

India becomes a leader in maternity leave at its own expense



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Asia's third-largest economy has more than doubled maternity leave for the private sector but despite Indian Prime Minister **Narendra Modi's** good intentions, the new law could do more harm than good.

Enacted this week, the Maternity Benefit Amendment Act increased paid leave time to 26 weeks from 12 weeks for women working at companies with at least 10 employees. Government employees already receive 26 weeks and the private sector has only just caught up more than a year after the Labor Ministry first green-lighted the proposal.

Additional benefits include day care facilities — commonly called creches in India — for working mothers, a non-discriminatory performance appraisal system that acknowledges the female employee's absence, and **work from home policies**.

It's not yet clear when the law will be effective, but it's already seen as a huge win for Modi's reform-minded administration.

"India now surpasses many European and Asian countries in terms of maternity benefits being provided to working mothers," Nishith Desai Associates, an Indian law firm, said in a recent note.

When it comes to paid leave, New Delhi is indeed ahead of most — excluding the **U.K.** who offers 39 weeks. The **U.S.** has zero, **Canada** provides up to 17 weeks, **France** doles out 16 weeks, while **Germany** and **Japan** both offer 14 weeks, according to the OECD. The average figure among OECD members is 17.7 weeks.

Despite the many positives for **Indian females and employers**, including greater job security and expectations for higher employee retention, there are equally significant disadvantages.

An unfair burden

Many countries split the price of maternity leave between the government, employer, insurance and other social security programs. In India however, companies bear all the costs.

The additional requirements behind the new act, such as creche facilities, would require employers to establish adequate infrastructure that will lead to more expenses, according to Nishith Desai Associates.

"To help reduce the employer's financial exposure, an option could have been provided in terms of part unpaid leave, something that is common in some developed nations," the law firm said.

Hit to female labor

The higher costs for employers could also hit **demand for female workers**, especially in situations where prospective employers are faced with male and female candidates of similar caliber, economic consultant Mitali Nikore said in a note published on the London School of Economics website.

"The cost of hiring the male candidate would largely be restricted to salary and other statutory benefits but for women, the incremental cost would include 26 weeks of paid maternity leave, cost of creating creches, as well as the cost of an employee to fill in during the female employee's absence."

Females could also face reductions in upfront salaries as firms compensate for the higher cost and increases in contractual employment as employers try to avoid obligations, Nikore explained.

What about the rest?

Only women in the formal economy — around 1.8 million, according to Nishith Desai Associates — are eligible for the new benefits.

"The government seems to have overlooked the recommendation of the **Sixth Central Pay Commission** (a government-appointed panel that overlooks wages) and has left out women in the unorganized sector," said the law firm's note.

India's vast informal economy, which covers everything from farm labor to street stall vendors, employs 90 percent of the national workforce and was hit hard by Modi's **recent demonetization drive**.

'Alien' concept of fatherhood

By excluding paternity leave, the law reinforces the notion that **responsibility of child-care** lies solely on women, Nikore said.

"By providing maternity leave and creches benefits only to women, the law effectively places the onus of upbringing squarely on women ... The language (of the amendment) demonstrates that lawmakers are completely alien to the concept of fatherhood."

—*This story has been updated to clarify Nikore's comments.*