

## ARE WOMEN WORKERS REALLY BENEFITING FROM WOMEN-CENTRIC MODIFICATIONS AT THEIR WORKSPACE?

### Abstract

Due to historical reasons women suffered exclusion from participation in paid workspace. Even when they finally started stepping out of their house and participating in remunerative work they continued to be treated unequally. The number of hours a woman works on any given day has continued to be more than her male counterpart. Corporations and even the legislature recognised over the years that women's dual day burden needed to be addressed and ameliorated. This paper seeks to understand if the women centric changes brought about in the paid workspace either by the legislature or through the employers' initiative is achieving the objective of putting women at an equal footing as their male counterparts in India.

### I Introduction

IT IS but an accepted fact that women have suffered an inferior status in the society across the globe from time immemorial. The causes<sup>1</sup> for being treated subservient to men varied from women's seeming lack of physical strength and poor economic worth *inter alia*. Being subservient to men meant being vulnerable to them and in the society in general. Various forms of violence, ranging from female infanticide, domestic violence, sexual assault was rooted in this perception of women being a burden of some sort, that needed to be taken care of.

Parents have been found to sigh at the birth of a girl child instead of the much awaited future breadwinner in a male child. They have been found to start putting aside, rather a large lump sum of their savings towards meeting the costs of the inevitable wedding ceremony where their daughter would have to be given away into the care of her husband and in-laws. Apart from the few exceptional cases, women's status post marriage usually drops from where it was in her maternal house. The domestic labour that she puts in place to keep her matrimonial household up and running is looked down upon because her work doesn't fetch any real money like her husband's. This reasoning seemed to justify women's subjugation in their matrimonial homes. Domestic violence, usually rooted in unfulfilled demands of dowry, or the inability to procreate male children, continue unabated across the society.

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1 Zarin Bhathena "7 Steps Companies need to take to create women friendly workplaces", India Today, August 11, 2017 *available at*: <https://www.indiatoday.in/education-today/jobs-and-careers/story/tips-for-women-friendly-office-1029191-2017-08-11> (last visited on June 05, 2019)

This reality has changed over the years: even though marginal, the change is significant. Credit has to be given to the activists who, realised soon enough that the secret to the liberation of women from the daily torture both within and outside the domestic turf lay in breaking the invisible social divide that existed between the public and private work sphere that was characterised by either the presence or absence of a system of monetary compensation:- The public work sphere, which primarily engages men, requires stepping out of the confines of domestic space and engaging in the production of marketable goods and services. The production of such marketable goods and services allow men to bring a real sum of money back home. Such structure of monetary payment is not available in the private work sphere, i.e., the household. Women, who are primarily engaged in either full time or part time management of the household, secure no such monetary payment in return for their round the clock service to their family members.

These activists advocated vociferously for securing to women an identity, both professional and economical. Women soon started stepping outside the household and engaging at par with their male counterparts. This elevated their status in the family and the household because she had now challenged her perceived lack of economic worth. Women stood up now more strongly against physical and verbal abuse at their matrimonial home, since they didn't have to worry about who would provide for their physical sustenance in terms of food, clothing and shelter. Stepping into the public work sphere gave them an identity independent of their fathers and husbands.

### **Nature and scope**

Though such economic independence empowered women with the ability to fight domestic abuse resulting from their perceived lack of economic independence; what it brought about with it is a host of other new problems/challenges specially for women: unequal remuneration to women for similar/same work as their male counterpart, sexual harassment from colleagues at workplace, and the challenges of finding time to manage household tasks while being employed in paid employment. Therefore we see that the challenges that women are facing post their entry, in the paid workspace is variegated.

However this paper shall focus exclusively on the challenges of management of the household post entry of women into the paid workspace. The paper shall explore ways of integrating the domestic workspace (*i.e.*, the household) with the paid workspace in India, so as not to unduly burden the women workers.

The scope of the paper has been consciously limited. Therefore laws or practices adopted by corporations in India to address the evil of sexual harassment/assault at works place or for instance the issue of proportionate pay for proportionate labour has been kept out of the study.

## II Understanding housework and dual day burden

Household work, the author argues primarily comprise three sets of activities: “regular household chores” (C1); “care giving responsibilities” (C2), “management of important miscellaneous activities”(C3). All three categories of work require the attention of the women in the household, but owing to some similarities certain tasks can be clubbed together and that is what has been attempted by the author.

For instance, C1, consists of tasks that are necessary for the functioning of the household on an everyday basis: Cooking, Cleaning and Laundry. A woman has to devote certain duration of time, all days of the week, all year round without any break, unless she has fallen ill or has other pressing obligation to address at the same time.

Similarly, C2 category of household work is usually performed by the woman in the house irrespective of her engagement in the public work sphere. It comprises rendering care to various members of the family, especially children, elderly and the disabled. This category also includes caring for the able-members in the family, who have to be replenished with nutrients, and care before they can return to their paid workspace. C2, the author argues is more demanding, for it cannot be segregated to any one part of the day. It requires the attention of the woman, all through the day, all through the week and all through the year; and depending on the care-recipient’s heightened need on certain occasion (illness etc) the demand upon the woman delivering care, increases.

The last category of housework, C3, is something that doesn’t require the attention of the woman on an everyday basis. It comprises, management of important miscellaneous activities like (management of bank accounts, grocery, shopping, payment of utility bills (phone, electricity, water, gardener) sending invites for occasions, buying gifts for ceremonies, getting odd jobs fixed, plumbing *etc*). Though most of these activities are monthly requirements, on an average the manager requires 4 hours per week, which is around 16 hours every month

The above listed tasks remain essential to the everyday existence to all persons, irrespective of their gender, age and economic standing in the society. Categories, C1 and C2 and sometimes even C3 are predominantly completed or supervised by the female members of any household. However, post women’s entry into the public/paid work sphere, the fact that these tasks require real/actual time and effort for completion has gained recognition. But it is interesting that inspite of women stepping into the paid work sphere, they continue to be presumed to be managers of the household. Therefore, even if they work similar hours as their brothers, husbands and fathers, and contribute to the income of the household, they return home to do another shift of work, typically invisible, all alone, and usually unassisted by the male members of the family. This phenomenon has been labelled as dual-day burden of women.

### **Tackling dual-day burden with flexibility**

Reports suggest that the cost of economic independence for women has become too high especially with the increase in privatisation of workspace, where a women employee like her male counterparts is expected to be available for long work hours at the beck and call of her employer. Unlike men, women, have to return to a second shift of work when they return home. Women have tried to adjust to the societal expectations, by being as flexible as is possible:- shifting along with their spouses to the latter's job location which allows the man to continue to enjoy the status of the primary breadwinner, sacrificing either promotions or well-paying jobs commensurate with their skills because that would inevitably require more time, dealing with the complications of delayed pregnancy etc.

### **III Women centric laws regulating the paid workspace**

Over the years, women empowerment meant creating a space for our women outside the confines of the household, where they could finally secure an independent economic identity. Where they could assert their autonomy and live in peace on their own terms. The objective was to remove them from the restricted environment where their financial and creative skills were curtailed by their family members/society. This was the overarching goal of the society as was evident in the legislative initiative that has taken place over the years. The preliminary focus of the Indian Legislature was to create a conducive workspace that accommodated the needs of female workers, based on their biological construct. The Factories Act, 1948; the Contract Labour (Regulation and Abolition) Act, 1970;<sup>2</sup> The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979<sup>3</sup> made it obligatory for every factory to maintain an adequate number of latrines and urinals of the prescribed type separately for men and women workers.

There are also statutes laying down an embargo on the employer compelling women to do physical work beyond their physical capacity. For instance, section 34 of the Factories Act, 1948 state that women would not be required to "lift, carry or move by hand or on the head of any material, article, tools or appliance exceeding the maximum limit in weight of 30 Kilograms". section 22(2) of the Factories Act, 1948 also prohibits the employment of women to work with machinery in motion altogether. The legislature intended well, in bringing about this women-friendly law that recognised the inherent lower physical strength of women.

The second broad focus was to ensure that the subservient position of women was challenged at workspace. There was a demand to recognise and value the labour of

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2 The Contract Labour (Regulation and Abolition) Act, 1970, ss. 41, 43

3 The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, ss.40, 41

women similarly as their male counterpart, especially when they put in the same number of hours at work or achieved the completion of the same tasks. The Equal Remuneration Act, 1976 mandated the employer to make equal payment to men and women for the equal work done by them.

However, while all these changes were taking place, what remains noteworthy is that the burden of managing the myriad tasks at household did not get split between her and her working husband/father/brother. The presumption that women were naturally adept and supposed to manage the household perpetuated in these third set of women-centric legislation that regulated the paid workspace. Section 48 of the Factories Act, 1948; section 44 of the Inter State Migrant Workmen Act, 1979; section 12 of the Plantation of the Labour Act, 1951; section 35 Building and the Other Construction Act, 1996; section 14 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 mandated the creation of crèche at the workspace if it employed a certain number of women. Note that in these laws the establishment of crèche is not mandated if the workplace employed male workers who were fathers. This gender-based demarcation was recently relaxed with the 2017 Amendment to the Maternity Benefit Act, 1961, whereby under section 11A (1)<sup>4</sup> an employer is mandated to establish a crèche within or separately from the establishment if it employed more than 50 employees. But the proviso, that permits only four visits to the crèche to the 'woman employee' creates confusion about the gender neutrality of the said provision. A man's marital status or his fatherhood is yet to become relevant for employers. These statutes lay down the presumption and propagate the understanding that child rearing and resultantly other household tasks are obvious extension of the biological act of procreation done by women.

There is also legislation in place that has factored in and respected the moral conduct set by the society for its women. Legislature has been conscious about the fact that women always carry along with them their sexual identity; that they are vulnerable and prone to being victims of sexual harassment when they are on their way to and from their paid employment. Laws also recognise the fact that women are expected to be back to their families in the evening, possibly aiding them by providing them with the disposable time to engage in household tasks. Section 66(1)(b) of the Factories Act states that no woman shall be required or allowed to work in any factory except between the hours of 6am and 7pm. The Sexual Harassment (Prevention, Prohibition and Redressal) Act, 2013 came in much later; to recognise how harassers and sexual perpetrators exist not just in strangers, but also in known acquaintances and colleagues.

The fourth set of women centric legislation regulating the paid workspace, that finally factored in the household and tried to integrate the paid and the unpaid workspace

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4 The Maternity Benefit (Amendment) Act, 2017 (No. 6 of 2017), *available at*: <https://labour.gov.in/sites/default/files/Maternity%20Benefit%20Amendment%20Act%2C2017%20.pdf> (last visited on June 15, 2019)

(*i.e.*, household) comprises at the moment the Maternity Benefit Act, 1961 and various government leave rules. Amongst all the household tasks, reproduction is perhaps the only activity that requires full time attention for at least a few weeks duration if not more. This activity unfortunately cannot be adjusted biologically by the woman employee even if she is mentally desirous of the same. Such biological limitation has been considered undesirable by her employer who would prefer to hire her male counterpart against her who would not become unavailable to his male employer because of his physiology.

There is finally a growing understanding that reproduction does not specially benefit the women or is not something that only women desire. Progeny is a major requirement in the society and in the sustenance of the human race. If the society did not accommodate her child bearing function, possibly either of the two things would happen: women would not be able to retain their position in paid employment, or they would stop bearing children altogether to fight their historical maltreatment in the society, like it is in some places like Japan.<sup>5</sup>

The enactment of the Maternity Benefit Act, 1961 recognises what the United Nations and the International Labour Organisation had endorsed- “that the six months of maternal care and breast-feeding for babies has a disproportionate impact on human capital.”<sup>6</sup> For instance, in 1990, 35% of women participated in the paid workspace, which dropped to 27% in 2017. Therefore, the ILO mandated a 12 weeks maternity leave to women up to two children; without which it would become burdensome on our female workers. The underlying message was that the workspace needs to accommodate and integrate the personal within the professional structure.

Recently, in 2017, the period of maternity leave was increased from 12 weeks to 26 weeks to make it more amenable for working women to participate in paid workspace. The statute also requires mandatory crèche facility in organisations with more than 50 employees (irrespective of their gender), work-from-home options and a maternity bonus.<sup>7</sup>

The next major household activity is contained in category 2 (C2), comprising care giving responsibilities. This takes up a major portion of a woman employee’s day, after the toil of reproduction is over. Our women have been adjusting with the demands of their employer and the demands of the household over the years, to the detriment of

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5 *Supra* note 2

6 ET Contributors, “Maternity Benefit Act: The new amendments might cause some pangs in the short run”, *available at*: [http://economictimes.indiatimes.com/articleshow/64809703.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://economictimes.indiatimes.com/articleshow/64809703.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) (last visited on June 16, 2019)

7 *Ibid.*

their physical and mental health. The 6<sup>th</sup> Central Pay Commission<sup>8</sup> recognised this hardship and recommended grant of 730 days of paid child care leave, to women employees, to take care of their eldest two children below the age of 18 years. In 2008, the Department of Personnel and Training (DoPT) implemented these recommendations.<sup>9</sup> Recognition of the increased care required by parents of disabled/mentally challenged children was recognised in 2010 and the DoPT made suitable adjustment and relaxed the restriction of 18 years to 22 years of such children.<sup>10</sup> These relaxations were offered to women employees only, because C2 household tasks continued to be presumed to be the primary responsibility of women.

Only recently, in November 2018,<sup>11</sup> were these rules relaxed to recognise men as care givers too. A male government employee too could avail of these 730 days of paid child care leave post 2018, however with a proviso; *i.e.*, if he can satisfactorily establish his status; as “an unmarried or widower or divorcee government servant”. Unfortunately, a married man with a mentally/physically fit wife is still not considered an equal partner in the management of the household. If circumstances render him alone with his children, only then will he be considered eligible to avail of this leave.

#### **Women-centric market driven practices regulating the paid workspace**

However it has become amply obvious that the focus of the legislature was never to reduce the number of hours a woman needed to work in any given day, combining the hours at office and at home. The legislature, in spite of its best intentions was always trying to encourage the women to balance family and professional responsibilities. It wasn't focussed on distributing the duty of managing household tasks and earning at paid employment, equally between the two genders. And it definitely was not factoring in the other aspects of one's life, like pursuing one's hobby, resting, participating in community activity *etc.*

In the face of such demands, women continued to toil to make adjustment in their respective lives over the years. But it is argued that irrespective of the effort a female worker takes to accommodate the family and the paid workspace, she will not be

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8 Ministry of Personnel, Public Grievance and Pensions, Government of India, Office Memorandum, “Implementation of Government's decision on the recommendation of the Sixth Central Pay Commission: Child care leaves Waiving of age restriction of 18 years for Government servant having mentally challenged/disabled children”, *available at*: [http://documents.doptcirculars.nic.in/D2/D02est/13018\\_6\\_2009-Estt.\(L\).pdf](http://documents.doptcirculars.nic.in/D2/D02est/13018_6_2009-Estt.(L).pdf) (last visited on June, 17, 2019)

9 *Ibid.*

10 *Ibid.*

11 Bharti Jain, “Single, male central govt. staffers can get 730 days' child care leave”, *available at* <https://timesofindia.indiatimes.com/india/single-male-central-govt-staffers-can-get-730-days-child-care-leave/articleshow/67279695.cms> (last visited on June 17, 2019)

successful at either because the paid workspace is premised on a flawed understanding of the family and the paid workspace being antithetical to each other. The focus of the paid workspace and the society in general should be to integrate the general personal life (*i.e.*, household) and the paid workspace instead of wanting to chart up a work-life balance. Until the paid workspace recognises the inevitability of the household in a worker's life (irrespective of gender, age) and the fact that it requires actual time and energy; the problem that working-women are encountering post their entry into the public space will not get addressed.

Only after the household gets factored in while designing a paid workspace, can we work on the next step of alleviating women of the responsibility of being a household's sole manager. Patriarchal notions, that look upon cooking, cleaning, rearing of children and other household chores as being unskilful and lowly tasks deserving the attention of the weaker sex (*i.e.*, women) can be only challenged and addressed thereafter.

Vociferous advocates seeking to ease women's participation in the paid workspace and their overall quality of life, were successful in bringing about women centric modifications in the public worksphere. The modifications that are discussed in the subsequent section is predominantly market driven, rather than a consequence of legal machinery.

The fact that women, are not by default good at management of household tasks, rearing of children, and inferior in professional capacity in comparison to men was understood by key market players. Non state employers like MNCs etcetera who realised that if they didn't alter the structure of paid employment, they would be losing out on some capable women workers and their skills. Studies<sup>12</sup> suggest that a happy, stress-free worker, is more productive and useful to his/her employer. The author has looked up some of the innovative and useful practices adopted by various employers in India to integrate the family and the paid workspace. She has split these modifications broadly into two categories.

*Category 1: Direct women-centric work structure arrangement*

*a. Flexi hours, part time work, and work from home<sup>13</sup> or remote working<sup>14</sup>*

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- 12 Lynda A.C Macdonald, *Wellness at Work: Protecting and Promoting Employee Wellbeing* 1-2, (Chartered Institute of Personnel and Development, London, 1st edn., 2005) available at: [https://books.google.co.in/books?id=NSUMmZ9Wx-QC&redir\\_esc=y](https://books.google.co.in/books?id=NSUMmZ9Wx-QC&redir_esc=y) (last visited on June 18, 2019)
- 13 Neha Srivastava, "SBI may allow women employees 'work from home' option in near future", *JagranJosh*, February 21, 2019, available at <https://www.jagranjosh.com/articles/sbi-may-allow-women-employees-work-from-home-option-in-near-future-1467803059-1> (last visited on June 21, 2019)
- 14 Sanjana Ray, "Here are the top companies that promote a great work-life balance", *Yourstory*, July 11, 2017, available at: <https://yourstory.com/2017/07/companies-promoting-work-life-balance> (last visited on June 16, 2019)

Our paid-sector work structure assumes that if someone wants to work in this sector they must be available for the job all through the day. Recently, however a large number of companies have been working hard to integrate the family in the professional. One such way is by being flexible with workspace and work timing.

Procreation is now recognised as not just a personal activity, but one that concerns the society, in general. We don't want to reach the situation where the Labour Force Participation Rate (LFPR) becomes a cause of worry for a country. In Japan, the population in 2017 fell by more than 3,00,000 births as there were fewer than 1 million birth in 2016.<sup>15</sup> Inevitably the Labour Force Participation Rate has dropped and the country is struggling to manage its large old population with such few young workers.

Employers, especially the large ones, like MNCs, recognise that the duty of parenting actually is a long drawn process which commences after a child's birth. It is a life long responsibility or at least one that continues till a child reaches his/her adulthood. Companies like, Godrej Consumer Products and ICICI,<sup>16</sup> have started to allow both women and men to work from home, avail of part time work options<sup>17</sup> and also seek childcare leaves in addition to the maternity leaves.

Intel India Technology Limited allows its new mother-employees to avail of part time working facility for a month before they get back into the regular regime. People Combine runs a programme called "partial work partial pay" and also offers its staff summer, winter and autumn breaks.<sup>18</sup>

SAP Labs India has an interesting method of managing its professional tasks and balancing it with that of its employee's family life. Apart from offering in general the flexibility to work from home after spending a designated hours at the workplace, *SAP Labs India* also allows employees to avail of the opportunity to work one day in the week from home; *i.e.*, four days a month. These additional four days per month, in excess of the weekends is a cause of respite for the employees.<sup>19</sup>

*b. Restricting total Work hours*

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15 Alana Semuels, "The Mystery of why Japanese People are having so few babies", *The Atlantic*, July 20, 2017 available at: <https://www.theatlantic.com/business/archive/2017/07/japan-mystery-low-birth-rate/534291/> (last visited on June 6, 2019).

16 Balwant Tripathi, "Most Women-friendly workplaces in India", *JagranJosh*, May 31, 2017, available at: <https://www.jagranjosh.com/articles/companies-that-are-deemed-as-most-comfortable-workplace-for-working-women-in-india-1496216699-1> (last visited on June 16, 2019).

17 "What makes these 10 companies the best to work for in India", *Rediff*, August 06, 2015, available at: <https://www.rediff.com/business/report/pix-special-what-makes-these-10-companies-the-best-to-work-for-in-india/20150721.htm> (last visited on June 10, 2019).

18 *Ibid.*

Modern day workspaces require employees to be available beyond the traditional notions of 8 hours job. Technological innovation<sup>20</sup> has also made it difficult for workers to disconnect from their office space even after returning home. Scholars argue that flexi-hours arrangement camouflages the actual number of hours invested for an employer without the employee realising it. Research shows that the need to be constantly available to the employer increases stress level and omits the benefit that one acquires by availing flexi-hours, or as in India's case pseudo flexi hours.<sup>21</sup>

France is perhaps one such country that recognizes the harmful effects of stress on one's personal life and health—It has introduced rules “to protect people working in the digital and consultancy sectors from work email outside of office hours”<sup>22</sup>. There are other big companies that prove the fact that over-working employees is not the only way to remain at the top. In 2011 “Volkswagen agreed to stop its Blackberry servers” from sending emails to its workers/employees after their shift was over and they had left for home. This they said was done after complaints from its employees who said that constant demands of work had led to the blurring of lines between their personal and professional life.<sup>23</sup> Ofcourse, the solution to this problem is not so simple. Businesses which cater to clients in different time zones<sup>24</sup> will find it difficult to put at embargo on work emails after a certain time. Perhaps technological modifications should look to give the recipient the power to control when to allow the chain of emails to enter his/her mail box.

While intending well, we need to be conscious of not impinging on an employee's choice to pick spending time at paid employment instead of spending it on leisure or with family. “Keeping obvious factors such as burnout or ethical practices aside, such a person should be provided an environment which can help achieve their potential. Organisations should be sensitive to the evolving needs of their employees. No top-down approach, least of all a legislative step is going to address this.”<sup>25</sup>

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19 *Ibid.*

20 Priyanka Golikeri, “Do Indian Companies encourage work-life balance?”, DNA India, February 23, 2017, *available at*: <https://www.dnaindia.com/business/report-do-indian-companies-encourage-work-life-balance-2331933> (last visited on June 10, 2019)

21 Tom De Castella, “Could work emails be banned after 6 pm”, BBC News Magazine, April 10, 2014, *available at*: <http://www.bbc.com/news/magazine-26958079> (last visited on June 09, 2019); and “*When the French clock off at 6pm, they really mean it*” as available at Lucy Mangan, “When the French clock off at 6pm, they really mean it”, The Guardian, April 09, 2014, *available at*: <http://www.theguardian.com/money/shortcuts/2014/apr/09/french-6pm-labour-agreement-work-emails-out-of-office> (last visited on June 10, 2019)

22 *Ibid.*

23 “Volkswagen turns off Blackberry email after work hours”, BBC News, March 08, 2011, *available at*: <http://www.bbc.com/news/technology-16314901> (last visited on June 10, 2019)

24 *Supra* note 21

25 *Ibid.*

The growing phenomenon of reducing one's weekends to one Sunday or increasing the number of hours of work at office doesn't ensure that more work or better work gets done in the office. Working lesser hours, make employees more productive, since they have more time at their disposal and seem to be not running a relentless race. Apart from being able to finish household chores, spend time with loved ones, they also find time to indulge in their hobbies and to take care of their health. Research shows that a happy and a less tired worker is more productive, which overall impacts the employer positively. There are lesser sick days and more efficiency at workplace.<sup>26</sup> There are already few countries, like Sweden, France and Germany, which are looking to reduce daily work hours from eight to six.<sup>27</sup>

*c. Paid and unpaid Leaves*

In India, in adherence to the legislative directive of 2017 Act, most entities,<sup>28</sup> including RMSI, Accenture and Godrej Consumer Limited grant maternity leave for a period ranging from 20 to 26 weeks, with *Deloitte* offering the highest amongst others. Sap Labs India offers an addition 16 weeks unpaid maternity leave.<sup>29</sup>

An employee does not always need to avail of leaves to take care of others. *i.e.*, s/he may feel the need to just relax or to spend time elsewhere. Therefore a company that can grant leave with ease is valued by employees. Pitney Bowes Software India<sup>30</sup> is known for the ease it offers its employees in availing leaves and flexibility.

*d. Technology to keep one connected while away*

Being away from the work means that women employee, loses critical knowledge and falls short of keeping themselves updated on the various changes and modifications at workplace. Mindtree, has launched an app called "MiLady" that enables women going on maternity leave to stay connected with the organisation and it updates them on organisational developments and also facilitates their return back home.<sup>31</sup>

*e. Creche Facility*

In accordance with the various enactments that have been highlighted before, unregulated companies too, have internalised the importance of offering child care

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26 Sanjana Ray, "Shorter working hours leads to rise in productivity: Study", Yourstory, July 5, 2017, *available at*: <https://yourstory.com/2017/07/shorter-hours-more-productivity/> (last visited on June 8, 2019).

27 *Ibid.*

28 *Supra* note 17.

29 *Ibid.*

30 ET Bureau, "The winning streak", The Economic Times, July 02, 2018, *available at*: <https://economictimes.indiatimes.com/jobs/the-winning-streak/articleshow/64825858.cms> (last visited on June 05, 2019).

31 *Supra* note 17.

facility to its workers. *Ernst and Young India* offers under its ‘MomEY’ programme maternity coaching, transitional support for those who are seeking to return to the workforce after pregnancy and also offers a Day Care facility for the children within the premises of the company.<sup>32</sup> *HUL* also provides pre-school day care facility.

It is not possible for all employees to provide day care facilities on their premises. This is especially true of small and medium scale businesses that can’t afford the infrastructural facilities to ensure the same for its employees. Therefore certain companies like Intuit Technology Services give its employees the opportunity to avail day care discounts at their partner crèches.<sup>33</sup>

*f. Participation of men in caring responsibilities*

There is no guarantee that when an employee is provided with more time at his disposal, he will automatically return home to partake in managing the household responsibilities. Though there is a significant possibility that the female employee would be continuing to use the extra hours to manage the second shift of work. Therefore it is safe to conclude that merely making more time available to the employees wouldn’t automatically improve the condition of the women folk unless we take specific efforts to raise awareness about household being the entire family’s responsibility and not just the woman’s.

There are four kinds of parental leaves that are popular in EU countries:- Maternity, Paternity, Parental and leaves to take care of ill/disabled children.<sup>34</sup>

Paternity leaves, which is granted immediately to the fathers of new-born so that they are around to take care of the mother and child. There is no compulsory EU regulation regarding paternity leave and therefore several EU countries don’t provide for this form of leave.<sup>35</sup>

Both fathers and mothers can avail something called *parental leave*. Employees can avail of this right immediately after the conclusion of the maternity leave and can continue to avail of this till the child reaches the age of eight years. In Spain parental leaves are totally unpaid while in Sweden, parents receive compensation of 80% of their previous salary.<sup>36</sup> Though transferable forms of parental leaves are the most prevalent where a working father/mother can transfer his/her right of parental leave to his spouse if the couple so desires, there are some countries like Sweden and Slovenia that work hard to

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32 *Ibid.*

33 *Supra* note 17

34 Arnold Reidmann, Harald Bienlenski *et. al.*, *Working time and work-life balances in European Companies* 35 (European Foundation for Improvement of Living and Working Conditions, Dublin, 2006), available at: <http://praha.vupsv.cz/fulltext/MZ1276.pdf> (last visited on June 15, 2019)

35 *Id.* at 35.

36 *Id.* at 36.

ensure that fathers participate as much (if not more) is caring for their children and therefore encourage companies to put in place non-transferable parental leaves, so that fathers have to mandatorily take off time from office and take care of their children.<sup>37</sup>

The last kind of leaves to take care of children are quite unique and sensitive to the fact that children might need their parents even after they complete the age of eight and also especially when such children are disabled or temporarily sick. There is no compulsory EU regulation on companies to implement the same and depends on the concerned company to allow parents time off in such situations.<sup>38</sup>

In India, all these four categories of leaves have been clubbed into: maternity, paternity leaves and child care leaves. Apart from maternity leaves that are applicable to the private sector too, the other two categories of leaves are predominantly enjoyed as a matter of right in government employments. As previously discussed, based on the recommendation of the 6<sup>th</sup> Central Pay Commission, the Central Civil Services (Leave) rules, 1972,<sup>39</sup> that govern central government employees who are single parents to dependent children, allow them to avail of up to 730 days of leave for taking care of various needs, including health and education of two eldest surviving children.

*Sap Labs India*, apart from granting paternity leave, allow its male employees to enjoy the flexibility to work for four hours in the office and the remaining time from their homes.<sup>40</sup> *Hindustan Unilever Limited, Kronos Incorporated*,<sup>41</sup> have been encouraging their male employees to avail of paternity leaves.

*Category 2: Indirect benefits increasing the effective time available to a worker*

*a. Co-Working Space and Car pooling services*

Migrant workers always take up a residential place close to their place of employment, primarily to save on the time and the energy wasted in commuting to and from their work. Entities, like *CISCO* are trying to make available co-working space which allows its employees to work from home or other remote spaces, including rooms offered by the plethora of collaborative spaces present across the country.<sup>42</sup> Organisations like *People Combine*,<sup>43</sup> that cannot afford to offer accommodation on site or such co-working space, concentrate on reducing the energy wasted in commuting and in making travel to office space more predictable by providing transportation facility in the form of

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37 *Ibid.*

38 *Ibid.*

39 The Central Civil Services (Leave) Rules, 1972, r. 43( c )

40 *Supra* note 18.

41 *Supra* note 17.

42 *Supra* note 15.

43 *Supra* note 17.

car-pooling services to its employees. It is obviously not economically feasible for all employers to afford such private transportation services for all its employees at all times. Therefore some, like *Sap Labs India*<sup>44</sup> make cab services available specifically to its pregnant workers during and post pregnancy. Intuit Technology Services, has ensured provisions for expectant mothers to have dedicated parking and a vehicle at their disposal to make travel less arduous.<sup>45</sup>

*b. Sorting out meals*

In the categorisation of household tasks, category, C1 comprises cooking, cleaning and laundry. However, cooking or arranging for food is perhaps the most indispensable of all the household tasks. When women entered paid employment, the presumption of them continuing to hold the responsibility, to have the meals arranged for themselves and their male family members continued unabated thereby making them put in extra work hours in a 24 hour day against their male counterpart. If meals were just taken care off, then perhaps women and even men would be able to catch up on that extra hour of sleep or hit the gym or read the morning newspaper in an unhurried manner. Google has continued to be hailed as a great employer, by not just its women employees, but by all who swear by it that Google provides a great atmosphere to enjoy work-life balance at. At Google, employees' three meals and unlimited snacks comprising a healthy platter, are taken care of totally free of cost.<sup>46</sup>

*c. Assistance with Healthcare benefits, Child Care Assistance and Savings Plans*

Managing a household also means working out a sustainable plan in terms of future finances and healthcare benefits of one's family. Working parents amongst other things spend a lot of time figuring out their finances and long term savings plan that will hopefully adequately take care of their and their family members' future contingencies. This task takes actual time. Employees would also appreciate a little help with figuring this out and in affording the same. Employers have grown to realise that over-exertion and poor health of its workers harms its business too. It is therefore not a surprise that persons are developing a keen interest in the employees' health. *RMST*<sup>47</sup> has in place lifestyle assessment checks, dental/medical/eye check-ups, life-skill workshops, stress management through yoga, meditation, pranic healing, check-up camps and physiotherapy; Intuit Technology Services<sup>48</sup> offers Medical insurance of up to Rs 5 lakh for families of employees at no cost to the employee. Top-up medical insurance options wherein one can choose a higher medical cover (up to Rs 7-10 lakh) is also available.

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44 *Supra* note 17

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*

48 *Ibid.*

*Kronos Incorporated* provides child education assistance, which is also greatly appreciated by its employees.<sup>49</sup>

*American Express India*<sup>50</sup> has introduced a “Smart Savings” programme that enhances overall financial wellness of employees.” *Intuit Technologies Services*,<sup>51</sup> offers its employee stock purchase plan program, which has a 95 per cent participation rate, or the National Pension scheme in which there is an employer’s contributions towards employees’ pension fund. *Intuit Technologies* also takes care of small business expenses such as, each employee being eligible for Rs 2,000 per month reimbursement towards broadband services.

d. *Accommodating Recreation and family at work environment*

*Google* has been a frontrunner in knowing what will work in everyone’s benefit. It has always strived to keep an informal work environment in place and humane work hours as a focus. It focuses on honing its employees creative skill, cause it does realise that some of the best innovations that have taken place at *Google* is when employees at their leisure were putting their creative skills at play. It values nap time and relaxation at recreation as much as allowing employees to make time for their family members. It has in place sport facilities within its premises, like table tennis, pool, football, air hockey and it also has sleep pods which an employee can catch up on a power nap.<sup>52</sup>

*Google* is unique in its way of not trying to invisibilise the family. It annually hosts “bring your children to work” day where the company organises engagement activities for children. While those who don’t have children, can bring their parents to work on any designated day.<sup>53</sup>

#### IV Conclusion and suggestions

So, the answer to “Are women workers really benefiting from women-centric modifications at their workspace?”, is a tricky one. Yes, we have come a long way from the times when we considered women as an economic burden and incapable of anything but reproduction and management of other allied household tasks. Women have finally entered the paid workspace and have gained economic independence. But we are yet to reach a point where a woman like her male colleagues or their husbands/brother/fathers will be able to enjoy the satisfaction of having a secured, stable work-life and a healthy family.

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49 *Supra* note 38.

50 *Supra* note 18.

51 *Ibid.*

52 *Ibid.*

53 *Ibid.*

We have dismantled the theories and assertions of classic androcentric economists like Gary Becker who insisted that division of labour between the genders, where the men engaged in paid employment and women engaged in management of the household tasks, was in the interest of both the genders. Becker's critics have laid bare how ultra-simplified and convenient his presumptions were, such as: "women don't intend to stay in the labour market for too long and therefore invest less in trying to acquire market skills"; that "women invest more time than men in child rearing naturally because they are less "re-productive" for which they feel the need to invest effort and time on the few children they can procreate in their life-time."<sup>54</sup>

Becker's assertion that specialization will increase the economic well-being of a family and maximize the utility received by each member of the family, squarely benefits the man, both as a worker and as a father. His critics,<sup>55</sup> like Dalla Costa, Barbara Bergmann, Margaret Reid & Marianne A. Ferber argued that studies on paid and unpaid workspace carried out by the former category of economists have omitted and invisibilised critical facts from its calculations. Specialisation predominantly goes onto create dependence and therefore is more beneficial to men working in paid employment than women working in the domestic sphere (or women running a dual shift at paid employment and their household). A woman worker does not really have the option of a balanced life to choose from-it's either a very successful career or a very happy and satisfying family life. Also, such work-structure does not just have a negative impact on women in general but that it also creates systematic disadvantage for the bachelor male-workers and the society in turn.

Even the Marxian criticism of capitalism,<sup>56</sup> unfortunately overlooked the working of a household and the hardship caused upon the wives of the proletariat male workers by the latter. Such andro-centric model overvalued rigid concept such as 'rationality' over other valuable attributes such as 'freedom'.<sup>57</sup> Becker explains rationality to mean a person who diverts all his energy to maximize utility. He tends to overlook the fact that sometimes such maximization may result in excluding another from the freedom to participate in another activity necessary/desirable in his/her life.<sup>58</sup>

Barbara and other<sup>59</sup> feminist economists have shown how utilitarian studies of specialisation of labour (as suggested by Becker) conveniently invisibilises the labour

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54 Marianne A. Ferber, "Chapter 1", in Karine S. Moe (ed.), *A Feminist Critique of the Neo Classical Theory of the Family*, 2 (2001) available at: <http://cscs.res.in/dataarchive/textfiles/textfile.2008-08-28.1438924157/file> p.13 (last visited on June 10, 2019).

55 *Ibid.*

56 Peter Custers, *The Debate on Women's Labour-Historical and Theoretical Perspective 60* (Ratna Prakashan, 1996)

57 *Ibid.*

58 *Ibid.*

59 *Supra* note 54.

invested by women in the sustenance of house work. Amartya Sen and Martha Nussbaum, argue that measurement of well-being in terms of the principle of utilitarianism is incorrect.<sup>60</sup> Sen has explained that women “exhibit adaptive preferences” and have adjusted themselves to the “second-class status” that has been cast upon them by the society.<sup>61</sup> She criticises androcentric presumption of an ideal marriage match between an “educated and well-trained man and a woman with the kind of education and background in domestic skills that would make her a good homemaker”. Such a narrow-scope of marriage between a dominating “male person to a subordinated female” is perhaps a significant cause of subordination of women and their resultant exploitation in the society, especially within the private confines of their household.

Unfortunately, in India, we have not yet been able to devise a computation method to value housework yet. In fact, housework still gets clubbed as unproductive work and homemakers with beggars.<sup>62</sup>

What however had happened over these years is, an increase in the number of women entering paid employment. But the inability of the world, including India, to hold onto its women workers in the paid employment is what propels this study. The percentage of women was found to be dwindling in the wake of competitive workspaces as has been explained in the forgoing sections. Women were compelled to leave workspaces, if they wanted to get married and have a family. Such sacrifices and opportunity cost was however not considered essential to be borne by her male counterparts. For instance, in 2005, 36.7% of women participated in the paid workspace, which dropped to 26% in 2018.<sup>63</sup>

Workspaces regulated by the state, through its laws, tried to catch up with the same by introducing regulations of grant of paid maternity leaves, paid child care leaves, and establishment of crèches. MNCs, and other large employers, too tried catch up with the same, on their own regard, when they realised that the attrition rate was rising amongst women employees. After all, “Business acumen and leadership do not come exclusively to men. For every wasted female talent, there is a corresponding economic

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60 Bina Agarwal, Jane Humphries, *et. al.*, (eds.), *Capabilities, Freedom and Equality: Amartya Sen's work from a Gender Perspective* (2007) 39 (Oxford University Press, Delhi, 2004).

61 *Ibid.*

62 TNN, “Housewives, prostitutes, beggars clubbed in Census; SC Upset” Economic Times, July 24 2010, *available at*: <https://economictimes.indiatimes.com/news/politics-and-nation/housewives-prostitutes-beggars-clubbed-in-census-sc-upset/articleshow/6208626.cms?from=mdr> (last visited on June 10, 2019).

63 PTI, “Female labour force participation in India fell to 26% in 2018: Report”, The Hindu, March 08, 2019, *available at*: <https://www.thehindu.com/business/female-labour-force-participation-in-india-fell-to-26-in-2018-report/article26467857.ece> (last visited on June 21, 2019).

loss.”<sup>64</sup> As has been explained before, big employers actually came up with more innovative ways to integrate the paid workspace with the household. The focus was on enabling the environment, be it by offering car-pooling services, to ensuring catering facility or to allowing flexi-work time/space, the MNCs were concentrating on focusing on task oriented work rather than upon time spent at office.

However, there is a large number of workspaces that do not have the legal protection or the protection offered by big employers. Small and medium scale industries would struggle to keep up with the financial burden of granting paid child care or long duration maternity leaves to its women workers. In such case, if the employers are not assured of assistance, both in terms of finances or shared amenities, women workers would suffer invisible discrimination and lose out on opportunities to their male competitors, inspite of being more deserving candidates. Providing for child care facility, or car pooling service, or paid child care/maternity leaves, require the employer to bear large operational cost. In the absence of help to struggling business houses or small and medium scale industries, potential women employees would be left unconsidered for a position with such organisations.

For instance, when the 2017 amendment to the Maternity Benefit Act, 1961 came about, it required the employer to shoulder the burden of giving its women employees 26 weeks paid leave for two children all alone with no community support. Singapore, France, Brazil, Australia and Canada are few countries which believe that child rearing is a community service and don't burden either the woman or the employer in sharing the burden, (both financial and operational), of bringing up a dependent. Public funds, social insurance schemes, government and the employer, together shoulder the cost of reproduction and child rearing.<sup>65</sup>

Other challenges, in terms of integrating the household and the professional would include other employees stepping in and shouldering the work that the pregnant employee or the parent-on-child-care-leave, is forced to leave behind. Organisations that do not have the requisite employees, or employees adequately skilled to handle the duties of the outgoing employees will be struggling to keep the office running. An example of a small measure to bring in more predictability and to balance the demands of the workspace and the household, the Department of Personnel and Training, issued a clarification<sup>66</sup> in September 2010 stating the paid child care leaves could only

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64 Rajeev Bhardwaj, “4 steps companies should take to boost women leadership in top positions”, India Today, February 15, 2017, *available at*: <https://www.indiatoday.in/education-today/jobs-and-careers/story/boost-gender-diversity-960781-2017-02-15> (last visited on June 21, 2019).

65 *Supra* note 6.

66 Rajingh Murugesan, “7th Pay Commission’s report on Child Care Leaves”, GOVTEMPDIARY, November 26, 2015, *available at* <https://www.govtempdiary.com/2015/11/7th-pay-commissions-report-on-child-care-leave/17180> (last visited on June 10, 2019).

be availed in three spells in a year. To address the accusations, that some women were availing of child care leaves even when they didn't require it, and were putting the workplace in a perilous situation, the 7<sup>th</sup> Central Pay Commission has recommended that the pay for the first 365 days of child care leave remain at 100%; while the pay to avail the second set of 365 days be reduced by 20%.<sup>67</sup>

According to the World Economic Forum's (WEF) 2017 Global Gender Gap report, which measures the participation gap, the remuneration gap, and the advancement gap, working women are behind men by 58 percent<sup>68</sup>. Studies show that after a point, irrespective of gender, most employees, especially high-paid employees, seek job satisfaction, work-life integration and a cordial office atmosphere.<sup>69</sup>

If we don't make it easy for women to enter and retain their position in paid workspace, we might start witnessing the situation that exists in Japan,<sup>70</sup> where the aging population is posing a severe threat to the overall Labour Force Participation Rate and women are choosing to refrain from motherhood, due to unpredictability of their economic security, health and mental well-being.

*Monalisa Saba\**

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<sup>67</sup> *Ibid.*

<sup>68</sup> Neha Bagaria, "Time to talk: what has to change for working women at workplaces everywhere?", June 14, 2018, *available at*: <https://yourstory.com/2018/06/change-for-working-women> (last visited on June 16, 2019).

<sup>69</sup> *Supra* note 18.

<sup>70</sup> *Supra* note 2.

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