

Changes in the Postnatal Maternity Leave: Lights and Shadows

The government's proposal favors working women's maternity, but adversely affects their employability. It is possible to obtain the same benefit at a lower cost, if all women are enabled to totally or partially waive this benefit, so that each one may choose the most convenient option according to their personal circumstances.

Last Monday, the President of the Republic communicated the outlines of the reform project concerning the postnatal maternity leave, which should be promptly sent to the Congress. At the beginning of his government, Sebastián Piñera summoned an expert panel, the so-called Woman, Work and Maternity Commission, in order to design a lengthier maternity leave, due to the existing consensus of the need to improve the newly born attachment and encourage breastfeeding. This reform was one of the campaign promises of President Piñera, therefore last weeks' political pressure in relation to this matter.

Although the authorities have not yet delivered the definitive text, they announced that the project seeks to extend the postnatal term from 3 to 6 months; this should be mandatory for women who earn less than 30 UF (83% of the currently hired women), while those with higher incomes may partially waive this additional postnatal term, but they can only work part-time from the third to the sixth month. There is also the possibility to transfer two weeks from the prenatal to the postnatal term, which could amount up to 26 weeks.

Another feature is that fathers will have the possibility to increase their current 5-days postnatal leave, since the mother will be able to transfer up to 6 weeks from her leave once the child is three months old. This is a very positive aspect of the project, since it tends to better distribute the labor cost of paternity, although in the beginning

it will have a scarce practical effect. Obviously, there is the additional benefit of improving the father-child link.

Likewise, it prepares the way for new beneficiaries to enter the system, because the project considers a gradual incorporation of the segment which is currently not covered by the maternity subsidy, and which represents almost half of the feminine labor force.

With the information available until now, we can appreciate the intention of a greater maternity protection for the working woman, since the benefits for the mother, the child and society as a whole of extending the postnatal term have proved to contribute to the children's better human development. However, if the maternity extension project is to be really beneficial, it should consider another very significant aspect: women's employability. A higher feminine labor participation rate not only contributes to increase the GDP, but it is also an excellent tool to overcome the poverty and extreme poverty problems. A working woman allows their children to have access to more and better goods and services and thereby collaborates in their human development. In simple terms, what is the use of a longer postnatal term, if women are not hired anywhere? Therefore, the way the postnatal term is extended is relevant, because if it has negative effects in the feminine labor incorporation, part of the project's benefits disappear.

According to the announcements already made, it is possible to identify a series of problems which must be corrected during the discussion process, and they can be summarized in 3 subjects: not to affect women's employability, not discriminating and not putting additional pressure on fiscal spending.

The Risk of Affecting Feminine Employment

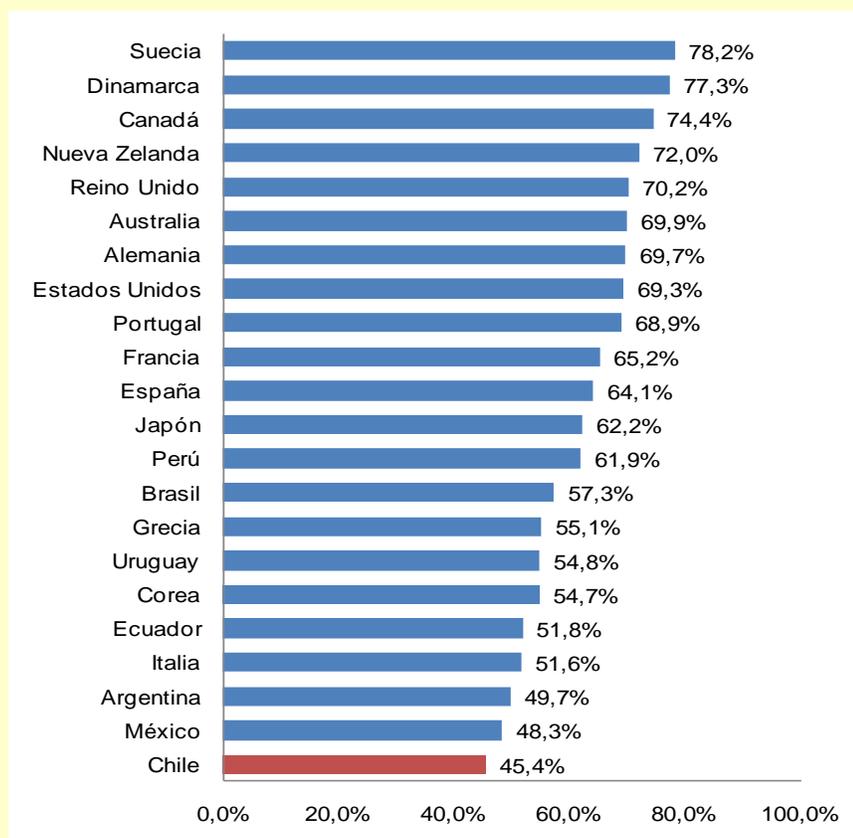
The project assumes that women are going to be able to be absent from their work for more than seven months, considering the pre- and postnatal term. Although the State pays the subsidy, and not the companies, the latter suffer the consequences of having those vacant positions. The replacements involve training and adaptation costs, especially in the more qualified jobs. Therefore, the fear is that the longer the absence time due to maternity, the more the women opportunities' in the labor market are restricted. You may constrain businessmen to comply with the law, but not to hire women of reproductive age if they have the equivalent opportunity to hire a man who has much lower benefits when having children.

Thus, if the 6-month postnatal term is to become a real fact, we have to search for flexibility formulas in order to achieve 24 weeks for breastfeeding and care, making it compatible with a gradual return to work in the last months. A LyD proposal of May 2010, presented before the above mentioned Commission, establishes a formula which allows mothers to be with their children in partial shifts up to 6 months, and with the fathers supporting the process.

This is a key issue, considering that the feminine labor force participation figures in our country are low in comparison with other nations. As can be observed in Chart 1, the levels in Chile are much lower than those of the main OECD countries and also lower than several Latin American countries, such as Mexico and Argentina.

Chart 1

FEMENINE LABOR PARTICIPATION (FIGURES 2008)

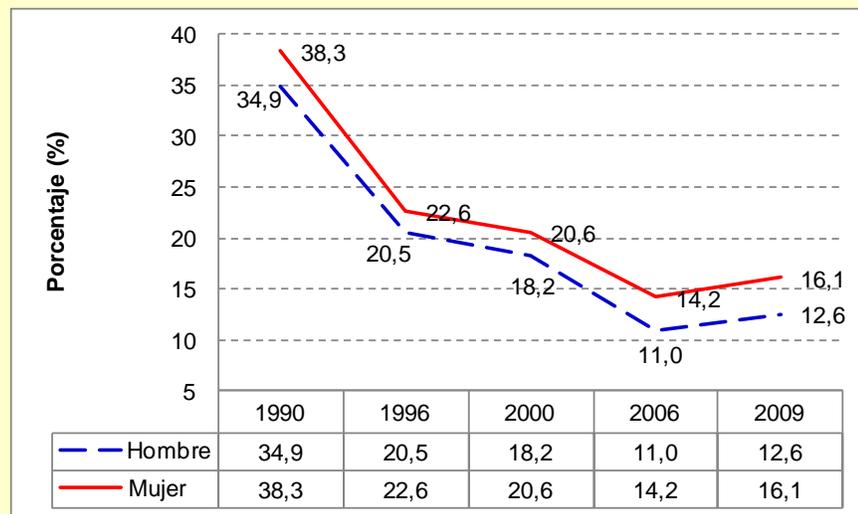


Source: OECD, Labor Force Database 2010 (population age 15 to 64). CEPAL, Statistical Annual Report 2009 (population age 15 urban conglomerates).

Additionally, according to a recent LyD research, Chilean women are poorer than men only during reproductive age, a fact demonstrating that it has already an impact in their incomes and quality of life which must not be deepened with measures that prevent them from having working posts or better salaries.

Chart 2

CHILEAN WOMEN ARE POORER THAN MEN ONLY DURING REPRODUCTIVE AGE



Source: Libertad y Desarrollo with data from the CASEN Survey.

Non-waiving and Discrimination Risk

The project does take into account the previous scenario, but only for women with higher incomes who, according to the announcements, should be the only ones with the right to waive part of this new benefit. More than 80% of the Chilean hired women shall have to stay away from their jobs, even if they do not want to or if they consider that it will affect their future labor options.

The idea of non-waiving a benefit is in itself a contradiction. If it is a benefit, the individual concerned must be able to decide if it is convenient for him/her to take it or not.

All women should have this waiving right, not only those with higher incomes, because they all face the same challenges of reconciling maternity and labor opportunities. Moreover, women with fewer

incomes are probably more vulnerable in case of losing their jobs. Until now, the argument used to justify this division regarding women, between those who may decide and those who have no right to do so, is the fact that women with lower salary jobs have little negotiation capacity before their employers.

If that is the problem, we should fight it and search for mechanisms which allow guaranteeing that there will be no pressures for those women who wish to take the whole term instead of choosing a case-to-case negotiation system with the company in which they work. An alternative which should be analyzed is the possible role of the trade unions in order to “approve” these agreements.

A partial waiver of the benefit also presents rigidity problems. Not all jobs adapt themselves to a part-time condition, so there will be situations where the employer will have to accept that women work part-time, pay them half the salary, and keep the replacements as well, thus generating a complex operating problem in the business. Therefore, we may consider that feminine employment in medium and high segments can be very much affected in jobs which need full time attendance.

We should also analyze the reduction of the benefit ceiling to 30 UF because, although it helps to focalize the benefit, it generates an income cost for that group, which partially diminishes the subsidy's objectives in terms of protecting the working women's birth rate. This situation is corrected if women may waive the benefit. It could also generate a high cost for a group of companies that maintain women's income level during their pre- and postnatal term. A rather absurd situation is also created which can have other effects: while a woman makes use of her postnatal maternity leave, she receives 30 UF, and then, if she uses the child illness subsidy, she receives a higher subsidy in case her income is higher than 30 UF.

Finally, discrimination raises a constitutional questioning issue which must be studied during the analysis of the definitive text.

The Fiscal Impact

The idea of extending the postnatal leave and to open it gradually to women who do not have permanent contracts, such as temporary workers in agriculture for example, will imply an additional cost to the State.

In 2009, the fiscal spending per maternity leave amounted to US\$245 millions, corresponding to a total period of 18 weeks. If we add another 12 weeks with the current ceilings, the additional fiscal spending would amount to US\$163 millions.

Nevertheless, the project reduces the extension ceiling to 30 UF. Based on data from the CASEN survey 2009, the average income of quintile 5 is 36 UF, so calculation would have to be corrected according to this factor. Based on percentage data from women who contribute to pension funds, work and get pregnant by income quintiles, we observe that the reduction of the subsidy ceiling reduces spending in approximately 10%; that is to say, the fiscal cost of extending the subsidy would amount to nearly US\$145 millions.

This cost could be reduced if we are able to handle the number of fraudulent licenses efficiently, a project which the government intends to send promptly. In 2009, the illness subsidy for the child under a year represented a fiscal spending of US\$167 millions in 2009. We should mention that this trend is a matter of concern, so the fiscal spending figures involved in any scenario could be higher. According to statements from the Ministry of Work, Evelyn Matthei, 90% of these subsidies are fraudulent (the figure seems high). If this assumed fraud is reduced by half (US\$75 millions saving), the policy's fiscal cost would be US\$70 millions. However, we still have to see the effectiveness that these fraud control measures will have in this field, considering experiences in similar matters in our country.

We must also add the fiscal cost of incorporating the segment of women who are currently not covered, and which can be quite significant if we consider that half the women are herein included. Nevertheless, from the point of view of the purpose of this subsidy, this spending will be well focalized, since those who most need this subsidy are precisely this group of women.

In the current macroeconomic scenario, with low exchange rate and inflation threats, the government's social measures must go along certain cuts in inefficient areas, so that no macroeconomic imbalances are created.

Conclusions

The government's proposal favors working women's maternity, but adversely affects their employability. It is possible to obtain the same benefit at a lower cost, if all women are enabled to totally or partially

waive this benefit, so that each one may choose the most convenient option according to their personal circumstances. There are surveys which show that a considerable number of women do not support the postnatal leave extension and that most of them prefer that it is voluntary.

It is also very important to look for an effective form of controlling the abuse concerning the licenses for child illness, in order to avoid an excessive fiscal cost. Our proposal is that this subsidy pays a percentage of the salaries lower than 100%. It is interesting to highlight that this subsidy is already one of the most generous in the world.

Finally, there is a way of attenuating the employability problem generated by the subsidy increase, which refers to the company's obligation to provide a nursery if it hires 20 women or more. This policy is a great disincentive to hire women in medium businesses. Why is the company forced to do it, if it is not an agent which receives maternity benefits? The nursery obligation should be charged to the State, but in a segmented form, that is, only for the lower quintiles, which in fact already exists through the JUNJI (National Nursery Schools Board).