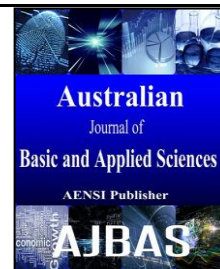




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Parental Rights in The Workplace : The Malaysian Law, Practices and Procedures

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ABSTRACT

This paper will discuss and explain the law and regulations regarding the Parental rights at workplace in Malaysia. The main piece of legislation that our discussions and explanations based on is the Employment Act 1955, while Sabah Labour Ordinance and Sarawak Labour Ordinance were also being referred to in this paper. Parental rights can be divided into two types, which are maternity rights and paternity rights. As we go further into this paper, maternity rights will be heavily discussed and explained first, as it is a statutory right provided under the Employment Act 1955. In Malaysia, the provisions for protection of female employees regarding the maternity rights have been expressly stated under Section 37 to Section 44 of the Employment Act 1955. These provisions aim to protect female employees from being dismissed on the grounds of pregnancy and/or maternity and it also provides a right to maternity leave, together with a statutory right to receive maternity pay from the employers. On the other hand, the Employment Act 1955 is silent on the part of paternity rights. Hence, in this paper we would suggest and recommend the law and regulations regarding the Parental rights to be reformed, to incorporate into Employment Act 1955: firstly, the paternity rights; secondly, the right to breastfeed baby at workplace; and thirdly, the childcare leaves as well as flexible working hours for young working parents, to enhance the parental rights to accord to the International standard, as what have been suggested by International Labour Organization (ILO). Therefore, it is in our paper that, not only maternity rights should be enhanced, but paternity rights too, should be introduced in Malaysia, as the role of men is equally important in bringing up the child and caring for the family. Thus, the principle of equality stated under Article 8 of Federal Constitution could be upheld.

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INTRODUCTION

Parental rights are something that should be taken seriously in working areas. One must emphasize seriously on this matter simply because it is important to take good care of their needs in the workplace. This is also important because employees need to know their rights in the workplace. Before an employee knows his or her rights at the workplace, there must be a contract formed between the employer and the employee. A contract between them is the most important as you agreeing to all the terms and conditions in order to work in a new area. It also gives a certain right of obligation to the employer as he or she has the right to distribute the job and the employee has to follow whatever that has been instructed by the employer.

Thus, maternity rights, paternity rights, and parental leave rights are obligations from a employer-employee contract that has been surfaced in situations all over the world. Maternity protection has been a major concern of the International Labour

Organization since the first year of its existence. Protective measures for pregnant women and women who have recently given birth include the prevention of exposure to health and safety hazards during and after pregnancy; entitlement to paid maternity leave; entitlement to breastfeeding breaks; protection against discrimination and dismissal; and a guaranteed right to return to the job after maternity leave. Maternity protection for women workers contributes to the health and well-being of mothers and their babies. Measures safeguarding the employment of pregnant workers and combating discrimination based on maternity are an integral part of maternity protection. The regions with the highest proportion of countries in conformity with these aspects are Central Asia and Europe, while conformity is particularly low in, Asia and the Pacific and the Middle East. The current maternity standards require legislation against discrimination in employment, including access to employment, dismissal and the maintenance of employment benefits during leave. In almost all countries for

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which information is available, some kind of legislative provision protects employment during maternity. At a minimum, these provisions usually prohibit dismissal as a result of pregnancy or during periods of leave; however, the content of these prohibitions varies by country. A number of countries also consider the period of leave to be a period of service with regard to the determination of employment rights.

Apart from maternity leave, access to other kinds of leave is important for a worker's ability to reconcile work and family life. Such leave provisions include paternity leave and parental leave which will be discussed later in this respective discussion. Paternity leave is usually a short period of leave around the time of childbirth, but the length varies from country to country. Nowadays, paternity leave provisions are becoming increasingly common, which may be an indicator of the growing importance attached to the presence of the father around the time of childbirth.

The employed mother or the employed father of the child should be entitled to parental leave during a period following the expiry of maternity leave. Either parent should have the possibility, within a period immediately following maternity leave, of obtaining leave of absence (parental leave), without relinquishing employment and with rights resulting from employment being safeguarded.

Special Protection On Women During Work / Maternity Rights:

In the world nowadays, it is normal that both parents are working parents, as compare to many years ago which man of the family is the one that works to support the family while the woman only stays at home to take care of the children and the home as a housewife. As the growth of world economy, the income by single working parent is no longer enough to afford the expenses of the family and thus mother is also out to work. As women work, they are entitled to special protection and maternity rights.

Parental rights are the rights that employees have when they are parents. Parental rights are further divided into maternity rights, paternity rights and adoption rights. We will first talk about the maternity rights that female employees enjoy. Maternity rights are important to protect female employees as in their job protection and economic independence. Without maternity rights that act as protection to female employees, they will feel fear and helpless to deal with the pregnancy and confinement as they work, which may lead to the situation that they dare not to give birth. This will further lead to reduction of birth rate in our country in long term time. Besides that, maternity leave is to protect the health and to secure the economy of female employees. Maternity leave is also for the female employees to have time to deal and take good

care of their new born babies. Furthermore, without job protection, even if the female employees are unfit to work due to the illness caused by their pregnancy or confinement, employers might terminate their contract of service when they think they are unfit for work after their confinement or pregnancy as they might apply for leave to have medical checkup or sick leave from time to time. On the other hand, if the maternity leave is too short, female employees may feel not ready to return to work and may drop out of workload in the office. Thus, the maternity rights ensure that the maternity leave shall not be too short for the employees to have their minds and bodies ready and fit to return to work after their confinement.

The maternity protection is stated in Part IX of Employment Act 1955. This part of the act extends to every female employee who is employed under a contract of service irrespective of her wages. As stated in the provision, every female employee shall be entitled to get maternity leave for an eligible period which is a period of not less than sixty consecutive days. However, a female employee is only entitled to receive maternity allowance for her leave from her employer if which she has been employed by the employer for a period of not less than ninety days during the nine months before her confinement and any time of four months immediately before her confinement.

Besides that, every female employee is entitled to maternity leave but not everyone is entitled to maternity allowance. This is stated under Section 37(1)(c) of Employment Act 1955 that a female employee shall not be entitled to material allowance if she has five or more surviving children at the time of her confinement and the children are as in natural children which are irrespective of their age. In this case which the female employee is entitled to maternity leave but not maternity allowance, she may commence work at any time after she gives birth to the baby if she has been certified fit to resume work by a registered medical practitioner, provided with the consent of the employer.

On the other hand, maternity leave shall not commence earlier than thirty days before the confinement or later than the day of her confinement. It is stated that if the employer thinks that the female employee is unable to perform her duties satisfactorily and the employer may appoint a medical officer or registered medical practitioner to certify it. With this, the employee is required to commence her maternity leave earlier, which is fourteen days before her date of confinement. However, if the female employee abstains from work to commence maternity leave by herself, on a date earlier than the thirty days before her confinement, this shall not be treated as maternity leave and thus she shall not be entitled to any maternity allowance.

The maternity allowance should be paid at her ordinary rate of pay for one day, or greater under the

prescription of Minister. In the case where the female employee claims maternity allowance from more than one employer, the amount she gets for maternity allowance should not exceed the amount which she would be entitled to receive if she only claims against one employer only. Thus, as for the employer, the said employers that the female employee claims against shall bear the same proportion to the amount of the maternity allowance paid to the female employee.

Furthermore, employer could not terminate service of a female employee during the period of her maternity leave, in which if the employer does, the employer is said to be committed an offence. The payment of maternity allowance of the female employee shall be paid in the same manner as the normal wage as she usually earns. In the case which the female employee dies from any cause during the eligible period of maternity leave; her employer is liable to pay the maternity allowance to the person nominated by her or to her legal personal representative if she does not nominate anyone and the allowance shall be calculated from the day she commenced her maternity leave to the day of her death.

We have to note that the female employee will encounter loss of maternity allowance in the following situations. A female employee fails to notify the employer about her confinement before she leaves; in whose the employer provides free medical treatment but she refuses to submit to the said medical treatment to know about the expected date of confinement when she is pregnant shall not get the maternity allowance. The employee must notify her employer of the expected confinement and the date and or the date she intended to commence maternity leave, or otherwise employer has to right to suspend the maternity allowance.

There is also restriction on dismissal of female employee after the eligible period. It is an offence for an employer to terminate a female employee where she remains absent from her work after the expiration of the eligible period and it is due to illness arise out of her pregnancy and confinement and render her unfit for work, provided that the illness is certified by a registered medical practitioner. Besides that, female workers do have special protection on their employment too. These are stated Part VIII of Employment Act 1955. Female employers shall not be employed to work in industrial or agricultural undertaking, between 10pm to 5am, and do not have a rest day after working for 11 consecutive hours. However, the Director General may, may upon application made to him, exempt in writing any female employee from any restriction stated, by subjecting to any conditions he may impose. Besides that, female employees are prohibited from employed to any underground working.

Paternity Rights:

Paternity is actually a term used by the employer which actually gives a meaning of legal father of a child. A father who has been given the title of a legal father is obliged to meet the needs his family and must be financially able to support his wife and children. A legal father has all the rights in ordering a court order from the court for parenting time and custody if necessary. Not all the children has a 'legal' father but most of them has a biological father. If a couple is not married to each other when the child is born, the father is not recognized as the legal father of the child unless he takes a step by getting married to his partner. A father who is yet to get married but already has a child cannot be entitled to financially help the child nor has he has any responsibilities in taking care of the child despite the fact that his name is written in the child's certificate. Fathers who have not tied a knot and has a child must know that by having their name on the birth certificate does not give the meaning that he is the legal father. Paternity and Adoption Leave Regulations 2002 is a statute which centralizes on paternity rights and adoption leave rights.

We will be now discussing about the paternity leave rights. Paternity leave rights are a must for all the fathers' whose wife has just given birth. They must be given some exception to be with their wives the moment their wives give birth. There are a few mandatory matters to be taken in into view so that a father can be qualified for paternity leave for a birth. For this purpose alone, the father of the house to entitled for paternity leave. He is given an exception to be absent from work just for the simple purpose of taking care of his wife who has just given birth and also to spend time with his new born baby. Before that, he must actually be in agreement in the conditions which are laid out in paragraph 2 in Section 4 of the Paternity and Adoption Leave Regulations 2002. The conditions laid out in paragraph 2 is that the employee had been employed not less or more than 26 weeks which ends immediately foregoing the 14th week before the arrival of the new born baby. Another condition is either the man is attached to the wife but is not the child's father or he is the father of the child. Moreover, he must also have the responsibility for the child's upbringing and wish to take time off for the child or support the mother. This duty for the upbringing for the child may be equally shared with the respective mother of the child

A father of the child who wishes to take paternity leave at the moment the wife has given birth or even the thought of wanting to have a baby through a method known as surrogacy arrangement or even in wanting to adopt a child, that particular father will be given it at least 1 to 2 weeks of paid paternity leave and if the baby is adopted the surrogate father will be given up to 26 weeks of paid paternity leave in a condition the child was placed for adoption before 5th of April. There is also a term

known as shared parental leave which is only applicable if the child is due for adoption on or after the date of 5th of April. Additional paternity leave will only be obtained if one of the parents gets back to work.

The employer on the other hand takes all the precaution measures to ensure that employment rights of the fathers are well taken care of while they are on their paternity leave. This employment rights that will be given to the fathers will be a type of buildup, which is known as holidays, increasing in salary and the being back to work. The employers will consider giving the fathers time off to be with their wife's or the surrogate mother in any occasion when there is a need to meet the doctor for 2 antenatal appointment. If the particular father is adopting a child, after he has found a suitable child to be matched with, he too will be given some time to bring the surrogate mother for 2 adoption appointments. Leave for antenatal appointments is also a must for fathers to know. If the particular father is the natural father of the child, he is in a long and serious relationship with the wife; if he is already having a baby through the surrogacy method will be eligible if he is to take an unpaid leave to accompany a pregnant woman to 2 antenatal appointments.

As for the paternity leave, the father would at least be granted a week or two. The father of the child must also note that the condition does not vary whereby if the wife has a multiple birth or rather called twins, the father will still be given the similar amount of leave which is a week or 2 only. The father of the new born baby will be granted leave after the arrival of the new born baby which is in within 56 days after the birth and they will be no leave given before the birth of the baby. In addition, an employer must receive an early notice regarding the dates of paternity leave from the respected employee. If the father of the child wishes to change the dates of his leave, an early heads up must be conveyed to the employer at least within 28 days. It is not necessary to give an exact date on when a particular father wants to take the leave, a general time will do. It is also being understood that if a particular child was to be born or placed in for an adoption on or after the 5th of April, the father of the child will be eligible for a shared parental leave. However, new fathers in the private sector are obliged to use another type of leave, such as annual leave or unpaid leave in order to support their wives and welcome their new child.

Paternity leaves differs from maternity leaves as there is no recognized laws in Malaysia as it is considered as more of a company incentive rather than a legal benefit. It is actually a good news for the male employees as the employers in Malaysia recognizes this benefits and offer them to all the fathers. It is known that for all the Malaysian civil servants, they will be granted leave as to about 7 days of paternity leave and on the other hand the

state government employees are allowed to take up at least 14 days of paternity leave to be with their respective wife's. We must also note here that there are certain companies in Malaysia that only provides the fathers of the new born child up to only one to three days of paternity leave while there are also certain companies which are generous in providing paternity leaves to the male employees. There are also companies which encourages fathers to use their annual leave for this purpose that is granted by the employee, and also use their compassionate leave or leaves which are not paid. It is actually a comfort for all the men and also the woman to know that Malaysia is at least taking an effort in ensuring that they provide a workplace that actually takes into account the importance of spending some quality time with their respective families.

As for the employment law, it is known that the paternity leave is not recognized as the employers are under no obligations to provide the male employees' special paternity leave which consist of either paid or unpaid paternity leave following the arrival of the new born baby. A father of the child can by any means use his annual leave if he was to use his paternity leave as this annual leave can be taken at any time in the year. But it is also in a condition whereby the employers has the right in choosing to whom he should give the annual leave to and the specification of the time in providing the said leave.

For those fathers who are employed under the civil service, they will be allocated with a period of leave which will be paid by their employers following the arrival of the new born baby and also in the case of adopting a baby. Fathers of the child who are employed under the civil service are eligible to obtain a special period of at least 3 days of leave with any respect that the child is born on or after the 1st of January and for the adopted children after the date of 1st January 2000. Before all the promises comes into force, the employee are in a duty if providing a written letter in order to provide for this leave following the birth or the adoption of the infant or child. Whereby the employers have already sanctioned this letter, there is an agreement being formed and reached between the employers and the employees. A worker or employee who comes back to work after a period of paternity leave which was an isolated days of leave or the last of two or more consecutive periods of statutory leave, which did not include any period of additional maternity leave or additional adoption leave or a period of parental leave of more than four weeks is able to return from leave to the job in which he was hired before his absence.

Parental Leave Rights In Malaysia:

Parental leave is an important leave which is granted to employees allowing them to take leave whenever an employee gives birth or if the partner or spouse of an employee gives birth. Parental leave

covers both spouses or partners however the one who gave birth is given more priority due to the nature of giving birth itself. Parental leave divides into two parts which is Maternity leave that is granted to the mothers and Paternity leave which is granted to the fathers. Basically parental leave is granted to allow employees taking care of their newborns and their welfare needs, this leave is especially important to the employees that are new to being a family.

Parental leave grants a long period of absence to allow employees fulfill certain things that are important before getting back to their employment ; for starters any new parents will want to spend time with their newborn baby because this is the period in which the mother will spend the most with the newborn. Another matter that must be taken care before the end of their leave period is to settle all arrangements of their child care when the leave period is over, some employees will look for nursery, and some will look for a nanny while others may leave their children in their grandparents care.

In Malaysia only Maternity leaves are granted to their employees, this right is granted by the Employment Act 1955 (EA) under section 37 (1) (a) and this right is protected under this act itself. The (EA) however does not mention any rights to Paternity leave to male employees, leaving paternity leave to the employers discretion, this explains why certain sectors in Malaysia provides this type of rights to their employees. Since no laws in Malaysia cover any paternity leave this right is not properly covered under the employment law, however this right is provided to male employees as a form of incentive rather than a legal right itself in Malaysia, paternal right is mentioned in their employment contract.

However although Malaysia provide Paternity leave as a form of incentive , this right is not properly covered under any laws at all, the government should take the initiative of cementing this right to employees as way to allowing the employees to have a more flexible and easier way to cope with their familial circumstances. Even though the female employees are the ones giving birth, it is necessary to provide paternal leave as well, allowing their spouses to provide their partner during the early moment right after childbirth. But it must be clear that paternity leave cannot be as long as maternity leave itself and requirements must also be included within those rights as well.

Even though Malaysian law does not provide any law for paternal leave it has now become a requirement for their employees, the period of leave that is granted depends on the place of work as well although not as long as maternity leave itself, but some are more generous than others in providing paternity leave. Thus the period of their leave is entirely up to management itself, thus explains why the need of the law in protecting the paternity leave itself.

Therefore there is a difference of period for paternity leave, the civil sectors allows paternity leave as long as 7 days, meanwhile the government sector allows to a period of up to 14 days. However some companies only allow leave up to 3 days while others will generously offer from a minimum period of 14 days to a full month itself, as stated earlier it depends on where they are working the generosity of the management in charge. Thus other companies will also allow employees who are new to familial responsibility to take unpaid leave, compassionate leave or use their annual leave for this purpose.

Although the Government is implementing laws that protects the interest of paternal leave, it must be noted that the government are taking steps and measures in implementing this throughout the country. In the interest of employee's family importance and quality time with family, the government is slowly recognizing the importance of paternal leave implementation and the benefit that it gives.

Under the (EA) Maternity leave is protected and provided with detail explanations of its implementation and requirements needed for a female employee to apply for maternity leave. Provided by the section 37 (1)(a) of the (EA) it mentions that any maternity leave is granted a leave of minimum of sixty days:

“Every female employee shall be entitled—

(i) to maternity leave for an eligible period in respect of each confinement; and

(ii) subject to this Part, to receive from her employer a maternity allowance to be calculated or prescribed as provided in subsection (2) in respect of the eligible period.”

The phrase eligible period mentioned under Section 37 (1)(a) is describe under section 37(1)(d)(ii) which is as follows:

“eligible period means a period of maternity leave of not less than sixty consecutive days.”

Section 37 (1)(b) mentions the moment of an employee is allowed to take maternity leave, this section mentions that the maternity leave shall not commence earlier than 30 days before the appointed date of confinement, however this section allows an employee to go as little as fourteen days before the date of appointment with the doctor's approval if the state of pregnancy advances to quickly. Meaning any time during the period of 14 days an employee may start the commencement of her maternity leave. Section 37 (1)(bb) even explains that any employee who exceeds the 30 days period their leave shall not be considered as a maternity leave and shall not be allowed for any claims for allowance when they exceed this period.

However this section puts a constraint on employees as there is a set limit on the commencement of their maternity leave, even though the right of maternity is protected the flexibility of the maternity is being manipulated that creates the

constraint upon employees as well. The implementation of this section within the Employment Act is forced upon employee as if child birth is expected to run smoothly as an oiled machine being handled by a seasoned engineer. Maternity leave must be flexible to accommodate the needs of the employee and not the other way around.

Section 37(2)(a) provides further explanations for Maternity Allowance and explains that any female employee is eligible for this as long as they are working for a period of not less than ninety days during the 9 month period before their confinement. It is mention as follows:

“A female employee shall be entitled to receive maternity allowance for the eligible period from her employer if—

(i) she has been employed by the employer for a period of, or periods amounting in the aggregate to, not less than ninety days during the nine months immediately before her confinement; and

(ii) she has been employed by the employer at any time in the four months immediately before her confinement;”

Section 37(2) provides detail explanation on the rate of pay that an employee’s shall receive whether the rate of payment is by day to day basis or monthly payment, the allowance will be provided by that means and shall not be reduce in respect of the abstention period. This allows an employee to claim for allowance during their confinement period as long as the commencement of their maternity period coincides with section 37 (1)(bb), if not then not even the allowance is given, even the leave period shall not be considered as a maternity leave.

Section 37(4) is the important part of the maternity right provided under the Employment Act 1955 this section provides protection against termination during maternity leave:

“Any employer who terminates the service of a female employee during the period in which she is entitled to maternity leave commits an offence:

Provided that for the purpose of this section, such termination shall not include termination on the ground of closure of the employer’s business”

This section protects the interest and provides security for employees during their leave, however it does not include termination that is resulted from an employee that reveals the employers trade secret or anything that will bring harm to the company itself. The termination prohibition protects the future economic interest and gains of an employee with the exception of spilling any company trade secrets to other competitions or to public.

The maternity rights in Malaysia however still need to be improved in some ways, there are still a few missing elements, the Employment Act does not mention anything regarding extension of leave upon miscarriage, stillbirth or any other abnormal phenomenon of childbirth, such incidents can happen during childbirth and must be included within the

maternity rights itself because when such incidents happen there is an emotional element that need to be considered since employees are still human beings. There is also no mentioning of the event of multiple birth of child and any subsequent extensions of leave mentioned under the Employment Act itself, such things must also be considered. Sometimes complications can happen during the confinement period itself and any provisions that allows extension of leave allows the new found parents to not be more work oriented but rather be more family oriented employee.

Comparison With Other Countries And Recommendations On The Parental Rights:

Parental rights in Malaysia differ from other countries in the sense that they have different rules and regulations set out to guide them. Before going deeper into discussing about the other countries we will first discuss about who is eligible to maternity leave. Maternity leave is for an employee who is a female which also includes professional managers which these people have already completed six consecutive months of employment with the same employer that they had been working under with. On the other hand, people who are eligible to parental leave includes adoptive or natural parents and professional and also those who have completed six consecutive months which is also the same the maternity leave. We must also take note that both the parents who is leaving under the same roof are eligible as they have the right to take their parental leave after one takes it, or even the exact moment of time in a condition that it does not extend the 37 of weeks of parental weeks.

In order for an employee to obtain a particular leave, they must at least give the higher authorities at least before 4 weeks a written notice. The letter written to the higher authorities must be able to help the employer in the means of the length of leave that must be provided.

We can take a look in the country of the United Kingdom. The country practices a law that the new mothers of the house needs to take a break on the first two weeks and if so will be able to transfer the rest of the holidays as they wish to their respective partners. They is also a different way if they have no interest in following the above matter, one parent from the house must be in one mind to take 25 weeks of holidays together. A huge comparison can also be made to certain countries such as Norway, Sweden, and also Iceland who has adopted a policy which is known as “daddy quota”. This policy here means that reserving part of the parental leave is only exclusive for the man in the family and if so happens he did not take his allotted period of leave, the family loses the benefits.

As we look into the country of Norway, there is a policy called “pappaperm” which gives the meaning that the couples living under the same roof

should be able to divide their given leave as they like. On the other hand, in the country of Sweden, both the parents receive at least 480 days of leave which also include 80% from their said salary. As we look into the Asia and the Pacific countries, they actually do not offer any paternity leave. The country of Europe provides the new mothers leave in between the 14 and the 22nd week and the fathers on the other and 2 days, in Greece and a paid leave of 3 months in Italy. The country of Africa on the other hand provides the father of the house with no paternity leave at all whereby Kenya at least offers them with 2 weeks and that is actually something better than nothing.

It is been known that by getting a women's consent, the maternity leave can be reduced below the 14 weeks and this also is applicable for all the women who has gave their child to be adopted by another person and also to all the surrogate mothers. It is stated under section 6(e) the Employment of Women Law 1954 that when a birth mother has at least 3 weeks of maternity leave post-breaks, with a doctor's permission to agree upon shortening the statutory entitlement if the new born had no chance in living. Other than that, it is also known that a father whose partner had given birth to a baby may by all chance be eligible to get paternity leave without disrespecting the mother's rights to maternity. By any chance in any event that is not considered covered by BituachLeumi, there is a sick day pay incase to provide pregnancy protection.

A man on the other hand has to pay the price by sacrificing his time with his family just for the satisfaction of his job. This was actually based on a true story which belonged to the person name Jesus Rangel, who was of the age of 26 years old. Labour law (LOT) came into force and this man was one of the million workers who were to benefit from this. This was indeed a benefit as it gave guarantee to both him and his wife to get a secured job for the duration of 2 years after the birth of their child. This involves the reduction of their working hours which was 2 hours and both the father and mother has the utmost right to be absent from work in any chances where their children might be sick. By this kind of idea of having the Labour Law (LOT), it actually can help out and give them their own time to be spent with their own family members because humans are not only to be bound by work, they should be given the appropriate rights in order to create employees which are of good personality and also of good quality.

The Labour Law (LOT) is also used for raising up mutual responsibility in bringing up the children and promoting equality among family members. The principle is also used in the National Constitution. Article 7 of the National Constitution states that "the father and the mother have the shared and indispensable duty of raising, forming, educating, maintaining and attending to their children. It is also states under the Law for the Protection of Children

and Adolescents that "All children and adolescents, independently of what was their parents' affiliation, have the right to know their parents and be cared for by them, save from when it is against their best interest.

We will now look at how parental leave entitlements are conducted in Asia countries. Before going deeper into other countries, we will first look at the country of Malaysia. Irrespective of the amount of wages that is given to the male and female employees, maternity leaves and paternity leaves are all now available to all the female's that is being employed in any workplace. Female employees can now start having their maternity leave starting from the 22nd week of their pregnancy, as before this it was only given at the 28th week of their pregnancy. Other than that, the women's entitlement to maternity leave still remains the same which is 60 days.

In the country of Vietnam, there is a new labour code that was newly assessed. Under that particular code it stated that, the employers will increase the paid maternity of women's leave entitlements which rise the months from 4 to 6. It is also been stated that an additional month's maternity leave will be provided by those mothers who have given birth to twins.

In the country of China, they also came up with new set of rules and regulations whereby the days of paid maternity leave has been developed from 90 to 98 days of leave for those women who has given birth. For those women employees who got their pregnancy terminated within the first four of pregnancy are provided with up to 16 days of leave. Those women who are eligible to receive at least leaves of 42 days are those that got their pregnancy terminated within the first four months of pregnancy itself. The new law was also implemented for those female employees that are pregnant and the need to breastfeed has been developed as in they are strictly prohibited by doing work. For those employees who breach any of these new rules that is being implemented might have to deal with several penalties and they will also be entitled to some claim and damages as an compensation for their breach of duties.

As for the country of Hong Kong, for the father of the house whose wife has just borne a wife, the employers have come together in one mind to provide them with at least 3 days of paternity leave. The effectiveness of this rule has not come into force yet but it is assume to be coming in force by the end of this year.

In the country of South Korea, their new set of rules and regulations was regarding that female employees now must at least have worked for a year and has provided her service in her workplace to have her work to be decreased in hours. It is also stated that, as for fathers of the house whose wife has borne him a child will now be entitled for paternity

leave of at least 3 to five days. That amendment that was made is not applicable for those employers who has only less than 300 employees working in their environment.

Conclusion:

In conclusion, paternity and maternity leave rights are considered a must in each countries and it is the employee's right to gain these kind of leaves. In general there are certain countries that had been making an effort to consider all these rights among the male and female employer. There are also certain countries that should be strengthened as it is known that the employers are not providing maternity leave no paternity leave to any of the employees. There are also still many countries that fail to realize that maternity protection is something that is very vital and all the women needs to know this right from time to time. Companies in most of the countries should also consider coming up with the idea of implementing new leaves for the female and male employees respectively. More types of leaves are vital if it is being implemented as it can promote family awareness whereby the both the wife and

husband could spend more quality time with their family and strengthen their family ties.

REFERENCES

- http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_124442.pdf
- <https://www.gov.uk/employers-additional-paternity-pay-leave>
- <http://my.jobsdb.com/MY/EN/Resources/JobSeekerArticle/maternityandpaternityleavesinmalaysia?ID=1124>
- http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/leave_and_holidays/paternity_leave.html
- An Overview on Maternity and Paternity Leaves in Malaysia Article on Jobs DB web dating 2nd May 2014, access on 28th April 2015
- Parental Leave” provided by the GOV United Kingdom
- https://www.ashurst.com/publication-item.aspx?id_Content=8810