



Showcasing Imaginative Legislation

Here are some selected examples to show how countries are dealing imaginatively through legislation with various contentious aspects of maternity protection at the workplace.

In each country example, the focus is on one or several aspects of maternity protection at work. It is interesting to see how advocacy has served to bring about improvements in legislation and ratification.

1. Maternity protection for domestic workers: Sudan

As a group, domestic workers systematically get left out of maternity protection laws. The Sudanese Association for Breastfeeding Action (SABA) is working for a revision of the Domestic Servants Act of 1955. Together with women's organisations and other stakeholders, SABA is advocating for the provision of at least eight weeks of paid maternity leave for house servants.

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2. Extending maternity leave: Bangladesh

The Bangladesh Breastfeeding Foundation (BBF) has been working as a national agency to protect, promote and support breastfeeding since 1989. One of its seven sub-committees, the Working Women sub-committee, worked towards enabling working mothers to breastfeed by establishing crèches, or by obtaining breastfeeding breaks and permission for mothers to take their children to the workplace, and extending maternity leave from three months to four months.

The *Dhaka Declaration on Breastfeeding*, adopted in 1991, stated that all government policies and programmes would be formulated to empower women

and ensure their access to resources in order to achieve optimal health for themselves and allow them to sustain breastfeeding.

In February 1997, an application on maternity protection at work was sent to the Secretary of the Ministry of Women and Children Affairs. After a year of negotiations another application was forwarded, proposing the extension of maternity leave. In March 1999, BBF raised the issue of extending maternity leave through a letter to the Prime Minister.

From 1997 to 2001, BBF helped to publish newspaper articles on maternity protection at work. This created awareness among the public regarding the importance of extending maternity leave for working women. BBF also advocated at the Women's Council and helped to organise electronic media discussions on the subject. Moreover, BBF took an active part in the ILO Maternity Protection Campaign in 2000 by organising seminars for women in employment.

BBF also lobbied at the ministries regularly. The issue had to reach approval by the Prime Minister's office and the Ministries of Women and Children Affairs, Establishment, and Finance.

Lobbying with the Ministry of Women and Children Affairs took eighteen months in the first phase. At the beginning, BBF officials visited the Ministry every week; after two months, the visits had become daily routine, but very little progress was made.

Changing tactics, BBF decided to lobby the Prime Minister. After six months, he forwarded the proposal to the Ministry of Women and Children Affairs. This time it took two months to send the proposal on to the Ministry of Establishment with a favourable note.

BBF lobbied the Ministry of Establishment twice a week for one month, until the Ministry forwarded the proposal to the Ministry of Finance - again with a favourable note. The same lobbying process then took place at the Ministry of Finance almost every day for two months, and then once a week for nineteen long months.

Finally, on the 9th of July 2001, the Government of Bangladesh approved the new legislation issuing the “*Government Order on maternity leave for four months*”. In addition to being entitled to a longer leave, mothers can now take their leave flexibly, before and after delivery, or only after delivery.

This is a fine example of how persistent lobbying helped in extending maternity leave. Due to BBF's advocacy work in raising awareness in the health sector, women's health issues which were neglected before, now receive higher priority.

For more information contact: Bangladesh Breastfeeding Foundation (BBF) at email: info@bbf-bd.org

3. Financing benefits: Australia

A Sydney-based newspaper dated 1 July 2002 reported: A government-subsidised paid maternity leave scheme is being considered in Australia “but it won't extend to wealthy families”, the Minister for Family and Community Services, Amanda Vanstone, said in June, 2002.

The approved scheme would also be designed to ensure that small businesses would not bear any financial burden. However, some cabinet ministers are opposed to a paid maternity leave scheme of any kind.

The Prime Minister of Australia, John Howard, said that he supported the “concept” of paid maternity leave, which only 38% of working women receive currently, either through workplace agreements or through industrial awards. In Australia, all women are entitled to one year of *unpaid* maternity leave.

Senator Vanstone told Channel 9 she was anxious to ensure that any government assistance “didn't end up being a payment basically to people who are extremely well-off”.

Those sentiments go against the proposals from the Sex Discrimination Commissioner, Pru Goward, who has proposed 12 weeks' paid maternity leave to be financed by a combination of government, business and employees, at a cost of \$AUS 300 million a year.

Adapted from a story by Tom Allard and Ellen Connolly, *The Sydney Morning Herald*, Australia, July 1, 2002.

4. Financing benefits: Zimbabwe

In 2001, Zimbabwe was considering ratifying ILO Convention 183 as soon as a financing mechanism for maternity benefits could be put in place.

In 2001, the National Social Security Authority (NSSA) of Zimbabwe was asked to come up with a proposal for a Maternity Benefits Scheme to form part of the overall Social Security, along the principles of social insurance under the “Pensions and Other Benefits Scheme”.

Under Social Insurance, the “Maternity Benefits Scheme”, a short-term cash benefit, would be paid to a woman whilst on maternity leave as an income replacement during that period of leave. Every member of the “Pensions and Other Benefits Scheme” would automatically contribute to the Maternity Benefit Scheme for the benefit of childbearing women who were members of the scheme. Employers would also contribute to this scheme.

A woman would qualify for the “Maternity Benefits Scheme” after a contributory period of one year. She would receive benefits for a subsequent pregnancy after at least two further years of contribution. These conditions were the same as those of the *Labour Relations Act*.

The NSSA had proposed that a woman be paid the full amount of her previous earnings. This proposal was under consultation by stakeholders. Although the timetable for consultation had gone beyond the planned deadline, it was important that sufficient time be given to this process, as it is critical to the ratification of the ILO Convention.

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5. Non-discrimination and employment protection: Sweden

Non-discrimination and employment protection are covered by various regulations and legislation in Sweden today, such as, *Equal Opportunities Act, Parental Leave Legislation, Employment Protection Legislation, EU Maternity Protection Directive (92/85), EU Supreme Court Praxis, a Proposed Amendment to the EU Equal Rights Directive (76/207)*.

In spite of this quite comprehensive legal protection, discrimination of women in employment is not uncommon in Sweden today. Recent reports from trade union surveys indicate that one third of women are asked during the job interview about their plans for having children. The number of reported cases of gender discrimination in employment has also increased dramatically over the past few years.

To counteract this alarming trend, the Swedish Equal Opportunities Ombudsman has recently started a campaign called “*Children and Work: 9 Months*” which aims to:

- inform the public of their relevant rights and regulations;
- inform and actively influence employers, trade unions and political decision makers to stop discrimination in respect to pregnancy;
- change attitudes so that pregnancy and childbirth are considered to be normal life processes rather than work-related problems.

The second phase of the campaign will cover the problems related to the period after the child is born. This phase will be called “*Children and Work: Parenthood*.” Furthermore the Equal Opportunities Ombudsman is proposing that the gender equity legislation (or the parental leave legislation) be expanded to include a direct prohibition of discrimination, not only on the basis of sex, ethnicity and sexual preference, as is the case now, but also on the basis of parenthood.

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6. Breastfeeding breaks: Belgium

Belgium's maternity protection law came into force in July 2002. It specifies in great detail a breastfeeding woman's rights in the workplace, with seven chapters and eleven articles solely on breastfeeding breaks. Since trade unionists in many European countries report that breastfeeding breaks are a barrier to ratification of ILO C183, the Belgian model may point toward a solution. However, some details of the Belgian law, for instance the monthly medical certificate and the limitation of breastfeeding breaks to the first seven months after birth, would be too restrictive for countries where breaks are already well-accepted features of maternity protection at work.

The new Belgian Labour Collective Agreement # 80 gives women working under contract in the private and the public sector the right to breastfeed or to express their milk during work hours. Breastfeeding breaks are paid by the national health insurance at the same rate as maternity leave (82% of salary). They are considered work time, meaning that employees do not lose their rights to seniority, advancement, etc. The worker is entitled to breastfeed and/or to express her milk in specific premises set up by the employer. The premises have to be private, well ventilated, well lit, clean, appropriately heated, and equipped for the mother to lie down to rest. They are generally located

in or very close to the undertaking, but in certain circumstances, they can be in the employer's home. In shopping centres, the premises can be shared by the employees of several employers.

The period of each breastfeeding break is 30 minutes. Employees are entitled to a 30-minute break for a period of at least four hours of work; and to two periods of 30 minutes each or one period of 60 minutes after at least seven and one half hours of work. Employees, together with the employer, can decide when to take these breaks. Workers are allowed to take breastfeeding breaks for a total of seven months from the time of the infant's birth (this period can be extended in exceptional circumstances). Employees

must inform their employer of their intention to take the breaks and must prove by means of a monthly medical certificate that they are still breastfeeding. From the time the employee announces her intention to take the breaks till one month after she is no longer entitled to them, she cannot be dismissed for reasons linked either to her health or to the fact that she is breastfeeding.

For more information, the full text, in French and in Flemish, is on <http://194.7.188.126/justice/index_fr.htm> (in French: Sources de droit/Moniteur Belge/français/nouvelle recherche/pause d'allaitement in mots du texte/liste/ and click on 2002012072).

NOTES

The MPC Kit was produced in 2003 by the Maternity Protection Coalition (MPC), comprising the International Baby Food Action Network (IBFAN), the International Lactation Consultant Association (ILCA), the LINKAGES Project and the World Alliance for Breastfeeding Action (WABA), with technical assistance from International Maternal & Child Health, Uppsala University, Sweden (IMCH) and the United Nations Children's Fund (UNICEF). The second edition, produced in 2008, includes two new MPC members: La Leche League International (LLLI) and Academy for Educational Development (AED). LINKAGES, a former project of AED, is no longer an MPC member. The MPC supports women's rights to breastfeed and work, by advocating for implementation and monitoring of improved maternity protection entitlement.

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