

1975
MAY

MATERNITY LEAVE

in **ALBERTA**

In order to prevent discrimination against women on account of marriage or maternity, and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity, and to provide paid maternity leave with the guarantee of returning to former employment, and to provide the necessary social service, including child-care facilities.

United Nations Declaration on the
Elimination of Discrimination
Against Women. 1967.

Prepared for OPTIONS FOR WOMEN
by the Edmonton Social Planning Council

MAY 10, 1975

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Article 10:2
United Nations Declaration on the
Elimination of Discrimination
Against Women, 1967.
(Ratified by Canada).

Since 1975 has been designated by the United Nations and the Canadian Government as International Womens Year, it is time to articulate areas in which discrimination against women still exists.

Maternity leave is one area that has been recognized as a focal point for change.

Maternity Leave: Definition

Maternity Leave is composed of four essential elements:

- 1) The provision of leave, to meet the biological and psychological needs of both the child and mother.
- 2) The implementation of measures which would prevent a woman from being dismissed from her place of employment in the event of maternity.
- 3) The implementation of measures by which there is a guarantee that a woman is assured of resuming her position (as well as salary and benefits) after having a maternity leave.
- 4) The provision of pay during maternity leave.

The primary intent of maternity leave legislation is to insure that women are not placed in the position of losing their job, their income, and their seniority because of their pregnancy. It would insure that women are able to participate in the dual role of parenting and working in the labour force. The need for this legislation becomes apparent when one examines the

readily acceptability of the male performing the dual role of father and worker. In the past, due to the lack of choice involved in child-bearing and the lack of day-care facilities, women for the most part could not perform their dual role. Now with family planning available to many women, an orientation towards smaller families, and the use of child-care facilities, women are now in the position to perform the dual role of mother and worker.

"Why is there need for legislation?" To insure individual rights are guaranteed. It has been customary to dismiss women from jobs upon becoming pregnant (or when "they began to show"); to offer no guarantee of employment once the women had delivered and was ready to return to work; nor to provide salary while on maternity leave. This is why legislation is needed. Women, biologically, are the ones who must carry and deliver children. If their jobs are jeopardized because of their biological role in society, then their freedom of choice is infringed upon. Maternity leave attempts to remove this infringement.

To What Extent is Maternity Leave An Issue?

In 1951 the participation rate of women in the labour force was 18%. Now, twenty years later, this has increased to 33%. The image once held that only single (childless) women work is rapidly changing; women from all situations are now working.

WOMEN IN THE LABOUR FORCE BY MARITAL STATUS -
1972 CANADA

Single	34.1
Married	56.9
Widowed Separated Divorced	9.0
TOTAL	100.0

When we examine the participation rates of married males and females, it is obvious that men work in greater percentages.

PERCENTAGE RATES OF WOMEN AND MEN IN THE LABOUR FORCE BY AGE GROUP - Canada - 1972.

Married	Age	14-19	20-24	25-34	35-44	45-54	55-65	Over 65
	Men		87.5	94.3	97.9	98.1	96.0	84.7
Women		34.2	47.5	36.7	38.1	36.5	23.4	2.7

But if we look at the participation rate of married women we see that after the initial drop-off age (24), women remain relatively constant through their work years as a percentage of the labour force.

AGE - SPECIFIC FERTILITY RATES PER 1,000 WOMEN BY AGE GROUP - 1969.

Year	Age Group:	15-19	20-24	25-29	30-34	35-39	40-44	45-49
1969		42.7	146.5	148.6	84.2	42.1	12.3	1.1

(Canada Yearbook, p. 253)

The average length of time of employment for women is forty years. "The Canadian average fertility rate for working married women is between two and three, while the two child family predominates for Canada as a whole."(1). "If then, a woman has two children, child-bearing subtracts only four to six months from her total work life. Child rearing may keep her away from work much longer, but that is determined socially, not biologically."(2).

Two out of three women who work are married or have been married. The percentage of married women working remains relatively stable through the child-bearing

(1) The 1961 Census shows the two-child family as the model family size in Canada. 1961 Census of Canada, General Review, Fertility Trends in Canada, Bulletin 7:2-2 p. 2-23, 2-29.

(2) Sex and the Public Service, p. 35.

years after the initial drop in participation years. The average woman biologically needs four to six months out of a potential 40 year employment period to have maternity leave. The majority of women workers could utilize maternity leave on the average of two times in their work career.

While the majority of working women could possibly utilize maternity leave twice in their work careers, the need for maternity leave is more than a matter of career planning. It often is an economic necessity and/or the only potential alternative to welfare. The following cases point this out:

Margaret, 26, has been employed as a legal secretary for seven years. Vern, 27, her husband, has been employed as a salesman in a department store for four years. Both would like to have a child within a few years. However, due to their mortgage payments, they cannot live on Vern's salary alone. Both Margaret and Vern enjoy their jobs and look forward to promotions within the next ten years. If Margaret becomes pregnant, it is questionable whether or not the firm will keep her on. Margaret will probably need at least three months off for delivery and initial child-care. Her present position will only be available if no one else can be found. Her seven years seniority will be lost in her absence. Margaret is therefore faced with either/or alternatives: continuing her employment or having a child.

Sheila is 23 and pregnant with her first child. Her husband had just left her and is planning to obtain a divorce. Sheila has been working as a secretary for three years. Faced with the emotional crisis of a forthcoming child and a divorce, she is also confronted with the possibility of losing her employment as a result of her pregnancy. In addition, she will not have a definite job position after delivery to return to. Presently then, she is economically dependent upon the "good will" of her employer to keep her during her pregnancy, and on "luck", so that no one else will apply for her position while she is away. If "good will" and "luck" fail her, she will have to go on welfare.

Implementations of Maternity Leave Legislation

Maternity leave has been designated as a provincial responsibility since labour standards are established provincially. (The exception to this is those employees employed by the Federal Government, and they are covered by Federal labour standards). Provinces in Canada are rapidly recognizing maternity leave as necessary legislation to eliminate discrimination against women. Six provinces in Canada have taken measures to prevent discrimination against women because of maternity. These measures (usually enacted through the Provincial Labour Act, or the Employment Standards Acts) came into effect as early as 1964 in New Brunswick. Maternity leave provisions in four of the six provinces apply to all the employees in the province (British Columbia makes an exception for farmers and domestics, while Ontario excludes those employees employed in an industry with less than 25 employees). Almost all of the provinces have provisions which prevent the loss of employment due to pregnancy. Almost all provinces insure job security (of pay and position); the length of maternity leave provided varies from 12 to 18 weeks. Thus we see that more than one-half of the provinces in Canada offer at least two of the requirements, as defined by the "United Nations Declaration on the Elimination of Discrimination Against Women".

TABLE A:

PROVINCES PROVIDING LEGISLATED MATERNITY LEAVE AND FORM OF LEAVE

	Length of Required Employment	Period of Preceding Delivery Leave	Period of Post Delivery Leave	Provision Preventing Loss of Employment	Extent of Application	Reinstatement of Job Security	Name of Provision
B.C.	No requirement.	6 weeks	6 weeks	yes	Exceptions: Farming Domestic	no	Maternity Protection Act 1966
Sask.	12 mos.	12 weeks	6 weeks	yes	Employees in Province	yes	Labour Standards Act 1973
Man.	12 mos.	11 weeks	6 weeks	-	Employees in Province	yes	Employment Standards Act 1972
Ont. (25 workers or more)	12 mos.	6 weeks	6 weeks	yes	Industries with 25 or more employees.	yes	Employment Standards Act 1972
N.B.	-	6 weeks	6 weeks	yes	Employees in Province	no	Minimum Employment Standards Act 1964
N.S.	12 mos.	11 weeks	6 weeks	yes	Employees in Province	yes	Labour Standards Code 1972

Maternity Leave for Governmental Employees

Provincial Government

Seven out of ten provinces have made maternity leave available for its employees. Provincial regulations vary between provinces, but there is a recognition on the part of provincial government that maternity leave is a necessary component of work benefits. (See Table B - page 7.)

TABLE B:

PROVINCIAL LEGISLATION PROVIDING FOR MATERNITY LEAVE WHERE GOVERNMENT IS THE EMPLOYER

	Length of Required Employment	Period of Preceding Delivery Leave	Period of Post Delivery Leave	Provision Preventing Loss of Employment	Extent of Application	Reinstatement of Job Security	Name of Provision
B.C.	none	6 months Application for Re-employment necessary		no	Female Employee in Public Service	Yes - with reapplication	Civil Service Act 1960
Alta.	1 year continuous	6 months		no	Females in the Public Service	yes	Public Service Act 1968/73
Sask. (crown is bound by statute)	12 mos.	12 weeks	6 weeks	yes	Female Public Service Employees	yes	Labour Standards Act 1969
Man.	none	2 mos.	2 mos.	no	Public Service Employees	no	Civil Service Act 1960/68
Ont. (crown is bound by statute)	12 mos.	6 weeks	6 weeks	yes	Public Service Employees	yes	Employment Standards Act 1970
N.S. (crown is bound by statute)	12 mos.	11 weeks	6 weeks compulsory	yes	Female Public Service Employees	yes	Labour Standards Code 1972
P.E.I.	-	4 months		-	-	-	Civil Service Act 1962/72

The Federal Government also has recognized the legitimacy of maternity leave as a work benefit.

	Length of Required Employment	Period of Preceding Delivery Leave	Period of Post Delivery Leave	Provision Preventing Loss of Employment	Extent of Application	Reinstatement of Job Security	Name of Provision
FEDERAL	12 mos.	11 weeks	6 weeks Medical and Employers approval for shortening.	yes	Workers in establishments under authority of the Federal Government	yes	Canada Labour Code 71 Part III

The Provision of Paid Maternity Leave

As has been shown, many provinces have taken steps to provide leave at the time of maternity, have legislated provisions for prohibiting dismissal due to maternity, and have provided for job security. The other aspect provided for in the U.N. Declaration is that of paid maternity leave.

The Unemployment Insurance Commission has taken upon itself the role of providing pay to women while they are on maternity leave. The Federal Government by implementing pay for maternity leave has altered the original principles of U.I.C. Prior to this, the Unemployment Insurance Commission's purpose was for providing an income to those who were willing and capable of working, but were unemployed. In 1971, this purpose was somewhat altered so that maternity leave could be included in the U.I.C. Plan. U.I.C. already had a system for obtaining contributions from employees; these contributions just became available for those using maternity leave. Now, U.I.C. unemployment benefits are available to pregnant women workers for a 15 week period, while on maternity leave (after an initial two-week waiting period). While these benefits do not equal the salary of the employee, it does show a recognition of the fact that pay to women while on maternity leave is a legitimate claim/need.

MATERNITY BENEFITS PAID BY THE U.I.C. MATERNITY BENEFITS AND TOTAL BENEFITS PAID AND THE NUMBER OF MATERNITY CLAIMS ALLOWED BY THE U.I.C., CANADA, 1972

Year	Total Benefits	Maternity Benefits	Maternity as Percentage of Total Benefits	Number of Maternity Claims Allowed
1972	\$1,871,801,843	\$ 36,431,004	1.9	37,688

(Women in the Albertan Labour Force, 1973, Table 45, p. 127.)

And, Maternity Leave in Alberta?

Question: The question I wanted to ask is whether the government has any immediate intentions towards implementing maternity leave legislation?

Leitch: I'm sorry, I didn't catch the question. Maternity amendment? Maternity legislation??

Question: There is no legislation, there is no law that says a woman has the right to take time off to have a baby and not be fired.

Leitch: All right...all right...I now understand what you're talking about. You're asking what our plans are in respect to enacting legislation whereby a wife could take time off while she's having a child? The matter has been discussed and I've forgotten where it might have been...under what legislation...I assume it would be under labour legislation: I can't tell you. I know it's been discussed, I can't tell you where. I'll check tho!

Women and the Law Conference

Calgary - September 13, 1974

Topic: Future Laws for Albertan Women

Speaker: Mervin Leitch, Attorney General of Alberta.

Transcript of Proceedings.

Question/Answer Session.

The preceding excerpt from the forum on "Future Laws for Albertan Women" indicates the stage of development of maternity leave in Alberta. Although Canada has ratified the "United Nations Declaration on the Elimination of Discrimination Against Women", and six provinces have seen fit to implement maternity leave legislation, Alberta has not yet done so.

If women in Alberta are to contribute to society their abilities to work and to have children, then legislation must be implemented which will guarantee them the opportunity to do so. The allocation of time for maternity leave must be considered and implemented. Assurance that a woman cannot be fired because of being pregnant or needing maternity leave is equally important. That she will be able to return to her job, after maternity leave, with full benefits, seniority and pay supplement, is the only way that women can be assured that their career is not jeopardized due to maternity. Lastly, but just as important, is the recognition that women should be paid while they are on maternity leave. It is only when all four components are enacted will the working women have the choice of being employed and having children.