

MATERNITY BENEFITS IN LABOR LAW: BANGLADESH PERSPECTIVE

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ABSTRACT

This study is an attempt to find out the present maternity benefits for women workers provided in the Bangladesh Labor Code (amendment) 2013 and to analyze the practices of labor laws regarding maternity benefits in Ready Made Garment (RMG) industry in Bangladesh. The study is based on the primary data, collected through interview method by structure questionnaire from 120 women workers and 15 managerial personals of 15 RMG factories in Dhaka city and secondary information was collected from different published materials. The study reveals that 66% women workers have been working during the prohibition time, 94% women workers have obtained maternity benefits but the payment system is very difficult, most of the employers (82%) follow only one option for providing maternity benefits, 90% women workers do not get back to the Garment after their delivery because of many social reasons and 77% employers change the requisite for providing maternity benefits as have served minimum 1 to 3 years instead of 6 months with current employer. So the study suggests that government should take strong monitoring system for effective implementation of the existing Labor Law of the country. The women workers should be conscious about their rights and employers should be cooperative and supportive for maintaining the existing Labor Law of the country.

Keywords: *Maternity Benefits, Labor Law, Ready Made Garments, RMG Industry, Women Workers*

1. INTRODUCTION

In the year 1950 to 2000, there has been a dramatic rise in the proportion of women who have entered the workforce throughout the world. In the USA, for example, in 1960, fewer than 19 percent of women with children under 6 years old worked. By 1990, the number had dramatically risen to 60 percent. Currently, according to the World Bank Group's database of gender statistics,

the labor force participation of women worldwide is 43%. In Bangladesh the number of women working has also gone up in the last 20 years. As per available data of Bangladesh Bureau of Statistics (BBS) in 2012, of the 49.5 million of civilian workforce, about 38% are female (BBS, 2012). With women working, maternity leave is of course an issue. In many parts of the world, very little is known about maternity leave by women themselves before they become pregnant. Many are unaware of their rights. Besides, there is a huge difference in facilities that are available to women with regard to maternity throughout the world.

Evolution of maternity benefits in Labor Laws in Bangladesh

The century old labor law system in Bangladesh was enacted during the British rule of the subcontinent, in 1881. Later, laws concerning different labor issues, e.g., The Factories Act (1965), The Industrial Relation Ordinance (1969) Workmen's Compensation Act (1923), Trade Unions Act (1926), Trade Disputes Act (1929), Payment of Wages Act (1936), Maternity Benefits Act (1939), and the Employment of Children Act (1938) were a few of the employment/labor laws enacted during that period. After the separation of the Indian sub-continent in 1947, almost all the laws during the pre-partition period were kept in force with some modifications and amendments, in the form of administrative rules, by the Pakistan Government.

After the independence in 1971, the Bangladesh government retained the previous laws through the Bangladesh Laws Order (President's Order No. 48). No major development took place in the history of labor legislation till the enactment of the Bangladesh Labor Act, 2006. The Bangladesh Labor Act, 2006 is a major and comprehensive enactment regarding industrial relation system through codification of existing labor laws in order to avoid overlapping and inconsistencies and brought some significant changes in industrial relation system. Before the amalgamation of all the labor laws through the Bangladesh Labor Code 2006, there were three distinct Acts for the regulation of maternity benefits for women for certain periods before and after child birth and for the payment of maternity benefits to them. These were The Maternity Benefits Act, 1939 (which was most widely used in manufacturing, service and other organizations), The Mines Maternity Benefit Act 1941, and The Maternity Benefits (Tea Estate) Act 1950. These three Acts have been repealed and amalgamated into the new labor laws under Chapter IV as "Maternity Benefits". Though this law is amended in 2013 but some sections of Chapter IV (Maternity Benefits) have not been changed.

1.1. Objectives of the Study

The objectives of the study are cited below:

- 1) To find out the present maternity benefits for women workers in the Bangladesh Labor Code (amendment) 2013.
- 2) To analyze the present practices of Labor Laws regarding maternity benefits in RMG industry in Bangladesh
- 3) To provide some suggestions for overcoming the problems regarding maternity benefits in RMG industry in Bangladesh

Hypotheses

- I. (Ho): Most of the employers of RMG industry do not follow all the provisions of Labor Law regarding maternity benefits in Bangladesh.
- II. (Ho): The amount/period of maternity benefits is not sufficient for the workers of RMG industry in Bangladesh.
- III. (Ho): Most of the employers of RMG industry do not provide maternity benefits to the women workers.

1.2. Literature Review

The sectors which have seen the boom in business since the 1980s (mainly RMG) have been attributed to being promoters of social change for women. In Bangladesh, availability of a large pool of 'cheap' labor come from women in manufacturing sector especially in RMG sectors (Standing, 1999). Irregular wage, overtime and bonus payments have long been and remain one of the most significant problems workers face in the industry including women (Ezra, 2006). By this, it is meant that until recently, 'few women garments workers worked longer than five years' (Hossain, 2011). Variations in maternity leave provision across factories/industries and a lack of awareness of workers' rights mean that this basic entitlement of employee equity has long been breached (Befort and Budd, 2009).

In most western countries parental leave is available for those who have worked for their current employer for a certain period of time. The duration of paid maternity leave varies from nine weeks in Ireland to two years in Bulgaria (Miller, 2007). In the UK, working mothers are given the right to 26 weeks of paid leave for each child, 6 weeks at 90% of full pay and 20 weeks at a fixed amount. (www.opsi.gov.uk). In Spain women receive 75% of their salary as part of maternity leave, In Denmark and France they receive 90%. Belgium, the Netherlands and Germany allow 100% up to a maximum amount (Joesch, 2007). Belgium, Denmark, Germany, France, Ireland, the Netherlands, Norway, Spain, Switzerland and the UK all provide paid maternity leave and transfer women to non-strenuous jobs as soon as the pregnancy is confirmed (devdata.worldbank.org). In addition, pregnant women and single mothers cannot be fired (Kelly, 2009). In Canada, parental leave is paid for by the Employment Insurance system (Baxter, 2010). There is currently a push to expand paid maternity leave in countries such as Australia and the United States. The law in several countries specifies that women must be paid if they miss work for prenatal visits or childbirth classes (Baxter, 2009).

There are at least 1,800,000 workers in the garments sector, 85% of whom are women (The Daily Star, 2010). In developing countries such as Bangladesh, where labor is cheap and easily available due to rampant population growth, perhaps a woman not returning to work after pregnancy is not even a problem as there is a continuously new and young woman willing to join work (Rahman, 2011).

2. METHODOLOGY OF THE STUDY

To understand the research topic, a combination of both qualitative and quantitative methods (mixed method) have been applied. Data were collected both from the primary and the secondary sources. Secondary data were collected from newspaper, published books, journals, research papers, published government laws and internet.

2.1. Respondents of the Study

Primary data were collected from women workers (who were pregnant at least one time during her service) and managerial personal of 15 factories of RMG industry in Dhaka city.

2.2. Sample size

120 women workers (08 from each factory) and 15 managerial personals were selected from 15 factories of RMG industry in Dhaka city.

2.3. Sampling technique

The stratified random sampling technique was used to select the sample units from women workers who were willing to respond to the questionnaire.

2.4. Analysis of Data

Descriptive as well as statistical analysis have been done in the study. Statistics such as mean, standard deviation etc. were mostly used for the analysis data. Moreover, hypothesis test was also conducted, if the calculated value (z) is greater than critical value (z_c), then it rejects the null hypothesis and accepts the alternative hypothesis.

3. FINDINGS

3.1. Maternity benefits at a glance, chapter IV under Bangladesh Labor Code (amendment) 2013

The maternity leave policy available to women in Bangladesh is 16 weeks with full payment. However, interestingly enough, there are no specific laws that exist for management level (women) staff. The law that exists is “Bangladesh Sromo Ain (Sonsodhon), 2013” or The Bangladesh Labor Code (Amendment), 2013 given in Chapter IV called Maternity Benefit, referring to workers that do manual work mainly in factories. The leave period that is guaranteed to non-management women workers is similar to Pakistan, Singapore and Sri-Lanka from the Asian region.

Leave Duration (Sec 46): 16 weeks (8 weeks prior and 8 weeks post-delivery)

Eligibility (Sec 46): Have served at least a minimum of 6 months with current employer

Employment type eligible: that employment in permanent capacity

Funding Sources: Employer funded,

Procedure of payment (Sec 47) 3 options are available

- i. Payment of 8 weeks of salary within 3 days of submitting proof of pregnancy and remaining 8 weeks 3 days after submission of proof of delivery.

- ii. Payment of 8 weeks of salary within 3 days of submitting proof of pregnancy and remaining within 8 weeks after submission of proof of delivery.
- iii. The whole amount (16 weeks' salary) within 3 days of proof of delivery.

Amount to be paid: Total wages/ salary earned during the preceding 3 months prior to availing leave divided by the number of days actually worked (during that period)

Denial of eligibility

- Those who have worked less than 6 months
- Those who fail to produce pregnancy proof orally or written
- Those who have 2 or more surviving children, they can avail other leave(s)- sick/ annual/ casual etc.

3.2. Labor laws practices regarding maternity benefits in RMG industry

3.2.1 Background Information

120 women workers (08 from each factory) and 15 managerial personals were selected from 15 factories of Ready Made Garments (RMG) industry of Dhaka city in Bangladesh. The age of the respondents was between 20 to 35, more specifically, the age of the respondents ranging from 18 to 25 was 34%, ranging from 26-30 was 36% and from 30-38 was 30%. The working experience of the respondents was 6 months to 2 years 28% 2 to 5 years 42% and 5 to 10 years 30% (Table: 1&2).

3.2.2 Prohibition of Employment of women workers

According to Labor Law (section 45), no employer shall knowingly employ a woman in his establishment during the eight weeks immediately following the day of her delivery and no employer shall employ any woman for doing any work which is of an arduous nature or which involves long hours of standing or which is likely to adversely affect her health; if he has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks. War on Want's survey (2011) showed that 50% still had to work overtime while pregnancy, 29% had suffered humiliating treatment at the hands of their employers while they were pregnant, and 24% had been denied sick leave during pregnancy' (War on Want, 2011). More very recently, BGMEA (the apex body of the garments makers and exporters) submitted its opinion on maternity leave to the Labor Ministry for consideration and proposed introduction of 12 weeks or 84 days of maternity leave for female workers in the garments industries citing example of India, Nepal and Indonesia. Their objection is that 16 weeks maternity leave for female workers of garment industry would increase birth rate in the country. This goes to show the other side of the coin, as employers are still concerned with cost saving and profit maximization but fail to see the positive effects of workplace efficiency through enhancing/improving employment relationships (www.waronwant.org). The recent survey shows that 66% women workers have been working during

the prohibition time of the law (mentioned above) and 34% employers do not follow the existing provision regarding the employment of women worker prohibition (Table: 3).

3.2.3 Provision of Providing Maternity Benefits

A survey by Bangladesh Institute of Labor Studies (2010) on ready-made garments (RMG) and construction industries showed that factories do not provide maternity leave for four months and most establishments give maternity leave only without pay. The survey exposed that female workers many times do not want to bear child because of fear of losing their job as majority end up being fired by their employers when they become pregnant, or sent on leave without pay (Hossain, 2010). The maternity leave period has been extended to 6 months or 24 weeks in public sector and the workers of garments sector do not get such benefits rather they get only sixteen week maternity benefits as per labor law of the country. Survey by War on Want (2011) on 988 garments workers reveals 50% of the interviewed for this report stated that some form of maternity leave is provided at their workplace. However, 48% had been denied the benefit. Also, two thirds of the women interviewed were unaware of the full legal entitlement to maternity leave. Only 24% were aware of the proper maternity benefits they deserved. Many workers also had to look for new jobs after giving birth or return to the same factory at a lower grade, as they did not know their legal rights to return to the same grade they held before their maternity leave (www.waronwant.org). The present survey shows that 94% women workers received maternity benefits but the payment system is very difficult and most of the employers (56%) do not follow the existing provision regarding payment of maternity benefits of labor law of the country (Table: 4 & 5).

3.2.4 Procedures of payment of maternity benefit

Though there are three options (mentioned above) for the payment of maternity benefits, most of the employers (82%) follow only first option. The second and third options are available in the written document of the different RMGs as the source of labor law but those options do not frequently use. The second and third options have been used by 13% and 5% RMGs respectively in Bangladesh. The study found that most of the employers of RMGs provide monetary maternity benefits in three or four installments that are clearly violation of the Labor Law. The study also reveals that 90% women workers do not get back to the Garment after her delivery because of many social reasons. Most of them were rewarded maternity benefits at least one installment. For this reason, employers use this opportunity for providing maternity benefits (Table: 6).

3.2.5 Eligibilities for Being Paid Maternity Benefits

According to labor law, the prerequisites for getting maternity benefits are i) have served minimum 6 months with current employer ii) must be shown pregnancy certificate to employer and iii) have no or 1 surviving children. The study found that 77% employers change the first requisite for providing maternity benefits as have served minimum 1 to 3 years instead of 6 months with current

employer. Another important finding regarding this, no previous working experience is counted or evaluated to any employers for providing maternity benefits (Table: 7).

3.3 Test of Hypotheses

Hypothesis 1: Most of the employers of RMG industry do not follow all the provisions of labor law regarding maternity benefits in Bangladesh.

From this statement here some values have been attained which are, weighted average is 3.17, standard deviation 1.14 and the calculated z value is 1.502 where critical z value is 1.96 and N= 135 (Table: 8). Here, calculated Z value is greater than critical z value. So, null hypothesis is accepted and alternative hypothesis is rejected. It indicates that most of the employers of RMG industry do not follow all the provisions of labor law regarding maternity benefits in Bangladesh

Hypothesis 2: The amount/period of maternity benefits is not sufficient for the workers of RMG industry in Bangladesh.

From the third statement shows that weighted average is 3.19, standard deviation 1.13 and the calculated z value is 1.68 where critical z value is 1.96 and N= 135 (Table: 8). Here, calculated Z value is greater than critical z value. So, null hypothesis is accepted and alternative hypothesis is rejected. It indicates that the amount/period of maternity benefits is not sufficient for the workers of RMG industry in Bangladesh.

Hypothesis 3: Most of the employers of RMG industry do not provide maternity benefits to the women workers.

From the second statement some values have been attained which are, weighted average is 3.64 standard deviation 1.32 and the calculated z value is 4.866 where critical z value is 1.96 and N= 135 (Table: 8). Here, calculated Z value is greater than critical z value. So, null hypothesis is rejected and alternative hypothesis is accepted. It indicates that most of the employers of RMG industry provide maternity benefits to the women workers.

4. DISCUSSION AND IMPLICATIONS

Labor law practices is increasing day by day especially, this scenario dramatically improve after the tragedy of Rana Plaza. The labor law practices are also needed more improvement for getting the GSP benefits from USA.

About 66% women workers have been working during the prohibition time of the law, 34% employers do not follow the existing provision regarding the employment of women worker prohibition, 6% women workers still have been getting maternity benefits from their employers and most of the employers (56%) do not follow the existing provision regarding payment of maternity benefits of labor law of the country. The study also reveals that 90% women workers do not get back to the Garment after their delivery because of many social reasons and 77% employers change the requisite for providing maternity benefits as have to serve minimum 1 to 3 years instead of 6 months with current employer. The above findings clearly indicate that most of the employers

of RMG industry do not follow all the provisions of labor law regarding maternity benefits in Bangladesh and the amount/period of maternity benefits is not sufficient for the workers in this sector. So the government should take strong monitoring system for effective implementation of the existing labor law of the country. All the stakeholder should be conscious regarding the maternity benefits issue for satisfactory implementation of the law. The women workers should be more aware about their right and employers should be cooperative and supportive for maintaining the existing labor law of the country.

While extending the maternity leave provisions of public servants to 6 months (24 weeks) the government has ignored the private sector where most irregularities are prevalent (The Daily Star, Dec 19, 2010). Rather, it should be universal for employed women in all sectors. The maternity law should be reviewed and should not be used as an excuse for employing women on short-term basis. Also, the fines for breach of law should be increased as it is only a minimal amount.

5. CONCLUSION AND LIMITATIONS

This study has been affianced for ensuring the labor law practices regarding maternity benefits of Bangladesh. The study obtained the opinions of 120 women workers and 15 managerial personals from the 15 factories of RMG Industry of Dhaka city in Bangladesh. The study have revealed many unfair practices of labor law regarding maternity benefits in RMG sectors of the country that clearly violate the existing law. Finally, the government should take necessary steps for effective implementation of existing labor law of the country.

The limitations of the study are: the study considers only Dhaka city for collecting sample, the study contemplates only 15 RMG firms though there are many firms existing in Bangladesh and the number of respondent ruminates 135. So if those limitations are overcome, the findings consequence may be different.

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APPENDICES

Table 1: Age of the respondent

Age	No of Respondent	Percentage
18 to 25	46	34
26-30	48	36
Above 30	41	30
Total	135	100

Source: Survey

Table 2: Working experience of the respondent

Experience	No of Respondent	Percentage
6 months to 2 years	38	28
2 to 5 years	56	42
Above 5 years	41	30
Total	135	100

Source: Survey

Table 3: Worked during the prohibition time

	No of Respondent	Percentage
Yes	89	66
No	46	34
Total	135	100

Source: Survey

Table 4: Obtain maternity benefits

	No of Respondent	Percentage
Yes	127	94
No	8	6
Total	135	100

Source: Survey

Table 5: Follow the existing provision regarding payment of maternity benefits of labor law

	No of Respondent	Percentage
Yes	59	44
No	76	56
Total	135	100

Source: Survey

Table 6: Three options for providing maternity benefits

Options	No of Respondent	Percentage
Payment of 8 weeks of salary within 3 days of submitting proof of pregnancy and remaining 8 weeks 3 days after submission of proof of delivery.	110	82
Payment of 8 weeks of salary within 3 days of submitting proof of pregnancy and remaining within 8 weeks after submission of proof of delivery.	17	13
The whole amount (16 weeks' salary) within 3 days of proof of delivery.	8	5

Source: Survey

Table 7: Change the minimum time of service for providing maternity benefits

	No of Respondent	Percentage
Yes	104	77
No	31	23
Total	135	100

Source: Survey

Table 8: Test of Hypotheses

Variables	Std. Dev	Calculated Z value	(5% level of significance) Critical z value	Result H ₀
Do not follow all the provisions of labor law	1.14	1.502	1.96	Accepted
Maternity benefits is not sufficient	1.13	1.68	1.96	Accepted
Do not provide maternity benefits	1.32	4.866	1.96	Rejected

Source: Survey