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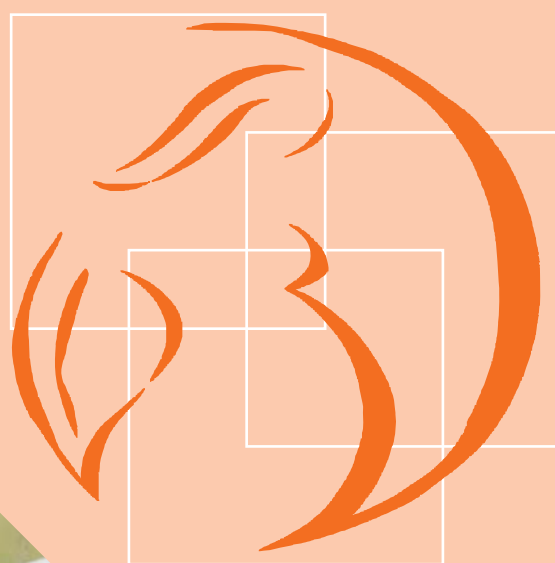
Maternity Protection Resource Package

From Aspiration to Reality for All

PART TWO

Module 6

Maternity leave and related types of leave



Maternity Protection Resource Package

From Aspiration to Reality for All

Module 6: Maternity leave and related types of leave



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Module 6: Maternity leave and related types of leave

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Part 2:

Maternity Protection at work in depth: The core elements

Part 2 contains six modules which examine in detail each of the core elements of maternity protection at work. Each component in turn is defined, examples of legislation and policies are presented, and good practices are used to demonstrate efforts and innovative implementation worldwide.

Module 6: maternity leave and other care-related leave provisions, their characteristics, benefits and trends.

Module 7: cash and medical benefits, and the importance of social protection.

Module 8: health protection at work for pregnant and breastfeeding women, including issues related to HIV and AIDS at the workplace.

Module 9: employment protection and non-discrimination throughout maternity.

Module 10: breastfeeding arrangements in the form of breastfeeding breaks, facilities at the workplace and family-friendly policies.

Module 11: it goes beyond the concept of maternity protection to discuss “balancing work and family responsibilities” and in particular childcare, as caregiving needs continue, and policies to support care and gender equality are required, long after maternity ends.

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Module 6:

Maternity leave and related types of leave

Leave provisions make up the core of maternity protection and work–family policies. Leave entitlements have undergone many changes over the last decades. The ILO Maternity Protection Convention, 2000 (No. 183) gives the mother the right to a period of rest in relation to childbirth, with cash and medical benefits, employment security and non-discrimination, health protection and the right to breastfeed. The length of maternity leave in the Convention is 14 weeks, while Recommendation No. 191 stipulates 18 weeks.

Recently, there has been a move towards encouraging fathers to take up care-related leave by introducing paternity leave (shorter leave immediately after childbirth) and by extending parental leave to both parents. The rationale for maternity leave is to support women in coping with both the physiological and psychological demands of pregnancy, childbirth and breastfeeding. Paternity and parental leave are intended to provide support for the care and nurturing of children beyond childbirth, which should be shared by both fathers and mothers. Leave entitlements can be paid or unpaid, and many different formulae to calculate the coverage are used in various parts of the world.

Nonetheless, a large proportion of working mothers do not have access to maternity leave entitlements, and in the case of parental leave, take-up rates show that mothers everywhere continue to take more time off than fathers although in some countries fathers' take-up rates are starting to increase.

Key contents

This module looks at why maternity leave matters, what provisions have been set out under maternity protection labour standards and in national legislation, and how to extend coverage to more workers. It also provides an overview of other types of leave relating to the care of children. It covers the following topics:

- ➔ Why maternity protection is important
- ➔ Key features of maternity leave in international labour standards
- ➔ Trends and experiences from national legislation around the world
- ➔ Considerations for extending maternity leave to informal economy workers
- ➔ Other care-related leave policies, including paternity, parental and adoption leave

Maternity leave

Why is maternity leave so important?

Maternity leave covers the periods before, during and after childbirth. Its purpose is to safeguard the health of a woman and her child during the perinatal period, in view of the particular psychological and physiological demands associated with pregnancy and childbirth. It is a core element in the protection of women workers over the perinatal period. This role is universally acknowledged and firmly established as the vast majority of countries have adopted statutory (or legislative) provisions for maternity leave, even those countries where other types of leave and conditions of employment are normally negotiated by the social partners.¹ It should be highlighted that maternity leave is not sick leave and should not, under any circumstance, reduce sick leave entitlements, either before or after childbirth.

Although no one will deny the particular physiological demands associated with pregnancy and confinement, pregnancy is not an illness and few of its aspects will affect a woman at work. However, in every pregnancy there is a period of time during which it is medically inadvisable for a pregnant or postpartum woman to work. The duration of **maternity leave required before childbirth** is unique to each woman and depends mainly on the extent of complications and pre-existing medical conditions. It also depends on occupational hazards² that cannot be eliminated or addressed by adapting a pregnant woman's working conditions or transferring her to another post. Medical consensus suggests that for uncomplicated, singleton pregnancies, health-related maternity leave may be required **two to six weeks** prior to the estimated date of birth. A period of leave **before birth** is also important for a woman to adequately prepare for the coming child.³

Maternity leave after childbirth is also crucial for maternal and newborn health. In fact, the first hours, days and weeks after childbirth pose substantial health risks for both mother and newborn infant. Two-thirds of maternal and newborn deaths occur in the first two days after birth, while four per cent of maternal and almost 30 per cent of neonatal deaths take place between the second and the sixth week after childbirth. However, the World Health Organization (WHO) has found that the importance of this period is not yet well recognized.⁴

The **postnatal period**⁵ begins immediately after the birth of the baby and extends up to **six weeks** (42 days) after birth (see **Box 6.1**). The postnatal period is a very special phase in the life of a woman and her newborn. For women experiencing childbirth for the first time, it marks probably one of their most significant and life-changing events, which brings strong emotions, dramatic physical changes, new and altered relationships and an

¹ ILO: *Maternity Protection at work* (Geneva, 1997).

² A number of known working conditions and/or risk exposures can impact pregnancy outcomes. In particular, the so-called noxious agents at work put the woman or the child at risk, these elements include **physical agents** (noise, radiation, extremes of cold and heat), **chemical agents** (such as lead and anaesthetic gases) and **biological agents** (i.e. viruses, bacteria and parasites) (see **Module 8**).

³ APHP: *Health-related maternity leave in the uncomplicated pregnancy and birth: Reference guide for healthcare providers* (Alberta, 2008).

⁴ WHO: *Packages of Interventions for family planning, safe abortion care, maternal, newborn and child health* (Geneva, 2010a).

⁵ The terms "postpartum period" and "postnatal period" are often used interchangeably but sometimes separately, where "postpartum" referred to issues pertaining to the mother and "postnatal" referred to those concerning the baby (note that Convention No. 183 uses the term "postnatal"). In a 2010 WHO technical consultation, a panel agreed to adapt the term "postnatal" for all issues pertaining to the mother and the baby after birth. Source: WHO: Technical Consultations, 2010b.

adjustment to a new role. It is a time of profound transition, making great demands on the woman's resilience and capacity to adapt.⁶

Box 6.1 The postnatal period and maternal death

In the International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, 1992 (ICD-10), the WHO defines **maternal death** as: "The death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management but not from accidental or incidental causes". Complications of pregnancy or childbirth can also lead to death beyond the six weeks' postnatal period and an alternative concept of late maternal death was included in ICD-10, in order to capture these delayed deaths that occur between six weeks and one year postpartum. **Late maternal death** is "the death of a woman from direct or indirect obstetric causes, more than 42 days but less than one year after termination of pregnancy".

Source: WHO: *Trends in maternal mortality 1990 to 2008* (Geneva, 2010c).

Medical evidence and practice in most parts of the world recognize that this postnatal recovery period should be no shorter than **six weeks**, which is traditionally considered the time required for reproductive organs to return to their non-pregnant state. However, there is evidence to suggest that recovery of reproductive organs is a single but incomplete measure of postpartum recovery, which depends on several factors, including: the childbirth method, the presence of depressive symptoms, sleep disruption and the accompanying fatigue (which might last up to six months after childbirth), and the presence of non-lethal pregnancy-related complications (**maternal morbidity**).⁷

Epidemiological studies in both developed and developing countries show that the incidence of maternal morbidity reported by women in the first months after childbirth is high. In India, 23 per cent indicated problems and in Bangladesh nearly 50 per cent reported symptoms six weeks after childbirth, while in England 47 per cent of the women reported at least one symptom. Some symptoms are more typically present in the immediate postnatal period and usually resolve quickly, while others, once they occur, often become chronic.⁸ The most frequently reported postpartum problems are: infections, anaemia, depression, backache, anxiety and extreme tiredness. Psychological distress, such as depression, is also a common factor, 2.3 per cent in India and up to nine per cent in certain parts of the United Kingdom.⁹

The WHO recognizes the role that maternity protection at work, and in particular maternity leave, plays in the packages of interventions for postnatal care, which place the woman and her baby (the "mother-infant dyad") at the centre of care provisions to reduce the risks of mortality and morbidity and to maintain health. Along with health services, the household, the community and the workplace have been identified as places where key interventions to improve maternal and newborn health and survival should be delivered. **Box 6.2** shows the WHO recommended work-related interventions

⁶ WHO: *Postpartum care of the mother and newborn: A practical guide* (Geneva, 1998).

⁷ The term maternal morbidity broadly designates any complication (physical or psychological) linked to pregnancy that does not lead to the mother's death. WHO: *Beyond the numbers: Reviewing maternal deaths and complications to make pregnancy safer* (Geneva, 2004).

⁸ WHO, 1998, op. cit.

⁹ Ibid.

at the home/family, community and workplace levels to support the woman during pregnancy, postpartum and beyond.

| Box 6.2 WHO-recommended work-related interventions for improving maternal and newborn health | | |
|--|------------------------------------|---|
| Period | Home/Family | Community and workplace |
| All pregnancy | Support for rest and less workload | <ul style="list-style-type: none"> • Maternity protection • Time off for at least four antenatal care visits • Safe and clean workplace and protection from noxious agents • Tobacco free work environment |
| Second half of pregnancy | | <ul style="list-style-type: none"> • Reduced physical workload and no night work¹⁰ • Absence from work between four and two weeks prior to expected date of birth depending on health status and physical workload |
| Postpartum and beyond | Support for rest and less workload | <ul style="list-style-type: none"> • Maternity leave of not less than 14 weeks, including at least 6 weeks of compulsory postnatal leave • Breastfeeding breaks • Time off for postpartum and baby care visits |
| Source: Adapted from WHO: <i>Health aspects of maternity leave and maternity protection</i> , WHO Statement to the International Labour Conference, 88 th Session, Geneva, 2000 and WHO: <i>WHO recommended interventions for improving maternal and newborn health</i> , Second Edition (Geneva, 2009) p. 5. | | |

In addition, ratification of the ILO Maternity Protection Convention No.183 features among the “supportive policies and regulatory framework that enable mother, family and communities, particularly those in special need, to care for newborn babies”, that are recommended by the WHO, the World Bank, UNICEF, UNFPA and the Partnership for Maternal, Newborn and Child Health (PMNCH).¹¹

In conclusion, taking **leave after childbirth** contributes to preventing maternal and infant mortality and morbidity and to maintaining health. Maternity leave is especially necessary to allow the mother to:

- detect and report postnatal complications and danger signs in the mother and the baby;
- heal, rest and recover physically from labour and childbirth, including the related sleep loss or disruption and the accompanying fatigue;
- establish and maintain exclusive breastfeeding;

¹⁰ These conditions may cause ill health, provoke preterm birth or infants with low birth weight. Physical workload includes, for example, ergonomically strenuous postures (stooping and squatting), prolonged standing or walking, heavy lifting, and pushing or pulling (for more information see also **Module 8**).

¹¹ WHO, 2010a, op. cit.

- with the father, adjust and adapt psychologically and emotionally to the new child-rearing function;
- bond with her child and learn how to meet his/her needs, in order to guarantee the optimal growth of the infant;
- have time for postpartum and neonatal care visits and information sessions on care of the baby and the mother.

Ensuring maternity leave and job protection is also a way of encouraging young women of reproductive age, without children, to join the labour market.¹² It is also an incentive for mothers to maintain labour market attachment and return to work on the termination of leave.¹³ An additional benefit relates to the role of maternity and parental leave policies in reducing the risk of poverty for families with children and improving children's well-being. In particular, limited public responsibility for reproduction-related costs has been associated with income insecurity, time poverty, gender inequality, problematic childcare arrangements and poor outcomes for the children.¹⁴

How long should maternity leave be?



...a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.

Convention No. 183, Article 4(1)



Members should endeavour to extend the period of maternity leave referred to in Article 4 of the Convention to at least 18 weeks.

Recommendation No. 191, Paragraph 1

Convention No. 183 sets out a minimum leave period of 14 weeks, lengthening maternity leave from the 12 weeks established in previous Maternity Protection Conventions. Recommendation No. 191 goes further and suggests that member States increase the period of maternity leave to at least 18 weeks.

ILO standards

The right to maternity leave appears to be almost universally recognized, and countries where at least some women workers do not have such an entitlement are rare. The entitlement may be expressly set out in national laws and elaborated or underpinned by collective agreements or arbitration awards which are applicable to principle sectors, enterprises or different categories of women workers.

¹² C.J. Ruhm: "The economic consequences of parental leave mandates: Lessons from Europe," in *The Quarterly Journal of Economics* (1998, Vol. 113, No. 1), pp. 285–317.

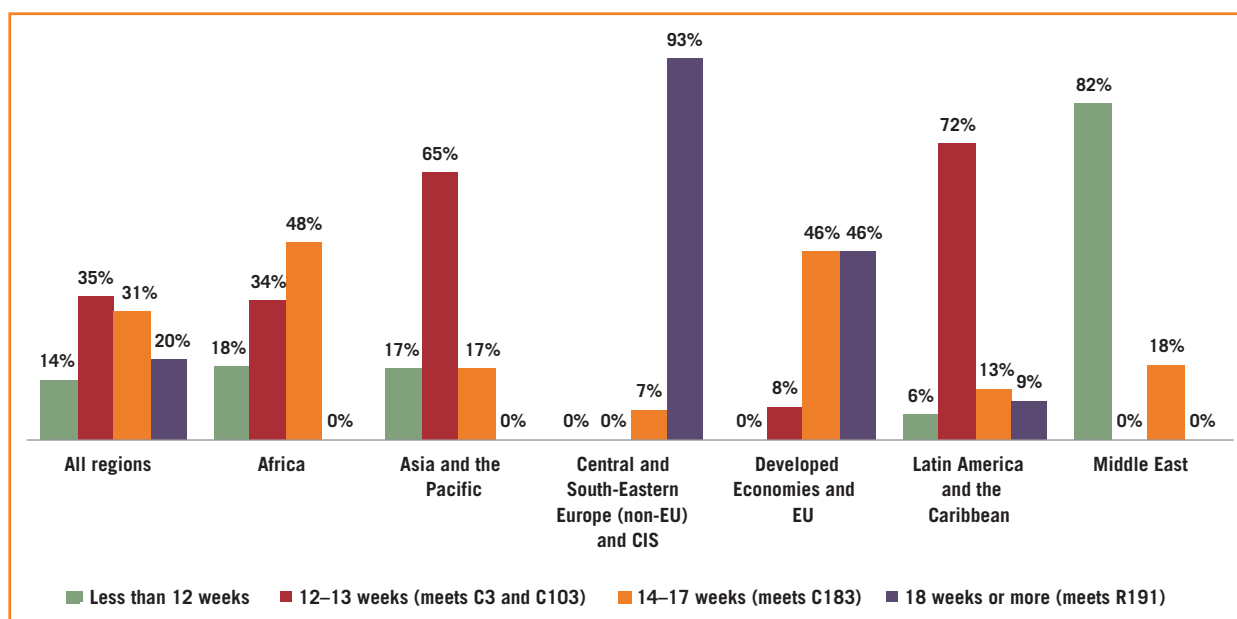
¹³ J.C. Gornick and A. Hegewisch: "The impact of 'family-friendly policies' on women's employment outcomes and on the costs and benefits of doing business", Commissioned Report for the World Bank (Washington, D.C., World Bank, 2010). See also K. Smith, B. Downs and M. O'Connell: "Maternity leave and employment patterns: 1961–1995", *Current Population Reports* (Washington, D.C., U.S. Census Bureau, 2001).

¹⁴ K. Davaki: *Benefits of maternity/parental leave in the EU27 – A review of the literature*. (European Parliament, Brussels, 2010). See also: R. Moss and M. O'Brien (eds): "International review of leave policies and related research 2006", *Employment Relations Research Series No. 57* (London, DTI Publications, 2006).

Globally, 51 per cent of countries provide maternity leave of at least 14 weeks, the standard established by Convention No. 183. Twenty per cent of countries meet or exceed the 18 weeks of leave suggested in Recommendation No. 191. About one-third (35 per cent) provide 12 to 13 weeks of leave, less than the duration specified by Convention No. 183, but consistent with the level set by Conventions Nos. 3 and 103 of at least 12 weeks of leave. Only 14 per cent of countries provide less than 12 weeks of maternity leave.

Figure 6.1 shows the percentage of countries in each region providing maternity leave durations of different lengths. The regions vary in the proportion of countries that meet the standard of at least 14 weeks.

Figure 6.1: Length of statutory maternity leave, by region, 2009 (167 countries)



Note: Figures may not add up to 100 per cent because of rounding.
Source: ILO, 2010, op. cit.

Among 50 **African** countries, almost half (48 per cent) provide 14 weeks of leave or more and 34 per cent provide 12 to 13 weeks. One in five of African countries (18 per cent) provide less than 12 weeks of leave.

- In **Asia and the Pacific** region, very few countries meet the standard set out by Convention No. 183, with just four countries providing at least 14 weeks of leave.
- In the **Developed Economies and European Union (EU)** countries,¹⁵ nearly all (92 per cent) meet or exceed this standard, and 46 per cent meet the 18-week standard.

¹⁵ ILO member States that are also members of the EU are subject to Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the health and safety at work of pregnant workers and workers who have recently given birth or are breastfeeding (EU Pregnant Workers Directive). The minimum length of maternity leave required by the Directive is 14 weeks, like Convention No. 183 (European Economic Community, 1992, Article 8(1)). All countries in the EU, meet the 14-week minimum. Iceland, not an EU country, has a system which is unique, providing three months of maternity leave and three months of paternity leave for the father, plus an additional three months that can be split among the parents.

- Among the **Central and South-Eastern European (non-EU)** countries and the **Commonwealth of Independent States (CIS)**, all meet the 14-week standard and 93 per cent meet the 18-week standard.
- Among 32 **Latin American and Caribbean** countries, four countries provide 14 weeks of leave while another three provide 18 weeks of leave. Three-fourths of countries in this region (72 per cent) provide 12–13 weeks of maternity leave, and an additional six per cent provide less than 12 weeks.
- Of 11 **Middle Eastern** countries, only two meet the 14-week minimum. The remaining countries in the region provide fewer than 12 weeks of leave.¹⁶

Global trends between 1994 and 2009

From 1994 to 2009, the ILO has registered a gradual global shift towards longer maternity leave periods. The proportion of countries providing less than 12 weeks of leave decreased from 19 per cent to 14 per cent, and the proportion providing between 12 and 13 weeks of leave decreased from 42 per cent to 38 per cent. On the other hand, the percentage of countries providing 14 to 17 weeks of leave increased from 29 per cent to 35 per cent, and the proportion providing at least 18 weeks of leave increased from nine per cent to 13 per cent. Two countries reduced the statutory duration of maternity leave. Regional trends are reflected in **Box 6.3** below.

Box 6.3 Regional trends in length of maternity leave, by region

- In most countries in **Africa**, the duration of maternity leave in 2009 was the same as in 1994. However, six countries increased the duration of maternity leave, bringing the share of countries providing at least 14 weeks of leave to 49 per cent against 43 per cent in 1994.
- In **Asia and the Pacific**, the length of leave increased in several countries, with 21 per cent of countries providing at least 14 weeks of leave in 2009. Only 11 per cent did so in 1994.
- Among the **non-EU and CIS countries** with information available for both years, three had no changes in the length of leave while one country increased its leave.
- Among the **Developed Economies and EU countries**, 12 countries increased the length of leave. Of the countries having reported, all provided at least 12 weeks of leave in 2009, compared with 94 per cent in 1994. During this period, the proportion providing at least 14 weeks of leave increased from 77 per cent to 90 per cent.
- The length of leave remained constant in most of **Latin America and the Caribbean**. The number of countries providing at least 14 weeks of leave increased from six to seven between 1994 and 2009; two other countries increased their length of leave. The proportion of countries providing less than 12 weeks of leave has decreased from 10 per cent to seven per cent.
- Five out of the nine **Middle Eastern countries** analysed improved their provisions for maternity leave, and two of the nine countries provided 14 or more weeks of leave in 2009, compared with none in 1994.

Source: ILO, 2010, op. cit.

This trend towards longer maternity leave periods, which began in the 1960s, is unlikely to continue. Greater recognition at international and national levels of the importance of achieving real equality between men and women in the workplace and in society has led to

¹⁶ ILO: *Maternity at work: A review of national legislation*, Second Edition (Geneva, 2010).

a policy distinction between recovering from childbirth and caring for a child. Past policies were largely blind to men's care roles and assumed women were largely responsible for the care and nurturing of children. In some contexts, long maternity leave also served to compensate for inadequate attention to and investment in the development of childcare services, with adverse effects on women's equal opportunities and treatment in the labour market. Now the trend is to ensure that adequate maternity leave is available for the psychological and physiological recovery of the mother and for establishing breastfeeding. At the same time, more efforts are focusing on developing paternity leave for fathers and parental leave that can be taken by either parent. More countries now view parental leave as a means to offer fathers more opportunity to participate in the care and nurturing of children as well as to promote gender equality in the workplace and more equitable sharing of unpaid care work in the home.

When can maternity leave be taken?



On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.

Convention No. 183, Article 4(1)



With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.

Convention No. 183, Article 4(4)

Maternity leave is to be taken by the pregnant woman around the time of birth, either after, before, or both before and after childbirth. Convention No. 183 calls for 14 weeks of leave, with a compulsory period of six weeks leave after childbirth. It does not stipulate how the remaining non-compulsory part of the leave should be distributed, whether before and/or after childbirth. Recommendation No. 191 emphasizes the advantages of providing women with flexibility in this regard:



To the extent possible, measures should be taken to ensure that the woman is entitled to choose freely the time at which she takes any non-compulsory portion of her maternity leave, before or after childbirth.

Recommendation No. 191, Paragraph 1(3)

What is compulsory leave?

Compulsory leave means that the mother is not allowed to return to work, nor is the employer allowed to ask her to work, during a given period of time. All three Conventions on maternity protection provide for a compulsory leave period of six weeks after the birth of the child, during which the mother cannot be allowed or obliged to work as this is the most critical period for a new mother to recover and rest. This is intended to protect the woman from being pressured to return to work, which could be detrimental to her health and that of her child.

With the adoption of Convention No. 183, some flexibility was introduced concerning the provision of compulsory leave (see Article 4(4), quoted above). This instrument opens up the possibility for agreements to be made at the national level on the arrangement of compulsory leave. A period of compulsory postnatal leave is a fundamental component of the protection afforded by the ILO standards and is widely provided in national legislation. Around three-quarters of countries mandate a period of compulsory leave before or after childbirth, although there are many variations regarding the duration of this compulsory leave period and how it is distributed before and after childbirth (see **Box 6.4**).

Mandatory postnatal leave has been adopted by numerous countries such as: Barbados, Denmark, the Dominican Republic, El Salvador, Fiji, Myanmar, Nigeria, Portugal, Uganda, the United Kingdom and Uruguay.

A period of **mandatory prenatal leave** is sometimes specified together with a period of mandatory postnatal leave, as is the case in Afghanistan, Azerbaijan, the Bahamas, Cyprus, Ecuador, Latvia and Senegal. A few countries (e.g. Algeria, Hungary, Slovenia, The former Yugoslav Republic of Macedonia and Zimbabwe) provide compulsory periods only before birth.

Providing a period of prenatal leave gives time for women to rest during the few weeks before birth, which is important for both the mother and the baby's health. It is often during this period that the mother takes time to prepare for the new baby, and to make decisions regarding, for example, breastfeeding. But the importance of prenatal leave and how long it should be may also depend on the type of paid work the woman does and her working conditions. Women typically prefer to have some flexibility in how they use their maternity leave (see next section). For this reason, setting prenatal compulsory periods of leave requires careful consideration, to ensure they are not overly restrictive and inflexible.

Box 6.4 Examples of distribution of maternity leave before and after birth

Estonia. Women in Estonia are entitled to 140 calendar days of maternity leave, 30 of which must be taken before childbirth in order for her to receive the entirety of her cash benefits. However, with the agreement of a doctor, women are allowed to take up to 70 days before due date.

New Zealand. The standard maximum prenatal leave is six weeks, but the employer and employee together can decide when to start the leave. The employer can oblige a worker to start leave before the six weeks if there is a health hazard for the woman or her child, or a health hazard at the workplace.

Cameroon. Women are entitled to 14 weeks of leave, four of which are compulsory prenatal, and six postnatal. If however the child is born before due date, the postnatal leave period shall be extended to add up to 14 weeks. If the child is born after due date, prenatal leave is extended without any reduction of postnatal leave. Maternity leave can then be extended by another six weeks in case of illness or complications.

Sources: ILO, 2010, op. cit.

– Database of Conditions of Work and Employment Laws, available at www.ilo.org/travdatabase.

In EU Member States, maternity leave must include a period of compulsory leave of at least two weeks allocated before and/or after confinement. Although many EU countries provide longer periods of compulsory leave, several EU countries provide the two-week minimum (e.g. Denmark and the United Kingdom).

Non-compulsory maternity leave

Except for the period of six weeks' compulsory postnatal leave, Convention No. 183 does not stipulate how the remaining part of the leave should be distributed before and/or after childbirth, and as noted earlier, Recommendation No. 191 emphasizes the advantages of providing women with flexibility in this regard, so that they can freely choose.

Legislation that provides more choice regarding when the non-compulsory maternity leave can be taken is more likely to be preferred by women. Many prefer to save their maternity leave for the postnatal period in order to have more time to bond with their newborn and to breastfeed, particularly if there are few workplace supports for continued breastfeeding after maternity leave ends.

Countries differ considerably in the extent of flexibility and choice provided as to when women may take statutory maternity leave and how to distribute it before and after childbirth. In countries with flexibility (see **Box 6.5**), the legislation leaves some room for women to decide how to distribute the allotted leave. On the other hand, many countries prescribe precisely how to distribute the leave and state the number of leave days that may be taken before and after childbirth.

Box 6.5 Flexibility in taking maternity leave

Peru. In Peru, the system is flexible regarding when the non-compulsory part of the leave can be taken. The normal duration of leave is 90 days, with a compulsory period of 45 days after confinement. The remaining 45 days can be taken before birth or they can be totally or partially deferred and added to postnatal leave if the woman desires and if it does not affect the mother and child negatively.

France. In France, women are entitled to 16 weeks of leave, to be divided into six weeks before and ten weeks after the expected birth. If a woman desires, and if a medical practitioner approves, she may reduce the prenatal leave by up to three weeks and transfer those weeks to the postnatal period.

Singapore. Women are entitled to 16 weeks of leave, four of which are compulsory postnatal leave. If a woman prefers, rather than having a continuous leave of 16 weeks, and if her employer agrees, she may take the last seven weeks at any point during the year that follows the birth of her child.

Sources: ILO, 2010, op. cit.
– Database of Conditions of Work and Employment Laws, op. cit.

Can the period of maternity leave be modified?

Convention No. 183 and Recommendation No. 191 set out circumstances for modifying the length of maternity leave.



The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

Convention No. 183, Articles 4(5) and 5



Provision should be made for an extension of the maternity leave in the event of multiple births.

Recommendation No. 191, Paragraph 1(2)

National legislation often allows or requires changes in the duration of maternity leave if some unusual or unexpected event takes place during pregnancy or confinement. For example, many countries extend the leave period if the birth occurs later than expected, in case of multiple births, or in the event of the mother or child's illness (see **Box 6.6**).

Box 6.6 Reasons for extending maternity leave

Due date: Several ILO member States provide for an extension of the prenatal leave period if the child is born after the expected date, while another group of countries extend the postnatal leave period if the birth occurs before the due date. Some countries provide for both extended prenatal and postnatal leave in the case of a longer or shorter pregnancy than was foreseen. Some countries providing extended leave are: Austria, Barbados, Brazil, Cameroon, Cuba, Germany, Nicaragua and Swaziland.

Illness, complications: Many countries provide for additional leave in case of illness or complications, although the length of the extension varies significantly. In some countries, the length of the extension is not specified, while in others the duration of additional leave is set explicitly – from less than one month (in Botswana, Côte d'Ivoire, Estonia, Senegal and Tunisia for example) to as long as necessary (in Chile, El Salvador, Italy, Mexico and Nigeria for example).

Reasons related to the child: Many countries extend the maternity leave period when a child is born prematurely or if the child has special medical needs. Many countries provide for special periods of leave for miscarriage, stillbirth,* death or other complications arising from normal confinement. Other countries shorten the period of leave in case of death (Bulgaria, Denmark, Indonesia and Mauritius to name but a few).

Multiple births: Consistent with Recommendation No. 191, several member States have special provisions in case of multiple births, for example, Belgium, Cuba and Nicaragua extend the maternity leave period by two weeks for a multiple birth. Estonia and the Islamic Republic of Iran both extend it by 14 days for multiple births.

Family size: Some countries (e.g. Croatia, France) also provide an extension of maternity leave according to family size or composition.

Death of mother: In, for example, Belgium, Bulgaria, Chile, France and Italy, an employed father may take any unused maternity leave if the mother is hospitalized or dies in or after childbirth.

Extended leave, unpaid: A few countries allow extensions of the normal maternity leave period upon request, although the extended leave period may be unpaid (e.g. Viet Nam, Zimbabwe).

Annual leave and public holidays: Annual leave can often be added to maternity leave in order to extend the latter, when the employee is entitled to choose the timing of her annual leave. However, while a majority of countries provides for paid annual leave, a large number of countries do not allow any annual leave at all.

Public holidays vary from seven to 17 days per year depending on the country, but because they generally correspond to specific calendar dates, they may not be very useful as a way of extending maternity leave.

Time flexibility and time banking: Increasing flexibility in the organization of working time may increase the opportunities for workers to accumulate additional days of leave through for example, annualized hours, compressed work weeks with longer hours on fewer days or banking hours of daily overtime.

***Stillbirth** is the term used for a foetal death in late pregnancy; **miscarriage** is the term used for foetal death in earlier pregnancy. In several countries a stillbirth is considered as a birth, therefore entitling the woman to the same benefits as a live birth. This is not the case for a miscarriage.

Sources: C. Hein: *Reconciling work and family responsibilities: Practical ideas from global experience* (Geneva, ILO, 2005) pp. 106, 108.

ILO, 1997, op. cit., p. 45.

– *Gender Equality: A guide to collective bargaining* (Geneva, 2002) pp. 3–5.

– 2010, op. cit., p. 16–17.

– Database of Conditions of Work and Employment Laws, op. cit.

What about maternity leave for informal economy workers?

Many women workers in the informal economy cannot afford to take time off from work to rest before or after childbirth. Even when they have a legal right to maternity leave, this right is meaningless if cash benefits are not available to compensate for lost working time. Workers in the informal economy often face economic insecurity and poverty and have no access to social protection schemes, because efficient schemes are not available and/or they have a limited capacity to contribute.

The impact of poverty on maternal mortality is alarming. In Peru, for example, maternal deaths amongst the poorest percentage of the population are over six times more frequent than they are among the richest. This is also the case when comparing rural workers and urban workers. In Afghanistan, the maternal mortality rate is more than 15 times higher in the rural district of Ragh than it is in the capital city Kabul.¹⁷

More than half of the world's population remains without any form of social protection, and only five to ten per cent of the working population in sub-Saharan Africa and South Asia is covered by some form of social protection. Social protection provides workers and their families with access to health care and with protection against certain losses of income (which can include maternity, although some schemes do not cover it). Achieving universal social health protection coverage, defined as effective access to affordable quality health care and financial protection in case of sickness, is a central objective of the ILO. Social health protection consists of various financing and organizational options intended to provide adequate benefit packages to allow access to quality health care and protection against related financial burden. In many developing countries, the challenge lies in extending social health protection to the majority of the population that currently lacks any social protection.

Even where workers do have access to some form of social health protection, they may lack access to maternity related benefits if such benefits are not provided under their particular system. Key challenges for extending maternity leave to all working women thus include not only **extending social health protection to all**, but also **ensuring that basic benefits packages include maternity benefits and services**. These are challenges that require urgent responses. The economically insecure are by far the most vulnerable to maternal mortality and infant mortality, and extending possibilities for rest and recovery from paid work before and after childbirth is a key provision for supporting healthy and safe maternity.

In Burkina Faso, trade unions have helped workers in the informal economy to unionize. Among the priorities of informal economy workers was the need for maternity protection. New mothers will benefit from paid maternity leave through the Social Providence Fund for Informal Economy Workers (MUPRESSI), created by the unions, the ILO and DANIDA. For more on cash benefits and extending social health protection to all and ensuring that benefits packages include maternity benefits and services, see **Module 7**.

¹⁷ W.J. Graham and C. Ronsmans: "Maternal Survival 1: Maternal mortality: Who, when, where, and why", in *The Lancet* (2006, Vol. 368, No. 9542), pp.1196–1197.

Beyond childbirth: Paternity, parental and adoption leave

While maternity leave is designed to protect working women during their pregnancy and recovery from childbirth, related types of leave also exist. Paternity, parental (see **RESOURCE SHEET 6.1**) and adoption leave assist parents in adapting to the arrival of a child and allow a better balance between work and family responsibilities. Parents also need time to cope with unavoidable events requiring short periods of absence, such as a child or a family member's illness or accident (see **Module 11**).

Balancing work and family responsibilities is an important concern for a large part of the workforce around the world. In order to help ensure more equal treatment and opportunities for women and men workers who have family responsibilities, many countries are using a range of policies to address shortages in quality and affordable childcare facilities.

It is critical to the principle of equality of opportunity and treatment in employment to create the conditions enabling workers to choose the arrangements which are best-suited to their family circumstances and that are free from discrimination. The Workers with Family Responsibilities Convention, 1981 (No. 156) and Recommendation No. 165 are essential to achieving the goal of Decent Work for All Women and Men in conditions of freedom, equity, security and human dignity. They also help to ensure that every man and woman has the opportunity to play a full role in social, economic, public and family life. **Module 11** discusses these instruments, and some of the key policies for implementing them. The following section covers paternity, parental and adoption leave in more detail.

What is paternity leave?

Changing expectations about the roles and responsibilities of fathers, coupled with the need to promote more equitable sharing of unpaid care work in the home, has resulted in an increasing number of paternity leave provisions in many countries. During such leave, fathers are entitled to a certain number of days off from work at the time of the child's birth.

This leave aims to enable fathers to spend time with the mother and their newborn during childbirth, to participate in events or celebrations related to its birth, and to carry out other related formalities. Paternity leave also provides an important opportunity for fathers to begin nurturing and bonding with their child, to support the mother with the many physical and psychological demands related to childbirth and start taking up and being closely involved in care responsibilities.

Although no ILO standard indicates a specific length of paternity leave, such provisions are available in national law in a number of countries (see **RESOURCE SHEET 6.1** and **Box 6.7** for examples). In countries where there is no such statutory leave, collective agreements for paternity leave are negotiated within some economic sectors.

Box 6.7 New law on paternity leave in Ecuador, 2009

Paternity leave for private and public sector workers was approved in January 2009 in Ecuador. The new law defines the right to ten days' paid leave after a child's birth, which can be extended another five days in the event of a multiple birth or caesarean delivery, or eight more days in the case of premature birth or other serious situations.

Fathers can exercise their right to paid leave by submitting a certificate from a doctor to Ecuador's social security institute. If the mother dies while giving birth or while on maternity leave, the father can make full use of her maternity benefits.

Adoptive fathers have the right to paid leave of 15 days beginning on the day they receive the child.

Source: H. Diario, quoted in ILO/UNDP: *Work and family: Towards new forms of reconciliation with social co-responsibility* (Santiago, ILO, 2009), p. 80.

What is parental leave?

While maternity leave aims to protect working women during pregnancy and recovery from childbirth, parental leave refers to a relatively long period of time off work by either parent in order to take care of an infant or young child. It usually follows the maternity or paternity leave period and is either unpaid or paid at a flat rate or as a percentage of previous earnings. When both the mother and father are working, paternity leave can be taken by either or both, although it is generally taken separately, and it can be taken either immediately after maternity or paternity leave or up to several years after the child's birth. Parental leave is an important example of efforts to develop policies that help workers to reconcile work and family responsibilities.

The welfare of the child is the principal reason for any parental leave scheme. Child development research shows that although every stage of life has its own importance, none is more important for shaping an individual's future development and life course than the first three years of life. Therefore, social policies focus on very young children and their families. For example, providing for income, services (care and support) and time for parenting are essential for a better beginning for children, and for promoting a better balance between work and family responsibilities.

By introducing equal opportunity for both fathers and mothers to take time off for childcare, parental leave schemes can also be an effective tool for promoting gender equality.¹⁸ It is important to distinguish the physiological demands of pregnancy, childbirth and breastfeeding, which only women bear, from the care and nurturing of children, which should be shared by both fathers and mothers. Also, parental leave can help reduce labour turnover and absenteeism. There is also evidence showing that workers returning from such leave are more motivated and less stressed.¹⁹

¹⁸ G.B. Eydal and I.V. Gislason: "Paid parental leave in Iceland: History and context," in G.B. Eydal and I.V. Gislason (eds): *Equal right to earn and care: Parental leave in Iceland* (Reykjavik, Félagsvisindastofnun Haskola Islands, 2008), pp. 15–24.

¹⁹ A. Grönlund and I. Oun: "Rethinking work-family conflict: Dual-earner policies, role conflict and role expansion in Western Europe," in *Journal of European Social Policy* (2010, Vol. 20, No. 3), pp. 179–195. See also: J. Galtry and P. Callister: "Assessing the optimal length of parental leave for child and parental well-being: How can research inform policy?" in *Journal of Family Issues* (2005, Vol. 26, Mar.), pp. 219–246.

Parental leave is not included in any of the ILO Maternity Protection Conventions. However, both Recommendation No. 191 and Recommendation No. 165 (accompanying Convention No. 156 on Workers with Family Responsibilities) contain provisions on parental leave (see **Box 6.8**).

Box 6.8 ILO Recommendations on parental leave

Recommendation No. 191 (Maternity Protection)

- (1) *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.*
- (2) *The period during which parental leave might be granted, the length of the leave and other modalities, including the payment of parental benefits and the use and distribution of parental leave between the employed parents, should be determined by national laws or regulations or in any other manner consistent with national practice.*

Paragraph 10

Recommendation No. 165 (Workers with Family Responsibilities)

- (1) *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.*
- (2) *The length of the period following maternity leave and the duration and conditions of the leave of absence referred to in sub-paragraph (1) of this Paragraph should be determined in each country.*

Paragraph 22

Accordingly, a period of parental leave should be available to either parent after maternity leave without relinquishing employment and safeguarding the rights resulting from employment. The duration of this leave period, as well as payment and other aspects, such as conditions of the leave and the distribution of parental leave between the parents, are not set by the Recommendations, but are determined at national level. In Recommendation No. 165, parental leave is regarded as part of an integrated approach to facilitate the reconciliation of work and family responsibilities.

Systems of parental leave differ significantly from one country to another. There is considerable variation concerning eligibility, payment, duration, possible flexibility in its use, the age of the child to be cared for and transferability between parents. The provisions reflect wider concerns within society in relation to child development, fertility, labour supply, gender equality and income distribution. In some countries, long parental leave is seen as a way to support parental care of young children and to reduce the need for childcare services, particularly for young children for whom services can be relatively expensive. In other countries, parental leave entitlements may be shorter, to prevent long absences from the labour market and the potential deterioration of skills.²⁰

²⁰ C. Hein, 2005, op. cit.

Who is eligible for parental leave?

The right to parental leave and the corresponding cash benefits are often linked to different eligibility requirements, to be decided by each State. These are often similar to the eligibility requirements for maternity leave. One frequent condition for parental leave concerns the worker's previous employment. In some countries, where payment is provided during parental leave, the eligibility requirements for cash benefits may be more restrictive than for the leave itself. In others, entitlement to leave is automatically associated with benefits. In addition, different categories of workers are implicitly or explicitly excluded by the national legislation concerning parental leave.

A major difference between maternity and parental leave is the scope of the provisions. While maternity leave is available only for women, parental leave provisions are normally for men as well as women. In some countries, it is a shared entitlement, where either the mother or the father has the right to take parental leave. In others, each parent has an individual right to a portion of the whole parental leave, which cannot be transferred to the other parent. **Box 6.9** shows an interesting example of progressive regional legislation on parental leave, adopted by the European Union in 2010.

Box 6.9 EU Directive 2010/18/EU on Parental Leave, 2010

On 18 June 2009, the European social partners (ETUC, BUSINESSEUROPE, CEEP and UEAPME) signed a revised Framework Agreement increasing the duration of parental leave from three to four months per parent.

The Agreement applies to **all women and men employees regardless of their type of contract**. It was the result of six months of negotiations between the European social partners and reflected the changes that have occurred in society and the labour market since the first Framework Agreement on parental leave was signed in 1995.

The new Agreement:

- Increases parental leave from three to four months for each parent. One of the four months shall be non-transferable between the parents.
- Gives women and men returning to work after parental leave the opportunity to request a change in their working conditions (e.g. working hours).
- Increases protection against dismissal and any unfavourable treatment as a result of the exercise of one's right to parental leave.

On 8 March 2010, the European Council voted on the Framework Agreement, for its implementation as a Council Directive. The Agreement was approved and is currently enforced. Member States have until 8th March 2012 to make sure these measures have been implemented either by the governments or relevant social partners.

Source: European Council: *Council Directive, 2010/18/EU*, Official Journal L 68 (Brussels, 2010) pp. 13–20. For additional information, see European Network of Legal Experts in the field of Gender Equality: *European Gender Equality Law Review 2010* (Brussels, 2010) p. 145.

There are countries, such as Lithuania, where parental leave can be taken by any person who cares for the child, for example, the mother/adoptive mother, the father/adoptive father, the grandmother, the grandfather or any other relatives who are actually raising the child, or the employee who has been recognized as the guardian of the child. The leave may be taken as a single period or be distributed in portions, and the employees entitled to

this leave may take it in turns. The age of the child, from four months to nine years, when the right to parental leave lapses, varies from country to country.

As with maternity and paternity leave, parental leave is a provision where collective bargaining agreements can improve on national legislation, either providing for it when there is no provision in national legislation or improving on the payment or duration.

The take-up of parental leave

Not all fathers take advantage of paternity or parental leave even when it is available. Families may be concerned about sacrificing income when leaves are unpaid or poorly paid. The gender wage gap is an important element contributing to this situation, as women generally continue to earn less than men. Experience shows that parental leave is an option only when it is paid and when fathers and mothers taking leave do not fear losing their jobs or receiving an unfavourable reassignment after the leave. Evidence shows that in order not to exacerbate inequalities between women and men, as well as to avoid de-skilling of women, policies should be in place to support parents, a high percentage of whom are women, who re-enter employment after parental leave.²¹

Solutions to this include introducing non-transferable portions of parental leave to each of the parents, as well as other flexibility measures. Protection against dismissal and the right to return to the same position, without loss of seniority or promotion opportunities, is also a crucial element for better take-up rates. Some countries have introduced a “father quota” that can only be taken by the father and is lost if he does not use it (see **Box 6.10**).

Box 6.10 Sharing parental leave

In **Norway**, parents are entitled to parental leave during the child’s first year, provided that the total maternity, paternity and parental leave taken by both parents does not exceed one year. Three weeks before confinement and six weeks after the birth are reserved for the mother. Out of the 46 weeks of parental leave paid at a rate of 100 per cent of wages (or 56 weeks with 80 per cent of wages), ten weeks are reserved for the father. If he does not take these weeks, cash benefits are not payable for this period. The remaining leave, not including paternity leave (two weeks’ unpaid leave) can be taken by either parent or shared between them.

In **Sweden**, parental benefits are paid for 480 calendar days as a total for both parents at a rate of 80 per cent of earnings for a total of 390 days, and at a flat rate for the remaining period of 90 days. If the parents have joint custody, each parent is entitled to benefits for half of the leave period. A parent may give up his or her right to parental leave to the other parent, except for a period of 60 calendar days. If he or she does not take these 60 days, they are lost.

In **Finland**, the law treats maternity, paternity and parental leave as one system of “parental leave”. Thirty working days before confinement are compulsory for the mother, who is allowed 105 working days total. Paternity benefits add up to 18 paid working days. If the father takes the last 12 days of leave in the parental allowance period, he is entitled to 1–24 more days.

Sources: ILO, 2010, op. cit.
– Database of Conditions of Work and Employment Laws, op. cit.

²¹ ILO: *Protect the future: Maternity, paternity and work* (Geneva, 2009).

Even when parental leave is paid, some men may decline their leave entitlements if they fear they will be seen as “not committed to their work”. Advocacy and campaigns to challenge these stereotypes, as well as providing compensation during leave may help to address low take-up where it exists, see (**Box 6.11**).

Box 6.11 Encouraging men’s use of parental leave

Experience in **Sweden** has shown that gender-balanced leave laws and incentives for paternity leave can have an important positive societal effect. Since 1995, if a father does not take his paternity leave, the State-provided cash benefit is lost. Originally lasting one month, this paternity incentive has gone up to two months, and eight out of ten men now take their leave (compared to less than 10 per cent before the incentive was introduced). The results have been a substantial raise in revenue for women, an increased fertility ratio, one of the highest employment rates in the world for a developed country, and in contrast one of the lowest divorce rates.

Source: K. Bennhold: “The female factor: In Sweden, men can have it all”, in *The New York Times*, 9 June 2010.

Parental leave take-up is also sometimes low among women, especially when it is unpaid. When schemes do not compensate the loss of income while on leave, it is difficult for lower-paid workers to take advantage of them. High take-up rates are strongly related to the level of compensation for loss of earnings while on leave. In particular, fathers take parental leave only when there is a relatively high level of compensation for loss of earnings.²²

Flexible arrangements and other innovative policies

Parental leave systems sometimes allow parents to choose how and when to take the leave (see **Box 6.12**). In some countries, the parental leave should be taken as a continuous period directly after maternity leave; in others, it can be split over a period when the child is young. This permits the parents to choose to take parental leave as it suits them.

In various countries, parental leave can be taken part-time, which gives the parents the possibility to reduce their working hours when their children are small. In some countries, the provisions on maternity, paternity and parental leave are integrated into one system.

Box 6.12 Gender-neutral parental leave

In **Iceland**, maternity and paternity leave are distributed in a perfectly equitable and gender-neutral manner, in line with the provisions on parental leave of Recommendation No. 191 (Paragraph 10(3)). Both parents share a quota of nine months. Of these nine, three are reserved for the mother and three for the father, which if not used are lost. The remaining three months can be divided between the two as they please, allowing them to plan for the family.

Source: ILO, 2010, op. cit.

²² ILO, 2010, op. cit., p. 55.

Avoiding the “leave trap”

Long leave periods may damage the future earning prospects of mothers. Expanding leave arrangements may be a positive development. However, given the current gender imbalance in care-giving, there is a risk that long leave periods (over a number of years) could have a negative impact on women’s participation and advancement in the labour force. In particular, lower labour force participation, wider gender pay differentials and increased gender segregation (both vertical and horizontal) may be a concern.²³ Studies on worker preferences indicate a desire for better-paid leave during shorter periods and flexible working arrangements rather than extended leave periods with little compensation.²⁴ The possibility of taking parental leave on a part-time basis and returning to work part-time can facilitate contact with the job and help to avoid problems of reintegration.²⁵

Adoption leave



Where national law and practice provide for adoption, adoptive parents should have access to the system of protection offered by the Convention, especially regarding leave, benefits and employment protection.

Recommendation No. 191, Paragraph 10(3)

As indicated in Recommendation No. 191, maternity leave provisions in accordance with Convention No. 183 should be available for adoptive parents in member States that provide for adoption (see **Box 6.13**). This allows both adoptive parents to adapt to the arrival of the child.

What is adoption leave?

In some countries, adoption leave provisions have been enacted that are similar to, or the same as, the provisions for maternity or parental leave. The day when the child arrives in the home of the adoptive parents is most often considered in the provisions as the date the leave begins. However, in the case of international adoptions, in some countries, such as Iceland, parents have the right to start the leave earlier if they have to travel to another country to secure the child.²⁶

In many countries, the maternity leave entitlement for adoptive parents is shorter than for biological mothers: obviously neither prenatal time nor a period of recovery from childbirth is needed (Tajikistan, Mongolia).²⁷ Nevertheless, when adoption leave provisions are available, often only women workers have access to such leave. This practice is not in accordance with Recommendation No. 191, which suggests that leave should be available

²³ J. Albrecht: “Career interruptions and subsequent earnings: A re-examination using Swedish data” in *Journal of Human Resources* (1999, Vol. 34, No. 2), pp. 294–311. M. Bertrand, C. Goldin and L. Katz: “Dynamics of the gender gap for young professionals in the financial and corporate sectors” (Cambridge, Harvard University, NBER 2008). R. Hausmann, L.D. Tyson and S. Zahidi: *The global gender gap report* (Geneva, World Economic Forum, 2009).

²⁴ L. Thornthwaite: “Work family balance: International research on employee preferences”, Working Paper No. 79 from Working Time Today Conference, University of Sydney, 16 Aug. 2002, p. 20.

²⁵ European Parliament: *EU: Extending maternity leave to 20 weeks full paid*, Press release, 23 Feb. 2010.

²⁶ ILO, 2010, op. cit., p. 56.

²⁷ Ibid.

to both parents adopting a child. Indeed, fathers are equally capable of caring for an adopted child as there is no period of recovery or breastfeeding that necessitates leave for the mother in particular. However, it should be noted that an adoptive mother who has already had biological children and breastfed them can relactate her adopted child. A number of countries follow the recommendation in this regard, while in some countries, adoptive fathers are only eligible for adoption leave in limited circumstances, such as when they are single parents or the adoptive mother does not take the available leave. Adoptive fathers often qualify when the leave is provided within parental leave schemes.

In some other countries, the age of the child affects the duration of the leave (see **Box 6.13**) and adoption leave may in some cases even be longer than maternity leave.

Box 6.13 **Examples of age of the child affecting length of adoption leave**

Brazil. In Brazil, the leave period is 120 days for adopting a child up to the age of one year. However, the period drops to 60 days for those who adopt children of one to four years of age, while mothers of children of four to eight years have the right to 30 days of leave.

Latvia. The duration of adoption leave changes according to the age of the child. In a family which has adopted a child between two months and three years, one of the adoptive parents can take leave of 14 calendar days, instead of 56 days for adoption of children under one year.

Slovenia. In Slovenia, adoptive parents are entitled to 150 days of paid leave for adopting a child under four, and to 120 days for adopting a child between four and 10 years old.

Source: ILO, 2010, op. cit.

Key points

- ➔ Maternity leave is a period of leave from paid work that women workers are entitled to during pregnancy, childbirth and the postnatal period.
- ➔ It provides a period of rest from the physiological demands of pregnancy, childbirth and breastfeeding, which only women bear. Thus, it contributes to promoting maternal and newborn health (MDGs 4 and 5).
- ➔ Maternity leave is one of the fundamental entitlements of maternity protection and it has been almost universally adopted in national legislation. Over the last decades, the length of maternity leave has increased in all parts of the world.
- ➔ Convention No. 183 states that maternity leave should not be less than 14 weeks, six of which have to be taken immediately after birth. Recommendation No. 191 suggests that maternity leave be at least 18 weeks. In 2009, around half of ILO member States provided at least 14 weeks of leave.
- ➔ Related types of leave have become increasingly common in recent years: paternity leave for fathers at the time of birth; parental leave, typically for men and women, to care for and nurture their young children; and adoptive leave for parents when an adopted child arrives.
- ➔ Parental leave is a work–family policy that recognizes that men also have family responsibilities. It generally allows either parent to share the leave and to decide how to share it. Some portions may be reserved exclusively to one parent (“father quota”). Most schemes are longer than maternity and paternity leave, and paid less. Paternity and parental leave for men are also important for the father to support breastfeeding.
- ➔ Mothers are more inclined to take parental leave than fathers, though this is slowly changing. The factors which influence men’s take-up rates are: level of wage replacement during leave; flexibility of the arrangement; job security upon return; protection of seniority and promotion opportunities; and evolving attitudes about men’s care roles in the home and at the workplace.

Key resources



Employment Market Analysis and Research (EMAR): International Review of Leave Policies and Related Research (London, 2010).

This review, published on an annual basis, provides a systematic analysis of leave policies in 29 countries, mainly in Europe. It includes data on maternity leave provisions and also gives a historical background on changes in labour legislation year-by-year, as well as a list of research projects on leave being conducted in each country.

Available at:

<http://www.bis.gov.uk/assets/biscore/employment-matters/docs/i/10-1157-international-review-leave-policies.pdf>



ILO: Maternity at work: A review of national legislation. Second Edition (Geneva, 2010).

This book contains the most up-to-date comparative analysis of maternity protection around the world. Based on the ILO database of maternity protection laws, it goes over all of the key components of the Maternity Protection Convention, 2000 (No.183), including the state of its implementation and creative examples of maternity protection laws in different countries. It has an extensive chapter on maternity leave provisions.

Available at:

http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_124442.pdf



ILO Database of Conditions of Work and Employment Laws

This legal database is the most exhaustive source on maternity protection legislation available internationally. It provides country-specific information on the key dimensions of maternity protection: the length of maternity leave, cash and medical benefits as well as their qualifying conditions and the source of funding; health protection; non-discrimination, employment security and breastfeeding upon return to work.

Available at: www.ilo.org/travdatabase



ILO Conditions of Work and Employment Programme (TRAVAIL)

The Conditions of Work and Employment Programme is responsible for research and policy advisory services on maternity protection and work–family reconciliation. It keeps the above legal database up-to-date, publishes guidelines on how maternity leave can be improved to meet ILO standards, and provides guidance for ILO constituents and others in improving their action in the field of maternity protection.

Available at: www.ilo.org/travail



Organisation for Economic Cooperation and Development (OECD) Family Database

The OECD provides information on work and family in its member countries. This includes data on maternal employment, leave duration, gender differences in employment and wages, and information on perceptions of good work–family balance by the population of each country. This information can be extremely useful to observe the effects of different maternity leave policies on work–family reconciliation.

Available at: www.oecd.org/els/social/family/database

Resource and tool sheets

Resource Sheet 6.1: Examples of leave provisions in national legislation which can be used by fathers at the time of childbirth²⁸

| Country | Provision |
|--|--|
| Africa | |
| Algeria | Three days' paid paternity leave |
| Cameroon | Maximum ten paid days' special family leave |
| Djibouti | Three days' paid paternity leave |
| Ethiopia | Five days of unpaid leave in the event of exceptional or serious events |
| Kenya | Two weeks' paid paternity leave |
| Madagascar | Ten days of unpaid leave for family events |
| Rwanda | Four days' paternity leave |
| Seychelles | Four days of paid leave for "compassionate reasons" |
| South Africa | Three days' paid family responsibility leave |
| United Republic of Tanzania | Three days' paid paternity leave |
| Togo | Up to ten days of paid leave for "family events directly related to home" |
| Tunisia | One day of paternity leave (private sector); two days (public sector) |
| Uganda | Four days' paid leave immediately after delivery |
| Asia (East, South-East, Pacific and South) | |
| Afghanistan | Ten days of "essential leave" (unpaid) that can be used for the birth of a new child |
| Cambodia | Ten days' special leave for family events |
| Indonesia | Two paid days when wife gives birth |
| Myanmar | Six days of paid "casual leave" that can be used by fathers to assist their spouses at the time of confinement |
| Philippines | Seven days' paid paternity leave for married workers |
| Viet Nam | Workers are allowed unpaid leave for family reasons |
| Central and South-Eastern Europe (Non-EU) and CIS | |
| Azerbaijan | Fourteen days' unpaid leave for men whose wives are on maternity leave |
| Bosnia and Herzegovina | Seven working days' paid paternity leave |
| Croatia | Seven days' paid leave for personal needs |
| The former Yugoslav Republic of Macedonia | Up to seven days' paid leave (determined by collective agreements) |

²⁸ The table accounts for leave provisions reserved for fathers or leave that can be used by fathers as paternity leave. It does not include parental leave provisions that can be used by the father or mother unless a portion of the leave is reserved for fathers or such leave is indistinguishable from paternity leave (e.g. in Norway and Sweden, maternity, paternity and parental leave are all considered part of the same system).

| Country | Provision |
|--|---|
| Developed Economies and EU | |
| Belgium | Ten days' paid paternity leave |
| Estonia | Fourteen calendar days |
| Finland | Eighteen days' paid ²⁹ |
| France | Eleven days' paid paternity leave, plus three days' paid leave for family reasons |
| Hungary | Five days' paternity leave |
| Iceland | Three months' paid parental leave reserved for the father |
| Latvia | Ten calendar days |
| Netherlands | Two days' paid paternity leave |
| New Zealand | Two weeks' unpaid paternity leave (or one week if only employed six months) |
| Norway | Ten weeks' paid parental leave reserved for the father |
| Portugal | Five days' paid paternity leave |
| Romania | Five working days' paid paternity leave |
| Slovenia | Ninety days' paternity leave (15 to be used before child is six months, remainder to be used before child is three years) |
| Sweden | Ten days' paid paternity leave, plus two months' paid parental leave reserved for the father |
| United Kingdom | Two weeks' paid paternity leave |
| Middle East | |
| Saudi Arabia | One day of paid paternity leave |
| Latin America and the Caribbean | |
| Argentina | Two days' paid paternity leave |
| Bahamas | One week of unpaid family-related leave |
| Brazil | Five days' paid paternity leave |
| Chile | Five days' paid paternity leave (one in first three days after birth, four in first month) |
| Colombia | Eight (four) days' paid paternity leave (depending on whether or not both parents are insured) |
| Guatemala | Two days at birth of child |
| Paraguay | Two days' paid paternity leave |
| Uruguay | Three days' paternity leave for civil servants |

Sources: ILO Database of Conditions of Work and Employment Laws - Maternity Protection and ILO NATLEX.

²⁹ If the father takes the last working days in the parental allowance period, he gets 1–24 additional working days of leave ("daddy month").

Visual presentation model

SLIDE 1: Key contents


Mod.
6

Maternity leave and related types of leave

Key contents

This module looks at why maternity leave matters, what provisions have been set out under maternity protection labour standards and in national legislation, and how to extend coverage to more workers. It also provides an overview of other types of leave relating to the care of children. It covers the following topics:

- Why maternity protection is important
- Key features of maternity leave in international labour standards
- Trends and experiences from national legislation around the world
- Considerations for extending maternity leave to informal economy workers
- Other care-related leave policies, including paternity, parental and adoption leave

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1

SLIDE 2: Why is maternity leave important? (1)

Mod.
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Maternity leave and related types of leave

Why is maternity leave important? (1)

- Covers periods before, during and after childbirth
- Pregnancy is not an illness, working during pregnancy is advisable
- However, for medical reasons, women should not work:
 - At least two weeks preceding childbirth
 - At least six weeks following childbirth



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SLIDE 3: Why is maternity leave important? (2)

Mod.
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Maternity leave and related types of leave

Why is maternity leave important? (2)

Maternity leave is essential to:

- ➔ Detect and report postpartum complications
- ➔ Heal, rest and physically recover from childbirth
- ➔ Maintain exclusive breastfeeding
- ➔ Adjust psychologically and emotionally to this new situation
- ➔ Bond with the child
- ➔ Have time for necessary medical examinations and info sessions
- ➔ Allow women to reconcile their family life with their work obligations
- ➔ Ensure the physical, mental and emotional wellbeing of the mother before and after childbirth


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SLIDE 4: How long should maternity leave be?

Mod.
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Maternity leave and related types of leave

How long should maternity leave be?

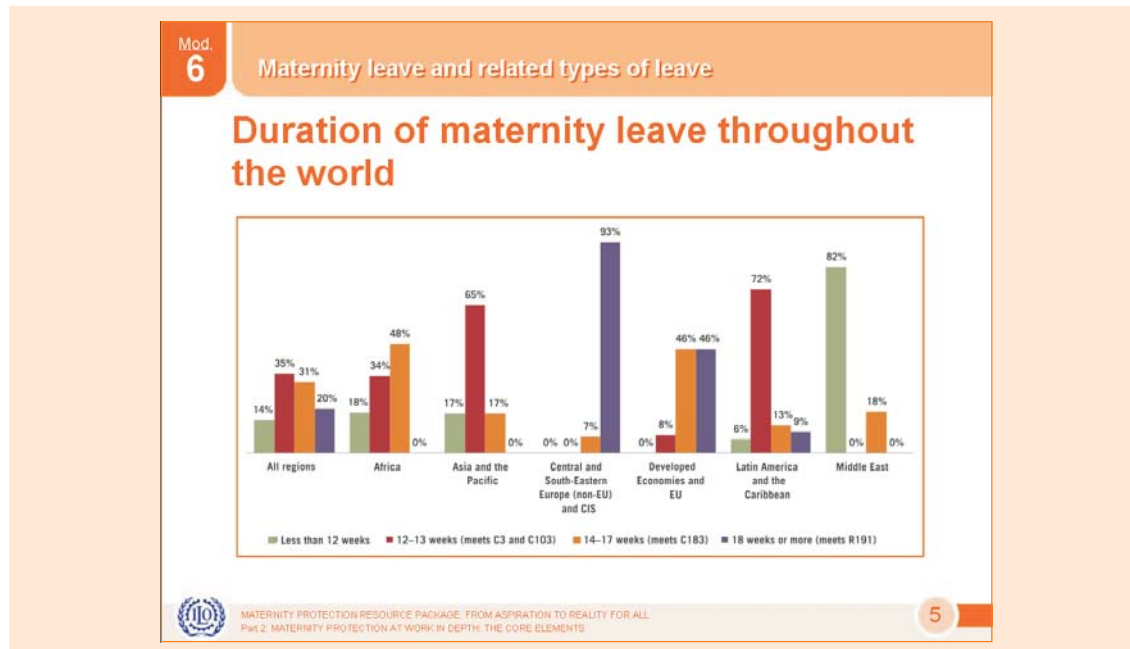
- ➔ ILO suggests a minimum of 14 weeks, and recommends 18 weeks
- ➔ Half of countries meet the minimum; a fifth meet the recommendation
- ➔ From 1994 to 2009, global shift to longer leave; only two countries reduced their maternity leave period
- ➔ More countries are implementing paternal and parental leave




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SLIDE 5: Duration of maternity leave throughout the world



SLIDE 6: When can maternity leave be taken?

Mod. 6 Maternity leave and related types of leave

When can maternity leave be taken?

- ➔ It can be taken before, during and after birth
- ➔ Compulsory leave: six weeks after birth, to protect the mother from pressure to return too soon
- ➔ Prenatal leave: allows rest before childbirth, with positive impact on the child and the mother's health
- ➔ Outside of compulsory leave, women should be able to choose when to take leave
- ➔ Leave should be extendable if necessary for the well-being of the mother and/or child

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SLIDE 7: What about maternity leave for the informal economy?

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6

Maternity leave and related types of leave

What about maternity leave for the informal economy?

- ➔ Without cash benefits to replace income, many low-income informal economy workers cannot take maternity leave
- ➔ Half of the world has no social protection; over 90 per cent in sub-Saharan Africa
- ➔ Two important objectives for the ILO:
 - To achieve universal social protection
 - To ensure that social protection benefits include maternity protection


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SLIDE 8: Paternity, parental and adoption leave

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6

Maternity leave and related types of leave

Paternity, parental and adoption leave

Other care-related leave: paternity, parental and adoption leave are important:

- ➔ To enable families to reconcile work and family responsibilities
- ➔ To enable better planning and preparation for the child's arrival
- ➔ To achieve greater gender equality at home and at work




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SLIDE 9: Paternity leave

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Maternity leave and related types of leave

Paternity leave

- ➔ Paternity leave is becoming more and more common: more and more fathers are entitled to paternity leave around the world and increasing numbers are taking it
- ➔ Important for fathers to bond with the child and support the mother, in particular when she is breastfeeding
- ➔ It can help to foster gender equality and promote the father taking up family responsibilities
- ➔ The ILO has no set standard for the duration of paternity leave

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SLIDE 10: Parental leave


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Maternity leave and related types of leave

Parental leave

Parental leave allows:

- ➔ Parents to participate in the early development of the child
- ➔ Parents to reconcile work and family, and diminish stress and absenteeism
- ➔ ILO standards state that such leave should be available to all parents, mothers and fathers, but do not specify duration or remuneration.
- ➔ Typically, it is:
 - Available for a long term and can last up to several years
 - Paid less than maternity leave, or unpaid
- ➔ Important to take measures to ensure reintegration into work after long-term leave

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SLIDE 11: Adoption leave

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Maternity leave and related types of leave

Adoption leave

Recommendation No. 191 encourages the availability of leave provisions in accordance with Convention No. 183 for adoptive parents in member States that provide for adoption. In general:

- The arrival date of the child is considered as its birth date
- In case of an international adoption, travel time can be included in the leave period
- It should be available equally to mothers and fathers
- In some cases the age of the child can affect the length of leave


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SLIDE 12: Key points

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Maternity leave and related types of leave

Key points

- Maternity leave is a period of leave from paid work that women workers are entitled to during pregnancy, childbirth and the postnatal period.
- It provides a period of rest from the physiological demands of pregnancy, childbirth and breastfeeding, which only women bear. Thus, it contributes to promoting maternal and newborn health (MDGs 4 and 5).
- Maternity leave is one of the fundamental entitlements of maternity protection and it has been almost universally adopted in national legislation. Over the last decades, the length of maternity leave has increased in all parts of the world.
- Convention No. 183 states that maternity leave should not be less than 14 weeks, six of which have to be taken immediately after birth. Recommendation No. 191 suggests that maternity leave be at least 18 weeks. In 2009, around half of ILO member States provided at least 14 weeks of leave.
- Related types of leave have become increasingly common in recent years: paternity leave for fathers at the time of birth; parental leave, typically for men and women, to care for and nurture their young children; and adoptive leave for parents when an adopted child arrives.
- Parental leave is a work-family policy that recognizes that men also have family responsibilities. It generally allows either parent to share the leave and to decide how to share it. Some portions may be reserved exclusively to one parent ("father quota"). Most schemes are longer than maternity and paternity leave, and paid less. Paternity and parental leave for men are also important for the father to support breastfeeding.
- Mothers are more inclined to take parental leave than fathers, though this is slowly changing. The factors which influence men's take-up rates are: level of wage replacement during leave; flexibility of the arrangement; job security upon return; protection of seniority and promotion opportunities; and evolving attitudes about men's care roles in the home and at the workplace.


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- **Part 1: Maternity Protection at work: The basics**
- **Part 2: Maternity Protection at work in depth: The core elements**
- **Part 3: Taking action on Maternity Protection at work**



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