

Special Notes

Maternity: A Global Overview

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Abstract: *Maternity is considered today as a natural function far-reaching social significance in the civilized world. It has been treated as a contingency and insecurity requiring protection in the security system of the different countries.*

MATERNITY AND MATERNITY LEAVE

Maternity leave (ML) is designed to protect the working women during their pregnancy and recovery from childbirth. In many countries the length of ML is more than 12 weeks. There are also provisions for Parental Leave (PL), Paternal Leave (PTL) and Adoption Leave (ADL). In 1980, the increase in dual – earner households with young children, whose parents both were working full time, has created the necessity for policies to provide care for these children. In 1981, ILO adopted the workers with Family Responsibility Convention (No. 156) and Recommendation (No. 165) ensuring opportunity for every working man and woman to play a free role in economic, social, public and family life. This provided the working man and woman with the right to PL to take care of their children while the duration, conditions, eligibility, flexibility and benefits may vary across countries. France, German, Japan, Australia, United Kingdom, Spain, Korea, Denmark and many other countries enacted the provisions of governing PL.

In most of the countries, fathers are entitled to take a particular number of days-off during childbirth. This is called PTL where also the duration, conditions, eligibility, flexibility and benefits including the leave administration vary from country to country. PTL is allowed in Saudi Arabia, Egypt, Vietnam, Denmark, Romania and many other countries.

ADL is available in many countries for the people at work who adopt children. The right to ADL starts when the child arrives in the home. The leave administration etc. in case of ADL also varies according to countries. Australia, Denmark, Finland, New Zealand and many other

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countries have provisions for ADL. In France, ADL is 18 weeks for Single Adoption and 22 weeks for Multiple Adoption with pay.

In case of multiple child-births there are provisions for extension of ML up to one month in Norway, up to two months in Iceland and Vietnam and more than two months in Finland and Sweden with full wages for per additional child.

ILO: CONVENTIONS AND RECOMMENDATIONS ON MATERNITY

International Labor Organization (ILO) defined the terms “woman” and “child” broadly in order to ensure the maternity protection without any discrimination: a woman is “any female person, irrespective of age, nationality, race or creed, whether married or unmarried” and a child in “any child, whether born of marriage or not”.

The Maternity protection is mainly concerned with the need to protect the working women with pregnancy and childbirth and the health and development (both mental and physical) of the mother and the child to be born. A further aim of maternity protection is to ensure that women are not discriminated against at work because they bear children.

In this connection instruments adopted by the ILO include Conventions, Recommendations, Declarations and Resolutions.

The Maternity Protection Convention, 1919 (No. 3) applied to women working in commerce and industry for maternity leave of 12 weeks in equal two parts before and after childbirth. This convention lays down the workers right to cash benefits and free medical care. It protects her employment right during maternity leave / illness arising out of pregnancy. It ensures nursing break also to enable the mother to nurse her child.

The Maternity Protection (Agriculture) Recommendation, 1921 calls upon the member States to extend the women in agriculture protection before and after childbirth similar to that provided by Convention No. 3.

The Maternity Protection Convention, 1952 (No. 103) retains the provisions of the earlier Conventions, does not supersede Convention No. 103, but provides greater details and introduces flexibility on some

points. This Convention applies to women employed in industrial and commercial enterprises and in other non-industrial and agricultural occupations, home workers and domestic workers. The Convention also ensures cash benefits at no less than two-thirds of earnings and explicitly states that in no case is the employer to be liable individually for the cost of the benefits due to women employed by him or her.

The Maternity Protection Recommendation, 1952 (No. 95) provides for 14 weeks of maternity leave and cash benefits at 100 percent of past earnings. It outlines various measures to protect health of the mothers and their infants. These include the prohibition of night work, overtime work, and work which involves hazards to pregnancy or nursing, also transfer to other work without loss of payment, together with an increase in the duration of nursing breaks and establishment of day care facilities.

The Plantations Convention, 1958 (No. 110), the Nursing Personnel Convention, 1977 (No. 149) and Recommendation (No. 157) confirmed the importance of applying maternity protection standards similar to those of Maternity Protection Convention, 1952 (No. 103) for the benefit of this group of employees. The Night Work Convention, 1990 (No. 171) and Recommendation (No. 178) prescribe protective measures for pregnant and nursing women who normally work at night. Measures to be taken for the maternity protection of part-time workers are found in the Part-time Work Convention, 1994, (No. 175) and Recommendation (No. 182).

Further guidance on maternity protection standards is found in some other instruments. Standards on holidays with pay indicate that absence on maternity leave should not be regarded as holidays but count as service for computing these. Several standards on social security, income security and medical care contain maternity protection provisions. The exposure of pregnant women and nursing mothers to various hazards, such as benzene, radiation and chemicals, and limitations regarding the manual transport of loads are regulated in various occupational safety and health standards. The Lead Poisoning (Women and Children) Recommendation, 1991 (No. 4) prohibits women from such work in view of danger involved to the function of maternity. The Underground Work (Women) Convention, 1935 (No. 45) and the Night Work (Women) Convention (Revised), 1948 (No. 89) prohibits the women working in

mines underground and in industrial enterprises at night respectively. The Termination of Employment Convention, 1982 (No. 158) provides that pregnancy and absence from work during maternity leave do not constitute valid reasons for termination of employment. Numerous ILO policy statements also express the concern of ILO constituents with maternity protection.

MATERNITY AND ILO RESOLUTIONS

The Resolution adopted by the ILO conference at its 71st session (1985) on equal opportunities and equal treatment for men and women in employment, calls for special employment protection against dismissal on the grounds of pregnancy and maternity leave. The Resolution gives priority consideration to maternity protection and benefits to women in all sectors of activity and in all sizes of enterprises. The collective agreements and strengthening of social security systems for maternity protection should also be a priority.

Another Resolution which was adopted by ILO at its 78th session (1991) again drew attention to maternity protection and discrimination. The Resolution called to ratify and implement the Workers with Family Responsibilities Convention, 1981 (No. 156) and to develop a set of measures with respect to maternity and parental leave.

MATERNITY AND PHILADELPHIA DECLARATION

The Philadelphia Declaration, 1944 lays down the principle of non-discrimination in regard to pregnancy and childbirth. It asserts the right employment of pregnant women, cost and benefits of maternity protection, right of adoptive parents and Equality of Opportunity and Treatment (Geneva, 1989) since maternity protection measures are compatible with the principle of equality of opportunity and treatment. The Declaration gives priority to the gradual extension of maternity protection to women in all sectors of activity and in enterprises of all sizes, including women who are casual, temporary, part time, subcontract, home based workers as well as self-employed and family workers including strengthening the social security systems or other public and collective agreements for the financing of maternity protection schemes.

MATERNITY AND UNITED NATIONS

The United Nations (UN) expressed concern with maternity protection for working women on several occasions. The International Covenant on Economic, Social and Cultural Rights, 1966 calls for special protection for the mothers and the children. During such period working mothers should be accorded paid leave or leave with adequate social security benefits. The Convention on the Elimination of All Forms of Discrimination Against Women, 1979 and the Nairobi Forward-Looking Strategies for the Advancement of Women, 1985 call for protection in line with the basic ILO standards and the prohibition of discrimination in connection with maternity.

MATERNITY AND WORLD HEALTH ORGANIZATION

The 1st, 27th, 33rd, 43rd, 45th World Health Assembly of the World Health Organization held in July 1948, May 1974, May 1980, May 1990 and May 1992 respectively, has referred in numerous Resolutions and Decisions regarding maternity protection and the promotion of breast-feeding to the special measures that are called for in the case of working women.

MATERNITY AND OECD

In its Declaration of Policies for the Employment of Women, 1980; the Organization for Economic Co-operation and Development (OECD) calls for employment protection for women during pregnancy and after maternity leave.

MATERNITY AND COE

The European Social Charter, 1961 of the Council of Europe (CoE) incorporates the right to maternity protection, while the European Code of Special Security and the Protocol to the Code, 1964 provide for maternity benefits.

MATERNITY AND EUROPEAN UNION

The European Union (EU) expressed concern with maternity protection for the women at work in connection with the Community Charter of

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Fundamental Social Rights, 1989. Council Directive 76/207/EEC of February 9 1976 affirms that the adoption of maternity protection measures is compatible with States' obligation under the Directive. The Council Directive 92/85/EEC adopted by the Council of Ministers on October 19 1992 gives priority on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breast-feeding. The Directive provides for an assessment of the exposure of workers to hazardous agents, working conditions, night work and prohibits exposure in certain cases. It provides for maternity leave of at least 14 weeks with benefits, employment rights and defense of rights.

MATERNITY IN BANGLADESH AND INDIA

Maternity protection for working women has been of core importance to ILO and recognized internationally just after its inception in 1919. ILO adopted the Maternity Protection 1919 (No. 3) and Recommendation to this effect in 1921 which were gradually ratified by several countries including Bangladesh. The Regional Conference of ILO adopted important Resolutions regarding maternity benefits. The Second Labor Conference of ILO adopted a Resolution in 1939. This was enacted as Bengal Act IV of 1939 which is presently known as the Maternity Benefit, Bangladesh Labor Code, 2006.

Some employers recruit unmarried women on condition to resign their post on getting married which is discriminatory, unfair and unjust. Apart from the classification of workers as mentioned in the Labor and Industrial Laws of Bangladesh, we find that Part-time workers, Temporary workers, Out-sourced workers and Daily-wagers in industrial and non-industrial undertaking and in general and agricultural sector. Domestic and Home-workers are also found working day and night and all they are deprived of maternity protection and fundamental employment rights.

In India, there is provision for payment of medical bonus for women entitled to maternity benefits if no pre-natal confinement and post-natal care is provided for by the employer free of charge (Sec. 9 of the Maternity Benefit Act (MBA), 1961). In case of tubectomy operation or medical termination of pregnancy, a woman is entitled to leave with wages for 2 weeks immediately following the day of her tubectomy

operation (Sec. 9A of MBA, 1961). In case of miscarriage etc. the woman is entitled to leave with wages for 6 weeks immediately following the day of her miscarriage (Sec. 10 of MBA, 1961). A woman is also entitled to one month leave with wages for illness arising out of pregnancy (Sec. 11 of MBA 1961). A woman is also allowed in the course of her daily work, two breaks for nursing her child until the child attains the age of 15 months (Sec. 12 of MBA, 1961).

Mere enhancement of the length of ML is not sufficient to protect the health of the mother and the child. In addition there are other important issues which also deserve attention of the appropriate authority of Government of Bangladesh while making laws for maternity protection.

MATERNITY: A GLOBAL OVERVIEW

The following tables are giving a brief global overview of maternity leave for working women which are self-explanatory. The tables are arranged by region: Africa, the Americas, Asia and the Pacific and Europe. They indicate the length of maternity leave in days, weeks or months, whether cash benefit is paid or not, and whether benefits are paid by the employer or social security (social insurance, public schemes, etc.):

AFRICA

Country	Maternity leave	Cash benefits	Source
Algeria	14 weeks	100%	Social security
Angola	90 days	100%	Employer
Benin	14 weeks	100%	Social security
Botswana	12 weeks	25%	Employer
Burkina Faso	14 weeks	100%	Social security
Burundi	12 weeks	50%	Employer
Cameroon	14 weeks	100%	Social security
Central African Republic	14 weeks	50%	Social security
Chad	14 weeks	50%	Social security
Comoros	14 weeks	100%	Employer
Congo	15 weeks	100%	50% employer, 50% social security

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Côte d'Ivoire	14 weeks	100%	50% employer, 50% social security
Djibouti	14 weeks	50%	25% employer, 25% social security
Egypt	50 days	100%	Social security
Equatorial Guinea	6 weeks before and 6 weeks after	75%	Social security
Ethiopia	30 days before and 60 days after	100%	Employer
Gabon	14 weeks	100%	Social security
Gambia	6 weeks before and 6 weeks after	100%	Employer
Ghana	6 weeks before and 6 weeks after	50%	Employer
Guinea	14 weeks	100%	50% employer, 50% social security
Guinea Bissau	60 days	100%	Employer, or social security subsidy and employer pays difference
Kenya	2 months	100%	Employer
Lesotho	6 weeks before and 6 weeks after	Unpaid	---
Libyan Arab Jamahiriya	50 days	50%	Employer
Madagascar	14 weeks	50%	Social security
Mali	14 weeks	100%	Social security
Mauritania	14 weeks	100%	Social security
Mauritius	6 weeks before and 6 weeks after	100%	Employer
Morocco	12 weeks	100%	Social security
Mozambique	60 days	100%	Employer
Namibia	4 weeks before and 8 weeks after	As prescribed	Social security
Niger	14 weeks	50%	Social security
Nigeria	12 weeks	50%	Employer
Rwanda	12 weeks	Two-thirds	Employer

Sao Tome	70 days	100%	Social security
Senegal	14 weeks	100%	Social security
Seychelles	14 weeks	Flat monthly allowance	Social security
Somalia	14 weeks	50%	Employer
South Africa	12 weeks	45%	Unemployment insurance
Sudan	8 weeks	100%	Employer
Swaziland	12 weeks	Unpaid	---
United Republic of Tanzania,	42 days before and 42 days after	100%	Employer
Togo	14 weeks	100%	50% employer, 50% social security
Tunisia	30 days	Two-thirds	Social security
Uganda	4 weeks before and 4 weeks after	100% for 1 month	Employer
Zaire	14 weeks	Two-thirds	Employer
Zambia	12 weeks	100%	Employer
Zimbabwe	90 days	75% or 60%	Employer

AMERICAS AND THE CARIBBEAN

Country	Maternity leave	Cash benefits ¹	Source
Guatemala	30 days before and 54 days after	100%	Two-thirds social security, one-third employer
Guyana	13 weeks	70%	Social security
Haiti	12 weeks	100% for 6 weeks	Employer
Honduras	4 weeks before and 8 weeks after	100%	Two-thirds social security, one-third employer
Jamaica	12 weeks	100% for 8 weeks	Employer
Mexico	6 weeks before and 6 weeks after	100%	Social security
Nicaragua	4 weeks before	60%	Social security

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	and 8 weeks after		
Panama	6 weeks before and 8 weeks after	100%	Social security
Paraguay	6 weeks before and 6 weeks after	50% for 9 weeks	Social security
Peru	45 days before and 45 days after	100%	Social security
Saint Lucia	13 weeks	65%	Social security
Trinidad and Tobago	13 weeks	60% up to a ceiling	Social security
United States	Federal: 12 weeks States: varies	Unpaid Unpaid	--- ---
Uruguay	12 weeks	100%	Social security
Venezuela	6 weeks before and 12 weeks after	100%	Social security
Antigua and Barbuda	13 weeks	60%	Social security
Argentina	90 days	100%	Social security
Bahamas	8 weeks	100%	60% social security, 40% employer
Barbados	12 weeks	100%	Social security
Belize	6 weeks before and 6 weeks after	80%	Social security
Bolivia	30 days before and 30 days after	100% of national minimum wage; plus 70% of wage exceeding national minimum wage	Social security
Brazil	120 days	100%	Social security
Canada	Federal: 17 weeks Provinces: 17-18 weeks	57% for 15 weeks	Unemployment insurance
Chile	6 weeks before and 12 weeks after	100%	Social security
Colombia	12 weeks	100%	Social security
Costa Rica	1 month before and 3 months after	100%	50% social security, 50% employer
Cuba	6 weeks before and 12 weeks after	100%	Social security
Dominica	3 weeks before and 9 weeks after	60%	Social security

Dominican Republic	12 weeks	100%	50% social security, 50% employer
Ecuador	2 weeks before and 10 weeks after	100%	75% social security, 25% employer
El Salvador	12 weeks	75%	Social security
Grenada	3 months	60% for 12 weeks	Social security

ASIA AND THE PACIFIC

Country	Maternity leave	Cash benefits'	Source
Afghanistan	90 days	100%	Employer
Australia	Federal: 52 weeks State: 52 weeks	Unpaid Unpaid	--- ---
Bahrain	45 days	100%	Employer
Bangladesh	8 weeks before and 8 weeks after	100%	Employer
Cambodia	90 days	100%	Employer
China	90 days	100%	Employer
Fiji	42 days before and 42 days after	Flat rate allowance	Employer
Hong Kong	4 weeks before and 6 weeks after	Two-thirds	Employer
India	12 weeks	100%	Social security
Indonesia	5 weeks before and 5 weeks after	100%	Employer
Iran, Islamic Republic of	90 days	Two-thirds	Social security
Iraq	62 days	100%	Social security
Japan	14 weeks	60%	Social security or employer-sponsored health insurance
Jordan	3 weeks before and 3 weeks after	90%	Employer
Korea, Republic of	60 days before and 30 days after	100%	Employer
Kuwait	30 days before and 40 days after	100%	Employer
Lao People's Democratic Republic	90 days	100%	Social security

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Lebanon	40 days	100%	Employer
Malaysia	60 days	100%	Employer
Mongolia	45 days before and 56 days after		
Myanmar	6 weeks before and 6 weeks after	Two-thirds	Social security
Nepal	52 days	100%	Employer
New Zealand	14 weeks	Unpaid	---
Pakistan	6-10 weeks before and 6 weeks after	100%	Employer
Papua New Guinea	As necessary before and 6 weeks after	Unpaid	---
Philippines	2 weeks before and 4 weeks after	100%	Social security
Saudi Arabia	4 weeks before and 6 weeks after	50% or 100%	Employer
Singapore	8 weeks	100%	Employer
Solomon Islands	12 weeks	25%	Employer
Sri Lanka	12 weeks	100%	Employer
Syrian Arab Republic	50 days	70%	Employer
Thailand	90 days	100% for 45 days 50% for 60 days	Employer Social security
United Arab Emirates	45 days	100%	Employer
Viet Nam	4-6 months	100%	Social security

EUROPE

Country	Maternity leave	Cash benefits ¹	Source
Austria	8 weeks before and 8 weeks after	100%	Social security
Belarus	126 days	100%	Social security
Belgium	7 weeks before and 8 weeks after	82% for 30 days, 75% thereafter	Social security
Bulgaria	120-180 days	100%	Social security
Cyprus	16 weeks	75%	Social security
Denmark	4 weeks before and 14 weeks after	100% up to a ceiling	Social security
Finland	105 days	80%	Social security
France	6-8 weeks before	84% up to	Social security

	and 10-18 weeks after	a ceiling	
Germany	6 weeks before and 8 weeks after	100%	Social security up to a ceiling; employer pays difference
Greece	16 weeks	75%	Social Security
Hungary	24 weeks	100% or 65% up to a ceiling	Social security
Iceland	1 month before and 1 month after	Flat rate allowance	Social security
Ireland	14 weeks	70% up to a ceiling or fixed weekly rate	Social security
Israel	12 weeks	75% up to a ceiling	Social security
Italy	2 months before and 3 months after	80%	Social security
Liechtenstein	8 weeks after	80%	Social security
Luxembourg	16 weeks	100% up to a ceiling	Social security
Malta	13 weeks	100%	Social security
Netherlands	6 weeks before and 10 weeks after	100%	Social security
Norway	12 weeks before and 6 weeks after	100% or 80%	Social security
Poland	16-18 weeks	100%	Social security
Portugal	90 days	100%	Social security
Romania	52 days before and 60 days after	50-94%	Social security
Russian Federation	70 days before and 70 days after	100%	Social security
Spain	16 weeks	75%	Social security
Sweden	6 weeks before and 6 weeks after	Flat-rate daily allowance	Social security
Switzerland	8 weeks after	100%	Employer
Turkey	6 weeks before and 6 weeks after	Two-thirds	Social security
Ukraine	126 days	100%	Social security
United Kingdom	14-18 weeks	90% for 6 weeks and flat daily rate thereafter	Social security

Above column of cash benefits indicates the percentage or proportion of wages or insured earnings which is paid during maternity leave. Where benefits are indicated as being paid by social security, it should be borne in mind that all women workers are not covered by social security, particularly those in the developing regions. In those cases the employer pays part or full of uninsured woman's salary while she is on maternity leave and that is decided as per law of the land and / or through collective agreements.

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