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## “CLOSING THE GENDER GAP IN PARENTAL LEAVE: A COMPARATIVE ANALYSIS OF PARENTAL LEAVE IN INDIA AND WESTERN COUNTRIES”

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### ABSTRACT

*This research paper delves into comparative analysis of parental leave in India and other western countries to suggest how gender gap can be minimised and closed for recognising caregiving role of both the parents. There are several countries that adopted parental leave law for the well being of the newborn in this contemporary world. Parental leave under labour law has evolved from a mere ‘maternity benefit’ measure into a broader gender neutral policy in advanced economies but in India, however, statutory protection remains largely maternity-centric, with limited statutory recognition of paternity or shared parental leave. This research paper deploys, the use of doctrinal and comparative legal method to analyse the parental leave regimes in India, Sweden, Germany, and the US to draw lessons on duration, remuneration, job protection, gender neutral design, coverage of informal sector and private sector. It mainly points out that though India’s maternity leave provisions are relatively generous in duration, they remain maternity centric and fail to institutionalise shared parental responsibility. By drawing lessons from other western countries, the study proposes that India should move towards shared parental leave scheme. For the purpose of this study, this paper will examine statutes, codes, reports and judgements pertaining to maternity and paternity benefit across various countries.*

**Keywords:** *Maternity benefits, Paternity benefits, shared parental leave, gender neutral design, informal sector.*

### INTRODUCTION:

In June 2025, the ILO celebrates the 25th anniversary of the adoption of the Maternity Protection Convention, 2000 (No. 183). This milestone offers a timely opportunity for the present brief to review the current status of paid parental leave policies—covering maternity, paternity, and parental leave—across the world, as well as the associated gender gap. It further provides guidance on how countries can advance equality and fairness by investing in more gender-responsive paid parental leave schemes<sup>628</sup>. Enhancing parental leave

entitlements is crucial for achieving gender equality at work, as it allows parents to share caregiving responsibilities at home, promotes better work–life balance, supports child development, and has a positive impact on women’s labour force participation and earnings.

Globally there is also a large difference in parental leave reserved for mother and father. Comparing countries which offers parental leave for both Mothers and Fathers, on average, mothers are entitled to 24.7 paid weeks, whereas fathers are reserved only with 2.2 weeks of parental leave. So there is a difference

<sup>628</sup> International Labour Organization, Closing the Gender Gap in Parental Leave: A Global Review, at 1 (2025).

of 5 months between parental leave granted to Father and Mother.

### **RESEARCH QUESTION:**

How India's parental leave regime can be reformed to minimise the gender gap by drawing lessons from gender responsive parental leave models in western countries?

### **RESEARCH OBJECTIVES:**

1.To examine the structure and scope of parental-leave entitlements—maternity, paternity, and shared parental leave—in India, with a focus on coverage, duration, and remuneration.

2.To conduct a comparative analysis of parental-leave regimes in selected Western countries (Sweden, Germany, and the United States), highlighting their gender-responsive design, job-protection mechanisms, and impact on women's labour-force participation and wages.

3.To identify the gender gap in caregiving and labour-market outcomes arising from India's current maternity-centric and paternity-deficient parental-leave regime.

4.To explore the role of international labour organisation (especially the 25th-anniversary review of ILO Maternity Protection Convention No. 183) in shaping gender-responsive parental-leave policies.

5.To propose a reform-oriented parental-leave model for India that incorporates gender-neutral, shared-parental-leave elements, extends coverage to informal-sector workers, and aligns with constitutional guarantees of equality, dignity, and social justice.

### **RESEARCH METHODOLOGY:**

This study adopts a doctrinal, and comparative-legal methodology to analyse parental-leave regimes in India and selected Western countries (Sweden, Germany, and the United States). This research primarily relies on secondary sources including statutes, case law,

international instruments, policy documents, and academic literature.

### **LITERATURE REVIEW:**

1.Yanamala Lokeswari, GITAM School of Law, "A COMPARATIVE ANALYSIS OF MATERNITY BENEFITS IN INDIA WITH OTHER COUNTRIES" deals with maternity benefit in India and how it is different other countries.

2.ILO, "MATERNITY AND PATERNITY AT WORK ,LAW AND PRACTICE ACROSS THE WORLD" deals with safe maternity and healthcare for mother and infant survival is the core of life itself.

3.Khushi Sharma, COMPARATIVE STUDY OF MATERNITY RIGHTS OF WOMEN IN INDIA AND UK",the paper first outlines the maternity benefits schemes in India and the United Kingdom, highlighting the statutory provisions and policy frameworks in both countries. It then compares the two jurisdictions with respect to maternity leave, paternity leave, and conditions of work. After this analysis, the author offers key observations on the effective implementation of maternity benefits in both nations. The study concludes by noting that the United Kingdom provides a greater number of leave days and is governed by a more extensive set of rules compared to India.

4.Gayathri Devi, Dr K. Lokasakthi (2020), A COMPARATIVE ANALYSIS ON MATERNITY BENEFITS IN INDIA WITH OTHER COUNTRIES",the paper examines the maternity benefits provided to pregnant women in India and comparatively analyses them with those in other major countries. Initially, the author discusses the Maternity Benefit Act and its amendment in India, explaining the statutory entitlements available to women workers. Subsequently, the study outlines the maternity-leave regimes in countries such as Australia, Singapore, China, and Belgium, highlighting key differences in duration, remuneration, and conditions of work. The author concludes by observing that India offers relatively generous benefits in terms of paid maternity leave, granting eligible women 26 weeks of paid leave.

5.ILO, "CLOSING THE GENDER GAP IN PAID PARENTAL LEAVES: BETTER PARENTAL LEAVES FOR A MORE CARING WORLD OF WORK"(2025) , It examines the social and economic costs of this disparity and outlines policy options to support more equitable, inclusive, and sustainable parental leave systems that uphold the right to maternity protection for all women and acknowledge the caregiving responsibilities of both parents.

## **I.PARENTAL LEAVE REGIME IN INDIA:**

### **1.1.Maternal benefit:**

Maternity benefit refers to paid leave from work, along with any other support provided to women who are about to give birth or have recently given birth or adopted a child, to help them manage the physical, emotional, and practical changes that come with becoming a parent. Biologically, only women experience pregnancy and childbirth, and socially and culturally, they are often expected to take on the primary responsibility for raising children. Because of this, it is the State's responsibility—while society gradually moves towards a more equal and shared model of parenting—to ensure that women are properly protected through maternity benefits, especially paid leave. These benefits enable women to recover, care for their children, and then return to work with the confidence and financial independence they need to live with dignity.<sup>629</sup>

### **A)Before Labor code:**

Before the enforcement of the Code on Social Security in November 2025, maternity benefit in India was governed by Maternity Benefit Amendment Act,2017<sup>630</sup> which replaced the Maternity Benefit Act,1961<sup>631</sup> and gives the following:

The government has increased the duration of maternity leave for pregnant women from 12

weeks to 26 weeks. This leave can be taken in a split manner—up to eight weeks before delivery and the remaining period after delivery. The post-delivery portion is primarily intended to enable the mother to care for the newborn. However, in the case of a third child, the maternity leave is reduced to 12 weeks, divided equally into six weeks before and six weeks after delivery. An adoptive mother is also entitled to maternity leave for a period of 12 weeks if the child is under 3 months of age. Similarly, a woman who uses her own egg to create an embryo implanted in another woman (the biological mother) is eligible for 12 weeks of maternity leave, treating her as the child's legal mother for the purpose of leave entitlement.<sup>632</sup> Establishment with 50 or more employees or mandatory required to provide creche facilities within a prescribed distance. It introduced work from home provision. This act applies to all establishment employing 10 or more people and to qualify for these benefits a woman must have worked for the employer for at least 80 days in the 12 months immediately preceding the expected delivery.

### **B)After labor code:**

Currently, the Code on Social Security,2020<sup>633</sup> which was enacted in 2020 and enforced from November 2025 governs the provision relating to Maternity Benefits in India . Under the said code, Chapter VI ,Section 59 to 72<sup>634</sup> deals with Maternity Benefit and the section 60<sup>635</sup> gives the right to payment of maternity benefits –

- This section provides for right to payment of maternity benefit to every woman at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day, if she has actually worked

<sup>629</sup> Digvijay, COMPARATIVE ANALYSIS OF MATERNITY BENEFIT ACT IN INDIA WITH LEGISLATIONS OF OTHER COUNTRIES,Vol.6 Journal of Positive School Psychology 883,883(2022)

<sup>630</sup> The Maternity Benefits (Amendment) Act, 2017, No. 6, Acts of Parliament, 2017 (India).

<sup>631</sup> Maternity Benefits Act, 1961, No. 53, Acts of Parliament, 1961 (India).

<sup>632</sup> Yanamala Lokeswari, a comparative analysis of maternity benefits in India and other countries,Vol V Issue IV Indian journal of law and legal research,4(2022).

<sup>633</sup> The Code on Social Security, 2020, No. 36 of 2020, Acts of Parliament, India.

<sup>634</sup> The Code on Social Security, 2020, No. 36 of 2020, Acts of Parliament, India.

<sup>635</sup> The Code on Social Security, 2020, No. 36 of 2020, Acts of Parliament, India.

in an establishment of the employer from whom she claims maternity benefit.

- Such woman shall be entitled to maternity benefit for a period of not less than eighty days in the twelve months immediately preceding the date of her expected date of her delivery, subject to a maximum of twenty-six weeks of which not more than eight weeks shall precede the expected date of her delivery.
- It further provides that a woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks.
- It also provides that in case the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

Section 67<sup>636</sup> provides for the establishment of of Creche facilities in an establishment which has 50 employees or such number prescribed by the central government.

In addition to this, Maternity benefits are paid in case of death of a woman as well under section 63<sup>637</sup>.

### **1.2. Paternal Benefit:**

In India, paternity leave is a crucial policy that enables new fathers to spend meaningful time bonding with their newborns and sharing caregiving responsibilities. As an increasing number of Indian male employees are willing to take advantage of this benefit. It is important for employees especially remote based employees to understand the key requirement and ensure

compliance with paternity leave rules and other statutory employee benefits.<sup>638</sup>

In India, the legal framework for paternity leave is primarily set out in a rule known as the **Central Civil Services (Leave) Rule 551-A, 1972**, which provides paternity-leave benefits to eligible male government employees. Under this rule, qualifying fathers are entitled to **15 days of paid leave within six months of the birth or adoption of a child**, giving them time to be present and involved during the early stages of parenting.

To qualify, a male employee must generally have worked for the organisation for at least **80 days in the 12 months immediately before the expected date of delivery or adoption**. During this paternity leave, the employee continues to receive their full wages, ensuring that taking time off to care for a newborn does not come at a financial cost.

This is available only to central government employees and there is no formal policy for private sector employees.

Following the enactment of the Maternity Benefit (Amendment) Act, 2017, a bill aimed at granting paternity benefits to all employees was introduced in the same year by M.P. Jothimani.S which is Paternity Benefit Bill,2019 but was not passed by Parliament. In the absence of any statutory requirement for paternity leave, many private employers have nonetheless chosen to offer the benefit, though they do so through their own internal policies and conditions.<sup>639</sup>

### **2. PARENTAL REGIME IN US:**

2.1. Federal Protection: The Family and Medical Leave Act (FMLA)

The most significant federal framework governing paternity leave in the United States is

<sup>636</sup> The Code on Social Security, 2020, No. 36 of 2020, Acts of Parliament, India.

<sup>637</sup> The Code on Social Security, 2020, No. 36 of 2020, Acts of Parliament, India.

<sup>638</sup> Angelica Krauss, Paternity Leave in India: What Are the Rules?, RemoFirst, <https://www.remofirst.com/post/paternity-leave-in-india> (last visited Mar.16,2026).

<sup>639</sup> Angelica Krauss, Paternity Leave in India: What Are the Rules?, RemoFirst, <https://www.remofirst.com/post/paternity-leave-in-india> (last visited Mar.16,2026).

the Family and Medical Leave Act of 1993<sup>640</sup> (FMLA). This law allows eligible employees to take up to 12 weeks of unpaid leave to care for themselves or family members, including for the following reasons:

- The birth of a newborn child
- The adoption of a child (within the first year)
- Caring for a child with a serious health condition

Situations where the employee is in loco parentis” (acting in a parental role without being a legal guardian)

The FMLA also ensures that employer-sponsored health insurance continues during the leave period and provides job protection when the employee returns to work.

However, FMLA coverage comes with important limitations. To qualify, employees must work for:

Private employers with at least 50 employees within a 75-mile radius, or

Government agencies, public elementary or secondary schools (regardless of size)

In addition, employees must have:

- At least 12 months of service with the same employer, and
- Worked at least 1,250 hours during the previous 12-month period.<sup>641</sup>

### **3. PARENTAL LEAVE REGIME IN SWEDEN:**

More than fifty years ago, Sweden began reshaping parental leave to promote greater gender equality by including fathers in the parental insurance system. In 1974, Sweden became the first country in the world to replace gender-specific maternity leave with a unified parental leave available to both mothers and fathers. Under the then-introduced parental insurance, parents could take up to six months off work per child, with half of the leave days

reserved for each parent. Yet at that time, fathers used only about 0.5% of the paid parental leave. Today, Swedish parents are entitled to 480 days of parental leave per child. Of these, 90 days are reserved exclusively for each parent, while the remaining 300 days can be shared flexibly between them. As a result, fathers now take approximately 30% of the paid parental leave, reflecting a significant shift toward more equal caregiving responsibilities.<sup>642</sup>

### **4. PARENTAL LEAVE REGIME IN GERMANY:**

Parental leave is a policy that allows parents—typically after maternity and paternity leave—to take time off work to care for their young children while still keeping their jobs secure. This kind of support exists in every European Union Member State, reflecting a shared recognition that families need time to bond and adjust without sacrificing employment.

In Germany, the system is known as Elternzeit and Elterngeldgesetz: *Elternzeit* refers to the period of job-protected parental leave, while *Elterngeldgesetz* is the scheme that provides paid parental leave benefits. Although all EU countries offer some form of parental leave, the design and rules differ from one country to another. As a result, not every parent in the EU—whether woman or man—actually qualifies for the full benefit, and access often depends on employment status, income, and other conditions.

- The amount changes between 65% and 100% of previous earnings depending on the duration of leave taken.
- 14 months (paid for a period of 12 plus 2 Partner bonus months) if both parents take at least two months of leave.
- While the leave benefit is an individual right, the leave itself is a family entitlement.<sup>643</sup>

<sup>640</sup> Family and Medical Leave Act of 1993, Pub. L. No. 103-3, 107 Stat. 6 (1993).

<sup>641</sup> Parental Leave in the U.S.: Laws, Benefits & Rights Guide, Tulane University, <https://online.law.tulane.edu/blog/parental-leave-in-the-us/> (last visited April 11, 2026)

<sup>642</sup> Parental leave in Sweden, Sharing Sweden, <https://sharingsweden.se/materials/parental-leave-in-sweden> (last visited April 11, 2026).

<sup>643</sup> Who is eligible for parental leave in Germany?, European Institute for gender equality,

### **COMPARATIVE ANALYSIS:**

On comparison, it shows that Indian model is generous in maternity duration but lags sharply in paternity and shared parental leave design, whereas Sweden and Germany explicitly use parental leave law as a tool of gender neutralisation but US on other side being a developed nation provides no paid parental leave, just unpaid job protection for 12 weeks under FMLA.

### **ILO ON GENDER GAP IN PARENTAL LEAVE:**

ILO released a report on Closing the gender gap in paid parental leaves in June 2025 as it marks 25th anniversary of adoption of the Maternity Protection Convention, 2000 (No.183). According to the report, Globally, the average gender gap in paid parental leave stood at 22.5 weeks (about 5.2 months) in 2024. This means that, on average, mothers are entitled to roughly five additional months of paid leave compared to fathers following the birth or adoption of a child. Across countries, paid paternity leave remains significantly shorter than maternity leave—by an average of 16 weeks. In fact, among the 186 countries for which the ILO has data, the average duration of paid paternity leave is still very low—only four days (0.6 weeks). Among the 105 countries that have statutory paid paternity leave, the average is slightly higher but still modest, at about ten days. The average total paid parental leave available to mothers is 24.7 weeks, whereas the total paid parental leave reserved specifically for fathers is just 2.2 weeks.<sup>644</sup>

### **RECOMMENDATION AND SUGGESTION FOR INDIA:**

**1. Introduce a statutory, gender-neutral parental-leave scheme or Social Security code it self can be amended to provide paternity benefits**

[https://eige.europa.eu/sites/default/files/documents/20210519\\_mh0121037\\_en.pdf](https://eige.europa.eu/sites/default/files/documents/20210519_mh0121037_en.pdf), (last visited April 11, 2026).

<sup>644</sup> International Labour Organization, Closing the Gender Gap in Parental Leave: A Global Review, at 4 (2025).

India should move beyond a maternity-centric model and introduce a statutory, shared parental-leave scheme that reserves a portion of leave exclusively for each parent (inspired by Sweden's "use-it-or-lose-it" father-quota), making caregiving a shared legal responsibility rather than a mother-only duty. This would reduce the gender-based burden on women, lower discrimination in hiring and promotion, and align India with global best practices in gender-responsive leave design.

### **2. Learn from Western models but adapt to Indian context.**

India should draw lessons from Sweden and Germany (e.g., shared-parental-leave, "daddy-quota", and phased-return-to-work options) but calibrate duration and financing to its fiscal and social-norms context.

### **3. Strengthen implementation and enforcement mechanisms**

Establish clear monitoring and grievance-redressal mechanisms (e.g., simplified claims under the Code on Social Security, 2020) and introduce transparency requirements. Without robust enforcement, legal provisions remain symbolic; monitoring would help detect discrimination and support policy-tuning over time.

### **4. Combine leave with supportive workplace practices**

Complement statutory leave with supportive practices such as: Flexible work-hours and work-from-home options after leave, On-site or subsidised creche facilities in large establishments, and Gender-sensitivity training for employers and managers. These measures help women and men return to work smoothly, reduce stigma around parental-leave uptake, and foster a culture of shared caregiving.

### **5. Align with ILO norms and constitutional values**

India should explicitly frame parental-leave reform as part of its commitment to the ILO Maternity Protection Convention, 2000 (No. 183)

and broader gender-equality norms, and base its model on constitutional guarantees (Articles 14, 15, 21, 42). This would strengthen the normative appeal of the reforms and justify resource-investment in social-security-linked parental-leave schemes.

### CONCLUSION

The studies reviewed show that when both mothers and fathers take parental leave, it has a powerful and positive impact on a child's development and the quality of the parent-child relationship. Maternity leave gives mothers the time and space to provide attentive, loving care for their newborns. Exclusive breastfeeding for the first six months, in particular, is vital for a baby's health and can deepen the emotional bond between mother and child. It also allows mothers to tune into their baby's needs, respond more sensitively, and build secure, healthy attachments.

At the same time, when fathers actively take paternity leave and share in early childcare—from infancy through the preschool years—it strengthens their connection with their children and contributes to calmer, more balanced family life. This greater involvement is linked to fewer behavioural problems in children and a more supportive home environment. The benefits often extend well beyond early childhood, showing up in adolescence in the form of greater emotional stability, conscientiousness, better mental health, stronger school performance, and lower rates of absenteeism and psychological distress.

In short, a supportive, inclusive, and reasonably long parental leave policy does much more than help parents manage work and family life—it lays a strong emotional and social foundation for children that can last a lifetime.<sup>645</sup>

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