



JOINT STATEMENT OF CSOS ON EMPLOYMENT TRIBUNAL'S DECISION REGARDING MATERNITY LEAVE

4 February 2023
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We are gravely shocked and concerned at the discriminatory treatment of a member of the Employment Tribunal on the issue of maternity leave. This failure represents a wider institutional disregard for the rights of women in the workplace in the Maldives, undermining the establishment of laws and policies that protect and promote gender equality in the country.

While Section 43 of the Employment Act (Law No. 02/2008) grants a minimum of two months of maternity leave, the law does not prevent institutions from extending leave for employees. Government institutions have set a precedent for granting six months of maternity leave for employees, though other institutions are not required to follow this procedure. The fact that an equivalent policy to the government maternity leave period is not followed by other central independent institutions such as the Employment Tribunal is a matter of concern, particularly as this case indicates that a more prohibitive precedent has been set.

The Employment Act does not prohibit the extension of maternity leave from the prescribed two-month period. Nonetheless, the Gender Equality Act (Law No. 18/2016) prohibits gender discrimination based on circumstance, which includes family responsibility. It also prohibits direct gender-based discrimination, which the Employment Tribunal has violated by circulating in response a memo prohibiting employees from bringing their children to the workplace. No employer can make the presumption that all mothers will have postpartum and childcare support, and we note that the Tribunal has erred severely in this instance against their member.

We are particularly concerned about this issue because the Employment Tribunal is the remedy tribunal for issues of workplace gender-based discrimination. When other members of the Tribunal engage in discriminating against their own members, it indicates that the Tribunal itself is unqualified to carry out its mandate under the Gender Equality Act. Moreover, the precedent this sets is a dangerous one; if other independent institutions and organisations follow this precedent, it can result in further discrimination against women at the workplace. This also infringes on the advancement of rule of law in the Maldives, as it is a contravention of the Gender Equality Act, and all the policies put in place to protect the rights of women. Finally, contrary to the general norm, the Tribunal is mostly women, and thus we would have expected their understanding of women's lived realities to ensure that equality was upheld, which makes it all the more disheartening that the decision was made against the best interests of their colleague.

We condemn this act of discrimination by the Employment Tribunal and call upon the members to rectify the situation and act in accordance with the Gender Equality Act and the Maldives' international obligations to protect the rights of women in the Maldives.