

---

## IMPORTANCE OF PATERNITY LEAVE

---

Rakesh. M, Tamilnadu Dr. Ambedkar Law, University (School of Excellence in Law)

### ABSTRACT

An often-overlooked component of workplace and family policies, paternity leave is essential for advancing gender equality, bolstering the well-being of families, and increasing productivity at work. The importance of paternity leave in modern culture is examined in this essay. It looks at the advantages of paternity leave for families, companies, and society as large. Some of these advantages include lowering mother stress, encouraging shared caregiving responsibilities, and creating a more welcoming and equal work environment. Additionally, it looks into the difficulties and roadblocks that prevent paternity leave laws from being implemented, including societal conventions, financial worries, and legislative restrictions and how lack of paternity leave is negating the purpose of maternity leave. This article emphasizes that in order to effectively address these issues, comprehensive paternity leave regulations are required, drawing on case studies, research findings, and policy recommendations. Legislators, businesses, and society at large may foster a more gender-neutral workplace culture, support family values, and safeguard the health of both parents and children by embracing paternity leave and pushing for its broad implementation.

**Keywords:** paternity leave, maternity leave, parents, children, equal work environment.

## **Introduction**

Given its critical role in supporting the health of working women, the care of their newborns, and the overall well-being of their families, maternity leave has long been acknowledged as a fundamental entitlement. But inadequate or nonexistent paternity leave laws defeat the fundamental goal of maternity leave, maintaining gender inequalities and burdening mothers excessively. This essay looks at how the objectives and efficacy of maternity leave are undermined when paternity leave is absent, which eventually impedes the advancement of gender equality in the workplace and society.

Maternity leave is intended to help women heal from childbirth, strengthen their link with their newborn, and advance gender equality. However, because fathers are not given the same opportunity to care for their children, it frequently fails to accomplish these goals. Conventional gender conventions that designate women as the major caregivers not only perpetuate gender stereotypes but also restrict dads' involvement in their children's lives and increase the difficulties placed on working mothers.

The value of fathers participating in caregiving responsibilities has gained attention in recent years, as it contributes to the advancement of gender equality and family well-being. Studies have indicated that paternity leave-takers are more likely to be involved in child care over the long run, which improves child outcomes and fosters more equal parent-child relationships. Nevertheless, a lot of nations and organizations still lag behind in offering sufficient assistance to fathers who need time off to take care of their families.

The goal of this essay is to examine the various ways that the absence of paternity leave affects fathers, working mothers, kids, and society at large. We can better appreciate how resolving this issue is crucial for accomplishing the objectives of maternity leave and furthering gender equality by looking at the difficulties faced by working mothers, the advantages of paternity leave, and the obstacles to its implementation. By implementing workplace reforms, societal changes, and governmental changes, we can strive to establish a more egalitarian and encouraging atmosphere for all parents and their kids.

## **Maternity Leave Definition**

In India, maternity leave refers to the period of time off from work that is granted to a female

employee before and after childbirth. The purpose of maternity leave is to allow mothers to recover from childbirth, bond with their newborn, and attend to their childcare needs without the worry of losing their jobs or facing financial hardship.

The Maternity Benefit Act, 1961, governs maternity leave in India. According to this act, eligible female employees are entitled to a maximum of 26 weeks of maternity leave. This period includes up to 8 weeks of leave before the expected date of delivery (which is referred to as "pre-natal leave") and up to 18 weeks of leave after childbirth (which is referred to as "post-natal leave").

During maternity leave, the female employee is typically entitled to receive maternity benefits, which include paid leave and medical benefits, as specified by the employer or as mandated by the law.

### **Eligibility of Motherhood in India**

- Pregnant women
- Women adopting a child
- Women who experience a miscarriage
- Surrogate or commissioning mothers

### **Paternity Leave Definition**

Paternity leave is a concept in which fathers are entitled to take time off work to care for a baby or to assist their spouse/partner throughout labor and the early stages of childcare when they are given paternity leave. Globally, paternity leave is becoming more widely acknowledged as a crucial component of gender parity since it enables fathers to actively participate in their children's upbringing and fosters a close relationship with the child.

In India, unlike maternity leave, paternity leave is not regulated by a single central statute; instead, it is provided differently by different institutions. While some employers may not offer paid or unpaid paternity leave at all, others may offer it for a few days to several weeks. Individual businesses usually set the terms and circumstances of paternity leave based on their

policies and practices. This includes things like the duration and eligibility requirements.

### **History of Paternity Benefit in India**

The Maternity Benefits Act, enacted in 1961, provided benefits for pregnant women who were working. Women are entitled to a range of facilities, incentives, and advantages under this Act.

However, there is currently no legal provision for paternal benefits. However, it was recognized that in order to preserve a strong family unit, provisions for paternity leave had to be established.

Therefore, under Central Civil Services (Leave) Rule 551 (A), the Indian Central Government began offering paternity leave to its employees in 1999. It offers a 15-day paternity leave period. Employees with fewer than two living children are to receive it. This leave may be used for fifteen days prior to or within six months following the child's delivery date.

In September 2017, Maharashtra MP Rajeev Satav introduced the Paternity Benefit Bill, 2018 (the "PB Bill") in the Lok Sabha, in accordance with the passing of the Maternity Benefit (Amendment) Act, 2017.

The PB Bill required new dads to be awarded a fifteen-day paternity leave, with an extension of up to three months. The PB Bill's goals are to allow new fathers the chance to form strong bonds with their kids without sacrificing their obligation to support their family and to acknowledge the critical role that fathers play in raising their children.

In India, the Metropolitan Magistrate or a Magistrate of the first class must preside over all proceedings pertaining to the granting of paternity leave. Under this Act, they have the authority to trial anyone for any offense. However, courts beneath them lack the authority to continue the trial.

### **Impact of Lack of Paternity Leave**

In addition to having substantial effects on dads and their families, the absence of paternity leave may also have wider societal repercussions.

**1. Gender Inequality:** In the absence of paternity leave, mothers are frequently the ones who

shoulder the majority of childcare duties, which perpetuates gender inequality by reinforcing traditional gender norms. This may limit women's employment choices and make it more difficult for them to advance in their careers.

**2. Father-Child Bonding:** During paternity leave, fathers can spend crucial time developing a close emotional link with their newborn. Fathers might lose out on important bonding moments in their child's early years if they don't get this chance.

**3. Support for New Mothers:** Fathers who take paternity leave are able to assist their spouses during childbirth and the postpartum phase, which lessens the stress on newlyweds and enhances their mental and physical health. Mothers who do not have access to paternity leave may experience feelings of isolation and overload, especially if their spouses do not provide them with adequate support.

**4. Child Development:** Studies reveal that fathers who actively participate in their children's upbringing from a young age can enhance their cognitive, social, and emotional growth, among other favorable consequences. The lack of paternity leave may make it more difficult for dads to engage actively in their children's upbringing, which could have an adverse effect on the development of the children.

**5. Work-Life Balance:** By giving dads time off to prioritize their families without jeopardizing their professions, paternity leave helps them strike a better work-life balance. Fathers who are unable to balance their obligations to their families and their jobs may become more stressed and burned out without this help.

**6. Employer Retention and Satisfaction:** Organizations that include paternity leave in their benefits package are more likely to draw in and keep top talent because it shows a commitment to work-life balance and employee well-being. Lower employee satisfaction and retention rates could arise from the lack of paternity leave, especially among younger generations that place a higher value on family-friendly workplace practices.

**7. Societal Attitudes and Norms:** Social conventions and views about gender roles and caregiving obligations may be challenged by the availability of paternity leave. Paternity leave encourages men to participate actively in childcare, which advances more equitable partnerships and helps change societal views of fatherhood.

The absence of paternity leave affects not just specific fathers and their families but also gender equality, child development, workplace dynamics, and public perceptions of childrearing and parenting. Enacting laws pertaining to paternity leave can assist in addressing these issues and fostering more supportive and equal settings for men and women.

### **Paternity Leave - Indian Scenario**

In India, the only people eligible for paternity leave are those employed by the government. This Act makes no provisions for workers in the private sector. On the other hand, paternity leave trends have changed in India.

In the organized sector, the Ministry of Women and Child Development made a presentation for the concept of legalizing paternity leave.

Since there are no laws under this Act requiring the private sectors to operate in accordance with their paternity leave policies, they are free to do so. In addition, a number of private businesses provide paternity leave without being required by law.

Employees at Tata Consultancy Services (TCS) receive 15 days of paternity leave, Wipro 8 weeks, and Infosys 5 days.

### **Paternity Leave - International Scenario**

Male employees of UNICEF<sup>1</sup> were previously entitled to four weeks of paid paternity leave; however, this benefit has subsequently been expanded to sixteen weeks globally.

Parents are allowed around a year of paid leave in Britain, Sweden, and Norway to care for their babies during that especially important and challenging time. List of a few nation's leave policies.

Sweden - 90 days of paternity leave, 80% pay of normal salary

Finland - Eight weeks of fully paid paternity leave; parents may divide the twenty-three weeks anyway they see fit.

---

<sup>1</sup> <https://www.unicef.org/media/95086/file/UNICEF-Parental-Leave-Family-Friendly-Policies-2019.pdf>

Iceland - Each parent receives three weeks of leave, for a total of nine months. The parents must decide how to divide the remaining months, which equate to 80% of their take-home pay.

Norway - A husband may take 0 to 10 weeks of paid paternity leave, depending on his wife's income. Both parents receive 80% of their earnings during this time.

Canada - 3 weeks with 75% of salary paid; or 5 weeks with 70% of salary pay.

### **Violation of Article 21 (Right to Life of Newborn Child)**

In the case of **B. Saravanan v Deputy Inspector General of Police**<sup>2</sup>, Madras High Court has held that the action of the respondents cancelling and refusing paternity leave to the petitioner would amount to violation of Article 21 of the Constitution of India.

The Court said that the survival of a child vests with the joint responsibility of the family. Since the days of joint family system has almost diminished and when the challenges of nuclear families are unprecedented in India, it is high time for the policy makers to recognise right to paternity leave/parental leave to the biological/adoptive parents, as the basic human right of the respective prenatal/post-natal child.<sup>3</sup>

Thus, the Court considered the petitioner's child's right to life and protection of life as guaranteed under Article 21 of the Constitution of India. Further, it said that the petitioner's child's right to live, survive, health and development of childhood which flows from Article 21 of the Constitution of India, guarantees the petitioner's right to seek paternity leave to attend his wife's delivery. Hence, the Court quashed the impugned desertion order passed by the DIG and further directed the DIG to consider the case of the petitioner with a considerate mind and pass appropriate orders reinstating the petitioner, as Inspector of Police.

### **Conclusion**

The lack of paternity leave not only deprives fathers of valuable bonding time with their newborns, but it also reinforces gender imbalances in caregiving obligations. We miss out on

---

<sup>2</sup> W.P.(MD). No.19561 of 2023.

<sup>3</sup> <https://www.scconline.com/blog/post/2023/08/30/refusing-paternity-leave-violates-newborn-child-right-to-life-madras-high-court/#:~:text=Thus%2C%20the%20Court%20held%20that,of%20the%20Constitution%20of%20India.>

an opportunity to promote gender equality, support working women, and develop healthier family dynamics by failing to recognize dads' contributions in childcare. In order to create a more inclusive and fair society where both parents may fully engage in the joys and hardships of parenthood, paternity leave is not just about men. Thus, addressing the lack of paternity leave is critical to maximizing the potential and purpose of maternity leave.



## REFERENCES

- <https://www.unicef.org/media/95086/file/UNICEF-Parental-Leave-Family-Friendly-Policies-2019.pdf>
- <https://www.scconline.com/blog/post/2023/08/30/refusing-paternity-leave-violates-newborn-child-right-to-life-madras-high-court/#:~:text=Thus%2C%20the%20Court%20held%20that,of%20the%20Constitution%20of%20India.>
- <https://www.livelaw.in/lawschoolcolumn/lack-of-paternity-leave-is-negating-the-purpose-of-maternity-leave-243528>