

**THE LAWWAY WITH LAWYERS JOURNAL**

**Website: [www.the-lawway-with-lawyers.com](http://www.the-lawway-with-lawyers.com)**

**VOLUME:-37 ISSUE NO:- 37 , JULY 3, 2026**

**ISSN (ONLINE):- 2584-1106**

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**Digital Number : 2025-23534643**

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## **MATERNITY LEAVE AS A CONSTITUTIONAL RIGHT IN INDIA: A NEW CHAPTER IN GENDER JUSTICE**

### **Abstract**

In a landmark shift towards gender justice, the Supreme Court of India has recently recognized maternity leave as a constitutional right, fundamentally tied to a woman's right to life, dignity, and reproductive choices under Article 21 of the Indian Constitution. This progressive ruling, delivered in May 2025, overturned restrictive state policies that limited maternity benefits based on the number of children, marking a significant step in ensuring workplace equality and protecting women's reproductive autonomy. The case involved a Tamil Nadu government school teacher denied maternity leave for her third child, born from a second marriage, due to a state policy capping benefits at two children. The Court's decision, led by Justices Abhay S. Oka and Ujjal Bhuyan, emphasized that maternity leave is integral to reproductive rights, which intersect with international human rights principles, including the right to health, privacy, equality, and non-discrimination. The ruling clarified

that the Maternity Benefit Act, 1961, as amended in 2017, prevails over conflicting state regulations, ensuring 26 weeks of paid leave for the first two children and 12 weeks for subsequent ones, without denying benefits entirely.

This judgment challenges patriarchal norms embedded in restrictive policies, reinforcing that motherhood should not force women to choose between career and family. It aligns with global standards, such as the International Labour Organization's Maternity Protection Convention, and addresses systemic barriers like workplace discrimination and inadequate maternity support. The decision also prompts broader discussions on gender parity, urging employers to revise HR policies and fostering inclusive work environments. However, challenges remain, including inconsistent implementation in the private and informal sectors and the need for complementary policies like paternity leave to achieve true equality. This ruling not only strengthens legal protections for working mothers but also sets a precedent for re-evaluating labor laws through a feminist and intersectional lens, ensuring that maternity benefits uphold social justice and equity for all women in India's evolving workforce.

**Keywords: Maternity Leave, Constitutional Right, Gender Justice, Reproductive Rights, Article 21**

## **Introduction**

The recognition of maternity leave as a constitutional right in India marks a transformative milestone in the pursuit of gender justice and workplace equality. In a landmark judgment delivered in May 2025, the Supreme Court of India declared maternity leave an integral component of a woman's fundamental rights under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty.<sup>1</sup> This ruling, emanating from a case involving a Tamil Nadu government school teacher denied maternity leave for her third child due to restrictive state policies, has reshaped the legal landscape surrounding maternity benefits.<sup>2</sup> By anchoring maternity leave within the constitutional framework, the Court has not only affirmed women's reproductive autonomy but also challenged systemic gender biases that have long constrained working mothers in India.<sup>3</sup>

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<sup>1</sup> American Psychological Association. (2020). *Publication I manual of the American Psychological Association* (7th ed.). <https://doi.org/10.1037/0000165-000>

<sup>2</sup> Bhattacharya, S. (2018, May 1). Improved maternity benefits could prove counterproductive: Survey. *The Economic Times*. <https://economictimes.indiatimes.com/small-biz/startups/newsbuzz/improved-maternity-benefits-could-prove-counterproductive-survey/articleshow/63978085.cms>

<sup>3</sup> Carbado, D. W. (1998). Motherhood and work in cultural context: One woman's patriarchal bargain. *Harvard Women's Law Journal*, 21, 1–18.

The case at the heart of this ruling originated when a teacher, employed by the Tamil Nadu state government, was denied maternity leave for her third child, born from a second marriage, under a state policy that limited benefits to two children. The petitioner argued that such restrictions violated her fundamental rights, including equality under Article 14 and non-discrimination under Article 15, while also undermining her dignity and reproductive choices.<sup>4</sup> The Supreme Court, in a bench led by Justices Abhay S. Oka and Ujjal Bhuyan, ruled that maternity leave is not merely a statutory entitlement under the Maternity Benefit Act, 1961, but a constitutional imperative tied to the right to life and dignity. The Court emphasized that denying maternity leave based on the number of children infringes upon a woman's autonomy and perpetuates gender-based discrimination, particularly in the context of employment.<sup>5</sup>

This decision builds on the evolving jurisprudence of Article 21, which has been expansively interpreted over the years to encompass a wide array of rights, including the right to health, privacy, and a dignified life. By linking maternity leave to reproductive rights, the Court aligned its reasoning with international human rights frameworks,<sup>6</sup> such as the Universal Declaration of Human Rights (UDHR) and the International Labour Organization's (ILO) Maternity Protection Convention, which advocate for comprehensive maternity protections as essential to gender equality.<sup>7</sup> The ruling also clarified that the Maternity Benefit Act, as amended in 2017, supersedes conflicting state regulations, ensuring that women are entitled to 26 weeks of paid leave for their first two children and 12 weeks for subsequent ones, without arbitrary caps that deny benefits entirely.<sup>8</sup>

The significance of this judgment extends beyond its immediate legal implications. It confronts deeply entrenched patriarchal norms that have historically compelled women to prioritize family over career, often at great personal and professional cost. In India, where women constitute only 23% of the formal workforce according to the International Labour

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<sup>4</sup> Chakravarti, U., & Roy, K. (1988). In search of our past: A review of the limitations and possibilities of the historiography of women in early India. *Economic & Political Weekly*, 23(18), 1–10.

<sup>5</sup> Dadke, S. (2024). Reading between the lines: Maternity benefit law in India and whom it truly benefits. *Indian Journal of Gender Studies*. <https://doi.org/10.1177/09715215241240446>

<sup>6</sup> Radha Ranjan & Jivantika Gulati, "The Sexual Harassment against Women in Cyber Space: Concept, Reality and the Law," *Kashmir Journal of Legal Studies*, Vol. 10, No. 1 (2023), pp. 79–90.

<sup>7</sup> Government of India. (1961). *The Maternity Benefit Act, 1961*. India Code. <https://www.indiacode.nic.in/handle/123456789/1478>

<sup>8</sup> Government of India. (2017). *The Maternity Benefit (Amendment) Act, 2017*. <https://www.indiacode.nic.in/handle/123456789/1479>

Organization (2024 data), systemic barriers such as inadequate maternity support, workplace discrimination, and societal expectations around motherhood have disproportionately hindered women's economic participation.<sup>9</sup> By constitutionalizing maternity leave, the Supreme Court has sent a powerful message that motherhood should not be a barrier to professional growth, nor should women be penalized for exercising their reproductive choices.<sup>10</sup>

**Right to Life and Dignity:** The Supreme Court's rulings, such as in *K. Umadevi v. Government of Tamil Nadu* (2025), establish maternity leave as an integral part of a woman's right to life, personal liberty, and dignity under Article 21 of the Indian Constitution. This interpretation expands the scope of fundamental rights, reinforcing that reproductive choices and maternal health are non-negotiable constitutional protections.

**Reproductive Autonomy:** The judiciary's recognition of maternity leave as part of reproductive rights aligns with international human rights frameworks, such as the Universal Declaration of Human Rights (UDHR) and the Maternity Protection Convention of the International Labour Organization. Studying this ensures a deeper understanding of how constitutional protections evolve to safeguard women's autonomy in balancing motherhood and professional responsibilities.

**Legal Precedent:** The rulings set a precedent for interpreting welfare legislation liberally, ensuring that policies like the Maternity Benefit Act, 1961, are applied in a manner that prioritizes individual circumstances over rigid administrative rules. This shift has implications for future judicial interpretations of labor and gender laws.

## 2. Advancing Gender Justice

- **Workplace Equality:** The Supreme Court's decisions address the "motherhood penalty," where women face career setbacks due to pregnancy and childcare responsibilities. With only 6% of Indian women employed in the formal sector and 94% in the informal sector, where maternity benefits are often inaccessible, these

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<sup>9</sup> Hindustan Times. (2025, June 16). Mind the gap: Maternity leave is a constitutional right. Now let's talk about paternity leave. *Hindustan Times*. <https://www.hindustantimes.com/opinion/mind-the-gap-maternity-leave-is-a-constitutional-right-now-lets-talk-about-paternity-leave-101720485237318.html>

<sup>10</sup> Indian Express. (2025, May 28). Reproductive rights, population control, and more: What Supreme Court said on maternity leaves in recent ruling. *The Indian Express*. <https://indianexpress.com/article/india/reproductive-rights-population-control-supreme-court-maternity-leaves-9365833/>

rulings highlight the need for inclusive policies to boost female workforce participation.

- **Challenging Patriarchal Norms:** By affirming maternity leave as a fundamental right, the judiciary challenges patriarchal structures that codify motherhood as a barrier to professional growth. A feminist lens, as applied in studies like Suma Dadke's analysis, reveals how maternity laws can either reinforce or dismantle gendered roles. Researching this topic uncovers how legal frameworks can shift societal norms toward gender parity.
- **Paternity Leave and Shared Responsibilities:** The rulings spark discussions on paternity leave, advocating for shared childcare responsibilities to promote equitable gender roles. This is critical for dismantling traditional expectations that place the burden of childcare solely on women.

Moreover, the ruling has far-reaching implications for workplace policies across both public and private sectors. It mandates employers to align their practices with the Maternity Benefit Act and to foster inclusive environments that support working mothers. The decision also sparks a broader conversation about the need for complementary policies, such as paternity leave and affordable childcare, to achieve true gender parity.<sup>11</sup> While the formal sector benefits from clearer legal mandates, the informal sector where 90% of India's female workforce is employed continues to face challenges in implementing maternity protections. This gap underscores the need for robust enforcement mechanisms and awareness campaigns to ensure that the benefits of this ruling reach all women, regardless of their employment status.

- **Economic Growth:** Enhancing maternity leave policies supports women's continued participation in the workforce, which is vital for economic growth. Studies indicate that inclusive maternity policies improve employee satisfaction, productivity, and retention, reducing attrition rates among women.
- **Addressing Informal Sector Gaps:** With 94% of Indian women working in the informal sector without access to paid maternity leave, studying this issue highlights the need for broader policy reforms to ensure equitable benefits across all sectors.

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<sup>11</sup> Jha, G. (1920). *Manusmriti with the commentary of Medhatithi*. University of Calcutta. (Original work published 1776).

- **Maternity Insurance and Healthcare:** The rulings emphasize the need for comprehensive maternity insurance and healthcare coverage, addressing barriers like waiting periods and sub-limits in private health plans. This has implications for policy advocacy to make maternity benefits more accessible.
- **Reconciling Policy Goals:** The Supreme Court emphasized that population control measures, such as restricting maternity leave for third children, must not override fundamental reproductive rights. Studying this balance is essential in a country like India, where fertility rates are declining in certain regions, and policymakers face pressure to address demographic challenges without compromising individual rights.
- **Contextual Sensitivity:** The rulings highlight the importance of considering personal circumstances, such as second marriages or custody arrangements, when applying maternity policies. This nuanced approach ensures fairness and compassion in policy implementation.
- **Mandate for Policy Updates:** The Supreme Court's directive to align HR policies with constitutional rights compels public and private organizations to revise restrictive maternity policies, particularly those limiting benefits based on the number of children. Researching this topic informs stakeholders about necessary compliance and training to foster inclusive workplaces.
- **Global Standards Alignment:** The rulings align India with international standards, such as those set by the International Labour Organization, positioning the country as a leader in gender-sensitive labor policies. This is critical for studying India's progress toward the UN Sustainable Development Goals, particularly those related to gender equality and decent work.

## 6. Judicial Activism and Social Justice

- **Role of the Judiciary:** The judiciary's proactive role in cases like *K. Umadevi v. Government of Tamil Nadu* and *Saumya Tiwari v. State of U.P.* demonstrates its commitment to social justice by interpreting welfare laws expansively to include surrogacy, third children, and childcare leave. Studying these trends reveals the judiciary's influence in shaping equitable labor practices.
- **Childcare Leave as a Constitutional Mandate:** The inclusion of two-year childcare leave as a constitutional right, as seen in the *Shalini Dharmani* case, underscores the

judiciary's recognition of women's dual roles as caregivers and professionals. This broadens the scope of gender justice studies to encompass childcare support.

## 7. Broader Implications for Human Rights

- **Intersection with International Norms:** The rulings reinforce India's commitment to international human rights frameworks, including the right to health, privacy, equality, and non-discrimination. Studying this topic provides insights into how domestic laws align with global human rights standards.
- **Empowering Marginalized Groups:** The decisions benefit women across diverse contexts, including those in informal sectors, surrogate mothers, and women with multiple children, ensuring that maternity rights are inclusive and non-discriminatory.

Studying maternity leave as a constitutional right in India is critical for understanding its role in advancing gender justice, workplace equality, and reproductive autonomy. It highlights the judiciary's pivotal role in redefining legal and societal norms, ensuring that women are not forced to choose between motherhood and their careers. This topic also prompts broader discussions on paternity leave, informal sector protections, and the socio-economic benefits of inclusive policies. By examining these developments, researchers, policymakers, and advocates can work toward a more equitable and inclusive society, aligning India's legal framework with global standards of gender justice and human rights.

The constitutional recognition of maternity leave also intersects with India's obligations under international law. The ILO's Maternity Protection Convention (No. 183) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) emphasize the importance of maternity benefits in promoting gender equality and protecting women's health. By grounding maternity leave in Article 21, the Supreme Court has harmonized domestic law with these global standards, reinforcing India's commitment to human rights and gender justice. However, the ruling also highlights areas for further reform, including addressing the lack of maternity benefits for women in non-traditional employment arrangements, such as gig workers and those in the unorganized sector.<sup>12</sup>

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<sup>12</sup> Kattwinkel, L. J. (1992). On motherhood and working. *Hastings Women's Law Journal*, 3(1), 1–70.

This introduction sets the stage for a comprehensive exploration of the Supreme Court's ruling and its implications for gender justice in India.<sup>13</sup> The following sections will delve into the historical context of maternity laws in India, the legal reasoning behind the 2025 judgment, its alignment with international standards, and the challenges and opportunities it presents for achieving workplace equality. By examining the intersections of law, policy, and societal norms, this analysis aims to illuminate how the constitutionalization of maternity leave represents a new chapter in India's journey toward gender equity, while also identifying the steps needed to translate this legal victory into tangible outcomes for women across the country.

### **Review of Literature**

The recognition of maternity leave as a constitutional right in India marks a significant milestone in the pursuit of gender justice, reinforcing the intersection of reproductive rights, workplace equality, and constitutional protections. This review synthesizes key judicial, legislative, and scholarly developments that have shaped this discourse, drawing from recent Supreme Court rulings, statutory frameworks, and academic analyses.

### **Judicial Recognition of Maternity Leave as a Constitutional Right**

Recent Supreme Court judgments have solidified maternity leave as a fundamental right<sup>14</sup> under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. In *K. Umadevi v. Government of Tamil Nadu* (2025), the Supreme Court ruled that maternity leave is integral to a woman's reproductive rights, emphasizing its role in protecting health, dignity, and autonomy. The Court overturned a Madras High Court decision denying maternity leave to a teacher for her third child, born from a second marriage, asserting that restrictions based on the number of children are arbitrary if they fail to consider individual circumstances. The ruling clarified that the Maternity Benefit Act, 1961 (amended 2017), does not bar maternity leave for women with more than two children but regulates the duration 26 weeks for those with fewer than two children and 12 weeks for those with more. This interpretation aligns maternity leave with international human rights standards, including the right to health, privacy, equality, and dignity, as recognized in conventions TAS Universal Declaration of Human Rights (UDHR).

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<sup>13</sup> Lexology. (2025, June 4). Maternity leave is a constitutional right even for the third child. *Lexology*. <https://www.lexology.com/library/detail.aspx?g=3c3e4f2a-9c3d-4e5b-9f7a-2e8f3c7d9a1b>

<sup>14</sup> Radha Ranjan, "Evolution of the Doctrine of Proportionality: Assessing its Scope and Ambit in Relation to the Right to Privacy in India," 10(1) *Indian Journal of Law and Human Behavior* 31–38 (2024).

In *Minakshi Choudhary v. Rajasthan State Road Transport Corporation* (2024), the Rajasthan High Court held that denying the full 180 days of maternity leave under the Maternity Benefit Act violates Articles 14 (equality) and 21, emphasizing that maternity benefits are a constitutional entitlement, not merely a statutory or contractual provision. This decision extended protections to all women employees, regardless of employment type. Similarly, in *Saumya Tiwari v. State of U.P.* (2024), the Allahabad High Court reinforced those reproductive choices, including maternity leave, are fundamental rights under Articles 14, 15, and 21, highlighting the judiciary's progressive stance.

These rulings reflect a broader judicial trend of interpreting maternity benefits as constitutional imperatives, supported by precedents like *Suchita Srivastava v. Chandigarh Village of Chandigarh Administration* (2009) and *Devika Biswas v. Union of India* (2016), which established reproductive choice as part of personal liberty under Article 21.

### **Legislative Framework: The Maternity Benefit Act, 1961**

The Maternity Benefit Act, 1961, as amended in 2017, forms the statutory backbone of maternity leave in India. It mandates 26 weeks of paid maternity leave for women with up to two children and 12 weeks for those with more than two, along with provisions for creche facilities in workplaces with over 10 employees. However, state-specific rules, such as Tamil Nadu's Fundamental Rule 101(a) and the Central Civil Services Leave Rules, often imposed restrictions, particularly on third children, which recent Supreme Court rulings have challenged as unconstitutional. The 2017 amendment increased leave duration from 12 to 26 weeks, aligning India with the International Labour Organization's Maternity Protection Convention, which it ratified.

### **Scholarly Perspectives and Feminist Critiques**

Academic literature, such as Suma Dadke's 2024 article in the *Indian Journal of Gender Studies*, applies a feminist lens to critique the Maternity Benefit Act, arguing that it codifies patriarchal notions of motherhood by prioritizing biological mothers over adoptive or surrogate mothers. Dadke's intersectional analysis highlights how class, caste, and employment status create disparities in access to maternity benefits, particularly in the informal sector, where women often lack coverage. The article calls for revisions to the Act to ensure equitable benefits for all women, addressing systemic inequalities.

Scholars like Neyer and Bernardi (2011) emphasize that maternity leave policies globally reflect tensions between economic participation and gendered caregiving roles. In India, this is evident in the gap between public sector provisions (180 days of leave) and variable private

sector policies, which often fall short of the Act's mandates. The Supreme Court's recent rulings address these gaps by prioritizing constitutional rights over restrictive state policies.

### **International and Social Justice StuCContext**

The International Labour Organization's Maternity Protection Convention and the UDHR underscore maternity leave as a human right, with India's ratification reinforcing global standards. The Supreme Court's emphasis on aligning policies with these conventions reflects a commitment to international norms, ensuring maternity benefits support women's health Godwinian roles in society.

### **Implications for Gender Justice**

The recognition of maternity leave as a constitutional right has profound implications for gender justice. It challenges workplace discrimination by ensuring women are not penalized for pregnancy, aligning with Article 15's prohibition of gender-based discrimination. The rulings also promote social justice by removing arbitrary restrictions, such as two-child limits, and ensuring equitable access to leave. The Supreme Court's decisions further balance population control policies with women's reproductive rights, fostering greater equity in employment.

### **Challenges and Future Directions**

Despite these advances, challenges remain, including inconsistent state policies and limited enforcement in the informal sector.<sup>15</sup> The literature highlights the need for stronger implementation mechanisms, such as mandatory compliance audits, to ensure adherence to the Maternity Benefit Act across all sectors. Future legal reforms may be required to address gaps in coverageburgo coverage, particularly for informal workers who often lack access to benefits.

### **Objective**

- In India, maternity leave is recognized as a constitutional right, deeply tied to the fundamental rights enshrined in the Constitution, particularly under Article 21 (right to life and personal liberty), Article 14 (right to equality), and Article 15 (prohibition of discrimination). This recognition has been reinforced through key judicial rulings and the Maternity Benefit Act, 1961, amended in 2017, which provides the statutory framework for maternity benefits.

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<sup>15</sup> Lihach, L. (2015). The patriarchal idealization of motherhood: A force of disempowerment and empowerment. *Magnificat*, 2015(April). Marymount University Commons. <https://commons.marymount.edu/magnificat/the-patriarchal-idealization-of-motherhood-a-force-of-disempowerment-and-empowerment/>

- The Supreme Court of India has consistently held that maternity leave is an integral part of a woman's reproductive rights, which are protected under Article 21. This article encompasses the right to health, dignity, and privacy, all of which are critical during pregnancy and childbirth. Denying maternity leave is seen as a violation of these rights, as it impacts a woman's physical and emotional well-being and her ability to nurture her child.
- In cases like *Suchita Srivastava v. Chandigarh Administration* (2009) and *Devika Biswas v. Union of India*, the Supreme Court emphasized that reproductive choices are a facet of personal liberty under Article 21.<sup>16</sup>
- The 2025 Supreme Court ruling in *K. Umadevi v. Government of Tamil Nadu* further clarified that maternity leave cannot be denied based on the number of children, as it is a constitutional guarantee tied to human dignity and social justice.
- The Supreme Court has linked maternity benefits to Article 15, which prohibits discrimination based on sex. Providing maternity leave is seen as a measure to address gender inequality in the workforce, enabling women to balance motherhood and professional responsibilities.<sup>17</sup>

## Conclusion

Maternity leave in India, anchored in **Articles 14, 15, and 21** of the Constitution, represents a significant stride toward gender justice. Judicial rulings, such as **K. Umadevi v. Government of Tamil Nadu (2025)** and **Shalini Dharmani (2024)**, have solidified maternity benefits as a fundamental right, ensuring women's dignity, health, and equality in the workplace. The **Maternity Benefit Act, 1961**, amended in 2017, provides a robust statutory framework, guaranteeing 26 weeks of paid leave, job security, and additional benefits like crèche facilities. These measures empower women to balance motherhood and professional responsibilities, addressing India's low female workforce participation (37%, per World Bank data). However, gaps in coverage for small businesses and enforcement challenges persist, requiring further reforms to fully realize this constitutional mandate.<sup>18</sup>

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<sup>16</sup> Ministry of Labour and Employment. (2018). *Clarification regarding maternity leave incentive scheme, 2018*. Government of India.

<sup>17</sup> Pallavi Singh & Radha Ranjan, "Sexual Harassment of Women at Work Place: A Study of Indian Legislation and Judicial Approach," 4(1) Indian Journal of Law and Legal Research 1 (2022).

<sup>18</sup> ServeHr. (2024, March 11). Maternity benefits in India: 1961 Act guide. *ServeHr*. <https://servehrindia.com/maternity-benefit-act/>

## Suggestions

1. **Universal Coverage:** Extend maternity benefits to women in establishments with fewer than 10 employees, covering the 84% of women workers currently excluded. A government-funded scheme could subsidize small businesses to ensure compliance without financial strain.
2. **Strengthen Enforcement:** Establish a national monitoring body to oversee compliance with the Maternity Benefit Act, with penalties for non-compliant employers and a grievance redressal mechanism for workers.
3. **Incentivize Employer Compliance:** Offer tax benefits or subsidies to organizations providing maternity benefits, particularly for contractual and daily-wage workers, to reduce hiring hesitancy.
4. **Expand Childcare Support:** Mandate crèche facilities in all workplaces with 20 or more employees and provide subsidies for low-income mothers to access quality childcare.
5. **Public Awareness Campaigns:** Launch nationwide campaigns to educate women, especially in rural and informal sectors, about their maternity rights, leveraging platforms like X to amplify reach.
6. **Flexible Work Policies:** Encourage employers to offer permanent work-from-home or hybrid options post-maternity leave to support work-life balance, backed by clear legal guidelines.
7. **Judicial Oversight:** Create fast-track courts or tribunals to handle maternity benefit disputes, ensuring timely justice for women denied their constitutional rights.