[Parvez Rahim](https://www.thenews.com.pk/writer/parvez-rahim)

April 13, 2021

**Maternity leave**

Maternity leave is granted for the care of employed women before and during childbirth and for the care of newborn babies. This is a special leave, which is allowed to female employees of industrial and commercial establishments over the other leave, and is guaranteed through separate legislation.

Provisions for other leave such as sick, casual and annual leave are contained in both the Factories Act, 1934 and the Shops and Establishments Ordinance, 1969. The quantum of these leaves is similar in both the above laws for factory workers and office employees. There are 8 days sick leave, 10 days casual leave and 14 days annual leave per year, allowed at full salary. This is the minimum number of leaves prescribed by law, but an employer has the discretion of allowing more leave to their workers through a collective labour agreement with the representative union.

The law for the grant of maternity leave existed even prior to the promulgation of the Factories Act in 1934. The Sind and Bombay Maternity Benefit Acts came into existence in 1929, while the Punjab Maternity Benefit Act was enforced in 1943. These Acts were repealed by the West Pakistan Maternity Benefit Ordinance, 1958. This was the first ever labour welfare legislation introduced by the government after Partition.

At present, there are different rules and practices followed in Pakistan in terms of the eligibility condition for maternity leave, their quantum and rates of salary payment, as have been elaborated hereinafter.

Under the Ordinance of 1958, women with at least four months employment in an establishment immediately preceding the day of delivery are eligible to get a total of twelve weeks of maternity leave, six weeks before and six weeks after the childbirth. The leave is granted with payment of full salary and the employer is prohibited from dismissing the services of a woman on this account. Under this Ordinance, there is no limit to the number of times a woman may avail the maternity leave during her employment with the same employer.

In the context of promotion of social justice, Article 37 (e) of the constitution makes a cursory reference to maternity benefits, as follows; “The state shall make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.”

On June 15, 2000, the ILO adopted the Maternity Protection Convention, 2000 (No. 183). This convention has revised the Maternity Protection Convention (Revised), 1952, and the Maternity Protection Recommendation, 1952. The convention lays down broad guidelines and minimum standards for the member countries, especially those that ratify this convention. The members may frame their own laws allowing different maternity benefits to employed women but they will have to adhere to provisions of the convention.

There is no condition of employment period for being eligible for maternity leave and benefits. Under the convention, maternity leave is to be allowed for a period of not less than 14 weeks and it is compulsory that the woman should remain on maternity leave for a period of six weeks after childbirth. The amount of cash benefits shall not be less than two-thirds of the woman’s previous earnings.

It is unlawful under the convention for an employer to terminate the employment of a woman during her pregnancy or absence on maternity leave except on grounds unrelated to pregnancy or childbirth. On resumption of work after maternity leave, a woman is to be provided one or more daily breaks or daily reduction of hours of work to breastfeed her child. These are to be counted as working time and remunerated accordingly.

Although the above-mentioned convention has not yet been ratified by Pakistan, the Sindh Maternity Benefits Act, 2018 follows its main provisions in spirit. The act provides four weeks of pre-natal and twelve weeks of postnatal leave at full salary to a woman who has worked for a continuous period of one year preceding the expected date of delivery.

The Sindh act also provides for establishing a daycare center in organizations employing ten or more employees. The woman employee is permitted to visit the center four times during the day to nurse, wean and feed the child. However, the requirement under Section 10, to install CCTV in the center for monitoring the child’s well-being is inappropriate and should be deleted from the act.

The Sindh Employees Social Security Act, 2016 provides that a woman secured under the act will be allowed a total of twelve weeks maternity leave provided contributions in respect of her were paid for not less than 180 days. Industrial and commercial establishments also follow different rules and practices for maternity benefits to their female employees. There is a need to bring uniformity in this sphere through effective legislation.

The writer is a consultant in employee relations at the Aga Khan University Hospital and also teaches the labour welfare laws at IBA.

Email: parvez.rahim1947@gmail.com