

## PREGNANCY DISCRIMINATION IN THE WORKPLACE: AN EMPIRICAL STUDY

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### ABSTRACT

*Women are now working in the workplace, collaborating with their male counterparts to ensure the success and prosperity of their organisations, industries, and countries. Pregnancy-related concerns in the workplace, on the other hand, remain a significant roadblock in a woman's career path. Through an anonymous survey, we examine at working women's experiences during pregnancy and their return to work. 67 respondents from all types of employment contributed in the study by providing responses to the questionnaire. The report suggests various solutions such as specific policies and regulations required, a shift in thinking and culture, organisational approaches to diversity and anti-discrimination protection, and much more.*

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**Keywords:** *Female Workforce Participation Rate (FWPR), Maternal Health, Pregnancy Discrimination.*

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### Introduction

In the 19th and most of 20th century, Women have been largely employed in professions considered to be of lesser importance and status and also used to get relatively lesser pay than men for doing the same work. However, a change in labour market took place in late 20th century and as it expanded, women increasingly acquired higher academic as well as professional education, that led to betterment in their careers in terms of higher skill, status and payment. This in turn led to a higher national economic output as measured in GDP. Due to the increasing number of women entering the labour force, much research has been on the issues like gender pay gap, employment and work-life balance etc. However, there has been very little research work conducted on women's experiences during pregnancy in paid employment.

In India, the Maternity Benefit (Amendment) Act of 2017 was approved, granting Indian working moms extra maternity leave and benefits. Its goal was to encourage women to stay in the workforce after having children. Instead, according to a World Bank study, India's female labour force participation percentage has been steadily declining, from 37 percent in 2005 to 27 percent in 2013 to 20.3 percent in 2020. The global average is 47 percent, more than twice as high as India's rate of 20.3 percent. Women's participation rates are two to three times greater in China, Brazil, Indonesia, and Bangladesh than in India. Global study clearly shows that women's contribution to the economy boosts Gross Domestic Product (GDP), which is the cornerstone for a higher level of life. Only by raising women's involvement in the labour market will we be able to fulfil our goal of being a \$5 trillion economy by 2024-25. Women's contribution to GDP at 18 percent, is one of the lowest in the world. By 2025, increasing women's labour force participation by 10% could add \$770 billion to India's GDP.

In India, it has traditionally been the job of women to raise children and administer the household. Because few firms offer work-from-home options, flexible working hours, or creche services, many working mothers leave their careers after having a child. Employers must pay not just for maternity leave without receiving any employment from these women, but also for a substitute to complete the task. As a result, to avoid the double cost of maternity leave and benefits for the same job, businesses, particularly small businesses, do not hire many young female employees.

Another major issue concerning pregnant women is pregnancy discrimination. This involves discriminating attitude against women employees during pregnancy, childbirth or medical condition associated therewith. Pregnancy discrimination may include denial of time off or reasonable

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accommodations for pregnant employees, firing or demoting a pregnant employee, forced time off or restrictions on work, or any other negative employment action taken because of an employee's pregnancy or related medical. Women in the unorganised sector are not covered by the Maternity Benefit Act. As a result, about 95 percent (or 195 million) of India's female workers who work in the informal sector are denied these benefits.

The reality in the organised private sector is frequently different from that in the organised public/government sector. Only 18-34 percent of married women stayed working after having a child, according to a poll of 1,000 women working in and around India's capital, Delhi. When refused maternity benefits, most working women do not go to court; instead, they simply cease working. Despite this, India's labour tribunals received over 900 complaints of companies refusing to pay maternity benefits between 2008 and 2012, which is only a small percentage of the total number of the actual incidences of discrimination.

Addressing pregnancy-related issues in the place of work is a necessary aspect and will help decrease the gender gap in labour market, useful resource components of appropriate policies to protect maternal and child health, and facilitate an organizational subculture to guide women in pregnancy and thereafter. However, unfortunately, very little empirical research has been carried in India on women's experiences of employment all through pregnancy or on their return to work after childbirth. To explore this issue, the present study tries to have a look at the experiences of women all through their being pregnant in paid employment. The study will examine whether there was any discrimination or unfair treatment to women at work during pregnancy, and further identify the principal factors influencing unfair treatment, investigate the availability of maternity benefits during of & after child birth, and identify the difficulties women come across in relation to availing such benefits.

#### **Objectives**

To learn about women's experiences at work during their pregnancies in order to investigate whether there was any discrimination or unfair treatment of them during that time, and to investigate the impact of bad treatment at work (if any) during pregnancy on their physical or mental health.

#### **Methodology**

The survey was conducted in 2020-21 involving Indian mothers who have been in paid employment during pregnancy and had given birth in 2010 and thereafter. The experiences of these mothers during pregnancy helped us to know the actual scenario in the workplace for would-be mothers in India. Both primary as well as secondary sources of information were used. Primary data was collected with the help of a structured questionnaire in google form which included various types of questions ranging from general queries to those based on their experiences during pregnancy, maternity leave and return to work. Request to fill Google form was made via WhatsApp, word of mouth, telephone and was posted on social networks such as Facebook.com. 67 respondents from all types of employment contributed in the study by providing responses to the questionnaire. Secondary data was collected with the help of Books, Reports, Journals, Magazines, Existing research papers, Newspapers, Websites, and other published sources. The data was analysed through percentages, graphical presentation, frequency distribution and cross tabulation using Ms-Excel.

#### **Literature Review**

Some of the studies done on the field are as follows:

**Dr. Rajeshri Randive Admane.(2020)**, "A Study on Effectiveness and Impact of Maternity Benefit (Amendment) Act, 2017 on Employment in Unorganized Sector with Reference To Construction Company (West Nagpur, Maharashtra, India)". The study focuses on effectiveness and impact of Maternity Benefit (Amendment) Act, 2017 on employment in unorganized Sector and to find out awareness among women workers about the legal Provisions related to maternity benefit (Admane, 2020, Vol 29 No. 3).

**Shashi Bala (2012)**, "Implementation of Maternity Benefit Act 1961", V.V. Giri National Labour Institute, NOIDA. The study examines the prospects of Maternity benefit Act 1961 in terms of implementation and adaptation by the employer in the selected study area. The study throws light on the loopholes, ambiguities and reasons for the lack of motivation to give effect to a sturdy system of maternity protection (Bala, 2012).

**La Valle, I., Clery, E. and Huerta, M.C. (2008)** Maternity Rights and Mothers' Employment Decisions, Department of Work and Pensions Research Report No. 496, London: TSO; studied how has maternity experience changed over the years, and what are the key factors associated with the decision to return to work or stay at home after childbirth (La Valle, 2008).

**Henrich W, Schmider A, Fuchs I, Schmidt F, Dudenhausen JW.** The effects of working conditions and antenatal leave for the risk of premature birth in Berlin. *Arch GynecolObstet*2003;269:37–39. Studied the influence a job--including its physical and psychological aspects--on pregnant woman's chances of delivering prematurely. No increased incidence of premature deliveries was observed in working mothers or found in relation to physical stress (Henrich W, 2003).

**Adams, L., McAndrew, F. and Winterbotham, M. (2005)** *Pregnancy Discrimination at Work: A Survey of Women*, Working Paper Series No. 24, Manchester: Equal Opportunities Commission, found that flexible working arrangements can reduce the chances of pregnancy-discrimination at workplace (Adams, 2005).

### Data Analysis and Interpretation

#### • Data

The majority of women were in the age group of 20 - 30 and 30 - 40 years at the time of their pregnancy. 63 per cent of the respondents worked in the private sector and 34 per cent in the public sector. Out of them 73.1 per cent worked in organised sector and rest in unorganised sector. Out of total respondents only 53.7 % were permanent employees, while 20.9% were employed on contractual basis. 9% were temporary and 16.4 % were casual workers at the time of their pregnancy. 67.2 % of would-be mothers didn't get any flexibility during their pregnancy with regard to working hours and work from home.

#### • Women's Experiences at Work during Pregnancy

- **Employer Supportiveness:** Majority of women surveyed (47.8 per cent) felt that their employers had neither been supportive nor non-supportive during pregnancy. This means there was no change in employer's attitude on account of their pregnancy. 38.8 per cent of respondents said that their employer had been supportive or very supportive and only 13.5 per cent told their employers were unsupportive or very unsupportive.
- **Satisfaction Level:** Majority of respondents also said that they were neither satisfied nor dissatisfied with how they were treated at work during pregnancy (38.8 percent). This implies that in majority of the cases there was no change in the work environment for the women employees on account of pregnancy. 20.9 per cent were very satisfied and 26.9 per cent were
- **Unfair Treatment:** According to responses to this question, 74.6 per cent of mothers who were employees during pregnancy did not feel they had been unfairly treated at work, while 14.9 per cent felt they were unfairly treated as a result of their pregnancy. Respondents were then presented with a list of ten possible negative experiences and asked to tick any that applied. This list was presented to all women regardless of how they had answered the above general questions on unfair treatment. These responses are summarised in the following Table.

Possible Negative Experiences	Percentage
I was given unsuitable work	6
I received unpleasant comments from my colleagues/manager/employer	7.5
I was given odd working hours	1.5
I was unfairly criticized about my performance	9
I was not given promotion which I felt I deserved	19.4
I had a reduction in my salary/bonus	4.5
I was given less increment/bonus than I deserved	25.4
I was threatened with redundancy or dismissal	13.4
Other (not specified above)	10.4
I was not treated unfairly	59.7

Though only 14.9 per cent of mothers who were employees during pregnancy said they feel they had been unfairly treated at work, but when presented with a list of negative experiences, the proportion of such women increased to 40.3 per cent and many reported multiple forms of unfair treatment. The most commonly reported form of unfair treatment at work during pregnancy was not being given increment or bonus due to them or which they deserved. Other common negative experiences were denied promotion and threatened with redundancy or dismissal during pregnancy.

**Effect on Mental and Physical Health due to Employment during Pregnancy:** Out of total respondents, 34.3 percent reported effect on physical and mental health due to employment. Out of them 73 percent cited stress and anxiety as the main reason. Majority of these women (73.5 percent) did not take any action or make a formal complaint. **Return to Work:** Only 80.6 % of the respondents did return to the same employment after childbirth and 19.4 % left job after childbirth. The main reason given by these women is that they wanted to take care of their child(ren) themselves.

### **Conclusion**

India's economy is expanding, with a rising GDP and a working-age population expected to reach over 800 million by 2050. Despite this growth, less than one-quarter of women (20.3 percent) are in the labour force, compared to 76.0 percent of men. According to the current survey, there is a lack of organisational, social, and legal support for women working in paid jobs in India during pregnancy. To increase women's labour-force participation, issues concerning pregnancy in the workplace should be thoroughly addressed before making any policy decisions or enacting any labour-law legislation. The respondents were mostly in their twenties, had just started their careers, and should be encouraged to continue working after having a child.

According to our surveys, a significant number of pregnant women are mistreated at work. Because payment during maternity leave duration is based on the employee's basic salary, no employer gives pregnant employees an increase or promotion because it increases the cost of maternity leave period, which they are forced to pay for zero work period. 34.3 percent of total respondents reported an effect on physical and mental health as a result of ill-treatment. The majority of them cited stress and anxiety as the primary causes. However, the vast majority of these women took no action or filed any formal complaints. They are either unaware of their rights or fear losing their jobs if they complain to higher authorities or a court of law.

As per the survey, 19.4 per cent women had not returned or did not intend to return to same employer. The reason given by most of the respondents is that they want to take care of their child(ren), themselves or felt that working hours are no longer suitable to them. In India, a man's job is valued more than a woman's job, and traditionally, women's primary responsibility in Indian society is to raise children and care for the family. Many working new mothers quit their jobs due to a lack of flexible working hours, work from home opportunities, or affordable and high-quality child care centers/facilities. Companies generally do not make special efforts to retain pregnant and new mothers because they are perceived as less dedicated, insincere, ambitionless, and less competent employees who are more of a liability or burden to the organisation than an asset.

The current study demonstrates that, in addition to institutional policies, the nature of the appointment and the type of organisation play an important role in a new mother's decision to return to work after the birth of her child. Many respondents who were not on a permanent basis and worked in unorganised sectors were forced to leave their jobs by their employers, either by making them redundant or by terminating their contract. They are sometimes fired or treated so poorly that they quit their jobs. Although it is illegal under the Maternity Benefit Act to fire an employee while pregnant, employers exploit many loopholes in this provision.

### **Suggestions/Policy Implications**

Various issues related to maternity benefits and the return of women to work after maternity require special attention when developing various policies at the government and organisational levels to promote women's employment. The government must provide employers with incentives, such as tax breaks, amnesty programmes, or additional benefits, to encourage them to hire and retain pregnant women, as well as to rehire women who have taken a brief break from work following childbirth.

Though large and medium-sized businesses are required by law to provide crèche services, it is neither mandatory nor cost effective for small businesses. Neighbourhood creches may play an important role in their lives. In large metropolitan areas, where women must travel long distances to work, they prefer a neighbourhood crèche to a work-site crèche. The Labour Ministry and the Department of Women and Child Development could collaborate to manage an integrated web portal of all crèches, similar to the Rajiv Gandhi crèche scheme. If necessary, an NGO could be chosen through a transparent process to be entrusted with this critical role on a no-profit, no-loss basis. Besides all companies must be encouraged to provide flexible working hours, work from home and child care facility in their premises.

Furthermore, the prevalent cultural and social norms that prevent women from realising their full economic potential should be changed. Better education, transportation and communication infrastructure, and physical and social security can all help in this direction. Incentives, such as government grants or tax breaks for employers, are required to promote women's employment.

In India, a shift in organisational culture is required to support women during pregnancy and to change private employers' and coworkers' negative perceptions of the efficiency and sincerity of pregnant and new mothers. A strict law should be enacted to protect pregnant women working in paid jobs from dismissal and poor treatment. No woman should be discharged from work during her pregnancy for any reason, and any such reported case should be resolved by a court of law as soon as possible.

#### Limitations of the Study

- This survey is based on sampling method and does not disclose the character of the entire population.
- As the questionnaire is condensed, all the factors could not be studied in depth. Nevertheless, the questionnaire did provide relevant data for the study.
- As this study is done within a limited time in lockdown conditions (because of covid-19), many online responses were collected via google form from social media and the information so obtained from the respondents was assumed to be factual.
- The area of survey is restricted to India.

#### Further Research Areas

Further Research is needed to understand and investigate:

- The problems of women employed in unorganised sector and small organisations w.r.t. maternity leave & benefits and pregnancy related discriminations
- Women employees knowledge about their rights provided by the law
- Awareness amongst Employers about Maternity protection legislation and the difficulties they face in implementing the same.
- Attitude of colleagues towards pregnant and new mothers in workplace.
- Effect of motherhood on women's career in workplace
- Effect of pregnant and new mothers' employment on infant health and growth of the child(ren).
- Factors influencing or prohibiting women to return to workplace after a break due to childbirth.

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