

Class, gender and maternity and paternity leaves in Brazil

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PURPOSE:

- Brief overview of the recent development of leave policies in Brazil : how leaves policies rules reproduce and intensify gender and class inequalities in work-family relations.

CONTEXT of leave policies:

- women's massive entry into the paid work since the 1980's, due to:
pronounced fertility decrease, today is below the level of population replacement.
- the rise of female schooling level which presently exceeds male educational attainment.
- cultural changes in gender roles.

Leave policies regulation in Brazil:

Primarily governed by the Labour Law (Consolidação das Leis do Trabalho – CLT), which applies to employees with regular work contracts or those that contribute to the Social Security Institute (INSS).

Leaves are dissociated by sex, there is paternity leave and maternity leave. Both are eligible to 100% income replacement.

Leave policies are clearly mother centered.

Labor Law (1943) =

84 days

01 day

Constitution (1988) =

120 days

05 days

Law [11770] leaves' extension
(2008) =

+ 60 days
(180 days)

+ 15 days
(20 days)

Scope and effectiveness are very limited:

1- only half of the Brazilian labor force works in formal jobs. Women are still less represented in the formal activities. Less than one third of women are formalized.

2- not very effective in retaining women in the workforce to long term. One year after the start of maternity leave, the percentage of women out of work in 2017 was 51% for those with less than complete primary schooling; 53% for those who had completed elementary school; 49% for those with high school; and 35% for those with university degree (Machado and Pinho Neto, 2017).

The 2008 Law (extension of maternity and paternity leaves)

- deep changes in the notions of a) workers labor rights as a universal right for all the employees (at least to those under formal contract) and b) the benefit “belongs” to the worker to which the employer is legally binding.
- Differentiates public and private employees: for the Federal public sector the leave extension was applied immediately. At the state and municipal levels, it has been gradually adopted, depends on the approval of the respective legislative assemblies.
- For the private sector, the access to the extended part of the leave depends on the. It became a business prerogative and **company's voluntary adherence to a Program called “Citizen Enterprise”** the right to take up became individualized.

(Law No. 12.873) - Leave policies and the diversity of families

- 1- it equates the rights of biological and adoptive mothers;
- 2- it grants all the benefits of maternity leave to the biological or adoptive father (who contributes to social security), in the case of the death of the mother in childbirth or during adoption process;
- 3- it grants maternity leave to one partner of a male homoaffective couple and paternity leave to one partner of a female homoaffective couples.

The “maternity leave” nomenclature is maintained, even if it doesn'T corresponds to the biological sex of the parents, preserving the notion that that child care is mainly a mother responsibility, even if it recognizes atypical cases

CONCLUSIONS

Brazilian leave policies conform a stratified system for articulating work and family responsibilities by gender, social class and activity sector. In terms of gender, the length gap between maternity and paternity leaves, which continues over time, reinforces the inequalities between men and women in the sexual division of domestic work and in the care of their children. In terms of social class, the selectivity of maternity and paternity leaves, which benefits only formalized workers, therefore the best quality of employment, imposes strong inequality between women with regard to the labor costs of motherhood. In terms of the economic activity sectors, there is a clear asymmetry of benefits between the public and the private sector.

On the other hand, the recognition and inclusion of different types of families as entitled to leave benefits, including homoaffective couples, shows that leave policies in Brazil is ruled by different moralities that goes from very traditional gender norms to anti-discriminatory policies and the recognition of different types of families.

Reference

Cecilia Machado and V. Pinho Neto, The Labor Market Consequences of Maternity Leave Policies: Evidence from Brazil

[http://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/17859/
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