
EXPLORING THE PROMOTION OF GENDER EQUALITY THROUGH ENHANCED MATERNITY BENEFITS IN THE WORKFORCE

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ABSTRACT

In recent times, the ongoing discourse surrounding gender equality and the empowerment of women has resurfaced as a crucial topic that continues to stir debate within society. This paper seeks to delve into these matters, particularly examining the evolving perceptions of equality against the backdrop of societal progress and the legal landscape concerning maternity support. The foundational principle of women's empowerment is deeply rooted in the pursuit of equality. Historically, women have faced discrimination and violence, and these challenges persist today. This paper underscores the imperative to redefine equality with a lens that is more understanding, if not supportive, of the unique position women hold in society. It emphasizes the necessity to provide them with protection and support as they strive for equality, especially in economic realms. Additionally, the study on promoting gender equality through enhanced maternity benefits in the workforce will be explored, shedding light on how such measures can contribute to leveling the playing field and empowering women in the workplace. This study will offer valuable insights into the effectiveness of these policies and their potential to address gender disparities in the workforce.

Keywords: Gender equality, Empowerment of women, Evolving perceptions, Equality, Maternity support

Introduction

The National Commission on Labour in 2002¹ emphasized that any social, economic, or industrial system that overlooks the potential, talents, and unique perspectives of the female workforce would be inherently flawed. Thus, it is imperative to ensure equal opportunities and protection for women employees to enhance the overall Indian economy. For example, the Equalities Review² defines an 'equal society' as one that fosters and defends genuine freedom and substantive opportunities for individuals to live according to their values and preferences, enabling everyone to thrive. An equal society acknowledges diverse needs, circumstances, and aspirations, and strives to eliminate barriers that restrict people's capabilities and possibilities. Gender equality and women's empowerment are often seen as interconnected concepts. Recognizing the importance of empowering women in the workplace, the Maternity Benefit (Amendment) Act, 2017³, was enacted to introduce significant changes aligning with societal shifts. Similarly, in 2017, the Paternity Benefit Bill was reintroduced, aiming to promote modern notions of gender equality, grounded in the belief that equality is a fundamental human right.⁴

The Human Rights Perspective

Following the aftermath of the Second World War, a new global order emerged, underscoring the imperative of elevating equality to a fundamental human right. The Universal Declaration of Human Rights (UDHR), adopted by the United Nations on December 10, 1948, heralded this shift. Article 1 of the UDHR boldly declared that **'all human beings are born free and equal in dignity and rights'**. Significantly, it was the Indian delegate **Hansa Mehta** who proposed substituting the phrase "all men are born free and equal" with "all human beings are born free and equal," a move aimed at embracing gender-neutral language.

Article 2 of the UDHR further solidified this commitment by asserting that 'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin,

¹ Government of India, "Report of the Second National Commission on Labour, 2002" (Ministry of Labour and Employment and Rehabilitation, 2002)

² The body established by the Prime Minister of UK to carry out an investigation into the causes of persistent discrimination and inequality in British society.

³ The Maternity Benefit (Amendment) Act, 2017 (Act 6 of 2017).

⁴ The Paternity Benefit Bill, 2017 (Bill 90 of 2017).

property, birth, or other status.' This articulation underscored the inclusive nature of human rights, transcending barriers of race, gender, and socioeconomic status.

The UDHR's recognition of not only civil and political rights but also extensive social and economic rights underscored the holistic approach to human rights. By acknowledging the interconnectedness of civil, political, social, and economic rights, the UDHR laid the foundation for a comprehensive framework aimed at promoting the inherent dignity and equality of all individuals worldwide.⁵

A Fundamental Right to Equality of Dignity and Identity

In his discussion of the principle of 'intrinsic value,' Dworkin posits that each human life possesses a unique and objective worth. He further argues that any disparity in treatment among different groups reflects a failure to equally value all individuals⁶.

Treating individuals with dignity entails not only showing respect but also embracing the diversity that arises from factors such as gender, physical or mental abilities, cultural background, and religious or ideological beliefs. Each person is a complex blend of various identities, some of which may evolve over time due to experiences, education, and interactions with diverse communities.

Amartya Sen aptly warns against oversimplified categorizations of people, emphasizing the danger of assuming that individuals neatly fit into predefined groups. He illustrates that belonging to a particular religious or cultural identity does not dictate one's political, civic, or moral inclinations.

Similarly, contemporary understandings of gender recognize that it should not serve as a barrier for women or confer undue privileges to men. Discriminating against women in employment or subjecting them to unfavorable working conditions based solely on gender is unjust and can have detrimental effects on the economy.

Dignity holds both legal and ethical significance, transcending mere economic transactions. Respecting the inherent value and dignity of every individual necessitates fair treatment in the

⁵ The Universal Declaration of Human Rights, 1948, art. 1, art 2.

⁶ Ronald Dworkin, *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom* 69-71 (Vintage Books, New York, 1994).

workplace. Therefore, denying a woman employment or unjustly interfering with her working conditions undermines her dignity and self-worth.⁷

Status Discrimination and Prejudice

Women in the labour markets of India confront numerous obstacles that impede their effective participation, particularly due to status discrimination and prejudice. These challenges encompass gender stereotyping, which perpetuates narrow societal expectations regarding women's roles and capabilities. Additionally, women often find themselves concentrated in low-paid, part-time, or temporary positions, exacerbating economic disparities. Unequal pay further compounds these inequalities, with women typically earning less than their male counterparts for comparable work. Pregnancy discrimination and harassment also persist as significant deterrents, undermining women's ability to thrive in the workplace.

Despite advancements in education and increased qualifications among young women, they continue to encounter systemic barriers in the labor market. Even with equal or superior qualifications to men, women face persistent disadvantages rooted in entrenched gender biases and discriminatory practices. This perpetuates a cycle of inequality, wherein successive generations of women confront similar challenges despite their educational attainment and aspirations for professional advancement.

Moreover, wage disparities persist across ethno-religious groups, with women consistently earning less than the lowest-paid group of men. This intersectional dimension of gender inequality underscores the entrenched nature of discrimination within labor markets, transcending individual qualifications or achievements.

In essence, women in India's labor markets encounter multifaceted obstacles stemming from status discrimination and prejudice. Addressing these systemic challenges requires concerted efforts to dismantle gender stereotypes, promote equal opportunities, and enforce laws that safeguard women's rights in the workplace.⁸

⁷ Amartya Sen, *Identity and Violence: The Illusion of Destiny* (Penguin Group, London, England, 2006).

⁸ Bob Hepple, *Equality: The Legal Framework* 24 (Bloomsbury Publishing, London, 2nd edn., 2014)

Unwavering Equality

Initially, efforts to combat discrimination centered on the legal principle of equality, asserting that similar individuals should be treated alike. However, this approach raises the fundamental question of defining the criteria for determining when two individuals are sufficiently alike to merit equal treatment. In the famous English musical "My Fair Lady," the protagonist Henry Higgins muses in the song "A Hymn to Him," pondering why women can't be more like men. The musical portrays a strong woman striving to maintain her identity against the oppressive attitudes of a narrow-minded man.

During that era, women from privileged classes were often barred from employment despite possessing skills in music, languages, and art, cultivated through opportunities such as travel. These talents were often relegated to mere social ornamentation at occasional gatherings or within their own homes. Conversely, women from lower classes were compelled to work in harsh conditions, receiving minimal and unequal wages, and were subjected to exploitation by men. Access to education for these women was severely limited, often restricted to basic elementary schooling, if available at all.

The situation in India mirrored these patterns, with women primarily viewed as homemakers rather than breadwinners. Even today, traditional working arrangements often assume men as the primary earners and women as homemakers, although this dynamic has begun to shift, particularly among affluent urban families. However, this transformation remains largely confined to wealthy segments of society, with slower progress observed in rural and impoverished regions.

Nonetheless, there are signs of change, albeit incremental, in India. Initiatives such as compulsory and free education for all, as well as targeted measures like providing free textbooks, scholarships, and facilitating access to banking services for girls, aim to address gender disparities in education. Programs like the Kasturba Gandhi Balika Vidyalaya Yojana strive to provide quality education to young girls, signaling progress, albeit gradual and unevenly distributed across the country.⁹

⁹ My Fair Lady (1964) was one of the adaptations of Pygmalion written by George Bernard Shaw in 1912, which was itself based on the part in Ovid's *Metamorphosis*. My Fair Lady dealt with issues of wealth, privilege, class warfare and advance learning and whether these were vastly superior to the capabilities of a commoner.

The Present Domestic Legal Framework

Presently, the legal framework often adopts an approach that emphasizes the biological distinctions between men and women. However, this approach can pose a barrier to achieving genuine equality, as it operates under the assumption that a woman's treatment should mirror that of a man under similar circumstances. This raises the question of whether the circumstances of a woman can always be equated to those of a man. For instance, comparing a woman's absence from work due to pregnancy or childbirth to a man's absence due to illness may not accurately reflect the unique challenges and experiences faced by each gender.

Pregnancy and Maternity

It's commonly observed that pregnant women and those returning to work after maternity leave often face significant levels of discrimination and harassment. The special protection afforded to pregnant women typically applies for a defined period of twenty-six weeks, aligning with the recommendation of the World Health Organization. This duration encompasses crucial initial months during which exclusive breastfeeding offers health advantages for both mother and child¹⁰.

Pregnancy and maternity represent particularly vulnerable periods for working women and their families. Expectant and nursing mothers require specialized protection not only for their own well-being but also for the health of their infants. These women need adequate rest for childbirth, recovery, and nursing.

Simultaneously, they necessitate protection against job loss or other unfair treatment solely because they've utilized maternity leave and benefits. Thus, ensuring the health and safeguarding the employment rights of women availing maternity benefits is essential for fostering an environment of equal opportunity and treatment for both men and women in the workplace, thereby enabling workers to nurture secure families.

The broader societal interest in promoting the health of expectant women is reflected in the

¹⁰ The Maternity Benefit Act, 1961 (Act 53 of 1961) as amended by The Maternity Benefit (Amendment) Act, 2017 (Act 6 of 2017), s. 5 (3).

enactment of maternity benefit laws worldwide¹¹

History of Maternity Benefits

Germany pioneered the introduction of maternity allowance in the late 19th century, initially under the framework of sick insurance. This model was later adopted by other nations, and the International Labour Organization established guidelines ensuring maternity benefits for women regardless of age, nationality, ethnicity, or employment status. These benefits include six weeks of compulsory maternity leave after childbirth, along with the option to abstain from work for six weeks before the expected delivery date.¹²

In India, the first legislation concerning maternity benefits was the Bombay Maternity Benefit Act of 1929¹³, which provided benefits to female factory workers before and after childbirth. Similar laws were subsequently enacted in other Indian provinces. The Central Government later introduced three statutes—the Mines Maternity Benefit Act of 1941¹⁴, the Employees State Insurance Act of 1948¹⁵, and the Plantations Labour Act of 1951¹⁶. However, these laws varied significantly in terms of eligibility criteria, benefit rates, duration of leave, and other aspects.

To address these disparities, the Central Government enacted the Maternity Benefit Act of 1961¹⁷, aiming to standardize maternity benefits across the board. This legislation replaced the Mines Maternity Benefit Act of 1941 and the maternity benefit provisions of the Plantations Labour Act of 1951.

Applicability of The Maternity Benefit Act, 1961

The Maternity Benefit Act of 1961 is applicable to various establishments, including factories, plantations, government-owned establishments, and those involved in equestrian, acrobatic, and other performances. It also covers shops or establishments with ten or more employees on

¹¹ World Health Organisation, “Infant and young child nutrition: Global Strategy on infant and young child feeding” (April 16, 2002).

¹² The General Conference, 1919 of the International Labour Organisation, adopted the Maternity Protection Convention, 1919 (Convention No. 3) and was revised in 1952 (by Convention No. 103)

¹³ The Bombay Maternity Benefit Act, 1929 (Bom. Act VII of 1929).

¹⁴ The Mines Maternity Benefit Act, 1941 (Act 19 of 1941).

¹⁵ The Employees State Insurance Act, 1948 (Act 34 of 1948).

¹⁶ The Plantations Labour Act, 1951 (Act 69 of 1951).

¹⁷ The Maternity Benefit Act, 1961 (Act 53 of 1961).

any day of the preceding twelve months, as defined by state laws governing shops and establishments. State governments must provide a two-month notice if they intend to include other establishments under the Act.

The Act extends its provisions to factories as defined by the Factories Act of 1948, encompassing premises with ten or more workers using power or twenty or more workers without power for manufacturing processes. However, it excludes mines as defined by the Mines Act of 1952, mobile units of the armed forces, railway running sheds, hotels, restaurants, or eating places.

An important feature of the Act is its equal application to all women in covered establishments, regardless of wage disparities. To qualify for benefits, a woman must have worked in the employer's establishment for at least eighty days in the twelve months preceding her expected delivery date. This requirement specifically pertains to maternity benefits and does not extend to other provisions of the Act. For instance, a woman experiencing a miscarriage is entitled to leave and wage payment for six weeks without regard to her length of employment.

Maternity Benefit

The Maternity Benefit Act of 1961 stipulates that maternity benefit includes payment detailed in Section 5, wherein every woman is entitled to receive maternity benefit equivalent to her average daily wage for the duration of her absence from work. This encompasses the period leading up to her delivery, the actual delivery date, and any subsequent days.

However, modern women in the late 1990s found the provisions of the Maternity Benefit Act insufficient, leading to amendments over the years. These changes addressed various aspects such as the required duration of employment for claiming maternity benefits and the calculation methods for benefits. The most significant revisions occurred in 2017.

Section 5(3) of the Act sets the maximum duration for maternity benefit at twenty-six weeks, with no more than eight weeks before the expected delivery date. Additionally, the proviso attached to this section specifies that a woman with two or more surviving children can avail maternity benefit for up to twelve weeks, with no more than six weeks before the expected

delivery date.¹⁸

Adopting or Commissioning Mothers

The Maternity Benefit Act is a much-needed step that grants maternity benefits to a woman who lawfully adopts a child under three months old or a commissioning mother for a period of twelve weeks from the date the child is given to the commissioning mother or the adopting mother, as the case may be.

Work From Home (WFH)

Under the Maternity Benefit Act of 1961, if a woman's job allows for remote work, her employer may permit her to continue working from home after she has utilized her maternity benefit. The terms of this arrangement are subject to mutual agreement between the employer and the employee. Additionally, the Act outlines various entitlements for women, including medical bonuses, leave for miscarriage, tubectomy, and illness related to pregnancy or childbirth. It also covers provisions for nursing breaks and access to childcare facilities.

Miscarriage

A significant inconsistency in the Act pertains to its definition of miscarriage. According to the Act, 'miscarriage' refers to the expulsion of the contents of a pregnant uterus before or during the twenty-sixth week of pregnancy, excluding cases punishable under the Indian Penal Code. Consequently, if a miscarriage occurs within this timeframe, a woman is entitled to leave along with wages for six weeks following the miscarriage. However, the Act does not provide similar benefits for miscarriages occurring after the twenty-sixth week.

Moreover, the Act lacks provisions for situations where a child is stillborn or dies shortly after birth, leaving the woman grieving. In such cases, the Act does not specify the entitlements regarding leave and wages for the woman.

¹⁸ The Maternity Benefit Act, 1961 (Act 53 of 1961), s.5(3), as amended by The Maternity Benefit (Amendment) Act, 2017 (Act 6 of 2017), s. 3 (A) (i) for "twelve weeks of which not more than six weeks".

Leave for illness resulting from pregnancy, childbirth, premature birth of the child, or miscarriage.

The Maternity Benefit Act indeed provides benefits to women for illnesses resulting from pregnancy, childbirth, premature birth of a child, miscarriage, medical termination of pregnancy, or tubectomy operations. This entails leave with wages at the rate of maternity benefit for a duration of one month.

Interestingly, the Act refrains from explicitly defining the term 'illness', thus giving it a broad interpretation encompassing any health condition arising from pregnancy, miscarriage, or even up to a tubectomy operation. Section 10 of the Act clarifies that to avail of such benefits for illness, one does not necessarily need to have claimed maternity or miscarriage benefits. This provision stands independently and can be accessed from the time of pregnancy through delivery.¹⁹

Work of Arduous Nature

The Maternity Benefit Act of 1961 grants women the authority to request exemption from strenuous or prolonged standing work, or any work that may potentially jeopardize the normal development of the fetus, cause miscarriage, or impact her health. This provision allows a woman to abstain from such tasks for one month leading up to six weeks before her expected delivery date. Alternatively, if she chooses not to avail herself of the six-week maternity benefit, she can still request to abstain from arduous work during that period. It is incumbent upon the employer not to deduct wages from the pregnant woman for assigning her less strenuous tasks.

While this provision of the Maternity Benefit Act is commendable for its progressive and practical approach, there are other aspects of the Act that, while laying a strong foundation, require further clarification and elaboration to truly empower women employees. One such area of concern is the ambiguity surrounding the term 'illness'.

¹⁹ Id., s. 10. This leave and wage benefit is in addition to any maternity benefit the woman might have received under section 6 of the Act or any leave for miscarriage she might have availed under section 9 of the Act.

Impact of Maternal Depression on the Family Unit

The presence of maternal depression can lead to interpersonal challenges, disruptions in mother-child interactions, and attachment issues, which can deeply affect infant development. Offspring of depressed mothers are at higher risk of experiencing behavioral difficulties and encountering disruptions in cognitive and emotional growth. Research indicates that depression during pregnancy heightens the likelihood of postpartum depression in women. Consequently, antenatal depression can exert substantial adverse effects that extend beyond pregnancy, potentially impacting long-term psychosocial functioning²⁰

Mental Health Legislation

Coincidentally, India ratified its inaugural Mental Health Act in July 2017. This legislation champions various benefits for individuals grappling with mental illness, aiming to safeguard their dignity and privacy throughout their treatment journey. The Act marks a significant departure from the longstanding stigma attached to mental health issues and the distress patients often endure during therapy. A close examination of the mental health law reveals its focus on severe mental illnesses and the support provided to such patients. However, mental illness exists across a spectrum and warrants attention even at the grassroots level.

Notably, the current Mental Health Act of 2017 does not delineate specific provisions for mental health awareness in the workplace. Instead, it mandates the government to undertake initiatives for promoting general awareness on the subject. India operates as a welfare state, aligning its laws with the goal of maximizing societal and economic welfare. This involves striking a delicate balance between competing interests of the economy and society, achieved through robust legislation crafted after thorough deliberation and comprehensive study of diverse economic and societal facets. Similarly, the Maternity Benefit Act of 1961 was enacted, evolving over time through modifications and amendments to address the evolving needs of both the economy and society.

However, the researcher contends that while medical research in India on mental health, especially during pregnancy, is abundant, pervasive stigma surrounding psychiatric disorders

²⁰ MV O'Hara, DJ, Neunaber, et al., "A prospective study of post-partum depression: prevalence, course and predictive factors" 93 *Journal of Abnormal Psychology* 158-71 (1984).

has historically resulted in untreated cases, exerting adverse impacts on society. Insufficient access to maternal mental health care underscores the imperative to enhance recognition and delivery of treatment for mental disorders during pregnancy and postpartum.

Fortunately, societal attitudes toward mental health are evolving, propelled by increasing education and advocacy efforts by prominent figures. As society becomes more receptive to mental health issues, individuals are increasingly empowered to seek assistance in confronting their challenges.

This evolving landscape necessitates laws to adapt alongside advancements in other fields of knowledge, catering to the changing needs of society. Thus, the researcher proposes that the Act explicitly define the term 'illness' to encompass both physical and psychiatric conditions occurring during and after pregnancy. Continuous and widespread awareness on mental health disorders is imperative, and the law should strive to be equitable and supportive to those affected by them.

Amendments to labour legislation

Women's participation in the labor force in India has declined significantly and ranks among the lowest globally, just marginally above countries like Saudi Arabia and Pakistan. Data from the International Labour Organization's ILOSTAT database shows that female labor force participation stood at 23.413 percent in 2019.

The Maternity Benefit Act of 1961 underwent significant overhaul with the Amendment Act of 2017, marking long-awaited breakthroughs that should have been implemented much earlier. The bill was approved by the Rajya Sabha in August 2016 and subsequently passed by the Lok Sabha in March 2017. These amendments addressed critical deficiencies crucial for women already employed in the labor market.

The 2017 amendment acknowledged the urgent need to reverse the decline in women's labor force participation, recognizing it as a social, political, and economic imperative. Notably, the Maternity Benefit (Amendment) Act of 2017 extended its protection to 'Adoptive Mothers' of children below three months of age and 'Commissioning Mothers', allowing them to avail twelve weeks of maternity benefit or leave.

Moreover, the amendment introduced progressive measures such as crèche facilities, the option to work from home, and the employer's obligation to inform women employees of their entitlement to maternity benefits. Additionally, the Indian government is considering a mechanism through which employers of expectant fathers may also be held accountable to contribute a portion of the maternity benefit.²¹

Paternity Benefits and its Role in Empowering Women

Paternity leave refers to the provision of paid leave offered to male employees following the birth of their child, allowing them to care for the well-being of their newborn and its mother. However, it is estimated that less than half of the countries worldwide provide any form of paternity leave to their employees. When paternity benefits are offered, they often span from two to three weeks or just a few days. Additionally, many men do not fully utilize the paternity allowance provided to them due to various social and psychological reasons. Nevertheless, there appears to be a positive shift in this trend in recent times.

In June 2019, Zomato, a popular food delivery app, garnered attention by introducing a twenty-six-week paternity leave for its male employees, although such innovative steps remain exceptions rather than the norm. India is among over ninety countries lacking a national framework for providing paid leave to fathers to be with their infants. It is argued that achieving gender equality necessitates a shift in mindsets regarding perceived gender stereotypes. Men should have equal opportunities for caregiving, as failing to acknowledge the role of men in caregiving places the bulk of responsibility on mothers, potentially hindering their professional development despite their career dedication.

Emphasizing policies solely aimed at women without addressing corresponding changes in men's behavior and policies sustains out dated beliefs and stereotypes, ultimately impeding the effectiveness of these policies and equality in both society and the workplace.²²

Paternity leave also has significant socio-psychological implications for strengthening familial bonds between fathers and new borns, solidifying the father's role in child-rearing, and

²¹ International Labour Organisation, ILOSTAT database, Labour Force Participation Rate, females, India, available

²²<https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS?end=2019&locations=IN&start=1990&view=chart> (last visited on March 31, 2024).

addressing gender equality within the family unit.

According to a survey conducted by Unilever in collaboration with Promundo, an organization promoting gender equality, over 65 percent of surveyed women stated that mothers would experience improved physical fitness if fathers took a minimum of two weeks of paternity leave, with over 72 percent noting better psychological well-being as a direct result.

Beyond personal benefits, paternal leave has been associated with economic advantages as well. For instance, in Sweden, each time a father takes advantage of parental leave provided by domestic policies, the mother's earnings increase by 6.7 percent for each additional month of leave taken.

The Proposition of the Paternity Benefit Bill of 2017

Following the amendments made to the Maternity Benefit Act in 2017, Member of Parliament Rajeev Satay from Maharashtra proposed the Paternity Benefit Bill, emphasizing the advantages it would offer to fathers of newborn infants. The bill advocated for a paternity leave period of fifteen days, extendable up to three months, for all workers, regardless of whether they were employed in organized or unorganized sectors.

A distinguishing feature of the proposed bill was its emphasis on the equal benefits that paternity leave would provide to both fathers and mothers. Mr. Satay underscored the joint responsibility of parents in childcare, stating, "Childcare is the joint responsibility of both parents. They must devote time to the newborn to ensure its proper well-being²³."

However, despite Mr. Satay's advocacy for the merits of the proposed bill, it did not progress into law. Its enactment would have heralded a new era of supportive husbands and caring fathers, benefiting all men in the workforce. It could have brought about a much-needed shift in the prevailing norms, where women predominantly take maternity leave, potentially diminishing their significance as vital members of the workforce and exacerbating gender inequalities both at work and within the home.

While it is acknowledged that the proposed bill may not have entirely eradicated all gender

²³ The Paternity Benefit Bill, 2017 (Bill 90 of 2017), available at: <http://164.100.47.4/billstexts/lbilltexts/asintroduced/678LS%20AS.pdf> (last visited on March 30, 2024)

disparities, it nonetheless could have played a pivotal role in challenging gender stereotypes.

Pertinently, researcher Erin Rehel was quoted, in the Maternity and Paternity at Work Report, 2014 conducted under the aegis of the International Labour Organisation, to have described the role of the father as follows:

By drawing fathers into the daily realities of childcare, free of workplace constraints, extended time off provides the space necessary for fathers to develop the parenting skills and sense of responsibility that then allows them to be active co-parents rather than helpers to their female partners.

It is important to note that the concept of paternity leave is not completely absent in India.

Paternity leave policies in other countries

1. Sweden: Sweden is known for its generous parental leave policies. Swedish fathers are entitled to 90 days of paid paternity leave, which they can take at any time until the child turns eight years old. This leave is paid at a rate of 80% of the father's salary.
2. Norway: In Norway, fathers are entitled to 15 weeks of paid paternity leave, which can be taken at any time during the child's first three years. This leave is paid at 100% of the father's salary up to a certain cap.
3. Iceland: Iceland offers 13 weeks of paid paternity leave to fathers, which they can take during the child's first 18 months. This leave is paid at 80% of the father's salary.
4. Canada: In Canada, fathers are entitled to up to 5 weeks of paternity leave, which can be taken within the first year of the child's birth or adoption. This leave is paid at a rate of 55% of the father's salary, up to a certain maximum.
5. United Kingdom: In the UK, fathers are entitled to up to 2 weeks of paid paternity leave, which must be taken within the first 56 days after the child is born. This leave is paid at a rate of 90% of the father's average weekly earnings or £151.20 per week, whichever is lower.
6. United States: The United States does not have a federal paid paternity leave policy, although some states and companies offer paternity leave benefits. The Family and Medical Leave Act

(FMLA) provides eligible fathers with up to 12 weeks of unpaid leave for the birth or adoption of a child.

The Constitutional (Amendment) Bill, 2020

Another crucial factor to consider is the specific relevance of maternity benefits in a society where there is a current emphasis on family planning and a trend towards smaller families. Highlighting this, on February 7, 2020, a Private Member's Bill was presented by Shiv Sena's Rajya Sabha MP Anil Desai in the Rajya Sabha. Titled The Constitution Amendment Bill, 2020, the proposal aims to introduce an addition in Part IV of the Constitution, mandating the State to promote smaller families. The provision intended to be inserted as Article 47A is as follows:²⁴

The State shall promote small family norms by offering incentives in taxes, employment, education, etc. to its people who keep their family limited to two children and shall withdraw every concession from and deprive such incentives to those not adhering to small family norm, to keep the growing population under control

Additionally, it suggests discouraging individuals from having more than two children by revoking tax concessions, imposing heavy taxes, and implementing punitive measures for violations.

Such a provision would notably violate Article 16(1)(e) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which mandates State Parties to ensure equal rights for both men and women to determine the number and spacing of their children and to access information, education, and resources to exercise these rights.

It is evident to this researcher that such an addition would not only encroach upon the fundamental right to liberty guaranteed to every individual under Article 21 of the Constitution of India, but also the fundamental right to privacy enshrined in the same article. Such a provision would be antiquated, narrow, and arbitrary.

Therefore, if this provision were to be incorporated into the Constitution, it would become imperative for the state to retract tax concessions, impose hefty taxes, and establish other

²⁴ The Constitutional (Amendment) Bill, 2020, proposed art. 47A

punitive measures for non-compliance with family planning directives. While it remains uncertain whether this provision would impact the provisions of the Maternity Benefit Act, 1961, this researcher proposes that the legislature may be compelled to amend related laws, including the Maternity Benefit Act, by discontinuing benefits to women employees who have already borne two children, effectively limiting benefits to those having their first or second child.²⁵

Currently, the Bill has only been introduced in the Rajya Sabha and awaits debate and voting. This prompts the question of whether restricting maternity benefits to two deliveries would influence childbirth rates. The answer to this query would hinge on various factors, including the actual benefit amount provided to female employees and the deterrent effect resulting from the benefit limitation. It is the contention of this researcher that such a deterrent may not necessarily reduce childbirth rates, but it would undoubtedly compromise the health of working mothers and their infants, consequently negatively impacting the broader community.

Thus, it seems that such a family planning policy raises more questions than it can answer. It brings to the forefront the unmistakable contradiction between apparent population check and the need to have a workforce with healthy female workers and able-bodied citizens of tomorrow. However, this isn't the only ambiguity that persists around the maternity benefit law. Another equally important question pertains to the payment of maternity benefit.

Suggestion

1. **Extended Maternity Leave:** Extend the duration of maternity leave beyond the current provisions to provide women with more time to recover from childbirth, bond with their newborns, and adjust to their new roles as mothers. This extended leave can contribute to greater gender equality by reducing the pressure on women to return to work prematurely and allowing them to fully engage in their caregiving responsibilities.

2. **Paid Paternity Leave:** Introduce or expand paid paternity leave policies to encourage men to take an active role in childcare and household responsibilities. Paid paternity leave not only

²⁵ The Convention on Elimination of All Forms of Discrimination Against Women (popularly known as CEDAW) was adopted on December 18, 1979 and came into force on September 3, 1981. India ratified the Convention only in 1993.

supports fathers in bonding with their newborns but also helps to reduce the burden on women, promoting a more equitable distribution of caregiving duties within families.

3. Flexible Work Arrangements: Implement flexible work arrangements, such as telecommuting, flexible hours, and part-time options, to accommodate the needs of working parents. Flexible work arrangements enable women to balance their professional and caregiving responsibilities more effectively, thereby promoting gender equality in the workforce.

4. Subsidized Childcare Facilities; Provide subsidized childcare facilities or childcare vouchers to support working parents in accessing affordable and high-quality childcare services. Accessible childcare options can alleviate the financial burden on families and enable women to remain in or re-enter the workforce, contributing to greater gender parity in employment.

5. Equal Pay and Career Advancement Opportunities: Ensure equal pay for equal work and create pathways for career advancement for women in the workforce. Addressing gender-based pay disparities and promoting gender-neutral hiring and promotion practices can contribute to greater economic empowerment and equality for women.

6. Education and Awareness Programs: Implement education and awareness programs to challenge gender stereotypes, raise awareness about the benefits of gender equality in the workplace, and promote inclusive workplace cultures. By fostering greater understanding and appreciation of gender diversity, organizations can create more supportive environments for women and encourage their full participation in the workforce.

Re-thinking of constitutional amendment bill 2020 and providing benefits to the company providing proper maternity and paternity leaves!

Conclusion

In conclusion, the "**exploring the promotion of gender equality through enhanced maternity benefits in the workforce**" sheds light on the critical role of maternity benefits in advancing gender equality in the workplace. The article emphasizes the importance of redefining equality with a supportive lens to empower women economically and address

gender disparities effectively.

Undoubtedly, the country has made significant strides from its initial stance, which relegated women to roles primarily as homemakers and housewives, denying them quality education. In the present era, women enjoy a much more liberal position in society and greater economic independence compared to their predecessors. Encouraged by shifting mindsets and government support, many women are pursuing higher education, aiming higher, and achieving more.

With enhanced skill sets, women are better positioned to aspire to higher positions, both economically and socially, thereby increasing their employability. This broadening of horizons has spurred economic growth and prompted a reevaluation of notions of equality. There is now a critical examination of whether enough has been done to empower women, ensuring that gender-based biases do not impede their success in the labor market.

While it may seem that attitudes towards equality have evolved and there is greater encouragement for women to enter the workforce, the country still has a considerable distance to cover. It must challenge and change employers' perceptions that hiring female workers is a hindrance or burden to business and industry. There is a pressing need to foster environments where women can thrive professionally without facing gender-based obstacles or discrimination.

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