

CONSULTATION REPORT ON “REVIEW OF CHILD CARE LEAVE FOR CENTRAL GOVERNMENT EMPLOYEES”



NATIONAL COMMISSION FOR WOMEN,
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Chapter I

INTRODUCTION

Maternity is known to be both a challenging and joyful condition for majority of women. Governments worldwide commonly support young mothers by providing them with paid vacations, or maternity leave from work. Fathers would also like to have free time to dedicate to their families and especially children. According to data gathered after studies conducted in Australia, Great Britain, United States and Denmark fathers who choose to take paternity leave from work immediately after a child is born tend to engage into child rearing activities more regularly.



Hon'ble Chairperson Ms. Lalitha Kumaramangalam, Member-Secretary Dr. Satbir Kaur Bedi, Joint secretary Ms. Vandana Gupta with various participants and stakeholders

Convention on Elimination of all forms of Discrimination against Women (CEDAW) adopted by the United Nations General Assembly in 1979 is often described as an international bill of rights for women. **Article 5** of the Convention requires States parties to take “all appropriate measures” to eliminate practices that “are based on the idea of the inferiority or the superiority of either of the sexes or on stereotype roles for men and women” and also to “ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children”. Also, **Art.11 (2)** defines men and women must share domestic and child rearing responsibilities.



Hon'ble Chairperson Ms. Lalitha Kumaramangalam, Member-Secretary Dr. Satbir Kaur Bedi, Joint Secretary Ms. Vandana Gupta, Dr. Ranjana Kumari Centre for Social Research and Ms. Vendita Kaul, DDG, Training and Corporate Planning, Department of Posts, New Delhi with other participants.

Chapter II

OVERVIEW

In India, consequent upon the recommendation of Sixth Pay Commission regarding enhancement of maternity benefit and introduction of Child Care Leave (CCL) in respect of Central Government employees the Department of Personnel and Training (DOPT) issued an order on 11.09.2008 giving a total leave of two years i.e. 730 days to women employees for taking care of upto two children whether for rearing or looking after any of their needs like examination, sickness etc.

The National Commission for Women as per its mandate of reviewing legal safeguards for women organized a consultation on 3rd March 2017 chaired by Ms. Lalitha Kumaramangalam, Hon'ble Chairperson NCW to deliberate on adopting a gender neutral approach with regard to 'Child Care Leave' based on the premise that it should be extended to both parents with either of them taking leave to share child care responsibilities.

The consultation was participated by representatives from various Ministries-DoPT, Cabinet Secretariat, Ministry of Finance, Law and Justice, CAG, Health and Family Welfare, Railways, Telecommunication, legal experts and civil society organizations.

Chapter III

DISCUSSION

The following aspects were deliberated upon with regard to initiating and drawing conclusions on the subject:-

- ✚ Whether child care is responsibility of both parents?
- ✚ Whether or not CCL be made available to male employees?
- ✚ If yes, defining strategies for the same-duration of CCL to each parent;
- ✚ Should CCL be made available to males in addition to females or the existing framework be applied equally to both parents?

The discussion began with the Hon'ble Chairperson NCW addressing the participants on the issue wherein she dwelled upon the traditional gender roles and how even today the idea of gender equity provisions are a backlash in the Indian social milieu. On talking about the Child Care Leave she drew a comparison with the Norwegian countries wherein such leave is non-transferable amongst the couple.

She further cited examples as to how the stereotyped role of women as “care givers” and men as “providers” give rise to subordinate position for women in the labor market and create strong incentives for them to reduce their employment and take on a large majority of child care roles. In fact many organizations are biased in hiring women of reproductive age. Talking of ICICI Bank she narrated how it has a friendly policies for working mothers such as arranging a care taker whenever a

female employee goes on tour etc. and that such measures worked on the rational that it might be taxing on the short term but good for the productivity of its women employees hence beneficial for the organization in the long run.



The Consultation in session

She further went on to stress the equal division of work between men and women by fostering paternal involvement in childcare. In the end she invited the views of participants on board not just on Child Care Leave but also requested them to share the status of the implementation of the Maternity Benefit Act and Sexual Harassment at Workplace Act within their respective departments.

- ✚ There was a unanimous consensus amongst the participants on extending it to male employees as well and to recognise child care not as a burden but as a privilege.
- ✚ Similar provision may be provided for informal sectors too.

✚ Another important aspect which emerged during the deliberation was not limiting it to 'Child Care' but making it into a more comprehensive policy termed as 'Family Care Leave'. As CCL is a western concept Indian society still being dominated with joint family setup a family care leave would be more viable. While according to few participants once reaching adolescent their children were quite independent and not very keen on their parents taking leave to care for them. However though the contention of a comprehensive family care leave was a good idea but the participants decided to keep the two separate as it would defeat the purpose of each.

✚ The participants debated upon the declining participation of women in the labour force.

✚ According to representatives from the DOPT percentage of women employees in Central Government increased from 7-12% after the introduction of CCL-

✚ One the view is that male employees may avail less CCL, representative from DoPT cited the model of leave encashment for Leave Travel Concession (LTC) to motivate employees.

✚ If crèche facilities are made available at the workplace, women employees may take less leave.

Chapter IV

RECOMMENDATIONS

The discussion concluded with the following key recommendations:-

1. Child Care Leave may be applicable to both male and female employees equally.
2. The existing framework of 2 years i.e. 730 days of leave be shared between the parents
3. The entitlement should be uniformly extended to private as well formal/informal sectors / organized/ unorganized sectors of employment
4. Creche facilities to be made available at the workplace
5. Leave for a stipulated time period be made mandatory for male employees

Background Note on Review of Child Care Leave

The Constitution of India guarantees gender equality. These are contemplated in specific articles of the constitution. Article 14 of the Constitution says that the government shall not deny to any person equality before law or the equal protection of the laws. Article 15 declares that the government shall not discriminate against any citizen on the ground of sex/ gender. **Article 15 (3) enables the making of special provisions for affirmative action** and Article 16 guarantees that no citizen shall be discriminated against in matters of public employment on the grounds of sex. Under the Article 42 of the Constitution of India directs the State to make provisions for maternity relief besides securing just and humane conditions of work for women. The Maternity Benefit Act, 1961 is the prime legislative enactment in this regard. The Hon'ble Supreme Court in the *Municipal Corporation versus Female Workers (Muster Roll)*, 2000 LLR 449 examined the case and the provisions of the Maternity Benefit Act in the context of the Preamble, Fundamental Rights and Directive Principles of the Constitution, as well as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The Court observed that the Preamble promises social and economic justice. It noted that Article 14 provides that the state shall not deny any person equality before law or the equal protection of laws within the territory of India. Article 15, while prohibiting discrimination on grounds of religion, race, caste and sex, permits the state to make special provisions for women and children.

The declining sex ratio, social stereotyping and violence against women in domestic and societal level are some of the manifestations of gender disparity, which are obstacles in attaining full development of women. The underlying causes of gender inequality are related to social and economic structures that are based on the social norms and practices.

Child Care Leave

Present Position:

Consequent upon the recommendation of Sixth Pay Commission regarding enhancement of maternity benefit and introduction of Child Care Leave (CCL) in respect of Central Government employees issued an order on 11.09.2008 by the Department of Personnel and Training (DOPT).

The rule issued by DOPT says a woman government servant, having minor children below the age of 18 may be granted leave for a maximum period of two years (730 days) during the entire service for taking care upto two children whether for rearing or to look after any of their needs like examination, sickness etc and who has no earned leave to her credit, may be granted child care leave for maximum two years during the entire service period for taking care of up to two children. Child Care Leave shall not be admissible if the child is eighteen years of age or older.

Convention on Elimination of all forms of Discrimination against Women (CEDAW) Article 5

CEDAW's Article 5 (a) requires States Parties to take "all appropriate measures" to "modify the social and cultural patterns of conduct of men and women" in an effort to eliminate practices that "are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

It would be pertinent to mention that bringing up a child is the responsibility of both the parents. As per the present policy of the government only woman government employee having minor children below the age two years can avail the child care leave. The policy though progressive could in fact perpetuates gender stereotypes. Granting CCL only to women employees up holds the stereotype role

that it is only women who are the care givers and responsible for caring and nurturing and bringing up the child.

The leave would only burden women more with child care, imposing the stereotypical role of childcare/ babysitting to women.

A more gender neutral approach is required and CCL should be extended to both parents with either of them taking the leave to share childcare responsibilities.

It is therefore proposed that the Child Care leave may be amended to enable man also avail the leave by terming that:

“it may be availed by either of the spouse’ subject to the condition that at no point of time both the parents may avail the leave for the same reason. Such a policy will encourage women to impress upon their partners to share equal responsibility for child care/rearing. Such an approach would ultimately benefit the children from active involvement of both parents without preset gender roles in mind”.

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LIST OF PARTICIPANTS

I. National Commission for Women

- 1) Smt. Lalitha Kumaramangalam, Hon'ble Chairperson
- 2) Dr. Satbir Bedi, Member Secretary
- 3) Ms. Vandana Gupta, Joint Secretary
- 4) Shri V.V. B. Raju, Deputy Secretary
- 5) Ms. Lilabati, Sr. Coordinator
- 6) Shri Vikas Vinod Bhale, Coordinator
- 7) Shri Atul Sinha, Sr. Programmer
- 8) Ms. Sukham Giran, JTE
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II.

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1	Ms. Aarti Chopra	Department of Legal Affairs , New Delhi
2	Ms. Vendita kaul	DDG, Training and Corporate Planning , Department of Posts, New Delhi.
3	Ms. Prem Lata Kaushik	Under Secretary, Department of Justice, Ministry of Law, New Delhi
4	Ms. Rina Akoijam	Comptroller and Auditor General of India.
5	Shri Sandeep Jain	Chief Welfare Officer, DOPT, New Delhi.
6	Shri Mukul Ratra	DOPT, New Delhi
7	Shri Sunil Kumar	DOPT, New Delhi
8	Ms. Swati Kant	DOPT, New Delhi
9	Dr. Dimple	CWDS, New Delhi
10	Shri Dhruv Singh	Ministry of Railways
11	Ms. Anita Tripathi	Deputy Secretary , Ministry of Labour and Empowerment
12	Shri . Suchindra Misra	JS/DFS , Jeevan Deep Building, New Delhi.
13	Ms. Padmavathi Viswanathan	DDG, NIC
14	Ms. Sangeeta Goel	Addl. DG, Doordarshan. New Delhi
15	Ms. Rabindara Prasad	Director , Min. Of Health , New Delhi
16	A. Bhattacharjee	Deputy Secretary, Cabinet Secretariat, New Delhi
17	Ms. Sakshi Verma	Section Officer, Cabinet Secretariat, New Delhi
18	W.A. Everest	Under Secretary, Cabinet Secretariat, New Delhi.
19	Ms. Jyotika Kalra	Advocate, Supreme Court, New Delhi
20	Ma. Aprajita Sharma	Director, Sanchar Bhawan, New Delhi

21	Dr. B.V. Vijayalakshmi	National Federation of Indian Women (NFIW), New Delhi.
22	Dr. Roninika Ray	NFIW , New Delhi.
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25	Ms. Aparna Bhatt	Advocate , Supreme Court. New Delhi.
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