

with discrimination matters. In addition, a reliable, accessible and efficient judicial system as well as adequately staffed, trained and efficient labour inspection services are essential. While sanctions and remedies (such as compensation and reinstatement) are one way of deterring discrimination, another method is placing the burden of proof on the employer that a dismissal is not based on maternity. Time-bound programmes or national action plans are other typical measures envisaged by ILO maternity protection standards. Periodic review of anti-discrimination frameworks, enhanced guidance to both employers and workers on how to comply, as well as collection and publication of data on maternity-based discrimination will increase accountability and public awareness of this issue.

Designing maternity protection and work–family policies as a means of achieving effective gender equality

The design and mix of work–family policies have enormous gender-transformative potential when they make the achievement of effective gender equality at work and in the household an explicit objective, in line with the ILO Workers with Family Responsibilities Convention, 1981 (No. 156). The level of public spending on work–family issues also matters, including during economic downturns, since these measures act as social stabilizers, create jobs in the social care sector and promote women’s opportunities to access quality work. Work–family policies should be directed at both women and men and should promote their access to, permanence and progress in quality jobs. Job-protected maternity leave increases women’s labour force participation. However, the impact of leave policies should be measured taking into account the persistent implementation gap, which has severe consequences for women’s and children’s health and women’s employment situation. The duration of leave measures, the gap between women’s and men’s family-related leave entitlements and the level of income replacement are important factors. When leave is too short, mothers might not feel ready to return to work and thus drop out of the workforce. However, very long leave periods, especially with low pay and no job protection may also damage women’s attachment to and advancement in paid work, resulting in wage penalties. Availability of affordable,

quality and worker-sensitive childcare services, family-friendly working arrangements when leave periods expire, as well as training and reintegration programmes after care-related breaks, should also be part of the continuum of support measures.

Addressing maternity, paternity and care as collective responsibilities

When employers are statutorily mandated to shoulder the full direct cost of work–family reconciliation measures, for instance by financing wage replacement during maternity and paternity leave (employer liability) or workplace childcare facilities, this may create disincentives to hire women and workers with family responsibilities. The principle of solidarity and risk pooling through social insurance or public funds in financing leave benefits is essential to promote non-discrimination at work, preventing employers from bearing the entire direct cost of society’s reproduction and well-being. There are links between effective and accessible maternity protection and work–family measures and positive enterprise level outcomes (“business case”). For instance, breastfeeding support at work provides one element of maternity protection which can be a “win-win scenario” for both employers and employees, providing a free or low-cost measure which can result in considerable positive firm-level and societal outcomes, as well as extensive savings to health care systems. However, while workplace childcare services can supplement state-funded or subsidized childcare services, they cannot substitute for such services. Effective regulation which protects maternity and family responsibilities at minimal or no cost to employers, in combination with public support measures and incentives, especially targeting small and medium-sized enterprises, to manage any potential costs are fundamental conditions for the achievement of positive outcomes. In addition to the provision of financial help to small firms, other incentives and support could include targeted information and awareness-raising about good workplace practices and productivity benefits, as well as services providing practical advice to employers dealing with specific issues. More research in both high- and low-income countries is needed to build the business case, evaluate the outcomes of these policies and identify change strategies.