

RGICS Issue Brief

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The Impact of Increase in Maternity Leave on Working Women

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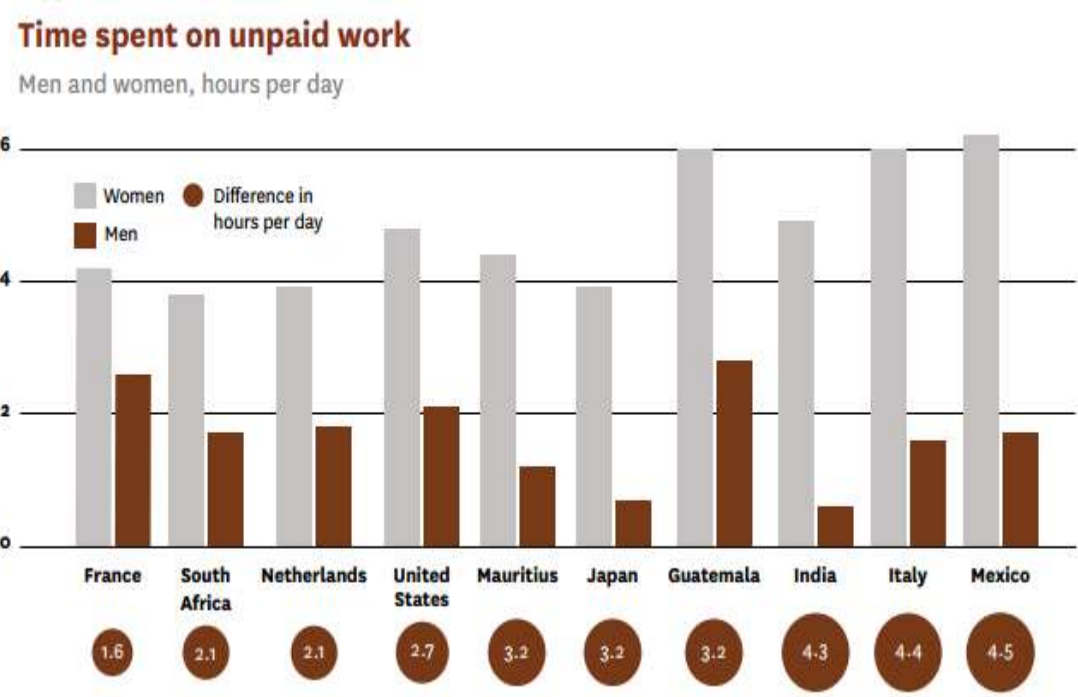
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India has been receiving a lot of flak for the dismal percentage of participation of females in the labour force. The Gender Inequality Index (Human Development Report 2015) ranks India at 130 among a total of 155 countries, which is at a considerably lower end of the table. This index takes into consideration three vital parameters- reproductive health, economic activity, empowerment- and India has fared poorly in all three sections. India's rank is telling of how much disparity there is between the two genders in the country when it comes to their employment.

This gender disparity in India continues to prevail at a time when the views of so many other countries have moved far beyond it. The globally appreciated retort of Canadian Prime Minister Justin Trudeau- "Because it is 2015", in reply to a reporter's question asking why it was important to him to have a gender balanced cabinet, is an excellent example of how succinctly powerful the idea of gender parity is starting to become in the world.

India's GDP crossed the \$2 trillion mark in 2014 and it is the fastest growing major economy at 7.4 percent (Raghavan 2015) and yet these benefits have not reached the female labour force. They still continue their struggle to be part of the work force. This is evident from the female workforce participation rate which has plummeted from 35 percent in 1990 to 27 percent in 2012 (Global Employment Trends 2012). Women still spend a large amount of their time in undertaking unpaid work which involves household duties and care giving.

A recent report (The Power of Parity: Advancing Women's Equality in India 2015) has concluded that India could add 2.9 trillion dollars to its GDP in 2025 if it improves the gender parity at the workplace. With these statistics and the concerns felt by women desirous of getting involved in profitable work, all eyes are set on the present government (that proudly claims to have women Cabinet ministers hold important portfolios) waiting to see what plans they have to improve the same. As a consequence of which not only will women be welcomed to gainful employment but also the country will economically prosper.



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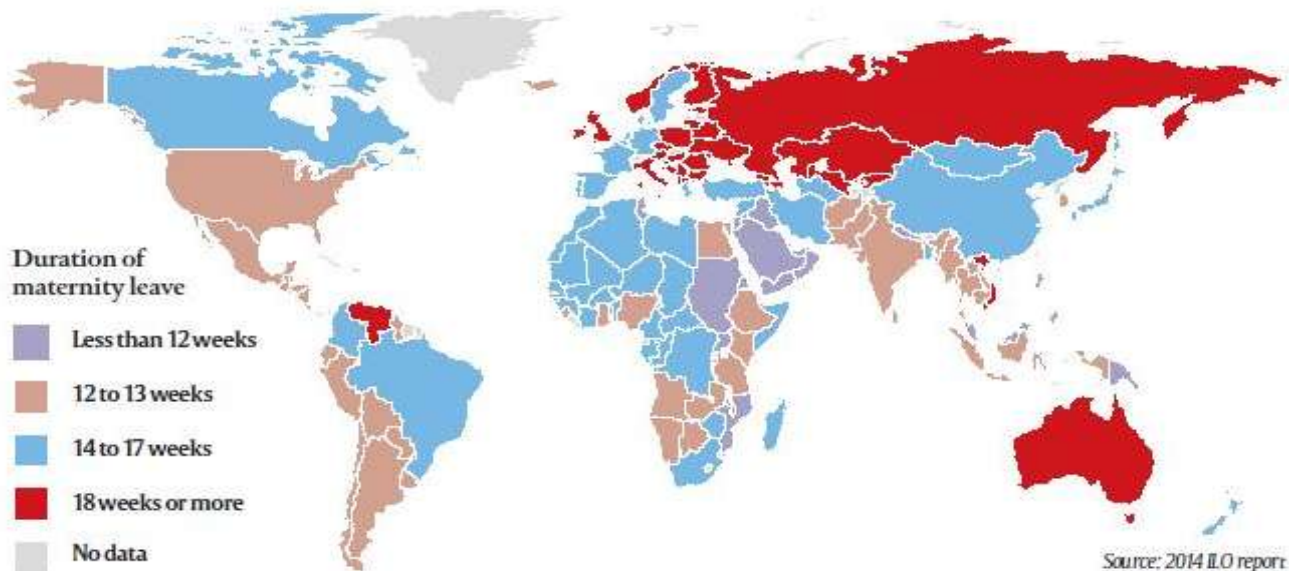
The graph represents the gross inequality between the amount of unpaid work done by men and women, especially in India. (State of the World's Fathers 2015)¹

The Ministry of Women and Child Development (MoWCD) has recently introduced a number of possible policy changes directed towards working women. The following few paragraphs will analyse one such policy change which also is largely debated- the increase in the period of maternity leave for women.

- Increasing the duration of maternity leave

Proposed amendments by the MoWCD to the Maternity Benefits Act, 1961 attempt to increase the maternity leave period from 12 to 26 weeks in the government sector and further to provide for a maternity leave period of 26 weeks in the private sector as well. It has been reported that that the MoWCD officials are keen on increasing this to 32 weeks in private as well as the government sector (Nair 2015).

The international standard of minimum maternity leave set by ILO is 14 weeks, although states are encouraged to go well beyond this duration. As can be seen from the image below, a large number of countries have adopted the period of 14 weeks for maternity leave. It is heartening to see that the present government has shown keen interest in increasing the duration of maternity leave.



The map represents the duration of maternity leave across the world with a large number of them adhering to less than 17 weeks.²

A longer maternity leave is a progressive measure and is adopted by a number of western countries like the liberal European nations (Norway has a 100 percent paid maternity leave for 35 weeks); United Kingdom (maternity leave of 52 weeks, with first 39 weeks paid for); Australia (maternity leave of 52 weeks with the first 18 weeks paid for) which also has a provision for paternity leave.

As the government contemplates on amendments that would cause a drastic change in the maternity leave policy, it is important for us to understand what these generous maternity leaves intend to achieve before simply imbibing the policy tools prevalent in the progressive west.

¹ <http://sowf.men-care.org/download/>, June 23, 2015. Accessed on 3.2.2016

² 'Explained: Mothers at Work', The Indian Express, <http://indianexpress.com/article/explained/explained-mothers-at-work/>, December 30, 2015. Accessed on 28.1.2016

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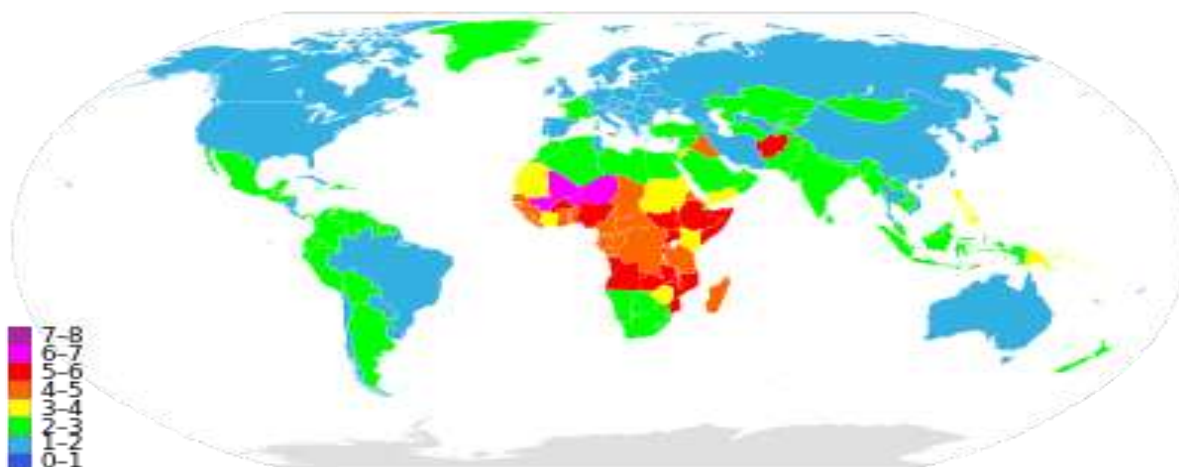
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- Policy tool borrowed from other countries

One factor common among European Nations, United Kingdom and Australia, to name a few countries that provide generous maternity leave periods, is the declining trend in their populations due to low fertility rates. As is seen in the map below the fertility rates in these countries is dismal. On top of which these countries also house an increasingly elderly population. Increasing their populations thus becomes a necessity for them.

An extended maternity leave in addition to it being paid quite naturally becomes an important policy tool in these countries for increasing their populations. To take Europe as a case in point where fertility rate is low (Shorto 2008) an extended maternity leave is considered as an effective policy tool to accommodate career driven women who need not choose between their career and raising a family.

Since India does not suffer from a declining population growth rate or an ageing population, we need to look at- first, why is there a clamour to increase the maternity leave period; second, is increasing the maternity leave period the correct policy tool to attain the intended objective of introducing it in the first place; third, will this policy move prove detrimental to the cause of working women; and fourth, how this policy can be improved to make it an effective tool for bringing about equality of opportunity for both genders in the society.



The map represents the sub-replacement fertility rate across the world. The sub-replacement fertility rate is a total fertility rate (TFR) that (if sustained) leads to each new generation being less populous than the previous one in a given area.³

I. What is the need for a longer maternity leave period?

- Union minister of MoWCD has said that a longer maternity leave is imperative for adequate care of the newborn

Union Minister Maneka Gandhi has justified the increase in the duration of maternity leave as a prerequisite for taking care of the newborn child. The one month leave prior to childbirth is for preparing the mother's body for the "baby's needs which includes taking care of his/her clothes, food and other essentials". And the significance of seven months after child birth is justified by her on the grounds that a child needs to be adequately breast-fed.⁴ Thus the reason for having a longer maternity leave is squarely for improving care of a newborn child.

³ Sub-Replacement Fertility Rate, https://en.wikipedia.org/wiki/Sub-replacement_fertility. Accessed on 28.1.2016

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https://www.facebook.com/ministryWCD/photos/a.477612152383665.1073741828.458995690911978/708973825914162/?type=1&_mref=message_bubble, Accessed on 29.1.2016

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This reasoning is absolutely flawed primarily on the following four grounds. First, it deepens the gender based role differentiation between females as care givers and males as breadwinners. Second, it over assumes the importance of breastfeeding for new born children. Third, it presupposes that a longer maternity leave will definitely result into new mothers engaging in breast feeding their child and further provide sufficient childcare. Fourth, this policy measure aims at the welfare of newborns alone; for which there surely can be other policy measures that do not include a paid leave of six and a half months and the risk of bias against hiring of women by prospective employers.

II. Is this the correct policy tool to attain the intended objective?

- Breast-feeding is not a strong justification for extending the maternity leave period

The entire goal of the extended maternity leave is so that a working woman has time to breast feed the child. Respite to the health of the women during this crucial period is only a fringe benefit.

The entire policy works on the sole assumption that breastfeeding is crucial for having healthy babies and by not according leave to working women for this purpose is taking away possibility of a healthy life from a newborn.

A similar concern was also espoused by the UK government when it introduced cash incentives in the form of shopping vouchers for mothers who would breastfeed their children for six months (Boseley 2014). It was aimed at increasing the rate of breast-feeding by a new mother. The policy measure received heavy criticism. Even though it was accepted that breast milk does help in warding off infections in a newborn, the cost-benefit analysis of indulging in 'breast-feeding advocacy' can be in part termed as superficial. As was explained by doctors as well as researchers- "if six babies are breast-fed exclusively for six months, one of them will not get an ear infection she otherwise would have had. That's about 5,400 hours of breast-feeding to prevent one ear infection. If 26 women breast-feed exclusively for six months, they can collectively prevent one hospitalization for a respiratory tract infection." (Jung 2015)

Also in support of women burdened with the moral responsibility to breast feed is the study (Grose 2014) assessing the health of siblings over the years one of whom is breast fed and the other is not. The outcome of the study was not enough to make breast-feeding a huge social priority that requires encouragement from the state. Having said that by resting the policy measure in question on the over-hyped virtuosity of breast-feeding could have huge ramifications for career driven women which the government has not deeply mulled over.

- A longer maternity leave aimed at childcare is hollow without a sound crèche support for continuance of childcare

If child care is the ultimate goal of this policy move why does it stop when the child turns six months old? Perhaps to address this concern the Labour Ministry has been considering that providing a crèche in the vicinity of establishments with 30 women or 50 employees whichever is less. (FirstPost 2015) The standard of care to be provided by these crèches is subject to inspection by labour inspectors. Their alacrity in doing the same is questionable if their past record is any evidence. The central Labour Commissioner did not have any consolidated record of compliance undertaken within the Factories Act, 1948 by the labour commissioners. Further the implementation of the Maternity Benefit Act itself has been doubtful up till now. It provides that post delivery every woman should be allowed two nursing breaks at work; only a mere 4 per cent female workers received this break. (Nair, Ministry of Labour to mandate creches in offices 2015)

The introduction of this policy without a parallel development of crèches will just be a hypocritical attempt by the present government to portray as if they are deeply concerned about the development of children. Seeing the current condition of crèches the MoWCD will need very strong policy measures to address the concerns if they actually want parents to leave their young children in crèches.

III. Will this policy move prove detrimental to the cause of working women?

- The move will encourage deepening of the patriarchal mindset of traditional gender based roles

It is agreed that childcare is essential. The responsibility for which should be on the parents and not just the child bearer. The extension in maternity leave is not to address the concerns of a woman's health or her inconvenience during the period due to obvious difficulties; but to afford the maximum care for the newborn. By glorifying breast-feeding to bear the burden of a drastic increase in the maternity leave period even in the private sector, this policy move of the government only goes on to reaffirm the deep set

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patriarchal norms. A child can be breastfed only by the mother; using artificial milk or formula is dismissed by this policy measure as it continues to harp on the virtues of breast-feeding. This further weakens the case for any (tangential) involvement of the father in the nurture of the child.

By making provision of maternity leave mandatory the government will also prevent women who do not wish to avail the benefits of the same for reasons like- being unable to breast-feed, or being well-disposed to take care of the baby's needs along with the job- from working. The choice of how to take care of a newborn has shifted from the mother to the state. The circuitous link between the longer the mother stays at home equals better care for the child is exaggerated; was this shift in maternity leave policy actually the need of the hour in the first place is a question we are left to answer for ourselves.

- So what exactly does this policy measure want to achieve?

Is it better childcare for newborn children?

Since the a large number of females are employed in the unorganised sector (Choudhry 2015) who also belong to the not so privileged class in the society are left outside the purview of this policy; aiming at a countrywide improvement of health of children is a far-fetched assumption. This move will cater to those few women working in the private and government sector some of whom can provide benefits for their child. It is unlikely that this policy measure cannot attain a vast improvement in the combating “malnutrition, diarrhoea and lower infant mortality rate” (Nair 2015) since the population benefiting from it is not a huge number.

Is it to take care of the health of the women?

Since that is not talked about as a primary goal of this policy or even a secondary one by the MoWCD, it cannot be assumed to be so either. A lot of attention is paid to the mother being able to provide for the child, but a discussion whether the mother in the first place is capable of providing for the child has not received that much attention.

Under nutrition or malnutrition of mothers is a major cause for maternal mortality. The new mother has to juggle the added responsibility of catering to the needs of the newborn and the gamut of childcare necessities involved (food, diapers, medicines, vaccinations) along with the house hold chores. The fathers are not on a paternity leave so either these new mothers are left to fend for themselves or they turn to the elderly in the family.

The mother is not the end beneficiary of this scheme but the new born child is; which will also hold true only if the mother is capable of breast-feeding the child, simultaneously taking care of her own nutrition and is able to strike a healthy balance with managing the household chores.

Effectively what this much touted policy of the MoWCD aims to achieve still remains dubious. It justifies child care only till the point s/he needs to breast fed but what after that? How is the child being prevented from suffering from diseases at the crèche? What measures have been put in place to ensure the safety of the child in crèches which could be within 500 metres of the workplace and not necessarily in the same building itself?

The ministry has floated this policy measure on the shaky foundations of benefits of breast-feeding. It has absolutely shied away from recognising the overarching problem of the fast falling rate of female participation in workforce in India. Maternity leave as a policy tool is a bridge that helps the transition of a woman from workplace to home and then back to the workplace. Rather than helping women stay in workforce, this ill-analysed move could possibly increase difficulties for women wishing to work.

- More harm than good- will this policy be a detriment for hiring women?

There are a number of developed countries who offer maternity leave of less than 26 weeks (see map) and that too not always paid.⁵ But this government has chosen to plunge itself with the likes of the European and Scandinavian countries who provide elaborate maternity benefits to their female employees (the reason for which is discussed above). Interestingly a survey conducted in the United Kingdom (The Guardian 2014) has shown that managers avoid hiring younger women to circumvent providing them with paid maternity leaves. The risk that a women returning to the job after a hiatus of 52 weeks (the period of maternity leave in UK) is not as competent as employees already working is a looming concern that is captured by this survey.

⁵ The United States provides for a 12 week unpaid maternity leave.

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Even if it was accepted that a skilled professional is hard to find and a dream to retain by the employers for which they would go to lengths to incorporate the women employees back in the workforce; but what about the mid-level or lower level women employees in a company, for instance, the administrative staff? Will the private or even a government employer not consider re-hiring for that particular post in the interim period?

Recently Finance and Corporate Minister Arun Jaitley was reluctant that companies be made to reveal whether they have instituted an Internal Complaints Committee to inquire into sexual harassment complaints by the women employees since this would be “enhanced disclosure” (Nair, Harassment at work place 2015). This attitude of the private sector can give the policy makers a fair indication as to how it will deal with this apparent ‘pro-woman’ move. Will this sector welcome female employees knowing well that they may have to provide a paid leave to them of six months possibly even eight? Further the vast pending litigation in the labour tribunals confirms in part the lack of serious implementation of labour laws at the establishment level. Labour laws are “only honoured in breach” (Ghosh 2016) and it is not a far-fetched assumption that owing to these reform women will face the risk of not being hired and pushed to take jobs in the informal sector where the law would not apply.

- The enhanced maternity leave period in this day and age is more of a dole from a paternalistic government rather than an effective policy changer

After these amendments are put into effect mothers will have more time to spend with their newborn and in an ideal case scenario they will be welcomed by their employer back in the job when this leave period terminates. But all cases need not be ideal cases. Can this government guarantee non-discrimination against hiring female employees by private as well as the government sector? Do working women today still need doles like extension of maternity leave from the government? With crèches still being a privilege rather than a norm; the societal perception of men to be bread winners; and the very plausible future discrimination by prospective employers do women in India stand a chance to be equal to men anywhere in the near future?

The policy is only a cursory move that has not taken into account the current perceptions of women who take maternity leave especially in the private sector. The attitude of the organisation, colleagues as well as bosses, towards a pregnant colleague is not always supportive. It is not uncommon to find employers letting go of female workers post their maternity leave since the environment of the organisation is non-accepting of females getting to have this ‘break’. (Pregnancy, Pumps and Paternity 2016)

This government by favouring maternity leave for a new mother has failed to recognise: the emotional aspect which is the possible desire of a new father to provide care for the newborn and the mother; and the practical aspect which is the needs of a nuclear family where the parents have to share the responsibility of child rearing. Especially since just like maternity leave a provision of paternity leave is mandated in the government sector. If the provision of maternity leave is being imported to the private sector, what bars the government from doing the same for paternity leave? (Maternity and Paternity Benefits in India n.d.)

This could have been an excellent opportunity for this government to prove its commitment to bringing about equality of opportunity for both genders at the workplace by working on a policy for paternity leave too so that people are sensitised to the process of child rearing not restricted to only one gender. The gesture on behalf of the MoWCD although sounding promising at the outset is rather outdated; and may even prove to be regressive in the long run.

IV. How can this policy move be improved in order to bring about equality of opportunity for both the genders in the society?

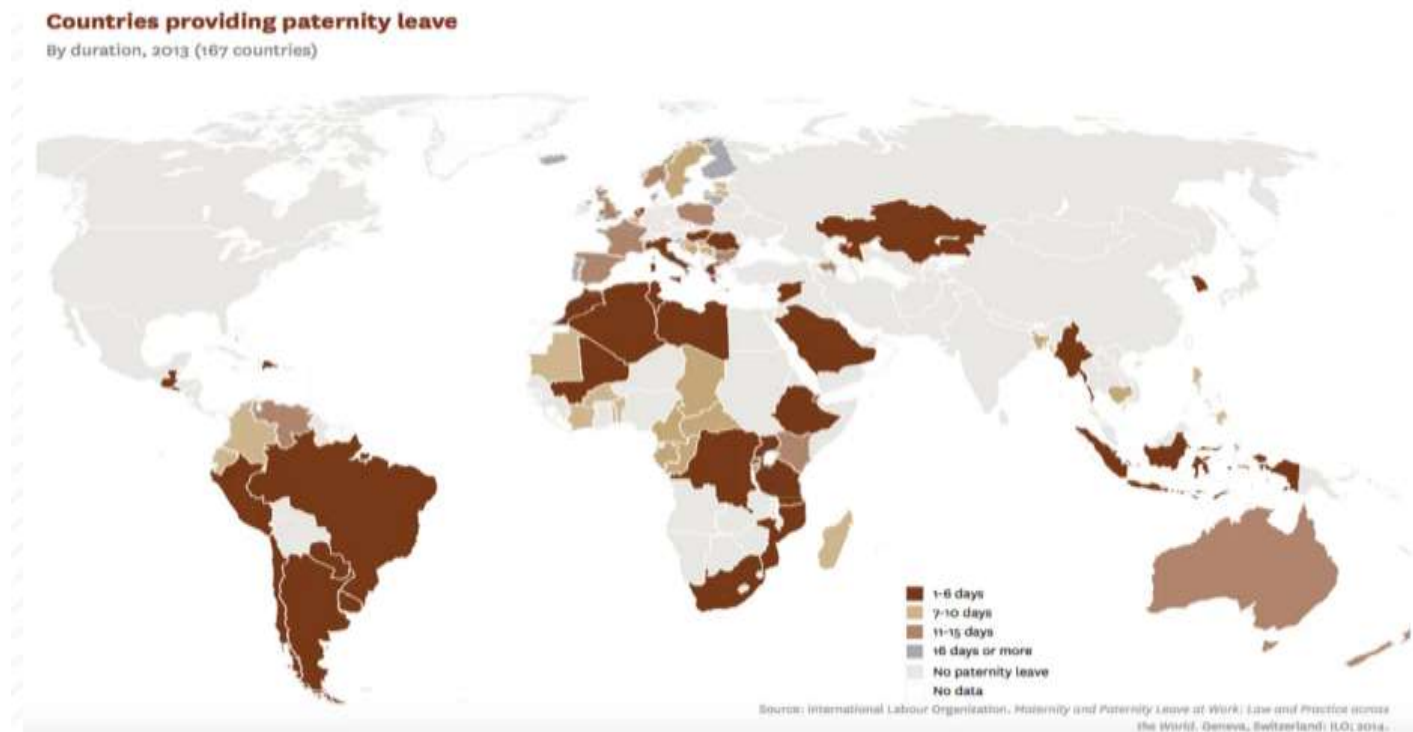
- Need to introduce paternity leave or shared parental leave to bring gender parity at the workplace

To assume that the father does not want to stay at home and be involved in taking care of the newborn child is presumptuous. Provision of paternity leave or shared parental leaves has known to encourage gender equality at workplace and also battle stereotypical culture and societal norms. Not only are traditional norms challenged but paternity leave promises significant help for mothers who can then better take care of their health while both parents can be a part of the nurturing of the new born child.

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The map represents countries across the world that provides paternity leave and also the duration for the same.⁶

Apart from giving a more proactive role to fathers in the nurture of the child; as a policy tool granting this leave to men as well achieves a bigger purpose of helping retain women in the workforce. (Bhandare 2016) Studies corroborate that equitable parental leave policies increase the likelihood that women will return to employment after leave and spend more time in paid work. In case of a shared parental leaves if the fathers do not avail of its benefits, it can negatively affect women's return to the workplace, and they can discourage employers from hiring or promoting female employees. (State of the World's Fathers 2015)

Norway and Sweden introduced paid paternity leave back in the 1980s and it is only decades later that the positive impact of this policy can be seen in these countries. There has been a gradual dilution of water tight roles and responsibilities as per the 'male breadwinner/female caregiver model'. Similarly Quebec in Canada has a system for sharing parental leaves. In all these countries the leave is not 'gender equal' that is duration of the leave period is different for both genders. Still this policy move has had a measurable impact in changing perceptions around paid work and care giving in the context of traditional gender roles. (Doucet 2012)

The government cannot simply state that it will be increasing the duration of maternity leave and not consider its ramifications. It cannot turn a blind eye to the fact that women will be discriminated against more than ever at the hiring stage and there will be a further re-affirmation of the fact the women are better at being at home and raising a child. Introduction of a longer maternity leave is not a stop-gap measure; it has the potential to influence society and mindsets in larger ways if used wisely.

- India needs to seriously devise policy measures to lower gender inequality at the workplace and bring about equality of opportunity for both genders

The issue of absence of females from the workforce of the country is a pressing issue that has received a lot of attention internationally as well. India can greatly benefit from the contribution the women will make to the GDP of the country if they are involved in gainful

⁶ "Paid Paternity Leave is Essential for Gender Equality. Why is the United States Taking so Long to Catch On", <http://www.bustle.com/articles/90820-paid-paternity-leave-is-essential-for-gender-equality-why-is-the-united-states-taking-so-long>, Bustle, June 19, 2015. Accessed on 30.1.2016

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employment rather than doing unpaid work or work in the informal sector. It is also high time that the issue of inequality of men and women is recognised as an area that needs to be addressed by policymakers. A few of the recent policy moves proposed by the MoWCD focus on benefiting children but the policy is not worded directly so. By targeting reforms at working women the cause of children's welfare is being achieved. As seen in policy move of increasing maternity leave and also in the introduction of tax rebates for married but single women with children (India 2016).

Even though the subject of these policy moves are working women, the discussion regarding- creation of jobs for them, increasing their participation in the formal sector of work, providing them with institutional support (access to drinking water, fuel, organized system for child care and elderly care) so that they can manage their time better with household chores and thereby contribute in gainful employment, ensuring they are retained in the workforce-is scarce. It compels one to think if it has been a wise move to have the ministry deal with women and child development together and whether a separate ministry to look into the problems faced by women at different stage is not required?

While increasing the maternity leave is a very welcome move but the same needs to be associated with the right attitude especially amongst the employers and fellow colleagues of the working women. It needs to be introduced with conscientiousness that bearing a child is an important responsibility which most women have to undertake; and this cannot be considered as an impediment for hiring them. Female workers post the formulation of this policy should not be considered as a liability by their employers and 'favoured' by their male colleagues.

Further a child makes two individuals parents and not just a mother. New age fathers are keen on taking more responsibility in childcare and organisations understand that women will be able to excel professionally when men are allowed more time for familial responsibilities. (Verma 2015). By distributing the responsibility of caring for the newborn between both parents a stronger case for independent working women can be made; fathers can be given a chance to take part in childcare; and a policy move that is keeping in times by addressing concerns of gender equality and nuclear family lifestyle can be devised.

The present government restricts the extension of maternity leave period to ensure that newborn children are adequately breastfed. We urge the government to not shy away from broadening the scope of this policy measure to address very vital concerns of bringing equality of opportunity at the workplace; sensitisation of society towards the role of men as care givers; and further invest in institutional support (a sound system of crèches, organised and qualified network of nannies educated in childcare) to give substance to this policy move rather than leaving it as just another amendment on paper.

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