the child. At the crossroads lies the difficult decision – which duty takes precedence – motherhood or employment? For some, the choice may be easy: to progress in one sphere – public or private – by sacrificing the other. Women who choose to do both require support from their family and their workplace to balance their family responsibilities with professional ambitions. Societal expectation from women to perform homemaker duties with the same dedication as those in their job profiles leads to increased stress, difficulty in prioritisation, and impact on the quality

of life – personal and professional. It is this increasing role of working mothers at the workplace that has highlighted the need to develop workplace policies that protect women, especially during pregnancy.

Legislation providing benefits related to maternity support women during pregnancy, pre-natal, and post-natal. The rationale for providing maternity leave rests in the physical, psychological and emotional well-being of the woman. It is a time of recovery and rest that a woman's body needs after childbirth. The leave period also gives mothers the opportunity to bond with their newborn child. Maternity benefit provisions, specifically paid maternity leave, provide financial support and reassurance to the working mother that there is job security, with the employment waiting once she returns. While there are numerous advantages attached to a “designated time-off” for women, the break from employment comes with many challenges and potential discriminatory behaviours that are about to follow. Maternity benefit policies are, therefore, like a double-edged sword. Applying different lenses to better understand the policies' duality is essential to evaluate their overall effectiveness.

The Gendered Nature of Labour Force Participation

It is now uncontented, that female labour force participation is an important driver for the economic development of a country. Development parameters when evaluated globally showcase that women today have more access to education, health, and public services than two decades ago. Integrating

women into the workforce empowers them to more likely to invest in their children's future, and women's involvement in the workforce can enhance overall productivity. The current imbalance – men dominating income; women managing household – leads to suboptimal distribution of skill and talent, undermining individual potential and impeding broader economic growth. When reviewed with the social and cultural norms of a society, women's marital status, maternal responsibilities, reproductive and child-caring roles prove to be prominent determinants of their labour force participation rates. In South Asia, labour force participation varies greatly across different countries. Over the last two decades, although South Asian women have gradually caught up with men's educational attainments, their participation in labour markets has continued to remain low.

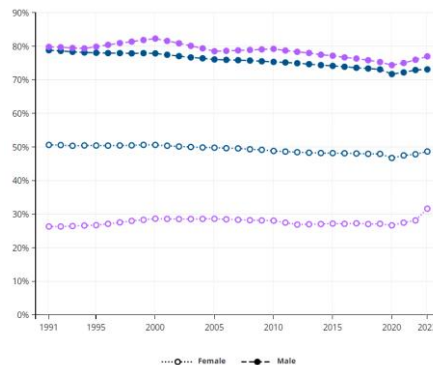
The graph displayed below is taken from the International Labour Organization database, and shows that the female labour force participation rate has remained significantly low compared to the male labour force participation from 1991 to 2023. The chart also shows that the rates in South Asia have been lower than those compared across the globe. The data reveals a subtle but noticeable decline in labour force participation for both genders worldwide. The male participation rate has dropped more significantly compared to females. Potential factors influencing these trends may include economic transformations, technological changes, shifting demographic structures, educational opportunities, social and cultural norms, policy interventions, and global economic challenges.



Labor force participation rate (% of population)

Gender: Female, Male Age 15+ Estimate Modeled Year: 1991-2023

Figure 1: Female and Male Labour Force Participation Rates (1991–2023) – Global vs. South Asia (Source: ILO Database)



If summarised tabularly, the data would look something like this –

Table 01

	Female Labour Force Participation Rate %	Male Labour Force Participation %
1991		
World	50.6	78.8
South Asia	26.3	79.8
2023		
World	48.7	73.1
South Asia	31.6	77

For the purposes of this paper, the graph below compares the participation rates more specifically for the identified nations. It shows that the percentages for Sri Lanka and India have progressed

quite similarly. The gender gap is evident in the chart, with female labour force participation rates resting in the early thirties and participation rates for males in the early to mid-seventies.

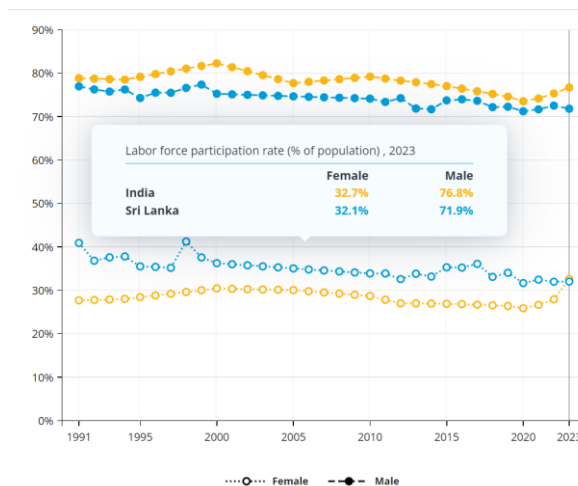


Figure 2: Gendered Labour Force Participation Rates in India and Sri Lanka (1991–2023) (Source: ILO Database)

Problem Statement

Referencing the female labour force participation becomes imperative for two reasons – first, it provides an indication that marital status and

parenthood are potential factors in the interference of participation decisions and second, that choice of parenthood can be met with differential attitudes at the workplace, further impacting employment decisions. There is, at present, abundant literature

that addresses the first aspect listed above. The focus of this paper therefore rests on the second implication – studying the effect of maternity leave benefits and related consequences that an employee must face when choosing to avail such leave. The decisions taken by a female employee are further complicated by systematic impediments, that include, but are not limited to, inadequate childcare infrastructure, limited maternal support structures, and inflexible workplace policies. These challenges when overlapped with socioeconomic factors, educational attainment, and urban-rural disparities, create a nuanced landscape where personal life transitions become intricate negotiations between individual aspirations and societal constraints. The present study undertakes a comparative analysis of the maternity legislation in India and Sri Lanka.

Research Scope and Justification

Choosing the comparison of India with Sri Lanka is grounded in their comparable social, economic, and cultural factors. Their shared colonial histories and changing patterns of labour market participation, when analyzed keeping in mind the centrality of family as a social institution, creates a common foundation that justifies the comparative inquiry. This research explores how gender and parental status interact, shaping policies related to paid maternity leave and examining the outcomes for employees when they return to work. Using an intersectional lens tinted with feminist perspectives, allows the authors to draw a parallel between the two nations while addressing the needs of the vulnerable population. This multifaceted approach demonstrates that women's workforce engagement is not simply a matter of individual preference, but a complex interplay of personal decisions, institutional frameworks, cultural expectations, and systemic opportunities and barriers. The empirical data provides a critical touchpoint to the theoretical evaluation – it is evidence of the translation of policies to lived experiences. Identification of the similarities and differences of policy approaches shows how each country navigates the tensions between traditional values and demands of contemporary, market-oriented workforce.

II. FEMINIST LENS ON MATERNITY BENEFITS

The importance of maternity benefits lies not only in human right values, but also finds significance from feminist perspectives. Feminism is an evolution into a theory powered by the works of ideologists, including Mary Wollstonecraft, Simone de Beauvoir, Judith Butler, Vandana Shiva, and Sharmila Rege. Feminist theorists delve into the multifaceted challenges faced by women, which include gendered division of labour, objectification, abuse and harassment, unfair treatment, social biases ingrained in a patriarchal setup, and imbalance of power. Countries in South Asia particularly see layered realities of diverse groups facing different forms of social categorization that extend beyond universal women's experiences, nestled in intersecting identities and compounded struggles. By embracing intersectional perspectives and, analysing the disadvantages from varying feminist perspectives, the nuanced understandings of the fight for women's rights can be better equated to meet the social, cultural and economic factors that converge to shape individual experiences.

Functionalist Framework

Functionalist theorists suggest that gender inequalities create division of labour, limiting women to more traditional and reproductive tasks and promoting the involvement of men in paid labour work that provides for the home. Women's familial responsibilities and their domestic chores, coupled with child care, push them to make decisions that are far different from those of their male counterparts. This perspective argues that such a division of labour represents an evolutionary and efficient strategy for societal survival, where women's biological capacity for childbearing and nurturing is interpreted as naturally aligning with home-based tasks. By constraining women to traditionally unpaid, care-oriented roles, the functionalist framework essentially legitimizes and perpetuates gender-based economic hierarchies, rendering women's domestic labour invisible and undervalued while simultaneously normalizing male dominance in economic and public spheres. Consequently, this theoretical lens not only explains gender inequality but inadvertently reinforces

patriarchal structures by presenting gender-segregated labour as a natural, functional necessity rather than a socially constructed power dynamic.

Equality Feminists

'Equality feminists', such as Anne Phillips, opine that the feminine identity should be given minimal emphasis when advocating for equal rights and opportunities in the workplace. The perspective emphasizes the focus on capabilities and qualifications, irrespective of gender, which could allow women to compete on an equal footing as their male counterparts. Her argument, after analysis of the intersectionalities of identities, rests on a framework that minimizes gender distinctions and acknowledges the importance of universal principles. The rights-justice model of legislation drafting that reflects the equality-feminist approach reproduces the division of labour by devaluing care work and furthering the public-private dichotomy.

Difference Feminists

On the other hand, there are 'difference feminists' who highlight the importance of considering women's needs during the formulation of legislation and policy. This theory highlights the difference in men's and women's behaviours, which is prominent because of the biological differences, thereby advocating the need to formulate policies for the protection of women's rights during pregnancy. Difference feminists such as Guerrina and Bryson criticise the approach taken by equality feminists, arguing that sex-blind or gender-neutral legislation ignores the gendered division of labour that dichotomizes the public and private spheres.

Applying the theories by both sets of feminists allows for discourse on whether pregnancy makes women unique, justifying special status treatment during the days when they require the most care. Converging the two approaches to reach a less controversial model, it can be argued that the bodily autonomy of a woman and her physical ability to reproduce is significant in a legal parlance when her biological and related rights are being protected. This approach allows for a smooth transition from Aristotle's widely recognised foundation of formal equality to a more circumstance-specific method of substantive equality. As Herma H. Kay would

advocate, "*reproductive differences are not a part of sexual identity, but rather a functional attribute*".

Post-structural Feminists

Kay's model then paves the way for a poststructuralist feminist critique of the existing legislation in India and Sri Lanka to reveal power dynamics embedded within institutional policies. As the study below reveals, women are likely to face differential treatment upon returning to work after their paid maternity leave. The fundamentally gendered nature of work reinforces stereotypes, leading to discriminatory practices against working mothers, despite the existence of legislation punishing the same. The poststructuralist feminist approach challenges the essentialist views of motherhood that assume the absence of intersectionalities by revealing the need to reframe existing narratives surrounding motherhood and work experiences. It denies the notion of universal womanly experiences, suggesting that maternity and motherhood are by-products of complex social and cultural relations.

III. INDIA'S LEGAL FRAMEWORK

The International Labour Organization has set out international standards for the protection of woman and child through maternity benefit conventions. It started with Convention No 103 in 1952, which has now been superseded by Maternity Protection Convention 2000 (No. 183). While India is a signatory to the latter, Sri Lanka is not. It is bound by the provisions of the 1952 standard.

The legislative framework in India is deeply influenced by the international standards laid down by the International Labour Organization. Though the ILO mandates a fourteen-week period for maternity leave, India's domestic framework lays down twenty-six weeks of paid maternity leave in its labour laws. By ratifying and implementing international instruments, India positions itself favourably compared to many countries around the globe. While India's maternity policies serve as a model for other nations, ongoing efforts are necessary to ensure that all women can fully benefit from these protections.

The Maternity Benefit Act of 1961 read with the 2017 Amendment is a reflection of India's commitment to aligning its laws with international standards. The parent act aims to protect the dignity of motherhood, provide monetary benefits to working women, and encourage the mother to invest in the child's formative years. The measures listed in the legislation not only protect women's economic empowerment, but also provide a safety net by giving the surety that there should not be any ill-willed and arbitrary terminations of employment while the mother is on paid maternity leave. In case of unlawful dismissal, the woman employee may appeal to the prescribed authority, within sixty days of receipt of notice of the dismissal.

The Act has additional provisions that obligate the employer to provide paid leaves in situations not only restricted to pregnancy and childbirth – namely, adoption, surrogacy, miscarriage, medical termination of pregnancy, tubectomy, and illnesses arising from the above. A noteworthy introduction to the foundational framework was inserted in 2017 by way of the Amendment to the Maternity Benefit Act, 1961. Organizations with fifty or more employees have an obligation to provide creche facilities. Proviso to the section also makes it mandatory for the employer to allow the working mother four visits to the crèche, including the intervals for rest.

The Maternity Benefit Act applies to all establishments with ten or more employees. In addition to the consistent application of this legislation across various sectors, there is a distinct set of guidelines that specifically pertain to government employees. The Central Civil Service Rules, 1972 provide maternity leave of one hundred eighty days for a female Government servant with less than two surviving children.

IV. FROM PAPER TO PRACTICE: EMPIRICAL DATA

By collecting empirical data, the researchers are able to support the theoretical framework that working mothers face discrimination at the workplace. As the legislature makers and judicial system of India continue to strengthen its commitment to women's workforce participation and gender equality,

understanding the real-world application of maternity benefit policies becomes crucial. Prima facie, the statutory provisions make it seem that India is a progressive nation which supports female labour force. It is only through a detailed evaluation that one sees the cracks between policy formulation and practical implementations. To explore the unexplored, the authors carried out a survey, with the target audience being women employees in the government sector in Delhi.

The **research questions** guiding this survey are as follows –

- Are the identified respondents consistently granted paid maternity leave as per legal mandate of 26 weeks?
- Are employees adequately informed about their maternity benefits?
- Do women face bias or career setbacks due to maternity leave?

The **objectives** of data collection and analysis are –

- To gather insights on the provision of paid maternity leave for government employees
- To evaluate the duration of paid leaves provided
- To identify the existence of discriminatory treatment

Methodology

Using the research methodology of **purposive sampling approach**, the authors target **fifty** women employees working in the public sector in Delhi NCR. The survey aims to assess compliance with legal provisions, employee awareness, and workplace experiences post-maternity leave. Though the sample size seems limited, a focused research study provides experience of the lived realities of the target audience navigating the complexities of motherhood benefits. By comparing existing practices with Sri Lanka, the authors try to identify the practices and areas for improvement.

Findings

i. Access to Maternity Leave

Three out of fifty respondents were denied paid maternity leave. This raises eyebrows about failure in enforcement. (Refer to *Figure 3*).

ii. Leave Duration Compliance

Promisingly, more than half (53%) respondents received the full 26 weeks. This is also reflective of the inconsistencies in policy implementation – that 47% received less than the legally required duration (Refer to *Figure 5*), even within government organizations.

iii. Awareness of Entitlements

Figure 4 shows that only 65% of respondents claimed that their employers informed them about the organizations' maternity policies. Lack of transparency may lead to underutilization of benefits.

iv. Workplace Discrimination

Through Figure 6 we see a positive response - approximately 75% of respondents reported no

discrimination. However, specific instances emerged when asked about detailed behaviours (e.g., delayed promotions, loss of incentives, and exclusion from key projects) This suggests that subtle discrimination persists, even when employees do not explicitly identify it as bias.

Detailed analysis

The first and foremost data segregation requirement is the provision of paid maternity leave. Of fifty respondents, three answered in the negative, stating that no provision of paid maternity leave was granted to them. Hereafter, all evaluations of the data are done by excluding these three respondents. Therefore, answers of remaining questions are analysed for forty-seven women government employees. The graph depicted below shows the number of responses on paid maternity leave.

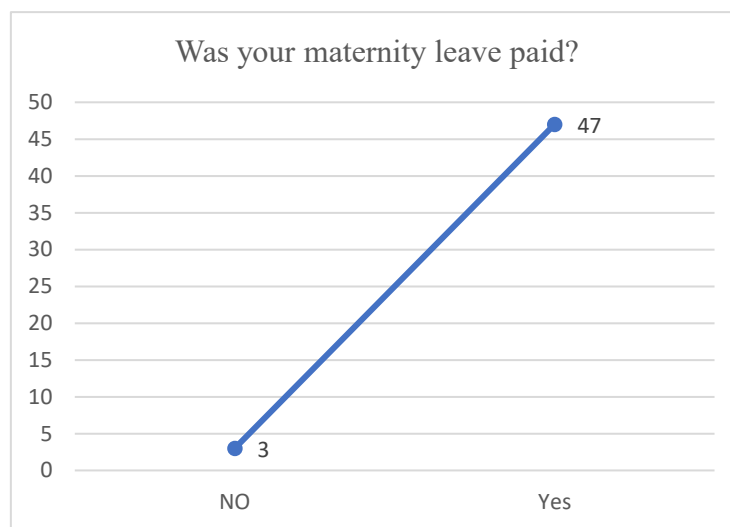


Figure 3: Provision of Paid Maternity Leave for Government Employees in Delhi (Survey Data, 2024)

As per the requirements of Section 11 of the Act, an employer must inform the employee about the maternity benefit policies provided by the organization. When respondents were asked this question, a majority of them responded in the affirmative. Graph 4 shows that only approximately

35% of the respondents mentioned that the organization did not provide information about the maternity policies. The lack of awareness amounts to the absence of transparency and could result in employees not fully utilizing the benefits provided to them.

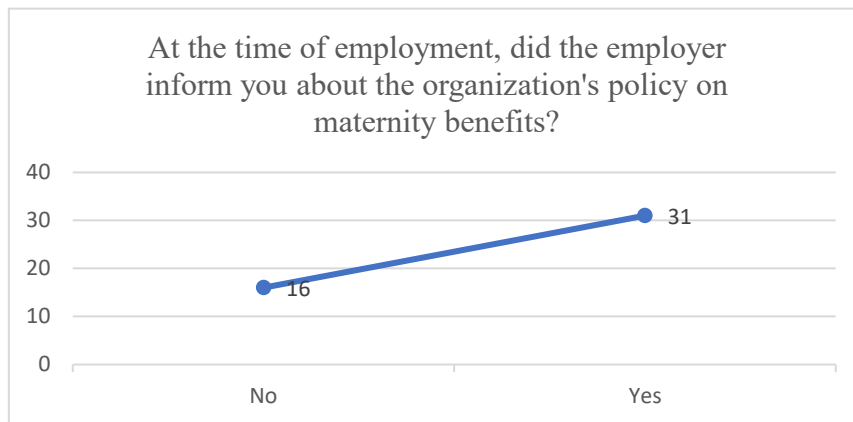


Figure 4: Employee Awareness of Maternity Benefit Policies in Government Organizations (Survey Data, 2024)

The main question that attracted attention for the survey was the duration of paid maternity leave provided to the employee. The 2017 Amendment Act increases the duration from twelve weeks to twenty-six weeks, marking a significant improvement and focus on the well-being of mother and child. An increased leave duration recognizes the contribution of working mothers towards the economy and society, and preventing their

employment from hindering their importance in their domestic responsibilities.

Graph 5, shown below, maps two groups in which paid leave has been provided. The data on the right shows that majority of respondents (53%) twenty-six weeks of paid maternity leave. However, a significant proportion, also highlights that approximately 47% of women received more than twelve weeks, but not the legally mandated twenty-six-week leave.

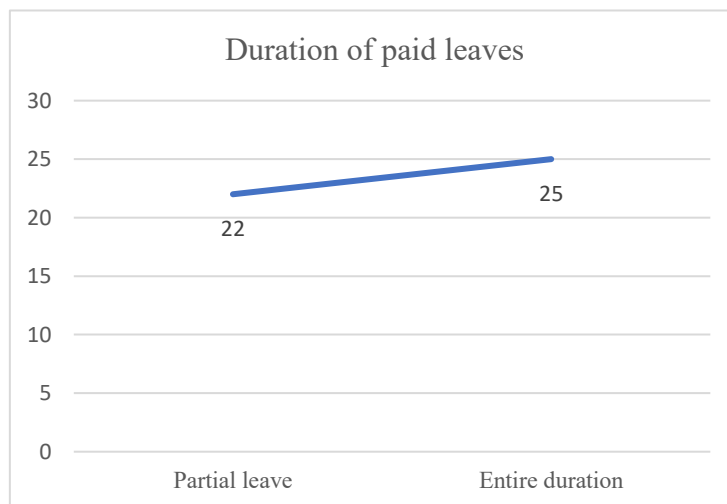


Figure 5: Duration of Paid Maternity Leave Provided to Government Employees in Delhi (Survey Data, 2024)

It is this number – 22 responses out of 47 – begs the attention of policymakers and law enforcement officers. Government employees working in organizations that have the support of the State are not being provided with the minimum requirement of paid maternity leave that has been laid down in the law. This marks a significant gap between the

provisions on paper and their actual implementation. Ironically, it is not the public sector where one would expect nearly half of the identified respondents to be denied their legal rights. Instead, one would expect adherence to established laws to be more stringent.

Non-compliance with legal provisions by an organisation goes beyond attracting statutory penalties; it fundamentally violates the right of women to maternity protection which is firmly embedded within the broader framework of life and dignity under Article 21. The failure to grant sufficient maternity leave has far-reaching consequences for women employees. It can result in heightened stress levels and financial insecurity, with possible detrimental effects on both the physical and mental health of mothers and their children. When women are denied the opportunity to take the necessary time off for childbirth and recovery, their ability to fully engage in the

workforce is compromised. Such circumstances perpetuate cycles of inequality and can significantly limit women's prospects for career advancement.

Pregnancy Discrimination

To really understand how maternity leave affects how people are treated at work, the researchers asked respondents directly about any unfair treatment they might have faced because of being pregnant. By asking the respondents to think about and share what they have experienced, the authors hope to find out about the little and big ways workplaces might discriminate against women when they are pregnant and taking maternity leave.

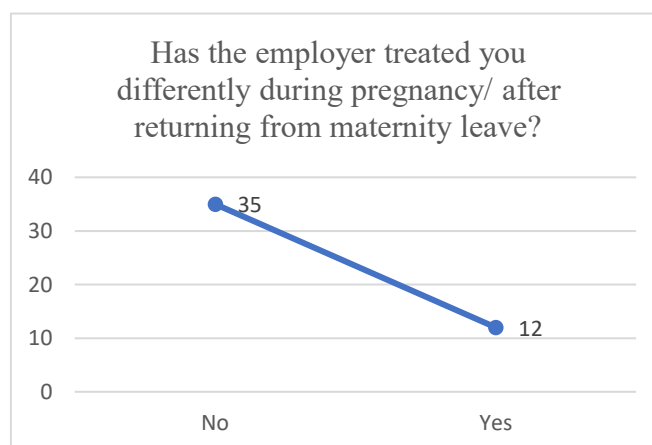


Figure 6: Experiences of Workplace Discrimination Among Women Returning from Maternity Leave (Survey Data, 2024)

Three-quarters of the respondents answered in the negative, indicating that they did not face any discriminatory or differential treatment during pregnancy and after returning from the paid maternity leave. This indicates a positive workplace culture reflecting value for contributions made by working mothers. Organizations that foster an inclusive environment can enhance employee morale and loyalty, leading to higher job satisfaction. The finding also indicates that maternity policies are being effectively implemented.

One-quarter of respondents who experienced discriminatory treatment highlight the ground reality, providing a deeper insight into the consequences of taking leave. Working mothers, upon their return to work, are faced with the dilemma of establishing their competency as

workers while battling biases associated with being a homemaker. The former gets receded to the background, the latter at the forefront.

The "role strain" furthers gendered conflicts, causing women to negotiate between their responsibilities, leaving them at the risk of being reduced to either a warm and incompetent homemaker or a competent yet cold professional. Discriminatory treatment comes along with its series of higher levels of stress and obstacles in career development, subjecting women employees to more harsh standards of punctuality and evaluation. The differential treatment may manifest itself in both overt and covert forms, impacting the long-term health and work output of employees.

To gain a deeper understanding of the various forms of pregnancy discrimination that women employees may encounter, respondents were presented with a

list of potential forms of discrimination from which they could select multiple options and specify the types of differential treatment they faced, if any. The options included experiencing delays or denials in promotions, observing changes in the behaviour of colleagues or employers, facing bias in incentives or special projects, losing bonuses or salary increases, and not having maternity breaks counted as part of their total work experience. Additionally, respondents could indicate if they felt indifferent towards their special needs, experienced dismissal from their job, or encountered difficulties in job changes or recruitment processes. The options provided to the respondents were –

- Recruitment bias
- Delay/ denial in promotions
- Change of employer's behaviour
- Bias in incentives
- Loss of bonuses
- Not counting maternity break as a part of work experience
- Indifference to needs
- Dismissal

Though most respondents responded in the negative when asked whether they faced differential treatment, when presented with specific examples of discriminatory behaviours, the reported answers increased substantially. Disparity between binary answers and detailed questions is a reflection of the complex dynamics of workplace discrimination. This pattern suggests that workplace discrimination often manifests in subtle, normalized ways that may not be immediately recognized as discriminatory behaviour.

The questionnaire was drafted in a way to capture the lived realities of women, whose grievances of maternity and pregnancy discrimination remain undocumented or normalized in workplaces. The narratives of the respondents reveal patterns that extend beyond formal policies, encompassing informal workplace dynamics such as perceptions of commitment, career progression opportunities, and social interactions.

The perceptual gap can be attributed to several interwoven factors. Many discriminatory practices have become so ingrained in workplace culture that they are perceived as standard practice rather than discrimination. Furthermore, pregnancy and maternity-related discrimination frequently manifests through micro-behaviours that, while impactful, may not be readily identified as discrimination without specific prompting. Women may also be reluctant to label their experiences as discrimination when asked broadly but can more easily identify specific instances of unfair treatment when presented with concrete examples.

The cumulative impact of these experiences profoundly affects women's professional lives. By centering the respondents' direct experiences, the research methodology challenges the traditional top-down approach to understanding workplace gender dynamics. It acknowledges that institutional discrimination is not merely a matter of written policies but is deeply embedded in organizational cultures, interpersonal relationships, and systemic biases. The direct questioning technique allows for a more nuanced understanding of how pregnancy intersects with professional identity, revealing the complex ways in which gender, reproduction, and economic participation are negotiated in contemporary workplaces.

When women encounter persistent differential treatment related to pregnancy or maternity leave, it often leads to diminished workplace confidence and reduced job satisfaction. This erosion of professional self-worth can significantly impact their motivation and engagement at work. Over time, these experiences create substantial barriers to career advancement, resulting in long-term professional setbacks that can be difficult to overcome.

This analysis underscores the necessity of using detailed, behaviour-specific metrics when assessing workplace discrimination, as broader questions may significantly underestimate its prevalence and impact. The findings highlight how seemingly minor incidents of differential treatment can accumulate to create substantial obstacles to women's career progression and workplace well-being. Understanding these nuanced manifestations of

discrimination is crucial for developing effective policies and interventions to create more equitable workplaces.

V. LEGAL FRAMEWORK IN SRI LANKA

The government's health services cover all citizens and residents. The private sector is the second largest provider of health care in Sri Lanka. Sri Lanka has a long history of maternal health care provided by the government. The legal framework governing maternity benefits in Sri Lanka reflects a commitment to supporting female employees during pregnancy and after childbirth. By providing structured maternity leave and ensuring job security, these laws aim to promote gender equality in the workplace while recognizing the importance of maternal health and family well-being.

Role of international conventions

On 1 April 1993, Sri Lanka ratified the ILO Maternity Protection Convention (Revised) 1952 (No.103). Convention No. 183, which provides for a wider range of protections, has since superseded Convention No. 103. However, Sri Lanka has not ratified this more recent convention. Similar to the legal framework observed in India, there are many legislations in Sri Lanka governing maternity benefits, and these laws lack uniformity. These include the Maternity Benefits Ordinance No 32 of 1939, the Shop and Office Employees Act No 19 of 1954, and the Establishment Codes – applicable to state sector employees. The Code is also applicable to universities as amended by the University Grants Commission Circulars.

Key Legislations

The Maternity Benefits Ordinance in Section 21 lays down the definition of maternity benefit. It covers all women workers employed on wages in any trade, and women employed in agriculture, including plantations, provided the employment is not casual. However, it excludes women wage earners working from home and domestic workers in private households. The Shop and Office Employees' Act No. 19 of 1954 provides for maternity benefits to women employed in shops and offices (non-industrial occupations). The Establishment Code

provides maternity benefits to women employed in Government service.

Section 3 of the Ordinance lays down the period for which women are entitled to paid maternity leave – i.e. a total of eighty-four calendar days (twelve weeks), which is divided into fourteen days (two weeks) of prenatal leave before childbirth and seventy days (ten weeks) of postnatal leave after childbirth. If a woman experiences a stillbirth, she is entitled to forty-two days (six weeks) of maternity leave. For mothers who have had two or more children, the duration of maternity leave is reduced to forty-two days, which is again split into fourteen days before delivery and twenty-eight days after delivery. This lower entitlement is due to a number of family planning policies adopted by the government to slow the population growth rate. Section 5 of the Ordinance provides the liability of the employer and the rate of maternity benefit. Employers are required to pay maternity benefits promptly, with payments for the period before childbirth made within 48 hours after the employee provides proof of pregnancy.

The Shop and Office Employees Act complements the Maternity Benefits Ordinance by extending similar protections to employees in shops and offices. It ensures that women working in these sectors also receive the mandated maternity leave and benefits. The legislation protects women from dismissal during their maternity leave, ensuring job security during this critical period. While there are no statutory provisions for paternity leave in the private sector, public-sector fathers are entitled to three days of paid leave following childbirth.

According to Section 18 of the Establishment Code, female officers are entitled to eighty-four working days of leave with full pay. In the public service a woman can obtain further extension of maternity leave. Section 18:3:1 grant mothers an extra eighty-four calendar days of leave at half pay specifically for the purpose of caring for their child. Furthermore, Section 18:4:1 allows for an additional eighty-four calendar days of unpaid leave, which can be taken if it is necessary for the care of the child. However, in the private sector, there is no such opportunity for female workers to obtain such leave,

as at present the cost of salaries is born by the employer.

Convention No. 103 stipulates that maternity cash benefits must be provided through either compulsory social insurance or public funding. However, in Sri Lanka, there is currently no established system of social insurance or government-funded program specifically designed to pay maternity cash benefits. Instead, the country has a publicly funded income transfer program aimed at alleviating poverty, which provides support to pregnant mothers from low-income families. This program serves as a crucial safety net for vulnerable populations, offering some financial assistance during pregnancy, even though it does not replace the comprehensive maternity benefits recommended by international standards. Public healthcare, including maternity care, is offered free of charge to all women in Sri Lanka. This means that prenatal and postnatal services, as well as institutional deliveries, are accessible to all women, regardless of their employment status, and are funded by public resources. Additionally, mothers have the option to utilize private healthcare facilities for their maternity care if they choose to do so.

The Shop and Office Employees Act and the Maternity Benefits Ordinance in Sri Lanka align with the International Labour Organization (ILO) Convention No. 103 by stipulating that no employee can be terminated solely based on pregnancy, childbirth, or any related illness. This provision is crucial for safeguarding the rights of women in the workforce, ensuring that they are not subjected to discrimination during such a pivotal time in their lives. However, it is important to note that this protection does not extend to public service workers, who may face different regulations regarding dismissal. This gap raises concerns about equity and fairness within the labour market, as it leaves a significant group of women vulnerable to job loss during a critical period. The lack of protection for public service workers highlights a need for comprehensive legislation that encompasses all sectors of employment. Ensuring that all women, regardless of their employment status, have equal protections against discrimination is essential for promoting gender equality in the workplace.

Challenges and Implementation Gaps

The examination of the provisions outlined above reveals significant disparities in the laws governing maternity leave for different categories of workers in Sri Lanka. For instance, while the Shop and Office Employees Act and the Establishment Code calculate maternity leave based solely on working days, the Maternity Benefits Ordinance includes holidays in its calculations. This distinction means that women covered by the Maternity Benefits Ordinance may receive a shorter total duration of maternity leave compared to their counterparts under the Shop and Office Employees Act and Establishment Code.

This inconsistency creates a notable inequity in maternity benefits, as it effectively reduces the overall leave period for women covered by the Maternity Benefits Ordinance. As a result, these women may face greater challenges in balancing their professional responsibilities with the demands of motherhood, particularly during the critical postpartum period when recovery and bonding with the newborn are essential.

Furthermore, this variation in leave duration highlights a serious shortcoming in Sri Lanka's maternity leave policies. The lack of uniformity across different legal frameworks not only undermines the principle of equal treatment for all workers but also reflects broader systemic issues within labour laws that fail to adequately support women during one of the most significant transitions in their lives.

Addressing these disparities is crucial for promoting gender equality in the workplace and ensuring that all mothers receive fair and sufficient support during their maternity period. It is recommended that Sri Lanka revises its labour laws to extend similar protections against dismissal to public service employees. Additionally, establishing clear guidelines and support mechanisms for all workers can help ensure compliance with international standards and improve overall maternity protection.

VI. COMPARATIVE ANALYSIS

A comparative examination of the maternity leave policies in India and Sri Lanka reveals nuanced

intersectional dimensions of labour legislation and social welfare provisions that are characterized by notable structural convergences and contextual divergences in socio-economic policy frameworks. Both nations demonstrate a commitment to supporting maternal workforce participation through statutorily mandated leave entitlements. There are also similarities in eligibility requirements, with both jurisdictions predominantly extending these provisions to women employed in formal employment sectors. Prerequisite conditions

typically encompass minimum employment duration and continuous service requirements, reflecting standardized administrative protocols. The legislation in each nation mandates full wage compensation during maternity leave periods, ensuring sustained economic security for qualifying female employees. This approach represents a progressive policy stance toward gender-inclusive labour protections. The table below summarises the key differences in the legislative provisions of the two nations.

Table 02 – Comparative Overview of Maternity Leave Provisions in India and Sri Lanka

Governing Legislation	- Maternity Benefit Act, 1961 (Amended 2017) - Central Civil Service Rules, 1972 - Social Security Code, 2020	- Maternity Benefits Ordinance No. 32 of 1939 - Shop and Office Employees Act No. 19 of 1954 - Establishment Code (Public Sector)
Duration of maternity leave	26 weeks (6 months) for first two children 12 weeks for the third child and beyond	12 weeks (84 days) for the first and second child 6 weeks (42 days) for the third child and beyond
Paid leave coverage	100% of wages for eligible employees	100% of wages for eligible employees
Eligibility	Women employed in establishments with 10+ employees	Women engaged in formal employment (excludes casual and domestic workers)
Paternity leave	No statutory provision in private sector 15 days for government employees	3 days for public sector employees No statutory provision in private sector
Additional benefits	- Paid leave also granted for miscarriage, adoption, surrogacy - Work-from-home provisions after maternity leave - Mandatory crèche facilities for organizations with 50+ employees	- Extension of maternity leave (additional 12 weeks at half pay, 12 more weeks unpaid for public sector employees) - Free public maternal healthcare services
Job protection	Employers cannot dismiss a woman during maternity leave Non-compliance may attract penalties	Employees cannot be dismissed during maternity leave, except public sector employees, who lack similar protections
Social Security Contributions	No universal social security fund for maternity leave—paid by employers	No dedicated maternity insurance scheme; supported through government health services
ILO Convention Ratification	India has ratified Maternity Protection Convention No. 183 (2000)	Sri Lanka has not ratified Convention No. 183; follows the older Convention No. 103 (1952)

The comparative analysis of maternity leave policies in India and Sri Lanka illuminates the multifaceted nature of workplace discrimination faced by women transitioning into parenthood, underscoring the critical need for a comprehensive, evidence-based approach to address this persistent challenge. While both nations exhibit substantive legislative commitments to maternal workforce protections, the underlying regulatory architectures manifest significant structural heterogeneity.

The Indian legislative paradigm demonstrates a more dynamically evolving regulatory ecosystem

compared to the relatively more circumscribed Sri Lankan policy framework. India demonstrates more expansive coverage, particularly through recent legislative amendments accommodating women in diverse employment configurations; Sri Lanka's policy framework exhibits slightly more constrained parametric boundaries, reflecting distinctive socio-economic developmental trajectories. With the introduction of the Social Security Code in 2020, the coverage of benefits extends to organized and unorganized employment sectors, with provisions for work-from-home opportunities and mandatory crèche facilities for establishments with over fifty

female employees. However, Sri Lanka's legislative framework predominantly focuses on formal employment sectors, laying down more restrictive implementation protocols, with limited auxiliary supportive infrastructures.

These nuanced distinctions highlight the distinctive institutional evolutionary paths of post-colonial South Asian states, reflecting divergent conceptualizations of state responsibility, differential mechanisms of social welfare provisioning, contrasting interpretative frameworks of maternal labour market participation, and variegated institutional approaches to women's workforce integration. The complexity of cross-jurisdictional policy comparative methodologies underscores sophisticated narratives of societal value systems and evolving concepts of labour rights.

The current provisions within both national frameworks – in India and Sri Lanka – illustrate a pronounced acceptance of a public-private divide. This division effectively segregates a woman's roles as a child bearer and caregiver from her identity as an employee, creating a dichotomy that places the onus of decision-making squarely on women themselves. Such perceptions suggest that women's roles in childbearing and rearing are intrinsically linked to their identity, reinforcing the idea that these responsibilities are an extension of their femininity rather than labour in their own right.

By confining women primarily to the domestic sphere, men effectively limit their participation in the workforce and restrict their economic independence. This confinement not only reinforces traditional gender roles but also perpetuates systemic inequalities that hinder women's ability to engage fully in both professional and domestic realms. Consequently, this dynamic results in a significant imbalance in power relations within households, where women's labour is often taken for granted or viewed as supplementary. The implications of such a framework extend beyond individual families; they contribute to broader societal norms that dictate gender roles and expectations.

VII. CONCLUSION AND SUGGESTIONS

The research reveals overlapping similarities coupled with stark differences in the legislative frameworks on maternity benefits in India and Sri Lanka. The former has a more expansive and dynamically adaptive policy ecosystem compared to the latter's conservative and delimited regulatory approach. India's sophisticated institutional mechanism is characterized by flexibility and inclusivity, providing work-from-home options and covering adoptive and commissioning mothers.

India's framework on maternity protection is more expansive compared to that of Sri Lanka, but the latter offers nuanced insights that could potentially enhance India's existing regulatory mechanisms. It is a fiscally constructed exhibition of strategically calibrated leaves, precise budgetary allocations, cost-benefit analysis, and sophisticated economic modelling – all suggestions that Indian policy makers should incorporate in the justice system of the country. Furthermore, the streamlined bureaucratic implementation processes in Sri Lanka provide compact regulatory compliance mechanisms, whereas the Indian institutional interventions may require complex administrative documentation. The comparative differences of these nations reveal their differing developmental trajectories. Suggestions to address workplace discrimination associated with maternity leave require a multifaceted approach that tackles the issue at the organizational, managerial, and societal levels.

- Effective implementation of robust **anti-discrimination measures** coupled with accessible grievance mechanisms, impartial investigation protocols, and meaningful enforcement mechanisms, including disciplinary actions for violations, can prohibit adverse treatment of employees based on pregnancy, childbirth, or related medical conditions.
- Based on empirical data collected, HR and employers can provide **training on the legal obligations** and ethical imperatives of supporting employees during the maternity transition. This training should address

unconscious biases, dispel misconceptions, and foster a culture of empathy and accommodation.

- Organizations should proactively **develop comprehensive support systems** for pregnant employees and new parents, including flexible work arrangements, childcare assistance, and seamless reintegration protocols. These measures help mitigate the perceived "burden" of maternity leave and promote a work environment conducive to work-life balance.
- Establishing **transparent, gender-neutral performance evaluation** and promotion criteria can help address biases in career advancement.

Addressing this persistent challenge of the multifaceted nature of workplace discrimination against women, necessitates a

comprehensive, evidence-based approach targeting the variegated dimensions of bias identified in the provided analytical framework. Organisations can develop strong, multi-faceted strategies for creating more inclusive family-friendly work environments by drawing on insights from this cross-jurisdictional policy analysis. This involves implementing robust anti-discrimination policies, offering comprehensive training, strengthening support systems, ensuring fair compensation, encouraging employee advocacy and collaborating with policymakers. These efforts collectively foster inclusive and empowering work environments for women and support workforce diversity.

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