

Promoting Maternal Wellbeing: Protecting Maternity Rights through Social Insurance for Employment Programs

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Manuscript Chronology: received on 9 November 2023, revised on 18 December 2023, accepted on 23 December 2023

Abstract

Indonesia has a statutory paid maternity leave; however, it remains restricted to the employer's liability and has not yet been integrated into the social security system within the labour sector. Prior research suggests that the availability of maternity leave remains restricted, which raises the likelihood of experiencing reduced income during leave and missing out on potential employment chances upon return. The main objective of paid maternity leave is not just to safeguard the women's needs, but also to improve the welfare of children and families, resulting in favorable economic benefit. This article advocates for the need of transitioning the prevailing perspective on maternity leave, wherein it is seen as the responsibility of the employer, to a social insurance programme that falls within the scope of employment social insurance. Implementing such a programme would guarantee that women have the ability to take time off and get financial support throughout their leave, in order to preserve their well-being, as well as that of their children and families. Additionally, it would provide reassurance for a smooth transition back to work following the completion of maternity leave.

Keywords: social insurance, maternity rights, maternity protection, women's economic participation

Introduction

A number of studies agree on the important role of social protection in reducing poverty and vulnerability. However, social protection sometimes fails to protect women due to a lack of attention to gender aspects in policy design, particularly the structural barriers women face. Cameron et al. (2019) state that women's high participation in informal employment, women's tendency to stop working after having children, and difficult access to financial services are reasons why social protection system is insufficient to address gender inequality. Kabeer (2010) also argues that the design of social protection schemes sometimes overlooks the barriers women face to work, in particular social norms that emphasise women's primary responsibility to care for the family. This has led to the importance of a framework that addresses gender inequality in social protection (World Bank 2012; Holmes & Jones 2013; Plagerson et al. 2019; UNICEF 2020 & 2021; UNESCAP 2021).

This paper focuses primarily on maternity protection as a form of protection for women that enables them to continue working without compromising the well-being

of themselves, their children, and their families. Unlike maternity leave, maternity protection is a form of social security that goes beyond the provision of time to rest and care for children. Maternity protection protects women's own health and that of the children and family members in their care during pregnancy, childbirth, and the postpartum period. It also provides income security from pregnancy to postpartum period and ensures that women can return to work after maternity leave. Ultimately, maternity protection will help improve women's position in the labour market and, in the long term, reduce gender gaps in labour force participation, pay, informality, and social security (ILO 2016).

The provision of maternity protection is a right of workers and a responsibility of the state. This protection has been recognised in conventions, including the 1948 Universal Declaration of Human Rights and the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Several countries, particularly developed ones, have translated these conventions into laws requiring paid maternity leave so that mothers and children have better health after

childbirth and can continue to breastfeed. International standards for maternity protection schemes as well as legislation relating to maternity protection obligations in different countries have also evolved from postpartum leave to paid maternity leave.

Various studies have proven the positive benefits of statutory maternity protection. The income and time security provided by maternity protection schemes significantly improves the health and well-being of mothers and children. Maternity leave is associated with improved infant health (Coley & Lombardi 2013; Siregar et al. 2019 & Tanaka 2005) and increased female labour force participation (Besamusca et al. 2015; Low & Sanchez-Marcos 2015). Tanaka's (2005) study of 18 Organisation for Economic Co-operation and Development (OECD) countries over the period 1969-2000 shows that longer maternity leave and better benefits can reduce the number of low birthweight babies and infant mortality. Meanwhile, Low & Sanchez-Marcos (2015) found a substantial impact of maternity leave on women's labour force participation, particularly for women with children aged 0-2.

Currently, the fulfilment of maternity rights for women workers in Indonesia is still entirely delegated to the employer and has not been implemented through the employment social security system. This right is regulated in Article 82 of Law No. 13/2003 on Labour, which states that women workers are entitled to maternity leave for 1.5 months before and after childbirth, or approximately 12-13 weeks, with full wages paid by the employer. This is in contrast to ILO standards that encourage the financing of maternity leave benefits by the social security system rather than by the employer alone. This can increase the risk of women losing their jobs and income for their families during pregnancy and childbirth if they are prevented from accessing such leave and receiving assurances that they will be able to return to work after the leave period. In this article, we argue that such risks can be mitigated if paid maternity leave is included in workers' social security schemes. We use the International Labour Standards concept that maternity protection is a public good and a collective obligation, through solidarity and risk pooling from all parts of society (Addati et al. 2022).

In this article, we use a flexible concept of social protection that reflects the country-specific context and evolves over time according to a country's needs and capacities (Dekker et al. 2000), but still includes basic components of social protection such as social assistance and social security (Norton et al. 2001; Brunori & O'Reilly

2010; Kabeer 2010). Social protection is a comprehensive set of policies and programmes aimed at preventing, reducing, and addressing risks and concerns faced by all citizens throughout their lives (life cycle) in order to protect them from poverty and vulnerability (TNP2K 2018). The concept of social protection is also the underlying philosophy of maternity protection, which serves to prevent women from falling into vulnerability and poverty.

This paper is divided into four sections. The first section provides an overview of gender inequality in the labour market as a background to the argument for maternity protection. The second section explains the direction of change in Indonesia's social security system and its implications for maternity leave policy in Indonesia. The next section describes the challenges in the implementation of maternity leave in Indonesia and alternatives for improving maternity leave policy through social security schemes. The final section contains recommendations for strengthening employment social security system to better address gender risks and vulnerabilities.

In this article, the discussion of maternity protection is limited to employment social security due to the lack of literature on this subject. We do not discuss health insurance, which is a crucial part of comprehensive maternity protection. The discussion of pre-, during, and postpartum health insurance and postpartum services has been extensively discussed in various literatures (Laksono et al. 2022; Denny et al. 2021; Siregar et al. 2019). We also do not discuss other forms of maternity-related social assistance¹, as the scope of this paper focuses on the transformation of maternity leave into part of the contributory social security system.

Research Methodology

The authors used a desk research approach to develop the argument for the importance of maternity protection as part of employment social security. The authors reviewed literatures, reports, and statistics that provide evidence of gender inequality in the labour market and unpaid care work globally and in Indonesia. The authors synthesised the evidence with a review of current maternity leave policy. In this review, the authors analysed the challenges of implementing such a policy, drawing on evidence from several existing studies. In discussing the maternity leave policy, this paper limits the discussion of maternity protection to the scope of social security, in particular employment social security. While we do not discuss other social protection

programmes, it is worth emphasising that there are still gender inequalities in access to these programmes.

Gender Inequalities in Labour Force Participation and Care Work in Indonesia

Maternity protection plays an important role in ensuring women’s equal access to the labour market, as well as income sustainability that contributes to the well-being of the whole family. However, maternity leave mechanisms, as well as other social protections, sometimes do not take into account the barriers women face, in particular access to decent work and “time poverty” as women bear the burden of care work. In this section, we describe the situation of women’s access to employment using the indicators of Labour Force Participation Rate (LFPR) and time spent on unpaid care

and domestic work. LFPR is commonly used to measure economic opportunities, although an increase in LFPR for women does not necessarily indicate progress in economic gender equality (Utomo 2018).

Over the past three decades, Indonesia has continued to experience gender inequalities in LFPR (Cameron et al. 2019). In 2019-2021, women’s LFPR remained unchanged at 52 to 53 per cent, while men’s LFPR was 83 per cent (Figure 1). This figure is much lower than the male participation rate of 80 per cent. Various studies have concluded that marital status and having children under five are factors associated with low female participation, especially in the 20-34 age group (Figure 2). Entering family life creates care responsibilities for women and this is a factor that causes them to stop working (Setyonaluri 2013).

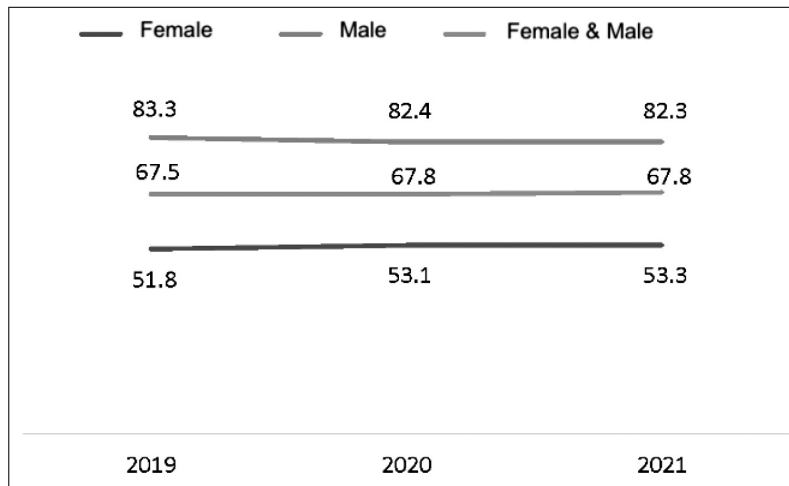


Figure 1. Labour Force Participation Rate by Gender, 2019-2021

Source: Calculation results from SAKERNAS, August 2019-2021 (Milawati et al. 2023)

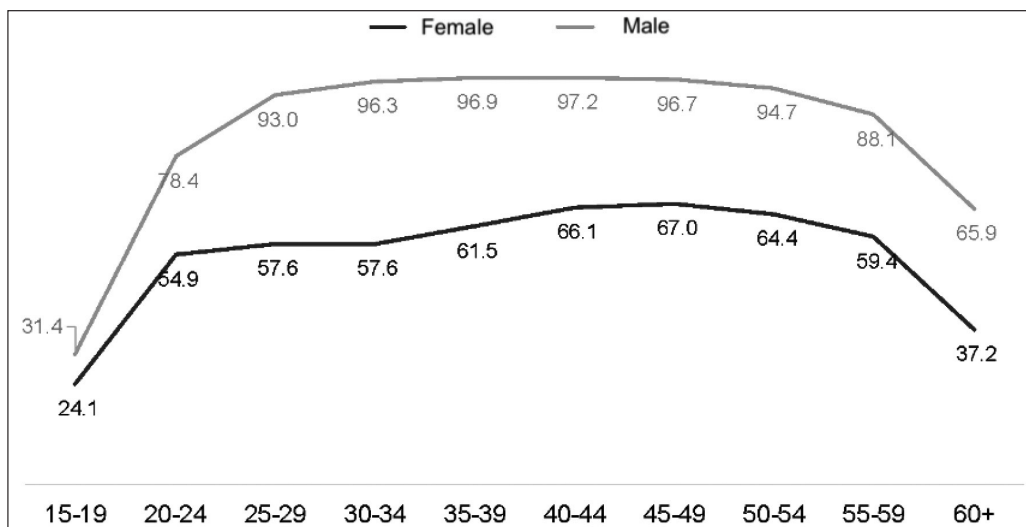


Figure 2. Labour Participation Rate by Gender and Age, 2021 (%)

Source: Calculation results from SAKERNAS, August 2021 (Milawati et al. 2023)

In many countries, there is an inequality in the allocation of time to unpaid care work between men and women. Time Use Survey results in 64 countries show that of the 16.4 billion hours per day allocated to unpaid care work, more than three-quarters (76 per cent) are performed by women (Charmes 2019; ILO 2018). The time spent by women on unpaid care work varies widely across countries, ranging from a maximum of 345 minutes per day (or almost a quarter of a full 24-hour day) in Iraq to a minimum of 168 minutes per day (or 2 hours and 48 minutes) in Taiwan. The highest time spent by men on unpaid care work is 200 minutes (or 3 hours and 20 minutes, equivalent to 13.9 per cent of a 24-hour day) in Moldova, and the lowest is just 18 minutes in Cambodia. On average, a man spends 83 minutes on unpaid care work, while a woman spends 265 minutes (Charmes 2019).

In Indonesia, there is also gender inequality in the allocation of unpaid care work time. A survey conducted by Sigiro et al. (2018) shows that housewives work 8 hours a day on average, with most housewives surveyed working more than 12 hours a day. The results of a pilot study of a Time Use Survey conducted by Prospera and the University of Indonesia (2023) in Jakarta and Surabaya, "Investing in Women", show that women generally spend an average of 8 hours a day on care and domestic work, while men spend only 2.8 hours. Meanwhile, women with children under five are the least free. They spend 3.7 hours on domestic work and almost 8 hours on unpaid care work. It should be noted that in the pilot survey, care work includes both active activities of interacting with the person being cared for and passive activities of monitoring or being available in case the person being cared for needs help. Passive care, also known as supervisory care, is an activity that is often overlooked in time allocation calculations, but has been found to take up more time than active care and to be a greater barrier to women's participation in the labour market (Folbre 2006).

Women's time poverty is influenced by social norms that are still reproduced to date. The responsibility for care, especially for children, falls solely on women's shoulders because social norms emphasise that women's nature is to give birth and raise children and care for the family, while men become leaders and earn a living for the family. These social norms persist and are practised to date, including among younger populations (Setyonaluri et al. 2021; YouGov & Investing in Women 2021). These social norms lead to misconceptions among men and women that most societies do not support women working after having children (Cameron et al. 2022).

To accommodate the caring role demanded by social norms, women find it difficult to keep their jobs. After giving birth, women "juggle" childcare and work. In big cities such as Jakarta, the conflict between work and care is further complicated by structural factors such as workplace policies that do not offer flexibility for workers with care responsibilities, and time-consuming and uncertain commuting due to traffic congestion or unreliable public transport (Setyonaluri & Utomo 2023). For those who do not have access to adequate maternity leave, working women have to return to work as soon as possible so that the family income is not disrupted, but they do not have enough time to recover and care for the baby. This puts further pressure on women to choose between continuing to work and caring for their children (Setyonaluri et al. 2023; Setyonaluri & Utomo 2023).

Various studies have shown that women tend to move into the informal sector, such as starting their own businesses and becoming unpaid family workers, because these jobs do not require them to be away from their children and families (Gallaway & Bernasek 2002; Indraswari 2006; Purnamasari et al. 2020). This results in a higher proportion of female workers than male workers in the informal sector, especially married women with childcare responsibilities (Figure 3). Income insecurity is very high in the informal sector in Indonesia, which reduces the ability of workers to access social protection (Setyonaluri & Radjiman 2016), especially social security programmes that require contributions from workers.

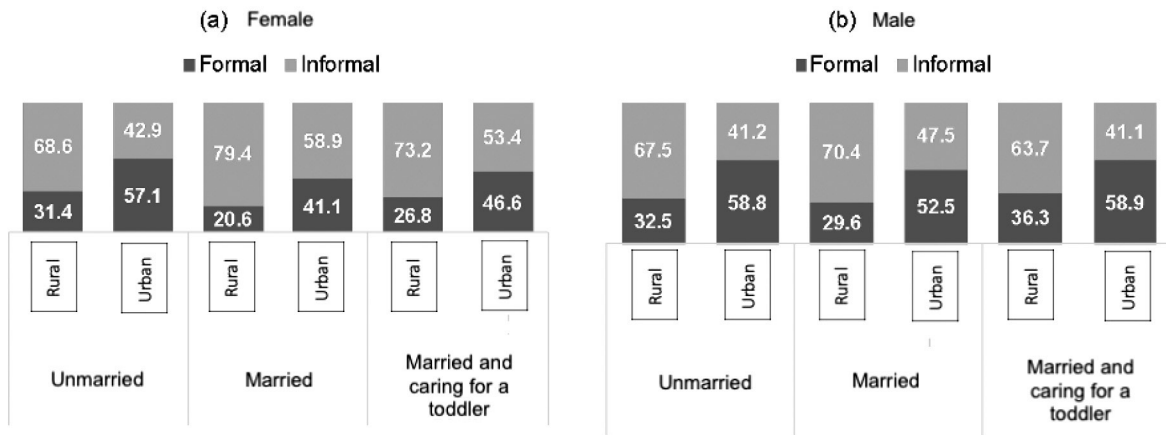


Figure 3. Proportion of Female and Male Workers in the Formal and Informal Sectors in Indonesia 2021 (%)

Source: Calculation results from SAKERNAS, August 2021 (Milawati et al. 2023)

The unpaid care and domestic work with which women are unequally burdened can also force them to leave paid work. Figure 4 shows a higher percentage of women who left jobs to care for children under five than women who do not care for children under five. This

trend applies to women in both urban and rural areas. Meanwhile, the percentage of men who quit their jobs to take care of children, or not, is quite low, at less than 5 per cent. The decision to stop working may limit their access to social security for workers.

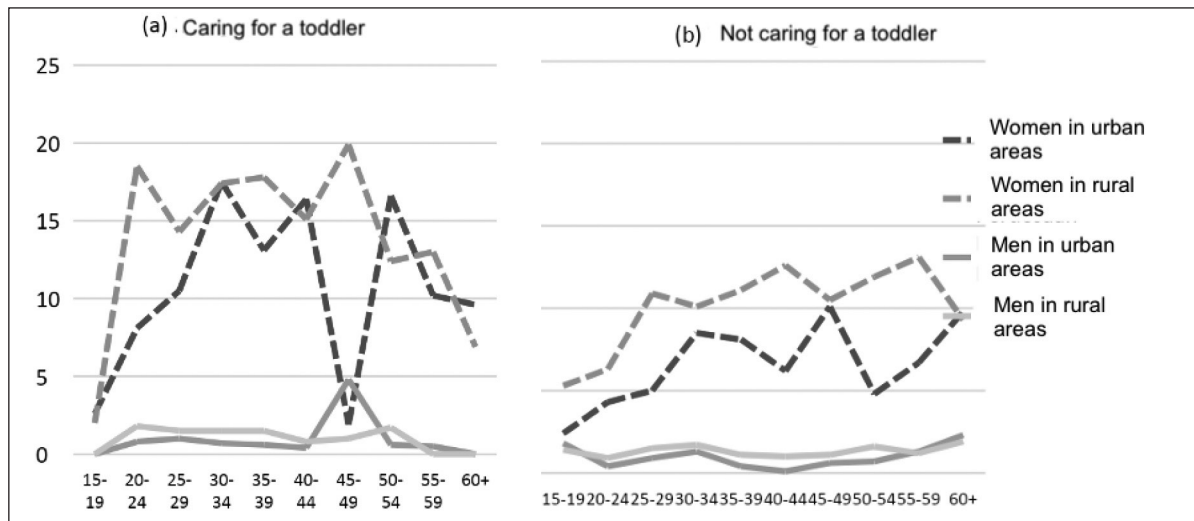


Figure 4: Workers who quit their jobs in the last 12 years, 2021 data (%)

Source: Calculation results from SAKERNAS, August 2021 (Milawati et al. 2023)

The Changing Direction of Employment Social Security and Its Implications for Maternity Protection in Indonesia

Law No. 40/2004 on the National Social Security System (NSSF), Article 1, defines social security as “a form of social protection to ensure that all people can meet their basic needs”. The current system covers health insurance for the entire population and social security for workers (employment social security), which consists of (a) work accident insurance (*Jaminan Sosial*

Ketenagakerjaan, JKK); (b) old-age insurance (*Jaminan Hari Tua, JHT*); (c) pension insurance (*Jaminan Pensiun, JP*); (d) death insurance (*Jaminan Kematian, JKM*); and (e) job loss insurance (*Jaminan Kehilangan Pekerjaan, JKP*).

As a flexible concept that evolves over time (Dekker et al. 2000), social security programmes in Indonesia have also undergone changes, both in terms of providers and types of programmes, as well as in terms of coverage. Prior to the enactment of the SJSN Law, the employment

social security programmes were administered by a state-owned enterprise (SOE) in the form of PT (Persero), PT Jamsostek. Through Law No. 24/2011 on the Social Security Organising Agency (*Badan Penyelenggara Jaminan Sosial, BPJS*), the implementation of social

security is carried out by *BPJS Ketenagakerjaan* (Social Security Agency for Employment) as the organiser of the employment social security programmes and *BPJS Kesehatan* (Social Security Agency for Healthcare) as the organiser of the health insurance programme.

Table 1. Development of the Employment Social Security Scheme*

	Before SJSN	After SJSN
Organiser	PT Jamsostek (Persero) BUMN (SOE, profit-oriented)	BPJS Ketenagakerjaan Public Legal Entity (non-profit oriented)
Type of Programme	JKK, JKM, JHT, and JPK	JKK, JKM, JHT, JP, JKP ²
Coverage	<ul style="list-style-type: none"> Workers performing work within an employment relationship (formal workers) Workers performing work outside an employment relationship (informal workers) 	Divided into 4 participant categories: <ul style="list-style-type: none"> Wage Earners (<i>Penerima Upah, PU</i>) Non-wage Earners (<i>Bukan Penerima Upah, BPU</i>) Indonesian Migrant Workers (IMW) Construction Services (<i>Jasa Konstruksi, Jakon</i>)
Number of Participants	12.04 million participants (2013)	56.9 million participants (July 2023)

Source: Law No. 3/1992, Law No. 40/2004, Law No. 24/2011, roadmap for the implementation of employment social security 2013-2019, BPJS Employment Data 2023

Notes*: JKK (Work Accident Insurance), JKM (Death Insurance), JHT (Old-age Insurance), JP (Pension Insurance), JKP (Job Loss Insurance), JK (Health Insurance), JPK (Health Maintenance Insurance).

Of the five available labour social security programmes, only the *PU* or formal workers category have access to all programmes. Meanwhile, the other categories, namely the *BPU* category (informal workers), IMW, and construction services, are limited to access to three programmes, namely JKK, JKM, and JHT.

In terms of participation, the data from *BPJS Ketenagakerjaan* show an increase from year to year. However, during the Covid-19 pandemic (2020-2021), the number of participants decreased significantly compared to the previous year and increased again in 2022. Participation is also still dominated by the *PU* category, as shown in Table 2 below.

Table 2. Participation in the Employment Social Security Programme, 2018-2023

Category	2018	2019	2020	2021	2022	Juli 2023
PU	38.640.018	40.061.417	39.759.485	40.217.816	41.248.981	41.814.541
BPU	2.770.907	3.081.787	3.039.107	4.189.212	6.777.009	7.260.164
PMI	365.662	544.500	376.615	235.684	333.197	391.744
Jakon	8.639.900	11.279.754	7.521.392	6.276.788	7.020.533	7.406.237
Total	50.416.487	54.967.458	50.696.599	50.919.500	55.379.720	56.872.686

Source: BPJS Employment Data, 2018-July 2023

From a gender perspective, female participation is still far below that of men. *BPJS Ketenagakerjaan* data (2018-2020) show that less than 30 per cent of women are registered as *BPJS Ketenagakerjaan* participants. The calculation results from Sakernas data in 2021 also strengthen the evidence of gender inequality in employment social security participation. Female workers are covered by at least JKK and JKM programmes

compared to their male counterparts (Figure 5). This difference is even greater among those who are married and those who are married and care for children under five. Only 15.3 per cent of urban women who are married and have children under five are covered by at least JKK and JKM. This is lower than the 18.3 per cent of male workers in the same category.

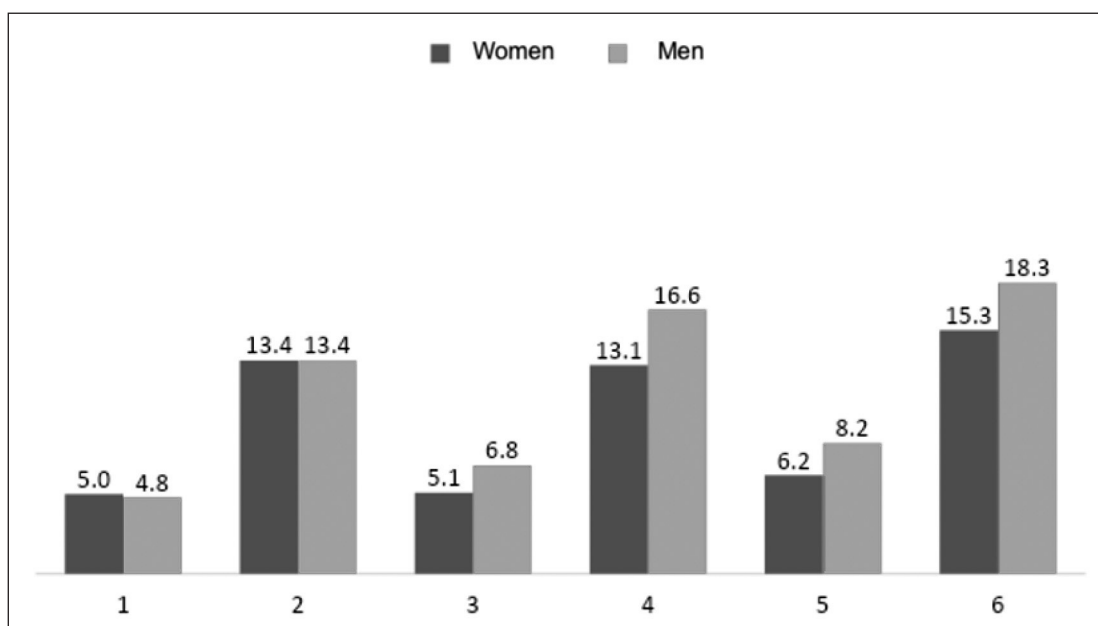


Figure 5. Proportion of Female and Male Workers Participating in Employment Insurance in Indonesia, 2021

Source: Calculation results from Sakernas, August 2021 (Milawati et al. 2023)

Although the Law on National Social Security System opens up membership to anyone who has paid contributions, membership of the employment social security programmes tends to be reserved for workers. This is evident from the membership categories (PU, BPU, IMW, and *Jakon*) and the definition of workers that still refers to a narrow concept of productivity. In Law No. 40/2004, Article 1, point 11, workers are defined as “any person who works by receiving salary, wages, or other forms of remuneration”. The Central Bureau of Statistics (*Badan Pusat Statistik, BPS*) includes care work in the home in the non-labour category, which is considered to have no economic contribution. However, in 2013, the 19th International Conference of Labour Statisticians (ICLS) adopted a new international standard that includes unpaid care work as a form of productive work in labour statistics. The narrow concept of productivity ignores the existence of unpaid care work, most of which is done by women. As a result, women who take care of children and families are excluded from employment social security because they are not considered as workers.

The benefits of social security programmes are diverse and include protection for workers and their families, but they still need to be made more gender-responsive by taking into account gender-specific risks and vulnerabilities. UNICEF (2021) describes the different risks and vulnerabilities of women at different stages of the life cycle, such as early/child marriage, teenage pregnancy, maternity-related risks, or widowhood. There are also three structural barriers: women’s limited access to economic resources and opportunities; women’s and girls’ greater exposure to gender-based violence; and women’s and girls’ unequal responsibilities for unpaid care and domestic work.³

A review of the protection of maternity rights shows that the components of maternity protection provided are in line with ILO Convention No. 183/2000, namely (i) health protection; (ii) maternity leave; (iii) leave allowance; (iv) employment protection and non-discrimination; and (v) breastfeeding mothers. As regulated by Labour Law No. 13/2003 (Table 3).

Table 3. Protection of Maternity Rights in the Labour Law

Article	Contents of Article
Article 76(2)	Entrepreneurs are prohibited from employing pregnant female workers/labourers who, according to a doctor’s account, are at risk of damaging their health or harming their own safety and the safety of the babies that are in their wombs if they work between 11 p.m. until 7 a.m.
Article 81(1)	Female workers/labourers who feel pain during their menstrual period and tell the entrepreneur about this are not obliged to come to work on the first and second day of menstruation.
Article 82(1)	Female workers/labourers are entitled to a 1.5 (one-and-a-half) month period of rest before the time at which they are estimated by an obstetrician or a midwife to give birth to a baby and another 1.5 (one-and-a-half) month period of rest thereafter.
Article 82(2)	A female worker/labourer who has a miscarriage is entitled to a period of rest of 1.5 (one-and-a-half) months or a period of rest as stated in the medical statement issued by the obstetrician or midwife who treats her.
Article 83	Entrepreneurs are under an obligation to provide proper opportunities to female workers/labourers whose babies still need breastfeeding to breast-feed their babies if that must be performed during working hours.
Article 84	Every worker/labourer who uses her right to take the period of rest as specified under points b, c, and d of subsection (2) of Article 79, Article 80 and Article 82 shall receive her wages in full.
Article 93(2)	The entrepreneur shall be obliged to pay the worker/labourer’s wages if: <ul style="list-style-type: none"> b. The female workers/labourers are ill on the first and second day of their menstrual period so that they cannot perform their work; c. The workers/ labourers have to be absent from work because they get married, marry off their children, have their sons circumcised, have their children baptised, or because the worker/labourer’s wife gives birth to a baby, or suffers from a miscarriage...
Article 93(4)	The amount of wages payable to workers/labourers during the period in which they have to be absent from work...shall be determined as follows: <ul style="list-style-type: none"> e. ...his wife gives birth to a baby or his wife suffers a miscarriage, he shall be entitled to receive a payment for 2 (two) days’ work during the absence;
Article 153	The entrepreneur is prohibited from terminating the employment of a worker/labourer because of the following reasons: ... The worker/labourer... is pregnant, giving birth to a baby, having a miscarriage, or breast-feeding her baby.

Source: Law Number 13 Year 2003 on Manpower

Table 3 also shows that the fulfilment of maternity rights is still the sole responsibility of the employer, with the exception of health care during pregnancy, childbirth, and postpartum, which is already covered by the national social security system.⁴ This condition raises several issues, including the coverage of beneficiaries and the level of compliance, which will be discussed in the next section.

In addition, Indonesia’s large informal sector continues to hamper compliance with labour-related obligations. This sector, dominated by micro and small enterprises, absorbs 97 per cent of Indonesia’s workforce (Ministry of Cooperatives, Small and Medium Enterprises 2022). Meanwhile, the low productivity of the informal sector means that there is little certainty of a decent and regular income. This limits the ability of employers to meet their

obligations to workers, such as maternity leave, which ensures that women can return to work after giving birth.

Challenges in the Implementation of Maternity Leave

Studies show that there are still differences in the design and implementation of maternity protection in different countries. The results of an ILO survey of 185 countries in 2021 show that almost all of them have maternity leave regulations. However, there are still differences in the application of ILO Convention No. 183/2000 on Maternity Protection, which underpins the design of maternity leave in different countries. A total of 120 countries provides at least 14 weeks of maternity leave, and 52 of them have reached or exceeded 18 weeks. Further, 64 countries still have maternity leave of less than 14 weeks. This leaves 3 in 10 women of reproductive age

(15-49) worldwide without the right to adequate time off to rest and recover from childbirth and care for newborns. A total of 123 countries have fully paid maternity leave (Addati et al. 2022). However, not all countries have implemented the financing of maternity leave benefits through the social security system, as mandated by the ILO. Addati et al. (2022) found that in 2021 there were still 45 countries that put the responsibility of fulfilling maternity leave rights on employers.

Maternity leave benefits can also be provided through social assistance schemes, particularly for women who do not meet the eligibility criteria for social security or who are unable to contribute (Brimblecombe et al. 2023). We argue that the inclusion of maternity leave benefits in the national social security system can improve the fulfilment of women workers' maternity rights in accordance with ILO Convention No. 183 on Maternity Protection and ILO Convention No. 102 on Minimum Standards of Social Security. In addition, the fulfilment of maternity leave rights, supported by the provision of childcare services, is expected to increase women's participation in the labour force and women's contribution to the productivity of the economy, as well as to the well-being of their families.

The right to maternity leave for female workers is enshrined in the Law on Manpower, but its implementation practices vary across Indonesia. Although few, several studies show that women's access to maternity leave is low. Better Work Indonesia (2010) states that there are still many cases where women cannot access their maternity rights. This is due to the large number of micro and small enterprises in Indonesia. As discussed in the previous section, due to their small size, entrepreneurs face many difficulties in terms of productivity and access to credit, and as a result, they often do not comply with labour regulations, including not meeting minimum wage obligations, and experience high turnover (Rothenberg et al. 2016).

Maternity leave, which is the sole obligation of companies, fuels the perception that it is more expensive to employ women than men. In addition to the perception that they are less productive, women workers are also perceived as more likely to be absent from work to care for their children, such as when children are sick, due to social norms that still place the responsibility for caring for children on women. The three-month maternity leave is also considered to increase the cost of employing women (World Bank 2004), as companies not only have to pay wages during the leave period, but also have to hire replacements for workers on leave. As a result, in order

to reduce labour costs, some employers have adopted a policy of employing fewer women workers, especially if they are pregnant or have children.

Studies of working conditions in the 1990s show that dismissal of women workers after childbirth was a common practice, particularly in the labour-intensive manufacturing sector (Wolf 1992; Blackburn 2004; Caraway 2005). Several other studies also show that companies try to circumvent the obligation to provide maternity leave by providing contraceptive services to women workers and by employing women workers on a daily or contract basis (Hutagalung et al. 1994; Caraway 2005; Robinson 2009).

Meanwhile, although not many, studies that track women's access to maternity leave after the year of 2000 also show that women workers' access to maternity leave remains low. The results of a survey of 300 respondents in the provinces of Lampung, Central Java, and Bali show that employers only provide maternity leave rights for 3 months without providing full pay during the leave period and without monitoring the implementation of maternity leave. With regard to companies that do not pay full wages during maternity leave, 13 per cent of respondents in Bali province, 10 per cent of respondents in Central Java province, and 14 per cent of respondents in Lampung province said they did not object to this practice because it was agreed between the workers and the employers when they were hired (Istiarti 2012).

Setyonaluri et al. (2023) found that 13.4 per cent of 479 respondents in Indonesian metropolitan areas did not receive maternity leave. A total of 68.7 per cent of them (64 respondents) applied for maternity leave from their employers, but only 53.1 per cent (34 respondents) eventually received it. The survey results show that more maternity leave requests were approved for permanent employees (66.9 per cent) than for contract employees (58.9 per cent). The implementation of maternity leave also varies considerably between large enterprises and micro, small and medium-sized enterprises (MSMEs). The majority of workers in large-scale businesses are able to take full maternity leave (3 months), while most workers in MSMEs have no leave entitlement.

Similar conditions were also found by Perempuan Mahardhika (2018) in its study of women workers in garment companies in the Cakung Nusantara Bonded Zone (KBN Cakung). Contract workers have a harder time getting maternity leave than permanent workers. When contract workers are more than 7 months pregnant, they are often offered a "holiday or break", which is

communicated in a letter of resignation or break. Some can return to work with a new contract or status. Others may only be able to take 1.5 months maternity leave or half of the statutory period.

These findings show that there are still challenges in fulfilling maternity rights in different workplaces. Workers in MSMEs and contract workers are less likely to have their maternity rights protected than workers in large enterprises and permanent employees. Delegating the full responsibility for providing maternity leave to employers opens up the possibility of discrimination against some groups of workers and may affect women's employment opportunities. In addition, the proposal to increase the length of maternity leave from 3 to 6 months, if implemented, may increase the cost burden on employers.

Strategies for Fulfilling Maternity Leave Rights

This section discusses various challenges in implementing maternity leave protection and alternative policy improvements. We highlight three main aspects of maternity leave fulfilment: the length of maternity leave, the benefits of maternity leave, and the source of financing. We also want to promote parental leave as an effort to encourage the redistribution of care roles between genders and minimise the creation of unequal arenas between women and men in the labour market (Siregar et al. 2019; World Bank 2020).

A policy alternative is to promote collective responsibility in the implementation of maternity leave implementation as a strategy to extend the coverage of beneficiaries, ensure the provision of benefits/wages, and increase the leave period. According to ILO standards, the cost of maternity leave should not be borne by the employers alone, but should be provided through the social security system, public funds, or social assistance.⁵ In one of its recent publications, the ILO proposed the provision of maternity benefits through the Indonesian social security system (Brimblecombe et al. 2023).

Some of the suggestions made in the ILO study are as follows:

- a) Maternity benefits cover all wage earners and construction workers.
- b) Maternity benefits are available to workers who have completed a certain period of participation or contribution. In Indonesia, it is recommended that participants are qualified for maternity/paternity benefits if they have contributed for at least 12 months of the 18-month membership

period prior to maternity/paternity leave. This eligibility must be reviewed periodically.

- c) Maternity benefits should be designed to replace wages lost during maternity leave.
- d) The value of maternity benefits should not be less than 45 per cent of the previous wage. ILO Convention 183 suggests a benefit value of 67 per cent. This value is lower than the Law on Manpower, which requires employers to pay the full wage.
- e) The participant's wage rate for the last 6 months should be used as the basis for determining the monthly maternity allowance received.
- f) Determination of the minimum value of benefits for participants who are on very low wages.
- g) The duration of maternity benefits payments should be in line with maternity leave provisions. ILO Convention 183 provides for paid maternity leave of at least 14 weeks. The Law on Manpower provides for 3 months (13 weeks) of maternity leave and the Maternal and Child Welfare Bill provides for 6 months (26 weeks).
- h) Miscarriage allowance (in accordance with the Law on Manpower) is 1.5 months' pay.
- i) Paternity leave allowance is granted for one week at full pay⁶.
- j) Birth allowance may be paid to female participants who have met the contribution requirements. This allowance may also be paid to male participants whose wives are not covered by social security. The value of the allowance may be adjusted to the minimum wage standard.

In terms of source of financing, practices in various countries show that protection of maternity rights is mostly financed through social security contribution schemes (joint employer-employee contributions) and covers all workers or some categories of workers in the formal sector. Some countries, such as Portugal and Cyprus, extend coverage to self-employed (informal) workers. However, in many countries, various categories of workers in the informal sector, such as domestic workers (e.g., Philippines, Argentina, and Greece), agricultural workers (e.g., Bolivia, Egypt, and Sudan), and casual workers (e.g. Panama), are excluded from maternity protection schemes due to problems with registration and collection of contributions. In some high-income countries, such as New Zealand, maternity benefits are financed by the state (taxes) and coverage

of the beneficiaries has been extended to all women citizens whose income or family income is below the national standard (Brimblecombe et al. 2023).

In the Indonesian context, employer-employee co-financing may cause a backlash, as the provision of benefits/wages during maternity leave has been the responsibility of employers. However, as previous studies have shown, the current implementation of maternity leave protection is not optimal due to non-compliance by employers and limited monitoring. The provision of maternity leave benefits through the employment social security system is expected to improve implementation and expand coverage. In addition, it has the potential to reduce gender inequality in the labour market by reducing the cost burden on employers of employing women (Karshenas et al. 2014; Lee & Cho 2005).

However, the ILO's proposals mentioned above still focus on groups of wage-earning workers. What is needed is protection for vulnerable groups of workers, such as the self-employed, informal workers, migrant workers, and workers with disabilities. Eligible groups of poor workers can be proposed as recipients of social assistance schemes (Addati et al. 2022). Meanwhile, vulnerable workers (missing middle) need to be studied further, as they are not eligible for social assistance but have limited capacity to participate in social security. One of funding strategies that could be explored is joint contributions between the government and employees, known as co-contributions. This scheme could reduce the burden of contributions on workers and ensure that the value of maternity benefits is sufficient to cover basic needs during maternity leave. These vulnerable groups of workers are generally underprotected and are often forced to continue or return to work during pregnancy, despite the medical risks, or are forced to stop working, resulting in loss of income. This puts pregnant workers in a vulnerable position and can threaten the health of their future babies (Addati et al 2022).

Closing

This paper demonstrates the importance of fulfilling maternity leave rights as an effort to recognise, reduce, and redistribute the burden of unpaid care work that prevents working women from earning income for their families. Maternity leave not only provides a "safety net" for women to continue earning an income without compromising the welfare of the children or family being cared for. In other words, maternity leave can reduce women's risk and vulnerability.

The implementation of maternity leave in Indonesia is still varied. A number of studies have shown that access to three months paid maternity leave is uneven. This is related to the level of compliance by employers, who are responsible for fulfilling maternity leave rights, and weak supervision/monitoring. The sub-optimal implementation of maternity leave may contribute to the stagnation of women's LFPR and the high representation of women in the informal sector in the future. Women's low LFPR and low wages make it difficult for them to access social protection, especially social security (contributory scheme), which increases their risk and vulnerability to poverty.

One policy measure that can be taken to ensure the protection of maternity rights is to promote collective responsibility through the employment social security system. Employers and employees contribute jointly to the financing of maternity leave benefits. This funding scheme allows the maternity leave period to be extended from three to six months without any loss to employers or women jobseekers. The additional period of paid maternity leave is needed because the three-month leave period is considered insufficient to help mothers transition back to work. Co-financing scheme also provides an opportunity to expand the coverage of maternity leave for both female and male workers. For poor or vulnerable self-employed workers, financing can be shared between the government and workers through a co-contribution scheme or a non-contribution scheme (social assistance).

Collective responsibility for financing maternity leave can also reduce the cost burden on employers. These changes are expected to improve the discriminatory treatment of female workers by employers during pregnancy and childbirth. It is therefore important for the government to promote the implementation of maternity leave rights for workers through the employment social security system.

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(Endnotes)

- 1 Social assistance or social safety net programmes are forms of non-contributory cash or in-kind assistance targeted at the poor and vulnerable. These programmes include the Family Hope Programme (FHP), Basic Food Assistance, Indonesia Smart Programme (ISP), and others.
- 2 The addition of JKP is provided for in Law No. 6/2023 on the Establishment of Government Regulations in Lieu of Law No. 2/2022 on Job Creation.
- 3 During the COVID-19 pandemic, gender-based sexual violence and the burden of unpaid care for women increased. One study found that 1 in 3 respondents experienced stress due to increased household responsibilities (Misiyah 2020).
- 4 Provided through the health insurance programme financed by contributions from the participants and the maternity insurance programme financed by the national budget.
- 5 In Indonesia, the pregnancy component has become one of the requirements for the recipients of the Family Hope Programme (FHP).
- 6 In 2021, 115 provide paternity leave (Addati, Cattaneo & Pozzan 2022).