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by

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on

**“Parenthood and Parliament: What are the rules for parliamentarians who wish to
take maternity and paternity leave?”**

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1.0 INTRODUCTION

Balancing the responsibilities of parenthood with the demanding role of a Member of Parliament (MP) is a challenge that has gained recognition globally. To foster inclusivity and gender equality in politics, parliaments must therefore establish robust legislations and policies for both maternity and paternity leave.

MPs are officeholders, not employees, hence they are not eligible for statutory maternity leave in most Parliaments. Most parliaments rely on ad hoc provisions to enable them to mitigate their workload while pregnant or caring for a baby.

2.0 WHY SUPPORT MATERNITY AND PATERNITY LEAVE FOR MPS?

The International Labor Organization (ILO) recommends a minimum of fourteen (14) weeks of maternity leave to ensure that the female (and male) MPs have sufficient time for recovery and to care for their new-born babies.

Parliaments are also encouraged to provide policies on temporary replacements of MPs to maintain continuity in parliamentary affairs as is done in some parliaments. For example, in Sweden, MPs are temporarily replaced, guaranteeing that constituents continue to be represented.

Parliaments should implement non-discrimination policies to protect MPs from any adverse consequences resulting from taking maternity leave. This includes safeguarding against career setbacks, and ensuring that MPs feel secure in utilizing their entitled leave.

Parliaments should also ensure there are nursing rooms and crèches close-by to ensure that their children are well taken care of while they tackle business in Parliament.

Parliaments are required to institute paternity leave policies to encourage a more equitable distribution of parental responsibilities.

3.0 THE EMPLOYMENT ACT OF MALAWI (2000) AND MATERNITY AND PATERNITY LEAVE FOR MPs AT THE PARLIAMENT OF MALAWI

At the Parliament of Malawi, the Conditions of Service for MPs are silent on the issue of maternity and paternity leave. As earlier stated, this is based on the fact that, everywhere, MPs are not considered as employees and the provisions in this Act do not, therefore, apply to them. In practice, however, the discretion rests in the hands of the Speaker. You may wish to note that the 2019 tripartite elections in Malawi saw an increase in youthful candidates (both male and female) within the productive ages of 25 to 45 attain seats in parliament. For this reason, we have, on a number of occasions, witnessed the need for a proper legislation or policy guiding the parliament as regards to maternity and paternity leave for new parents.

The Employment Act of Malawi (2000) guides the Speaker in her discretion to offer maternity and paternity leave to Members of Parliament. Section 47 of the Act indicates that a female employee shall be entitled, within every three years, to at least eight (8) weeks maternity leave on full pay. During the period when an employee is on maternity leave, her normal benefits and entitlements, including her contractual rights and accumulation of seniority, shall continue uninterrupted and her period of employment shall not be considered to have been interrupted, reduced or broken. In the event of illness, certified by a registered medical practitioner, arising out of pregnancy of confinement, affecting the employee or her child, the employer shall grant the employee additional leave as the employer may deem fit.

Section 48 of the Act indicates that upon the expiration of her maternity leave, an employee shall have the right to return to the same job with the same benefits and entitlements as immediately before her absence unless otherwise. The Act further provides fines and punishment to an employer who terminates the employment of an employee because the employee is pregnant or for any reason connected with her pregnancy.

Prior to 2021, no provisions on parental leave could be identified within the law. However, following revisions to the Employment Act of 2000 in 2021, male employees are now entitled to at least two (2) weeks of paid paternity leave every three years. When a male employee is on paternity leave, his benefits and rights continue uninterrupted, and his employment time is not deemed interrupted, shortened or broken.

4.0 RECOMMENDATION

As Parliament of Malawi, there is a need to draft a policy or a new legislation which will provide guidelines on maternity and paternity leave specifically for our MPs. This discussion on parenthood and parliament is therefore timely and crucial for us to learn from other parliaments through their experiences and views on maternity and paternity leave for MPs. The views and experiences which will be shared during this discussion will provide a basis for drafting our new legislation on the issue.

5.0 CONCLUSION

In conclusion, supporting MPs who wish to take maternity and paternity leave requires a comprehensive approach. Parliaments can draw from international best practices to establish policies and legislation that prioritize the well-being of pregnant or nursing MPs. Non-discriminative

policies and a culture that supports work-life balance can contribute to a more inclusive and family-friendly political environment.