

White Paper

Protecting women from maternal mobbing

New Women for Europe



Abstract

While labour and family policies are competences of the Member States, the European Union plays a key role in the fight against discrimination experienced by women in the workplace (Article 3 of the Treaty of the European Union and Article 153 (b) (i) of the Treaty on the Functioning of the European Union).

“Maternal mobbing” describes health-harming abusive conducts at work targeting women wishing to have children, pregnant women and mothers. Mobbing directly impacts the capacity of women to conciliate their work and their motherhood or wish for motherhood. Maternal mobbing includes refusal to recruit, detrimental changes in the terms of the contract of employment upon return from maternity leave, harassment and even dismissal.

This paper undertakes the initiative to explain the extent of motherhood discrimination and how best to tackle it.

The findings show that in order to meet work and family aspirations, women rely on the flexibility of their employers and the support of public policies. It is crucial for the labour market to adapt to the needs of mothers, both through a flexible labour policy and a comprehensive family policy.

The overall objective of this paper is to address how to ensure women the financial, cultural and mental freedoms to balance their work and family aspirations under their own terms.

Keywords: maternal mobbing, mother(s), women, employment, family work-life balance, children, labour policies, family policies.

New Women for Europe (NWFE) is an umbrella association which provides a platform for women's associations to influence the European political process. NWFE develops a network of women's NGO's in EU Member States and ensures their representation in the European institutions, especially at the European Parliament.

Contributors:

The Federation of Catholic Family Associations in Europe (FAFCE) is an umbrella association representing 28 national and local associations from all over Europe. FAFCE carries the voice of families from a Catholic perspective at the European level. The Federation holds a participatory status with the Council of Europe since 2002 and is a member of the Fundamental Rights Platform of the European Union.

Femina Europa is an NGO founded in Paris in 2005 aiming to rehabilitate the true identity of women in all its dimensions, in complementarity to men, in the international institutions. Femina Europa is accredited at the European Parliament, Brussel. Femina Europa is member of WUCWO (World Union of Catholic Women's Organisations). A board member of Femina Europa is international representative of WUCWO in Unesco, Paris.

Table of content

- ABSTRACT 2
- INTRODUCTION 5
- THE PHENOMENON OF MATERNAL MOBBING 7
 - Disincentives to maternity 7
 - Refusal to recruit 7
 - Detrimental changes in the terms of the contract of employment upon return from maternity leave 8
 - Harassment 8
 - Refusal to extend fixed-term contracts of employment and dismissal 8
- HOW TO TACKLE MATERNAL MOBBING 9
 - Ensure the effective implementation of labour policies protecting working mothers 9
 - Maternal leave 10
 - Access to childcare 10
 - Increase the flexibility of the labour market and work arrangements 11
 - Flexible work through new forms of work (teleworking, flexible working hours) 11
 - Part-time employment 11
 - Address the motherhood pay gap and pension pay gap 12
 - Support women through a comprehensive family policy strategy 12
 - Recognise the value of unpaid work 12
 - Erase taxes on products of consumption for families 13
 - Ease the lending facilities for families 13
 - Have a special attention for mothers in challenging situations 13
- CONCLUSION AND RECOMMENDATIONS 14
- ROADMAP 15
- REFERENCES 16

Introduction

At first sight, the European Union has only few competences regarding mothers' protection in the workplace. Indeed, according to the subsidiarity principle, it is the Member States' competence to establish their own rules regarding labour and family policies. The only competence of the Union is connected to the principle of non-discrimination between men and women (Article 3 of the Treaty of the European Union), especially in the work place (Article 153 (b) (i) of the Treaty on the Functioning of the European Union).

For several decades now, the European Union has issued different pieces of legislation to support the participation of mothers in the labour market, be it through the Directive 92/85/EEC¹ (14 weeks maternity leave and protection from dismissal for being pregnant), the 2002 Barcelona targets (improve the rate of employment of parents of young children)², the European Pact for Gender Equality (2011-2020)³ or more recently the 2019 Directive 2019/1158.⁴ The EU directive on work-life balance for parents and carers introduced 4 months of parental leave for an employee - which 2 months are non-transferable between the parents and are paid - a minimum of 10 working days of paid paternity leave and proposed additional incentives for fathers to take more leaves. The directive also encouraged employers to propose flexible working arrangements and Member States to increase access to childcare services and facilities.

The European Union seemed to have championed the issue of gender equality. Yet, the current pandemic puts a new light on the daily struggles experienced by parents when balancing their work and family time, and especially for mothers. Imposed lockdown on workers made suddenly more concrete the weight of unpaid work added to the professional workload. A question then arises: in a modern society proclaiming gender equality and

¹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. Available at

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992L0085:en:html>.

² Rand Europe. 2014. Use of childcare in the EU Member States and progress towards the Barcelona targets. Short statistical report No.1. Available at

http://ec.europa.eu/justice/genderequality/files/documents/140502_gender_equality_workforce_ssr1_en.pdf, p. 1.

³ The first European Pact for Gender Equality was adopted by the European Council in 2006. The Pact emphasised the importance of utilising women's untapped potential in the labour market, also by promoting better work/life balance for women and men. A revision of the Pact was prepared under the Hungarian Presidency in the first half of 2011 to provide fresh impetus and to reaffirm and support the close link between the Pact and Europe 2020, the EU's key policy document for jobs and smart, sustainable and inclusive growth, and the European Commission's 'Strategy for Equality between Women and Men 2010-2015'. The draft Council Conclusions on the renewed European Pact for Gender Equality 2011-2020 were adopted by the EPSCO Council in March 2011. Available at

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/119628.pdf.

⁴ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1158>.

protective social systems, can one speak of a satisfying situation when looking at the condition of working mothers? The lessons learnt from such difficult times represent an undeniable opportunity to adopt a new approach of family work-life balance, more manageable for parents, especially mothers.

All women respond differently to motherhood. Some mothers will aspire to both work professionally, either full-time or part-time, and care for their children, and will therefore rely on flexible work arrangements and childcare services. Some mothers will aspire to fully care for their children, and their informal work will nevertheless be a full-time work. The personal choice made by women when becoming mothers is of extreme importance, and should be done freely.

However, mothers today still face external pressures from the workplace and negative prejudices, which impact their capacity to conciliate their motherhood and their work on their own terms. This phenomenon is called “maternal mobbing”. “Mobbing” describes health-harming abusive conduct at work, which “attempt to force a person out of the workplace through unjustified accusations, humiliation, general harassment, emotional abuse, and/or terror”.⁵ Maternal mobbing does not only target pregnant women and mothers, but also women who desire to have children.

This paper aims to explain the extent of motherhood discrimination and how to best tackle it. The overall solution to maternity mobbing is to push towards greater freedom of choice and more opportunities for women to conciliate motherhood and employment, through protective labour and family-friendly policies.

It is crucial to ensure the wellbeing of women and mothers, whether working at work and/or at home, and the just recognition and valorisation of their participation to society.

⁵ Namie G., 2014. Workplace Bullying Institute. U.S. Workplace Bullying Survey.

The phenomenon of Maternal Mobbing

Motherhood changes the way in which women are viewed as workers in terms of expected work focus, proficiency and commitment, which creates a ground for discriminatory practices.⁶ In recent years the topic of adult-to-adult bullying in the workplace has received increasing attention as researchers and policy-makers endeavour to understand this phenomenon.⁷ Mobbing was the term adopted by Heinz Leymann to describe health-harming abusive conduct at work.⁸ Davenport et al. describe mobbing as “a malicious attempt to force a person out of the workplace through unjustified accusations, humiliation, general harassment, emotional abuse, and/or terror”. The result is always injury-physical or mental distress or illness and social misery and, most often, expulsion from the workplace.⁹ Employees who are the victims of mobbing experience physical and psychological health problems.¹⁰ Below are few examples of discriminatory practices towards pregnant workers and new mothers.

Disincentives to maternity

More and more young women face pressures in the workplace to schedule or even postpone childbearing. Some large companies even offer women the possibility to freeze their oocytes, so that they can lead their professional lives without maternity “interfering” with what is portrayed as an ideal career plan.

Refusal to recruit

Employers can be reluctant to hire a woman, because of the assumption of possible future costs related to maternity (maternity and parental leave, flexible working arrangements, etc.). They can be even more reluctant to hire a woman already having children or being pregnant.

⁶ Poduval J., Poduval M. 2009. *op.cit.*

⁷ Fahie, D. 2013. *Workplace bullying and primary school teachers: The role of managerialist discourses*. In M. O’Moore & P. Stevens (Eds.), *Bullying in Irish Education*, pp. 211– 235. Cork, Ireland: Cork University Press; Fahie, D., & Devine, D. 2012. The impact of workplace bullying on primary school teachers and principals. *Scandinavian Journal of Educational Research*; Zapf, D., Escartin, J., Einarsen, S., Hoel, H., & Vaartia, M. 2011. *Empirical findings on prevalence and risk groups of bullying in the workplace*. In S. Einarsen, H. Hoel, D. Zapf, & C. L. Cooper (Eds.), *Bullying and harassment in the workplace: Developments in theory, research, and practice*, pp. 75–107. Boca Raton, FL: CRC Press.

⁸ Namie G., 2014. Workplace Bullying Institute. U.S. Workplace Bullying Survey.

⁹ Davenport, N. Z., Schwartz, R. D., & Elliott, G. P. 1999. *Emotional abuse in the American workplace*. Collins, IA: Civil Society Publishing, p. 40.

¹⁰ Arisoy, 2011.

Detrimental changes in the terms of the contract of employment upon return from maternity leave

While in theory the terms and conditions of work when returning from maternity leave should be the same as before the leave, in practice, women face informal negative changes when returning to work. In a UK study of 2014, more than one in five of women said the reason for their worsening promotion prospects was because “senior staffs do not think I am capable now that I have children” and the same proportion said it was because “senior staff did not think they would be interested in better jobs because of the child.”¹¹

Harassment

The Council Directive 2004/113/EC¹² implementing the principle of equal treatment between men and women in the access to and supply of goods and services defines harassment as “an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment”. A 2014 survey in the UK found that six in ten mothers felt side-lined at work as soon as they announced their pregnancy.¹³ Pregnant women and new mothers can experience workload due to the employer’s conviction to compensate the hours where they have been outside work. Workload includes tight deadlines and excessive work, pressure and responsibilities.

Refusal to extend fixed-term contracts of employment and dismissal

The non-extension of fixed-term contracts because of pregnancy and maternity constitutes direct sex discrimination and is contrary to EU gender equality law. However, the practice is still frequently encountered, through pressures and incentives for the pregnant woman or the new mother to quit her job.

¹¹ Dugan E., “New mothers facing ‘maternity discrimination’ on their return to the workplace” Independent UK, 10 August 2014. Available at <http://www.independent.co.uk/life-style/health-and-families/health-news/new-mothers-facing-maternity-discrimination-on-their-return-to-the-workplace-9659435.html>.

Consulted on 14 November 2020.

¹² Council directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0113&from=EN>.

¹³ Slatern Gordon lawyers. 2,000 mothers and 500 managers were surveyed. Results at www.slaterngordon.co.uk/media-centre/news/2014/08/slater-gordon-highlights-maternity-discrimination/.

Consulted on 14 November 2020.

How to tackle Maternal Mobbing

The family is a natural provider of support for working mothers, through its production of informal care. Working mothers also rely in a second time on protective public policies. Maternal mobbing is not an isolated but multi-layered phenomenon, that needs to be addressed through multi-level policies. On the individual short-term level, working mothers are first protected by labour policies, who enable them to have access to maternal leave, flexible working arrangements and childcare facilities. On the long-term level of a mother's career, she will most probably suffer from greater gaps in pay and pension that need to be addressed. On the community level, maternal mobbing can be tackled through a comprehensive family policy strategy that recognises the unpaid work of parents. Special attention must be given to vulnerable women who face greater risks of discrimination.

Ensure the effective implementation of labour policies protecting working mothers

In 2019, the European Parliament voted a Resolution on “Measures to prevent and combat mobbing and sexual harassment at the workplace, in public spaces, and in political life in the EU”,¹⁴ which and stated that “the fight against harassment on grounds of pregnancy and motherhood is necessary in order to achieve a true work-life balance for women” and “calls on the Commission and the Member States to recognise the phenomenon of harassment on grounds of pregnancy and motherhood in employment”.

In 2019, the European Union adopted the Directive 2019/1158 on work-life balance for parents and carers,¹⁵ which currently constitutes the minimum legal requirements regarding work-life balance within the EU. The directive's objective is to “lay down minimum requirements designed to achieve equality between men and women with regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for workers who are parents, or carers” (Article 1- Subject matter). The directive addresses the principle of non-discrimination in the labour market. It introduces at least 4 months of parental leave for an employee - from which 2 months are non-transferable between the parents and are paid - a minimum of 10 working days of paid paternity leave and proposes additional incentives for fathers to take more leaves. The directive also encourages employers to propose flexible working arrangements and Member-States to increase access

¹⁴ European Parliament resolution of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at workplace, in public spaces, and political life in the EU (2018/2055(INI)). Available at https://www.europarl.europa.eu/doceo/document/TA-8-2018-0331_EN.html.

¹⁵ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1158>.

to childcare services and facilities. **It is crucial to ensure the effective implementation of the EU work-life balance directive, as a minimal requirement, and to encourage Member-State to go beyond the directive and to ensure a complete protection of pregnant women and mothers.**

Maternal leave

Maternal leave enables mothers to have job protection after childbirth to care for their newborn child. In the EU, 34% of women are ineligible for parental leave.¹⁶ Employment is the most common condition to be eligible for parental leave. Only 4 Member States (Croatia, Estonia, Finland, Sweden) grant universal access to parental leave. In the remaining 24 Member States, eligibility rates for parental leave vary. Self-employment is the most significant criteria of ineligibility in Greece, Italy and Spain, accounting for about 20% of all women not eligible.¹⁷ **Eligibility to maternal leave needs to be extended to all mothers, regardless of their employment status.**

Access to childcare

Formal and informal childcare is a crucial element influencing women's participation to the labour market. It is often the determining factor for a mother to continue to work or not. Childcare can be informal (provided for free by parents or relatives) or formal (provided for professionally by childcare facilities and professional carers).

With 34 % of children under the age of three in formal childcare in 2019, the EU has reached its Barcelona target set of 33 %.¹⁸ Around 85% of children from the age of three to school age are in formal childcare in the EU. However, a complete access includes also the affordability and the quality of the childcare services. In the EU, 14 % of households report obstacles to access formal childcare services, with affordability (50 %) often cited as the main reason, followed by the lack of available places (12 %), opening hours (8 %) and distance (5 %).¹⁹ **Working mothers need to have access to accessible, affordable and quality child care services.**

Stay-at-home mothers that ensure the informal care of their children are often seen as not working and in a situation of economic inactivity. Yet care is work. In economic terms unpaid care work is a productive investment with a real value for the whole community. **Mothers ensuring the full-time care responsibility of their children must be recognised as a category of work that gives rights (e.g. access to social security, education, training, pension entitlements, etc.).**

¹⁶ European Institute for Gender Equality, *Gender Equality Index 2019 Work-life balance*, 2019, p. 15.

¹⁷ EIGE, *op. cit.*, p. 74.

¹⁸ EIGE, *op. cit.*, p. 16.

¹⁹ EIGE, *op. cit.*, p. 90.

Increase the flexibility of the labour market and work arrangements

The labour market remains today very rigid regarding the specific needs of mothers. Although the EU work-life balance directive encourages companies to provide flexible working arrangements for mothers, half of parents in the EU are constrained to come back to work full-time with no flexible working arrangements or to give up their professional activity. In 2019, only 14% of women were able to determine their own working hours completely.²⁰ As a consequence, most mothers have to sacrifice family time for their work time: 60% of mothers in a couple work full-time.²¹ They have to combine both work and family duties, often called the “double-shift” of mothers.

Flexible work through new forms of work (telework, flexible working hours)

The re-organisation of work following the lockdown demonstrated new possibilities for workers to work from home, which is to be stressed. Previously, employers were apprehensive to offer teleworking opportunities for mothers with young children. However, given the recent developments in work arrangements, employers now are more often operating on a home office basis with their employees, ensuring the continuity of their activities. The implications of this observation are clear: it is rather because of a lack of support than a question of capability that mothers are being refused flexible working arrangements. However, teleworking also increases the risk of blurring the boundary between family life and work life. Flexible work must therefore be very careful to maintain a right to disconnect. **Arrangements for mothers to work from home and with flexible working hours are possible and need to be pushed forward, in the strict respect of the right to disconnect.**

Part-time employment

Alternatives to full-time employment enable mothers to remain in the labour market while taking care of their children. Having to work more than 40 hours per week push women out of work by making it a no-win situation and painting a picture of employment as an either/or choice.²² In order improve this situation, the labour market needs to provide more flexibility for mothers with part-time positions. **Mothers should be free to look for part-time jobs as valuable working arrangement, and not portrayed as a “unmet need” of employment for mothers, who are already working full-time for their children.**

²⁰ EIGE, *op. cit.*, p. 16.

²¹ EIGE, *op. cit.*, p.35.

²² Working Mothers Research Institute, « What Moms Choose » (2011) Available at <http://www.wmmsurveys.com/WhatMomsChoose.pdf>.

Address the motherhood pay gap and pension pay gap

In Europe, women earned around 14% less than men in 2019.²³ When addressing the root causes of this gap, it can be observed that if women earn less than men, it is not because they are women, but because they are mothers. A 2015 study of the International Labour Office showed clearly that the pay evolution of never-married women is very similar to that of married men, which means that women without children earn as much as men (with or without children).²⁴ The pay gap between men and women almost entirely comes from the loss of pay of women with children. Due to their family and caretaking investments, mothers will take maternity and parental leaves, decrease their working hours, refuse extra-hours required to obtain a big promotion and even prefer stability to better pay, commute intense and travel-demanding job. **A means to reduce this motherhood pay gap is to ensure the fair transfer of benefits when a mother stops her career or decides to work part-time to take care of her children.**

The motherhood pay gap directly fuels the pension pay gap, as the years taken off to care for the upbringing of a child are not considered as work, even unpaid, and therefore not considered in the calculation of pension entitlement. **To reduce the pension pay gap of mothers, the time taken off for child duties and education must be considered as a valuable period of informal work in the calculation of pension entitlements.**

Support women through a comprehensive family policy strategy

Labour policies are a limited solution to maternal mobbing, as they cannot address mobbing behaviours outside work. In that sense, family policies are complementary and are essential to protect mothers from discrimination. They also have the positive aspect to adopt a “family” approach, with an attention to the complementary responsibility of fathers and mothers. Family policies can directly tackle maternal mobbing by recognising the value of unpaid work of parents, along with supporting them in their role through measures such as the easing of lending possibilities or the elimination of taxes on family products.

Recognise the value of unpaid work

Unpaid work is often not considered as work because it does not produce monetised services. However, working for free does not mean that nothing is produced, on the contrary. Two elements need to be highlighted. First, parents produce a service towards society when caring for the upbringing of their child. Second, they produce it for free. Those two elements mean a win-win for society: a high-quality service is produced at no cost for the community. **Unpaid**

²³ European Commission, “The gender pay gap situation in the EU”, Accessible at https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/equal-pay/gender-pay-gap-situation-eu_en. Consulted on December 14, 2020.

²⁴ D. Grimshaw, J. Rubery, “The motherhood pay gap: A review of the issues, theory and international evidence, *Conditions of Work and Employment Series No. 57*, 2015.

work must be recognised as a free service offered by parents and considered in work arrangements and taxation.

Erase taxes on products of consumption for families

Families are big consumers and pay a very high amount of taxes on products. Yet, many necessary products for families (diapers, baby milk) are taxed like any other consumption good. **A possibility to reduce family costs without increasing public expenditure is to reduce the value-added taxes (VAT) on the basic products of consumption of families.**

Ease the lending facilities for families

Families are a crucial asset in supporting the economic recovery from crisis such as the current pandemic. They are not only mere consumers, but as well long-term primary investor in the future. In addition, their savings are directly financing the banking system. Supporting them thus means to invest in a virtuous circle of long term and sustainable economic growth. **Monetary policies should encourage banks to keep lending to families.**

Place particular attention on mothers in challenging situations

Special attention must be given to mothers in more challenging situations, such as low-income and self-employed women, single mothers, mothers of large families, mothers with children with disabilities and mothers taking care of dependent relatives. They face additional obstacles when trying to balance work and family life and are more vulnerable to situations of excessive workload, precarious employment, poverty and social isolation.²⁵ Achieving a family work-life balance is even more complex for these mothers. For example, low income women rarely have the capacity to ask for flexible arrangements or to refuse detrimental changes in their employment tasks after a maternity leave, as there are very much dependent on their income. They are obliged to come back as soon as possible into the workforce, without being able to decide the time they want to spend with their new-born, and do not have the financial freedom to, for example, only work part-time in order to spend more time with their children.

Mothers in challenging situations need to be granted specific means to efficiently overcome additional obstacles. To that end, governments need to rely on the expertise of family associations and organisations specifically dedicated to women in these challenging situations.

²⁵ European Institute for Gender Equality, “Unpaid care and housework”, Gender Equality Index, 2019, Accessible at <https://eige.europa.eu/covid-19-and-gender-equality/unpaid-care-and-housework>. Consulted on December 14, 2020.

Conclusion and Recommendations

The first step to end maternal mobbing is to enhance protective labour and family policies for women. The second step demands a change of paradigm: it is about moving beyond the short-term focus on economic productivity, which will inevitably approach maternity as a cost. In the long run, approaching family work-life balance in terms of investment is the solution to finally consider motherhood as a benefit and not a cost for society.

To develop “family oriented” policies and achieve a real family work-life balance, NWFE proposes several potential measures to practically tackle the issue of maternal mobbing:

1. Legislatively recognise the figure of maternal mobbing, as called by the 2019 European Parliament resolution;²⁶
2. Identify discriminatory practices toward pregnant women and mothers in the workplace.
3. Raise awareness and implement transparency measures regarding motherhood, pregnant women and mothers in the workplace;
4. Offer concrete help for victims of maternal mobbing.

In order to end all maternal mobbing behaviours in society, it is crucial to implement several policy measures in order to create a “mother-friendly” environment:

1. Increase the eligibility to maternal and parental leave;
2. Legally recognise the value of unpaid family work as a particular category of work that gives access to rights;
3. Grant access to accessible, affordable and quality childcare services;
4. Promote new forms of work for mothers through teleworking and flexible working hours and arrangements;
5. Address the motherhood pay gap and pension pay gap by considering family work and breaks due to motherhood in the calculation of pay and pension entitlements;
6. Ease lending facilities for families as an economic investment;
7. Erase the value-added taxes on basic products of consumptions of families;
8. Focus on ways to support mothers in challenging situations (low-income women, self-employed women, single mothers, mothers of large families and mothers with children with disabilities);
9. Promote financial, mental and cultural freedom of choice for women regarding the configuration of their family work-life balance.

²⁶ European Parliament resolution of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at workplace, in public spaces, and political life in the EU (2018/2055(INI)). Available at https://www.europarl.europa.eu/doceo/document/TA-8-2018-0331_EN.html.

Family work-life balance can have many forms. No models of “successful life” should be imposed to women. This decision must remain personal and voluntary, and not constrained by a rigid labour market nor influenced by maternal mobbing behaviours. Women need to be granted the freedom of choice of their family work-life balance.

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