

22

STANDING COMMITTEE ON LABOUR  
(2007-08)

(FOURTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

THE MATERNITY BENEFIT (AMENDMENT) BILL, 2007

TWENTY-SECOND REPORT



LOK SABHA SECRETARIAT  
NEW DELHI

August 2007/Sravana 1929 (Saka)

**22**

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**STANDING COMMITTEE ON LABOUR  
(2007-08)**

**(FOURTEENTH LOK SABHA)**

**MINISTRY OF LABOUR AND EMPLOYMENT**

**THE MATERNITY BENEFIT (AMENDMENT) BILL, 2007**

**Presented to Lok Sabha on 16 August 2007**

**Laid in Rajya Sabha on 16 August 2007**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**August 2007/Sravana 1929 (Saka)**

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**COMPOSITION OF THE STANDING COMMITTEE ON LABOUR  
(2006-2007)**

**Shri Suravaram Sudhakar Reddy – *Chairman***

**MEMBERS**

***Lok Sabha***

2. Shri Furkan Ansari
3. Shri Subrata Bose
4. Shri Santasri Chatterjee
5. Shri Thawar Chand Gehlot
6. Shri Munawar Hassan
- \*\*\*\*7. Dr. Satyanarayan Jatiya
8. Smt. Sushila Kerketta
9. Shri Mohammad Tahir Khan
10. Shri Virendra Kumar
11. Shri Rajesh Kumar Manjhi
12. Shri Basangouda R. Patil
13. Shri Devidas Pingle
14. Shri Chandradev Prasad Rajbhar
15. Shri Dhan Singh Rawat
16. Shri Kamla Prasad Rawat
17. Smt. C.S. Sujatha
- \* 18. Shri Parasnath Yadav
- \*\*\* 19. Shri Mohan Rawale
20. Vacant
21. Vacant

***Rajya Sabha***

22. Chowdhary Mohammad Aslam
23. Shri Rudra Narayan Pany
24. Shri Narayan Singh Kesari
25. Shri K. Chandran Pillai
26. Shri Gandhi Azad
27. Ms. Pramila Bohidar
28. Shri Dilip Ray
- \*\* 29. Shri Rahul Bajaj @
30. Vacant
31. Vacant

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\* Nominated w.e.f. 31 August 2006

\*\* Nominated w.e.f. 1 September 2006

\*\*\* Nominated w.e.f. 22 February 2007

@ Nomination changed from Committee on Labour to Committee on Industry w.e.f. 8 March 2007.

\*\*\*\* Resigned from the Membership of the Committee on Labour vide Bulletin Part-II dated 4.4.2007.

COMPOSITION OF THE STANDING COMMITTEE ON LABOUR  
**(2007-2008)**

**Shri Suravaram Sudhakar Reddy – CHAIRMAN**

MEMBERS

LOK SABHA

2. Shri Furkan Ansari
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7. Shri Santasri Chatterjee
8. Shri Thawar Chand Gehlot
6. Shri Munawar Hasan
7. Smt. Sushila Kerketta
8. Shri Mohammad Tahir Khan
9. Shri Virendra Kumar
10. Shri Rajesh Kumar Manjhi
11. Shri Basangouda R. Patil
12. Shri Devidas Pingle
13. Shri Chandra Dev Prasad Rajbhar
14. Shri Mohan Rawale
15. Shri Dhan Singh Rawat
16. Shri Kamla Prasad Rawat
17. Smt. C.S. Sujatha
18. Shri Parasnath Yadav
19. Vacant
20. Vacant
21. Vacant

**RAJYA SABHA**

22. Chowdhary Mohammad Aslam
23. Shri Rudra Narayan Pany
24. Shri Narayan Singh Kesari
25. Shri K. Chandran Pillai
26. Shri Gandhi Azad
27. Ms. Pramila Bohidar
28. Shri Dilip Ray
29. Vacant
30. Vacant
31. Vacant

**SECRETARIAT**

- |                      |   |                            |
|----------------------|---|----------------------------|
| 1. Shri S.K. Sharma  | - | Additional Secretary       |
| 2. Shri N.K. Sapra   | - | Joint Secretary            |
| 3. Shri R.K. Bajaj   | - | Director                   |
| 4. Shri N.K. Pandey  | - | Deputy Secretary           |
| 5. Smt. Mamta Kemwal | - | Under Secretary            |
| 6. Ms. Mili George   | - | Senior Executive Assistant |

## **INTRODUCTION**

I, the Chairman of the Standing Committee on Labour having been authorised by the Committee to submit the report on their behalf present this Twenty-Second Report on "The Maternity Benefit (Amendment) Bill, 2007" of the Ministry of Labour and Employment.

2. The Bill was introduced in Rajya Sabha on 14 May 2007 and was referred to the Committee by the Hon'ble Speaker, Lok Sabha under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report within three months from the date of publication of the reference of the Bill in Bulletin Part-II of Lok Sabha dated 17 May 2007. Hon'ble Speaker has granted an extension of time till first day of the last week of the Eleventh Session (14<sup>th</sup> Lok Sabha) to present the Report.

3. The Committee at their sitting on 15 June 2007 held a preliminary briefing with the representatives of the Ministries of Labour and Employment, Health and Family Welfare and Law & Justice (Department of Legal Affairs) on the provisions of the Bill. On their subsequent sitting held on 3 July 2007, the Committee heard the views of the representatives of Women Organizations and Trade Unions on the proposed amendments in the Maternity Benefit Act, 1961. On 3 August 2007, the Committee held further discussion with the representatives of the Ministry of Labour and Employment, Officials of ESIC and Chief Labour Commissioner on the Bill.

4. The Committee considered and adopted the draft Report held on 14 August 2007.

5. The Committee wish to express their thanks to the representatives of various Women Organizations and Trade Unions for placing their views on the Bill before the Committee.

6. The Committee also wish to convey their gratitude to the officers of the Ministries of Labour and Employment, Health and Family Welfare and Law & Justice (Department of Legal Affairs) for placing their considered views before the Committee and also for furnishing detailed notes, replies to questionnaire and other desired information in connection with the examination of the Bill.

*NEW DELHI;*  
*14 August 2007*  
*23 Sravana, 1929 (SAKA)*

*SURAVARAM SUDHAKAR REDDY,*  
*CHAIRMAN*  
*STANDING COMMITTEE ON LABOUR*

## **REPORT**

### **The Maternity Benefit (Amendment) Bill, 2007**

#### **Background**

1.1 The Maternity Benefit (Amendment) Bill, 2007 (***Appendix-I***) was introduced in Rajya Sabha on 14 May 2007 and was referred to the Standing Committee on Labour on 17 May 2007 for examination and report in terms of Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

1.2 The object of maternity leave and benefit is to protect the dignity of motherhood by providing for the full and healthy maintenance of woman and her child when she is not working. With the advent of modern age, as the number of women employees is growing, the maternity leave and other maternity benefits are becoming increasingly common. But there was no beneficial piece of legislation in the horizon which is intended to achieve the object of doing social justice to women workers employed in factories, mines and plantation. With the object of providing maternity leave and benefit to women employees, the Maternity Benefit Bill was passed by both the Houses of Parliament and subsequently it received the assent of President on 12 December 1961 to become an Act under short title, "The Maternity Benefit Act, 1961( No.53 of 1961)".

### **Salient Features of the Act**

1.3 (i) The Maternity Benefit Act, 1961 regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees' State Insurance (ESI) for certain periods before and after child-birth and provides for maternity and other benefits.

(ii) The Act applies to factories, mines, circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees' State Insurance Act, 1948.

(iii) With the gradual extension of coverage under the Employees' State Insurance Act, 1948(ESI Act), which also provides for maternity and certain other benefits, the area of application of the Maternity Benefit Act has shrunk to some extent. The coverage under the ESI Act is, however, at present restricted to factories and certain other specified categories of establishments located in specified areas. The Act is, therefore, still applicable to women employees employed in establishments which are not covered by the ESI Act, as also to women employees, employed in establishments covered by the ESI Act, but who are out of its coverage because of the wage limit.

(iv) Under the Maternity Benefit Act, women employees are entitled to maternity benefit at the rate of average daily wage for the period of their actual absence up to 12 weeks due to the delivery. In cases of illness arising due to pregnancy, etc. they are entitled to additional leave with wages for a period of one month. They are also entitled to six weeks maternity benefit in case of miscarriage. The Maternity Benefit Act also makes certain other provisions to safeguard the interests of pregnant women workers.

(v) Section 8 of the Maternity Benefit Act, 1961 provides that every woman entitled to maternity benefit shall also be entitled to receive from her employer medical bonus of Rs.250/-, if no pre-natal confinement and post-natal care is provided by the employer free of charge.

1.4 In the Statement of Objects and Reasons of The Maternity Benefit (Amendment) Bill, 2007, it is mentioned that in the present economic scenario, it is felt that the medical bonus, which is presently Rs.250/-, is inadequate. Therefore, it is proposed:-

- (i) *to raise the Medical Bonus payable under the Maternity Benefit Act from Rs.250/- to Rs.1000/-; and*
- (ii) *to give powers to the Central Government to revise Medical Bonus from time to time subject to a maximum of Rs.20,000/-.*

1.5 Details of Explanatory Notes on each clause of the Maternity Benefit (Amendment) Bill, 2007 are given at Annexure-II

1.6 With a view to have certain clarifications on the provisions of the Bill, the Committee held preliminary meeting with the Ministry of Labour and Employment, Ministry of Health and Family Welfare and Ministry of Law and Justice (Legislation Department) on 15 June 2007 whereby the Committee were briefed about various provisions of the Bill.

1.7 During the preliminary meeting with the Ministry, it was learnt that various interest groups, viz. Women Organisations, Trade Unions, Social Workers, etc. have not been consulted before finalizing the draft Bill keeping the expediency factor in view. The Committee, however, felt that before drafting such an important legislation, it would have been more appropriate if adequate spadework was done. The Committee expressed their displeasure that the Ministry did not even bother to consult various interest groups and stakeholders and find out ways to address other related problems of working women. As a result of this, the present legislation is not only half-baked but need to make up the deficiencies. The Committee, therefore, decided to hear the viewpoint of various Women Organizations and Trade Unions before finalizing the Report. The Committee took oral evidence of various Women Organisations and Trade Unions on 3 July 2007. List of such Women Organisations and Trade Unions is enclosed at ***Appendix-III***

### **Analysis of the Maternity Benefit (Amendment) Bill, 2007**

1.8 After having considered the views expressed by Women Organisations, Trade Unions and Government for and against the various proposals contained in the Bill, the Committee approve the Maternity Benefit (Amendment) Bill, 2007 subject to certain modifications/amendments as indicated in the subsequent paragraphs of this Report:-

**Clause-2** Substitution of new section for section 8 – Payment of medical bonus

***Clause 2 of the Bill reads as under:-***

“2. In the Maternity Benefit Act, 1961, for section 8, the following section shall be substituted, namely:-

*‘8.(1) Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of one thousand rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.*

*(2) The Central Government may from time to time, by notification in the Official Gazette, increase the amount of medical bonus subject to the maximum of twenty thousand rupees.’ ”*

**Increase in Maternity Bonus [Section 8(I)]**

1.9 When asked about the basis of deciding only a paltry sum of Rs.1,000/- as maternity bonus, the Ministry in their written reply furnished as under:-

“The existing provision to give a medical bonus of Rs.250/- fixed in 1989 is proposed to be enhanced to Rs.1,000/- to bring it in tune with rise in prices, inflation, etc. As desired by the Hon’ble Committee, the comparative value of a unit of money in 1961 and 2007 by taking into account the Consumer Price Index for Industrial workers (CPI-IW) has since been calculated after obtaining the actual Consumer Price Index with 1960 as base year and as revised from time to time. On exact calculation made it is gathered that the actual amount of medical bonus that needs to be provided in this regard as per 2006 CPI-IW (latest available) by taking 1960 as base year comes to Rs.711/-. We have also calculated by taking into account the CPI-IW base in 1988 when the medical bonus was raised from Rs.25/- to Rs.250/-. By taking into account the rise by 3.56 times in CPI-IW (Base 1982=100) at 569 during 2006 (converted index of 123 with Base 1982=100) at 160, the amount of maternity bonus comes of Rs.889/. Thus, the proposed amended amount, i.e. Rs.1,000/- is, therefore, in tune with the price index.”

1.10 On the other hand, as regards amendment to Section 8(1), Women Organisations and Trade Unions while welcoming the move to enhance the medical bonus for women, stated that proposed hike is too meagre to serve any relief. During the course of evidence, the Committee were apprised of the recent findings of the National Family Health Survey. It shows an unacceptable degree of malnutrition prevalent amongst women and a very high MMR (Maternal Mortality Rate). The Survey further reveals that one-third of all women in the country are malnourished and over half of them are anaemic. Situation for children is also quite pathetic. Over 45.9% children are underweight and 79.2% are anaemic. The growth of these underweight children is further affected by lack of nutrition. Apart from women suffering these problems, the cost of medical services has also increased manifold since 1989. Keeping in view the steep escalation in the prices of medicines as well as the cost of nourishing food which are very essential for the healthy growth of the mother and the child, the amount of Rs.1,000/- as proposed in the legislation is not at all commensurate with the kind of price rise that has taken place in the country. This amount, therefore, should be raised suitably.

**1.11 The Committee express their satisfaction at the initiative of the Ministry to propose such an important amendment, though the step is quite belated. The Committee after considering the suggestions made by various Women Organisations and Trade Unions are convinced that the proposed hike in the medical bonus is least realistic and does not portray the ground reality. There is a huge increase in medical expenses today which should be taken note of. They, therefore, strongly recommend that the proposed amount of medical bonus of one thousand rupees should be increased at a realistic level of at least Rs.5,000/- and that this clause should be amended accordingly.**

**Revision of Bonus [Section 8(2)]**

1.12 As regards the powers given to the Central Government under section 8(2) to increase the amount of medical bonus from time to time subject to maximum of Rs.20,000/-, the Committee enquired whether a provision regarding review of the adequacy of upper limit of bonus at periodic intervals could be incorporated in the Act, the representative of the Ministry, thereupon, replied:-

“.....the objective of asking for a ceiling of Rs.20,000 is only this that you are able to do it from time to time. We would also need to consult the employers. As you are aware, in this Act, whatever outgo is there, it is the employer who is paying the outgo and not the Government. So far we had made the calculations and come to Parliament, without fully consulting the employers. We have consulted the Ministries and we have consulted the trade unions, but consultations with employers have not taken place because we think that this amount is reasonable. As you are suggesting, if we are having a periodic revision contemplated, I think, we would have to take the employers also into confidence. I think, we will definitely face some opposition there, but eventually the Government will have to decide what is to be done. Certainly, we will study that also.”

1.13 On the same issue, various Women Organisations and Trade Unions were of the opinion that there is no need to fix an upper limit of the amount that should be payable as medical bonus. Moreover, the amount of Medical Bonus should be directly proportioned to the expenses on medical services, medicines, etc. at that time so that it may not become insignificant by inflationary forces operating in the economy. However, they expressed their apprehensions that in the absence of any specific time frame within which the amount of medical bonus is to be increased there is likelihood that the Government might remain inactive or take a much longer time than desired to raise this amount. Therefore, a provision for periodic revision of this amount should be put in place in the Act itself.

**1.14 The Committee supports the proposal that the Union Government should be empowered to revise medical bonus, as this step should enable the Government to enhance the upper limit reasonably from time to time, without amending the Act. But after considering all aspects pertaining to the proposed provision in the Bill recommend that the upper limit of amount of medical bonus payable should be done away with. They further recommend that the Central Govt. should review the medical bonus at periodic intervals, as it may think fit, but such intervals should not be vague but specific. The Committee, therefore, would like that section 8(2) of the Bill should accordingly be amended. The Committee feel that an interval of not more than three years for review of the medical bonus is a reasonable period and recommend the Government to accept it.**

## **General Recommendations – Miscellaneous**

1.15 During the course of deliberations with various experts, Women Organisations and Trade Unions, it was emphasized that to fully achieves the objectives of the Maternity Benefit Act , 1961, in addition to amending section 8 of the Act, there is an urgent need for overall review of the Act itself particularly the issues pertaining to broadening its scope, making applicability of legislation universal, creation of National Corpus Fund, enhancing the number of maternity leave, provision for paternity leave and strengthening the enforcement machinery so that many more working women could be benefited and the health rights of the mother and the child are legally safeguarded. The Committee, by and large, concur with their viewpoint and, therefore, desire that the Government should also take into consideration these points while bringing forward a comprehensive and revised Maternity Benefit (Amendment) Bill in the Parliament. The detail of these issues are discussed in the succeeding paragraphs:-

### **Broadening the Scope of the Act**

1.16 The Committee note that section 2 of the Maternity Benefit Act, regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees' State Insurance (ESI) for certain periods before and after child-birth and provides for maternity and other benefits. Further the Act applies to factories, mines, circus industry, plantations and shops or establishments employing 10 or more

persons except the employees who are covered under the Employees' State Insurance Act, 1948.

1.17 The Committee are aware that after globalization, there are now a large number of establishments and organizations in the country employing less than 10 persons and as such these establishments are out of the ambit of the Act.

1.18 The Committee further take note of the fact that a huge majority of working women fall within the unorganized sector. Out of the total workforce of about 460 million in the country, there are only 24 million people, and the rest are in the unorganized sector. The women workforce is 26 per cent of the total workforce. Major spheres of activities of the women workforce are Information Technology Industry like Call Centres, retail trade, malls, construction of roads, buildings and bridges, domestic work, etc. The Committee further find that in the absence of any piece of legislation for unorganized workers, a large section of working women are left out for entitlement of maternity benefit. While deposing before the Committee, representatives of all the women organizations and Trade Unions pleaded for making the Act applicable universally. A representative of one the women organizations pleaded:-

“.....the application of the Maternity Benefit Act needs to be extended to cover the contract workers, construction workers, call center workers and workers of the unorganized sector. All the workers of the unorganized sector should be entitled to have maternity benefits, and the Act should be amended accordingly.”

1.19 The Secretary, Ministry of Labour and Employment, during the course of evidence clarified the position in this regard as under:-

“In the issue of unorganized labour.....When the Bill will come up before the Parliament in the Monsoon Session.....We will be bringing in maternity benefit definitely for the unorganized sector.”

**1.20 The Committee are of the opinion that with the fast advancement of technologies and computerization, the requirement of employing 10 or more persons in establishments to avail the benefit of the Act has become irrelevant. In this era of globalisation there are several establishments and organizations in the country at present, which are working with seven or eight employees or even less than that. The Committee, therefore, recommend that the ceiling of a minimum ten persons in establishments may be reduced to five for availing the benefit of the Act.**

**1.21 Similarly, the present Act may be made applicable universally in order to cover the majority of women who fall in the unorganized sector till any such legislation covering these women (women working in unorganized sector) is brought forward by the Government. The Committee, therefore, recommend that Section 2 of the Act may be amended accordingly. The Committee also feel that the present Bill should not be replaced by ESI Act. Instead, there is a need to formulate a fool proof mechanism for disbursement of medical bonus through ESI in order to ensure that justice is extended to the targeted groups.**

## **Creation of National Corpus Fund**

1.22 The Committee take note of the fact that the maternity benefits given under the Maternity Benefit Act is the employer's liability and in case this Act is made applicable universally for all women workers, one of the problems is likely to be faced is the financial burden on the part of the employers and other stakeholders.

1.23 During the course of evidence, the Secretary, Ministry of Labour and Employment highlighting the enormity of the issue of managing a corpus fund for Maternity Benefit stated:-

“One of the issues which I would humbly submit before you is the issue pertaining to management of a corpus fund. At present, as the Hon'ble Members are all aware, we have to go to the Employees Provident Fund Organisation which manages the corpus for provident fund and pension for the organized sector. When we look at the responsibility that we have taken upon ourselves, we find that there is a need to discharge it. That responsibility is enormous and we have to work out the details of management of such a corpus and locate the sources of funding of this corpus? If it is only from the Government, then what would be the shape of the corpus? If it is to have contributions from people who want to donate some money, then what will be the shape of it? We have been working on these for the last several weeks in the context of unorganized labour. It appears to everybody that this could lead to a big scandal and at the present point of time, we need six to eight months of solid work to come to a proper form for creating such a fund. We should have discussions with the Planning Commission, the Finance Ministry and we have to talk to all the State Governments regarding their roles in the whole scheme and their willingness to implement it. Therefore, the issue of having a corpus fund is very much on the agenda. We have to do it in a way that we do not create a problem and we should not have a mismanaged fund because our problem is one of identity. We should identify the person who would be drawing the money and to whom it is being given. We are working on the possibility of smart cards. You have a card which contains all the details regarding the identity of the person. Ours is a large country. We are as big as a country. It is as if you club all the European countries together. We have such a large number.”

**1.24 The Committee, while taking note of the apprehensions in creation of corpus fund, appreciate the efforts made/proposed by the Ministry in this direction. The Committee express their serious concern over several survey reports, according to which more than 80 per cent women in our country are under-nourished and anaemic and hence vulnerable to several diseases due to less immunity. They further note with distress that Maternity Mortality Rate is also one of the highest in India. The Committee strongly feel that this should be checked urgently, particularly in a democratic welfare state like ours. The Committee suggest the Government to explore the possibility of creating a National Corpus Fund involving contribution from employees, State Govts. and Union Govt. The fund so created may be either administered on the pattern of ESIC/EPFO or some other suitable mechanism be evolved to achieve the desired objective. The Committee recommend that necessary amendment may be incorporated in this regard in the Bill itself.**

#### **Enhancing the number of Maternity leave**

1.25 The Committee were informed during the course of discussion with various women organizations and trade unions that there are vast differences in the total number of statutory maternity leave within the country and globally. The Fifth Pay Commission had recommended 135 days for Central Government employees whereas State Government employees in Punjab get 180 days time off for mothers. Denmark,

Italy, Finland and the UK also have generous provisions, where women are entitled upto 50, 47, 44 and 40 weeks' leave respectively. In contrast, women employees under the Maternity Benefit Act are entitled to maternity benefit at the rate of average daily wage for the period of their actual absence upto 12 weeks only on delivery.

**1.26 The Committee feel that there should not be any discriminatory treatment to pregnant women on the basis of their status or the area of their employment or position in the society. The Committee, therefore, recommend that the grant of maternity leave be enhanced to at least 135 days as available to Central Government Employees. Clause 4 of the Act may be suitably amended accordingly.**

#### **Provision for Paternity Leave**

1.27 Most of the women organizations and trade unions were in favour of granting of paid paternity leave. They felt that this leave enables fathers to spend their time with new borns and help their wives during the period of the maternity in the backdrop of the mushrooming concept of nuclear family in the country. Moreover, a provision for 15 days paternity leave already exists for the Central Government employees.

1.28 When the Ministry was asked to state the reasons for not making provisions for paternity leave in the Act itself, the Ministry in a written reply stated:-

“The suggestion given by the Hon'ble Committee needs consultation with the employers and other stakeholders as it has far reaching implications as regards financial burden on the employers.”

**1.29 The Committee recommend that the Government should give a serious consideration to make a provision for grant of 15 days paternity leave as available to Central Government Employees in the Act. This will help the women to overcome the psychological trauma after delivery. The Government can consult the employers and stakeholders to convince them to bring such an amendment in the Act.**

### **Strengthening the Labour Enforcement Machinery**

1.30 The Committee note that under Section 2(b) of the Maternity Benefit Act, 1961, State Governments are empowered to declare applicability of law over establishments or class of establishments. However, as per the information made available to the Committee, only 7 States (Assam, Gujarat, Haryana, Maharashtra, Rajasthan, Tamil Nadu and Madhya Pradesh) have detailed the list of establishments to which the provisions of the Maternity Benefit Act have been extended by their Governments. The categories of establishments that have been covered in these States amply portray a very dismal picture about the number of establishments that are within the ambit of the Act (Annexure-IV). Similarly, data regarding number of beneficiaries in different States is far from satisfactory (Annexure-V). This clearly reflects that the Union Government has miserably failed in monitoring the proper implementation of the Act.

1.31 The Committee note with deep concern the lack of genuine willingness on the part of many State Governments in extending the provisions of the Act. The position with regard to even the State Governments which have extended the provisions of the Act is not satisfactory since very few women employees have received the benefits of the Maternity Bonus during the last three years. This state-of-affairs is not merely a reflection on the State Governments but on the Central Government as well who have been charged with the responsibility of monitoring of the Act. Being the Central Act, the Union Government cannot shrug off their responsibility. The Committee, therefore, call upon the Ministry to play a more pro-active role in the matter and tone up their monitoring system to ensure that the benefits envisaged under the Act reach the beneficiaries.

**NEW DELHI;**  
**14 August, 2007**  
**23 Sravana 1929(SAKA)**

**SURAVARAM SUDHAKAR REDDY,**  
**CHAIRMAN,**  
**STANDING COMMITTEE ON LABOUR**

As introduced in the Rajya Sabha  
On 14<sup>th</sup> May 2007

Bill No.XXXVIII of 2007

THE MATERNITY BENEFIT (AMENDMENT) BILL, 2007

A

BILL

*Further to amend the Maternity Benefit Act, 1961.*

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 2007.  
Short  
title and commencement
- (2) It shall come into force on such date as the Central Government may, by notification 5 in the Official Gazette, appoint.

2. In the Maternity Benefit Act, 1961, for section 8, the following section shall be substituted, namely:- Substitution of

new  
section  
for  
section 8.  
Payme  
nt of  
medica  
l bonus.

“8. (1) Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of one thousand rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

(2) The Central Government may from time to time, by notification in the Official Gazette, increase the amount of medical bonus subject to the maximum of twenty thousand rupees”.

## STATEMENT OF OBJECTS AND REASONS

The Maternity Benefit Act, 1961 regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees' State Insurance (ESI) for certain periods before and after child-birth and provides for maternity and other benefits.

2. With the gradual extension of coverage under the Employees' State Insurance Act, 1948 (ESI Act) which also provides for maternity and certain other benefits, the area of application of the Maternity Benefit Act, 1961 has shrunk to some extent. The coverage under the ESI Act is, however, at present restricted to factories and certain other specified categories of establishments located in specified areas. The Act is, therefore, still applicable to women employees employed in establishments which are not covered by the ESI Act, as also to women employees, employed in establishments covered by the ESI Act, but who are out of its coverage because of the wage-limit.

3. Under the Maternity Benefit Act, 1961, women employees are entitled to maternity benefit at the rate of average daily wage for the period of their actual absence up to 12 weeks due to the delivery. In cases of illness arising due to pregnancy, etc., they are entitled to additional leave with wages for a period of one month. They are also entitled to six weeks maternity benefit in case of miscarriage. The Maternity Benefit Act, 1961 also makes certain other provisions to safeguard the interest of pregnant women workers.

4. Section 8 of the Maternity Benefit Act, 1961 provides that every woman entitled to maternity benefit shall also be entitled to receive from her employer medical bonus of Rs. 250, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

5. In the present economic scenario, it is felt that the medical bonus, which is presently Rs. 250/-, is inadequate. Therefore, it is proposed—

(i) to raise the medical bonus payable under the Maternity Benefit Act, 1961 from Rs. 250/- to Rs. 1000/-; and

(ii) to give powers to the Central Government to revise medical bonus from time to time subject to a maximum of Rs. 20,000/-.

6. The Bill seeks to achieve the above objects.

NEW DELHI;  
*The 1 st May, 2007.*

OSCAR FERNANDES.

## FINANCIAL MEMORANDUM

The Maternity Benefit Act, 1961 regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees' State Insurance (ESI) for certain periods before and after child-birth and provides for maternity and other benefits.

2. Section 8 of the Maternity Benefit Act, 1961 provides that every woman entitled to maternity benefit shall also be entitled to receive from her employer medical bonus of Rs. 250 if no pre-natal confinement and post-natal care is provided for by the employer free of charge. Clause 2 of the Bill seeks—

- (i) to raise the Medical Bonus payable under the Maternity Benefit Act, 1961 from Rs. 250 to Rs. 1000; and
- (ii) to give powers to the Central Government to revise medical bonus from time to time subject to a maximum of Rs. 20,000.

The proposed provisions will ensure payment of medical bonus on comparatively higher rates than existing rates.

3. The above-mentioned proposals in their application to the women employed in factories, mines, the circus industry, plantations and shops or establishments will involve increased expenditure on employers by way of payment of medical bonus. Every woman entitled to maternity benefit shall also be entitled to receive from her employer the enhanced medical bonus, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

4. The Bill does not involve any expenditure, whether recurring or non-recurring.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

The Maternity Benefit Act, 1961 regulates the employment of women in factories, mines, the circus industry, plantations and shops or establishments employing 10 or more persons except the employees who are covered under the Employees' State Insurance for certain periods before and after child-birth and provides for maternity and other benefits.

Section 8 of the said Act is being amended to enhance medical bonus from Rs. 250 to Rs. 1000. Further, the Central Government is also being empowered to increase the said medical bonus from time to time, by notification in the Official Gazette, subject to the maximum of Rs. 20,000. The delegation of legislative power is of a normal character.

ANNEXURE  
EXTRACT FROM THE MATERNITY BENEFIT ACT, 1961  
(53 OF 1961)

\* \* \* \* \*

**Payment of medical bonus 8.** Every woman entitled to maternity benefit under this Act shall also be entitled to

receive from her employer a medical bonus of two hundred and fifty rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

\* \* \* \* \*

Payment of  
medical bonus.

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further to amend the Maternity Benefit Act, 1961.

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*(Shri Oscar Fernandes, Minister of State for Labour and Employment)*

**DETAILED EXPLANATORY NOTES ON EACH CLAUSE OF THE MATERNITY BENEFIT (AMENDMENT) BILL, 2007**

Sl.No.	Clause	Explanatory Note	Reasons for proposed amendments
1.	Clause 2 of the Maternity Benefit (Amendment) Bill, 2007	<p>Section 8 of the Maternity Benefit Act, 1961 relates to payment of medical bonus to a woman employee and the said Section reads as under:-</p> <p>“Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of two-fifty rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge”.</p> <p>The Second National Commission on Labour in its report submitted to Ministry of Labour, made a recommendation relating to the enhancement of medical bonus payable under the Maternity Benefit Act, 1961. Keeping in view the recommendation and the suggestions received by this Ministry from various State</p>	<p>The existing ceiling of Rs.250/- as Medical Bonus under the Maternity Benefit Act, 1961 is inadequate in the present economic scenario. Hence, there is an urgent need to increase the amount to Rs.1000/- so that it is a source of financial support to a woman employee. Further, it is proposed to insert an enabling provision empowering the Central Government to raise in future the said amount by a Notification so that legislature may not be bothered every time for enhancement of the medical bonus.</p>

		<p>Governments/Union Territory Administrations/Central Government Ministries and Departments, an amendment has been proposed to be made in the Maternity Benefit Act, 1961:-</p> <p>Clause 2 of the Maternity Benefit (Amendment) Bill, 2007 seeks to carry out the following amendments in Section 8 of the Maternity Benefit Act, 1961:-</p> <p>8(1) to raise the Medical Bonus payable under the Maternity Benefit Act from Rs.250/- to Rs.1000/-; and</p> <p>8(2)to give powers to the Central Government to revise Medical Bonus from time to time subject to a maximum of Rs.20,000/-.</p>	

**LIST OF WOMEN ORGANISATIONS**

1. All India Women's Conference
2. All India Democratic Women Association
3. National Federation of Indian Women
4. National Commission for Women
5. BJP Mahila Morcha

**LIST OF TRADE UNIONS**

1. Indian National Trade Union Congress (INTUC) (Indian National Congress)
2. All India Trade Union Congress (CPI)
3. Bharatiya Kamgar Sena (Shiv Sena)
4. Bharatiya Mazdoor Sangh (RSS)
5. Centre for Indian Trade Unions (CPI (M))
6. Hind Mazdoor Sabha (Socialists)

**LIST OF ESTABLISHMENTS TO WHICH THE PROVISIONS OF THE MATERNITY BENEFIT ACT, 1961 HAVE BEEN EXTENDED BY STATE GOVERNMENTS**

Sl.No.	Name of States	Particulars of Establishments
1.	Assam	Local bodies
2.	Gujarat	Establishments of local bodies including Municipal Committee, Gram Panchayats
3.	Haryana	Establishments engaged in constructions of road, buildings, canals, bridges etc. which are covered under the Contract Labour (Regulation and Abolition) Act, 1970.
4.	Maharashtra	Conservancy Department of any local authority in the State
5.	Rajasthan	Establishments in which work relating to construction or maintenance of buildings, roads, bridges or canals or of water or relating to the generation, transmission and the distribution of electricity or any form of power is being carried on in the State.
6.	Tamil Nadu	Catering establishments as defined in Tamil Nadu catering Establishments Act, 1958
7.	Madhya Pradesh	The State has notified the M.P Maternity Benefit Rules, 1965 on 30.9.1965. It has also notified all establishments to which the Madhya Pradesh Shops and Establishments Act, 1958 under sub section (1) of Section 2 of the Maternity Benefit Act, 1961 vide notification dated 16.5.1970.

**Data regarding disbursement of maternity bonus to women employees in the  
country**

Sl.No.	Name of State/Union Territory	Year	No. of Women Employees benefited	Amount disbursed (Rs.)
1.	Haryana	2004	112	32,151/-
		2005	130	19,500/-
		2006	115	15,57,335/-
2.	*Madhya Pradesh	2004-05	443	
		2005-06	620	
		2006-07	265	
3.	Maharashtra	2003	545	11,53,042/-
		2004	410	5,23,812/-
		2005	353	9,49,823/-
4.	Punjab	2004	NIL	NIL
		2005	01	10,233/-
		2006	03	55,918/-
5.	Tamil Nadu (Factories side)	2003	71	32,657/-
		2004	23	1,00,326/-
		2005	72	1,60,057/-
	(Labour side)		406	17,08,635/-
6.	Andhra Pradesh	2003	106	19,93,976/-
		2004	120	20,10,341/-
		2005	60	11,60,810/-
7.	Karnataka	2003	439	12,60,425/-
		2004	288	10,27,850/-
		2005	447	16,49,192/-
8.	Gujarat	2004	92	1,69,083/-
		2005	99	2,02,381/-
		2006	81	1,69,146/-
9.	Uttar Pradesh	2003	138	3,29,444/-
		2004	104	2,76,735/-
		2005	109	1,79,257/-
10.	West Bengal	2003	157	6,78,494/-
		2004	169	6,98,494/-
		2005	45	1,77,226/-

11.	Kerala	2004-05 2005-06 2006-07	3128 3282 3404	41,85,493/- 43,89,209/- 33,61,640/-
12.	Goa	There is no separate data of any maternity bonus paid to women employees in the State. Women employees during their maternity leave period are being paid bonus alongwith other co-workers.		
13.	Rajasthan	Disbursement of maternity bonus may be treated as NIL. However, 3 women employees have been benefited and Rs.16,596/- disbursed during the last 3 years.		
14.	Lakshadweep	No schemes for disbursement of maternity bonus to women employees exist.		

## RESPONSE TO POINTS OF DISCUSSION WITH REPRESENTATIVES OF WOMEN

## ORGANISATIONS ON MATERNITY BENEFIT (AMENDMENT) BILL 2007

SL. NO.	QUESTIONS	BJP MAHILA MORCHA	ALL INDIA WOMEN'S CONFERENCE
1.	<p>There is a proposal to amend the Maternity Benefit Act with a view to enhance the medical bonus from Rs.250/- to Rs.1000/- where no pre-natal confinement and post natal care is involved. (Initially, it was Rs.25 in 1961 and was increased to Rs.250 in 1989)</p> <p>Do you think that the present enhancement is sufficient keeping in view the present economic scenario? If not, how much it should be hiked?</p>	<p>No, the present enhancement is not sufficient in view with present economic scenario. It must be hiked to Rs.5000/-</p>	<p>The proposal to enhance the medical bonus from Rs.250 to Rs.1000 is insufficient. It should be related to cost of inflation-cost of medicine, cost of medical services, cost of food etc. and this should be reviewed periodically. Till such time this is decided, a minimum of Rs.2000/- should be given as medical bonus.</p>
2.	<p>As per the provision of the Act, the benefits, which are to flow to women workers, are the sole responsibility of the employer. The proposed hike is likely to attract opposition by them. Please furnish your comments in this regard?</p>	<p>Maternity leave is granted once or twice in lifetime and an amount of Rs.5000/- granted twice is not an enormous burden.</p>	<p>Employer's resentment cannot be helped and</p> <p>(i) It should be ensured that in all organizations, 30% of the employees should be women.</p> <p>(ii) There should be no retrenchment of women.</p> <p>(iii) A mechanism for redressal should be inbuilt in the act itself.</p> <p>(iv) Women employees should be made aware of their rights.</p> <p>(v) A grievance cell should be compulsorily set up in all the work places with adequate</p>

			representation from NGOs.
3.	<p>It has come to the notice of the Committee that there is an urgent need to strengthen the labour enforcement machinery. What are your views regarding setting up as a mechanism to ensure that the benefits under the Act do actually reach the intended beneficiaries.</p>	<p>Social Workers must be involved in any task force to administer this.</p>	<p>Strengthening Labour Enforcement Machinery On February 1, 2007, the Supreme Court pulled up the Central and State Governments for poor implementation of the National Maternity Benefit Scheme (NMBS). The People's Union for Civil Liberties (PVCL) claimed that NMBS benefits do not reach the beneficiaries and remain only on paper.</p> <p>There is urgent need for effective enforcement of laws.</p> <p>Lady inspectors should be appointed with power to suggest penalties. The grievance cell, the lady inspectors and the NGO representative should work together for effective enforcement of the scheme. There should be a Committee to monitor the enforcement of the law. This Committee ought to consist of at least fifty per cent women and a Member from a NGO.</p>
4.	<p>The main spheres of activities involving women hitherto uncovered but who may be brought within the purview of this Act for the purpose of extending the benefits to them?</p> <p>(b) The details of the steps, which could be adopted/taken to identify the women workers for coverage under the Act.</p>	<p>Domestic Help (Maid Servant) may be involved in the coverage of the Act.</p> <p>Unorganised sector must also be included.</p>	<p>Benefits of the act should be extended to all women working in unorganized sectors, such as agricultural labourers, construction workers, domestic helpers, muster roll employees, daily wage workers, women working in multinational organizations, private firms, all educational institutions - (govt. aided, private &amp; self financing women in call centers, sales counters, balwadies, crèches- in short, maternity benefits should be</p>

			provided for all women workers whether they are in unorganized or muster roll, under contract, corporation or government or voluntary organizations.
5.	<p>(a) Whether you have ever received any complaint from any quarter particularly women regarding non-compliance of the provisions of the Act?</p> <p>(b) If so, the details thereof and specific nature of complaints?</p> <p>(c) What has been your impression about the causes for these grievances and what remedial steps do you suggest for permanent solution of such grievances?</p>	<p>Complaints are often received.</p> <p>The Complaints are with regards to non-payment of dues.</p> <p>The cause is corruption at all levels. A solution is to include a social worker for monitoring the mechanism.</p>	<p>We have received no complaint as such but this may be due to lack of awareness among women workers regarding their rights. Awareness, sensitization, concretization programs about the various legislations regarding women need to be organized.</p>
6	<p>There is an enabling provision empowering the Central Government to revise the medical bonus from time to time subject to a maximum of Rs.20,000/- However, there is no specific timeframe within which such amount is to be increased. There is an apprehension that in absence of periodic revision of the amount in the Act itself, the Government may remain inactive or take long time to revise this amount. Please furnish your comments in this respect.</p>	<p>The Central Government must review the medical bonus amount every two years.</p>	<p>There is no need for any provision for fixing any maximum limit. There should be periodic revision of the amount based on realities of the situation.</p>

			<p>Some other suggestions made are:</p> <p>(a) Maternity leave for 1<sup>st</sup> as well as the second child should be 4 and a half months to 6 months.</p> <p>(b) Paternity leave for 15 days immediately after delivery.</p> <p>(c) Paid leave for 6 weeks in case of miscarriage.</p> <p>(d) Creches in the workplaces - as per rules should be set up.</p> <p>(e) Nursing breaks for the lactating mother should be available.</p>
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**RESPONSE TO POINTS OF DISCUSSION WITH REPRESENTATIVES OF TRADE UNIONS ON MATERNITY BENEFIT (AMENDMENT) BILL 2007**

SL. NO.	QUESTIONS	BHARTIYA KAAMKAR SENA	BHARTIYA KAMKAR MAHA SANGH	ALL INDIA TRADE UNION CONGRESS	BHARTIYA MAZDOOR SANGH	INDIAN NA TRADE U CONGRESS
1.	<p>There is a proposal to amend the Maternity Benefit Act with a view to enhance the medical bonus from Rs.250/- to Rs.1000/- where no pre-natal confinement and post-natal care is involved. (Initially, it was Rs.25 in 1961 and was increased to Rs.250 in 1989)</p> <p>Do you think that the present enhancement is sufficient keeping in view the present economic scenario? If not, how much it should be hiked?</p>	<p>The present enhancement is not sufficient in view with present economic scenario of too much money chasing too few goods in the market. The amount of medical bonus should be hiked to Rs.5000/- and should be linked to the consumer price index number to prevent its deterioration of real value of money.</p>	<p>While welcoming the amendment, we propose it to be enhanced to Rs.5000/- which should be linked to cost of price index as given in our write up.</p>	<p>(i) The proposal for enhancing the medical bonus to pregnant women workers who do not have facilities of pre-natal confinement and post-natal care from the present amount Rs.250/- is welcome step.</p> <p>(ii) According to us the proposal of enhancing it only upto Rs.1000/- would be a very small increase. This amendment to particular section i.e. Section-8 is being taken up after 19 years (the last one was carried in 1988 and notified in 1989), the price index has risen immensely and the cost of medication has gone very high</p> <p>(iii) We propose the amount should be raised to Rs.5000/- and accordingly the amendment be carried.</p>	<p>The proposed enhancement to Rs.1000/- is quite inadequate in view of the steep hike in the cost of medical and health services, medicines and the hospitalization charges.</p> <p>All India Price Index with base year 1980 has gone from been mark 100 to around 3000. But the health care has been much costlier than that. It could be seen that the expenses for a normal delivery is about Rs.10,000/- and in abnormal conditions it is over Rs.30,000/- to make it meaningful, the hike shall be Rs.10,000/-</p>	<p>In the circumstances minimum ranging Rs.3000/- is absolutely necessary with no ceiling on depending on social and status of the v infrastructure and clinics av play a vital r many areas health center and transport major cost fact</p>
2.	<p>As per the provision of the Act, the benefits, which are to flow to women workers, are the sole responsibility of the employer. The proposed hike is likely to attract opposition by them. Please furnish your</p>	<p>We agree that the benefits, which are to flow to women workers, are the sole responsibility of the employer and proposed hike may attract opposition from the employers. However, it</p>	<p>With the strict provision in Act and with out awareness campaign, the resistance from employers will be dealt strongly.</p>	<p>In an environment where the family size is becoming smaller, it is not an expenditure, which is of regular nature with women employees who otherwise are only 25 to 30 per cent of total labour force, and all of them are not in the</p>	<p>Where ever the emoluments of women employees are at proper level, as in the case of employees of LIC, Banks, PSUs, the need for the Act and the provisions do not arise. Wherever, the emoluments are</p>	<p>The employer maximum re in providing Benefits to however, the schemes shou certain policie the employer the worker to from such There are m benefits sche</p>

	<p>comments in this regard?</p>	<p>should be taken into account that due to new economic policy of Government of India of globalisation, liberalization and privatization, competition in the market has increased but at the same time the profit margins of the companies has also increased to various cost reduction measures adopted by the Enterprises including separation of labour, flexibility etc. and hence the financial capacity of the employers in general has increased and as such the amount of Rs.5000/- will not put heavy burden on the employers.</p>		<p>fertility age to opt for medical benefit. The woman needs to be taken care of and the employers must be made to understand that the percentage of women who would need this benefit is much less in the work place.</p> <p>We have been arguing that vast majority of women in the informal sector, home based piece-rate worker, daily and casual workers are out of the purview of this Act. The onus to help these women in pre-natal and post natal care in the form of maternity benefit would have to be provided by the Governments, the Central and State as the case may be.</p> <p>Universal entitlement of Maternity benefit has to be focus and the Government has to show the way to impress upon the employer.</p>	<p>inadequate for making a living, the expenses on account of maternity are a burden and hence necessary for the Act. In the circumstances, the relief shall be sufficient to alleviate the burden.</p> <p>Now, the hectic schedule of life does not permit repeated pregnancies and commensurate with lowering birth rate across the board. Now the incidence of pregnancy is lower. Now new Mantra Hum Do, Hamare Ek' hence burden of child birth and post natal care expenses born by employer per women worker also reduced.</p> <p>The apprehension that it may attract the opposition from the employer, is unwarranted. The beneficiary out of the services of workers &amp; women workers shall not hesitate to come to the rescue of the toiling masses. Otherwise, the employer's attitude may be termed as inhuman, and he may be called exploiter in all fairness, the Government that felt the necessity for assistance during maternity period</p>	<p>around the benefits in developing One can look a role m incorporate Indian Government s in identify preparing a which can be implemented context of Indi</p>
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					and enacted the provisions shall take the place of the defaulting employer, and fulfill the social obligation.	
3.	It has come to the notice of the Committee that there is an urgent need to strengthen the labour enforcement machinery. What are your views regarding setting up as a mechanism to ensure that the benefits under the Act do actually reach the intended beneficiaries.	We agree that there is a need to strengthen the labour enforcement machinery. However, the employers are opposing to this proposal and on the contrary they are suggesting that the labour enforcement machinery should behave in a democratic manner which will help avoiding corruption in the labour enforcement machinery. This argument of the employer needs no cognizance because reaching the benefits to the workers is more important and stringent rules should be made to enforce the labor provisions and inspectorate department of labour wing should be clothed with more powers.	We propose to have a Joint Consultative Committee at the shop/floor/factory and Apex level not only for the implementation of this Act specially but for all welfare measures under other Acts generally involving labour	The issue of implementation is definitely serious issue. This is not much of problem in the formal sector, Govt./Public sector/Private sector as regards leave and medical benefits are concerned, but it is the medium and small enterprises who are covered under the Act that the implementation is a big issue.  In the formal sector, the issue of frequent feeding of the child and the stipulated time for that holds no meaning because there are no provisions of crèche facilities in the or near the workplace by the employers as required by this Act.  As regards procedure to book the defaulters the case of formal/informal sector the process is cumbersome, time consuming, expenditure burden on the victim herself. The tendency of private employers to engage unmarried girls who would work for 3-4 years, get married and leave the job, and the employers being free from all the liabilities	The labour enforcement machinery is not sufficiently staffed, i.e. the number of employees is less than the requirement. There are attitudinal problems with the staff. The staff are obstinate and indifferent to the sufferings of the workers. There is every need to strengthen the labour enforcement machinery in terms of numbers and change in respect of attitudes and sincerity.	If the Government an important the help of its supported by network of trade union or and p institutions it help in implementation benefits under reach the beneficiaries the Panchayat at the grass have implemented Government more successful are involve planning, imp and monitor monitoring need to pu before so beneficiaries become acco its success.

				<p>of ESI, PF etc.</p> <p>It has been found that the girls tend to hide their marriages so as not to lose job opportunity and such cases have been brought to our notice in the industrial areas of Okhla, Noida, and Mayapuri. This is a sham on our society that the bliss of having a partner and giving birth to a new life is not acceptable to the employers as if it is a crime because it comes on the way of profit and more profit.</p> <p>These actions of the management/employers which are violations of laws are not taken care of by the enforcement machinery. The Act needs to be looked into thoroughly for improvement on the implementation part.</p> <p>Also, this brings to another point that the ICDS programmes be made universal and full-time work so that they could serve as child care and nurturing centers apart from pre-school education centers with full-fledged Anganwadi workers and helpers being regular employees. This would give justice to women workers.</p>	
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4.	<p>What are the main spheres of activities involving women hitherto uncovered but who may be brought within the purview of this Act for the purpose of extending the benefits to them?</p> <p>(b) The details of the steps which could be adopted/taken to identify the women workers for coverage under the Act.</p>	<p>The main spheres of activities will involving women which should be brought within the purview of the Act are information technology industry like call centers, computer service giving centers, in retail trade malls, women employed in construction of roads, buildings and bridges etc. The women workers employed in these industries are mostly unorganized and it is difficult to identify them but through labour inspectorate department they can be identified.</p> <p>Unorganised sector must also be included.</p>	<p>(a) Shops and Establishments.</p> <p>(b) Unorganised Labour in brick kiln farms, citrus industry, retail trade, BPO and allied activities viz. mines, minerals and health and sanitation-casual/daily wage workers.</p>	<p>The women working in agriculture daily/contract workers in constructions and such other sectors, the home based workers who work on contract for piece rate and contract workers in the medium and small scale private sector are not getting any benefit as muster roles are not maintained for daily casual/contract workers, which is actually violation of labour laws as well.</p> <p>We are witnessing large section engaged in private schools, nursing homes, even in call centers etc. who need to be covered under the Act, even if the employees are not of regular in nature but are on contract basis.</p> <p>Major issue is registration of all shops and establishments, factories, other economic activities in the field of education and health and other services, which are lacking to large extent and hence enforcement can't happen for labour law implementation.</p> <p>The compulsion of muster role for any workers engaged on daily/casual/contract basis by any establishment/enterprise/organisation</p>	<p>(a) There are certain sections of workers, where women are not identified, recognized and accounted in the number of workers. Operations in respect of handlooms, fishing, building and other construction of beedi come under this category. In the Vellore District of Tamil Nadu only male members of the family are issued identify cards and work by the employers. The female members of the family invariably work alongwith the male members to complete the given jobs and the production. Such workers are estimated to be 6 crores. They are not entitled to be benefits of the Act, they are not counted as working women.</p> <p>(b) The details of steps, which could be adopted/taken to identify the women workers for coverage under the Act.</p> <p>(c) It is necessary to be registered all the pregnant women workers.</p>	<p>(a)The women not been included beneficiaries majority of the workers which in agriculture plantation, private domestic, labour work segment need consideration income is very low and they are Health &amp; education is not them so they are underprivileged of the so subjected to physical labour the entire pregnancy period post-natal. Government should give them priority maternity benefits since they are 60% of workforce.</p> <p>(b) To identify who come in purview of Act should be taken:</p> <ol style="list-style-type: none"> <li>1.Identity cards issued to all workers.</li> <li>2.The Trade union plantation, other information be mobilized these women Act.</li> <li>3.For domestic Registration Government mandatory. To enable to reduce rate so common where domestic are involved. a verification employer for safety.</li> </ol>
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				<p>etch has to be ensured.</p> <p>The large number again we feel would be left out of the Act which needs to be covered by the Government, the Central or State through Universal entitlement with National Fund on Maternity benefit for such women for medical bonus and hospitalization with strengthening the Government hospital system and primary health centers to cater to the needs of pre-natal and post natal care of women.</p>		<p>4.Social or working in should start a campaign for of educat providing the the Act. workers sh motivated an and re expanded to cost of Matern to the women Electronic me an important even the r villages have newspaper an (Banners and also help)</p>
5.	<p>(a)Whether you have ever received any complaint from any quarter particularly women regarding non-compliance of the provisions of the Act?</p> <p>(b)If so, the details thereof and specific nature of complaints?</p> <p>(c)What has been your impression about the causes for these grievances and what remedial steps do you suggest for permanent solution of such grievances?</p>	<p>We have not received any written complaint regarding non-compliance of the provisions of the Act from our women worker members. However, few oral complaints were received but they were solved. These complaints were regarding the payment of medical bonus and the pre-natal and post natal leave to be given to the eligible women workers.</p>	<p>(a) NO</p> <p>(b) N.A.</p> <p>(c) As described above and in our write up handed over to the committee.</p>	<p>(a) Yes, we have been receiving complaints from women of some private nursing homes, some private schools mushrooming in every nook and corner of the cities and towns, those in construction sector or small factories and now also from the big shopping malls etc.</p> <p>(b) The complaints are:</p> <p>(i) No employment if married.</p> <p>(ii) Or verbal promise of no bearing children during the contract period with the employer etc.</p> <p>(iii) Employer are refusing to pay medical benefit.</p> <p>(iv) Or not letting to</p>	<p>The women workers are terminated from service, to avoid compliance of Act provisions</p> <p>The greed of the employer, collusion of the political authorities and the obstinate bureaucracy</p>	<p>(a) The Workers thro country are agency whe from the villa complain at points of tim election camp illiterate wom very aware of and openly co the hope tha elected leader give her son Living in hop more than a the complaint ending.</p> <p>(b) The detail the pre-natal mother and th care of the child. There schemes Government nutritious sanctioned a supplements to the expect so that hospit ICDS program Government.</p>

				<p>have sufficient time for sibling to be breast fed, when the child is alongwith the women worker near the workplace.</p> <p>This brings again to the issue that there is lack of awareness in regard to this law in the society in general including employers and beneficiaries. This has been our experience while dealing with some of the cases.</p> <p>There is need for medial intervention in popularizing the right to maternity benefit of women workers and obligations of employees. The permanent solution once again we stress would lie in making this Act inclusive to cover all those women left out, and to cover rest of the women who still don't get space in the Act, by the Government commitments at Central and State level through universal entitlement with National Corpus Fund for the purpose to giving benefits to women pre natal and post natal care.</p>		<p>very good on the impleme very poor in m (c) The reas causes of grievances is responsibility accountability Government o corruption at takes place. educate the t of their m unionize the very much car is very diffic illiterate won unorganized fight for without being union. Some rules through system sh provided to below the p which will tric</p>
6	There is an enabling provision empowering the Central Government to revise the medical bonus from time to time subject to a maximum of Rs.20,000/-	We agree with the apprehension expressed in the question. Under the Minimum Wages Act, the Minimum Wages are eligible for revision after a	As suggested, the amount should be enhanced to Rs.5000/- linking it to price index for future revision.	<p>There should be linkages with the price index on the annual basis that would take care of this point.</p> <p>But we do not agree with the upper limit</p>	The apprehensions are not unfounded. The revision should be linked to current level of All India Price Index and to be raised every three years as recommended.	The Central Government should revise the medical bonus from time to time. It is a very good provision but to put a cap of Rs.20,000/- is not sufficient. The medical bonus should be revised from person to person depending on

	<p>However, there is no specific timeframe within which such amount is to be increased. There is an apprehension that in absence of periodic revision of the amount in the Act itself, the Government may remain inactive or take long time to revise this amount. Please furnish your comments in this respect.</p>	<p>period of five years. We can borrow this provision and review the medical bonus and other benefits under the Act after every five years and enhance the benefits. The inactivity on the part of the Government will be avoided by the above provision.</p>		<p>fixation, as the Government cannot guarantee us upper limit of price rise, upper limit of corporate houses enmeshing wealth.</p>		<p>health, economic and circumstan workplace so holistic approach should be various com Looking into and standard which is tremendously time the act v we should pu system by v revised perio every 3-5 year may be. It ca with Price Ind</p>
			<p>Some other suggestions made are:</p> <p>(a) Maternity leave for 1<sup>st</sup> as well as the second child should be 4 and a half months to 6 months.</p> <p>(b) Paternity leave for 15 days immediately after delivery.</p> <p>(c) Paid leave for 6 weeks in case of miscarriage.</p> <p>(d) Creches in the workplaces - as per rules should be set up.</p> <p>(e) Nursing breaks for the lactating mother should be available.</p>	<p>Some other issues:-</p> <p>(a) We are of the opinion that the Paternity leave be granted but it should run concurrently with the women's leave in the post natal period and should not impinge upon her right to total leave entitled to her.</p> <p>(b) We also would like to impress upon you that the maternity lave should be enhanced from the present stipulated period of 12 weeks to 24 weeks.</p> <p>(c) The leave granted in the Act for the women who suffer miscarriage be also enhanced as she is in Trauma and needs Psychological counseling and care and needs as much rest as the woman who delivers in normal circumstances.</p>	<p>There is need of Paternal leave also during post-natal care. 30 days leave should be given to father to look after the child after 6 weeks of post-natal period.</p>	

				(d) The insurance schemes should include maternity benefits for those who still remain uncovered by any rules or laws.		
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**ANNXURE-VII****MINUTES OF THE FOURTEENTH SITTING OF THE STANDING COMMITTEE ON LABOUR**

The Committee sat on 15 June 2007 from 1430 hours to 1600 hours in Committee Room 'B', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Suravaram Sudhakar Reddy - CHAIRMAN**

**MEMBERS****LOK SABHA**

2. Shri Furkan Ansari
3. Shri Santasri Chatterjee
4. Shri Thawar Chand Gehlot
5. Shri Munawwar Hasan Chaudhary
6. Shri Virendra Kumar
7. Shri Rajesh Kumar Manjhi
8. Shri Bassangouda R. Patil
9. Shri Chandradev Prasad Rajbhar
10. Smt. C.S. Sujatha
11. Shri Parasnath Yadav
12. Shri Mohan Rawale

**RAJYA SABHA**

13. Shri Rudra Narayan Pany
14. Shri Narayan Singh Kesari
15. Shri K. Chandran Pillai
16. Shri Gandhi Azad

**SECRETARIAT**

- |    |                   |   |                     |
|----|-------------------|---|---------------------|
| 1. | Shri N.K. Sapra   | - | Joint Secretary     |
| 2. | Shri R.K. Bajaj   | - | Director            |
| 3. | Shri N. K. Pandey | - | Deputy Secretary-II |
| 4. | Smt. Mamta Kemwal | - | Under Secretary     |

**I REPRESENTATIVES OF THE MINISTRY OF LABOUR & EMPLOYMENT**

Sl. No.	Name of the Officer	Designation
1.	Shri S. Krishnan	Additional Secretary (L&E)
2.	Ms. Gurjot Kaur	Joint Secretary
3.	Shri S. K. Verma	Director
4.	Shri S. Mukhopadhyay	Chief Labour Commissioner (C)
5.	Shri A. J. Pawar	Insurance Commissioner, ESIC
6.	Shri Kamlesh Kalra	Medical Commissioner, ESIC
7.	Dr. S. K. Jain	Deputy Medical Commissioner, ESIC
8.	Shri R. C. Sharma	Joint Director (P&D), ESIC
9.	Shri K.M. Gupta	Director, Social Security

**II REPRESENTATIVES OF MINISTRY OF HEALTH & FAMILY WELFARE**

1.	Shri Naresh Dayal	Secretary
2.	Shri K. D. Maiti	Director

**III REPRESENTATIVE OF THE MINISTRY OF LAW & JUSTICE**

	Shri D.R. Meena	Joint Secretary
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At the outset, the Chairman welcomed the Members to the sitting of the Committee convened for briefing by the representatives of Ministries of (i) Ministry of Labour & Employment, (ii) Health and Family Welfare and (iii) Law and Justice (Department of Legal Affairs) on the "Maternity Benefit (Amendment) Bill, 2007" referred to the Committee by the Hon'ble Speaker, Lok Sabha on 17 May 2007.

2. The Committee was then briefed by the representatives of the Ministry of Labour & Employment on various provisions of the aforesaid Bill. Representatives of the Ministries of Law & Justice (Department of Legal Affairs) and Health and Family Welfare also assisted the nodal Ministry.

3. Thereafter, the Members raised queries which were replied to by the witnesses. The Chairman then directed the Additional Secretary, Ministry of Labour & Employment to furnish within the fortnight written replies to questions for which the replies were not readily available with them during the briefing.

The witnesses then withdrew.

A verbatim record of the briefing has been kept.

4. The Committee then decided to hold the next meeting on 3 July 2007 to hear the views of the various Women's Organizations and Trade Unions on the subject.

The Committee then adjourned.

## **MINUTES OF THE FIFTEENTH SITTING OF THE STANDING COMMITTEE ON LABOUR**

The Committee met on Tuesday, 3 July 2007 from 1100 hours to 1300 hours and again from 1430 hours to 1600 hours in Committee Room `B', Parliament House Annexe, New Delhi.

### **PRESENT**

**Shri Suravaram Sudhakar Reddy - CHAIRMAN**

### **MEMBERS**

#### **LOK SABHA**

2. Shri Furkan Ansari
3. Shri Santasri Chatterjee
4. Shri Thawar Chand Gehlot
5. Smt. Sushila Kerketta
6. Shri Virendra Kumar
7. Shri Rajesh Kumar Manjhi
8. Shri Bassangouda R. Patil
9. Shri Devidas Pingle
10. Shri Chandradev Prasad Rajbhar
11. Shri Kamla Prasad Rawat
12. Smt. C.S. Sujatha
13. Shri Parasnath Yadav

#### **RAJYA SABHA**

14. Shri Rudra Narayan Pany
15. Shri Narayan Singh Kesari
16. Shri K. Chandran Pillai
17. Ms. Pramila Bohidar
18. Shri Dilip Ray

### **SECRETARIAT**

- |    |                   |   |                     |
|----|-------------------|---|---------------------|
| 1. | Shri N.K. Sapra   | - | Joint Secretary     |
| 2. | Shri R.K. Bajaj   | - | Director            |
| 3. | Shri N. K. Pandey | - | Deputy Secretary-II |
| 4. | Smt. Mamta Kemwal | - | Under Secretary     |

**Part-I (1100 Hrs. )****WITNESSES****REPRESENTATIVES OF THE WOMEN ORGANISATIONS**

1. Dr. Jaya Kothai Pillai, Secretary General, All India Women's Conference.
2. Ms. Sudha Sundaraman, General Secretary, All India Democratic Women's Association (AIDWA).
3. (i) Smt. Annie Raja, General Secretary, National Federation of Indian Women.  
(ii) Ms. Aruna Sinha, Asstt. Secretary, National Federation of Indian Women.
4. Dr. Mridula Sinha, BJP Mahila Morcha.

At the outset, the Chairman welcomed the representatives of the women organizations, viz. All India Women's Conference, All India Democratic Women's Association (AIDWA), National Federation of Indian Women and BJP Mahila Morcha who were invited to express their views on the proposed "Maternity Benefit (Amendment) Bill, 2007" referred to the Committee by the Hon'ble Speaker, Lok Sabha on 17 May 2007 and invited their attention to Direction 55 of the Directions by the Speaker, Lok Sabha.

2. The Committee were then briefed by the representatives of the above women organizations.
3. Thereafter, the Chairman and the Members raised queries which were replied to by the witnesses. The Chairman then requested the representatives of the various women organizations to forward the written replies to questions for which the replies were not readily available with them during the discussion within a fortnight.
4. A verbatim record of proceedings has been kept.

The witnesses then withdrew.

**Part-II (1430 hrs.)****WITNESSES****REPRESENTATIVES OF TRADE UNIONS**

1. Smt. Veena Singh, Chairperson, INTUC Central Women Workers Committee.
2. Smt. Ranjana Nirula, Member, Working Committee of CITU.
  - (i) Shri Suryakant Mahadik, President, Bharatiya Kamgar Sena.
  - (ii) Shri Ajit Salvi, Vice-President, Bharatiya Kamgar Sena
  - (iii) Shri S. L. Kaushik, Member, Bharatiya Kamgar Sena.
  - (iv) Shri Gurcharan Singh, Member, Bharatiya Kamgar Sena.
3. Smt. Amarjeet Kaur, Secretary, All India Trade Union Congress.
4. Ms. Suchitra Mahapatra, All India Secretary, Bharatiya Mazdoor Sangh, Member, Women Cell & Organiser, All India Anganwadi Women Organisation.
5. Ms. Payal Sharma, Secretary, Hind Mazdoor Sabha.

5. The second part of the meeting began with the Chairman welcoming the representatives of the various Trade Unions, viz. INTUC, CITU, BKS, AITUC, BMS and HMS who were invited for the discussion on the proposed Maternity (Amendment) Bill, 2007 and invited their attention to Direction 55 of the Directions by the Speaker, Lok Sabha.

6. The Committee were then briefed by the representatives of various Trade Unions on the provisions of the Bill. Thereafter, members raised queries which were replied to by the witnesses. Then, the Chairman requested the various Trade Unions to send their written replies to the List of Questions provided to them by this Secretariat within a fortnight.

7. A verbatim record of the proceedings has been kept.

The witnesses then withdrew.

8. The Committee then decided to hold the next meeting on 19 July 2007 to hear the views of the representatives of the Ministry of Labour & Employment and CPFC regarding coverage of industrial establishments and recovery of outstanding contribution from the employers in the States of Uttar Pradesh, Delhi and Haryana under EPF Scheme.

The Committee then adjourned.

**MINUTES OF THE EIGHTEENTH SITTING OF THE STANDING COMMITTEE ON LABOUR**

The Committee sat on 3 August 2007 from 1100 hours to 1200 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Suravaram Sudhakar Reddy - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Subrata Bose
3. Shri Santasri Chatterjee
4. Shri Thawar Chand Gehlot
5. Shri Mohammad Tahir Khan
6. Shri Virendra Kumar
7. Shri Bassangouda R. Patil
8. Shri Devidas Pingle
9. Shri Chandradev Prasad Rajbhar
10. Shri Kamla Prasad Rawat
11. Smt. C.S. Sujatha
12. Shri Parasnath Yadav

**RAJYA SABHA**

13. Chowdhary Mohammad Aslam
14. Shri Narayan Singh Kesari
15. Shri K. Chandran Pillai
16. Shri Gandhi Azad

**SECRETARIAT**

- |    |                   |   |                     |
|----|-------------------|---|---------------------|
| 1. | Shri R.K. Bajaj   | - | Director            |
| 2. | Shri N. K. Pandey | - | Deputy Secretary-II |
| 3. | Smt. Mamta Kemwal | - | Under Secretary     |

**REPRESENTATIVES OF THE MINISTRY OF LABOUR & EMPLOYMENT**

1. Smt. Sudha Pillai, Secretary (L&E)
2. Shri S.Krishnan, Additional Secretary (L&E)
3. Shri Prabhat C. Chaturvedi, DG, ESIC
4. Ms. Gurjot Kaur, Joint Secretary (SS)
5. Shri S. Mukhopadhyay, Chief Labour Commissioner (C)
6. Dr. Harcharan Singh, DDG (W&C)
7. Shri S.K. Verma, Director (SS)
8. Shri R.C. Sharma, Joint Director, ESIC
9. Dr. Ashok Sahu, E.A
10. Shri Suraj Bhan, Director

2. At the outset, the Chairman welcomed the representatives of the Ministry of Labour and Employment, Chief Labour Commissioner and officials of ESIC to the sitting and drew their attention to Direction 55(1) of the Directions by the Speaker. The following issues were discussed with them in brief:

- (i) Payment of Medical Bonus of Rs. 1,000/- as a Maternity benefit under the Act for each woman worker who is not covered under ESIC.
- (ii) Involvement of ESIC in the disbursement of Maternity benefit.
- (iii) Non receipt of Information from the States and Union territories regarding disbursement of benefits as well as prosecutions for violation of the Act.
- (iv) Strengthening the enforcement machinery for proper implementation of the Act.
- (v) Broadening the scope of the Act.
- (vi) Enhancing the number of Maternity Leave and provision of Paternity Leave.

3. Thereafter, the Secretary, Ministry of Labour & Employment responded to the queries raised by Hon'ble Chairman and other members of the Committee. The Chairman requested the Secretary to send written replies latest by 8<sup>th</sup> August,2007 to the queries of the members on which the information was not readily available with them, as well as to the Supplementary List of Points handed over to them.

*The witnesses then withdrew.*

4. A verbatim record of the proceedings has been kept.

*The Committee then adjourned.*

**MINUTES OF THE FIRST SITTING OF THE STANDING COMMITTEE ON**

**LABOUR HELD ON TUESDAY, 14 AUGUST 2007**

The Committee met from 1500 hours to 1600 hours in Committee Room “E”, Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Suravaram Sudhakar Reddy – CHAIRMAN**

**MEMBERS**

*LOK SABHA*

2. Shri Furkan Ansari
3. Shri Santasri Chatterjee
4. Shri Thawar Chand Gehlot
5. Smt. Sushila Kerketta,
6. Shri Virendra Kumar,
7. Smt. C.S. Sujatha

*RAJYA SABHA*

8. Shri K. Chandran Pillai
9. Shri Gandhi Azad
10. Ms. Pramila Bohidar

*SECRETARIAT*

- |    |                   |   |                     |
|----|-------------------|---|---------------------|
| 1. | Shri N.K. Sapra   | - | Joint Secretary     |
| 2. | Shri R.K. Bajaj   | - | Director            |
| 3. | Shri N. K. Pandey | - | Deputy Secretary-II |
| 4. | Smt. Mamta Kemwal | - | Under Secretary     |

2. XX XX XX

3. The Committee then considered the Draft Twenty-Second Report on “The Maternity Benefit (Amendment) Bill, 2007.” The Committee after deliberations on the recommendations contained in the Draft Report at length adopted the same with the following modification:-

Page no. 8, Para no. 1.14, line no.10-insert “not more than” before “three years.”

4. The Committee then authorised the Chairman to finalise the above Report and present the same to the Parliament on their behalf.

**The Committee then adjourned.**