BREASTFEEDING IS A RIGHT, NOT A PRIVILEGE: PROTECTING MOTHERS, PROTECTING THE FUTURE

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ABSTRACT

Motherhood in Indian philosophical and mythological traditions has long been associated with nourishment, sacrifice, an dun conditional care. From the image of Yashoda nurturing Krishna to classical Sanskrit and Ayurvedic literature describing stanya (mother's milk) as the essence of life itself, breastfeeding has historically occupied both biological and spiritual significance. Yet modern constitutionalism compels reconsideration of whether motherhood may be transformed into compulsory bodily service in the name of child welfare. The contemporary discourse surrounding breastfeeding extends beyond nutrition and enters the domains of bodily autonomy, dignity, reproductive freedom, labour rights, mental health, and human rights jurisprudence.

This article critically examines breastfeeding from both maternal and child perspectives while analyzing the dichotomy between maternal autonomy and infant welfare. It studies whether a woman possesses the right to discontinue breast feed in gland whether the State may legitimately compel actuation in the interest of child health. In the absence of specific legislation in this field their searcher tries to identify different provisions in some of the enacted legislations and also the policy decision s taken by the governments and also the campaign undertaken rigorously by the civil society organisations.

The article argues that while breastfeeding deserves protection and institutional support, motherhood cannot be reduced to legally enforceable biological obligation. The constitutional promise of dignity under Article21 requires harmonization between child welfare and maternal autonomy rather than coercive enforcement of maternal sacrifice.

I. INTRODUCTION

In Indian civilization thought, motherhood has never been viewed merely as a biological condition.[1] Ancient philosophical traditions regarded the mother as the first source of nourishment, morality, compassion, and creation itself[2]. The Taittiriya Upanishad places the mother before all earthly relations through the expression "Matru Devo Bhava"-"Let the

[1] Taittiriya Upanishad, Shiksha Valli,I. 11.2("Matru Devo Bhava").
[2]S. Radhakrishnan, Indian Philosophy(OxfordUniversityPress,NewDelhi,2008) Vol.I, 54–59.

Mother be revered as divine."[3]Similarly, Ayurvedic texts describe mother's milk as the child's first sustenance and the purest extension of maternal life.[4]

Indian mythology repeatedly portrays breastfeeding as an intimate act of emotional and spiritualbonding.[5] The image of Yashoda nursing Krishna symbolizes not merely nourishment but unconditional affection and maternal devotion transcending biological ties.[6]Yet these traditions also silently reflect the immense burden historically imposed upon women through idealized expectations of sacrifice and caregiving.[7]

Modern constitutional democracies can no longer examine breastfeeding solely through the lens of morality or maternal duty.[8]Contemporary discourse increasingly recognizes that breastfeeding also implicates bodily autonomy, privacy, dignity, reproductive freedom, mental health, and workplace equality.[9]While medical science strongly advocates exclusive breastfeeding for infant welfare, the legal question remains whether the State or society can compel a woman to continue breastfeeding irrespective of her physical or psychological condition.[10]

The debate therefore lies at the inter section of child welfare and maternal autonomy.[11]On one hand, breastfeeding significantly contributes to infant survival, immunity, and emotional development.[12]On the other hand, compelling lactation may amount to forced bodily service inconsistent with constitutional guarantees of dignity and personal liberty under Article 21 of the Constitution of India.[13]

This article is going to look at breastfeeding in away. It is not a medical issue. It is a matter of rights and what is fair.[14] We need to think about the rights of mothers who are breastfeeding and the needs of children. We need to look at the laws in India and see how we can make

[3]Taittiriya Upanishad, ShikshaValli, I.11.2.

[4]Priyavrat Sharma, Charaka Samhita (Chaukhambha Orientalia, Varanasi, 2008) Sutra Sthana, Ch. 27.

[5]Dev Dutt Pattanaik ,Myth-Mithya: A Handbook of Hindu Mythology(PenguinBooksIndia,NewDelhi,2006) 132–139.

[6]*Ibid*

[7]Uma Chakravarti, Gendering Caste Through a Feminist Lens (Stree Publications, Kolkata, 2003)67–82.

[8]Jonathan Herring,Medical Law and Ethics (OxfordUniversityPress,Oxford,2018)561–590.

[9]Martha Albertson Fineman, The Neutered Mother (Routledge, NewYork,1995)170–189.

[10]Ruth A.Lawrence &Robert M. Lawrence, Breastfeeding: A Guide for the Medical Profession (Elsevier Mosby, Philadelphia, 2015) 215–299.

[11]Susan Moller Okin, Justice, Gender and the Family (Basic Books, New York,1989)89–110.

[12]*Supra Note* (10) page no: 157–287.

[13]Justice K.S.Puttaswamy v. Union of India,(2017)10SCC 1.

[14]*Supra Note* (8)

them better. We want to make sure that mothers have the support they need to make choices for their babies. We do not want to force them to do something they do not want to do.[15]

II. COMPARATIVEINTERNATIONALMODELS

Several countries have adopted progressive legal frameworks recognising breastfeeding as a workplace and public health right.

Norway

Norway provides extensive parental leave protections and guarantees breastfeeding breaks for working mothers. The Norwegian welfare model emphasises state responsibility towards maternal and child welfare. Norway is recognised as one of the most progressive nations in protecting breastfeeding and lactating mothers and it as not only a mere responsibility but as a fundamental public health and human rights [16].

Philippines

The Philippines has a law that says employers must give mothers paid time to breastfeed. This time is separate from their breaks. Philippines has established one of them ost progressive and mother-centric legal frameworks for breastfeeding and lactating mothers in Asia by recognizing breastfeeding as both a public health priority and a fundamental component of maternal and child welfare.[17]

United States

The United States has strengthened breastfeeding protection through labour and healthcare reforms by recognizing breastfeeding as a matter of maternal health, workplace equality, and childwelfare.[18]The country has also promoted breastfeeding through public health campaigns, and through federal protection such as “BREAK TIME FOR NURSIMG MOTHERS”

[15]UNICEF& WHO, Global Strategy for Infant and Young Child Feeding (WHO Publications,Geneva,2003).
[16]Norwegian Labour Welfare Policies Reports, visited on 2026-05-19
[17]Expanded Breastfeeding Promotion Act, 2009 (Philippines), *mandates lactationnstationsin work places and public institutions and also made it mandate for workplaces, hospitals and public institutions to create breastfeeding – friendly environment.*
[18] The Patient Protection and Affordable Care Act 2010 (amending the Fair Labor Standards Act,29 U.S.C), *requiresemployerstoprovidereasonablebreaktimeandprivatespaces,otherthanrestrooms,forexpressing breast milk during working hours.*

provisions under Labour laws and maternal healthcare programs. [19]Several states further protect a woman's right to breastfeed in public, while organizations such as Centers for Disease Control an d Prevention (CDC) and the American Academy of Pediatrics actively promote breastfeeding awareness and infant nutrition through education and policy advocacy.[20]

Australia

Australia recognises breastfeeding discrimination under anti-discrimination laws and protects women from adverse treatment relating to breastfeeding has emerged as a global model in protecting the rights and dignity of breastfeeding and lactating mothers through a compassionate and rights-oriented legal framework. By recognizing breastfeeding not merely as a personal choice but as a matter of public health, maternal dignity, and child welfare. [21]

France and Brazil

France and Brazil provide mandatory breastfeeding breaks for working mothers and impose obligations upon larger establishments to create designated breastfeeding spaces. These international practices demonstrate that breastfeeding protection can be effectively integrated into labour law, public health policy and anti-discrimination frameworks.[22]

III. CONSTITUTIONAL BASIS FOR BREASTFEEDINGAND LACTATING MOTHERS

The Indian Constitution does not say anything about breastfeeding. The way the courts have interpreted the law shows that breastfeeding is a big part of being treated with dignity and having good health.[23] Article 21 guarantees the right to life and personal liberty, which has been interpreted expansively by the Supreme Court to include their right to health, dignity and bodily integrity.[24] Article 21 has evolved into a repository of several socio-economic rights necessary for meaningful human existence.[25]

[19]U.S. Department of Health and Human Services. The Surgeon General's Callto Action to Support Breastfeeding (2011).
[20]Centers for Disease Control and Prevention (CDC) and Amercian Academy of Pediatrics, Breastfeeding Guidelines and Policy Recommendations.
[21]Australian Anti-Discrimination Laws and Breastfeeding Guidelines, visited on 20026-05-19
[22]International Labour Organisation (ILO), Maternity Protection Convention,2000(No.183)(France),*provides provision relating to nursing breaks and workplace protections*; Brazil Consolidation of Labour Laws (CLT*),arts 389and 396 says breastfeeding intervals and childcare facilities.*
[23]Maneka Gandhi v Union of India (1978)1SCC248.

Breastfeeding directly relates to the constitutional protection of maternal dignity and child welfare observes that the right to life under Article 21extends beyond mere animal existence and includes all conditions necessary for living with dignity.[26] Denial of breastfeeding facilities in workplaces or public spaces therefore undermines maternal dignity and adversely affects child health.

The Indian Constitution has some rules that help keep breastfeeding and children safe. These rules are called the Directive Principles of State Policy. They make sure that breastfeeding and children are protected.[27] The Indian Constitution adopts a welfare-oriented approach toward women and children. Breastfeeding protection derives constitutional support from several provisions.[28]

Breastfeeding as a public health imperative

Breastfeeding constitutes one of the most effective public health interventions for reducing infant mortality and improving maternal health outcomes. Breast milk provides optimal nutrition and essential antibodies necessary for protecting infants against infectious diseases. Exclusive breastfeeding significantly reduces risks associated with diarrhoea, pneumonia, malnutrition and neonatal infections.[29]

Medical literature further demonstrates breastfeeding can even help mothers avoid getting kinds of cancer like breast cancer and ovarian cancer. It can also help them feel better after

[24] M.P.Jain, Indian Constitutional Law (8th edn, LexisNexis2018)1423.
[25] D.D .Basu, Introduction to the Constitution of India (22nd edn, LexisNexis 2019)311.
[26] Supra Notes (17), Art.15(3). states, that the State is not prevented from making any "special provision" for women and children.
[27] H.M. Seervai, Constitutional Law of India (4th edn, Universal Law Publishing2015)493.
[28] *Supra Note* (19)**,**art 14 *endeavours the states hall not deny to any person equality before the law or the equal protection of the laws within the territory of India* , art 15(3) , *the state is not prevented from making any special provision for women and children* . art 2l *lays down that no person shall be deprived of his life or personal liberty except according to 'procedural established by law* Art.39.(f) *requires the state to ensure healthy development of children*. art 42 *requires the state to make provision for securing just and humane conditions of work and for maternity relief* Art 47 *obligates the.state.to regard, as, among, its primary duties , theraisingofthelevelofnutritionandthestandardoflivingofitspeopleandtheimprovementofpublichealth.*
[29] K Park, Park's Textbook of Preventive and Social Medicine (26th edn, Banarsidas Bhanot 2021) 717.

giving birth and reduce the risk of depression.[30] It is further explained that breastfeeding also contributes to hormonal regulation and promotes postnatal recovery.[31]

In India many babies and mothers are not getting the care they need. The National Family Health Survey found that only about 63.7 per cent of babies in India are breastfed soon after they are born. Not many babies are only drinking breast milk, which's what they need to be healthy.[32] Studies published in the Lancet Breastfeeding Series indicate that inadequate breastfeeding contributes significantly to child mortality in India.[33]

Suboptimal breastfeeding practices are also linked to long-term cognitive and developmental consequences. Public health scholars emphasise that breastfeeding contributes to brain developmentandimproveseducationaloutcomeslaterinlife.[34]Consequently, breastfeeding is not merely a private maternal activity but a matter of national public health importance.

The World Health Organization and UNICEF want governments to make it easier for mothers to breastfeed. They think governments should help mothers by giving them a place to breastfeed at work and making sure they have time to take care of their babies.[35] They also want to make sure that people are not misled into thinking that other kinds of milk are just as good, as breast milk. All these things are connected. Breastfeeding, being healthy. What the government can do to help.

Breast feeding from the mother's perspective

From the mother's perspective, breastfeeding involves both emotional fulfilment and significantphysicallabour.[36]Breastfeeding is what people often think makes a woman a good mother so women feel like they have to do it no matter what.[37] Some people who study women's issues say thatthiscanhidethepain,tirednessandstressthatmothersfeelanditcan also take away their control over their bodies.[38]

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[30] *Ibid*.
[31] D.C.Dutta,Text book of Obstetrics (9thedn,JaypeeBrothers2018)604.
[32]Arthur Guy to n and John Hall, Textbook of Medical Physiology (14thedn,Elsevier2021)1034.
[33]NationalFamilyHealthSurvey-5(2019-21).
[34]Lancet Breastfeeding Series (2016).
[35]*Supra Note* (22) page no:719.
[36]Contemporary reproductive rights literature.
[37]Adrienne Rich of Woman Born (W.W. Norton, 1976).
[38]Linda Blum, At the Breast: Ideologies of Breastfeeding and Motherhood in the Contemporary United States (Beacon Press, 1999).

Medical literature recognizes several physical difficulties associated with breastfeeding, including mastitis, nipple trauma, breast engorgement, hormonal complications, infections, fatigue, and post-surgical pain after cesarean delivery.[39] Psychological conditions such as post partum depression, anxiety disorders, sleep deprivation, and emotional trauma may further affect a woman's ability to continue breastfeeding.[40]

People who study women's rightssay that just because a woman is a mother it does not mean she loses control over her body.[41] A mother who is breastfeeding still gets to decide what happens to her body like whether or not she wants to keep breastfeeding and, for how long.[42] Scholars therefore argue that breastfeeding should remain a voluntary and informed choice rather than a coercive social expectation.[43]

Breastfeeding from the child's perspective

From the child's perspective, breastfeeding serves as a crucial component to survival, nutrition, and development.[44] Scientific research demonstrates that breastfeeding can really help lower the number of babies who die and it also helps keep them from getting sick with things like colds, diarrhea and other problems like being too heavy having allergies getting diabetes and sudden infant death syndrome.[45]Breastfeeding is also good for the child's brain development. Helps the mother and child feel close to each other.[46]

The child has the right to be healthy. This is something that is recognized by laws about human rights all around the world especially in the Convention on the Rights of the Child.[47] This convention says that countries have to make sure children do not get sick or hungry by giving them food and taking care of their health.[48]

Consequently, breastfeeding is often viewed as promoting the "best interests of the child." [49]However, child welfare principles cannot entirely override maternal dignity and bodily

[39]*Supra Note* (30)
[40]*Supra Note*12
[41]Kendall-Tackett, Depression in New Mothers (Routledge, 2010).
[42]Rosalind Petchesky, Abortion and Woman's Choice(Verso,1984).
[43] *Supra Note* 9
[44]*SupraNote*14
[45]*SupraNote* 33
[46]*Ibid.*
[47]Sheila Kitzinger, The Experience of Breastfeeding (Penguin, 1985).
[48]Convention on the Rights of the Child, 1989.
[49]Article24,CRC .recognizes every child's right to the highest attainable standard of health.

autonomy.[50] The challenge therefore lies in balancing the child's health interests with the mother's constitutional freedoms.[51]

Dichotomy between maternal choice and child health

The central legal and ethical conflict surrounding breastfeeding arises between maternal autonomy and child welfare.[52]One perspective argues that because breastfeeding substantially benefits infant health, mothers possess a moral responsibility to breastfeed when ever medically possible.[53]On the hand some people think that making mothers breastfeed is like forcing them to do something with their body against their will, which is not right and takes away their freedom to make their own decisions.[54]

Feminist legal theory strongly opposes the treatment of women merely as instruments of child care and nourishment.[55]Scholars say that making a woman breastfeed if she does not want to is a violation of her rights over her body and her ability to make her own decisions.[56] The right to privacy recognized under Article 21 of the Indian Constitution includes intimate personal decisions concerning bodily functions and reproductive choices.[57]

The constitutional principles laid down in Justice K.S. Puttaswamy case affirm that bodily autonomy forms an essential aspect of the right to privacy and dignity.[58] Therefore, although the State may encourage breastfeeding through awareness programs and healthcare support, compulsory breastfeeding would likely violate constitutional protections.[59]

Mother's right to discontinue breastfeeding

A mother may discontinue breastfeeding for several medical, psychological, economic, or social reasons. [60] Legitimate circumstances include severe illness, HIV transmission concerns under particular medical conditions, psychiatric disorders, inadequate milk production,

[50]*SupraNote*37
[51]SupraNote36

[52]Ethical Issues in Breastfeeding and Lactation Interventions: Scoping Review.
[53]Okin, Justice, Gender and the Family (1989).
[54]Supranote38
[55]Judith Jarvis Thomson, A Defense of Abortion (1971).
[56]*SupraNote32*
[57]*SupraNote44*
[58]*Supra Note20*
[59]*Supra Note13*
[60]Constitutional privacy jurisprudence.

medication incompatibility, workplace barriers, physical pain, trauma, and mental health complications.[61]

Postpartum depression is one of the most significant psychological factors affecting breastfeeding practices.[62] Women suffering from postpartum depression may experience emotional distress, anxiety, exhaustion, or suicidal tendencies that make breastfeeding psychologically harmful.[63]

Economic and social circumstances may also affect breastfeeding decisions.[64]Women working in exploitative work places without nursing facilities or maternity protection often face practical impossibility in continuing breastfeeding.[65] Victims of domestic violence, abandonment, or poverty may similarly encounter barriers to breastfeeding continuation.[66]

These days many legal experts think that mothers should not be treated like criminals or made to feel bad if they choose to use formula or a mix of breastmilk and formula to feed their babies.[67] The idea is that mothers should be able to make their informed decisions about how to feed their children and to do that they need to get accurate information from doctors and be free to choose what they think is best, for their child breastfeeding. Mothers should be able to decide if breastfeeding is what they want to do.[68]

Can the state force a mother to breastfeed for six months?

In India there is no law that says mothers have to breastfeed their children for six months.[69]Recommendations issued by international health organizations are advisory in nature and do not create enforceable legal obligations.[70]

Compulsory breastfeeding would raise serious constitutional concerns relating to bodily autonomy, privacy, dignity, and personal liberty under Article21 of the Constitution.[71]Since

[61]*Supra Note* 38.
[62]WHO, Acceptable Medical Reasons for Use of Breast-Milk Substitutes (2009).
[63]*Supra Note* 34
[64]*Ibid*
[65]*Supra Note* 31
[66]Labor welfare studies
[67]*Supra Note* 50.
[68]*Supra Note*58.
[69]Medical ethics doctrine of informed consent.
[70] Maternity Benefit Act, 1961
[71] WHO Breastfeeding Guidelines

lactation directly involves intimate bodily functions, forced breastfeeding may amount to unconstitutional interference with bodily integrity.[72]

So while the government can try to encourage breastfeeding by telling people about its benefits and helping mothers it cannot force a woman to breastfeed if she does not want to. The government can do things like have health programs teach people about health and have policies to help new mothers but it cannot make breastfeeding a law that people have to follow.[73]

Psychological impact of machine extraction and caretaker feeding

The rise of modern employment structures has increased dependence upon breast pumps, milk extraction machines, bottle feeding, and caretaker-assisted feeding.[74] Many mothers feel bad about themselves and they get worried and stressed when they cannot feed their babies from their breast.[75]

Studies indicate that exclusive pumping may create additional physical and emotional burdens mothers must manage extraction schedules, milk storage, sterilization, and workplace obligations simultaneously.[76] Some women fear emotional distancing from their children when caretakers perform feeding responsibilities.[77]

However, psychologists caution against stigmatizing alternative feeding methods because maternal mental health is itself essential to child welfare.[78]A psychologically exhausted or emotionally distressed mother may not necessarily improve infant welfare through forced breastfeeding.[79] Contemporary maternal healthcare therefore increasingly emphasizes supported feeding choices rather than guilt-based narratives.[80]

EXISTING LEGAL FRAMEWORK IN INDIA

[72] *Supra Note*51
[73] *Supra Note* 52.
[74]*Ibid*
[75] Maternal employment studies.
[76] *Supra Note* 61.
[77]Psychological studies on exclusive pumping
[78]Alan Slaterand Gavin Bremner, An IntroductionTo Developmental Psychology Literature,(2nd edition)
[79]*Supra Note* 56
[80]*Ibid*

Maternity Benefit Act, 1961

The Maternity Benefit Act, 1961 constitutes the primary legislation governing maternity protection in India.[81] The 2017 amendment increased paid maternity leave from twelve weeks to twenty-six weeks and introduced mandatory crèche facilities for establishments employing fifty or more employees.[82] However, the legislation does not comprehensively address breastfeeding rights after women return to work.

Although the Act provides nursing breaks, enforcement remains weak and many establishments fail to provide adequate lactation facilities.[83] It is further observed that implementation deficiencies continue to undermine the effectiveness of labour welfare legislation in India.[84]. That is Increase Awareness among Women Employees[85], Stronger ImplementationofCrècheFacilities[86],Extension of Benefits to Unorganized Sector Workers[87], Increase in Paid Maternity Leave[88], Better Breastfeeding Support at Workplaces[89], Inclusion

[81]UNICEF, State of the World's Children Report (2022).

[82]The Maternity Benefit Act, 1961.

[83]The Maternity Benefit (Amendment) Act 2017.

[84]S.N.Mishra, Labour and Industrial Laws (CentralLawPublications2020) 532.

[85]*Many women workers, especially in private and unorganized sectors, are unaware of their maternity rights. The government and employers should conduct awareness programs regarding, Maternity leave, Nursing breaks, Crèche facilities, Protection against dismissal during pregnancy.*

[86]*Although Section 11A mandates crèche facilities for establishments with 50 or more employees, many work places fail to implement it properly. Advancements may include Regular inspections by labour authorities, Mandatory standards for hygiene and childcare, Digital compliance monitoring systems, Penalties for non-compliance.*

[87] *A large number of women in India work in domestic work, agriculture, construction, and informal employment where maternity benefits are often unavailable. The Act should be expanded to Cover gig workers and platform workers, include domestic workers and daily wage labourers, Provide government-funded maternity assistance schemes*

[88]*Currently, the Act provides, 26 weeks paid leave for eligible women employees, 12 weeks in certain cases. Possible advancements include Flexible maternity leave options, Additional paid leave for complicated pregnancies, shared parental leave systems involving fathers.*

[89]*Work places should adopt more breastfeeding-friendly policies such as Dedicated lactation rooms, Flexible working hours, Work-from-home options for new mothers, Extended nursing break duration.*

of Paternity Leave[90], Protection against Workplace Discrimination[91], Mental Health and Postpartum Care[92], Digital and Remote Work Flexibility[93], Periodic Review of the Act[94].

Infant Milk Substitutes Act, 1992

The Infant Milk Substitutes, Feeding Bottles and Infant Foods Act, 1992 is a law that regulates how infant formula products are advertised and promoted.[95] This law is in place to stop companies from using marketing tactics that make mothers feel like they should not breastfeed their babies.[96]

The Infant Milk Substitutes, Feeding Bottles and Infant Foods Act 1992 mainly look at how companies sell and distribute these products. It does not give mothers the right to breast feed at work or in public places. The Infant Milk Substitutes, Feeding Bottles and Infant Foods Act 1992 is more, about controlling what companies can. Cannot do when it comes to infant formula products.[97]

National Food Security Act and Welfare Schemes

The National Food Security Act, 2013 recognises nutritional support for pregnant and lactating mothers. Welfare programmes such as Integrated Child Development Services (ICDS), Posh an Abhiyaan and Pradhan Mantri MatruVandana Yojana aim to improve maternal nutrition and healthcare access.[98]

Despite these initiatives, implementation gaps continue to exist due to inadequate funding, administrative inefficiency and regional disparities.[99] Public health experts argue that

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[90]*Modern labour welfare focuses on shared parenting responsibilities. India still lacks a comprehensive paternity leave law in the private sector. Advancement may include Statutory paternity leave, Shared parental leave, Equal care giving responsibilities*.

[91]*Many women face discrimination during hiring or promotion because of maternity obligations. Reforms Should include Strict anti-discrimination provisions, Complaint redressal mechanisms, Compensation for wrongful termination during pregnancy.*

[92]*The Act mainly focuses on physical health. Future reforms should include Post partum counseling support, Mental health leave, Workplace wellness programs for mothers.*

[93]*After the growth of hybrid work culture, the law can incorporate Remote work options for nursing mothers, Flexible attendance systems, reduced working hours after childbirth.*

[94]*The Act should be updated regularly according to International Labour Organization standards, World Health Organization recommendations, Changing workplace structures and women's workforce participation.*

[95]*Ibid*.

[96]Infant Milk Substitutes, Feeding Bottles and Infant Foods(Regulation of Production, Supply and Distribution) Act 1992.

[97]*Ibid*.

[98]National Food Security Act, 2013.

[99]Government of India Maternal Welfare Schemes Reports.

nutritional programmes must be integrated with breastfeeding support policies to ensure comprehensive maternal welfare.[100]

IV. JUDICIALRECOGNITIONOFBREASTFEEDINGININDIA

Municipal Corporation of Delhi v. Female Workers (Muster Roll)

Women workers employed on a temporary and daily wage basis were denied maternity benefits by the Municipal Corporation of Delhi. The employer argued that only permanent employees were entitled to maternity leave and related benefits. The Supreme Court of India held that maternity benefits must be extended even to temporary and daily wage women workers. Maternity relief is a part of social justice. Motherhood deserves protection irrespective of employment status. Breastfeeding and child care require sufficient maternity leave. This is one of the landmark judgments protecting the dignity and welfare of lactating mothers.[101]

Suchita Srivastava v. Chandigarh Administration

The case involved reproductive rights and bodily autonomy of a woman with intellectual disability.[102]

The Supreme Court recognised reproductive autonomy as a component of Article 21.Women possess reproductive choice and bodily integrity. Maternal dignity and health care are protected under the Constitution.Though not directly about breastfeeding, the judgment strengthened maternal rights and women's autonomy relating to childbirth and postnatal care.

Paschim Bangal Khet Mazdoor Samity v.State of West Bengal[103]

[100] *Supra note* 28,page no:734.

[101] (2000)3SCC 224 *;Maternity benefitis apart of social justice and human dignity, and therefore even women employed on temporary, casual, or muster roll basis are entitled to maternity relief.*
The Court ruled that denial of maternity benefits merely because the workers were not permanent employees would violate the constitutional principles of equality, protection of motherhood, humane conditions of work, and dignity of women workers.

[102] (2009)13SCR989*; Reproductive autonomy is a fundamental aspect of personal liberty under Article 21of the Constitution. There is no doubt that a woman's right to make reproductive choices is also a dimension of 'personal liberty' as understood under Article 21 of the Constitution of India.*

[103] AIR1996SC2426 *the Supreme Court held that the right to life under Article21includes the right to timely and adequate medical treatment. The Court ruled that the State has a constitutional obligation to provide proper medical facilities in government hospitals failure to provide immediate medical assistance amounts to a violation of Article 21*

An accident victim was denied treatment by several hospitals due to lack of facilities. The Supreme Court held that failure to provide timely medical treatment violates Article 21.The State has a constitutional obligation to provide healthcare facilities. Maternal healthcare and infant welfare are included within public health obligations. The judgment strengthened the constitutional basis for maternal and lactation healthcare services.

Neera Mathur v. Life Insurance Corporation of India[104]

A woman employee was questioned extensively regarding pregnancy and menstrual history during employment procedures. The Supreme Court condemned invasion of privacy and discrimination against women employees .Women possess privacy and dignity rights in employment. Employers cannot discriminate on the basis of pregnancy or maternity. The case strengthened dignity and workplace rights of women, including lactating mothers.

B. Shah v. Presiding Officer, LabourCourt[105]

The dispute concerned interpretation of maternity benefits under labour laws. The Supreme Court adopted a liberal interpretation favouring women workers .Maternity laws must be interpreted in favour of protecting mothers .Welfare legislation should receive broad and beneficial interpretation .The case became an important precedent for protecting maternity rights and breastfeeding support.

Nestle India Limited v. Union of India (2013)[106]

The Supreme Court evaluated labeling and standards under the Act. The court reinforced that formula labels must explicitly state that mother's milk is the best and most natural nourishment for the infant, and must carry explicit warnings on proper usage to protect consumer health.

[104]AIR1992SC392 *the Supreme Court held that an employer cannot violate the privacy, dignity, and equality rights of women employees by compelling disclosure of personal matters relating to pregnancy, menstruation, or reproductive status. The Court ruled that discrimination based on pregnancy or maternity is unconstitutional;*
Intrusive service conditions affecting women's reproductive choices violate Articles14,15,and21
[105] AIR 1978 SC *12; the Supreme Court held that the provisions of maternity benefit legislation must be inter preted liberally and beneficially in favour of women workers so as to protect motherhood and ensure social justice .TheCourtruledthatmaternitybenefitlawsarewelfarelegislationsenactedtosafeguardthedignityand health of mothers and children therefore, such laws should not receive a narrow or technical interpretation.*
[106]*2013SCC Online DEL1526.*

V. FINANCIAL CHALLENGES FACED BY THE GOVERNMENT IN PROMOTING BREASTFEEDING

The promotion of breastfeeding requires substantial financial investments by the Government in healthcare infrastructure [107], workplace infrastructure [108], welfare schemes [109], awareness programs [110], and monitoring mechanisms .[111]

Financial and Administrative Challenges:

Implementing comprehensive breastfeeding protections involves significant financial and administrative responsibilities.[112]Employers may incur expenditure relating to lactation rooms, storage facilities, nursing breaks and flexible work arrangements.[113] Small businesses in particular may find compliance financially burdensome.

Government institutions would similarly require budgetary allocation for breastfeeding infrastructure in transportation centres, courts, hospitals and educational institutions.

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[107]World Health Organisation, Infant and Young Child Feeding Guidelines, visited on 2026-05-19, *the Government must allocate substantial funds for establishing and maintaining maternal and child healthcare centers , lactation counselling units , breastfeeding clinics, nutrition support schemes , and rural healthcare facilities. These services require trained health care professionals, medical equipment, and continuous public health funding, particularly in undeserved rural and tribal regions.*

[108]The Maternity Benefit (Amendment) Act, 2017 (India), *provisions relating to crèche facilities and workplace support by creating breastfeeding –friendly workplaces involve additional expenditure on lactation rooms, nursing stations, crèche facilities, sanitation infrastructure, and flexible workplace arrangements.*

International Labour Organization, Maternity Protection Convention and Work place Support Studies, visited on 2026-05-19, *states the many small businesses, informal enterprises, and public institutions lack the financial capacity to establish such facilities without government subsidies or incentives.*

[109]Government of India , Ministry of Labour and Employment , reports on women in the unorganized sector , visited on 2026-05-19 *, mentions India's unorganized sector employs a significant proportion of women workers who remain outside formal maternity protection frameworks* **.** International Labour Organisation, Social Protection for Women Workers in the Informal economy, visited on 2026-05-19 , *extends maternity benefit,nutritionassistance,healthcareaccess,anddirectcashsupporttotheseworkersrequireslargescale welfare expenditure and administrative coordination by the Government.*

[110] World Health Organization and UNICEF , recommendations on breastfeeding awareness and maternal education **,** visited on 2026-05-19 , *says that promotion of effective breastfeeding also requires sustained investmentsinnationwideawarenesscampaigns,ruralmaternaleducationprograms,nutritioninitiative,and healthcare training workshops* .National Family Health Survey (NFHS-5),Government of India , visited on 2026-05-19*reportsthatpublichealthcampaignsmustaddressmisinformation,culturalbarriers,andlackof awareness regarding exclusive breastfeeding practices* .

[111]The Maternity Benefit Act, 1961 and related labour welfare enforcement mechanisms, *states that, the successfulimplementationofbreastfeedingandmaternityprotectionlawsdependsuponrobustenforcementand monitoring mechanisms. In the absence of adequate financial support and institutional capacity , statutory protections often remains ineffective in practice* .

[112]World Health Organisation (WHO), Infant and Young Child Feeding Guidelines.

[113]Supra-Note (107); Section 11A of Maternity Benefit Act,1961(India), *provides for crèche facilities in every establishment.*

Administrative monitoring mechanisms would also require trained personnel and grievance redressal systems.[114]

Indiahasalotofworkerswhodonothavejobsandthisisabigproblembecausemanywomen who work in these jobs do not have the same protections as women who work in formal jobs. Extending breastfeeding support to domestic workers, agricultural labourers and informal sector employees would require innovative welfare mechanisms and decentralised implementation.[115]

CONCLUSION

Breastfeeding is an essential component of maternal health, child survival, and constitutional dignity. Despite growing medical evidence and public health recognition supporting breastfeeding, legal protections in India remain fragmented and inadequately enforced. Work place discrimination, social stigma, inadequate public facilities, and lack of institutional support continue to hinder the ability of women to breastfeed effectively and with dignity.

TheconstitutionalframeworkunderArticles14,15(3),21,39(f), 42, and 47oftheConstitution of India strongly supports the protection of maternal and child welfare. Judicial developments and international public health standards further recognize breastfeeding as an aspect of women's health, equality, privacy, and reproductive dignity. However, effective realization of these protections requires stronger workplace accommodations, public breastfeeding infrastructure, awareness campaigns, grievance redressal mechanisms, and welfare support for women in both organized and unorganized sectors.

Greater coordination between health, labour, and welfare authorities is necessary to ensure effective implementation of breastfeeding protections in workplaces and public institutions. Establishing lactation rooms, flexible working arrangements, nutritional assistance programmes, and accessible healthcare support would significantly strengthen maternal dignity and child health outcomes. Strengthening institutional accountability and public awareness can further advance India's constitutional commitment to social justice, public health, and social welfare.

[114] Ministry of Women and Child Development, Government of India, National Guidelines on Workplace Facilities for Women and Children; National Health Mission, Maternal and Child Health Infrastructure Reports.
[115]International Labour Organisation (ILO),Women and Men in the Informal Economy :A Statistical Picture; Unorganised Workers ' Social Security Act, 2008(INDIA