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Protecting Maternity in Agriculture, Forestry and Food Industry in Vietnam

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Abstract

Although Vietnam has been implementing an economic restructuring shift from agriculture to industry and services, the agriculture, forestry and fisheries sector remains the spearhead of industries with significant contributions to the economy. According to statistics from the General Statistics Office, the number of workers in this sector is approximately 14 million people, accounting for 26.5% of the labor force in the working age, of which the majority are

female workers. Furthermore, over 90% of informal labor works in agriculture, forestry and fisheries, and they are not covered by mandatory social insurance under the provisions of the 2014 Social Insurance Law^[4]. This means that female workers in this sector are not protected by maternity benefits when pregnant or giving birth. This article researches the issue of protecting female workers working in agriculture, forestry and fisheries in Vietnam during maternity leave.

Keywords: Maternity, Maternity Regime, Agriculture, Forestry, Fisheries, Vietnam

1. Introduction

In Vietnam, the agriculture, forestry and fisheries sectors not only contribute to stabilize the lives of a significant portion of rural residents but also serve as the foundation for socio-economic development and political stability, creating a premise for industrialization and modernization of the country. Despite the severe impact of the Covid-19 pandemic on various economic sectors, agricultural production continues to develop, ensuring stable domestic food security and export of agricultural products. In 2023, agricultural, forestry and fisheries sectors maintained a stable growth rate, actively contributing to the overall economic growth. The value added in the agriculture sector increased by 3.88%, the forestry sector increased by 3.74%, and the fisheries sector increased by 3.71% compared to the previous year. The total export turnover reached over 54 billion USD^[10].

The agriculture, forestry and fisheries sectors also generate a significant amount of employment in society, with over a quarter of the labor force working in this field, predominantly comprising female workers. Those employed in agriculture, forestry and fisheries are often informal laborers, working within household units or creating their own jobs or participating in cooperatives (informal labors), so many labor-related policies stipulated by the Labor Law are not guaranteed, especially social insurance policies. Female workers in these sectors, when pregnant or giving birth, are not protected by maternity benefits. In other words, they lack alternative sources of income when they are forced to take maternity leave, and they may not receive adequate healthcare due to not having health insurance and means to cover medical expenses. Limited access to maternity welfare policies is one of the reasons why women engage in unpaid work at home to compensate for reduced family income during maternity leave.

The objectives of the research is to find out the rights and benefits that female workers may be entitled to when pregnant and giving birth, the accessibility of these rights for female workers in the agriculture, forestry and fisheries sectors, and to analyze the current situation of maternity protection for these workers. Subsequently, the research aims to propose solutions to safeguard their rights.

2. International Convention on Maternity Protection

Since 1919, when the International Labor Organization (ILO) adopted the first convention on maternity protection at work, most countries have established regulations on this issue. However, according to a report released by the ILO on March 7, 2022, about 30% of women of reproductive age, equivalent to 649 million women, still lack adequate protection^[2].

The key elements of maternity protection involve ensuring that women's work does not pose risks to their health and the health of their children, and that women's reproductive roles do not impact their economic security and employment. These elements

include the rights to: (i) maternity leave; (ii) cash benefits to ensure that mothers can support themselves and their children during maternity leave; (iii) medical care; (iv) protecting the health of pregnant women, breastfeeding women, and children from risks in the workplace; (v) preventing women from dismissal and discrimination during and after childbirth; (vi) ensuring the right to breastfeed upon returning to work.

Maternity protection means ensuring income security for pregnant women, mothers with young children, and their families, while ensuring effective access to quality medical services for mothers and children. It also promotes women's participation in the workforce and career development, contributing to better distribution of childcare responsibilities among family members. Employment protection and non-discrimination mean ensuring job security for female workers and the right to return to the similar or equivalent job after maternity leave with the same salary as before maternity leave. Furthermore, female workers should not face discrimination when working or seeking employment while fulfilling reproductive functions and caring for young children. Additionally, during breastfeeding, arrangements should be made for break time to facilitate breastfeeding or expressing and storing milk at the workplace.

Based on that foundation, the ILO has issued conventions and recommendations for member countries to implement and non-member countries to refer to. The main conventions and recommendations regarding maternity protection for female workers in general and female workers in the informal economy include:

The Maternity Protection Convention of 1919 (ILO Convention No. 3), which stipulated that the scope of protection includes all employed women, regardless of whether they work in the public or private sector. Female employees are entitled to a 6-week maternity leave after giving birth, and they may take leave up to 6 weeks before giving birth with a medical certification by a doctor. During maternity leave, female employees are entitled to benefits sufficient to maintain the health of themselves and their children, as well as receive medical services, such as care and advice from a doctor or midwife. The source of these benefits come from public funds or the social insurance system.

The Maternity Protection Convention 2000 (ILO Convention No. 183), which applies to all employed women, including those engaged in non-typical dependent occupations. The minimum maternity leave period is not less than 14 weeks. The benefits that female workers receive include cash benefits during maternity leave, ensuring that women can maintain themselves and their children in appropriate health conditions and a suitable standard of living. The benefit can not be less than two-thirds of the employee's previous income. In addition, they are entitled to health benefits for themselves and their babies, including prenatal, childbirth and postnatal care, as well as hospital care when necessary. The source of benefits come from public funds or the social insurance system.

Recommendation on Social Protection Platforms, 2012 (ILO Recommendation No. 202). According to this recommendation, female workers are guaranteed a basic social security, including: access to essential health care services, which encompasses maternity care, and guaranteeing a basic income, at least at the national

minimum level determined by the country, for those of working age who are unable to earn a sufficient income, especially in cases of illness, unemployment, or maternity and disability.

Recommendation on the transition from the informal to the formal economy, 2015 (ILO Convention No. 204). The Recommendation proposes a gradual extension, both legally and in practice, of social security, maternity protection, decent working conditions, and minimum wages for all workers in the informal economy.

In 2021, most of the 185 countries surveyed by the ILO have adopted statutory provisions for maternity leave in their legislation. 98 out of 185 countries are in line with the key three requirements of ILO Convention No.183

3. Maternity protection for workers in agriculture, forestry and fisheries

3.1 Labor characteristics

Despite being a key economic sector and making significant contributions to the economy, the number of workers in agriculture, forestry and fisheries has shown a decreasing trend in the past year, both in terms of quantity and proportion. This can be observed in the following table:

Table 1: Number of employed workers and proportion in the economy of agriculture, forestry and fisheries

Criteria\ Year	Units	2018	2019	2020	2021	2022
1 Total	Thousand people	20,419.8	18,831.4	17,724.55	14,262.3	13,937.6
2 Proportion	%	37.6	34.5	33.06	29.06	27.54

Source: General Statistics Office of Vietnam

The number of workers in agriculture, forestry and fisheries has decreased by one-third over the past 5 years, from 2018 to 2022, corresponding to a reduction in the structure from 37.9% to 27.54%. This is an inevitable trend of developing economies, including Vietnam, as this sector typically exhibits low labor productivity and production value. The characteristics of the agriculture, forestry and fisheries sector in Vietnam are small-scale production, relatively backward methods, and workers predominantly engage in the household-based economic activities, self-employment and other informal types of employment. In other words, the majority of workers in this sector are informal laborers, accounting for 98.8% of the labor force in 2021, with only 1.2% being formal wage-earning employees^[3].

In addition, the majority (87.3%) of informal workers, including those in agriculture, forestry and fisheries, lack specialized technical training. Furthermore, products in agriculture, forestry and fisheries are seasonal, leading to workers' low income. In 2021, the average income was 3.3 million VND per month (about 143 USD/month), but there was a significant disparity between male and female workers. The average income of male workers (4.5 million VND/month) was 2.5 times higher than female workers (2 million VND/month)^[3]. Low income limits female workers' access to various forms of social security, including social welfare in general and maternity benefits in particular.

3.2 Maternity protection for workers

The main standards set forth by ILO Maternity Protection Conventions include: i) paid maternity leave, ii) workplace health protection for mothers and children, iii) job

protection, and iv) cash benefits and medical services. These standards have been legalized in labor laws. Regarding health protection for female workers and their unborn children, the 2019 Labor Law stipulates that "female workers engaged in arduous, toxic, hazardous, or particularly arduous, toxic, hazardous occupations, or occupations that adversely affect reproductive and child-rearing functions during pregnancy must notify the employer, and the employer must transfer them to lighter, safer work without reducing wages and benefits until the child reaches 12 months old." Additionally, "during the time of breastfeeding a child under 12 months old, workers are entitled to a 60-minute break per day during working hours for breastfeeding, expressing milk, storing milk, and resting. The break time is still paid according to the labor contract." Concerning job protection, workers are guaranteed employment after maternity leave. As for paid maternity leave and cash benefits and medical services, these entitlements are protected by two types of insurance: social insurance and health insurance.

a. Maternity benefits in social insurance

Currently, Vietnam is implementing two types of social insurance: mandatory and voluntary. There are 5 mandatory social insurance regimes, including: sickness, maternity, occupational accidents and diseases, retirement and survivorship. Additionally, there are two voluntary social insurance regimes: retirement and survivorship.

- Participants in mandatory social insurance include: officials, civil servants in the military and public security forces; individuals working under labor contracts or working contracts with a duration of 1 month or more. Therefore, compulsory social insurance has almost encompassed the entire wage-earning population.
- Contribution level: contribution for maternity regime is the responsibility of the employer, with the contribution rate is 3% of the total salary fund for social insurance contributions, covering both sickness and maternity regimes. Employees are not required to contribute to this specific regime.
- Beneficiaries include female workers taking maternity check-ups; undergoing miscarriage, abortion, or fetal removal; having contraceptive rings inserted; giving birth; being surrogate mothers; and mothers using surrogate services. Adoptive parents of children under 6 months old are also beneficiaries. The benefit amount is calculated based on the duration of leave and the salary as the basis for social insurance contributions. The duration of leave varies depending on the beneficiary, with a standard 6-month leave period for childbirth, adopting a foster child, surrogate motherhood, and using surrogate services. During maternity leave, employees receive 100% of the average salary used as the basis for social insurance contributions in the last 6 months before taking leave.

With regulations like these, the maternity regime has ensured many standards according to ILO Maternity Protection Conventions, such as maternity leave duration, eligible beneficiaries, and benefit levels. However, the coverage scope remains low. With a total working population of 49 million in 2021, only 16.2 million people participated in social insurance (accounting for 33%), including 15.1 million mandatory participants (93.4%) and 1.073 million voluntary participants (6.6%)^[9].

According to the data from the General Statistics Office, in 2021, the informal sector accounted for 68.5% of the total employment, with informal male workers representing 71.6% of the total male workforce, and informal female workers representing 65% of the total female workforce. A significant proportion, 97.8% of informal workers, did not participate in any form of insurance, including 35.5% of wage-employed informal workers. Only a small percentage (2.1%) of informal workers voluntarily participated in social insurance, and a mere 0.1% of informal workers were mandatory social insurance participants (mainly family labor and self-employed workers). The participation rate in voluntary social insurance for informal workers increased slowly (from 1.6% in 2019 to 2.1% in 2021)^[3].

The mentioned figures represent the overall participation in social insurance for informal workers. However, in the agriculture, forestry, and fisheries sector, the rate of informal workers is even higher. Therefore, the overall non-participation rate in social insurance and specifically the maternity leave benefits in this sector are more significant. These workers may not be assured of income during maternity leave.

b. Health insurance

The goal of the health insurance policy in Vietnam is to protect the health of the entire population. According to the market economic mechanism, people are no longer directly sponsored by the state for medical examination and treatment costs, but through the implementation of health insurance to ensure that all people have the opportunity to access medical care services when suffering from illness or disease. For the poor or those in economically difficult circumstances, the state will support them to buy health insurance. According to the 2008 Health Insurance Law and the 2014 amendments and supplements to the Health Insurance Law, the main contents of health care for female workers in agriculture, forestry, and fisheries during maternity are regulated as follows:

- Participation groups: divided into 5 groups based on payment responsibilities. Group (1) is the group where both workers and employers contribute, and this group is similar to the mandatory participation group in social insurance (except for those with fixed-term labor contracts lasting from 1 to less than 3 months). Group (2) is funded by the Social Insurance Organization and includes all individuals receiving monthly social insurance benefits. Group (3) is funded by the state budget and includes individuals with contributions to the revolution and their relatives (such as veterans, martyrs' families), social protection subjects (such as disabled individuals), and the poor. Group (4) is supported by the state budget and includes near-poor individuals. Group (5) is the group covered by health insurance through household registration. Although the 2014 Health Insurance Law specifies that these groups must participate in health insurance, there is no mandatory enforcement measure, so groups (4) and (5) participate in health insurance on a "voluntary" basis. Workers in agriculture, forestry, and fisheries mainly fall into these two groups. In 2022, there were 91.1 million people nationwide participating in health insurance, accounting for 92.04% of the population^[9]. The majority of those not participating in health

insurance belong to groups (4) and (5), where many are workers in agriculture, forestry, and fisheries.

- Contribution rates: The contribution rate for health insurance in group (1) is 4.5% of the salary, with employees contributing 1.5%, and the rest is covered by employers. Groups (2) and (3) do not require individual contributions. For groups (4) and (5), the monthly contribution rate is 4.5% of the basic salary (approximately 40 USD per year). Group (4) also receives a 70% subsidy from the state, while for group (5), the fees for subsequent members (within the household) are gradually reduced.
- Benefit levels: Female workers with health insurance cards will be reimbursed 80% to 95% of medical expenses, depending on the specific situation such as regular prenatal check-ups, childbirth, or consequences of pregnancy like miscarriage or abortion, excluding assisted reproductive technology. Therefore, if participating in health insurance, female workers will receive comprehensive healthcare during pregnancy and childbirth.

4. Suggested proposals to enhance maternity protection in agriculture, forestry, and fisheries.

For female workers covered by mandatory social and health insurance, during maternity leave, they are ensured both income support and healthcare coverage for prenatal check-ups, childbirth, or in case of miscarriage. However, according to a report from the Social Affairs Committee of the National Assembly in 2021, out of over 1.5 million Vietnamese women giving birth, only about 40% received maternity benefits. This rate is even lower in agriculture, forestry, and fisheries, where only 1.2% are formal workers. ILO Convention 183 on Maternity Protection stipulates that maternity protection should apply to all women, including those working under informal conditions. Therefore, to broaden the scope of maternity protection for female workers in agriculture, forestry, and fisheries, reforms in maternity leave and health insurance policies are needed.

- Expand the coverage of mandatory maternity leave for social insurance (mandatory social insurance). Currently, only workers with fixed-term labor contracts lasting one month or more are eligible for mandatory social insurance. However, the majority of workers in agriculture, forestry, and fisheries are engaged in household economic activities, and many have only verbal agreements. To broaden the coverage, adjustments in legal regulations and regulatory tools for short-term contracts, including verbal agreements, seasonal labor, and agricultural labor, need to be made. Using "income" as a criterion for mandatory social insurance participation can be considered to expand the involvement of women.

Supplement maternity leave to the voluntary social insurance scheme. Currently, even informal female workers, including those participating in voluntary social insurance, are not entitled to maternity leave. This not only affects the issue of maternal and child health care but also diminishes the attractiveness of the voluntary social insurance scheme, leading to an increased burden on the government for social security payments. It is necessary to supplement maternity leave into the voluntary social insurance scheme, with various policy packages based on the needs of workers. This

group does not have contributions from employers, so the government provides support for them, especially for low-income female workers, such as those in poor households, near-poor households, in mountainous, remote, and distant areas.

- State subsidies for female workers not covered by the maternity leave policy in the social insurance scheme. Currently, the government has policies to support women who are ethnic minorities in poor households residing in administrative units in difficult areas when giving birth according to the population policy (Decree No. 39/2015/NĐ-CP dated April 27, 2015, of the Government). Therefore, for female workers in general, and specifically those in agriculture, forestry, and fisheries, belonging to poor households, near-poor households, residing in mountainous, remote, and distant areas, or with incomes below the prescribed threshold and not covered by the maternity leave policy, the state can provide subsidies to them during maternity leave, following the minimum recommended period by the ILO.
- Tighten control over individuals not covered by social health insurance, classify them based on reasons, and implement appropriate measures to compel them to participate in BHYT according to legal regulations. Firstly, expand the coverage of individuals in the group covered by both employees and employers, similar to those participating in mandatory social insurance. Secondly, impose fines on individuals who do not participate. Thirdly, the government should increase the level of financial assistance for the group of workers with incomes below a certain.

5. Conclusion

Although Vietnam has not signed one of the three key ILO conventions, the provisions in the 2019 Labor Code, the 2014 Social Insurance Law, and the 2008 Health Insurance Law with amendments in 2014 demonstrate that Vietnam's maternity leave system complies with basic ILO conventions. In particular, the legal framework is relatively in line with the provisions of ILO Maternity Protection Convention No. 183, 2000; however, the coverage scope remains low. To ensure social welfare and equity among laborers in different economic sectors, the government needs policies to expand the scope of maternity protection, especially for female workers in general and those in agriculture, forestry, and fisheries.

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