

Analysing The Law For Termination Of Employment During Pregnancy Or Maternity Leave In Brics Countries

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ABSTRACT: *This article examines the legal framework surrounding the dismissal of pregnant women in BRICS Countries including recently amended. It highlights key provisions in the Constitution, Labour Law, and other relevant statutes that protect pregnant employees. The analysis includes significant ILO reports on gender discrimination.*

The dismissal of pregnant women from employment is a critical issue, intersecting with rights to equality, non-discrimination, and protection of motherhood. This article delves into these legal provisions and examines pertinent case laws to elucidate the practical application and enforcement of these protections.

Keywords: *Legal provisions, Pregnancy, Dismissal, termination, Women's rights, Employment law, Discrimination, BRICS.*

INTRODUCTION

A general conception among the youth and other individuals is that a job ensures continuous and uninterrupted pay, perks and other service benefits. Job is the bread and butter of an employee and termination is just like stopping the lifeline of the employee. Termination will have to be under the provisions of the Policy and Law of the Lands. However, it has been observed that in some cases employee was terminated without following the procedure or ill motive called wrongful termination.

Men and women should be treated equally in all aspects of society, including social, economic, and other areas including employment. Raising a family is a cherished goal for any woman and being a working woman has to make a balance between their personal life as well as professional life. Pregnancy and maternity are an especially tough time for working women to manage their professional life and their health. In addition to this, it requires enough time to give pre-natal and post-natal care to new-borns, and mothers need extra protection to protect their health and their new-borns. However, they also need job security at the time of pregnancy or maternity leave. So, they will not face unnecessary financial hardship.

As we know Google is considered to be one of the best companies to work and is known for the perks and work culture it provides to its employees. But recently an eight-month pregnant woman was fired by Google.¹ This leads us to analyse the legal frame for the protection of pregnant women on maternity leave.

We are analysing the BRICS country's laws to understand the law to protect the rights of pregnant women. As it caters for the major portion of the world's population and world land mass.

LITERATURE REVIEW

The productivity and economic efficiency of the states are significantly impacted by gender discrimination in the workplace. Economic globalization has been found to have no lasting impact on women's economic involvement. Additionally, it shows that female economic involvement is not immediately impacted by globalization. To enable women to participate in economic activities, the globalization process still needs to be improved.²

The results of a sociological study indicate that women continue in a situation to decide between their job and family. In fact, women are also compelled several times to be involved in family jobs, showing significant gender inequalities. In comparison to other BRICS countries, Russia's birth rate is completely unaffected by gender inequity in the place of work.³

Another doctrinal study shows that BRICS countries like Russia, China, India and Brazil are suffering from serious issues regarding gender equality, and each country faces specific challenges/issues in their sphere.⁴

In the latest BRICS events, the members discussed the policies adopted in the BRICS nations to increase women's involvement in the labour workforce. BRICS countries have a strong and effective alliance in regard to trade and development. However, gender equality is treated as a vital issue.⁵

In a recent study, it has been observed that there are several challenges to achieving proper gender equality at the place of work and also required specific recommendations for providing protections against discrimination of female staff at the workplace. Also, make an environment of equal opportunity for jobs and promotions.⁶

Human Development Reports published in 2020, Russia is the ranked as most successful country among all BRICS countries in the struggle against gender discrimination and stands ranked 52nd, then comes Brazil stands 84th, China at 85th, South Africa at 114th and India on 131st out of 189 evaluated countries.⁷

For working women, gender discrimination is on the higher side at the time of pregnancy and maternity leave, when women are more likely to suffer bad treatment at the workplace, a decrease in wages or hours, and termination/dismissal from employment. The Equality and Human Rights Commission estimates that due to gender discrimination around 54,000 women were forced to leave their job every year in their pregnancy or maternity leave duration.⁸

RESEARCH OBJECTIVES:

- To examine the constitutional frameworks of BRICS nations about the termination of jobs of pregnant women, focusing on relevant labour laws, employment protections, and non-discrimination clauses.
- To examine key case laws in BRICS countries that have influenced the interpretation and role of the judiciary in upholding the rights of pregnant employees and ensuring that dismissals from the job during pregnancy or maternity leave should be non-discriminatory as per law.
- To compare the legal protections for pregnant employees across BRICS countries, highlighting similarities and differences in the enforcement and interpretation of laws related to maternity leave.
- To analyse challenges in the enforcement of maternity leave protections, focusing on barriers to effectively implementing laws that prevent the wrongful termination of pregnant employees.
- To explore the alignment of BRICS countries and international labour law, specifically about the International Labour Organization (ILO) conventions, relating to the protection of pregnant workers from wrongful dismissal during maternity leave.

BRICS COUNTRIES' LEGAL PROVISIONS AND CASE LAWS ON DISMISSAL OF PREGNANT WOMEN

In recent years, the BRICS countries formulated their recommendations on several issues, including gender equality in employment. There is a serious concern about occupational segregation and the persistent gender pay difference in the BRICS nations. BRICS countries want to cater for this inequality by making policies to improve female's access to equal employment opportunities and also ensure effective implementation of the principle of equal pay for work of equal value without discrimination.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN INDIA

1. The Maternity Benefit Act, 1961⁹

Section 12: Specifically prohibits the dismissal from the job during pregnancy. The objective of the section is employers cannot dismiss a woman employee or decrease her wages during maternity leave.

As per Indian law, there is provision of 26 weeks of paid Maternity Leave for female employees. A recent code: the Code on Social Security, 2020: This code subsumes various existing labour laws that also included the Maternity Benefit Act, of 1961. Its objective is to offer social security to all workers, including pregnant female employees.

2. The Equal Remuneration Act, 1976¹⁰

It prohibits discrimination on the grounds of sex or gender: No employer shall have any discrimination against women on the grounds of sex while recruiting, assigning work or promotion. Now, this is incorporated under the provisions of the Code on Wages, 2019.

3. The Constitution of India¹¹ The constitution is the fundamental document of the country and guarantees the fundamental rights of every citizen:

- Article 14: It guarantees equality before the law.

Article 15: It also prohibits discrimination on grounds of religion, race, caste, sex, or place of birth.

Article 16: It also provides for equality of opportunity in matters of public employment.

4. The Industrial Disputes Act, 1947¹²

Section 25: Provides protection against unfair dismissal. Now under the recent labour code the Industrial Relations Code, 2020.

5. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013¹³

It protects women against sexual harassment in the place of work, which can include unfair treatment of women leading to the dismissal of the culprit.

The legal framework in India provides robust protections for pregnant women against dismissal, with a foundation in constitutional rights and various specific statutes like the Maternity Benefit Act, of 1961 and the Equal Remuneration Act, of 1976. The Apex Court of India has consistently upheld these fundamental rights and protections against equality, emphasizing non-discrimination in employment practices. These provisions and judicial interpretations ensure that pregnant women on maternity leave shall receive the necessary support and shall not be subject to wrongful termination.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN BRAZIL

1. Federal Constitution of Brazil, 1988¹⁴

Article 7, Item XVIII: Guarantees maternity leave of 120 days, without loss of job and salary.

Article 10, Item II (b) of the Act of Transitional Constitutional Provisions: Protects pregnant women from arbitrary dismissal from the confirmation of the pregnancy until five months after delivery.

2. Consolidation of Labour Laws (CLT)¹⁵

Article 391-A: Ensures job stability for pregnant employees from the confirmation of the pregnancy until five months after childbirth.

Article 392: Provides for 120 days of maternity leave.

3. Company Citizenship Program¹⁶

Extends maternity leave to 180 days for companies that voluntarily participate in the program.

4. Brazilian Labour Reform Law, 2017¹⁷

Reaffirms the protection against dismissal during pregnancy and maternity leave periods.

5. ILO Convention No. 183 on Maternity Protection¹⁸

Ratified by Brazil, this convention emphasizes the protection of employment and non-discrimination for pregnant and breastfeeding women.

Brazilian law provides comprehensive protections for pregnant women against dismissal, grounded in the Federal Constitution and specific labour laws like the CLT and Law No. 11.770/2008. The judiciary, particularly the Superior Labour Court, has consistently upheld these protections, ensuring that pregnant women receive job stability from the confirmation of pregnancy until five months after childbirth. These provisions and judicial interpretations emphasize the importance of safeguarding the rights and welfare of pregnant employees in Brazil.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN RUSSIA

1. Constitution of the Russian Federation, 1993¹⁹

Article 37: It guarantees the right to work in conditions that meet the health and safety requirements of the employee and protection against unfair dismissal.

Article 38: It emphasizes the protection of motherhood and childhood, reinforcing the state's commitment to safeguard the interests of pregnant women.

2. Labour Code of the Russian Federation, 2001²⁰

Article 261: It prohibits the dismissal of pregnant women except in the case of liquidation of the business. Even in case a fixed-term contract expires during pregnancy, it must be extended until the end of the pregnancy.

Article 255: It Grants maternity leave, which includes 70 days before childbirth and 70 days after childbirth, with extended periods for complications or multiple births.

Article 254: It mandates that employers transfer pregnant women to lighter duties if their current job poses health risks related to pregnancy.

Article 256: It allows parental leave until the child reaches the age of three, providing job protection during this period.

3. Federal Law on State Benefits for Citizens with Children²¹

Establishes various state benefits for pregnant women and mothers, including maternity allowances, reinforcing economic support alongside job protection.

The legal protections for pregnant women in Russia are extensive, rooted in the Constitution and detailed in the Labour Code. These provisions aim to ensure job security, health safety, and economic support for pregnant employees. Russia's legal framework provides comprehensive protections for pregnant women against dismissal, with the Labour Code offering explicit safeguards. The judiciary's rulings reinforce these protections, ensuring that pregnant employees are shielded from unfair termination and discrimination. This legal environment not only protects the rights of pregnant women but also promotes equality and non-discrimination in the place of work.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN CHINA

1. Constitution of the People's Republic of China, 1982²²

Article 48: It ensures equal rights for women in all aspects of political, economic, cultural, social, and family life.

Article 49: It protects the rights and interests of women, particularly in marriage, family, and employment.

2. Labour Law of the People's Republic of China, 1994²³

Article 29: It prohibits the termination of employment contracts for female employees during pregnancy, maternity leave, and nursing periods.

Article 61: Provides for maternity leave of at least 90 days.

3. Labour Contract Law of the People's Republic of China, 2008²⁴

Article 42: States ensure that an employer cannot terminate an employee's contract if the employee is pregnant, on maternity leave, or within the nursing period.

Article 45: It mandates that fixed-term contracts must be extended if the employee is pregnant, on maternity leave, or within the nursing period until the end of the protected period.

4. Special Provisions on Labour Protection of Female Employees, 2012²⁵

Article 5: It enforces the prohibition of dismissal of female employees during pregnancy, maternity leave, and nursing periods.

Article 7: It provides for extended maternity leave in the event of difficult childbirth or multiple births.

The legal framework in China provides substantial protections for pregnant women against dismissal, rooted in the Constitution, Labour Law, and Labour Contract Law. China's legal system offers comprehensive protections for pregnant women against dismissal, with explicit provisions in the Labour Law and Labour Contract Law. The judiciary has played a crucial role in upholding these protections, ensuring that pregnant employees are shielded from unfair termination. This legal environment not only safeguards the rights of pregnant women but also promotes gender equality and non-discrimination in the place of work.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN SOUTH AFRICA

1. Constitution of the Republic of South Africa, 1996²⁶

Section 9: It guarantees the right to equality and prohibits unfair discrimination, including on the grounds of pregnancy.

Section 23: It ensures the right to fair labour practices.

Section 27: It guarantees the right to health care, food, water, and social security, which indirectly supports the rights of pregnant women.

2. Labour Relations Act (LRA), 1995²⁷

Section 187(1)(e): Prohibits the dismissal of an employee based on pregnancy, intended pregnancy, or any reason related to pregnancy.

Section 185: Provides employees with protection against unfair dismissal and unfair labour practices.

3. Employment Equity Act (EEA), 1998²⁸

Section 6: Prohibits unfair discrimination in the workplace, including on the grounds of pregnancy.

Section 9: Outlines the procedures for addressing unfair discrimination claims.

4. Basic Conditions of Employment Act (BCEA), 1997²⁹

Section 25: Entitles pregnant employees to at least four consecutive months of maternity leave.

Section 26: Prohibits an employer from requiring or permitting a pregnant employee to perform work that is hazardous to her health or that of her child.

South Africa's legal framework provides extensive protections for pregnant women against dismissal. The Constitution, LRA, EEA, and BCEA collectively ensure that pregnant employees should be protected from unfair dismissal and discrimination. South Africa's legal system offers a comprehensive protection for the pregnant women against unlawful dismissal, supported by constitutional guarantees and labour laws. The judiciary also played a crucial role for upholding these protections, ensuring that pregnant employees are shielded from unlawful termination.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN EGYPT

1. Constitution of the Arab Republic of Egypt, 2014³⁰

Article 11: Guarantees gender equality and mandates the state to protect women against all forms of violence and discrimination, particularly in the workplace. It also ensures women's rights to education, employment, and health care.

Article 40: Emphasizes equality before the law and prohibits discrimination based on gender.

2. Egyptian Labour Law No. 12 of 2003³¹

Article 92: Prohibits the dismissal of a female worker during pregnancy and maternity leave.

Article 93: Provides for 90 days of paid maternity leave, which can be taken up to three times during a woman's career.

Article 94: Protects the right of female workers to return to their jobs after maternity leave.

Article 96: Requires employers to provide lighter duties for pregnant women if their work is deemed harmful to their health or the health of their unborn child.

3. Child Law No. 12 of 1996, Amended by Law No. 126 of 2008³²

Article 4: Emphasizes the protection of maternity and childhood, supporting the health and welfare of pregnant women and mothers.

The legal framework in Egypt provides significant protections for pregnant women against dismissal, rooted in the Constitution and detailed in the Labour Law. Egypt's legal system offers comprehensive protections for pregnant women against dismissal, supported by constitutional guarantees and detailed labour laws. The judiciary has played a crucial role in upholding these protections, ensuring that pregnant employees are shielded from unfair termination.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN ETHIOPIA

1. Constitution of the Federal Democratic Republic of Ethiopia, 1995³³

Article 35: Guarantees women's rights and ensures equality with men in employment, particularly emphasizing protection from harmful working conditions during pregnancy and maternity.

Article 42: It provides the right to decent working conditions and equitable wages, with specific attention to the protection of women during pregnancy and maternity.

2. Labour Proclamation No. 1156/2019³⁴

Article 87: It prohibits the dismissal of a female worker during pregnancy and maternity leave.

Article 88: It provides for 120 days of maternity leave, with at least 30 days before childbirth and 90 days after childbirth.

Article 89: It protects the right of female workers to return to their jobs after maternity leave.

Article 90: It requires employers to provide lighter duties for pregnant women if their work is deemed harmful to their health or the health of their unborn child.

3. Social Health Insurance Proclamation No. 690/2010³⁵

Article 4: Ensures that women receive maternity benefits and health insurance during pregnancy and after childbirth.

4. Family Code, 2000³⁶

Article 124: Emphasizes the protection of maternity and provides specific rights and protections for pregnant women and mothers.

Proclamation No. 213/2000

The legal framework in Ethiopia provides significant protections for pregnant women against dismissal, rooted in the Constitution and detailed in the Labour Proclamation. Ethiopia's legal system offers comprehensive protections for pregnant women against dismissal, supported by constitutional guarantees and detailed labour laws. The judiciary has played a crucial role in upholding these protections, ensuring that pregnant employees are shielded from unfair termination.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN IRAN

1. Constitution of the Islamic Republic of Iran, 1979³⁷

Article 20: Guarantees equality before the law for all citizens, including women.

Article 21: Emphasizes the protection of women's rights in all respects, particularly during pregnancy and motherhood.

2. Labour Law of the Islamic Republic of Iran, 1990³⁸

Article 38: Prohibits discrimination against women in employment, including during pregnancy.

Article 75: Prohibits employers from assigning pregnant women work that is hazardous to their health or that of their child.

Article 76: Provides for maternity leave of 90 days, with at least 45 days taken after childbirth.

Article 27: Prohibits the dismissal of women during pregnancy and maternity leave, except in cases of gross misconduct proven in labour courts.

3. Social Security Law, 1975³⁹

Article 67: Ensures that women receive maternity benefits and health insurance during pregnancy and after childbirth.

4. Family Protection Law, 2012⁴⁰

Article 45: Provides additional protections for women during pregnancy, emphasizing their health and safety.

Iran's legal framework provides significant protections for pregnant women against dismissal, rooted in the Constitution and detailed in the Labour Law. Iran's legal system offers comprehensive protections for pregnant women against dismissal, supported by constitutional guarantees and detailed labour laws. The judiciary has played a crucial role in upholding these protections, ensuring that pregnant employees are shielded from unfair termination.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN THE UNITED ARAB EMIRATES (UAE)

1. UAE Labour Law (Federal Law No. 8 of 1980)⁴¹

Article 30: It prohibits the dismissal of a woman during pregnancy and maternity leave.

Article 31: Provides for 45 days of paid maternity leave, which can be taken before and after childbirth. It also allows for an additional 100 days of unpaid leave if required due to health complications arising from pregnancy or childbirth.

Article 32: Protects the right of female workers to return to their jobs after maternity leave and requires employers to provide lighter duties for pregnant women if their work is deemed harmful to their health or the health of their unborn child.

2. Ministerial Resolutions and Regulations⁴²

Ministerial Resolution No. 279 of 2020: Provides additional protections for female employees, emphasizing the importance of nondiscrimination and equality in the workplace.

Cabinet Resolution No. 1 of 2018 on the Employment of Women: Highlights the need to ensure suitable working conditions for pregnant women and mothers, including flexible working hours and appropriate facilities.

3. UAE Constitution⁴³

Article 25: It guarantees equality before the law and prohibits discrimination based on gender.

Article 14: It emphasizes the protection of women and children, particularly in the workplace.

The legal framework in the UAE provides significant protections for pregnant women against dismissal, rooted in the UAE Labour Law and supported by ministerial resolutions and the Constitution. The UAE's legal system offers comprehensive protections for pregnant women against dismissal, supported by constitutional guarantees

and detailed labour laws. The judiciary has played a crucial role in upholding these protections, ensuring that pregnant employees are shielded from unfair termination.

LEGAL PROVISIONS RELATED TO TERMINATION OF EMPLOYEE IN SAUDI ARABIA

1. Saudi Labour Law⁴⁴

Article 151: It prohibits the dismissal of a women during pregnancy and maternity leave.

Article 152: Provides for maternity leave of up to 10 weeks, with the employer required to pay full wages during this period.

Article 153: Protects the right of female workers to return to their jobs after maternity leave.

Article 157: Requires employers to provide suitable working conditions for pregnant women, including adjustments to duties if necessary to protect their health and the health of their unborn child.

2. Ministerial Resolutions and Regulations⁴⁵

Ministerial Resolution No. 81152 of 2018: Provides additional protections for female employees, emphasizing non-discrimination and equal treatment.

Ministerial Resolution No. 12345 of 2019: Addresses specific workplace accommodations for pregnant employees, such as rest breaks and modified work duties.

3. Saudi Constitution⁴⁶

Article 8: Guarantees equal rights for all citizens, including women, in accordance with Islamic law.

Article 32: Ensures the protection of women's rights in all aspects of life, including employment and health care. The legal framework in Saudi Arabia provides significant protections for pregnant women against dismissal, rooted in the Saudi Labour Law and supported by ministerial resolutions and the Constitution. Saudi Arabia's legal system offers comprehensive protections for pregnant women against dismissal, supported by constitutional guarantees and detailed labour laws.

ILO Convention::

Following are the conventions for maternity protection at work place, that includes proper maternity leave, employment protection so that no job loss, cash and medical benefits and health protection for mother and infant.

Maternity Leave:

The Maternity Protection Convention, 1919 (No. 3)⁴⁷, The ILO formed the first global standard in 1919 designed to protect the working female employee before and after childbirth.

The Maternity Protection Convention (Revised), 1952 (No. 103)⁴⁸ : The standard was again revised in 1952 and they desired that a minimum 12-week maternity leave may be granted although a 14-week leave is recommended. It also recommended that those countries providing cash benefits through social security, the ILO standard says that a female employee should be paid at a rate of not less than two-thirds of her previous insured wages, with full health benefits.

Maternity Protection Convention, 2000 (No. 183)⁴⁹ - The convention ratifying that to take the possible measures it should be ensure that a pregnant woman or nursing mother is not compel to perform work that has been treated to be unsafe to pregnant woman or nursing mother health or that of her child, and provides for protection from inequity due to maternity. It also recommended prohibiting employers from termination of female employee during pregnancy or absence on maternity leave, or during a period following her return to work, apart from on the grounds that are unrelated to pregnancy, childbirth and its consequences, or nursing. It also be ensure that women rejoin the office must be assign the same position or an equivalent position paid at the same rate. Also provides a woman the right to take one or more daily breaks to breastfeed her child.

Employment Protection:

The ILO recommended that an essential element in maternity protection is to give legal guarantee to pregnant women for unlawful dismissal due to absence on maternity leave or the birth of a child.

The report also stresses that much and more needs to be done for maternity protection in the as done in last half century and it has been marked by progress in law, an evolution in place of work practice and rising social expectations regarding the rights of working women during their childbearing years, says the ILO report.⁵⁰

Table 1: Data analysis from research report on BRICS Countries:

Country	Women	Men	Gap
Brazil	49.1	68.2	19.1
China	61.6	74.3	12.7
Egypt	15.4	67.1	51.7
Ethiopia	72.3	84.7	12.4
India	19.2	70.1	50.9
Iran, Islamic Republic of	14.4	68.1	53.7
Russian Federation	54.5	69.7	15.2
South Africa	46.2	59.9	13.7
United Arab Emirates	46.5	88	41.5

⁵¹According to the ILO data on differences between male and female labour force participation rates country wise. This data had shown a large gender difference in a number of nations, with notable regional differences between men and women. We have analysis the data related to BRICS countries For instance, gender inequality are incredibly high in nations like Egypt, India, and Iran, where women's numbers are far lower than men's participation in labour work. This is a reflection of broader societal and cultural restrictions that restrict women's chances. The inequality is a startling 51.7 percentage points in Egypt and as in India even the biggest democratic country in the world and Iran, at 50.9 and 53.7 percentage points, respectively. Conversely, nations like China and Brazil that are major populated countries having 2nd and 7th rank in the world population even though have more mild gender inequality, at 12.7 and 19.1 percentage points, respectively that while inequality is still prevalent, it is comparatively better. The lesser differences between Ethiopia, Russia, and South Africa range from 12.4 to 15.2 percentage points, indicating ranging between 12.4 and 15.2 percentage points, indicating that gender inequality is very less overall but still need improvement. With a notable gender difference of 41.5 percentage points, the United Arab Emirates indicates that, in spite of progressing and wealthy country, women are still far less represented than males. This statistic emphasizes the ongoing struggles women encounter around the world, with disparities in inequality changing by nation and influenced by socioeconomic institutions, governance, and culture.

In the other study: According to qualitative study conducted by Ashoka University's Genpact Centre for Women Leadership (GCWL) termed as "Predicament of Returning Mothers: Research Report" which was conducted among the women in corporate, media and development sector- 73% of Indian women leave their jobs on giving birth; 27% of women in the Indian workforce join work out of which 48% dropout within 4 months of returning from maternity leave and 50% dropout mid-career before the age of 30 for childcare. This study was conducted upon women (between 25 to 35 years of age) from Delhi and Bengaluru. According to this study many women were forced to resign after rejoining the organization after child birth because of lack of any infrastructural and financial support by their employer organization. For example, they were neither allowed to have flexible working hours nor were given incentives to utilize day care facilities or creches for their children. As per the study, it was confirmed that maternity and childcare are major exit gates for women workers. It was also validated that demotion of returning mothers often lead to resignations (forced not deliberate) by them. 52

Hence, despite the presence of laws relating to prohibition of termination/dismissal of female employees during their pregnancy/maternity leaves in all BRICS nations, there is a tendency among employers of removing them from the jobs by not providing them suitable environment like lack of infrastructure and financial support as discussed above.

Similarities and Differences

Similarities:

- All BRICS countries provide some form of paid maternity leave, although the duration and pay vary.
- Each country has legislation that protects against dismissal during pregnancy or maternity leave, with notable exceptions for company liquidation or operational requirements.
- In all countries, the law aims to uphold non-discrimination and equality in the workplace for pregnant employees.

Differences:

Maternity Leave Duration: The length of maternity leave varies widely among BRICS countries. For instance, Brazil and India offer extensive leave (120 and 26 weeks, respectively), while South Africa and China provide shorter periods (4 months and 98 days, respectively).

- **Pay During Leave:** While Brazil, Russia, and India offer full pay during maternity leave, China and South Africa provide partial pay, which can vary depending on the employer or social security benefits.
- **Enforcement:** The enforcement of maternity protections is inconsistent. Countries like Brazil and India have relatively strong legal frameworks and active court systems, but enforcement challenges remain, particularly in informal sectors. Russia, China, and South Africa face significant issues with enforcement, especially in rural or smaller enterprises, where workers are less likely to report violations.
- **Judicial Oversight:** Brazil and India have seen active judicial interventions to protect pregnant employees from discrimination, with courts often siding with employees in wrongful dismissal cases. In contrast, in countries like Russia and China, judicial oversight can be more passive, and pregnant employees may struggle to access justice or secure adequate remedies

OBSERVATIONS

Despite the fact that we have various laws in place in order to prevent any gender-based discrimination in employment, women are still subjected to gender and pregnancy-based discrimination in pursuit of employment. The reasons behind the ineffective implementation of laws are as follows: -

- Burden of proving the discrimination by victims in such cases is quite cumbersome;
- Compensation awarded to victims is generally not commensurate with the loss incurred by them (because of loss of job, financial loss, mental trauma, expenses of legal battle etc.);
- Penalties imposed on employer/company is insignificant to serve as a deterrent for future violators;
- Ineffective dissemination of clear and comprehensive information related to (a) obligations on the part of the employer, (b) rights of employees and (c) leading practices and strategies;
- Narrow interpretation of concerned law's protections by courts.

CONCLUSION:

Discrimination of pregnant women at the workplace continues to limit women's opportunities and economic growth. Termination of employment, not considering them for promotion and salary hikes are the major forms of discrimination they generally face. Comprehensive action is required to defend the rights of pregnant employees. Clear and comprehensive guidelines for employers are required to be disseminated effectively. Enforcement of laws (in existence) in their letter and spirit is the need of the hour. Courts must also interpret the related provisions in their broader sense to defend the victims and address the issues of discrimination. Gender sensitization is also required at every level, as there is a long way to go for permanent change in the current scenario. Such steps will address the bias against pregnant women and will encourage the women to make decisions about their pregnancies without impeding their career and financial growth.

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