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Maternity and paternity at work

Law and practice across the world

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INTERNATIONAL LABOUR OFFICE • GENEVA

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Preface

The struggle for equality is intimately linked to the struggle for social justice in the world of work.

Guy Ryder, ILO Director-General, International Women's Day 2014

The year 2019 will mark both the ILO's 100th anniversary and the first centenary of international labour standards on maternity protection. In fact, protecting maternity at work was one of the primary concerns of the ILO. It was during the first International Labour Conference in 1919 that the first Convention on maternity protection (Convention No. 3) was adopted. This Convention was followed by the adoption of other two Maternity Protection Conventions: No. 103 in 1952 and No. 183 in 2000. These standards progressively expanded the scope and entitlements related to maternity protection at work in line with the evolving status and recognition of women's rights in the world of work. Over the years, the core concerns of the ILO have been to ensure that work performed by women, in all its forms and situations, does not pose risks to the health of the woman and her child and to ensure that women's reproductive role does not compromise their economic and employment security and subject them to undue discrimination. During the ILO's history, international labour standards on maternity protection, in line with the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), have indeed reaffirmed the principle of equality of opportunity and treatment for men and women, which is at the heart of social justice, the constitutional mandate of the ILO. In addition, the adoption of the ILO Workers with Family Responsibilities Convention, 1981 (No. 156) marked the recognition that "a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women", as stated in the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979.

Almost a century later, the importance of quality work to the lives of most adult members of society, especially in times of deep economic turbulence and social change, still makes the intersection of work with maternity, paternity and care responsibilities a particularly critical focal point for efforts to improve health, equality and job quality. These issues are therefore crucial for the Post-2015 Development Agenda and make maternity protection and work–family measures key to the achievement of global development goals. First, by reducing child and maternal mortality and morbidity, maternity protection promotes the health and well-being of mothers and their babies. Second, by safeguarding women's employment and income security during pregnancy and after childbirth and promoting the equal sharing of unpaid care work between women and men, maternity protection and measures to support care responsibilities are also a precondition to the achievement of gender equality at work and in the home.

Equality for women represents progress for all. In order to help equip the Organization to successfully meet the challenges of delivering its mandate on social justice in the future, the ILO Director General launched the ILO Centenary Initiative on Women at Work. This initiative aims to survey the place and conditions of women in the world of work and to engage ILO constituents – governments, workers' and employers' organizations – in concrete action to realize equality of opportunity and treatment.[1] This report is one of the first contributions to this global assessment and focuses on one of the first labour rights of women in work proclaimed by ILO constituents in 1919: maternity protection. This report also marks ILO's contribution to the United Nations observance of the International Day of Families 2014, which celebrates the twentieth anniversary of the International Year of the Family established by the United Nations General Assembly in 1994. The 2014 theme emphasizes the

international community's recognition that families and policies to support them matter to the achievement of internationally agreed development goals and should be advanced further.[2]

The report reviews national law and practice on both maternity and paternity at work across the world. Rights and practices that recognize the fundamental need and responsibility for parenthood of both women and men are mutually reinforcing and crucial for the achievement of equality of opportunity and treatment. Drawing from the ILO Working Conditions Laws Database – Maternity Protection, the authoritative comments of the ILO Committee of Experts on the Application of Conventions and Recommendations and ILO research, the report provides a rich international comparative analysis on the state of legal protection of maternity and paternity at work. It is based on an extensive set of new legal and statistical indicators, including coverage in law and in practice, which provide a global and regional review of national legislation and practices as well as their evolution over the last 20 years, including in light of the recent economic crisis and austerity measures.

So far, 66 ILO member States are party to at least one of the maternity protection Conventions and 43 have ratified Convention No. 156. Moreover, whether ratified or not, the Conventions have had a very broad influence, with virtually all countries having adopted maternity protection legislation. Over the last 20 years, there have been noticeable improvements in terms of longer rest periods at the time of childbirth, and movement away from employer liability systems of financing paid maternity leave. An increasing number of countries are also implementing measures to support both mothers' and fathers' care responsibilities, such as paternity, parental and adoption leave, as well as services and facilities to enable nursing and childcare.

However, progress has been uneven across ILO member States and needs to be expedited. Supporting maternity and paternity at work still faces a number of diverse challenges. Over 800 million mothers around the world are still not adequately protected with leave and cash benefits in case of maternity. Almost 80 per cent of these workers are found in Africa and Asia. Effective access to quality maternal health care is still not universal. Discrimination based on pregnancy, maternity and family responsibilities is endemic everywhere. Many formal and informal workplaces remain unsafe and unhealthy for all workers, especially pregnant and nursing women. Fathers' take-up of childcare leave is still very low. Care provision for children, dependent elderly and people living with permanent or temporary disabilities or illnesses still lacks the accessible and quality services and facilities that recognize, value and support care work – both paid and unpaid – as a "public good". The impact of the crisis has further exacerbated pre-existing gaps and inequalities, often with devastating consequences for families. These challenges underscore the importance of social dialogue and effective tripartite policy action; the need to design and implement in an inclusive way legislation in line with international labour standards and collect statistical information in order to measure gaps and progress.

This report provides a current picture of where we stand and what we have learned so far on maternity and paternity at work. It also suggests that we want to be, before the ILO Centenary, in a world in which women and men do not have to sacrifice their lives, well-being and the care of their families in order to earn an income. We hope it will guide ILO tripartite constituents and the Organization's technical assistance in making a difference to the lives of working mothers and fathers and ensure that the principles of long-standing international labour standards become a reality for all everywhere.

Notes

1. ILO, 2013. Report of the Director-General: Towards the cenw tenary: Realities, renewal and tripartite commitment, Report I(A), International Labour Conference, 102nd Session, 2013.

2. UNDESA: International Day of Families, http://undesadspd.org/Family/InternationalObservances/InternationalDayofFamilies.aspx [26 Mar. 2014].

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Executive summary

The *Maternity and paternity at work: Law and practice across the world* report reviews national legislative provisions on maternity protection at work in 185 countries and territories (including leave, benefits, employment protection, health protection, breastfeeding arrangements at work and childcare), statistical coverage in law and in practice of paid maternity leave as well as statutory provision of paternity, parental and adoption leaves. It shows how well national laws and practice conform to the ILO Maternity Protection Convention, 2000 (No. 183), its accompanying Recommendation (No. 191) and the Workers with Family Responsibilities Convention, 1981 (No. 156). The report is based on the ILO Working Conditions Laws Database – Maternity Protection and an ILO statistical methodology to estimate coverage in law and in practice.

The first part of the study covers four key aspects of maternity leave provisions, in Chapter 2: the duration, the benefit paid; the source of funding and the scope. It compares the legal provisions in 185 countries and territories with the most recent ILO standards, both separately and combined by region. This assessment shows, within the limitations of the data available, that globally 34 per cent (57 countries) fully meet the requirements of Convention No. 183 on three key aspects: they provide for at least 14 weeks of leave at a rate of at least two-thirds of previous earnings, paid by social insurance or public funds or in a manner determined by national law and practice where the employer is not solely responsible for payment. The regions with the highest proportion of countries in conformity with these aspects of the Convention are Eastern Europe and Central Asia and the Developed Economies. Conformity is particularly low in Asia and the Middle East, while not more than 20 per cent of the total meets the standards in Africa and Latin America and the Caribbean.

Considering separately the key provisions of Convention No. 183 on leave duration, level of pay and source of payment, the proportion of countries meeting the standards varies by the specific provision. Over half, or 98 of the countries studied in 2013 provide at least 14 weeks of leave. Among those, 42 countries meet or exceed the 18 weeks of leave suggested in Recommendation No. 191. With respect to the payment of cash benefits during leave, 45 per cent (74 countries) reach the standard of at least two-thirds of earnings paid for at least 14 weeks. A small minority of countries (three) do not provide cash benefits during maternity leave. Preventing discrimination is not only a question of legislating against discrimination, but also of reducing the direct cost of maternity to the employer. By 2013, over 100 countries examined (58 per cent) financed benefits through social security, while 16 per cent relied on a combination of payments by employers and social security. Roughly one-quarter (45 countries) continued to stipulate that payment during leave should be covered entirely by the employer with no social security provision.

Over time, there has been a gradual improvement in maternity protection across the world. In 1994, 38 per cent of countries for which information was available provided at least 14 weeks of maternity leave. By 2013, among this same set of countries, 51 per cent provided at least 14 weeks of maternity leave. During this period, there has also been a shift away from unpaid leave schemes and employer liability systems of financing maternity benefits. The percentage of countries that provide unpaid leave dropped from 5 to 1 per cent, while those that finance cash benefits through employer liability systems decreased from 31 per cent to 23 per cent. There was an overall shift towards collective funding systems in which social insurance or public funds alone or in conjunction with employers

take responsibility for paying benefits. Some positive changes occurred despite the economic crisis, especially in middle-income countries, although some Developed Economies that were hardest hit by the economic crisis cut some of their supports to families or postponed announced reforms as part of austerity measures.

The proportion of employed women covered by maternity protection legislation is a major concern of the Maternity Protection Convention, 2000 (No. 183), which stipulates that it should extend to all employed women, regardless of occupation or type of undertaking, including women employed in atypical forms of dependent work. Nevertheless, a large majority of women workers, representing around 830 million workers around the world, are still not adequately protected in case of maternity. Almost 80 per cent of these workers are found in countries in Africa and Asia. Globally, just over two-fifths of employed women (40.6 per cent) enjoy a statutory right to maternity leave, while only 34.4 per cent of the total benefit from mandatory coverage by law and thus are legally entitled to cash benefits as income replacement during their maternity leave. Therefore, just over one-quarter (28.4 per cent) of employed women (330 million) worldwide would receive maternity leave cash benefits in the event of childbirth. In Africa and Asia, this share represents less than 10 per cent of women in employment. Different groups of workers are more frequently excluded from protection in law and in practice. This is often the case for the self-employed, domestic, agricultural, casual or temporary workers, migrants and indigenous people, although a small but growing number of countries are extending protection to these workers.

Chapter 3 of the report covers paternity, parental and adoption leave provisions. In addition to maternity leave, access to these leave policies also helps workers to reconcile work and family life, and, if available to both fathers and mothers, can be effective tools for promoting gender equality. Over the past 20 years, paternity leave provisions have also become more common, which is an indicator of the growing importance attached to the presence of the father around the time of childbirth. In 1994, statutory paternity leave provisions existed in 28 per cent, or 40 of the 141 countries for which data were available at the ILO. By 2013, at least 78 countries provided some form of leave that fathers can use around the birth of a child. In the large majority of countries paternity leave is paid, although most still provide a few days usually paid by the employer. An increasing number of countries provide some type of childcare leave in addition to maternity and paternity leave, with 66 of the 169 countries assessed providing parental leave. This leave is found more frequently in higher income countries. Even when parental leave is available to both mothers and fathers, women are most often the ones who take parental leave after maternity leave. Many countries also make leave available to adoptive parents. Mothers and fathers in a number of countries enjoy leave policies instead of or beyond legislated provisions through collective bargaining agreements.

Subsequent chapters examine legal safeguards for protecting the employment, health and safety of women throughout maternity, and review legislative provisions for breastfeeding arrangements at work and childcare. Measures safeguarding the employment of pregnant workers and combating discrimination based on maternity are an integral part of maternity protection. Available information points to maternity-related discrimination as a pervasive problem around the world, with concerns in a number of countries that discriminatory practices, including "maternal mobbing", grew during the economic crisis. The current ILO maternity protection standards require legislation against discrimination in employment, including access to employment, prohibition of unlawful dismissal and the maintenance of employment benefits during leave. Of the 165 countries for which information was available, all but 20 had explicit prohibitions against discrimination during pregnancy, leave and/or an additional prescribed period. At a minimum, these provisions usually prohibit dismissal as a result of pregnancy or during periods of leave; however, the content of these prohibitions varies by country. The right to return to work (job protection) should be implicit in the entitlement to maternity leave, as it is a temporary interruption of employment. However, of the 146 countries for which information was available, 82 (56 per cent) do not guarantee the right to return to work.

During pregnancy and breastfeeding, there may be risks at the workplace that could affect the health of the woman and her child. Many countries include provisions in their legislation to protect pregnant or nursing women from work-related risks, including requiring

risk assessments or specifying dangerous substances or conditions that must be avoided. In 49 per cent of the 160 countries assessed there exist provisions prohibiting employers from employing pregnant or nursing women in dangerous work, and another 21 per cent of countries stipulate that these workers are not obliged to perform dangerous work. If a significant risk exists at the workplace, legislation often requires that employers take protective measures to mediate those risks by transferring a woman to other safe tasks or allowing her to take leave early. Of the 160 countries with information, 84 provide some sort of alternative to dangerous work while 76 do not. In addition, 116 out of 156 countries (74 per cent) do not provide for time off work for prenatal health care. This type of leave is particularly uncommon in low-income countries, where only 39 per cent of pregnant women received the WHO recommended minimum four antenatal health visits in 2008. Both formal and informal workplaces can play a key role in enabling women's access to antenatal health care.

The right to continue breastfeeding upon return to work and to have access to appropriate and hygienic facilities for nursing is also important for the health of the mother and her child. Legislation in 75 per cent of the 160 countries assessed provides for breastfeeding breaks in addition to regular breaks, with all but 4 per cent of those countries stipulating that the breaks be paid. The increase in paid breastfeeding breaks has been significant, since in 1994 only 37 per cent of the countries assessed provided paid breaks. The duration of the entitlement to paid nursing breaks is fundamental in order to enable women workers to breastfeed in line with their preferences and the WHO recommendations, namely exclusive breastfeeding through the child's first six months, and breastfeeding with appropriate complementary foods for children of up to 2 years of age or beyond. Almost two-thirds (75 countries) of the countries with provisions, allow for a duration between six and 23 months, of which 57 countries grant at least one year. Only nine countries provide for breastfeeding breaks for two years (5 per cent). In compliance with Recommendation No. 191, provisions on nursing facilities are present in the legislation of just 50 countries (31 per cent) of the 159 with information. The regions with the largest statutory supply are Asia and Latin America.

Workplace initiatives can supplement but cannot substitute for public policies aimed to improve the availability, quality and affordability of childcare services and facilities. State-funded or subsidized childcare plays a key role in enabling parents, and especially women, to engage in paid work after childbirth, by reducing their unpaid care work. In addition, it also contributes to job creation in the social care sector, which in turn replaces some of the unpaid care and household work mostly performed by women and girls and thus expands their income-earning options.

This report shows that a majority of countries have established legislative provisions to protect and support maternity and paternity at work, even if those provisions do not always meet the ILO standards. The persistent challenge is the effective implementation of legislation to ensure that all workers are actually able to benefit from the rights provided without discrimination. To this end, important priorities include efforts to raise awareness among governments, workers and employers about the socio-economic benefits of maternity protection and work–family measures, and expand the fiscal space for the effective and inclusive implementation of these fundamental labour rights.

Introduction

1

KEY MESSAGES

- Maternity protection is a fundamental human right and an indispensable element of comprehensive work–family policies. It is crucial to promoting maternal and child health and preventing discrimination against women in the workplace.
- The goal of maternity protection legislation is to enable women to combine their reproductive and productive roles successfully and to promote equal opportunities and treatment in employment and occupation, without prejudice to health or economic security.
- A total of 66 countries are party to at least one of the three maternity protection Conventions adopted by ILO member States since 1919.
- Virtually every country around the world provides some type of maternity protection legislation and many others also adopted measures to support workers with family responsibilities.
- Fathers undertaking a more active role in caregiving is likely to be one of the most significant social developments of the twenty-first century.

Maternity protection is a fundamental labour right enshrined in key universal human rights treaties. The 1948 Universal Declaration of Human Rights (UDHR) states that motherhood and childhood are entitled to special care and assistance, as well as to social security. The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, includes special protection for mothers during a reasonable period before and after childbirth, including paid leave or leave with adequate social security benefits. The Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979, calls for special measures to guarantee maternity protection, recognized as an essential right and addressed consistently in all aspects of the Convention.

Maternity protection has been a major concern of the International Labour Organization (ILO) since its foundation, when the first Maternity Protection Convention, 1919 (No. 3) was adopted. The "provision for child welfare and maternity protection" is also listed among the core aims and purposes of the ILO (Article III, Declaration of Philadelphia, 1944). Since then, the International Labour Conference (ILC) has adopted two further Conventions, supplemented by Recommendations on maternity protection, the most recent being the Maternity Protection Convention (No. 183), in 2000. In 1952, the provision of maternity leave and cash benefits in case of maternity was also officially recognized as constituting one of the nine branches of social security established by the Social Security (Minimum Standards) Convention, 1952 (No. 102). More recently, the ILO Recommendation concerning national floors of social protection, 2012 (No. 202) calls for maternity benefits to be provided as part of the basic social security guarantees that comprise national social protection floors: access to essential health care, including maternity care, and basic income security for persons in active age who are unable to earn sufficient income due, among other reasons, to maternity.

Over time, the primary concerns of the ILO with respect to maternity protection have remained the same: to enable women to combine their reproductive and productive roles successfully; to prevent unequal treatment

at work due to their reproductive role and to promote equal opportunities and treatment in employment and occupation, without prejudice to health or economic security. Protective measures for pregnant women and women who have recently given birth include the prevention of exposure to health and safety hazards during and after pregnancy, entitlement to paid maternity leave and breastfeeding breaks, protection against discrimination in employment and occupation, including with respect to recruitment and dismissal, and a guaranteed right to return to the job after maternity leave.

Maternity protection offers numerous benefits. It contributes to the health and well-being of mothers and their babies and thus to the achievement of major development goals, including the reduction of child and maternal mortality and improvement of their health (United Nations, 2009). By safeguarding women's employment and income security during and after maternity, maternity protection also promotes and achieves effective gender equality at work. This goal is at the heart of the ILO Decent Work Agenda, which was formulated by the ILO's constituents – governments, employers and workers – as a means of identifying the Organization's four major priorities: creating jobs; guaranteeing rights at work; extending social protection; promoting social dialogue.

In this context, it is important to view maternity protection as part of the broader framework of rights and protections set out in the ILO international labour standards on equality and non-discrimination, namely the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Workers with Family Responsibilities Convention, 1981 (No. 156). In its 2012 General Survey on the Fundamental Conventions, the ILO Committee of Experts on the Application of Conventions and Recommendation (CEACR) has highlighted the importance of Convention No. 183 in recognizing that maternity protection is a precondition for gender equality and non-discrimination in employment and occupation. It has also has considered that "ratification of this Convention constitutes important progress in achieving the broader objective of gender equality in employment and occupation, as enshrined in Convention No. 111" (ILO, 2012d).

Maternity protection is therefore the primary indispensable element of comprehensive work–family policies and measures, providing working parents with access to decent work opportunities free of discrimination, in line with the Workers with Family Responsibilities Convention, 1981 (No. 156) and the accompanying Recommendation No. 165, the major ILO standards on work–family balance. Convention No. 156 requires that ratifying States[1] make it an aim of national policy that all workers with family responsibilities – both women and men – can engage in employment without discrimination or, as far as possible, conflict between work and family obligations. To this end, these instruments put forward a set of policy devices including leave policies, social care services, social security benefits, family-friendly working time and work organization arrangements, workforce reintegration policies as well as gender-responsive awareness-raising and education.

As of January 2014, a total of 66 countries are party to at least one of the three maternity protection Conventions adopted by the ILO: the Maternity Protection Convention, 1919 (No. 3); the Maternity Protection Convention (Revised), 1952 (No. 103),[2] ratified by 26 and 24 member States respectively; and the Maternity Protection Convention, 2000 (No. 183), which came into force on 7 February 2002 and has been ratified by 28 countries.[3] In addition, the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) covers maternity health care and cash benefits under its Part VIII, which has been accepted by 34 countries.[4]

Convention No. 183 should normally be implemented through laws or regulations, although different means used in the national practice of the member States, such as collective agreements and arbitration awards, may also give it effect. Recommendations are non-binding instruments which set out guidelines that can orient national policy and action. Recommendation No. 191 complements Convention No. 183, often by suggesting higher protection, such as a longer duration of leave and higher benefits, or concrete measures which may be taken with a view to protecting the health of working women and/or their children. Also, the Recommendation deals in more depth with certain aspects of maternity protection treated in the Convention, such as how to ensure health protection, and includes some additional measures related to types of leave and financing of benefits.

The influence of the ILO maternity protection instruments extends well beyond the number of ratifications.

Virtually every country around the world has adopted some type of maternity protection legislation and laws and measures to support workers with family responsibilities, especially fathers, are increasingly emerging across the world. This policy interest stems from a set of developments which, to different extents, affect societies in both developing and developed countries and include, among other issues: the rise in women's paid work, though this is offset by the persistent inequality in the share of unpaid care work in the household (Miranda, 2011); work intensification and the growth in non-standard work, which has been particularly significant for women workers (Ghosh, 2014); the decline in fertility and simultaneous growth in the ageing population; and changes in the pattern of family make-up (such as the growth of single-parent households) (ILO, 2011a). In some countries, the global economic crisis and the consequent public spending cuts and austerity measures have further exacerbated the pre-existing gender inequalities and tensions between paid work and care responsibilities (Antonopoulos, 2014). In light of these challenges and, to use Esping-Anderson's (2009) term, an "incomplete or stalled gender revolution", there is an increasing awareness of the need to reconfigure the work, family and personal lives of both men and women, taking into consideration the role that maternity protection and work–family policies can play in this process. In this context, fathers undertaking a more active role in caregiving is likely to be one of the most significant social developments of the twenty-first century (UN, 2011; O'Brien, 2013). Thus, this current edition of the report reflects these developments, extending the review of national legislation and practice to both maternity and paternity issues at work. This approach is in line with the fundamental objective of protecting the unique biological function of women through specific maternity protection measures,[5] as stated in ILO maternity protection instruments, while simultaneously achieving the goal of equal opportunity and treatment for women and men, set out in the gender equality international labour standards.

Monitoring and assessing national progress towards the core elements of the Decent Work Agenda are longstanding concerns for the ILO and its constituents. The 2008 Declaration on Social Justice for a Fair Globalization provides that member States may consider "the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made" (Paragraph II.B.ii). In September 2008, following an international Tripartite Meeting of Experts (TME) on the Measurement of Decent Work, the ILO adopted a framework of Decent Work Indicators that was presented to the 18th International Conference of Labour Statisticians in December 2008. The framework identifies ten substantive elements in line with the four strategic pillars of the Decent Work Agenda (full and productive employment, rights at work, social protection and the promotion of social dialogue). "Combining work, family and personal life" (COMB) is one of the ten substantive elements of the Decent Work Agenda.[6] As pointed out by Heymann et al. (2013), "Virtually no one would argue that a job that requires an adult to sacrifice the reasonable care needs of their children, parents, or other family members is a 'good' job". The COMB component includes a number of indicators that relate to standard and fundamental principles and rights at work and to maternity protection. Two Legal Framework Indicators cover this thematic area: (1) maternity leave (including number of weeks of leave and rate of benefits) and (2) parental leave. These aim to provide essential information on legislation and practice covering maternity and paternity at work, in particular:

(a) law, policies or institutions on paid maternity, paternity and parental leave that are in place, including workers covered and excluded by the system;

(b) qualifying conditions to access paid maternity, paternity and parental leave;

(c) duration of maternity, paternity and parental leave and level of related benefits during leave periods;

(d) the systems in place to finance paternity and parental leave and maternity benefits;

(e) evidence of how effectively the legislation is implemented (i.e., comments of ILO supervisory bodies, if available);

(f) rough estimates of the number of workers covered, both in law ("coverage in law") and in practice ("coverage in practice");

(g) ratification of relevant ILO Conventions (ILO, 2012c).

Since 1994, the ILO has collected information on national legislation on maternity protection and, in 2004, developed a legal database, the ILO Working Conditions Laws Database – Maternity Protection,[7] which includes detailed information on maternity protection and work–family laws in 170 countries (see Appendix I for a list), organized by the key aspects of Convention No. 183 and Convention No. 156, namely:

- scope;
- qualifying conditions;
- maternity leave;
- paternity leave;
- parental leave;
- leave in case of pregnancy- or childbirth-related illness or complications;
- cash benefits, including level and source of funding;
- medical benefits;[8]
- employment protection and non-discrimination;
- health protection at work;
- breastfeeding mothers.

Based on this legal information and the developments of the work–family agenda detailed above, this global report, in line with the 2005 and 2010 editions, provides a comprehensive review of national legislative provisions on maternity protection around the world, with a particular focus on how well different countries' provisions conform to the ILO Maternity Protection Convention, 2000 (No. 183), and its accompanying Recommendation (No. 191).[9] Extending and developing the work of the previous editions, this report presents new legal indicators on maternity, paternity and parental leave as well as on health protection, employment protection and non-discrimination, and breastfeeding arrangements, which are essential to understanding the legal framework that governs maternity and paternity at work around the world. It also describes how maternity protection and paternity leave laws have changed since the publication of the first ILO legal data review in 1994,[10] including in the light of the global economic crisis. In addition, the report presents information on workers covered and excluded by paid maternity leave systems and qualifying conditions to access this entitlement. Unprecedentedly, it provides rough statistical estimates of numbers of workers covered, both in law ("coverage in law") and in practice ("coverage in practice"). These statistical estimates are particularly important as they provide essential complementary information on the provisions of maternity protection laws.[11] As highlighted during the 2008 Tripartite Meeting of Experts (TME) on the Measurement of Decent Work, "it is felt that differences in benefits of national laws in different countries is meaningless (and can often be misleading) without some idea about how many workers are covered". Clearer information on implementation gaps also makes a crucial, but previously unexplored, contribution to the debate about the economic effects of maternity protection legislation. In fact, most of the empirical research on the subject has been devoted to the assessment of "substantive" labour regulations, under the assumption that there is a direct link between de jure and de facto application of labour law. However, failure to take account of the effectiveness of labour regulation in the analysis of results has proven problematic, especially in the context of low-income countries, where the vast majority of women workers lack (and have traditionally lacked) access to statutory systems of maternity protection (Lee and McCann, 2009).

Finally, with a view to providing additional evidence of implementation effectiveness, the report draws on secondary research on take-up rates, where these data are available.[12] It also builds on the comments of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), which were based on the review of more than 30 periodical reports in 2013 on the implementation of ILO Maternity Protection Conventions.[13]

Summarizing and comparing national legal provisions can be difficult because of the wide variety of national systems. In some countries, constitutional arrangements, such as federal systems, mean that there is no single national standard, as legislation can vary between states, provinces or cantons. Often provisions concerning maternity protection and work–family matters are included in a number of different texts, such as labour and social security laws, requiring all such texts to be considered in order to identify the national legal framework for maternity protection. In some countries, the public sector is covered by separate

regulations, sometimes with more generous benefits for civil servants. For these countries, it is the legislation that applies to the private sector that serves as the basis of this report. Finally, because some aspects of maternity protection and work–family issues can be given effect through instruments other than legislation, such as collective agreements and arbitration awards, this report notes examples of these where information was available.[14]

The report is divided into seven chapters. The second chapter covers maternity leave: duration of leave, cash benefits, source of funding,, scope and eligibility requirements. The third chapter discusses other types of leave: paternity leave, parental leave and adoption leave. The fourth considers employment protection and non-discrimination. The fifth reviews health protection at the workplace throughout maternity and the sixth chapter examines breastfeeding arrangements at work and childcare. Some innovative policies and approaches to promoting maternity and paternity at work used in various countries are highlighted throughout the report.

Notes

1. As of January 2014, 43 countries ratified Convention No. 156 (see list in Appendix IV). For up-to-date information on ratification status of ILO Conventions, see NORMLEX, Information System on International Labour Standards, available at: http://www.ilo.org/normlex [25 Mar. 2014].

2. The entry into force of the Maternity Protection Convention No. 183 implied de jure closure of future ratifications of Convention No. 103, as ratification of Convention No. 183 by a State party to Convention No. 103 involves the automatic denunciation of the latter. On the other hand, Convention No. 3 remains open for ratification as the ratification of Convention No. 183 does not lead to the automatic denunciation of Convention No. 3. However, in situations where a State is party to two instruments (for example Conventions No. 3 and 103 or Conventions No. 3 and 183), the Governing Body has suggested that the State denounce the older instrument out of a concern for greater clarity and legal certainty.

3. As of January 2014, these countries are: Albania, Austria, Azerbaijan, Belarus, Belize, Benin, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Cuba, Cyprus, Hungary, Italy, Kazakhstan, Latvia, Lithuania, Luxembourg, Mali, the Republic of Moldova, Montenegro, Morocco, the Netherlands, Portugal, Romania, Serbia, Slovakia, Slovenia and The former Yugoslav Republic of Macedonia.

4. As of January 2014, these countries are: Albania, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Costa Rica, Croatia, Czech Republic, France, Germany, Greece, Honduras, Italy, Libya, Luxemburg, Mexico, Montenegro, Netherlands, Niger, Peru, Poland, Portugal, Romania, Senegal, Serbia, Slovakia, Slovenia, Sweden, The former Yugoslav Republic of Macedonia, Togo, Turkey, Uruguay and the Bolivarian Republic of Venezuela.

5. The Maternity Protection Recommendation No. 191 (Paragraph 10) also recognizes the caregiving role of men by encouraging the transfer of unexpired postnatal maternity leave to the father in the case of the death, sickness or hospitalization of the mother, or in other situations where the mother cannot look after the child. It also calls for the provision of parental leave to be able to be allocated to either parent.

6. The other elements are: employment opportunities; adequate earnings and productive work; decent working time; work that should be abolished; stability and security of work; equal opportunity and treatment in employment; safe work environment; social security; and social dialogue, employers' and workers' representation.

7. The ILO Working Conditions Laws Database – Maternity Protection is available at: http://www.ilo.org/travdatabase [25 Mar. 2014].

8. With regard to medical benefits, in many cases these are regulated by legislative and regulatory provisions on health protection. Usually, these laws and regulations have a broader scope of application and cover categories of beneficiaries that go beyond those persons in employment relationships, as required by Convention No. 183, extending protection to all residents. Therefore, the analysis of the compliance of countries with the medical benefits provisions of ILO Conventions requires a comprehensive review of national health protection systems, which would only be possible in a dedicated report. For detailed information on medical benefits in different countries, see, for example, the work of the International Social Security Association (ISSA), available at: http://www.issa.int/ [25 Mar. 2014].

9. I. Öun. and G. Pardo Trujillo: *Maternity at work: A review of national legislation. Findings from the ILO's Conditions of Work and Employment Database* (Geneva, ILO, 2005). ILO: Maternity at work: A review of national legislation. Findings from the ILO's Conditions of Work and Employment Database, second edition (Geneva, ILO, 2010).

10. ILO: Conditions of work digest: Maternity and work, Vol. 13 (Geneva, ILO, 1994).

11. Statistical data on coverage in law and in practice is drawn from the findings of the forthcoming ILO publication *Paid maternity leave: Global and regional estimates* (Geneva, ILO).

12. Data on take-up rates are mostly drawn from country reports in the International Review of Leave Policies and Related Research (Moss, 2013), available at: http://www.leavenetwork.org/lp_and_r_reports [25 Mar. 2014].

13. In line with its obligations under the ILO Constitution (Art. 22), when a member State ratifies an ILO Convention, it agrees to submit periodic reports to the ILO on the measures taken to apply the Convention. In the case of Maternity Protection

Conventions, reports are due every five years and are examined by the ILO supervisory bodies. The CEACR makes two kinds of comments: observations and direct requests, which have been reviewed for the preparation of this report. Observations contain comments on fundamental questions raised by the application of a particular Convention by a State. These observations are published in the Committee's annual report (see ILO, 2014 for the last edition), which is submitted to the International Labour Conference (ILC) in June each year, where it is examined by the Conference Committee on the Application of Standards. Direct requests relate more to technical questions or requests for further information. They are not published in the report, but are communicated directly to the governments concerned and made publicly available. The NORMLEX database systematizes all information related to international labour standards and is accessible at: http://www.ilo.org/normlex. For more information on the ILO's supervisory system, see "Maternity Protection Resource Package, Module 5", available at: http://mprp.itcilo.org [25 Mar. 2014].

14. In some countries, collective agreements at the enterprise or sector level play an important role in the provision of maternity protection, but these agreements are not included in the database.

Contents

Maternity leave

2

KEY MESSAGES

- Paid maternity leave is crucial to protect the health and economic security of women and their children.
- There has been a gradual global shift towards maternity leave periods that meet or exceed the ILO minimum standard of 14 weeks.
- The ILO maternity leave income replacement standard stands at two-thirds of previous earnings. Adequate cash benefits during leave sustain a mother's economic independence and can help to constrain traditional gender division of labour in the household.
- Very long leave periods, especially without job protection, may damage women's attachment to and advancement in paid work, resulting in wage penalties.
- When leave is too short, mothers may not feel ready to return to work and may drop out of the workforce. Limits on the duration of job protection and a low benefit level may also force women to return to work before the end of the maximum benefit period.
- Only three out of 185 countries and territories currently provide no statutory cash benefits during maternity leave and the small minority providing leave but no payment has declined since 1994. However, benefits in more than half were neither generous nor sufficiently long-lasting.
- More than 100 countries finance benefits through social security or public funds, reducing employers' liability, which is detrimental to women's opportunities in the labour market.
- An increasing number of countries are providing maternity cash benefits to low-income residents or informal workers through non-contributory maternity cash benefits financed by public funds. However, important gaps remain.
- Some 34 per cent of countries fully meet the requirements of Convention No. 183 on the duration of maternity leave, amount of cash benefits and source of funding. The current main challenges lie in improving the length of maternity leave while simultaneously reducing reliance on employers for payment of maternity cash benefits.
- Maternity protection is shown to be affordable even in lower income countries and to be conducive to social and economic development.
- The large majority of women workers in the world – equivalent to around 830 million women – do not have adequate maternity protection. Almost 80 per cent of these workers are in Africa and Asia. Only 28.4 per cent of employed women worldwide would receive cash benefits in case of maternity.
- Expanding the scope of maternity protection as set out by Convention No. 183 to cover non-standard work situations, and ensuring that governments adhere to its provisions, is of critical importance in ensuring the health and well-being of greater numbers of women workers and their children worldwide.

Paid maternity leave is a core element of the health and economic protection of women workers and their children over the perinatal period. That this role is universally acknowledged and firmly established is confirmed by the fact that the vast majority of countries have adopted statutory provisions for paid maternity leave. This entitlement is associated with positive health outcomes for women and their children, as well as the establishment and maintenance of breastfeeding (ILO, 2012b). Research, mainly from high-income countries, also shows that paid maternity leave is beneficial to women's economic opportunities (Grimshaw and Rubery, forthcoming). In addition, available research finds no evidence of negative impacts on productivity and indicates the potential for substantial benefits for employers, including small and medium sized-enterprises (Gornick and Hegewisch, 2010; Lewis et al., forthcoming). However, when paid maternity leave is not funded by social insurance or public funds and employers have to bear the full direct cost of maternity protection benefits, this can create disincentives to hiring, retaining and promoting women workers.

On the other hand, the detrimental effects of lack of maternity leave and income security during the perinatal period have also been documented in low-income countries, where reproduction-related needs and risks, including unpaid care work, remain a priority for women workers, especially the most vulnerable (Holmes and Jones, 2013; Lund and Srinivas, 2000; Jhabvala and Sinha, 2006). In the absence of effective provision of job-protected leave and income security, women workers have to interrupt or reduce their participation in paid work in order to bear and rear a child, with often considerable loss of income and labour market attachment. This occurs during the most productive years of a women's life, which correspond to her reproductive years. In addition, a lack of adequate maternity protection simultaneously increases risks to the health of both women workers and their children: often women continue to engage in economic activity too far into pregnancy, when it is no longer medically advisable, or they do not take an adequate rest period and start working too soon after childbirth with adverse effects on both their own and their children's health (ILO, 2013b; ILO, 2010b; ILO, 2007). Without protection, they are also likely to remain exposed to workplace risks or perform hazardous or unhealthy work while pregnant or nursing (Agbla et al., 2006), to reduce their access to prenatal, childbirth and postnatal care or to reduce the duration of breastfeeding (Heymann et al., 2013). Finally, lack of adequate job-protected leave is associated with labour discrimination practices, such as dismissal, loss of pay and/or loss of employment status for employees (see Chapter 4).

This chapter reviews national legislation on three aspects of maternity leave provisions in relation to the ILO standards on maternity protection. The first part considers the duration of statutory maternity leave. The second analyses the right to payment when on maternity leave (cash benefits) and the source of benefits. Finally, scope and eligibility requirements for maternity leave and cash benefits are discussed and global and regional estimates on coverage in law and in practice considered.[1]

2.1 Duration of maternity leave

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

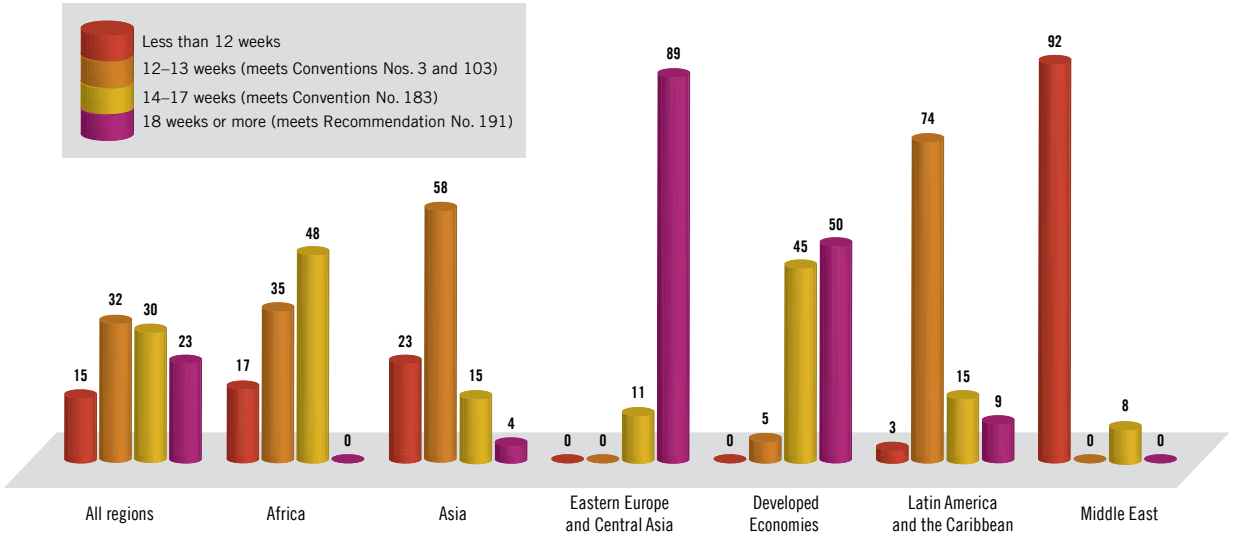
Convention No. 183, Article 4(1)

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(1)

The duration of maternity leave and the level of income replacement, as well as observance of the provisions in practice, are important factors in assessing maternity protection legislation and its effects on women's health and their situation in the workforce as well as gender equality at work in general. When leave is too short, mothers might not feel ready to return to work and drop out of the workforce altogether (OECD, 2011). However, very long leave periods, when mainly taken up by women, especially in the absence of job protection, may also damage women's attachment to and advancement in paid work, resulting in wage penalties (ILO, 2011a; Thévenon and Solaz, 2013). An ILO review of international evidence attributes a marginal wage penalty effect to each year of leave,

Figure 2.1 Statutory duration of maternity leave, by region, 2013 (185 countries and territories) (%)



Note: Figures may not add up to 100 per cent due to rounding.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [25 Mar. 2014].

with many studies marking 12 months as the pivotal point (Grimshaw and Rubery, forthcoming). Any period longer than 12 months turns into a career break and is marked by a significant increase in wage penalty. Nevertheless, this review suggests there is currently no consensus about the optimum length of leave to encourage continuity of employment and minimal wage penalty effects. At the same time, there are clear costs for mothers associated with very short leave provision, associated with a high risk of women dropping out of the labour market altogether (Keck and Saraceno, 2013). The level of income replacement during the maternity leave period is also critical. It has a significant effect on employment continuity and, by sustaining a mother's economic independence, it can also act to constrain traditional gender division of labour in the household (Grimshaw and Rubery, forthcoming). As shown in Chapter 3, specific provisions for fathers are also a facilitator of gender equality at work and intra-household equality.

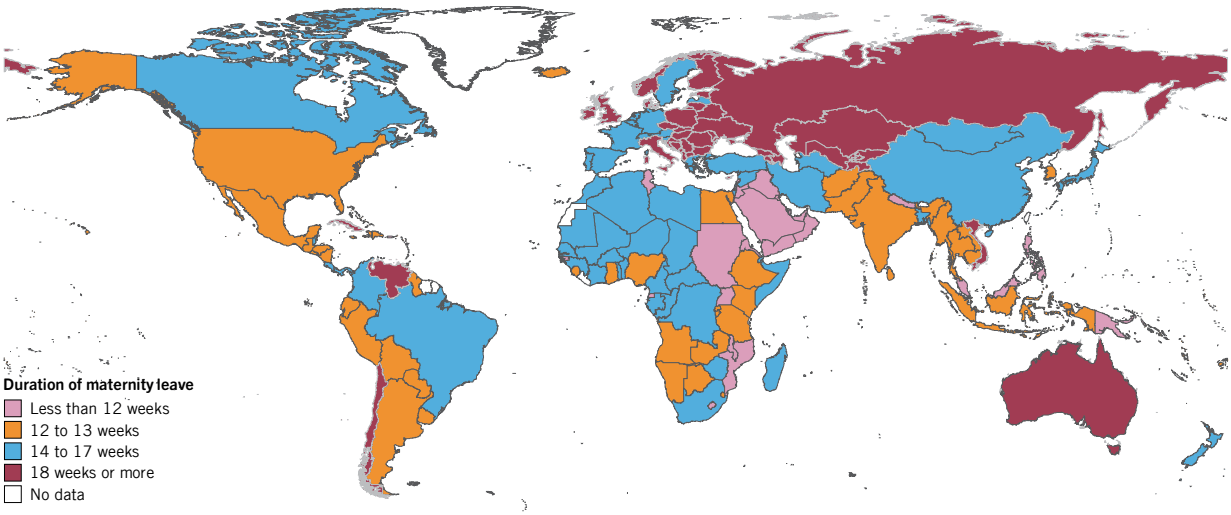
The most up-to-date ILO standard on the duration of paid maternity leave is Convention No. 183, which mandates a minimum leave period of 14 weeks – an increase from 12 weeks in the previous Conventions. Its accompanying Recommendation No. 191 goes further and suggests that ILO member States should try to increase the period of maternity leave to at least 18 weeks. As noted in Chapter 1, 28 countries have ratified Convention No. 183,[2] while far more ILO member States meet the requirement of 14 weeks' maternity leave (see Appendix II for a table of indicators by country for this chapter).

National conformity with ILO standards on duration of maternity leave

The majority of countries across the world adhere to the provisions of Convention No. 183 on duration of maternity leave. In fact, globally, 53 per cent of the 185 countries and territories studied (98 countries) provide a maternity leave period of at least 14 weeks, the standard established by Convention No. 183. Among those, 42 countries meet or exceed the 18 weeks of leave suggested in Recommendation No. 191. Sixty countries 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 27 countries (15 per cent) provide less than 12 weeks of maternity leave. Figure 2.1 shows the percentage of countries in each region providing maternity leave by statutory duration.

The proportion of countries that meet the standard of at least 14 weeks' leave varies between regions (see map 2.1 for an illustration of the distribution of

Map 2.1 Statutory duration of maternity leave, 2013 (185 countries and territories)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [25 Mar. 2014].

duration of statutory maternity leave in 185 countries and territories). In Eastern Europe and Central Asia and the Developed Economies, nearly all countries meet or exceed this standard (100 and 95 per cent, respectively). Among the Eastern European and Central Asian countries, 89 per cent meet the 18-week standard in Recommendation No. 191, as do 50 per cent of Developed Economies.[3] The highest average statutory duration of maternity leave is to be found in these regions, at almost 27 weeks in Eastern Europe and Central Asia and 21 weeks in the Developed Economies.

Among the 52 African countries analysed, almost half (48 per cent) provide at least 14 weeks of leave, and 35 per cent provide 12 to 13 weeks. Around one in five of the African countries (17 per cent) provides less than 12 weeks of leave. Tunisia, with its leave period of 30 days, provides the shortest leave period among the African countries covered in this report. At the other end of the distribution, South Africa provides four months of maternity leave. The regional duration of maternity leave is the second shortest after the Middle East, at 12.5 weeks.

Of the 12 Middle Eastern countries studied, only Syria, with 17 weeks of leave, meets the 14-week minimum established by Convention No. 183. The remaining 11 Middle Eastern countries studied (92 per cent) provide fewer than 12 weeks of leave, with the lowest regional average of 9.2 weeks.

Among the 34 Latin American and Caribbean countries and territories covered in this report, eight countries (Belize, Brazil, Chile, Colombia, Costa Rica, Cuba, Panama and the Bolivarian Republic of Venezuela) provide at least 14 weeks of leave, with three countries, Chile, Cuba and the Bolivarian Republic of Venezuela going beyond Convention No. 183 and providing at least 18 weeks of leave as prescribed by Recommendation No. 191. A total of 74 per cent of countries in this region provide 12–13 weeks of maternity leave, while in only one territory (Puerto Rico, USA) the duration is eight weeks. On average, the regional duration of maternity leave is just below the standard of Convention No. 183 (13.4 weeks).

In the Asia region, about one-quarter of the 26 countries and territories meet the standard set out in Convention No. 183, with the average duration standing at 12.7 weeks. Five countries provide at least 14 weeks of leave (Viet Nam six months, Mongolia 120 days of leave, Bangladesh 16 weeks, Singapore 16 weeks and China 14 weeks), 15 provide 12–13 weeks of leave and six countries (Brunei Darussalam, Hong Kong (China), Malaysia, Nepal, Papua New Guinea and the Philippines) provide fewer than 12 weeks.

Trends between 1994 and 2013 in the duration of maternity leave

The following section describes trends in the duration of maternity leave over the past 20 years at the global and regional levels. These comparisons will be based on the subset of 139 countries for which information is available in 1994 and 2013.[4]

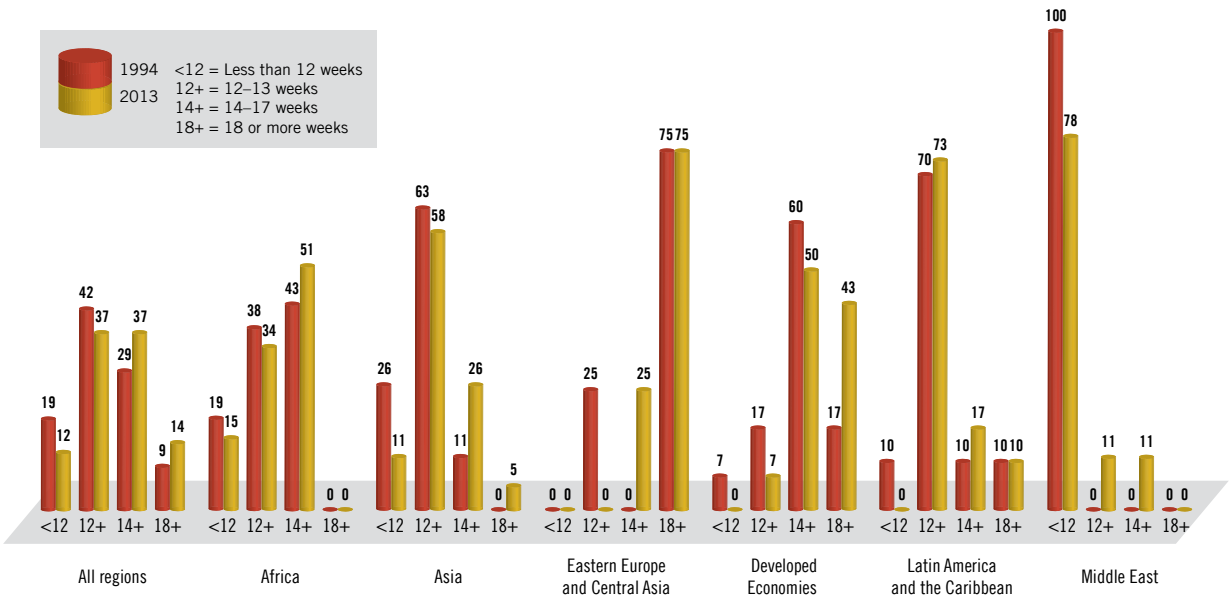
There has been a gradual global shift towards maternity leave periods that meet or exceed the ILO standard of 14 weeks. Between 1994 and 2013, 35 of the countries studied increased the duration of maternity leave and more than half now provide at least 14 weeks. More importantly, as figure 2.2 shows, the proportion of countries providing less than 12 weeks of leave has decreased from 19 to 12 per cent during the period from 1994 to 2013. Indeed, more countries are now providing longer leave periods, as the percentage of countries providing between 14 and 17 weeks of leave has increased from 29 to 37 per cent, and the proportion providing at least 18 weeks of leave has increased from 9 to 14 per cent.

In most African countries the duration of maternity leave in 2013 was the same as in 1994. However, seven countries have increased the duration of maternity leave: Egypt increased leave from 50 to 90 days; Kenya increased leave from two to three months; Libya increased leave from seven to 14 weeks in 2010; Morocco increased leave from 12 to 14 weeks; South Africa from 12 weeks to four months; Uganda increased leave from eight weeks to 60 working days (ten weeks); and Zimbabwe from 90 to 98 days. The percentage of countries in this region providing 14 to 17 weeks of leave has increased from 43 to 51 per cent.[5]

In Asia, the period of leave increased in six countries out of the 19 where information was available in both reference years. It increased from 12 weeks to 16 weeks in Bangladesh and from 101 days to 120 days in Mongolia. Leave also increased in China (from 13 to 14 weeks in 2012), the Republic of Korea (from 60 to 90 days), Singapore (from eight to 16 weeks) and Viet Nam, where a new law took effect in early 2013 extending leave from 17 to 26 weeks. The percentage of countries providing less than 12 weeks' leave decreased from 26 to 11 per cent, while the percentage of countries providing at least 14 to 17 weeks increased from 11 to 26 per cent.[6]

The length of leave remained constant in most of the Latin American and Caribbean countries analysed. The number of countries providing at least 14 weeks of leave increased from six to eight between 1994 and 2013, after Belize and Colombia (in 2011) increased leave entitlements from 12 to 14 weeks. The Bahamas

Figure 2.2 Statutory duration of maternity leave, by region, 1994 and 2013 (139 countries) (%)



Source: *Conditions of work digest: Maternity and work* (Geneva, ILO, 1994); ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [25 Mar. 2014].

increased the length of leave from eight to 12 weeks, Chile increased "postnatal parental leave" from 18 to 30 weeks in 2011(see 3.2 Parental leave in the next chapter), and the Bolivarian Republic of Venezuela increased leave entitlement from 18 to 26 weeks (in 2013). This resulted in a 7 per cent increase in countries that provide at least 14 weeks' leave.[7] Among the Eastern European and Central Asian countries, only Turkey increased the length of maternity leave (from 12 to 16 weeks) in 2003. On the other hand, the countries in this region have long provided maternity leaves that significantly exceed international standards, with an average duration of almost 27 weeks.

The two regional categories with the greatest proportion of countries that increased the length of maternity leave between 1994 and 2013 were the Developed Economies and the Middle East, which account, respectively, for the longest and shortest average maternity leave durations globally. Among the Developed Economies, 13 countries have increased the length of leave. For example, Ireland increased leave from 14 weeks to 26 weeks, Poland from 16 to 20 weeks and later to 26 weeks, Portugal from 90 days to 120 days, Slovakia from 28 weeks to 34 weeks in 2010 and Malta from 14 to 16 weeks in 2012 and then to 18 weeks in 2013.[8] All of the Developed Economies countries analysed provided at least 12 weeks of leave by 2013, compared with 93 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.

Among the Middle Eastern countries, four of the nine countries analysed improved their provisions for maternity leave, but the regional average remains far below the minimum standard of 12 weeks.[9] For example, Bahrain increased the length of leave from 45 to 60 days, and Syria increased leave from 50 days to 120 days (for the first child).[10] Syria is now the first country in the region to provide 14 or more weeks of leave.

Globally, no country was found to have reduced the statutory duration of maternity leave between 1994 and 2013.

When can maternity leave be taken?

> *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)**

All three Conventions on maternity protection (No. 3 of 1919, No. 103 of 1952 and No. 183 of 2000) provide for a compulsory leave period of six weeks after childbirth, during which the mother must not be allowed to work. This is intended to protect the woman from being put under pressure to return to work too soon, which could be detrimental to her health and that of her child. This principle constitutes a fundamental component of the protection afforded by the ILO standards as it has been repeatedly underlined by the ILO Committee of Experts on the Application of Conventions and Recommendations (e.g. CEACR, Direct Request, C3, Côte d'Ivoire, 2013).[11] With the adoption of Convention No. 183, some flexibility was introduced concerning the provision of compulsory leave. This instrument opens up the possibility of agreements being made between governments and representative organizations of employers and workers at the national level on the arrangement of compulsory leave.

Among the countries for which detailed legislative information is available (168 countries), 72 per cent 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, nearly two-thirds of the countries analysed (62 per cent) provide for at least six weeks' compulsory leave after childbirth, as specified in Convention No. 183,[12] with 29 per cent of countries stipulating more than six weeks of compulsory leave.[13]

Although some countries provide for periods of compulsory leave both before and after childbirth,[14] others provide compulsory periods only before birth.[15]

In EU Member States, maternity leave must include a period of compulsory leave of at least two weeks allocated before and/or after childbirth, as stipulated

by EU Directive 92/85/EEC (European Economic Community, 1992, Article 8(2)). Although many EU countries provide longer periods of compulsory leave, several EU countries provide only the two-week minimum.[16]

However, some countries do not have any period of compulsory leave. Of the 167 countries for which information was available, 27 per cent (46 countries) provide for no compulsory leave, 10 per cent provide for one to five weeks of leave, 33 per cent (55 countries) provide for exactly six weeks, and 29 per cent (49 countries) provide for more than six weeks.[17]

In Africa, 76 per cent of the 51 countries with information available provide some degree of compulsory leave (including Burundi, Madagascar and Uganda).[18] Only 12 countries provide no compulsory leave (including Algeria, Malawi and Zambia, and concern regarding this situation has been raised by the CEACR on the application of Convention No. 103),[19] while 37 provide at least six weeks of compulsory leave with the longest leave being in Angola, Congo, Ethiopia (nine weeks), and Seychelles (12 weeks). In Asia, out of 25 countries with information available, 15 provide six weeks or more of compulsory leave (including China, Sri Lanka and Viet Nam),[20] while eight have no provisions for compulsory leave (including Cambodia, Nepal and Thailand).[21] Of the 15 Eastern European and Central Asian countries, only four do not provide for compulsory leave (Serbia, Tajikistan, The former Yugoslav Republic of Macedonia and Uzbekistan), with the other 73 per cent providing at least six weeks.[22] Of the 35 Developed Economies with information available, 26 per cent provide no compulsory leave at all,[23] eight provide for one to five weeks, and just over half provide for six weeks or more (the longest periods are provided by Belgium and Greece, at nine weeks each, and Italy at 13 weeks).[24] In Latin America and the Caribbean, information was collected for 31 countries, of which eight provide no compulsory leave,[25] while 21 provide for at least six weeks (including Colombia, Haiti and Peru).[26] Finally, of the ten Middle Eastern countries, 30 per cent provide six weeks or more (Jordan, Saudi Arabia and Yemen, while Iraq provides five weeks), while half make no provision for compulsory leave at all (Bahrain, Kuwait, Lebanon, Syrian Arab Republic and the United Arab Emirates).

> *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)**

Except for the period of six weeks' compulsory postnatal leave, Convention No. 183 does not stipulate how maternity leave should be distributed before and/or after childbirth, and Recommendation No. 191 emphasizes the advantages of providing women with flexibility in this regard. Legislation that allows more choice regarding how non-compulsory maternity leave should be distributed is more likely to meet women's needs. The woman should thus be able to choose freely when she takes any non-compulsory portion of her maternity leave.

Countries differ considerably in the extent of flexibility offered and how much choice women have over when they may take statutory maternity leave and how to distribute it before and after childbirth. Of the 167 countries with information available, 86 – or just over half – provide some flexibility regarding when and how the leave can be taken. The regional disparities between these countries are striking. For example, of the ten countries with information available in the Middle East, the large majority provide for flexibility, (including Jordan, Lebanon and Qatar), while in Eastern Europe and Central Asia, only Belarus offered choice in how to distribute maternity leave.

In other countries, the legislation leaves some room for women to decide how to distribute the allotted leave. For example, in Peru the system is flexible in terms of 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 childbirth. The remaining 45 days can be taken before birth or they can be wholly or partly deferred and added to postnatal leave if the woman so desires, provided that there is no negative effect on mother or child. In France, women are entitled to 16 weeks of leave, divided into six weeks before and ten weeks after the expected birth. If a woman so desires, she may reduce the prenatal leave by up to three weeks and transfer those weeks to the postnatal period, with the approval of a medical practitioner.[27] In Singapore,

women are entitled to 16 weeks, with a compulsory period of four weeks after birth. If a woman prefers, with the agreement of her employer, seven weeks of leave may be taken flexibly during the first 12 months after birth.[28] Several countries, including Croatia and Italy, allow flexibility in how the leave is distributed between the parents, with fathers able to take some portion of the maternity leave allowance if mothers do not take the full amount. In Italy, for example, fathers are entitled to a paternity allowance if the mother has a serious illness or dies, or if the father is awarded custody in the event of a divorce.

By contrast, many countries prescribe precisely how to distribute the leave and state the number of days' leave that may be taken before and after childbirth, leaving little room for women to schedule their leave according to their individual and family needs and preferences. This is the case, for example, in Guatemala, where the maternity leave period is set at 30 days before and 54 days after childbirth. Other examples include Guinea, where the 14 weeks' maternity leave is to be taken six weeks before and eight weeks after childbirth, and the Russian Federation, where leave is to be taken 70 days before and 70 days after birth.

Extension or reduction of the maternity leave period

National legislation often allows or requires changes in the duration of maternity leave if some unusual or unexpected event takes place during pregnancy or childbirth. This measure is important since the extension of the leave period when there are complications and the health of the mother is at risk can prevent higher costs that could arise if the complications are not appropriately and promptly addressed. 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's or child's illness.

> *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.*
>
> **Convention No. 183, Article 4(5)**

In countries which have ratified ILO Conventions, if the birth takes place sooner than expected, the total period of leave guaranteed by the relevant Convention is to be granted to the mother. Several countries provide for an extension of the prenatal leave period if the child is born after the expected date (e.g., the Bahamas, Barbados, Cuba, Ireland, Lesotho and Uruguay).[29] Another group of countries extends the postnatal leave period if the birth occurs before the due date (e.g., Argentina, Croatia, Luxembourg, Netherlands and Nicaragua), while some countries (e.g., Austria, Cyprus, Equatorial Guinea, the Bolivarian Republic of Venezuela and Swaziland) provide for both extended prenatal and postnatal leave in the case of a longer or shorter pregnancy than was anticipated.

> *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, Article 5**

A number of countries provide for additional leave in case of illness or complications. Of the 165 countries where information was available, 28 per cent (46 countries) provide for no additional leave, 31 per cent provide for one to four weeks of additional leave, 6 per cent (10 countries) provide for five to 12 weeks, and 9 per cent (15 countries) provide for more than 12 weeks.[30] In Africa, 84 per cent of the 51 countries with information available provide for additional leave, while eight countries provide no additional leave. In Asia, out of 25 countries with information available, 13 provide additional leave, while 12 do not. In the 14 Eastern European and Central Asian countries, ten provide additional leave, while four do not. Of the 34 developed economies with information, five provide one to four weeks, two provide five to 12 weeks, and two provide 13 or more weeks, while 17 provide for no additional leave. In Latin America and the Caribbean, of the 31 countries with information available, 29 provide additional leave in cases of illness or complications, while two do not. Finally, of the ten Middle Eastern countries with information, seven provide additional leave, while three do not.

The length of the extension varies significantly. In some countries, the length of the extension is not specified (e.g., Austria, Bolivia (Plurinational State of), Chile, Germany, Ghana, Italy, Malaysia, Nigeria, Paraguay and Solomon Islands), while in others the duration of additional leave is set explicitly. The latter is the case, for instance, in Barbados, where an employee is entitled to an additional six weeks of leave for illness arising out of childbirth, and in Niger and Senegal, where women workers may take three additional weeks of leave on medical grounds arising from pregnancy or childbirth. In Iraq, a qualified medical practitioner may extend the period of leave for up to nine months in the case of a difficult childbirth, the birth of more than one child or the appearance of complications before or after childbirth (days which exceed the length of the leave are counted as unpaid leave). In Kuwait, maternity leave may be extended by up to 100 days in the event of illness (although this period is unpaid).[31] As an important infant and maternal health protection measure, many countries also extend the maternity leave period when a child is born prematurely (for example, Austria, Colombia, Germany, Haiti, India and Luxembourg extend the postnatal portion of leave, usually by two to four weeks, for premature births) or if the child has special medical needs.[32]

Many countries provide for special periods of leave for miscarriage, stillbirth, death or other complications arising from childbirth. Examples of countries providing leave on any of these grounds are Nicaragua and Panama, where paid leave is provided in accordance with the woman's needs in the case of miscarriage, stillbirth or complications arising from childbirth. Azerbaijan and the Russian Federation also extend the postnatal portion of leave for "abnormal" births. Mauritius provides two weeks of miscarriage leave and Indonesia provides leave for one-and-a-half months in the case of a miscarriage. In Denmark, the leave period in the event of a stillbirth is 14 weeks. The CEACR has underlined the important role of postnatal compulsory leave (six weeks) as a health-related measure that should also be provided to women in the event of a stillborn child (CEACR, Direct Request, C103, Hungary, 1994).

Consistent with Recommendation No. 191, several countries have special provisions in case of multiple births. Of the 166 countries where information was available, the vast majority do not extend maternity leave in the case of multiple births. Only 41 countries, or 25 per cent, make any provision at all for multiple-birth leave extension.[33] Of these countries, over half (24 countries) are Developed Economies and Eastern European and Central Asian countries. In the Middle East only two of the ten countries for which information is available extend leave.[34] China, Estonia and Kazakhstan are among the 20 countries that extend the maternity leave period by two weeks for multiple births. Five countries (Angola, Luxembourg, Peru, Portugal and Viet Nam) extend the leave by four weeks. In the case of multiple births, other countries provide longer leave extensions. For example, The former Yugoslav Republic of Macedonia provides for 13 weeks, while Bosnia and Herzegovina provides for 26 weeks.

> *Provision should be made for an extension of the maternity leave in the event of multiple births.*
> **Recommendation No. 191, Paragraph 1(2)**

Some countries also provide an extension of maternity leave according to family size or composition. In France, for example, maternity leave is extended from 16 to 26 weeks for the third child. In Croatia, women may extend the maternity leave period to 3 years for the third or subsequent child. In Slovakia, single mothers are entitled to 37 weeks of leave, compared with 28 weeks for other mothers.

A small number of countries allow extensions of the normal maternity leave period upon request, although the extended leave period may be unpaid. Zimbabwe, for example, allows unpaid extensions of the normal duration of maternity leave. In Argentina, a woman who has worked for more than 1 year in an enterprise may opt to extend her period of maternity leave by a period of not less than three months and not more than six months in order to care for her child.

2.2 Maternity cash benefits

> *Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave [both in respect of maternity leave and leave in case of complication or illness].*
>
> **Convention No. 183, Article 6(1)**

Out of the 185 countries and territories with information available, all but three provide cash benefits to women during maternity leave. The three exceptions are Oman, Papua New Guinea and the United States, all of which provide some form of maternity leave but have no general legal provision for cash benefits.[35] In Oman, paid maternity leave is not a statutory right. A worker can choose either to consider her period of absence from work as maternity leave without pay, or as sick leave paid by social security. As pointed out by the ILO Committee of Experts, drawing on sick leave benefits instead of maternity leave benefits is contrary to ILO standards on maternity protection, as the practice has the effect of unduly shortening the worker's right to sickness benefits in the postnatal period, when she might need them most, and leading to potential discrimination against women (CEACR, Observation, C183, Latvia, 2013).

This section considers the level of cash benefits paid during maternity leave and how these benefits are financed, as well as trends in the provision of cash benefits over the past 20 years.

Amount and duration

In order to achieve conformity with Convention No. 183, the cash benefits paid during maternity leave should be at least two-thirds of a woman's previous earnings (or a comparable amount if other methods are used to determine cash benefits) for a minimum of 14 weeks. The guiding principle is that the level of benefits should ensure that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. The method of calculating benefits based on previous earnings is the system used in the overwhelming majority of countries. Other methods include the provision of a flat rate benefit, which should be comparable to what would be paid on average from the application of the method based on previous earnings. In addition, Convention No. 183 also reaffirms the principle enshrined in the Social Security Convention No. 152 (Article 52) that the cash benefit should be paid throughout the entire duration of maternity leave.

The Convention does not contain a definition of "previous earnings" or of "such of those earnings as are taken into account for the purpose of computing benefits" and countries have defined such earnings in different ways. For example, in Mongolia, the benefit is 70 per cent of the average salary, calculated over the preceding 12 months. In Iceland, the payment is 80 per cent of the woman's average wage, but no period for defining that average is given. In Senegal, the rate of 100 per cent is applied to the daily wage received on the last pay day, including allowances directly related to the

> *Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.*
>
> **Convention No. 183, Article 6(2)**

> *Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.*
>
> **Convention No. 183, Article 6(3)**

> *Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.*
>
> **Convention No. 183, Article 6(4)**

> *Where practicable, and after consultation with the representative organizations of employers and workers, the cash benefits to which a woman is entitled during leave referred to in Articles 4 and 5 of the Convention should be raised to the full amount of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.*
>
> **Recommendation No. 191, Paragraph 2**

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nature of the work. In Peru, the benefit is 100 per cent, calculated on the basis of the average daily wage for the 12 months preceding the start of benefit.

In the face of austerity measures adopted by some countries during the economic crisis, the CEACR has recently reaffirmed the principle that the level of maternity benefits should be sufficient "to ensure life in health and decency", as also required by the Social Security (Minimum Standards) Convention, 1952 (No. 102). Specifically, in view of the decrease of workers' earnings and benefits calculated as a percentage of those earnings, the Committee of Experts expressed concern about the situation of low-wage earners, "the most important category of persons protected by the Convention [No. 183]" and the risk that social security systems may operate below the at-risk-of-poverty level and possibly even below the subsistence level. For instance, in Latvia, as a result of restrictions on social insurance benefits, between 2009 and 2013, the average maternity benefit payment lost about 35 per cent of its value in real terms, taking into account the decrease of 15 per cent in the average level of earnings in the country (CEACR, Observation, C183, Latvia, 2013). In other countries, the replacement rate of previously insured earnings, even when in line with or higher than the two-thirds of previous earnings standard, may be lower than the national minimum wage for certain categories of atypical or low-income women workers. In these cases, the CEACR has reiterated the right of all employed women to receive a maternity benefit at the guaranteed minimum level and, in the case of a shortfall, additional forms of social protection to ensure that the amount of cash maternity benefit remains at a level that allows maintenance of the mother and child at a suitable standard of living (CEACR, Observation, C183, Romania, 2013). In some countries that calculate benefits based on past earnings, such as Finland and Portugal, low-wage workers and the self-employed are guaranteed a minimum level of cash benefits. In Belgium, unemployed women are entitled to 60 per cent of their gross salary prior to being unemployed, up to a ceiling, and a complementary indemnity of 19.5 per cent for the first 30 days and of 15 per cent for the remaining period. As previously discussed, the duration of job protection and a low benefit level are among the key factors that may force women to return to work before the end of the maximum benefit period (ILO, 2004a).

Methods of calculating cash benefits

Given the variety of methods used by different countries for determining the level of cash maternity benefits, it is difficult to establish the exact number of countries that provide paid maternity leave in conformity with the Convention. In the simplest case, a country calculates benefits based on a woman's past earnings and pays a constant benefit for the entire leave period. This is the most common method of calculating cash benefits,[36] and in these cases it is easy to see if the payment reaches the required level of two-thirds of past earnings.

In some countries, the cash benefit does not cover the entire period of the minimum statutory leave, contrary to maternity protection Conventions.[37] For example, Paraguay pays leave benefits for nine weeks out of the normal duration of 12 leave weeks; in Brunei Darussalam nine weeks of leave are provided, of which eight are paid. Other countries where benefits are paid for only part of the normal leave period include the Islamic Republic of Iran (12 of the 13 weeks), Ireland (26 of the 42 weeks), Jamaica (eight of the 12 weeks), Haiti (six of the 12 weeks); Swaziland (only two of the 12 weeks), Canada (15 of 17–18 weeks, depending on the province), Malta (14 paid weeks out of 18) and the United Kingdom (12 unpaid weeks out of 52).

In several countries, the amount paid is greater at the beginning than at the end of the leave period. Thailand provides 100 per cent of past wages for the first 45 days of maternity leave, but 50 per cent for the remaining 45 days. In Albania, benefits are paid at 80 per cent for 150 days and then at 50 per cent for the remainder of the period (215 days). In a number of countries, benefits are paid at 100 per cent for fewer weeks than the full leave duration, and the remainder unpaid. In these countries, assessing compliance with the standard in Convention No. 183 is easily accomplished simply by averaging out the rate of payment across the statutory duration of the leave. However, it should be taken into account that in some cases, after 14 weeks (the minimum period provided for in the Convention) the benefit rate may decrease, subject to the obligation to guarantee maintenance of the woman and her child in proper conditions of health and suitable standards of living.

In some countries, statutory paid maternity leave is only provided to certain categories of workers. For instance, in Lesotho, workers in retail, tourism, hotel and restoration, transport, construction, small

businesses with fewer than ten employees and domestic workers are entitled to 12 weeks of leave paid at 100 per cent, while workers in the textile, clothing, leather clothing and leather manufacturing sectors, as well as workers in the private security sector, are entitled to six weeks' paid maternity leave and six weeks' unpaid maternity leave. In Zambia, domestic workers are only entitled to unpaid maternity leave. Globally, almost 40 per cent of women domestic workers are not entitled to maternity leave cash benefits (ILO, 2013b).

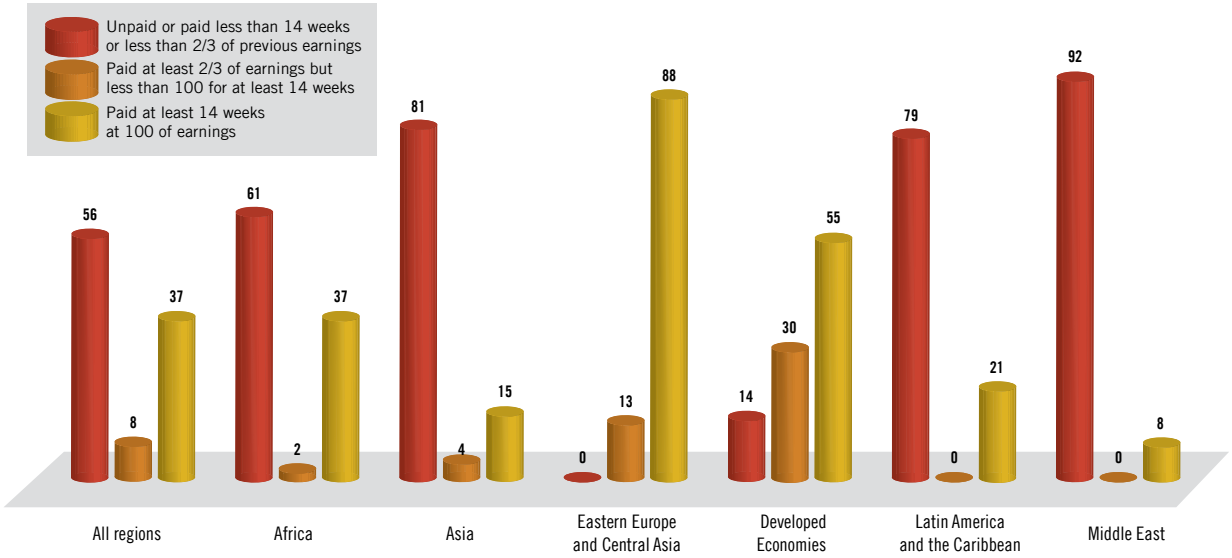
Assessing conformity with the ILO standard of two-thirds of earnings can be more complicated under some of the approaches used for assigning benefits. For example, some countries, primarily in Europe, provide benefits as a percentage of earnings, but have a ceiling limiting cash benefits. This practice is authorized by Convention No. 183, although the ceiling should not be set too low.[38] In these cases, the benefit is calculated based on a percentage of capped earnings. Percentages are capped by a ceiling in, among other countries, Belgium, Chile, France, Israel, the Netherlands, New Zealand, Switzerland and the Russian Federation.

In Seychelles, a flat monthly maternity benefit is paid, regardless of a woman's previous earnings. In Australia, parental leave benefits are set at the federal minimum wage level for all beneficiaries (around US$ 80 per day in 2012). In Germany, a daily flat rate of around US$ 15 (in 2012) is paid by social security, with the reminder topped up by the employer up to 100 per cent of average net earnings. When determining what proportion of countries comply with the Convention, due to a lack of comprehensive data, countries with a flat-rate benefit or a ceiling on benefits could not be assessed unless their compliance could be determined through other available information.[39] For example, countries that fail to meet the standards on other grounds (i.e., length of leave) are counted as non- compliant, even if there is uncertainty about the level of benefits paid.[40] Accordingly, 16 countries were excluded from the analysis of conformity with Convention No. 183 with respect to length of leave and cash benefits.[41]

National conformity with Convention No. 183 on duration of maternity leave and cash benefits

Globally, 45 per cent (74 countries) of the 167 studied provide cash benefits of at least two-thirds of earnings for at least 14 weeks. This figure represents an overall increase of 3 per cent since the last review in 2010, which covered 152 countries (ILO, 2010). In fact, 37 per cent (61 countries) go beyond this standard by providing 100 per cent of previous earnings for at least 14 weeks (see figure 2.3). In over half (93 countries),

Figure 2.3 Amount of cash benefits and maternity leave duration, by region, 2013 (167 countries) (%)



Note: Figures may not add up to 100 per cent due to rounding.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [26 Mar. 2014].

however, maternity leave is unpaid, paid at less than two-thirds of previous earnings or paid for a period of less than 14 weeks.

Among the 16 Eastern European and Central Asian countries analysed, all meet the standards established by Convention No. 183, while 14 countries exceed the duration and payment standards in this Convention. The majority of the 29 Developed Economies assessed[42] also meet the standards of Convention No. 183 in both areas, with 25 countries meeting or exceeding the standards. About 14 per cent of these countries provide lower cash benefits than Convention No. 183 calls for (Canada, Iceland, Slovakia – although the level of benefit is set at 65 per cent instead of two-thirds – and the United States). As noted, lack of comprehensive information on countries with flat-rate or capped benefits prevented the assessment of conformity in 13 of the countries and territories in this region.[43]

Nearly all of the African countries calculate maternity benefits as a percentage of prior earnings. The exceptions are Seychelles, which pays women a flat-rate benefit.[44] Of the 51 African countries assessed, 20 countries (39 per cent) provided for at least two-thirds of earnings for 14 weeks. Of these, the Democratic Republic of the Congo pays two-thirds of prior earnings for 14 weeks, while Algeria, Benin, Burkina Faso, Cameroon, Chad, Comoros, Congo (15 weeks), Côte d'Ivoire, Gabon, Guinea, Madagascar, Mali, Mauritania, Morocco, Senegal, Togo and Zimbabwe all pay 100 per cent of earnings for 14 weeks. Among the remaining countries that do not provide at least two-thirds of earnings for 14 weeks, some, such as Guinea-Bissau, Sierra Leone and Sudan, pay 100 per cent of prior earnings, but for a period of less than 14 weeks (60 days, 12 weeks and eight weeks, respectively). Others provide at least 14 weeks of maternity leave, but with lower levels of compensation. For example, the Central African Republic provides 14 weeks of leave paid at 50 per cent of earnings.

Of the 34 Latin American and Caribbean countries, 33 calculate benefits as a percentage of earnings without a ceiling. Among those, only seven countries meet or exceed the standards on duration and level of pay. Belize, Brazil, Colombia, Costa Rica, Cuba, Panama and the Bolivarian Republic of Venezuela provide at least 14 weeks of leave paid at 100 per cent of prior earnings.[45] Many of the remaining countries provide at least two-thirds of earnings, but for a period of less than 14 weeks. For example, Barbados, Ecuador, Honduras and Mexico provide 12 weeks at 100 per cent of earnings. Jamaica and Puerto Rico provide 100 per cent of previous earnings for eight weeks. Bolivia uses a flat rate benefit (at the minimum wage level) plus 70 per cent of the difference between minimum wage and regular earnings for 12 weeks.

All but one of the 26 Asian countries studied provide benefits as a percentage of prior earnings. The exception is Papua New Guinea, where maternity leave is unpaid. Of the other 25 countries considered, five provide at least two-thirds of earnings for 14 weeks: Mongolia provides 70 per cent of earnings for 120 days, China provides 100 per cent for 14 weeks, Singapore and Bangladesh provide 16 weeks at 100 per cent of earnings, and Viet Nam provides 100 per cent of earnings for 26 weeks. Among the remaining countries, a large number provide at least two-thirds of earnings during maternity leave, but for less than 14 weeks: Afghanistan (90 days), Brunei Darussalam (eight weeks), Hong Kong, China (ten weeks), India (13 weeks), the Islamic Republic of Iran (90 days), Nepal (52 days) and Vanuatu (12 weeks). Countries providing both lower levels of earnings and fewer than 14 weeks' benefit include Cambodia (13 weeks at 50 per cent), Kiribati (12 weeks at 25 per cent) and the Solomon Islands (12 weeks at 25 per cent).

All of the 12 Middle Eastern countries assessed calculate benefits based on prior earnings. Of these 12 countries, only Syria meets the ILO standards by providing for 120 days and 100 per cent of earnings (but only for the first child).[46] Nearly all of the remaining countries provide 100 per cent of earnings but do so for fewer than 14 weeks, with the exception of Saudi Arabia, which pays 50 per cent of a woman's wage if she has been with the employer for at least 1 year and 100 per cent if she has been with the same employer for at least 3 years, which is not in line with the principles of ILO Conventions.

2.3 Financing of maternity cash benefits

> *In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:*
> *(a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or*
> *(b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.*
>
> **Convention No. 183, Article 6(8)**

ILO Conventions Nos. 3 and 103 emphasized that employers should not be individually liable for the cost of maternity benefits payable to women employed by them, and that benefits should be provided through compulsory social insurance or public funds, which are the pillars of social security.[47] The principle of payment through social insurance or public funds is important for mitigating discrimination in the labour market, which is more likely where employers have to bear the full costs of maternity leave directly. This principle is maintained in Convention No. 183, although, to allow for its ratification by member States which do not have a social security maternity benefits branch, this Convention allows employers to assume individual liability for maternity benefits in cases where they have given their specific agreement. Convention No. 183 also authorizes employers to bear the cost of maternity benefits, where this was determined at the national level before the adoption of the Convention in 2000, or where it is agreed upon at the national level by the government and the social partners.

Financing mechanisms around the world

Access to social security is a fundamental human right and a public responsibility. It is typically provided through public institutions financed either from contributions or taxes or a combination of both. There are a number of different methods of funding maternity cash benefits during maternity leave. The countries surveyed in this report show that the most commonly employed sources of funding currently include: employment-related social insurance (contributory schemes), the employer, through the direct payment of maternity benefits ("employer liability") or a combination of the two methods ("mixed system"). Less frequently, maternity benefits are paid out of public funds (non-contributory schemes), which can finance maternity benefits individually or in conjunction with social insurance or the employers.

Social insurance is an employment-related system which generally bases eligibility for pensions and other periodic payments on length of employment or self-employment. In the event of maternity, the level of short-term payments is usually related to the level of earnings before earnings ceased due to the pregnancy. Such programmes are contributory, being financed entirely or largely from contributions (usually a percentage of earnings) made by employers, workers or both, sometimes with a government subsidy (see box 2.1; ILO, 1989). In most instances they are compulsory for defined categories of workers and their employers. Employers usually play a role as they are the parties who mainly interact with the institutions in charge of the benefit administration (i.e., collecting and transmitting contributions to the social insurance institution and informing it of the identity and wages of insured workers). Maternity benefits are often provided along with, or as part of, another social insurance scheme, such as sickness, health insurance, unemployment compensation, or employment injury and disease benefits.

The principle of solidarity in financing maternity benefits is inherent in earnings-related contributions. In general, a national social insurance programme aims at triple cross-subsidization: from healthy to ill individuals, from high- to low-income persons, and from single persons or small families to larger families (Cichon et al., 1999). Individual health risks (e.g., pre-existing conditions, age and gender) should not influence the level of contributions, nor should they inevitably lead to exclusion from protection. Therefore, it is a principle that all workers, including men, pay contributions to finance maternity benefits, as set out in maternity protection standards (Convention No. 103 and Recommendation

Box 2.1 Social insurance cash benefits for maternity in Namibia

All Namibian women who work for an employer and receive a basic wage are covered by the national Maternity, Sickness and Death (MSD) scheme, inaugurated in 1995 following ILO technical assistance and with a loan from the Government of Namibia to the Social Security Commission (SSC). Benefits are financed by a mandatory contribution of 1.8 per cent of wages up to a ceiling, shared on an equal basis (0.9 per cent) by the employer and the employee. All employees covered by the scheme, including men, must pay the contribution. The SSC periodically undertakes public campaigns to improve the outreach of the scheme and promote workers' and employers' compliance. Voluntary coverage of the self-employed is possible, in which case the worker is responsible for the entire 1.8 per cent contribution. To qualify for a cash maternity benefit, a woman must have made prior contributions for at least six months and must take maternity leave. The benefit equals 100 per cent of her monthly wage up to a ceiling. Payments generally extend for 12 weeks, four weeks before and eight weeks after giving birth. Between March 2012 and February 2013, the MSD Fund paid over 23,502 maternity claims, with the benefit amount averaging 3,670 Namibian dollars (about US$ 500) and a ceiling of 10,500 Namibian dollars (about US$ 950).* The ILO is set to provide technical support to the SSC of Namibia to review and improve the maternity benefits scheme, including the raising or removal of the ceiling and the extension of maternity leave benefits to workers in the informal economy and domestic workers. These contributory benefits are currently delivered to domestic workers by door-to-door house calls, which, according to the SSC, is a first step in gradually covering domestic workers under the scheme.

* To put the number of beneficiaries into a national perspective, Namibia had an annual rate of around 60,000 live births in 2011. See UNICEF: http://www.unicef.org/infobycountry/namibia_statistics.html [26 Mar. 2014].

Source: Namibian Social Security Commission, available at http://www.ssc.org.na/ [26 Mar. 2014]. ILO, Mission Report on a Study Visit of the Lesotho Tripartite Task Team to the Social Security Commission in Namibia, December 2013, DWT-Pretoria.

No. 191). Finally, the principle of solidarity in financing maternity benefits is also essential to promote non-discrimination at work, preventing employers from bearing the direct cost of maternity benefits, as is the case in employer liability schemes.

Shared contributions[48] between employers and employees jointly funding maternity benefits are the most common pattern in the vast majority of countries, both developed and developing (e.g., Algeria, Belize, Cyprus, Greece, France, Lithuania, Morocco, Pakistan and Tunisia). Maternity insurance schemes funded solely by employers' contributions are rare, but can be found in countries such as Jordan and Peru, where only public and private sector employers contribute to the maternity fund, although in Jordan, the Government is responsible for covering any shortfalls.

There are some countries in which the state pays a specific percentage of the insurable wages, as a supplementary contribution. This practice aims to protect low-income employees and/or employers of small and medium-sized enterprises (SMEs). **Tripartite funding** of maternity insurance schemes through contributions paid by employers, employees and government are very rare but do exist in certain countries, such as Honduras and Mexico. On the other hand, **tripartite administration**, with the employer and workers' representatives playing key roles in the governance of social security institutions, is fundamental.

Beyond the scope of ILO maternity protection instruments, special arrangements apply to **self-employed women**, who may be employers, own-account workers, contributing family members or members of producers' cooperatives. Self-employed women make up major segments of the labour market in many countries and can be among the most vulnerable workers. There are four possible scenarios for maternity benefits for self-employed women: (1) exclusion from compulsory and voluntary coverage; (2) entitlement to compulsory coverage under the general social security system/scheme; (3) voluntary affiliation with the social insurance system; (4) eligibility for special insurance systems. In some countries, where the social insurance coverage has been extended to the self-employed, these workers are required to pay higher contributions (both the employer and the employee contribution) and their insurable earnings are limited to a ceiling deemed representative of an average wage. To alleviate the financial

burden for low-income self-employed workers, some governments subsidize such programmes or require certain categories of self-employed workers to make only a minimum flat-rate payment (see under the heading *2.4 Scope and eligibility requirements* later in this chapter for examples).

Individual employer liability schemes place liability for providing cash maternity benefits on individual employers (see box 2.2). To ensure their fulfilment of this obligation, some governments require employers to purchase private insurance.

It is important to note that employer liability schemes obliging individual employers to pay the wage or a part thereof directly during the maternity leave period do not meet the principles of solidarity in funding cash benefits schemes and pooling of risks, which are essential to allow the combination of resources to ensure a fairer and collective distribution of the costs and responsibilities of bearing children. This results in discriminatory practices against women in the labour market. According to ILO experience and available research, employer liability schemes work against the interests of women workers, as employers may be reluctant to hire, retain or promote pregnant workers or women with family responsibilities or may seek to find reasons to discharge pregnant employees in order to avoid paying the costs of wage replacement during maternity leave as well as other (potential or actual) direct and indirect costs linked to their replacement.

Box 2.2 Individual employer liability for maternity cash benefits in Malaysia

In Malaysia, working women are entitled to 60 days of maternity leave with full pay. The law covers employees, thus excluding the self-employed, and places responsibility for payment on the employer of the individual worker. To qualify, a woman has to be employed at any time during the four months prior to childbirth and for a period of not less than 90 days in the nine months prior to childbirth. An employee is not eligible for cash benefits if she already has five or more surviving children.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [26 Mar. 2014].

In many cases, this simply means not hiring women of childbearing age at all (Lewis et al., 2014). This is also the reason why ILO maternity protection instruments traditionally excluded this option in their provisions covering the financing of benefits and why Convention No. 183, while allowing the option, nonetheless imposed a series of safeguards to restrict its practical application to a limited number of cases.

Moreover, compliance with individual employer liability schemes is often problematic, particularly in developing countries, where employers often do not pay the wage replacement and legislation is not enforced (see also section 2.4: *Scope and eligibility requirements* below). An establishment survey of 100 companies on maternity protection conditions in Zambia shows that almost 25 per cent of interviewed women would only be eligible for unpaid leave in case of maternity (Fumpa, forthcoming). Another study in Ghana argues that the limited participation of women in the formal labour market is also partly related to "discriminatory barriers erected against qualified women as firms anticipate the future cost of having too many employees claiming maternity benefits" (Hampel-Milagrosa, 2011). Individual employers' liability is perceived to be excessive and to involve unsustainable costs for small enterprises in countries such as Malta where employers, including SMEs, are expected to finance the first 14 weeks of maternity leave (Borg, 2011 and 2012 cited in Lewis et al., forthcoming). In this respect, employers' liability schemes have long been viewed as detrimental to the promotion of equal treatment of men and women in the labour market.

Even when the direct costs of wage replacement are collectively borne, costs for employers might arise from the administration of leave, including the cost of temporary replacement of staff on leave. The data, however, show that these indirect costs, rarely quantified, are often low or outweighed by benefits in retention and human capital development (Gornick and Hegewisch, 2010). For instance, a study in Italy shows that maternity management represents 0.23 per cent of the overall cost of staff management in Italian companies (Cuomo and Mapelli, 2009). Good practices, which are found also in small enterprises, that appear to lower such costs further include: information/training sessions on leave policies; occupational safety and health during pregnancy; "maternity planning" among workers and employers/

Box 2.3 Shifting from employer liability to maternity insurance: Examples of ILO technical assistance

In 2011, with ILO technical assistance, **Jordan** moved from an employer liability system to a maternity- insurance scheme following the creation of a new social security branch within the framework of social security law reform. This new scheme covers all private sector employees, including those working in small enterprises of fewer than five employees, and provides cash benefits in the case of maternity at the level of 100 per cent of a woman's previous earnings for a period of 10 weeks. In principle, only employers pay the contributions to the social security system for maternity benefits at 0.75 per cent of payroll, although the Government covers any deficits produced by shortfalls. This benefit is expected to encourage women's participation in the labour force and remove disincentives to hiring, retaining and promoting women workers.

The ILO is providing technical assistance to support the establishment of a maternity branch to fund maternity leave cash benefits by social insurance in a number of member States with employer liability systems, including Namibia, Sri Lanka, Lesotho, the Occupied Palestinian Territory, Rwanda and Zambia. The Ministry of Labour and Employment in **Lesotho** has begun the process of establishing a National Social Security Scheme for the private sector, covering all nine branches of social security. A primary concern for the Government is the establishment of short-term benefits, in particular sickness and maternity benefits. Maternity protection is a priority for the Government of Lesotho, given that the current legislation compels employers in a number of sectors to pay for maternity leave.

In 2011, following the discussion of this case by the 100th Session of the International Labour Conference, the Government of **Sri Lanka** made a formal request for technical assistance with a view to improving implementation of the Maternity Protection Convention, 1952 (No. 103) ratified in 1993. Following this request, Sri Lanka was included among the countries covered by the ILO time-bound programme on international labour standards under which a technical feasibility report was commissioned to examine the options available to the Government for the establishment of a maternity social insurance scheme to replace the current employer liability system for the payment of maternity cash benefits. **Rwanda**'s social security policy (2009) foresees the set-up of a new maternity branch of social insurance to move away from the current employer liability system, under which 100 per cent of salary is paid for the first six weeks and 20 per cent for the remainder. In 2014, the Ministry of Public Service and Labour (MIFOTRA), with ILO technical support, commissioned a feasibility study on the introduction of a new maternity insurance scheme to ensure the payment of women workers' full salary for 12 weeks. The Government's initial proposal is to introduce a supplementary fund to cover 80 per cent of salary for the last six weeks of maternity leave in order to supplement the 20 per cent of salary already provided by the employers.

In **Zambia**, following the adoption of a Tripartite Road Map on Maternity Protection (2013) which sets up national priorities on action to improve maternity protection in the country, the Ministry of Labour and Social Security, with ILO technical support, launched an actuarial study prior to setting up a social security branch to fund maternity leave benefits. The study also assesses the financial and operational feasibility of extending maternity benefits to low-income and vulnerable women who are pregnant or breastfeeding.

The **Occupied Palestinian Territory** is preparing to roll out a comprehensive social security scheme to cover all private sector workers. Developed by the tripartite National Social Security Committee with ILO support, the scheme was created in consultation with workers' and employers' organizations, government officials and other stakeholders. The Committee is drafting a law to be submitted to the Council of Ministers for adoption by 2015, and setting up an independent tripartite social security institution to administer the scheme's implementation.

Source: ILO 2011; ILO CEACR, 2014. ILONEWS: available at http://www.ilo.org/beirut/media-centre/news/WCMS_231142/lang--en/index.htm [26 Mar. 2014].

supervisors; coaching and "stay-in-touch" policies during leave; updates, counselling and gradual return to work through temporary part-time and family-friendly working time arrangements (Cuomo and Mapelli, 2009). Social dialogue in the workplace proves essential to establish mutually agreed maternity planning.

Supporting ILO member States in the progressive shift from employer liability systems to maternity leave benefits financed by social security systems is a priority of ILO technical assistance. This includes the following activities: information on maternity protection and social security labour standards; support to enable the ratification and effective implementation of ILO instruments; evidence-based awareness-raising among governments, parliaments, employers' and workers' organizations of the benefits of maternity protection, especially for the most vulnerable workers, and the need to create fiscal space to finance it; technical expertise in the review and drafting of the legislation; preparation of financial, actuarial[49] and feasibility studies, based on comparative international experience and good practices; training in the administration of short-term benefits and support in the progressive implementation and extension of benefits to low-income and informal workers (see box 2.3).

Non-contributory schemes (such as social assistance) base benefit eligibility on some level of financial need on the part of the woman (or her household). It is not necessary that the woman is or was previously working and no previous contributions are necessary from beneficiaries or their employers as a condition of entitlement to receive relevant benefits, though means tests are usually applied. Social assistance is typically financed by public funds (i.e., state general revenues and/or earmarked taxes) and administered by governments alone, often at the local level. In national laws and social protection programmes, cash benefits for social assistance are generally flat rate and lower than those provided by social insurance.

National practice shows that, in the case of maternity, non-contributory schemes can play a number of different roles in funding maternity leave payments. They can:

(1) act as the sole source of funding of employment-related maternity cash benefits: this is the case only in Australia, Georgia, New Zealand and the United Kingdom, where benefits remain largely income related (up to a ceiling in New Zealand), with the exception of Australia, where a flat rate at the minimum wage level is paid;

(2) complement, typically at a flat rate, earnings-related benefits provided by social insurance (in Bosnia and Herzegovina, Croatia, Greece and Japan) or employers (Hong Kong (China), Singapore and Denmark);

(3) provide a substitute for contributory maternity cash benefits where workers who would otherwise be eligible for receipt of maternity benefits fail to meet the qualifying conditions for the applicable regime, subject to the means tests that might be required, in line with Article 6.6 of Convention No. 183 (see box 2.4 and section 2.4: *Scope and eligibility requirements*);

(4) more recently, act as the sole source of funding of non-employment related minimum benefits, which are paid to workers in the informal economy or low-income women in general, who are not affiliated or contributing to any social security system. This is in line with the ILO Social Protection Floors Recommendation, 2012 (No. 202), which advocates the establishment of basic social security guarantees, including those related to maternity, for all residents who are unable to work. In certain cases, conditions related to the recipient's behaviour may apply (e.g., the mother may be required to undergo regular medical check-ups during pregnancy or to give birth in a health facility).

While this report will document examples of non-contributory schemes under points 3 and 4 above, the global review systematically covers contributory and non-contributory schemes under points 1 and 2 above. As shown in section 2.4: *Scope and eligibility requirements* below, these provisions usually apply only to women employed in the formal economy and standard employment, and thus in many countries, especially low and middle-income countries, only this minority enjoy maternity benefits from social security schemes. Moreover, as shown in figure 2.3, in the majority of countries national provisions do not meet the ILO maternity protection replacement income standards of two-thirds of previous income.

Box 2.4 Examples of non-contributory maternity cash benefits

In **New Zealand**, women who have been working for the same employer for at least six months before the expected date of childbirth, including at least one hour a week or 40 hours a month, are entitled to 100 per cent of previous earnings up to a ceiling of around US$ 400 gross earnings a week, for 14 weeks. Self-employed workers who have been working for at least six months for at least ten hours a week receive 100 per cent of self-employed workers' average weekly earnings or US$ 130 per week. An alternative means-tested benefit may be paid to all residents in New Zealand with at least 2 years of continuous residence, including the unemployed. When a person is more than 26 weeks pregnant and unable to work due to her pregnancy, she may be eligible for cash benefits at sickness rate (around US$ 250 net per week for single women). This payment may continue for up to 13 weeks after childbirth. For citizens or permanent residents with less than 2 years of residence in New Zealand, a benefit payment may be made in cases of hardship. For non-permanent residents, an income- and asset-tested emergency benefit may be paid in cases of hardship. The total cost of these cash benefits is financed by the Government from general revenues.

In **Croatia**, employees, including vocational trainees, salaried full-time apprentices and temporary contract workers and self-employed persons, are entitled to 58 weeks' maternity leave. Until the end of the mandatory maternity leave period (until the child reaches 6 months of age) the salary compensation is paid at 100 per cent of the insured's monthly earnings by the Croatian Health Insurance Fund. The maternity benefit for the remainder of the non-mandatory maternity leave period (until the child reaches 1 year of age) is paid at a flat rate (the equivalent of US$ 300–450 a month) by the State budget.

In **Singapore**, workers are entitled to 16 weeks' maternity leave at 100 per cent of previous earnings. For the first and second child, the employer pays for the first eight weeks and can claim reimbursement from the Government, up to a ceiling, for the final eight weeks. For the third child and subsequent children, the Government pays the entire 16-week period, up to a ceiling.

Portugal recently introduced legislation that provides income assistance to women who do not qualify for benefits under the social insurance system and are financially vulnerable. It establishes a new subsidy, provided out of social assistance funds, that is granted throughout the duration of maternity leave and amounts to 80 per cent of the social support index.

The Bolsa Família programme in **Brazil** makes conditional cash transfers to 11.3 million Brazilian families (one-quarter of the population) at a cost of US$ 4.5 billion, or 0.4 per cent of GDP, in this upper middle-income country.* About 93 per cent of recipients are female, and 27 per cent are single mothers. Payments are conditional on pregnant women undergoing prenatal and postnatal tests and on parents sending children to school and having them vaccinated. The eligibility threshold is set at approximately one-quarter of the monthly minimum wage, or 40 per cent of the urban poverty line (US$ 52 in 2007). Extremely poor families receive a monthly amount ranging from the local equivalent of US$ 27–79, while poor households receive US$ 17–52. Evidence shows that the programme has significantly reduced poverty and raised the social status of poor women.

* According to the World Bank's "World Development Indicators" (available at http://data.worldbank.org/data-catalog/worlddevelopment-indicators [26 Mar. 2014]), in 2009 Brazil had a per capita Gross National Income (GNI) of US$ 8,040.

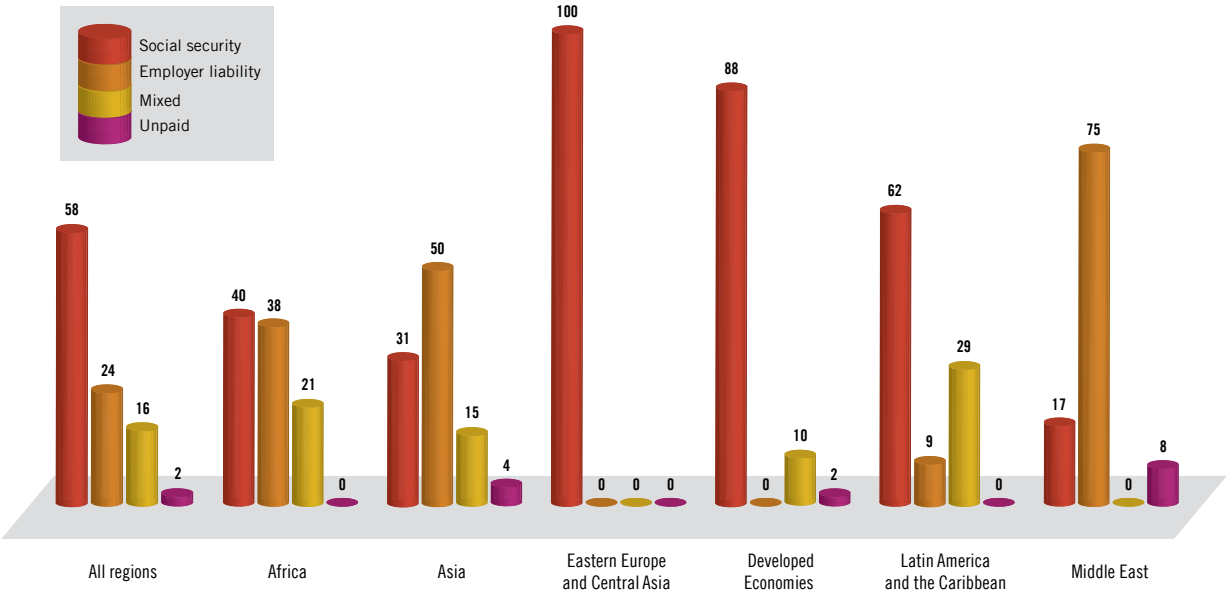
Source: ILO Working Conditions Laws Database. ILO, 2009. CEACR, Observation, C103, Portugal, 2008; *Bolsa Família in Brazil: Context, concept, and impacts* (Geneva, 2009).

National practice

As shown in figure 2.4, 58 per cent of the 185 countries and territories surveyed provide cash benefits through national social security schemes (108 countries).[50] In 24 per cent of the total (45 countries), benefits are paid solely by the employer. In 16 per cent of surveyed countries, employers and social security systems share the cost of cash maternity benefits (29 countries). Benefits are not paid in three countries (2 per cent).

Regional differences between the parties responsible for paying cash benefits are striking. In the Developed Economies, benefits are paid through social security systems in 88 per cent of the countries, with no countries relying solely on employers as the direct source of cash benefits. In Malta, employers fully cover 14 weeks of leave, while social insurance provides a four-week flat-rate "maternity leave benefit" (at approximately US$ 220 per week). Three other countries (Denmark,

Figure 2.4 Source of funding of maternity leave cash benefits, by region, 2013 (185 countries and territories) (%)



Note: Figures may not add up to 100 per cent due to rounding.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [26 Mar. 2014].

Germany and the United Kingdom) rely on a mixed system of employer liability and social security. Among all the Developed Economies, only the United States does not pay maternity benefits.

Eastern European and Central Asian countries rely entirely on social security systems, with all 19 countries assessed providing payment through social security. A total of 21 Latin American and Caribbean countries rely either on social security systems (62 per cent), such as Argentina, Mexico, Peru and the Bolivarian Republic of Venezuela, or on mixed systems (29 per cent), as in the case of Dominican Republic, Ecuador, Guatemala and Panama. Just 9 per cent of countries in this region rely fully on an employer liability system. Employers are liable for benefits in Haiti, Jamaica and Puerto Rico (USA).

Employer liability systems are more common in Africa, in Asia and in the Middle East, where challenges in setting up maternity branches of social security systems have remained considerable. In Africa, 40 per cent (21 countries, such as Cameroon, South Africa and the United Republic of Tanzania) rely on social security systems, 38 per cent (20 countries, the highest absolute number across the regions, including Botswana, Ethiopia, Kenya, Nigeria and Uganda) rely on employer liability systems and 21 per cent rely on mixed systems (such as Benin, Congo and Egypt).

After the Middle East, Asia is the second region in which employer liability is the prevalent funding system of maternity leave benefits, with 50 per cent of the total (13 countries) financing benefits directly through employers' payments (such as in Bangladesh, Indonesia, Pakistan and Sri Lanka). Just 31 per cent provide benefits through social security systems (China, India, Islamic Republic of Iran, Lao People's Democratic Republic, Mongolia, Myanmar, the Philippines and Viet Nam), and 17 per cent through mixed systems (e.g. the Republic of Korea and Thailand).[51] Only Papua New Guinea pays no benefit at all.

In the Middle East, reliance on social security is the lowest of all regions, with 75 per cent of countries in this region relying on employer liability systems. Only Bahrain and Jordan[52] provide benefits through their social security systems. Lebanon uses a mixed social security and employer liability system. In Oman, as previously discussed, there is no statutory provision of paid maternity leave.

When employers are solely responsible for the cash benefits, the proportion of prior earnings they must pay varies widely. In some countries employers are

responsible for the full replacement pay of a woman worker's earnings during her maternity leave.[53] In other cases, employers are required to provide cash benefits at a rate below the full rate of pay.[54]

When countries use a mixed system in which employers and social security systems share responsibility for benefits, the percentage that employers must contribute to cash benefits varies. Sometimes, employers' contributions are relatively small.[55] In many countries, such as Burundi, Costa Rica, Guinea, Madagascar and Togo, contributions are split equally between social security and employers. Other countries require employers to make variable contributions, such as when employers must pay the difference between the social security benefit and a woman's previous earnings (e.g., Burkina Faso and Panama). In a few of the cases where mixed systems exist, employers bear responsibility for most of the cash benefit.[56]

Trends between 1994 and 2013 in level and source of funding

Between 1994 and 2013, there was notable progress in improving payment levels and a gradual shift away from reliance on employers to provide maternity leave benefits.[57]

During that period, the small number of countries providing no cash benefits during maternity leave declined from seven to three. In 1994, for example, Namibia was preparing a social security code including paid maternity benefits and, by 2004, it had provided 12 weeks of maternity leave paid by the social security system at 80 per cent of the woman's wages. By 2010, Namibia had further extended cash benefits to provide for 100 per cent of a woman's wages up to a ceiling (Namibian Social Security Commission, 2009). Between 1994 and 2010, New Zealand, which formerly offered unpaid leave, introduced cash benefits for 14 weeks of leave. In 2010, Australia introduced cash benefits for maternity leave under its first paid parental leave scheme with 18 weeks of pay at the federal minimum wage. Since 2007, Lesotho has been progressively introducing paid maternity leave covering an increasing number of categories of workers. Following the 2013 labour code wage amendment, paid leave for workers in the textile sector has been increased from two to six weeks, in line with workers in security services. Other categories of workers, including domestic workers and workers employed in businesses with fewer than ten employees are entitled to 12 paid weeks.

Although paid leave existed in Switzerland in 1994, maternity protection at that time was not applicable in federal legislation. The length of leave, percentage of earnings paid and sources of payment differed between the public and private sectors (depending on the legislation and/or collective agreements applicable in each case). Amendments to the social security legislation, which came into force in 2005, provide women workers across the country with uniform protection that meets the minimum period and remuneration set out in Convention No. 183 (14 weeks at 80 per cent of previous earnings paid through social insurance).

The level of payment during maternity leave increased in 20 countries between 1994 and 2013. In Israel, the level of benefits increased from 75 per cent to 100 per cent, while, in Jordan, benefits increased from 50 per cent to 100 per cent and, in Syria, the level of payment rose from 70 per cent to 100 per cent (while leave also increased from 50 to 100 days, as noted earlier). In Ghana, benefits increased from 50 per cent to 100 per cent. In Belize, benefits increased from 80 per cent to 100 per cent and in Vanuatu from 50 per cent to 66 per cent in 2010. The percentage of earnings paid during leave periods increased from 84 per cent (up to a ceiling) to 100 per cent (up to a ceiling) in France and from 75 per cent to 100 per cent of average earnings in Spain. In 2010, Botswana increased leave benefits from 25 to 50 per cent of former earnings.

Although the overall trends during this period were towards longer and better paid leave, there were a few countries in which the level of payments appears to have decreased, in part as a likely consequence of the economic crisis and related austerity measures (but see box 2.5). In Bulgaria, for example, benefits were reduced from 100 per cent of prior earnings to 90 per cent between 1994 and 2009, although this was counterbalanced by an increase in the length of leave from 120 to 227 days. In the Czech Republic, benefits were reduced from 70 per cent to 60 per cent as a temporary measure from January to December 2010; however, the benefit has once again been raised to the original 70 per cent as of 2011 (Gauthier, 2010, page 10; Czech Social Security Administration, 2013).[58]

Box 2.5 Paid maternity leave during the economic crisis

Studies on the effects of the recent economic crisis on maternity and other parental leave policies have focused mainly on Developed Economies. One review of 17 European countries found that most increased the level of government support to families during the economic crisis. This included a range of support measures for child nutrition, access to early education, tax support and so on, as well as increases in the duration of maternity or parental leave periods, expansion of the scope of maternity and parental leave and increases in leave benefits in certain countries. Countries that undertook such changes included Finland, Germany, the Netherlands, Romania and Sweden. In 2010, **Australia** passed the Paid Parental Leave Act, which introduced universal paid parental leave (including during the pre- and postnatal period) for the first time in Australia. In 2011, **Slovakia** increased the duration of maternity leave from 28 to 34 weeks and the wage replacement rate from 55 to 65 per cent of reference earnings. In 2012, **Poland** increased maternity leave from 20 to 26 weeks at 100 per cent of previous earnings and introduced a new option allowing 52 weeks of leave at 80 per cent. In July 2013, **Norway** increased paid parental leave to 49/59 weeks at 100/80 per cent of earnings, with an extension of the mother's and father's quotas to 14 weeks, in order to achieve greater gender equality between women and men (Brandth and Kvande, 2013). In December 2013, a bill (the Family and Medical Insurance Leave Act of 2013) was submitted to the Congress of the **United States**. It proposes the creation of a national paid family and medical leave insurance programme enabling workers to take up to 12 weeks of paid leave from work to recover from childbirth, a serious illness, care for a sick family member or bond with a new baby. The Act would cover almost all workers, providing 66 per cent of previous earnings, up to a ceiling of US$ 4,000 per month. It would be entirely funded by contributions from employers and employees (0.2 per cent of wages; 0.4 per cent for self-employed) and administered through a new Office of Paid Family and Medical Leave within the Social Security Administration (SSA).

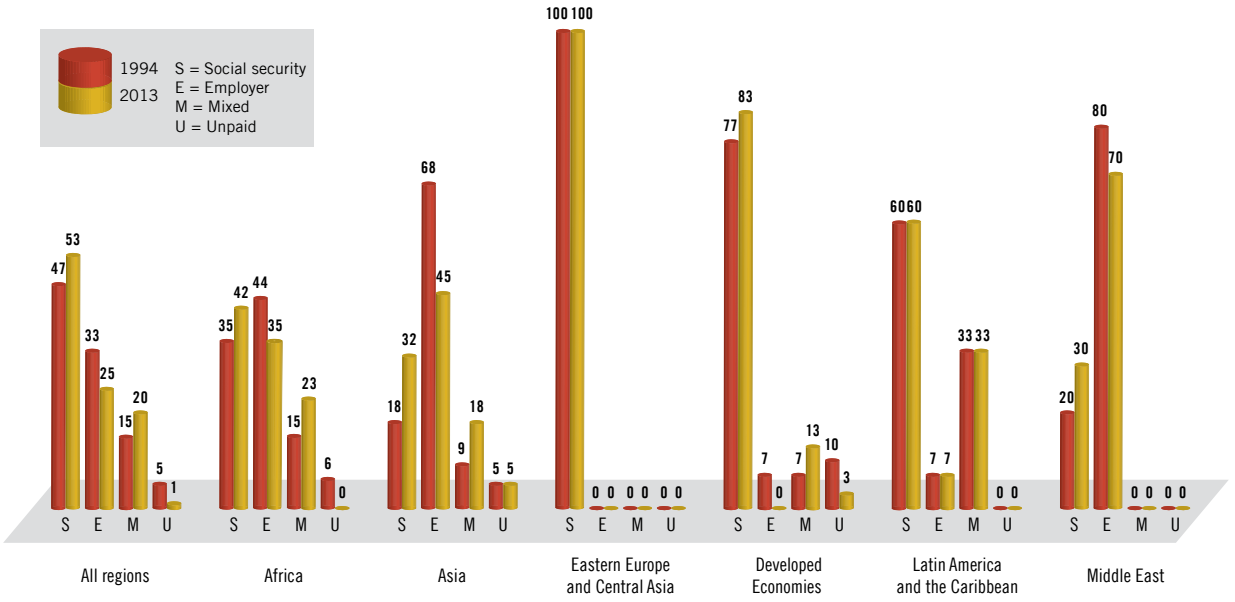
Improvements in maternity leave provisions have also been reported beyond the Developed Economies region and include countries such as **China**, which extended maternity leave from 90 to 98 days in 2011, and **Chile**, where postnatal parental leave for women was increased from 18 to 30 weeks. The Alliance for the Family programme of **El Salvador** is an interesting example of the role which the improvement of maternity leave benefits played as a countercyclical measure to simultaneously prevent the deterioration of living conditions of women and their families and support unpaid care work. In addition to rebates on schooling costs, expanded health coverage and an increase in pensions, the programme provided a 100 per cent wage replacement rate (instead of the statutory 75 per cent) during the 12 weeks' maternity leave to working mothers registered with the Salvadorian Social Security Institute (Espino, 2013).

In contrast, those countries that were hardest hit by the economic crisis cut some of their support to families. These included Estonia, Hungary, Latvia and Lithuania, which reduced the duration of leaves or reduced the level of benefits in direct response to the crisis. Some, but not all, of these cuts were temporary (Gauthier, 2010). For instance, in **Romania**, in 2010, the maternity benefit was cut to 65 per cent of the previous payment as a transition measure. However, in **Latvia**, maternity leave benefits were permanently set at 80 per cent of previous earnings (down from 100 per cent) in 2011. In **Ireland**, the maximum maternity benefit for new claimants was lowered from €262 per month to €230 per month as of January 2014. In the **United Kingdom**, cuts to the Health in Pregnancy Grant (approximately US$ 320) for each expectant mother were implemented as of January 2011 to address budget deficits (ILO, 2014 forthcoming). When the financial crisis struck **Iceland** in 2008, the ceiling above which parental leave benefits are not paid was reduced, as was the replacement rate, which decreased from 80 to 75 per cent of previous earnings. Yet, when the economic situation improved, Iceland reinstated the previous benefit levels and announced a major reform aimed at expanding the non-transferable leave quota for each parent from three to five months, shifting from the 3+3+3 scheme to 5+5+2 between 2014 and 2016 (O'Brien, 2013).

In a similar manner to Latvia and Romania, erosion of the level of maternity benefits in **Greece** has stemmed from a 22 per cent reduction in the level of minimum wage (a 32 per cent reduction for young workers) following austerity measures, as well as the weakening of the system of collective bargaining brought about by the enactment of Laws 4046/12 and 4093/12. Collective bargaining has been an important mechanism for improving workers' rights in Greece, including parental leave policies. These changes have affected workers in almost all sectors of the economy.

Source: Gauthier, 2010; INLPR, 2013; USA Congress, S.1810 – Family and Medical Insurance Leave Act of 2013, 113th Congress (2013–2014), available at: http://beta.congress.gov/bill/113th-congress/senate-bill/1810 [26 Mar. 2014].

Figure 2.5 Source of funding of maternity leave cash benefits, 1994 and 2013 (144 countries) (%)



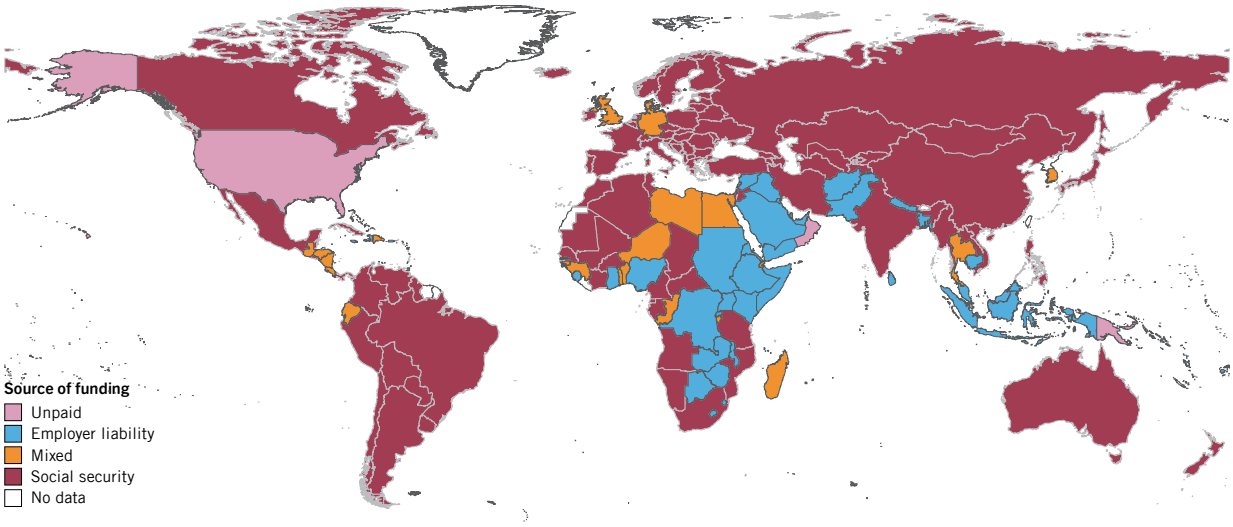
Source: *Conditions of work digest: Maternity and work* (ILO, 1994); ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [26 Mar. 2014].

Regarding the sources of payment, figure 2.5 provides information on how cash benefits were financed in 1994 and 2013 for the 144 countries covered in both years. Globally, the percentage of countries which rely on employer liability systems has declined over time from 33 per cent to 25 per cent (from 48 to 36 countries in 2013). This represents around 15 per cent of the global population of employed women. There has been a positive shift away from employer liability systems towards sole reliance on social security systems for financing cash benefits, rising from 47 per cent in 1994 to 53 per cent in 2013 (from 68 to 77 countries in 2013). Furthermore, there has been a positive trend towards mixed systems in which employers and social security systems share responsibility for benefits, which saw an increase from 15 per cent in 1994 to 25 per cent in 2013. The number of countries not providing statutory cash benefits during maternity leave also dropped, from seven to two in 2013.[59]

Several countries took positive steps, shifting away from partial or complete reliance on employer liability or unpaid systems towards more collective systems of financing. These changes in financing sources differed somewhat by region. In Africa, an overall shift towards social security and mixed systems occurred as four countries moved away from dependence on employer liability systems alone: Angola (social insurance), Burundi (mixed), Mozambique (social insurance in 2009) and the United Republic of Tanzania (social security in 2005). In addition, three countries introduced paid leave: Namibia started a social insurance scheme in 1995; Swaziland, which pays two weeks of leave as of 1997 and Lesotho, which has progressively introduced compulsory paid leave for an increasing number of categories of workers as of 2009. Côte d'Ivoire changed from a system of mixed financing to a purely social security system.

Similarly, in Asia, reliance on employer liability systems decreased from 63 to 53 per cent of countries, as China, India and Mongolia moved to a social security system and the Republic of Korea and Singapore shifted to a mixed system.[60] Positive reforms also affected the Developed Economies, which included three out of seven countries with unpaid leave. New Zealand and Australia introduced a state-funded benefit system in 2007 and 2010 respectively. Switzerland switched from a system relying on employers to a system of mandatory private accounts and Malta from an employer liability to a mixed system. Norway also moved from a mixed system with employers paying the first two weeks of

Map 2.2 Source of funding of maternity leave cash benefits, 2013 (185 countries and territories)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [26 Mar. 2014].

leave to a social insurance system. On the other hand, since 1994, Denmark and Germany have also reformed their social insurance systems to increase the role of employers in funding maternity benefits. Regional patterns of funding for maternity leave have remained generally stable among Latin American and Caribbean countries, with Nicaragua moving from a purely social security financing system to a mixed system and Dominica setting up a social insurance system in 2009. Finally, Bahrain and Jordan in the Middle East shifted from an employer liability to a social security system, with the inverse process occurring in Iraq.

In conclusion, the vast majority of countries provide for cash benefits during maternity leave and the small minority providing leave but no payment has declined since 1994 (see map 2.2 for source of funding in 185 countries and territories). The complexity of systems makes it difficult to determine whether benefits are generally increasing or decreasing. Globally, social security systems are used as the sole source of payment in the majority (almost 60 per cent) of the countries covered in this report, and pay at least some of the benefit in just over 15 per cent. The number of countries in which employers are fully responsible for paying maternity benefits has declined slightly during the past 20 years, while the usage of mixed systems is increasing. The shift away from systems relying entirely on employer liability is encouraging as it reflects progress towards the principles and legal provisions called for in ILO standards. However, there is a need to step up these efforts and the persistent predominance of employer liability systems in Asia, Africa and the Middle East, especially in countries where social inequalities as well as maternal and child mortality rates are high, is a matter for concern. Finding viable collective ways of financing maternity benefits without placing undue financial costs on the woman's employer is essential to achieving both effective maternity protection and equality between men and women at work and should therefore become a priority in shaping policy.

National conformity with Convention No. 183 on duration, amount and source of funding

When all three dimensions of leave duration, level of payment and source of funding are taken into consideration, the number of countries reaching the standard set out in Convention No. 183 declines.[61] Of the 167 countries included in this report, 34 per cent (57 countries) reached or exceeded all three of the requirements in Convention No. 183 (see figure 2.6). Two-thirds (110) of the 167 countries studied fall short of the provisions set out by Convention No. 183 when these three key aspects are considered.[62]

The highest rates of conformity on all three standards are in the Eastern European and Central Asian countries and the Developed Economies, where 100 and 76 per cent respectively of countries assessed meet all three standards. At the same time, these regions also have the largest number of countries for which it is not possible to assess compliance (three and 11, respectively).

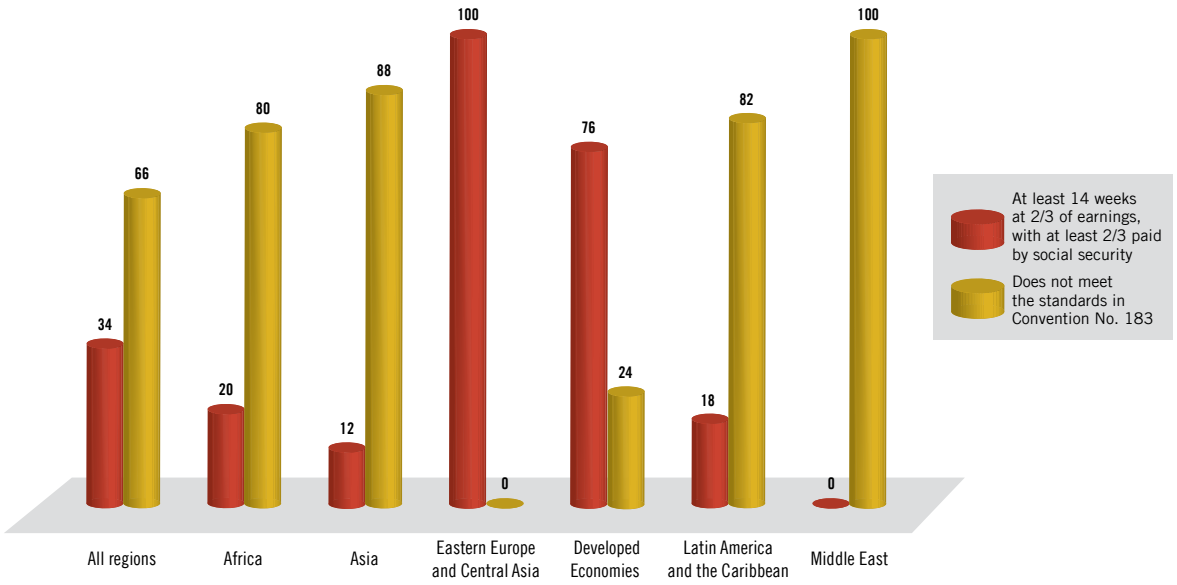
Larger proportions of countries in the remaining regions fell short of the standards in Convention No. 183. Among the 51 African countries studied, nine met or exceeded all three parameters: namely, Algeria, Burkina Faso, Chad, Côte d'Ivoire, Gabon, Mali, Mauritania, Morocco and Senegal. Among these countries, only Mali and Morocco ratified Convention No. 183.[63] The remaining 42 African countries fell short of the Convention standards, and one could not be assessed. Among the 26 Asian countries, three met the standards (China, Mongolia and Viet Nam)[64] and 23 fell below. Six Latin American and Caribbean countries met the standards: Belize, Brazil, Colombia, Cuba, Panama and the Bolivarian Republic of Venezuela, among which Belize and Cuba ratified Convention No. 183.[65] The remaining 27 fell short, and three could not be assessed. Among the 12 Middle Eastern countries, none met all three standards.

In order to show what steps might be taken to strengthen maternity protection around the world, table 2.1 classifies the 110 countries which fall short of the three provisions, by the provision (or provisions) on which they fall short.

Globally, the most common challenges lie in improving the length of maternity leave (25 countries) and improving the length of leave while simultaneously reducing reliance on employers for payment of cash maternity benefits (43 countries). A total of 46 countries would need to improve in just one of the three criteria in order to reach the standards in Convention No. 183. Fifty countries would need to address two provisions, and 14 countries would need to improve all three dimensions of maternity protection to reach the standards in Convention No. 183.

Regions vary in terms of the provisions on which they lag behind. Africa, Asia and the Middle East seem to face the same challenges for compliance. Among the 51 African countries examined, many provide 100 per cent of earnings, but often the employer is responsible for all or a substantial proportion of the earnings (as in Congo, Madagascar and Zimbabwe), and/or the length of leave is below 14 weeks (as in Angola, Mozambique and Namibia). In Africa, 14 countries provide leave for less than 14 weeks and rely on employers for all or at

Figure 2.6 Percentage of countries reaching the ILO standards on length of maternity leave, payment and source of benefits, by region, 2013 (167 countries) (%)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [26 Mar. 2014].

Table 2.1 Compliance with Convention No. 183 on duration of maternity leave, level of payment and source of funding, by provision and region (167 countries)

	Gaps in one provision			Gaps in two provisions			Gaps in three provisions	Does not meet C183	Meets C183	Not assessable	Totals
	Less than 14 weeks	Less than two-thirds of previous earnings	Employer liability	Less than 14 weeks and less than two-thirds of previous earnings	Less than 14 weeks and employer liability	Less than two-thirds of previous earnings and employer liability	Less than 14 weeks, less than two-thirds of previous earnings, and employer liability				
Africa	8	2	10	0	14	2	5	41	10	1	52
Asia	5	0	2	0	11	0	5	23	3	0	26
Developed Economies	1	2	3	0	0	0	1	7	22	13	42
Eastern Europe and Central Asia	0	0	0	0	0	0	0	0	16	3	19
Latin America and the Caribbean	9	0	1	5	10	0	2	27	6	1	34
Middle East	2	0	1	0	8	0	1	12	0	0	12
All regions	**25**	**4**	**17**	**5**	**43**	**2**	**14**	**110**	**57**	**18**	**185**

Note: In this table, "employer liability" includes systems in which employers are responsible for the full payment of maternity leave cash benefits and mixed systems in which employers are liable for at least one-third of the maternity benefit. For the purposes of this exercise, "employer liability" is considered as a gap according to the discussion at the beginning of this section 2.3: *Financing of maternity cash benefits*. However, in some limited circumstances, employer liability is not considered contrary to the requirements of Convention No. 183.

least one-third of cash maternity benefits, as is the case with Ghana, Kenya and Rwanda. Five countries have gaps in three provisions: Botswana, Eritrea, Nigeria, Rwanda and Swaziland.

Many Asian countries provide adequate payment during maternity leave. However, 11 countries, including Indonesia, the Republic of Korea and Pakistan, specify short periods of leave while also relying on employers to pay benefits. In addition, five of the 26 Asian countries analysed fall below all three standards (Cambodia, Kiribati, Papua New Guinea, Solomon Islands and Thailand). As noted, many of the countries in the Middle Eastern region have increased the length of leave since 1994. However, improving the financing and the length of maternity leave in order to protect working women and their children remains a challenge, as eight of the 12 countries considered, including Iraq, Lebanon and the United Arab Emirates, fall short on length and rely on employer liability systems. Saudi Arabia requires progress on all three aspects.

Accordingly, progressively developing social security systems which include maternity benefits represents an important first step in helping to strengthen maternity protection in these regions, leading to increased statutory durations of maternity leave. Lessons learned from ILO technical assistance show that employers might be reluctant to support national efforts to improve the duration of maternity leave in line with the standards of Convention No. 183, including its ratification, when this increase might result in additional costs linked to women workers' earnings replacement. As already discussed, available research suggests that employer liability schemes are detrimental to women's situation in the labour force and the CEACR has promoted the progressive move towards collectively

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Box 2.6 The cost of maternity benefits: Is maternity protection affordable?

A key concern related to the adequate implementation of ILO maternity protection Conventions is the cost of maternity benefits. This issue can be addressed by looking at the costs of social security more generally, and by considering the costs of maternity cash benefits in particular. Although social security expenditure on family allowances and maternity benefits is significant only in high-income countries, according to ILO calculations, a minimum package of social security is not only affordable and feasible even in the poorest countries, but it is conducive to social and economic development. The studies show that the initial gross annual cost (excluding access to basic health care that it is already financed to some extent) is estimated to be in the range of 2.2–5.7 per cent of Gross Domestic Product (GDP) in 2010. ILO research also suggests that there are multiple options for expanding fiscal space for social security and even the poorest countries assessed achieved extraordinary results.

With respect to maternity cash and medical benefits in particular, the cost of financing maternity protection is lower in comparison to other branches of social security. In most contexts, it is possible to finance a social insurance scheme providing cash maternity benefits for less than 0.7 per cent of covered wages. In schemes that combine maternity and sickness benefits, the contribution rate is often in the range of 1 to 3 per cent, with sickness expenditure absorbing the major share of scheme revenues.

When discussing affordability, it is also important to assess and contrast the costs of providing adequate maternity protection relative to the cost of not providing it. Its lack is a major factor in poverty, inequality and social exclusion. When a woman dies or becomes ill, her family and community lose the fruits of her productivity and her income. Her children are much more likely to drop out of school, to suffer poor health, even to die. A recent global study developed a Global Investment Framework for Women's and Children's Health and estimates the benefits and cost of an integrated package of interventions aimed at reducing maternal and child mortality, including the provision of conditional cash transfers to improve access to effective care during pregnancy, childbirth and the postnatal period. It shows that increasing health expenditure by just US$ 5 per person per year up to 2035 in 74 highly affected countries could yield up to nine times that value in economic and social benefits. These returns include greater GDP growth through improved productivity and labour force participation, as well as prevention of 32 million stillbirths and the deaths of 147 million children and 5 million women by 2035.

Sources: Durán-Valverde, 2012; ILO, 2012b, Module 7; *The Lancet*, 2013.

funded systems, in which liability for payment of maternity benefit is not assumed by employers alone. This remains true despite governments' financial and functioning difficulties in assuming the whole or partial payment of maternity leave benefits through social insurance or public funds (CEACR, Direct Request, C3, Guinea, 2012). ILO research also shows that providing paid maternity leave is affordable even in low-income countries and depends on the policy priorities of decision makers.

Financing maternity benefits through social security systems is fairly widespread among the Latin American countries. The length of leave is the most commonly lacking of the three provisions in this region. Although many Latin American countries provide 100 per cent of prior earnings, nine fall short of the 14-week standard in Convention No. 183 (including Argentina, El Salvador, Mexico and Uruguay). An additional 15 countries provide less than 14 weeks of leave and either pay less than two-thirds of prior earnings (including Dominica, Saint Lucia and Paraguay) or rely excessively on employers for payment (e.g. Dominican Republic, Ecuador, Guatemala, Honduras and Nicaragua). Haiti and Jamaica fall short on all three provisions.

Among the Developed Economies and Eastern Europe and Central Asia, a majority of countries meets all three standards. Of the Eastern European and Central Asian countries, all the 16 countries assessed meet all three standards. Among the 29 Developed Economies considered, Canada (amount), Denmark (source), Germany (source), Iceland (duration), Malta (source) and Slovakia (amount) would need to improve just one of the three provisions as indicated in order to reach the standards in Convention No. 183. In the United States, improvement to all three dimensions of maternity protection would be necessary in order to reach the requirements of Convention No. 183.

2.4 Scope and legibility requirements

For the purposes of this Convention, the term woman applies to any female person without discrimination whatsoever and the term child applies to any child without discrimination whatsoever.

Convention No. 183, Article 1

This Convention applies to all employed women, including those in atypical forms of dependent work.

Convention No. 183, Article 2(1)

However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.

Convention No. 183, Article 2(2)

Since the first Maternity Protection Convention (No. 3 of 1919), the scope of coverage has been broadened to include all employed women. Convention No. 3 covered women working in any public or private industrial or commercial undertaking. Convention No. 103, adopted in 1952, extended the scope of protection to a larger number of categories of women workers, to include women employed in non-industrial and agricultural occupations, including women wage earners working at home. Convention No. 183 broadened the scope of coverage to all employed women, irrespective of occupation or type of undertaking, including women employed in atypical forms of dependent work, who have often received no protection due to the increasingly flexible nature and segmentation of employment relations. Expanding the scope of maternity protection as set out by Convention No. 183 is of critical importance in ensuring the health and well-being of greater numbers of women workers and their children worldwide.

The extent to which workers are covered by maternity protection provisions depends on various aspects. First, a distinction should be made between legal and actual coverage. The *coverage in law* (legal or statutory coverage) aims to estimate the scope of the legislation, namely the categories of workers to whom the law applies (ILO, 2012c). The legislation and its scope are among of the

main determinants of legal coverage. At the national level, the percentage constituted by the categories of employed women legally covered depends on:

- who is covered by or excluded from labour or social security legislation;[66] and
- any eligibility requirements specified in order to obtain benefits.

Coverage in practice (or effective coverage) aims to determine the extent to which the law is actually implemented and thus the share of the legally protected population which is actually benefiting from its application.[67] This measurement seeks to identify the number of persons covered de facto as a percentage of those in the categories of workers covered de jure. Coverage in practice can be measured in terms of actual coverage (or actual beneficiaries), that is, the number of people accessing the right to maternity leave or cash benefits, or *potential coverage* (or protected persons), specifically the number of people who potentially have the rights or benefits guaranteed but have not necessarily become beneficiaries. For instance, protected persons include women who actually contribute to social insurance, alongside men, in line with the qualifying conditions and could receive maternity benefits were they to have a child.

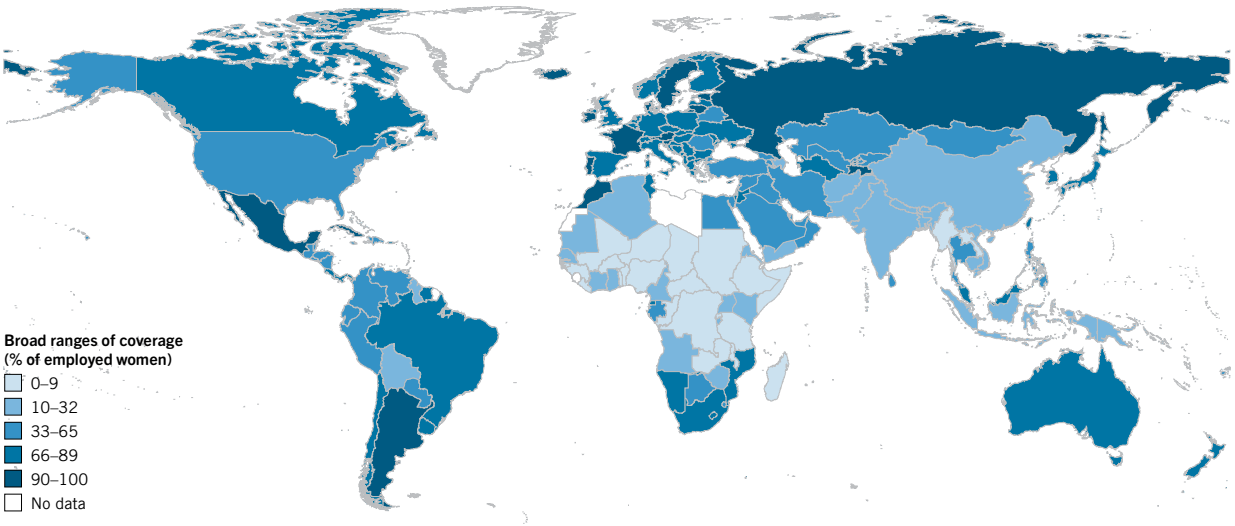
Estimates of coverage in law and in practice of paid maternity leave[68]

Most of the analysed countries provide maternity protection for employed women in the private and public sectors. However, a large majority of women workers, representing around 830 million workers around the world, are still not adequately protected in case of maternity. Almost 80 per cent of these workers are found in countries in Africa and Asia.

Globally, while 40.6 per cent of employed women enjoy a statutory right to maternity leave, only 34.4 per cent of the total benefit from mandatory[69] coverage by law and thus are legally entitled to cash benefits as income replacement during their maternity leave. When taking into account the right of certain categories of workers, mainly self-employed, domestic or agricultural workers, to join a social security scheme which includes maternity benefits on a voluntary basis, statutory coverage of maternity leave benefits applies to almost 57 per cent of all women in employment.

The regional differences are striking (see Appendix III for national coverage indicators). Coverage in law in terms of maternity leave varies from 18 per cent of women workers in Africa to 77 per cent in Eastern Europe and Central Asia, with 21 African countries out of 52 providing a statutory right to maternity leave for less than 10 per cent of all employed women

Map 2.3 Coverage in law – maternity leave: Percentage of women workers entitled to maternity leave, 2010 (173 countries)



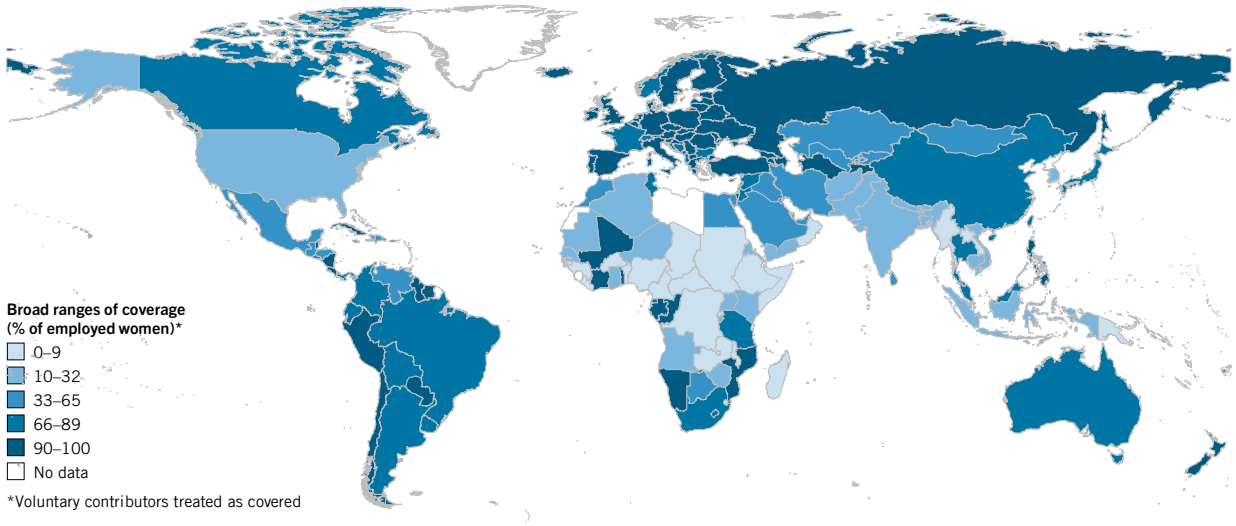
Source: ILO estimates based on data from official sources.

(see map 2.3). Low legal coverage rates also affect Asia, where 16 countries out of 26 grant this entitlement to a section of the workforce ranging between 10 and 32 per cent of the total. Statutory coverage of maternity leave largely reflects country-level labour force characteristics. Since the scope of labour codes is often restricted to employees, countries with a significant share of self-employed women in total employment (especially, own-account workers and unpaid contributing family workers) tend to show the lowest level of legal coverage.

Similar regional variations are found for coverage in law of maternity leave cash benefits (see map 2.4), although the level of legal protection is higher when taking into account workers entitled to voluntary coverage. It ranges from a total of almost 27 per cent of women workers in Africa (only 18 per cent without voluntary coverage) to 91 per cent in Eastern Europe and Central Asia, where social security legislation is more likely to cover self-employed workers on a mandatory basis. The share of voluntary coverage has particular weight in Asia, where the difference resulting from the inclusion of mandatory legal protection is almost 37 percentage points. In fact, in China, self-employed workers, who would otherwise be excluded from maternity leave, are entitled to contribute to social insurance on a voluntary basis. In more than one-third of all countries for which data are available (67 countries out of 172), more than 90 per cent of women in employment enjoy a statutory right to cash maternity benefits on a mandatory basis (56 countries when excluding voluntary coverage). At the other side of the range, in 21 countries,[70] most of which lie in sub-Saharan Africa, less than 10 per cent of women workers are entitled to maternity leave cash benefits.

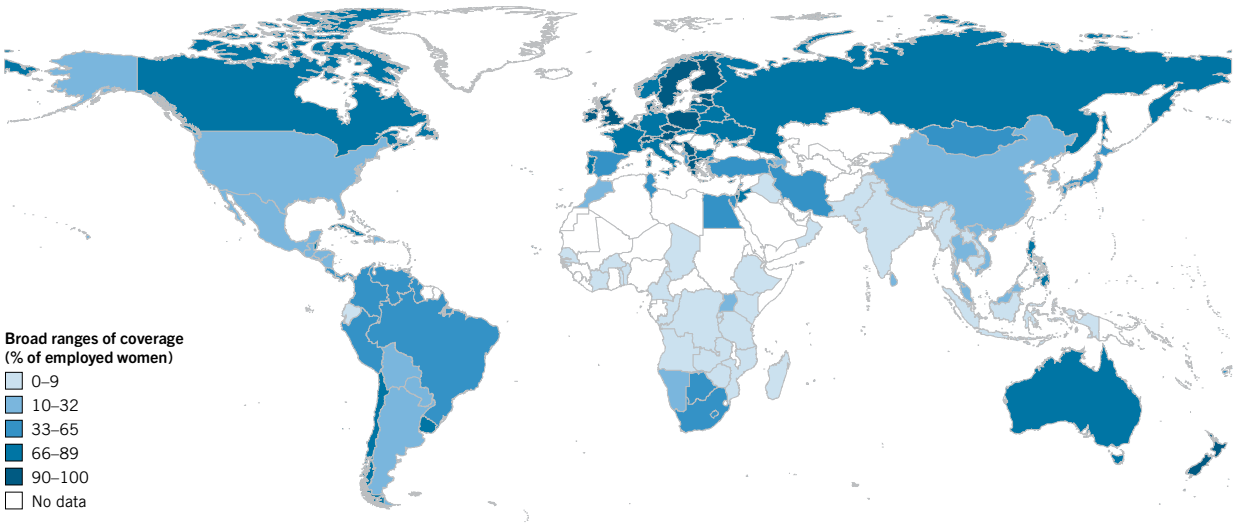
Despite the statutory requirements, additional obstacles to the effective implementation of the legislation, such as lack of awareness of legal entitlements and benefits, reluctance to rely on social security systems, inadequate enforcement of legal provisions, insufficient contributory capacity, discriminatory practices, informality and social exclusion, can prevent women from receiving the benefits to which they are entitled. In fact, just over one-quarter (28.4 per cent) of employed women worldwide are effectively protected through contributory or non-contributory cash benefits in case of maternity (see map 2.5). This means that globally only around 330 million women workers, regardless of their employment status, would receive income support in the event of childbirth, almost 38 per cent of whom are workers in the Developed Economies. In Africa and Asia, only a minority of women in employment (less than 10 per cent) are effectively protected with maternity leave cash benefits. As shown in the previous

Map 2.4 Coverage in law – maternity leave cash benefits: Percentage of women workers entitled to maternity leave cash benefits, including workers entitled to voluntary coverage, 2010 (172 countries)



Source: ILO estimates based on data from official sources.

Map 2.5 Coverage in practice – maternity leave cash benefits: Percentage of women workers contributing to a maternity cash benefits scheme or otherwise protected for income loss during maternity, 2010 (117 countries)



Source: ILO estimates based on data from official sources.

sections, these are the regions where employer liability schemes are more prevalent, informal work is predominant and maternal and child mortality ratios are still very high. Close to full coverage, of more than 90 per cent of employed women, is reached only in 21 countries, largely in Europe.

Voluntary coverage for cash maternity benefits is not in line with ILO maternity protection conventions and, as indicated by the CEACR, it is contrary to the principle of equal treatment which requires all workers to be covered by compulsory social insurance or public funds (ILO CEACR, 2014). Nevertheless, Convention No. 102 authorizes voluntary insurance schemes to be taken into account for achieving compliance with the Convention, subject to certain conditions being fulfilled (Article 6). Although it may not guarantee the same level of protection as mandatory coverage, this system might represent a first step in national efforts towards the progressive extension of income protection during maternity for frequently excluded categories of workers. When comparing selected countries with similar rates of mandatory coverage (e.g. Australia and Japan; Cambodia and Viet Nam or Ecuador and Panama), countries with voluntary coverage schemes (Australia and Panama for self-employed workers, Viet Nam for temporary workers) display higher levels of coverage in practice (see Appendix III).

Workers excluded from paid maternity leave provisions

When looking more specifically at the patterns of legal exclusion, which underpin the above gaps in coverage, it is found that in many countries specific sectors or categories of workers are explicitly excluded from, or not listed among the workers covered by the scope of, labour legislation and/or social security legislation or from the corresponding law regulating cash maternity benefits. As shown, depending on the national context, the foregoing exclusions can affect a large majority of working women, as they are over-represented in these types of work.

In the list below, in countries marked by an asterisk, the relevant group of workers is covered for maternity leave but not for cash benefits. In countries marked with a plus sign, these workers may be eligible for voluntary coverage. Frequently excluded groups include:

- domestic workers (e.g., Argentina+, Cambodia, Egypt, the Republic of Korea, Kuwait, Lebanon, Singapore, Sudan, Ukraine and Yemen);[71]
- members of the employer's family or women working in family undertakings (e.g., the Dominican Republic, Ecuador*, Egypt*, Republic of Korea, Lebanon, Nigeria, Sudan, Tunisia and Uganda);
- self-employed workers;

- casual or temporary workers (e.g., Canada*, Honduras+, the Republic of Korea*, Sudan, Viet Nam+ and Zambia).
- home workers (e.g., Algeria, Barbados, Belize*, Honduras+, Nigeria, Norway, Switzerland and the Bolivarian Republic of Venezuela+);
- agricultural workers (e.g., Bolivia, Egypt, Honduras+ (if fewer than ten employees), Lebanon (who are members of producers' cooperatives), Sudan, Swaziland and Thailand);[72]
- workers in the armed forces and/or police (e.g., Bangladesh, Malawi, Paraguay and South Africa);
- managers/business executives (e.g., Canada* (where they own more than 40 per cent of the company shares), Eritrea and Singapore);
- workers whose earnings exceed a certain ceiling (e.g., the Dominican Republic* and El Salvador*);
- apprentices (e.g., Brunei Darussalam, Sao Tome and Principe and Zambia);
- certain groups of civil servants (e.g., Botswana, Lao People's Democratic Republic, Lesotho* and Niger), but they are usually covered by special maternity protection regulations for the public sector (e.g., Colombia, Côte d'Ivoire, Ecuador, Egypt, Japan, Kuwait, Madagascar, Tunisia and Viet Nam).

In some countries, women who work for **small and medium-sized enterprises (SMEs)** are also excluded from maternity protection laws. For example, the United States' Family and Medical Leave Act (FMLA) provides up to 12 weeks of unpaid leave that may be used to care for a newborn child, but this provision covers only those individuals who work for employers with 50 or more employees at the work site or within 75 miles of the work site. Fifty per cent of workers who are not covered by the FMLA because they work for small businesses declare that they do not take leave, because they might lose their job, while, according to a US Census report, 1 in 5 women list their chosen "leave arrangement" as quitting their jobs. Among women with less than a high school level of education, half quit their jobs (Laughlin, 2011). In Honduras, the labour code on maternity protection does not cover workers in agricultural and stockbreeding enterprises that employ fewer than ten permanent workers.[73]

In many countries, national laws may make no specific reference to, or may neither explicitly exclude nor include these frequently excluded categories of workers, such as **domestic workers**. It could therefore be assumed that all workers enjoy the same protection regarding maternity leave. However, the reality is often different, with respect to both leave and cash benefits. For example, in Jordan, the law does not explicitly exclude domestic workers, but exempts workers whose relationship with their employer is irregular, which effectively excludes most domestic workers. In Greece and Tunisia, the law specifies industries, sectors and undertakings in which women are eligible; because none of the specified categories includes households, domestic workers are implicitly excluded. In other cases, the law may only provide social security protection on a voluntary basis for some types of workers, as is the case for domestic workers in Honduras and Mexico. The ILO estimates that, globally, around 15.6 million women domestic workers (36 per cent of the total) are not legally entitled to maternity leave, while this right is guaranteed to other categories of workers (ILO, 2013a).

The exclusion of **workers with non-standard contracts** (such as part-time, casual and temporary workers) can affect a significant number of women workers, since a large proportion of them, even in the formal economy, may not be full-time, regular workers. For instance, in Serbia, in 2013, the CEACR has requested the Government to reply to the comments made by the Trade Union Confederation "Nezavisnost" according to which, although the national legislation provides for maternity protection that exceeds the provisions of the Convention, in practice only employees in the formal sector with an open-ended contract are covered, a group which represents less than 10 per cent of the country's women employees. If the number of workers of childbearing age is taken into account, only 7.8 per cent of women exercise their right to cash benefits during maternity leave (ILO CEACR, 2014).

A recent study in Mozambique illustrates this issue, which is typical for many developing countries. In Mozambique, the mandatory contributory social security scheme provides maternity cash benefits for formal, private sector workers. In practice, however, this benefit covers only 0.1 per cent of all births. While coverage is low for a number of reasons, including the

recent date of the programme's implementation, a lack of awareness and contribution fraud, a major factor is that many workers are casual workers, even when they work in the formal sector, and only a minority of women in Mozambique are salaried workers who are eligible for coverage (Castel-Branco, 2013). In India, also, the majority of workers are in informal work and in the agricultural sector, and are beyond the reach of formal benefits programmes, while social assistance schemes impose age, number of births and poverty restrictions that severely restrict the coverage of the schemes; as a result, it is estimated that less than 1 per cent of women workers are eligible for maternity benefits (Lingam and Kanchi, 2013).

The exclusion of workers with non-standard contracts is by no means confined to developing countries. For example, by 2007, one-third of all Japanese workers were non-regular workers, with two-thirds of them defined as part time (OECD, 2008). Japanese law explicitly excludes part-time workers from access to maternity benefits under the social security system. In Italy, 25 per cent of women aged 15 to 34 were in temporary employment, but just 9 per cent of women on compulsory maternity benefits were temporary workers (Bettio et al., 2012; Bettio et al., 2013). In the United States, nearly one-quarter of mothers who took family leave for the birth of a child in 2012 returned to work after less than 10 days, since they could not afford to take more time off work (Klerman et al., 2013). Currently, only 12 per cent of private sector workers have access to paid family leave. This figure is even worse for low-wage earners, only 5 per cent of whom have access to this entitlement (Bureau of Labor Statistics, 2013). In Albania, the beneficiary to birth rate ratio was 37.5 in 2010 and 32.9 per cent in 2012 (ILO CEACR, 2014), while the percentage of adult women in the labour force was 42 per cent in 2011.[74] In 2012, 24,803 women received maternity benefits in Latvia (ILO CEACR, 2014). In Spain, in 2011, there were 469,200 live births,[75] and 318,607 women who were receiving maternity benefit (CEACR, Direct Request, C103, Spain, 2013).[76]

In its 2008 report, the ILO's Committee of Experts expressed concern that some categories of workers are excluded from coverage in several countries that have ratified at least one of the Conventions related to paid maternity leave. This is the case for the Libya, where domestic workers and persons in similar categories, women engaged in stock-raising and agriculture (e.g. plantation workers in Sri Lanka) are excluded from the scope of the Labour Code. The protection of women engaged in agriculture or homeworkers remains particularly inadequate. Explicit legal exclusion of workers in **agriculture** has been identified in at least 27 countries, including Bolivia, Egypt, Rwanda, Sudan and Thailand. An ILO survey in two rural areas of Senegal, shows that 26 per cent of women farmers work until the day of childbirth (ILO, 2010b). This practice, which is found also in Asian countries such as Nepal, can pose significant health risks to women's health or the health of the unborn child.[77]

The Committee also noted that various categories of workers, including part-time workers and workers in the *maquila* (factory export) sector, did not receive cash maternity benefits in Ecuador (CEACR, Direct Request, C103, Ecuador, 2008). In Guatemala, shortfalls in coverage of health and maternity programmes particularly affect **indigenous workers**, who are overrepresented in departments where the rates of maternal and infant mortality are higher than in the rest of the country (ILO CEACR, 2014). The Committee has also drawn attention to the situation of **migrant workers** and called on ILO member States to secure the protection envisaged by ILO conventions for all women workers, irrespective of their nationality and without any condition of reciprocity, in line with the principle of equal treatment granted by maternity protection standards (CEACR, Direct Request, C103, Equatorial Guinea, 2013). Migrant workers are excluded from maternity protection legislation in countries such as Bahrain, some provinces of Canada, Jordan, Republic of Korea, Malta and Yemen.

On the positive side, the Committee has noted that the legislation in an ever-increasing number of countries affords the protection set out in the Conventions to vulnerable categories of women workers. There are countries where some of these groups are explicitly included in the scope of labour or social security law. For instance, in at least 54 countries, domestic workers are covered by maternity leave legislation on the same terms as other workers, in line with Article 14 of the ILO Domestic Workers Convention, 2011 (No. 189), which entered into force in September 2013.[78] In South

Africa, legislation in 2002 extended unemployment insurance to domestic workers; by 2008, 633,000 domestic workers were registered. Among other benefits, the scheme allows domestic workers to take at least four consecutive months of paid maternity leave[79] (Samson, 2009; ILO, 2013a). In March 2013, Argentina adopted a new domestic workers law,[80] which established maternity leave along with a series of other measures designed to improve the working conditions of women in this economic activity. In Mauritius, apprentices, share workers and part-time workers (as long as they accumulate 12 months of continuous employment with the same employer) are included in maternity protection legislation; in Viet Nam, temporary and casual workers are explicitly covered; and in Belarus, Madagascar and the Russian Federation, even students are explicitly covered.[81] In India, the Unorganized Workers Social Security Act of 2008 was passed to create schemes to extend social security to informal industry workers, such as artisans, weavers, construction workers, cigar rollers and persons working in fisheries. In Thailand, a new voluntary social security system for informal sector workers was initiated in 2011. The scheme is based on contributions from workers and Government to finance old-age, disability, survivors', sickness, and maternity benefits.

Several Latin American countries have undertaken initiatives to extend maternity leave benefits to domestic workers (Brazil, El Salvador and Uruguay; see ILO, 2013b) and to other vulnerable women workers, including informal economy workers in Argentina and micro-entrepreneurs in Brazil (ILO, 2013c). In Brazil, as of 2010, individual micro-entrepreneurs can now easily register and, with a single contribution, access medical care, and paid maternity leave and other social security benefits. It is estimated that 3 million workers have been formalized in this way (ILO, 2013c). Since 2003, China has rapidly expanded social security coverage, including maternity and parental benefits, committing to full social security coverage for all workers by 2020. The process is aimed at expanding social security coverage to rural and marginalized communities in order to lower inequality between social groups. Progress has been rapid with coverage for maternity insurance rising from 65 million in 2006 to nearly 139 million in 2011 (International Social Security Association, 2013).

Extending coverage to **self-employed workers**, including employers, own-account workers, members of producers' cooperatives and contributing family workers, is a key challenge and critical to women's access to maternity protection. Worldwide, 51.2 per cent of women were in the most vulnerable types of self-employment as own-account workers and contributing workers in 2009, and this reached as high as 84 per cent in South Asia and sub-Saharan Africa (ILO, 2010). In Spain, social security legislation specifically includes casual, seasonal and self-employed workers within the scope of maternity benefits. Self-employed workers are also mandatorily covered for cash benefits in Azerbaijan, Brazil and Singapore. Some countries opt to cover the self-employed on a voluntary basis, such as Bulgaria, Mali and Paraguay.

In some countries, employer policies or **collective bargaining agreements** have increased the number of women covered or the amount of benefits paid. In Australia, for example, collective bargaining coverage has improved women's access to paid maternity leave (Baird and Litwin, 2005) and, by 2010 (just as Australia was first introducing statutory maternity leave), 14 per cent of all collective bargaining agreements included maternity leave provisions (Baird and Murray, 2012). In California (United States), unionized employees were more than three-and–a-half times more likely to have access to leave benefits which were above the legal requirements than their non-unionized counterparts (Milkman and Appelbaum, 2004).

Collective bargaining agreements can help to reinforce legislation, even if they fail to improve upon it, and this can serve to strengthen implementation. In South Africa, a study of 361 enterprise-level agreements and 31 bargaining council agreements found that most of the collective agreements mirrored the four months of leave set out by the labour code. Some 7 per cent of agreements specifically provided for additional unpaid maternity leave of about two months (Elsley, 2007). In Greece, centralized collective bargaining has increased the length of maternity leave for covered workers (European Foundation for the Improvement of Working and Living Conditions, 2006). However, the Greek National Human Rights Commission has expressed concern that, since the financial crisis and the related austerity measures, Greece has introduced, along with other gender equality provisions, a new kind

Box 2.7 Extending maternity cash benefits to the self-employed

Under the social insurance programmes of **Cyprus** and **Libya**, coverage of self-employed women workers for maternity benefits is compulsory. In Libya, the Government pays a complementary contribution on behalf of self-employed workers, who are entitled to 100 per cent of their declared income paid by social insurance, whereas in Cyprus the self-employed are required to pay both the employer and employee contributions.

In 2010, the European Council adopted Directive 2010/41/EU, which promotes the principle of equal treatment of men and women engaged in an activity in a self-employed capacity and calls on **EU Member States** to grant at least 14 weeks of maternity leave to self-employed women and to partners of self-employed workers, groups that tend to be particularly vulnerable. Croatia, Iceland, Portugal and Spain are all examples of EU Member States that explicitly extend cash benefits during maternity leave to self-employed workers.

In **France**, self-employed workers are covered under a special social insurance system. In **Mexico** voluntary affiliation is possible, and the Government pays a complementary contribution on behalf of the self-employed; whereas, in France, the Government assigns the revenue from certain taxes to subsidize the sickness and maternity benefits of the population at large.

In **Greece**, the economic crisis and austerity measures which resulted in the severe escalation in unemployment and deterioration of working conditions did not prevent the extension of maternity benefits to self-employed women for 14 weeks on the grounds of equal treatment of men and women in this occupational sector (Law 4097/12) (Kazassi and Karamessini, 2013).

Source: *Social security programs throughout the world.* Available at: http://www.ssa.gov/policy/docs/progdesc/ssptw/ [27 Mar. 2013].

of collective bargaining agreement that may weaken some women's access to and conditions of maternity protection, although the Greek Government has noted that provisions cannot fall below the legal minimum (Greek National Human Rights Commission, 2011). In general, while it remains the State's responsibility to ensure that all women are adequately covered, collective agreements or employer policies may improve upon legislated provisions and even lead to better legislation. However, many women will not benefit from such measures, and national or federal legislation that sets adequate minimum standards remains a necessity.

An increasing number of countries are providing maternity cash benefits to **low-income residents or informal workers** through non-contributory social assistance programmes financed by public funds, in line with ILO Social Protection Floors Recommendation, 2012 (No. 202).[82] This instrument includes "essential health care, including maternity care" and "basic income security" in case of maternity, among the basic social security guarantees that national social protection floors should comprise (Paragraph 5, (a)(c)). Social transfers and employment guarantee schemes including maternity protection measures, which are as yet still limited, have the potential to enhance economic security and access to maternal and child health care for vulnerable pregnant and nursing women and their children. Research shows that these programmes can be enhanced to be more gender-transformative[83] by increasing women's participation in these projects; providing safe, decent and family-friendly working conditions, including maternity protection; supplying the types of infrastructure and services that both reduce women's and girls' unpaid care work and increase their access to health care and education; and furthering intra-household equality (Kabeer, 2013).[84]

Given the substantial numbers of women in precarious or non-standard employment relations around the world – outside the formal labour market, in contractual arrangements that provide limited or no access to social security coverage, such as part-time, domestic or home work, or in many of the other vulnerable situations described above – the lack of access to maternity protection is a very serious concern for many women, their children and families, their employers and their governments. Efforts to expand the scope of maternity protection and to improve access to social health protection are urgently required and this need has been recognized in the aforementioned global and regional standards which aim to improve vulnerable groups' access to decent work and social protection.

Box 2.8 Social cash transfers and employment guarantee schemes (EGS) delivering maternity protection to vulnerable workers

Ethiopia's Productive Safety Net Programme is an EGS that provides cash transfers with no work requirement (de facto paid maternity leave) to women beneficiaries who are more than six months pregnant or nursing an infant up to 10 months old. It also allows women to adjust their working hours according to family responsibilities, arriving late or leaving early if necessary (Holmes and Jones, 2013). The Government of **Ghana** is committed to improving maternal health and women's economic opportunity as part the joint UN Millennium Acceleration Framework. A project is set to test a gender-sensitive maternity protection benefit package for pregnant and nursing women as a means of addressing demand-side related causes of maternal mortality. The package aims to delivery maternity protection, including through labour-intensive public works.

In **India**, the *Indira Gandhi Matritva Sahyog Yojana* (IGMSY) provides a cash transfer programme in 52 pilot districts reaching out to nearly 1.4 million pregnant and lactating mothers. A daily benefit (US$ 1.68 for six weeks) for all women aged 19 and over (limited to the first two pregnancies and excluding those who are covered through benefits provided to public sector employees) aims at providing partial compensation for wage loss to encourage women to take adequate rest before and after confinement. On the fulfilment of certain conditions relating to maternal and child health care practices, including breastfeeding, all eligible women also receive a cash incentive of nearly US$ 100 in three instalments from the end of the second trimester of pregnancy until the child reaches 6 months, both as partial wage compensation and as an incentive to promote self-caring behaviour (Fultz and Francis, 2013).

In **Peru**, *Juntos* is a Government-led cash transfer programme which targets the lowest income households with children under the age of 14 or pregnant women. In 2012, it covered over 490,000 households with a transfer of around US$ 70 every two months conditional, among other things, on attendance at antenatal and postnatal visits for the mother and the child, delivery in a health facility and information on reproductive health and family planning. Impact assessments show a 65 per cent increase in access to maternal and infant health services, which is expected to improve health outcomes, given the high level of maternity mortality in poor rural areas. Beneficiaries also reported improved equity in the division of family responsibilities between women and men, with men reporting more involvement in childcare and domestic chores. However, the programme still promotes women's role as the main caregiver, which, combined with programme conditionalities, is likely to reinforce women's time poverty (Holmes and Jones, 2013).

Eligibility requirements for maternity leave

> *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)**

According to Convention No. 183, as well as the older ILO maternity protection standards, the sole prerequisite for a worker's right to maternity leave is the production of a certificate indicating the expected date of birth. In national laws, a woman's right to take maternity leave is often linked to various eligibility requirements. These differ from country to country, but some of the more common requirements are discussed below.[85]

Often, national laws prescribe a certain period of notice which a woman must give her employer should she plan to go on maternity leave.[86] In Croatia, for example, a worker must notify her employer of her intention to take maternity leave as soon as possible, and not less than one month before the leave is due to begin. In Belgium, a woman must inform her employer no later than seven weeks before the expected birth, based on medical certification. In Colombia, there is no fixed period of notice, but an employee must inform the enterprise of her pregnancy, the presumed date of childbirth and the date on which the period of leave will commence, as well as presenting a medical certificate

to the employer after childbirth. A woman worker in Seychelles must give her employer three months' notice before her expected date of childbirth.

In some countries, a woman needs only to be employed at the time of going on maternity leave in order to be entitled to such leave (usually upon production of a pregnancy certificate).[87] In other countries, a woman has to have been employed for a certain period before the maternity leave, and often this employment has to have been with the same employer.[88] The Committee of Experts has repeatedly pointed out that establishing this type of qualification period does not conform with ILO maternity protection standards. It therefore noted with satisfaction the adoption of the 2010 Labour Relations Act of Libya, which repealed the qualifying period of six consecutive months of employment previously stipulated in order to benefit from maternity leave and brought national legislation in line with Convention No. 103 (ILO CEACR, 2014).

In some countries, part-time workers may be particularly affected by rules setting minimum working hours as a condition of eligibility for leave. For example, the Family and Medical Leave Act of 1993 (FMLA) in the United States applies only to employees who have worked 1,250 hours for the employer over the past 12 months, or about 104 hours per month.[89] In South Africa, by contrast, a female employee must work a minimum of 24 hours a month for her employer to be required to grant her maternity leave.

Certain countries restrict the number of times a woman can take maternity leave, or leave may be granted only once during a given period. Most frequently, such limitations can be found in employer liability schemes in which the aim is to not overburden employers. The former is the case in Egypt, where a worker may not obtain maternity leave more than twice throughout the period of employment, and in Barbados, where women cannot take maternity leave more than three times while working for the same employer. In Sri Lanka, women giving birth to a third or subsequent child are only entitled to six out of 12 weeks of maternity leave. Since Sri Lanka has ratified Convention No. 103, the Committee of Experts has remarked on the need to ensure full leave, irrespective of the number of children (CEACR, Observation, C103, Sri Lanka, 2011).

Eligibility requirements for maternity cash benefits

Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.

Convention No. 183 Article 6(5)

Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.

Convention No. 183 Article 6(6)

The right to receive cash benefits while on maternity leave is usually subject to by eligibility requirements, which in most cases differ from the eligibility requirements for leave. According to Convention No. 183, a member State may set up conditions that a woman must meet in order to qualify for cash benefits, provided that such conditions can be satisfied by a large majority of women workers. For instance, if the majority of women workers are employed in part-time or non-standard jobs, the qualifying conditions should not be established in a way which makes it difficult for these workers to qualify. In addition, women who do not qualify for contributory cash maternity benefits should be entitled to adequate benefits paid out of social assistance funds, subject to the requisite means test (Article 6, Paragraph 6). The CEACR has indicated that Convention No. 183 "requires social assistance benefits to be of an adequate level and to allow for the needs of the mother and her child to be met throughout the period of leave provided for in the Convention, namely 14 weeks" (CEACR, Direct Request, C183, Cuba, 2007).

In a number of countries, a woman worker must have been affiliated to the social insurance or public scheme for a certain period before she qualifies for cash benefits during maternity leave. Most countries specify such requirements. Countries in which maternity benefits are paid by employers often impose a minimum period of employment with the same employer for the employee to be entitled to income replacement during the maternity leave period.[90] For example, in

Zimbabwe, a woman needs at least 1 year of service with her current employer to qualify for paid leave. An employee who has served for less than 1 year is entitled to leave but not to cash benefits. Some countries where the maternity benefit is paid out of public funds also require a minimum period of employment before the employee qualifies for maternity benefits. In Denmark, only those women who have been employed for at least 120 hours in the 13 weeks prior to going on leave are eligible for income replacement. In Niger, where cash benefits are the joint responsibility of the employer and the social security system, women must have at least six consecutive months of work with one or more employers and at least 18 days or 120 hours of work per month as well as a minimum monthly income if they are to receive cash benefits.

Another example of an eligibility requirement for paid leave is found in laws that, contrary to ILO maternity protection standards, limit the number of times a woman can obtain maternity cash benefits. In the United Republic of Tanzania, women on maternity leave are eligible for cash benefits if it has been at least 3 years since they last received maternity benefits; in Zambia, 2 years must have passed since the last maternity leave was taken. In Malaysia, an employee is not eligible for cash benefits if she already has five or more surviving children. In some countries, this limit applies only if a woman works for the same employer. In Zimbabwe, paid maternity leave may only be granted three times for the same employer and only once during a 24-month period.

Contrary to the non-discrimination principle embedded in various ILO Conventions, marital status has also been used as a criterion to qualify eligibility. In Singapore, maternity leave benefits are available for a full 16 weeks of leave if the mother is married to the father of the child (and the child is a citizen of Singapore). If the mother is not married to the father of the child, she is entitled only to eight weeks, although employers may voluntarily continue payment for a further four weeks.

In many countries where cash benefits are wholly or partly paid by social security, workers must have a minimum period of contributions to insurance schemes or have tenure in insured employment prior to the maternity benefit period. These minimum contribution periods vary widely between countries. The principle embodied in this respect in ILO standards is that the qualifying conditions should be such as to preclude abuse (Convention No. 102, Article 51). Convention No. 183 adds that the majority of employed women should be able to qualify.

The most commonly encountered qualifying period varies between nine and three months of affiliation before childbirth. In the Islamic Republic of Iran, a woman must have 60 days of social insurance contributions in the year preceding childbirth. In Paraguay, a woman worker must have contributed for at least six weeks during the four months preceding the maternity leave while, in Costa Rica, cash benefits are available only to workers who have worked for three months immediately preceding the birth or the adoption. In Canada, a woman who claims maternity benefits must have at least 600 hours of insurable employment in the previous 52 weeks or since the last claim. Since January 2013, unemployed women in Chile may enjoy the cash benefit related to postnatal parental leave up to 36 eeks, if they are unemployed in the sixth week before childbirth and they have been affiliated to the Social Security System for at least 12 months or more before the beginning of pregnancy, and they have paid eight or more continuous or discontinuous monthly contributions as a dependent worker within the 24 months immediately preceding the start of pregnancy. In some countries, there is no minimum period of employment or minimum contribution levels to qualify for cash maternity benefits. In Brazil, for example, a woman must simply be employed in insured employment.

Social assistance cash benefits to women who do not qualify for social insurance benefits

In line with the provisions of Article 6(6) of Convention No. 183, a number of countries provide social assistance cash benefits to women who do not qualify for social insurance benefits. In Mongolia, the Law on Social Assistance guarantees a cash benefit to a mother for 12 calendar months starting from her fifth month of pregnancy, which is paid to every eligible mother regardless of her insurance coverage. In Sweden, to be entitled to cash benefits, a parent has to have been in insured employment for at least 240 consecutive days before birth. Swedish residents not qualifying for

the 80 per cent level receive cash benefits at a flat rate equivalent to around US$ 30 per day (in 2013) for 480 days.[91] This social assistance system for non-qualifying women is also in place in Spain, where a flat-rate benefit (€532.51 per month or €17.75 per day in 2013) is paid for 42 days to all employed women who do not meet eligibility requirements (INLPR, 2012). Similarly, the Netherlands provides maternity benefits to women who do not meet requirements under the social security legislation if the woman is 18 or older, with an income lower than the social assistance norm, has no other assets and is not entitled to another benefit (ILO CEACR, 2014). In Iceland, the State Treasury pays a maternity grant to parents who are not active in the labour market or attending full-time educational programmes.

The Committee of Experts has observed that the level and duration of social assistance benefits are sometimes insufficient and their coverage limited, factors which might be linked to the restrictive conditions which must be met in order to access them. For instance, in Spain, only 752 women received non-contributory maternity benefit for an average duration of 42.5 days in 2012. The CEACR highlighted that the economic needs of these beneficiaries were not covered for the whole period of statutory maternity leave as they received a daily amount of €17.75, which is lower that the poverty threshold, which in 2012 stood at €20.43 a day (CEACR, Direct Request, Spain, 2013/84). In these cases, the Committee has emphasized that ILO standards require the "full and healthy maintenance" of the woman and her child in accordance with a "suitable standard of living", and the payment of benefits throughout the entire period of maternity leave. Moreover, when the provision of cash maternity benefits is subject to a minimum qualifying period or coverage by the insurance system, these requirements should be set at a reasonable level and be satisfied by a large majority of the women to whom maternity protection Conventions apply.[92] Finally, the Committee of Experts also noted that, in certain cases, national programmes have as an objective the progressive elimination of this qualifying period, which will provide a greater number of working women with financial protection during maternity leave (ILO, 2004).

Contents

Notes

1. Information on the normal duration of maternity leave, cash benefits and the source of payments is available for 185 countries and territories. For the rest of the issues in this section (i.e., when maternity leave can be taken and rules about the extension or reduction of the leave period) the set of countries with available information varies and will be stated where percentages are presented. See Appendix I for information on regional categories and methodological notes.

2. As of January 2014. See NORMLEX, Information System on International Labour Standards, available at: http://www.ilo.org/normlex [25 Mar. 2014].

3. Members of the European Union 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 who are breastfeeding [EU Pregnant Workers Directive]. The minimum length of maternity leave required by the Directive is the same as in Convention No. 183: 14 weeks (European Economic Community, 1992, Article 8(1). All EU Member States meet the 14-week minimum. In 2013, Iceland, which provides three months of maternity leave, introduced a new Bill including a plan to expand the share of non-transferable parental leave period from three to five months for each parent with a reduction in the shared period of leave from three to two months, according to a 5+5+2 model, instead of the current 3+3+3 one (O'Brien, 2013).

4. In 1994, the ILO had data on maternity leave duration and cash benefits for 139 countries, as reported in the *Conditions of work digest: Maternity and work*, Vol. 13 (Geneva, ILO, 1994). With regard to the source of benefits, information was available for 144 countries in both 1994 and 2013 (see figure 2.5). Many of these changes had been made by 2009, when the last review of maternity protection laws was published. In this section, these changes are reviewed and new developments between 2009 and 2013 noted.

5. Kenya changed its legislation in 2003, Morocco in 2003, Zimbabwe in 2005, Uganda in 2006 and South Africa in 2002.

6. Bangladesh introduced the new provisions in 2006, Mongolia in 2002.

7. Belize introduced its Employment Act with the new provisions in 2001 and implemented it in 2005. In Honduras, the 2003 Labour Code provides ten weeks' maternity leave while, according to the Social Security Act introduced in 2005, maternity benefits are paid for 12 weeks. During this period, recipients of maternity benefits are expected to abstain from work.

8. Other countries that increased the length of leave were Bulgaria (from 120 to 227 days) in 2009, Cyprus (from 16 to 18 weeks) in 2007, Greece (from 16 weeks to 119 days) in 2000, Iceland (from two to three months) in 2000, Malta (from 12 to 14 weeks) in 2004, Romania (from 112 to 126 days) in 2005, Sweden (from 12 to 14 weeks)1996, Switzerland (from eight to 14 weeks) and the United Kingdom (from 14 to 52 weeks). Ireland changed its provisions in 2004.

9. For the purposes of figure 2.2, the Islamic Republic of Iran is placed in the Middle East regional category instead of Asia in order to maintain consistency with the 1994 regional groupings (see Appendix I for more information).

10. In addition, Jordan increased leave from six to ten weeks (in 1996) and Lebanon increased it from 40 days to seven weeks (in 2000). However, those countries are not included in the data in order to maintain consistency with the countries which provided data in 1994.

11. All the texts of CEACR observations and direct requests are available at: http://www.ilo.org/normlex [25 Mar. 2014]. In order to read the texts cited in this report, the reader browses in the options menu by type of CEACR comment (e.g. direct request); Convention (e.g. C3), country (e.g., Côte d'Ivoire) and year of adoption (e.g., 2013) reported in parenthesis.

12. Among the 55 countries that provide six weeks of compulsory leave after birth are Barbados, Bosnia and Herzegovina, the Dominican Republic, El Salvador, Lesotho, Niger, Portugal, Somalia, Spain and Uruguay.

13. The following countries are among those that provide *more than* six weeks of compulsory leave after childbirth: Angola (nine weeks), Belize (14 weeks), Benin (eight weeks), Colombia (12 weeks), Congo (nine weeks), Ethiopia (nine weeks), Japan (eight weeks), Madagascar (eight weeks), Morocco (seven weeks), Panama (eight weeks), Seychelles (12 weeks), Viet Nam (nine weeks) and Yemen (nine weeks).

14. Countries with compulsory leave *before and after* birth include Afghanistan (30 days before and 60 after), Azerbaijan (70 days before and 56 days after), the Bahamas (one week before and eight weeks after), Cyprus (two weeks before and seven weeks after), Ecuador (two weeks before and ten weeks after), and Latvia (two weeks before and two weeks after).

15. Countries with compulsory leave periods *only before* birth include Algeria (one week), Hungary (four weeks (which has been raised by the CEACR on the application of Convention No. 183), Slovenia (28 days) and Zimbabwe (21 days).

16. Examples of EU countries with two-week compulsory maternity leave periods include Denmark (after birth), Iceland (after birth) and the United Kingdom (after birth). On the other hand, many EU countries provide longer periods of compulsory leave. For example, Austria mandates leave eight weeks before and eight weeks after birth and Belgium prohibits employment one week before birth and nine weeks after birth.

17. For example, in Brazil, Cambodia, Ghana, Guatemala, Kuwait, the United States and Zambia, there is no compulsory leave period. The longest period of compulsory leave is in Croatia, where a female worker is obliged to take maternity leave from 28 days before childbirth until the child is 6 months of age. While provision does exist for exceptions at the worker's request, leave can never be less than 70 days.

18. The rest are Angola, Benin, Botswana, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Ethiopia, Gabon, Gambia, Guinea, Guinea-Bissau, Lesotho, Libya, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Somalia, South Africa, Swaziland, United Republic of Tanzania and Togo.

19. The rest are Cape Verde, Equatorial Guinea, Eritrea, Ghana, Kenya, Mali, Sudan, Tunisia and Zimbabwe.

20. The rest are Afghanistan, Bangladesh, India, Indonesia, Islamic Republic of Iran, Kiribati, Republic of Korea, Lao People's Democratic Republic, Pakistan, Papua New Guinea, Solomon Islands and Vanuatu.

21. The rest are Fiji, Malaysia, Mongolia, Myanmar and the Philippines.

22. They are Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Kazakhstan, Republic of Moldova, Russian Federation, Turkey and Ukraine.

23. They are Australia, Bulgaria, Canada, Estonia, Hungary, New Zealand, Slovenia, Switzerland and the United States.

24. Countries providing leave are Austria, Belgium, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Portugal, Romania, Slovakia, Spain, Sweden and the United Kingdom.

25. They are Antigua and Barbuda, Argentina, Brazil, Cuba, Grenada, Guatemala, Jamaica and Trinidad and Tobago.

26. The rest are the Bahamas, Barbados, Belize, Chile, Dominica, Dominican Republic, Ecuador, El Salvador, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Saint Kitts and Nevis, Saint Lucia, Uruguay and the Bolivarian Republic of Venezuela.

27. In France, for the third and each subsequent child (if the woman already has two or more children or if her household is in charge of two or more children) the duration is extended to eight weeks before and 18 weeks after the expected birth. For these women, the eight-week period of prenatal leave may be extended by two weeks with a corresponding reduction of postnatal leave. France also allows women to defer their maternity leave if a newborn is hospitalized for a long period. If a child is hospitalized until the sixth week after childbirth, mothers may postpone taking their remaining leave until the child leaves hospital.

28. Another example is Estonia, where the duration of maternity leave is 140 days, and the woman has the right to commence pregnancy and maternity leave up to 70 days before the estimated date of delivery. Other countries with similar flexibility include Latvia (where women may choose how to distribute all but four weeks of the allotted 112 days of leave) and Sri Lanka (where, for their first two children, women can transfer any days they work during their allotted two weeks of prenatal leave into postnatal leave).

29. In Peru, time between the expected and actual due dates will be considered as sick leave for temporary illness.

30. Additionally, 43 countries provide for an undisclosed period of additional leave in case of illness, including Cuba, Ethiopia, the Philippines and Spain.

31. Similar extensions of leave for illness exist in, among other countries, Lao People's Democratic Republic (up to 30 days on the advice of a medical practitioner), Latvia (14 days), Uruguay (up to six months) and Uzbekistan (two weeks). In other countries, women may take sick leave or receive sickness benefits (e.g., El Salvador, Honduras, Seychelles and Sudan) or leave (e.g., Dominican Republic and Ecuador) if they require additional leave because of illness after the maternity leave period ends.

32. For example, in Argentina, if a child has Down's syndrome, maternity leave may be extended by an additional six months without pay but subject to the same conditions as paid maternity leave.

33. These are Afghanistan, Angola, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, China, Croatia, Cuba, Czech Republic, Ecuador, Estonia, Finland, France,

Gabon, Ghana, Guinea, Islamic Republic of Iran, Iraq, Israel, Kazakhstan, Latvia, Libya, Lithuania, Luxembourg, Republic of Moldova, Peru, Portugal, Russian Federation, Sao Tome and Principe, Slovakia, Spain, Tajikistan, the United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Togo, Turkey, Uzbekistan and Viet Nam.

34. In Yemen leave is extended by three weeks in the case of multiple births. In Iraq, the extension may be up to nine months.

35. In some countries, cash benefits are only available for a certain number of births. In Malaysia, for example, cash benefits are provided for a woman's first five children. In Egypt, a woman may receive maternity leave benefits twice during a period of employment. In Barbados, women are not entitled to enjoy maternity leave and benefits from the same employer more than three times. In Jamaica, to receive maternity benefits, a female employee must have been granted maternity leave by the same employer for fewer than three previous pregnancies. In Lesotho, cash benefits paid by the employer are only available to certain categories of workers.

36. The following countries are examples of those that calculate benefits as a percentage of prior earnings: Afghanistan, Argentina, Bosnia and Herzegovina, Bulgaria, Costa Rica, Djibouti, Guyana, Italy, Japan, Jordan, Malawi, Nepal, San Marino, Saint Vincent and the Grenadines and the United Arab Emirates.

37. In such cases, the figures on duration in the previous section refer to the total length of the leave provided and not the period which is paid.

38. In line with Convention No. 102, this level should not be lower than 125 per cent of the average wage of all protected persons.

39. A small number of countries, such as Croatia, Senegal and the United Kingdom, move from a percentage of earnings at the beginning of the leave period to a flat rate at the end of the leave period. If the period during which a percentage is paid is at least 14 weeks, then the country's compliance with the Convention can be assessed. If the flat rate begins before 14 weeks, the country's compliance cannot be assessed.

40. For example, Eritrea lacks information on cash benefit levels; however, the length of leave is insufficient to meet the standard in the Convention so it is counted as non-compliant.

41. These 18 countries were Australia, Belgium, the two Channel Islands – Guernsey and Jersey, Chile, Finland, France, Ireland, Israel, Kyrgyzstan, the Netherlands, New Zealand, the Russian Federation, Seychelles, Slovenia, Switzerland and the United Kingdom. Bosnia and Herzegovina has not been categorized, and therefore also not assessed, since the amount of benefits varies between 50 and 100 per cent, depending on the region. Note that some of the countries that have been excluded from this analysis may be compliant in practice (i.e., if the ceiling on benefits allows all or nearly all eligible women to receive two-thirds of their previous earnings).

42. For the Member States of the European Union, compulsory provisions apply concerning cash benefits. Article 11 of the EU Directive provides:

> [T]he employment rights relating to the employment contract, including the maintenance of a payment to, and/or entitlement to an adequate allowance for, workers … must be ensured in accordance with national legislation and/or national practice … [This] allowance … shall be deemed adequate if it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, subject to any ceiling laid down under national legislation (EEC, 1992).

43. Australia, Belgium, the Channel Islands – Guernsey and Jersey, Finland, France, Ireland, Israel, the Netherlands, New Zealand, Slovenia, Switzerland and the United Kingdom.

44. In Eritrea, cash benefits are paid, but the ILO has no information on the amount paid or the basis on which benefits are calculated.

45. Chile provides at least 18 weeks of leave paid at 100 per cent of prior earnings up to a ceiling, so could not be assessed.

46. The duration of leave reduces to 90 days for the second child and 75 days for the third, both of which periods fall below ILO standards.

47. The notion of social security adopted in this report covers all measures that provide benefits, whether in cash or in kind, to secure protection, inter alia, from (a) lack of work-related income (or insufficient income) caused by sickness, disability, maternity, employment injury, unemployment, old age or death of a family member; (b) lack of access to or inability to afford health care; (c) insufficient family support, particularly for children and adult dependants; (d) general poverty and social exclusion (see ILO, 2010c).

48. Examples in this section draw from: Social Security Programs throughout the World. Available at: http://www.ssa.gov/policy/docs/progdesc/ssptw/ [26 Mar. 2014].

49. Good governance of maternity schemes relies on scheme planning with a solid factual basis. An actuarial valuation is a crucial tool for maintaining the long-term future financial sustainability of the scheme. Reliable data are essential to provide a starting point for the actuarial valuation, as well as being prerequisites for setting future actuarial assumptions to control the dynamics of the scheme. Data related to the age-specific group of women who give birth among the insured women is an essential data set for statistically computing the fertility rates of the insured segment of the population. Since the financial sustainability of any social security scheme is essential and must be monitored, the objective of actuarial estimates is to establish the probable annual benefit expenditure of a social security scheme and ensure its financial equilibrium (ILO, 2004a).

50. Some countries may rely on more than one type of financing, with the responsibility determined by some eligibility criteria. For example, in certain countries, women who are covered by social insurance receive benefits funded by a mixed system, but those who are not eligible for social insurance are entitled to cash benefits paid by their employers. This report aims to identify and classify countries according to the source of funding that applies to the largest fraction of women.

51. Singapore uses a mixed system for the first two children, but the Government is responsible for paying benefits for subsequent children.

52. In Jordan, only employers are mandated to pay contributions to the social insurance scheme funding maternity cash benefits – this approach applies to work injury insurance as well, but does not apply to old age, disability, pensions or unemployment insurance in Jordan, where both workers and employers contribute.

53. In Afghanistan, Bangladesh, Comoros, Gambia, Indonesia, Kenya, Malaysia, Montenegro, Pakistan and Qatar, among others, employers must pay 100 per cent of prior earnings during the leave period.

54. In Kiribati, for example, employers are responsible for 25 per cent of earnings. In Botswana, Libya, Nigeria, Somalia and Vanuatu, employers must pay half of prior earnings.

55. For example, in the United Kingdom, the employer is responsible for the payment of cash benefits, but is reimbursed for 92 per cent of the payments from public funds. Other examples include Ecuador and Egypt, where employers pay 25 per cent, and Guatemala, where they pay one-third of benefits.

56. In the Republic of Korea, the employer pays the full benefit for 60 days and the social security system pays for 30 days. In Singapore, the employer and Government pay cash benefits for the first two children and the Government alone for the third and subsequent children. In Thailand, the employer is responsible for 100 per cent of earnings for the first 45 days of leave and social security pays 50 per cent for the remaining 45 days.

57. Many of these changes had been made by 2010, when the last review of maternity protection laws was published. In this section, we review these changes and also note new developments between 2010 and 2013.

58. Cambodia reduced benefits from 100 per cent of prior earnings to 50 per cent in 1998.

59. The third country in which maternity leave is unpaid, Oman, is not included in this review.

60. For the purposes of figure 2.5, the Islamic Republic of Iran is placed in the Middle East regional category in order to maintain consistency with the 1994 regional groupings.

61. For this section, countries are counted as being compliant with Convention No. 183 if they fund benefits through social security systems or a mixed system in which employers are responsible for no more than one-third of cash maternity benefits. With respect to employers' participation in the payment of cash benefits, the CEACR has decided that Convention No. 103 is observed where the contribution of the employer to maternity benefits is less than one-third of insured income and the share paid by social security is at least two-thirds (ILO, 1994). While Convention No. 183 provides greater flexibility under certain, very specific circumstances, as mentioned above, this report considers national legislative provisions in relation to the basic principle of payment through social insurance or public funds.

62. As noted, compliance could not be assessed for 18 countries because the national systems for calculating and financing benefits make it difficult to make a direct comparison to the ILO standards. While omitted from the analysis, some of these countries may nevertheless be in compliance with Convention No. 183.

63. Algeria, Burkina Faso, Côte d'Ivoire, Gabon and Mauritania ratified Convention No. 3.

64. Mongolia ratified Convention No. 103.

65. Brazil ratified Convention No. 103, while Colombia and the Bolivarian Republic of Venezuela ratified Convention No. 3.

66. It may also depend on whether coverage is mandatory or voluntary, or if workers need to opt in for coverage.

67. See Appendix III for more information on ILO methodology of calculation of these indicators.

68. Global and regional estimates in this section are drawn from: ILO, 2014a. *Coverage in law and in practice of paid maternity leave: Global and regional estimates* (Geneva, ILO, forthcoming).

69. In many countries, such voluntary provisions are taken up only sparsely, thus voluntary coverage may not reach the same level of protection as mandatory coverage.

70. This figure is 25 countries when voluntary coverage is taken into account.

71. See, for example, ILO, 2013a.

72. Argentina has a separate programme for agricultural workers which is similar to the maternity scheme for other workers.

73. Other examples include the Republic of Korea, where women working in enterprises with less than five employees are not entitled to maternity leave.

74. Calculated by the United Nations Statistics Division based on data published by the International Labour Office. Labour force participation rate, published in Key Indicators of the Labour Market (KILM). Also available at: http://www.ilo.org/public/english/employment/strat/kilm [27 Mar. 2014].

75. According to Eurostat: http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Demographic_balance,_2011_(1)_(1_000).png&filetimestamp=20130129110805 [27 Mar. 2014].

76. All the CEACR Direct Requests included in this report can be accessed on the website of NORMLEX, available at: www.ilo.org/normlex [27 Mar. 2014].

77. See: http://www.bbc.co.uk/news/magazine-26154092 [27 Mar. 2014].

78. Domestic workers are provided with maternity leave in Austria, Bulgaria, the Czech Republic, Denmark, Islamic Republic of Iran, Ireland, Italy, Latvia, Kazakhstan, Mexico, Namibia, Panama, Paraguay, Peru, Portugal, Spain, South Africa and Zimbabwe, among others (ILO, 2013a).

79. However, maternity benefits are not independent of unemployment benefits, so women workers are forced to draw from their unemployment contributions in order to finance their maternity leave. Should they subsequently become unemployed, their entitlement unemployment benefits will be reduced.

80. Ley de Régimen Especial de Contrato de Trabajo para el Personal de Casas Particulares.

81. Another example of a country that includes an otherwise excluded group of women is Senegal, where only employed women qualify for cash benefits. However, a Senegalese non-employed woman married to an insured employee has the right to receive a prenatal allowance and maternity benefit at a flat rate. In Germany, while housewives and the self-employed are not automatically covered by maternity legislation, they can claim maternity benefit at the same rate as sickness benefits if they have paid sufficient voluntary contributions into the statutory health insurance scheme (German Federal Ministry of Labour and Social Affairs, 2013, p. 12).

82. According to the ILO Recommendation (No. 202), social protection floors are nationally defined sets of basic social security guarantees, which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion.

These guarantees should ensure at a minimum that, over the life cycle, all in need have access to essential health care and basic income security, including maternity protection.

83. This concept refers to the ability of laws, policies and measures explicitly to address gender-specific constraints and vulnerabilities, such as reproduction and care-related needs, with the aim of achieving gender equality at work and in the household and social justice (Kabeer, 2013; Holmes and Jones, 2013).

84. For instance, large-scale construction of pre-primary school facilities was found to lead not only to an increase in pre-primary school participation among children aged 3 to 5 years old, but it also significantly increased the likelihood of employment among women with young children (Berlinski and Galiani, 2005, cited in Kabeer, 2013).

85. These eligibility requirements for maternity leave may or may not be the same as those for receiving cash maternity benefits. Requirements for cash maternity benefits are discussed in the next section.

86. Informing the employer is also an eligibility requirement for maternity leave under the EU Directive (EEC, 1992).

87. Countries where a woman must simply be employed to qualify for leave include Algeria, Burkina Faso, Chile, Cyprus, Fiji, France, Ghana, Islamic Republic of Iran, Republic of Korea, Uganda and the Bolivarian Republic of Venezuela.

88. In Barbados, for example, only female employees who have been employed for at least 12 months by the same employer qualify for leave. In Papua New Guinea, women must have been employed by the same employer for not less than 180 days within a period of 12 months or for not less than 90 days within a period of six months immediately preceding the start of maternity leave. Other countries with minimum periods of continuous employment include Australia (12 months), Belize (150 days during the 12 months preceding childbirth), Canada (six months, at the federal level), Egypt (ten months) and Swaziland (12 months or nine months for domestic workers).

89. According to ILO estimates based on official data from the US Department of Labor Statistics, taken together, the conditions of the FMLA exclude nearly 47 per cent of female American workers.

90. The following countries, among others, require minimum periods of employment or insurance contributions for cash benefits (but not leave): Algeria, Cambodia, Chile, Cyprus, Ecuador, El Salvador, Mongolia and Tunisia. In some countries, such as the Republic of Moldova, the Russian Federation and Switzerland, unemployed women are eligible for cash benefits if they are covered by the social insurance system.

91. According to the EEC Directive, EU Member States may set conditions of eligibility for maternity cash benefits, but these conditions may not provide for periods of previous employment in excess of 12 months immediately prior to the presumed date of childbirth.

92. When countries set eligibility requirements for cash benefits, the EC also ruled that countries should count periods of insurance, employment or residence in other Member States (European Community, 2007: 17).

Paternity, parental and adoption leave

3

KEY MESSAGES

- Access to family leave for the care of newborn and young children is important for a worker's ability to reconcile work and family life.
- Fathers' leave, take-up of family responsibilities and early interaction with their children are directly related to successful child development.
- Recognition of men's right to parenthood, as well as their responsibility to share unpaid care and household work, will help to break down traditional social attitudes, resulting in greater equality for both men and women at work and at home.
- In 1994, statutory paternity leave provisions existed in 40 of the 141 countries for which data were available at the ILO. By 2013, legislation on paternity leave was provided in 78 countries of the total (167).
- Paternity leave is paid in 70 countries, although employer liability is the prevalent source of funding. As with maternity leave, risk pooling through social insurance or public funds can help to mitigate potential discrimination against or disadvantages to men with family responsibilities at work and can boost fathers' leave take-up rates.
- Since partner presence and support have an important influence on a mother's decision to breast-feed, parental leave, which is available to fathers, can have significant benefits for maternal and child health.
- Although few countries currently provide the type of parental leave that meets the EU Directive, which requires four months of non-transferable leave to be allocated to fathers, countries are moving towards more gender-inclusive policies of paid entitlement.
- Some positive changes in leave policies occurred despite the economic crisis, including in middle-income countries, although a number of Developed Economies that were hardest hit by the economic crisis cut some of their supports to families or postponed announced reforms as part of austerity measures.

In addition to maternity leave, access to other kinds of family leave for the care of newborn and young children is important for a worker's ability to reconcile work and family life. Such leave provisions include paternity leave, parental leave and adoption leave. Paternity leave is usually a short period of leave to care for the child and the mother around the time of childbirth. Parental leave tends to be a longer period of leave to care for the child beyond maternity or paternity leave and is typically available to one or both of the parents, with some countries now making available non-transferable portions of parental leave to each parent. Adoption leave provides time for parents to care for their adopted children. Each type of leave will be discussed separately in this section. Information on these issues comes from the ILO Working Conditions Laws Database – Maternity Protection and additional sources (see Appendix IV for a table of indicators by country).

3.1 Paternity leave

Paternity leave is generally a short period of leave for the father immediately following childbirth. Its aim is to enable fathers to assist the mother to recover from childbirth, which is also crucial in establishing breastfeeding, take care of the newborn as well as other children, attend to the registration of the birth and other family-related responsibilities. Paternity leave is either provided as a separate leave measure for fathers or included in the "special leave" provisions to which all employees are entitled. In that case, the birth of a child or "family events" are listed among the grounds for taking a specific number of days off, in addition to annual leave. Where national legislation does not include provision for either paid or unpaid paternity leave, collective bargaining agreements may provide for such leave (see box 3.1).

No ILO standard exists dealing specifically with paternity leave, however the 2009 ILC Resolution concerning gender equality at the heart of decent work recognizes that work–family reconciliation measures concern not only women but also men and a variety of new measures (such as provision of paternity leave and/or parental leave) have succeeded in permitting working fathers to be more involved in the sharing of family responsibilities. Thus, the Resolution calls for governments to develop, together with the social partners, adequate policies allowing for a better balance of work and family responsibilities for both women and men in order to allow a more equal sharing of these responsibilities. Such policies should include, among other things, paternity and/or parental leave with incentives to encourage men to take up such leave (ILO, 2009a).

Research suggests that fathers' leave, men's take-up of family responsibilities and child development are related. Fathers who take leave, especially those taking two weeks or more immediately after childbirth, are more likely to be involved with their young children (Huerta et al., 2013). This is likely to have positive effects for gender equality in the home, which is the foundation of gender equality at work.

> By drawing fathers into the daily realities of childcare, free of workplace constraints, extended time off [immediately after the birth] provides the space necessary for fathers to develop the parenting skills and sense of responsibility that then allows them to be active co-parents rather than helpers to their female partners. This shift from a manager-helper dynamic to that of co-parenting creates the opportunity for the development of a more gender-equitable division of labour (Rehel, 2014).

In addition, this early involvement enhances the resources of "parental capital" available to children via quality father–child interactions, thus contributing to child development (O'Brien, 2009). Evidence indicates that this participation is a key factor of children doing better in life on almost every indicator of success (Flouri, 2005 and Lamb, 2010 cited in Asher 2011).

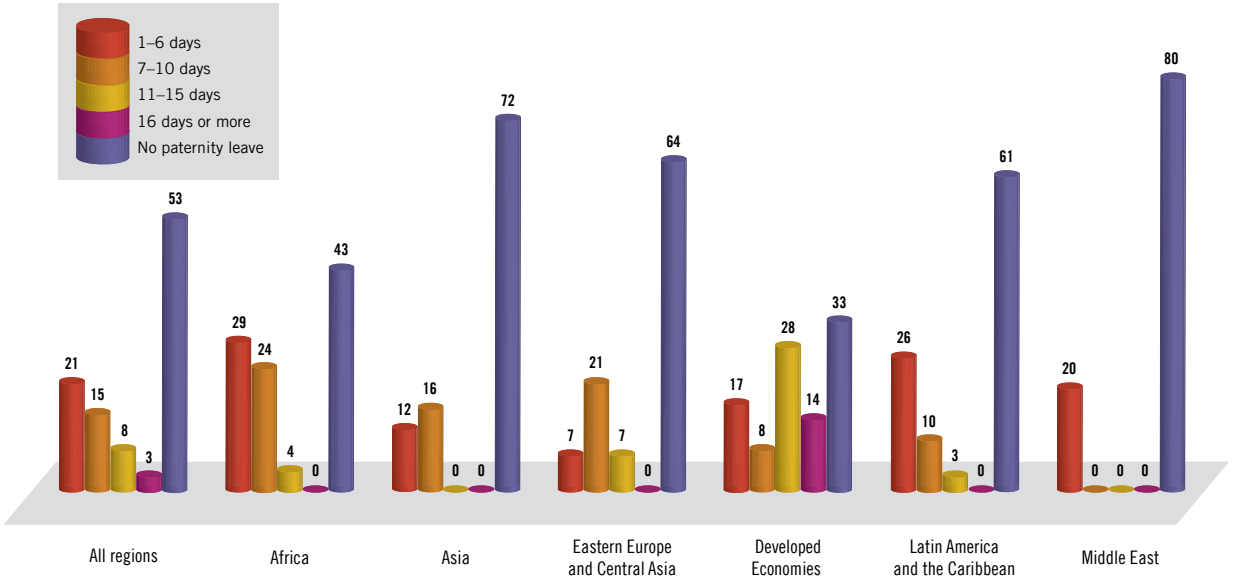
The need for increased involvement of fathers in parenting is also driven by the often neglected urge to recognize men's right to parenthood, together with their responsibility to share unpaid care and household work. Assumptions which frame men as breadwinners, ignoring their role as fathers and caregivers, remain extraordinarily persistent, including in the workplace, since policies do not necessarily change traditional social attitudes and behaviours. While men may feel valued as workers, their paternity and care responsibilities are often ignored. Fathers perceive that, while family-friendly policies might in theory be available to "parents", socialization, lack of uptake by other men and the absence of a supportive workplace result in these options being used only by women (Burnett et al., 2013). Therefore the design and mix of work–family policies, and in particular leave measures, have enormous gender-transformative potential[1] when they make the achievement of effective gender equality at work and in the household an explicit objective, in line with the ILO Workers with Family Responsibilities Convention, 1981 (No. 156).

National provisions and duration

Paternity leave entitlements can be found in the national legislation of at least 78 countries out of 167 for which data are available: 29 in Africa,[2] seven in Asia,[3] five in Eastern Europe and Central Asia,[4] 24 in the Developed Economies,[5] 12 in Latin America and the Caribbean[6] and two countries, Saudi Arabia and Syrian Arab Republic, in the Middle East. Paternity leave provisions are most common throughout the Developed Economies, Africa and Eastern European and Central Asian countries.

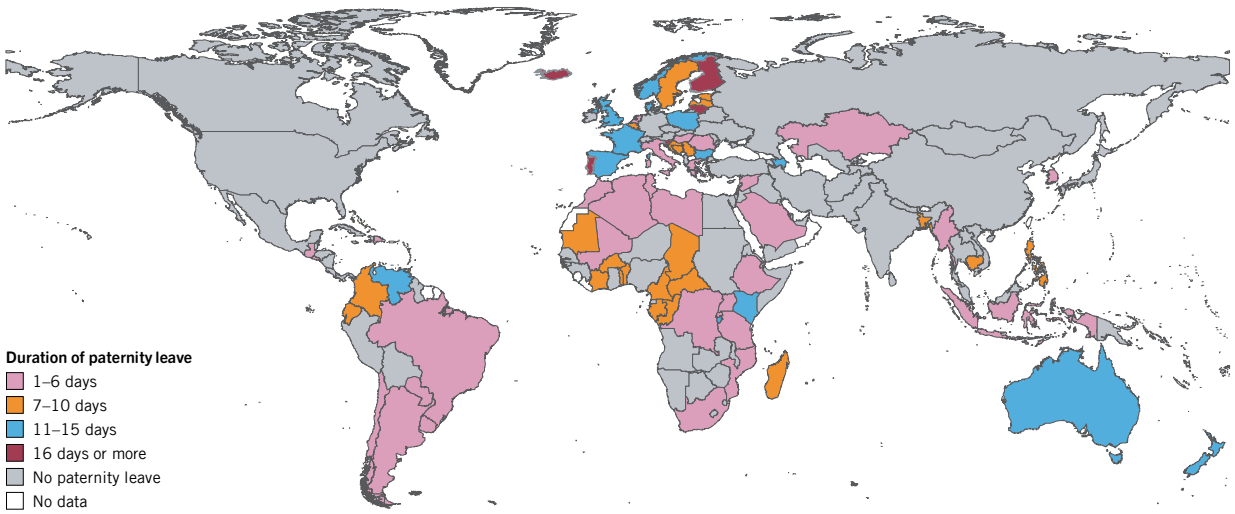
The length of paternity leave varies from country to country. Among those with national provisions, the duration ranges from one day in Tunisia to 90 days in Iceland, Slovenia and Finland (54 working days) (see table 3.1 and Appendix IV for paternity leave provisions and durations). In 53 per cent of the total (88 countries), statutory paternity leave is not provided. Some 35 countries (21 per cent) provide less than 1 week of leave (including Argentina, Kazakhstan, Greece, Morocco and the United Republic of Tanzania), 25 countries (15 per cent) grant between 7 and 10 days (including, Benin, Bosnia and Herzegovina, Latvia, the Philippines and Ecuador), 14 countries (8 per cent) provide 11–15 days' leave (including Azerbaijan, France, Kenya and the Bolivarian Republic of Venezuela). Only five countries, all among the Developed Economies (Finland, Iceland, Lithuania, Portugal and Slovenia) provide a paternity leave of more than two weeks (see figure 3.1 and map 3.1).

Figure 3.1 Provision of statutory paternity leave by duration, 2013 (167 countries) (%)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [29 Mar. 2014].

Map 3.1 Countries providing paternity leave by duration, 2013 (167 countries)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [25 Mar. 2014].

Table 3.1 Examples of leave provisions in national legislation which can be used by fathers at the time of childbirth

Country	Provision
Africa	
Algeria	Three days of paid paternity leave
Burundi	Up to 15 paid days for special circumstances
Central African Republic	Up to ten paid days a year for family events concerning the worker's own homea
Democratic Republic of Congo	Two working days of paid leave upon the worker's wife's confinement
Djibouti	Three days of paid paternity leave (among 11 paid days for family events)
Ethiopia	Five days of unpaid leave in the event of exceptional or serious events
Kenya	Two weeks of paid paternity leave
Libya	Three days of emergency leave for a compelling reason
Madagascar	Up to ten days of paid leave for family events
Mali	Three days of leave for the birth of a child, paid by social insuranceb
Mauritania	Up to ten paid days a year for family events
Mauritius	Five continuous working days of paid paternity leave
Morocco	Three days of paid paternity leave
Mozambique	One day of paid paternity leave immediately after delivery
Rwanda	Four days of paid paternity leave
Seychelles	Four days of paid leave for "compassionate reasons"
South Africa	Three days of paid leave for family responsibilities
Tanzania, United Republic of	Three days of paid paternity leave
Togo	Up to ten days of paid leave for "family events directly related to the home"
Tunisia	One day of paternity leave (private sector); two days (public sector)
Uganda	Four working days of paid leave immediately after delivery
Asia	
Bangladesh	Ten paid days a year of "casual leave"
Cambodia	Ten paid days of special leave for family events
Philippines	Seven days of paid paternity leave for married workers
Singapore	One week of paid leave
Eastern Europe and Central Asia	
Azerbaijan	14 days of unpaid leave for men whose wives are on maternity leave
Bosnia and Herzegovina	Seven working days of paid paternity leave
Croatia	Seven days of paid leave
Kazakhstan	Five days of unpaid paternity leave
Serbia	Seven days of paid leave for family events
Developed Economies	
Australia	14 days of paid paternity leave
Belgium	Ten days of paid paternity leave
Bulgaria	15 days of paid paternity leave
Denmark	Two weeks of paid paternity leave
Estonia	Ten working days of paid paternity leave
Finland	54 working days of paid paternity leave
France	11 working days of paid paternity leave

Country	Provision
Greece	Two days of paid paternity leave
Hungary	Five days of paid paternity leave
Iceland	Three months of paid paternity leave
Italy	One day of paid paternity leave
Latvia	Ten paid calendar days
Lithuania	Paid paternity leave from the child's birth to when the child is 1 month old
Luxembourg	Two days of paid "extraordinary leave" for the birth of a child
Netherlands	Two days of paid paternity leave
New Zealand	Two weeks of unpaid paternity leave
Norway	Two weeks of unpaid leave, but often covered by collective agreements, plus 14 weeks of parental leave reserved for fathers
Portugal	20 days of paid paternity leave, of which the first ten are compulsory
Romania	Five working days of paid paternity leave (ten days if the employee has attended infant care courses)
Slovenia	90 days of paid paternity leave (15 to be taken before the child is 6 months old, the remainder to be taken before the child is 3 years old)
Spain	15 consecutive days of paid paternity leave
Sweden	Ten days of paid paternity leave, plus two months of paid parental leave reserved for each parent
United Kingdom	Two weeks of paid paternity leave
Middle East	
Saudi Arabia	One day of paid leave for childbirth
Syrian Arab Republic	Six days of unpaid "emergency" leave
Latin America and the Caribbean	
Argentina	Two days of paid paternity leave
Bahamas	One week of unpaid family-related leave
Brazil	Five days of paid paternity leave
Chile	Five days of paid compulsory paternity leave
Colombia	Eight days of paid paternity leave
Dominican Republic	Two days of paid paternity leave
Ecuador	Ten days of paid paternity leave
El Salvador	Three days of paid paternity leave
Guatemala	Two days of paid leave on the birth of the child
Paraguay	Three days of paid paternity leave
Uruguay	Three days of paid paternity leave for the private sector, ten days for civil servants
Venezuela, Bolivarian Republic of	14 days of paid paternity leave

[a] Similar provisions also exist in Benin, Burkina Faso, Chad, Comoros, Congo, Côte d'Ivoire and Gabon.

[b] In Mali, the legislative provision for this entitlement is not specifically set out for the father of the child, but for the "worker head of the household" which may or may not be the biological father. Similar to other countries, under the Labour Code (Law No. 92-020, Article 146) men workers are also entitled to up to ten days' leave for "family events concerning their own home".

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [29 Mar. 2014]. The table accounts for leave provisions reserved for fathers in relation to childbirth or leave that can be used exclusively by fathers as paternity leave. It does not include provisions for parental leave that can be used by either the father or the mother, unless a portion of the leave is reserved for fathers alone, 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). The table also includes countries with provisions for leave that may be used by father at the time of the birth but which is not strictly paternity leave (e.g., Central African Republic, the Bahamas, Ethiopia and Seychelles).

Australia introduced a two-week paid paternity leave at the beginning of 2013. In Denmark, fathers are entitled to 14 days of paid paternity leave to be taken during the 14 weeks following birth, which corresponds to the postnatal portion of maternity leave. Estonia provides 14 days of paid paternity leave to be taken during the mother's maternity leave period or in the two months following birth. In Slovenia, fathers are entitled to 15 days of paid paternity leave to be taken before the child reaches 6 months of age, as well as 75 additional days of leave that may be taken before their child is 3 years old.[7] In Finland, 54 days of paternity leave are provided as of 2013, one to 18 days of which may be taken simultaneously with the mother during her maternity leave (in one continuous period or divided into up into four separate periods) and the remainder of which (or the full 54 days if none of the 18 days were taken) can be taken after maternity and parental leaves have been taken.

Many other countries around the world also provide paternity leave. In Azerbaijan, married male workers are entitled to 14 days of unpaid leave while their wives are on maternity leave. In Chile, fathers are entitled to five days of leave to be taken in the month following their child's birth (one in the first three days after birth and the other four in the months after birth). In the Philippines, married workers are eligible for seven days of paid paternity leave. In Uganda, fathers are entitled to four days of paid paternity leave immediately after the birth.

Instead of dedicated paternity leave, several countries offer general emergency leave or family leave, in addition to annual leave, which can be used by new fathers at the time of childbirth. In Croatia, for example, workers are entitled to seven days of paid leave for personal reasons. This type of leave is available in a number of African countries (including Libya, South Africa and Togo). In Chad, Congo, Côte d'Ivoire and Madagascar, for example, the Labour Codes do not provide for any specific paternity leave, but they entitle all workers covered by the law to ten days' leave a year for family events. Similar provisions exist in a number of other countries, including Cambodia, Myanmar, the Syrian Arab Republic and Viet Nam. It is important to note that, while these provisions may make it possible for workers to take time off for the birth of a child, they are not leave entitlements that are specifically set aside for paternity. Workers may need them for other family events, such as deaths, emergencies or weddings, with the consequence that leave days may or may not be available for the birth of a child. In addition, this arrangement puts working parents at a disadvantage in comparison with other men workers and also fails to identify childbirth as a legitimate concern of working fathers, reflecting a social attitude which is not supportive of their caregiving role. Such leave should therefore be considered only as an indirect substitute for dedicated paternity (or parental) leave.

In almost all countries that offer paternity leave, fathers may choose whether to take the leave or not. Just three countries make paternity leave compulsory. Compulsory paternity leave helps to ensure that fathers share childcare responsibility with mothers and allows for greater involvement of men in the critical early stages of an infant's development (see Eligibility for parental leave under section 3.2: *Parental leave* below). In Chile, a five–day period of paternity leave is compulsory and must be taken during the first month after birth. In Portugal, ten days of compulsory leave must be taken within 30 days of birth, five of which must be consecutive. Fathers have the option to take an additional ten days of paternity leave. The 2012 labour law reform of Italy introduced on an experimental basis (until 2015) a period of one day of compulsory paternity leave plus the option of two voluntary days, which can be transferred from the compulsory share of maternity leave with the mother's consent.

Eligibility for paternity leave

Similar to the case of maternity leave, certain categories of worker, such as the self-employed, non-standard (casual, short-term, part-time) or informal workers, are more likely to be excluded from the statutory provision of paternity leave or unable to meet the eligibility requirements for this entitlement. In the majority of countries with paternity leave provisions, the right to paternity leave is linked to a minimum time-in-service period, as with maternity leave. In Africa, for instance, the following countries make the right to paternity leave contingent on previous employment: Mauritius (12 months), South Africa (four months) and the United Republic of Tanzania (six months). In Latin America and the Caribbean, the Bahamas

requires six months of previous employment, while Colombia requires 23 months. In Asia, Singapore requires three months. Of the Developed Economies, Eastern European and Central Asian countries, there are previous employment requirements in Australia (12 months), Bulgaria (12 months), Denmark (three months), Lithuania (seven months), New Zealand (six months), Portugal (six months), Spain (six months) and the United Kingdom (six months). In New Zealand, a shorter paternity leave (one week instead of two) is provided for fathers who have been employed for less than six months. Apart from a minimum service period, a few countries also set out other qualifying conditions. For example, a worker may sometimes be required to provide evidence of the birth (as in Australia, the Bahamas, Colombia and Nepal). In Republic of Korea and the Philippines, a man must be married to and living with the mother in order to qualify for paternity leave.

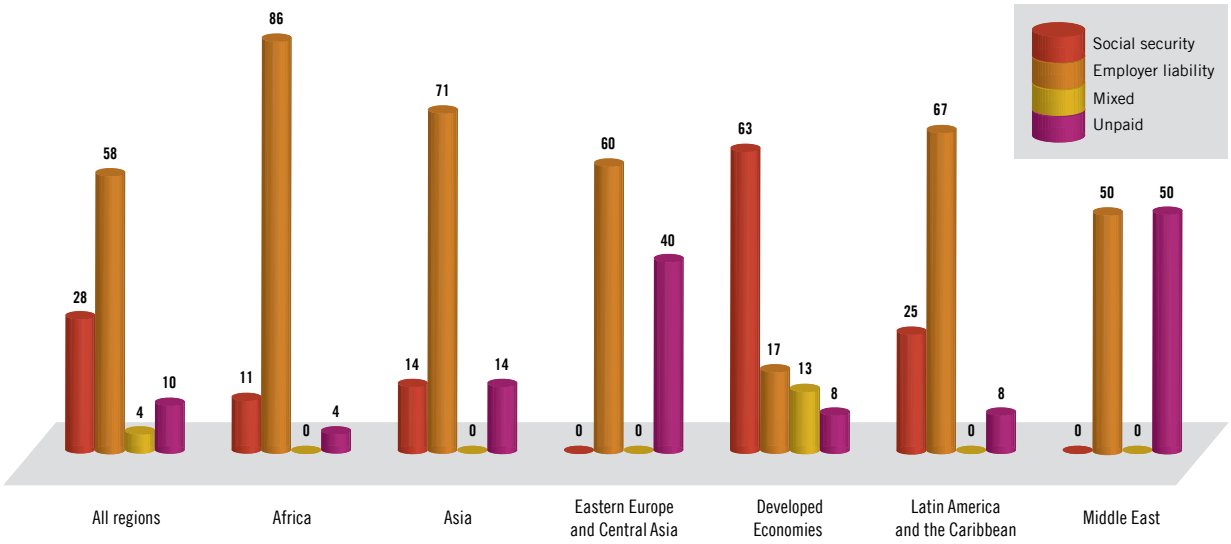
Cash benefits

In the vast majority of countries that provide this entitlement, paternity leave is paid (70 countries out of 78, or 90 per cent of the total). In eight countries (Azerbaijan, the Bahamas, Ethiopia, Kazakhstan, Republic of Korea, New Zealand, Norway and the Syrian Arab Republic)[8] national legislation does not provide for benefits to cover work absences due to paternity leave, it provides only for the entitlement to take time off.[9] Paternity leave is usually paid at 100 per cent of previous earnings, with a few exceptions, such as Burundi (50 per cent), Belgium (100 per cent for the first three days and 82 per cent for the remaining seven days), Bulgaria (90 per cent), Iceland (80 per cent, up to a ceiling), Slovenia (100 per cent up to a ceiling for the first 15 days and a flat rate benefit for the remaining 75 days) and the United Kingdom, which provides a flat rate benefit or 90 per cent of average weekly earnings, whichever is less. In some countries, collective bargaining agreements may provide paternity leave entitlements where legislation does not (Austria, for example), or they may improve upon existing paternity leave legislation or provide leave benefits not provided by law (as in Norway) (see box 3.1).

In 58 per cent of the 78 countries which provide for paternity leave, this entitlement is paid by the employer (45 countries), while a social security system is found in only 28 per cent of the total (22 countries). Employer liability is prevalent in all regions, ranging from 86 per cent (24 countries out of 28) in Africa to 17 per cent (4 countries out of 24) in the Developed Economies (see figure 3.2). Some examples of the scope of employer liability include Bangladesh, Djibouti, the Netherlands, Rwanda, Romania and Serbia, as well as Algeria where male employees are entitled to three days of employer-funded paternity leave; Brazil, where male employees are entitled to five days of paternity leave paid by their employers; and the Philippines, where all married male employees in the private and public sector are entitled to seven days' paternity leave with full pay from their employer for the first four deliveries of their legitimate spouse with whom they cohabit. Only among Developed Economies is social security the prevalent funding system, with 15 countries out of 24 (63 per cent) providing paternity leave benefits out of social insurance or public funds. For instance, in Bulgaria (15 days), France (11 working days) and Spain (15 calendar days), paternity leave benefits are paid by social insurance, while in Australia (14 days) they are paid by the federal government. Examples from other regions are less common and include, for instance, Colombia and the Bolivarian Republic of Venezuela, where fathers are entitled to eight and 14 days of social insurance benefits respectively, and Singapore, which provides seven days of leave paid by the State. In Mali, Morocco and Tunisia employers advance paternity leave benefits and are subsequently reimbursed by the national social security institutions.

Systems that combine collective funding and employer liability (mixed systems), which are common for maternity leave benefits, could be identified in only three countries. In Belgium, the first three days are paid by the employer at a rate of 100 per cent of the preceding average remuneration, and the remaining seven days are paid by a sickness and indemnity insurance scheme at a rate of 82 per cent. In the United Kingdom, employers in large and medium-sized companies pay the benefit but are entitled to recover from the State 92 per cent of the statutory paternity pay they pay to their employees. Employers in small firms can claim back 103 per cent through reductions of national insurance contributions paid by employers to the Government's tax authority. In

Figure 3.2 Source of funding of paternity leave benefits, 2013 (78 countries) (%)



Note: Figures may not add up to 100 per cent due to rounding.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [25 Mar. 2014].

Box 3.1 Examples of collective bargaining agreements providing paternity leave

Fathers in a number of countries enjoy paternity leave provided through collective bargaining agreements instead of, or in certain cases beyond, legislated provisions. In **Uganda**, for example, among the 82 organizations that responded to a mail survey of the Federation of Uganda Employers, 15 reported that they provided paternity leave, which varied between one and four weeks (Federation of Uganda Employers, 2002). In the European Union, collective bargaining agreements provide paternity benefits to qualifying workers in countries such as Belgium, Greece and Portugal. In **Italy**, paternity leave above the recent one-day statutory entitlement has been provided for numerous workers through company level agreements (European Foundation for the Improvement of Living and Working Conditions, 2006). In **Austria**, there is no statutory paternity leave, but public sector workers are entitled to a month of unpaid leave. Other collective agreements provide a few days of leave for the birth of a child with full payment (Rille-Pfieiffer and Dering, 2013). Although paternity leave is unpaid in **Norway**, the large majority of Norwegian men receive reimbursement during the two weeks of paternity leave as a part of a collective agreement between the social partners (Brandth and Kvande, 2013). In **Finland**, the length of paternity leave is defined by law, while the level of wage replacement is determined by collective agreements (Salmi and Lammi-Taskula, 2013).

In **Denmark**, leave policies are not only regulated through national legislation, but also through collective agreements and company-level measures, which cover around 75 per cent of the workforce. All male employees covered by collective agreements receive full earnings during paternity leave. To help employers to finance these costs, a system of leave reimbursement funds was set up in 1996 which aimed to pool the costs of leave compensation. Since 2006, all public and private employers are required to be members of a leave fund. This allows all employees, with a ceiling for those on high salaries, to receive full earnings during maternity and paternity leave without direct cost to the employer. An evaluation report in 2010 showed that more men took up leave as a result of receiving payment during that leave. Employers also reported being more favourably inclined towards men taking leave than previously and, in general, were positive about the fund system. In 2009, 61 per cent of Danish fathers took their two weeks of paternity leave (Bloksgaard and Rostgaard, 2013).

Denmark, employers top up the state benefits through collective agreements (see box 3.1).

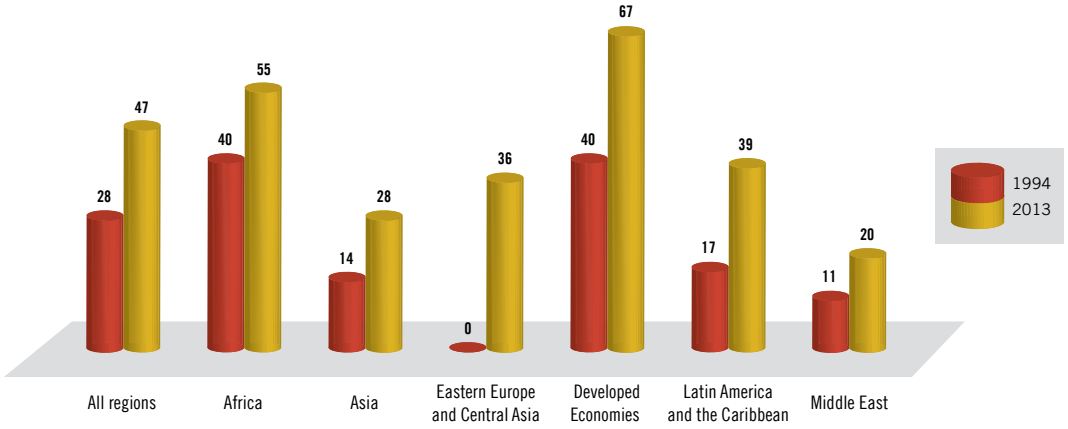
As discussed in the case of maternity leave benefits, the principles of solidarity and risk pooling through social insurance or public funds are also important for paternity leave benefits, in order to mitigate potential disadvantages or discrimination against men with family responsibilities at work and boost the take-up rate of paternity leave. In France, 62 per cent of eligible fathers took social insurance funded paternity leave in 2012 (Fagnani et al., 2013). In Estonia, only 14 per cent of fathers took up the two-week paternity leave in 2007. When paternity leave benefits at 100 per cent of previous earnings financed by general taxation were introduced in 2008, take-up of leave increased approximately fourfold, up to 50 per cent of eligible fathers. Paternity leave benefits were reintroduced in 2013, following their removal in 2009 in response to the economic crisis (Pall and Karu, 2013).

Trends from 1994 to 2013 in paternity leave provision

Overall, paternity leave provisions have become more common over time (see figure 3.3), which is an indicator of the growing importance attached to the presence of the father around the time of childbirth. In 1994, statutory paternity leave provisions existed in 28 per cent, or 40, of the 141 countries for which data were available to the ILO (ILO, 1994).[10] In Africa, there were 19 countries with provisions,[11] in Asia there were three,[12] in Eastern Europe and Central Asia there were no countries with provisions, in the Developed Economies there were 12 countries with provisions,[13] in Latin America and the Caribbean there were five countries with provisions,[14] and in the Middle East only Saudi Arabia had provisions for paternity leave (one day). By 2013, the laws of 78 countries, or 47 per cent of the total with available information (167), provided paternity leave. Countries that have recently introduced or increased statutory paternity leave include Australia (2013), Bulgaria (2009), Ecuador (2009), El Salvador (2013), Denmark (2009), Finland (2013), Republic of Korea (2010), Italy (2013), Mauritius (2008), Uruguay, which extended leave to the private sector (2008) and the Bolivarian Republic of Venezuela (2007).

The regions which saw the largest increase in paternity leave provisions are Eastern Europe and Central Asia, the Developed Economies and Latin America and the Caribbean. Countries in Eastern Europe and Central Asia had no paternity leave provisions in 1994, while five had introduced this entitlement by 2013 (Azerbaijan, Bosnia and Herzegovina, Croatia, Kazakhstan and Serbia). During this period, the percentage of Developed Economies with statutory paternity leave provisions increased from 40 per cent of all countries providing paternity leave in 1994 to 67 per cent doing so by 2013 (including Greece, Poland and Portugal).

Figure 3.3 Provision of statutory paternity leave, by region, 1994 (141 countries) and 2013 (167 countries) (%)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [29 Mar. 2014] and the *Conditions of work digest: Maternity and work* (ILO, 1994).

In Latin America and the Caribbean, less than 20 per cent of countries offered paternity leave in 1994, while by 2013, nearly 40 per cent did so (including Ecuador and the Bolivarian Republic of Venezuela). In Africa, over the same period, ten countries that previously were not counted as providing paternity leave in 1994 had paternity leave provisions in place in 2013 (including Kenya, South Africa and Uganda).[15] Djibouti increased the overall duration of leave for family events (from ten to 11 days), among which three are explicitly dedicated to the birth of a child. Asia also saw remarkable change with the percentage of countries providing paternity leave increasing from 14 per cent in 1994 to 28 per cent in 2013 (including Indonesia, the Republic of Korea, the Philippines and Singapore). In the Middle East, Saudi Arabia was the only country to provide paternity leave in 1994 but, by 2013, six days' unpaid "emergency" leave that can be used by fathers at the time of childbirth were also offered in the Syrian Arab Republic.

Paternity leave is not a one-size-fits-all solution to promote the equal sharing of family responsibilities and, as the majority of countries still provide only a few days of paternity leave, this policy alone is unlikely to make a difference in transforming traditional gender roles (United Nations, 2011). However, in enshrining a statutory right to paternity leave in national legislation, governments, workers, employers and societies as a whole publicly affirm that they value the care work of both women and men, which is a crucial step in advancing gender equality both at work and in the home.

3.2 Parental leave

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.

Recommendation No. 191, Paragraph 10(3)

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.

Recommendation No. 165, Paragraph 22(1)

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.

Recommendation No. 191, Paragraph 10(4)

The length of the period following maternity leave and the duration and conditions of the leave of absence referred to in subparagraph (1) of this Paragraph should be determined in each country […].

Recommendation No. 165, Paragraph 22(2)

While maternity leave aims to protect working women during their pregnancy and recovery from childbirth, parental leave refers to a relatively long-term leave available to either or both parents, allowing them to take care of an infant or young child over a period of time, usually following the maternity or paternity leave period.

Parental leave is not included in any ILO Convention. However, both Recommendation No. 191 (accompanying Convention No. 183 on maternity protection) and Recommendation No. 165 (accompanying the Workers with Family Responsibilities Convention, 1981, No. 156) contain provisions on parental leave. According to Recommendations No. 191 and No. 165, a period of parental leave should be available to either parent after maternity leave without their relinquishing employment and with their employment rights protected (see Chapter 4). 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 should be determined at a national level. In Recommendation No. 165, parental leave is regarded as part of an integrated approach to assist in reconciling work and family responsibilities.

The Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123) and the Maternity Protection Recommendation, 1952 (No. 95), which preceded Recommendations No. 191 and No. 165 cited above, only included provisions on maternity leave and only women's need to reconcile work with family responsibilities was considered. One important change in the policy of the ILO with the adoption of the current Recommendations and the Convention on Workers with Family Responsibilities, 1981 (No. 156) was the recognition of fathers' involvement in family responsibilities in general and, in this case, with particular regard to parental leave. This was an important step towards the creation of effective equality of opportunity and treatment for men and women workers. As discussed below, the way in which fathers are included in childcare leave policies can have important implications for gender equality as well as for the level of fathers' engagement with those policies.

Systems of parental leave differ significantly from one country to another. There is considerable variation in terms of eligibility, payment, duration, possible flexibility in usage, the age of the child to be cared for and transferability between parents. ILO standards also allow these terms to be determined by member States on a national level. In general, the duration of parental leave is longer than that of maternity leave, but the payment is often lower or unpaid. The provisions reflect wider concerns within society in relation to child development, family welfare, fertility, labour supply, gender equity and income distribution (see Deven and Moss, 2002).

In some countries, long parental leave may be seen as a means of supporting the provision of parental care for young children, thereby reducing the need for childcare services, particularly in respect of young children for whom such services can be relatively expensive. However, long parental leaves are largely taken up by women and can weaken their standing in the labour market and exacerbate gender inequalities in both the labour force and in the division of labour in the family and home (see section 2.1: *Duration of maternity leave*).

Efforts to promote gender equality both in the labour market and in caregiving have led to policy solutions that encourage men's take-up and share of parental leaves while maintaining both mothers' and fathers' attachments to the labour market. Policy measures to improve men's take-up rates and overall share of parental leave include adequate compensation during leave, allocating defined portions of parental leave as individual and non-transferable, rather than shared entitlements, and increasing the flexibility with which leaves can be taken. Supportive workplaces, which value fathers' involvement in family responsibilities, are also essential.

For example, studies have shown that parental leaves which allocate non-transferable portions to the father lead to higher take-up by fathers than parental leaves that allow the parents to choose (Brandth and Kvande, 2001; O'Brien, 2009; Rutten, 2012). Compensation during leave is also important; insufficient compensation was the reason most commonly cited by fathers in EU countries for not taking parental leave (followed by a lack of information about leave), and higher levels of income replacement are associated with greater take-up rates by fathers (see, for example, Anxo et al., 2007; EU, 2009; Rutten, 2012). Fathers' use of leave entitlements has been shown to be highest when compensation is at least 50 per cent of earnings and duration is at least 14 days (O'Brien, 2009). Workers also seem to prefer better-paid leave for both women and men of shorter duration, followed by flexible working arrangements and provision of childcare services, rather than extended leave periods with little compensation (Thornthwaite, 2002). Adequate rates of leave pay are also essential to encourage participation among low- and highly paid earners, who report the lowest take-up rates among male workers (Valdimarsdóttir, 2006). For instance, Iceland has one of the longest periods of paternity leave or fathers' quota of parental leave (three months), paid at 80 per cent of previous earnings (with a cap) over the entire period. In 2009, 96 per cent of fathers took leave for every 100 mothers taking leave, using an average of 99 days compared to 178 for women (Eydal and Gíslason, 2013). In addition, in a 2007 survey 86 per cent of women and 73 per cent of men stated that their employer expressed a positive attitude towards their parental leave (Jonsdottir, 2007, cited in Asher, 2011).

As discussed for paternity leave, increasing fathers' take up of parental leaves is an important policy objective,

Box 3.2 Parental leave: Shared or individual rights?

An important element in the design of parental leave entitlements is whether the provisions are shared entitlements or are non-transferable entitlements between parents. For the most part, parental leave provisions are normally available for both women and men. Countries that set aside ***parental leave only for mothers*** are rare today, with just a few, such as Guinea, Jordan and Kuwait (though parental leave in the latter is not mandatory and can be granted by the employer for four months), reserving parental leave solely for women. In Bulgaria and Chile, parental leave is provided for women alone, although men may take a portion of parental leave if the mother agrees.

As countries move towards greater gender equality in their legislation and policies, most countries are setting out parental leave as a ***shared entitlement***, where either the mother or the father has the right to take parental leave and the parents determine the allocation of leave themselves. Countries adopting this approach include Albania, Cuba, Estonia, Finland, New Zealand, Uzbekistan and many others. Cuba extended parental leave to fathers in 2003 to promote shared responsibility for childcare. Following maternity leave, the mother and father can divide parental leave, which is available throughout the child's first year, paid at 60 per cent of maternity leave (ILO-UNDP, 2009). In 2013, **Finland** turned the father's bonus of 24 working days, in addition to the 18 working days of paternity leave, into a 54-day paternity leave. This change resulted in the abolition of the former "daddy's month" and the related four bonus weeks for fathers who took the last two weeks of parental leave which was available to either parent. While the total number of "father only" leave days remains the same (54 working days), the reform removed an incentive for fathers to take a portion of parental leave, extending by two weeks the family leave period (shared entitlement), which is almost always taken by the mother (Salmi and Lammi-Taskula, 2013).

Even when parental leave may be taken by either women or men, in practice it is usually women that take it up (see below). In order to encourage men's take-up of parental leave, policy attention has recently focused on allocating ***individual rights to parental leave***, which cannot be transferred to the other parent, so that fathers who do not use their "quota" lose it (Haas and Hwang, 2008). This is the approach of the EU under the Directive on parental leave, as discussed earlier, which sets out that parental leave should, in principle, be granted on a non-transferable basis as a means of promoting equal opportunities for and equal treatment of men and women. Sweden was the first country to grant men and women equal access to *paid* parental leave in 1974. Few men took parental leave, however, so, in 1995, **Sweden** introduced a non-transferable "daddy's month" and extended this leave to two months in 2002, with pay at 80 per cent of income. Norway also has a non-transferable leave period of 14 weeks to encourage men's take-up of childcare responsibilities (Hass and Hwang, 2008). Germany and Portugal too provide non-transferable allocations of paid parental leave for fathers (O'Brien, 2009). →

not only for improving gender equality in the labour market and at home, but also for the mutual benefit of fathers and children, increasing men's involvement, care and time with their children over the longer term (see, for example, Haas and Hwang, 2008; Smith, 2008; Tanaka and Waldfogel, 2007, p. 421). More equitable parental leave policies also increase the likelihood that women will return to employment after leave and spend more time in paid work (Patnaik, 2012, 2013). Since partner presence and support have an important influence on a mother's decision to breastfeed, the high levels of take-up among men of long and flexible leave schemes also seems related to the significant rates of breastfeeding in Sweden and Iceland. For instance, 74 per cent of children were being breastfed for more than six months in Iceland, even though 36 per cent women had returned to work at that time (O'Brien, 2009).

The region that has made the most significant progress in developing maternity, paternity and parental leaves to promote gender equality in the labour market and in family life is the EU. In 2000, the Resolution of the Council and of the Ministers for Employment and Social Policy on the balanced participation of women and men in family and working life called on EU Member States to improve rights for men to paternity leave and to adopt other measures enabling men to support family life, thereby encouraging working men and women to share the care of children and other dependants (EU, 2000). In 2010, the Council of the European Union adopted a Framework Agreement by the

Another approach adopted in some European countries to encourage fathers' use of parental leave is the introduction of some forms of "bonus" (e.g. additional leave or tax breaks for fathers to boost their take-up rates. Sweden has set up a "Gender Equality Bonus", which offers an economic incentive when parents share parental leave more equally. Each parent receives the equivalent of almost US$ 10 per day for every day they use the leave equally, up to a total of US$ 240 (Duvander and Haas, 2013). Since 2007, **Germany** has moved away from a leave policy that supported mothers in staying at home for 3 years after the birth of a child. Parental leave has now been reduced to 12 months. However, its overall duration increases to 14 months if both parents take at least two months of the paid parental leave (Broomhill and Sharp, 2010, p. 4). The benefit shifted from a means-tested flat rate to an income replacement modality at 67 per cent of previous earnings. The proportion of fathers taking leave increased from 3 per cent in 2006 to 28 per cent in 2012, with 83 per cent of these using their individual two-month entitlement. The reform also resulted in the reduction of the overall number of parents taking more than 1 year of paid leave, which was a stated objective of the reform. In fact, just 11 per cent opted to prolong their paid leave to 2 years, paid at 33 per cent of prior earnings (Blum and Erler, 2013). In **Italy**, each parent is entitled to a six-month period of parental leave, which is an individual and non-transferable entitlement, although the total amount of leave that can be taken by the family is ten months. If the father takes at least three months' leave, he is entitled to one additional month, making a total of 11 months of parental leave for the family. In **France**, women continue to provide the large majority (over 80 per cent) of unpaid care work, especially in households with children (Régnier-Loilier, 2009). They also make up 98–99 per cent of the number of parents taking leave (Fagnani et al., 2013). In January 2014, the adoption of the law on "Equality between women and men" reformed the parental leave scheme to promote men's participation. Parents of one child, who are currently entitled to six months of parental leave, may take another six months provided that it is the second parent who is the beneficiary of the leave. After the birth of the second child, the leave will remain available for 3 years, as long as six months are taken by the second parent, otherwise it will be shortened to 2½ years. In addition, the law has introduced a shorter (18 months) and better paid parental leave for parents with at least two children on an experimental basis. The law aims to raise take-up rate by men from the current 18,000 to 100,000 by 2017.*

* Loi pour l'égalité réelle entre les femmes et les hommes et femmes, No. 283, 28 Jan. 2014, available at: http://www.assemblee-nationale.fr/14/ta/ta0282.asp [29 Mar. 2014]. *Libération*, 28 Jan. 2014, Le texte sur l'égalité femmes–hommes adopté à l'Assemblée, available at: http://www.liberation.fr/societe/2014/01/28/le-texte-sur-l-egalite-hommes-femmes-adopte-a-l-assemblee_976101 [29 Mar. 2014] and http://www.liberation.fr/societe/2014/01/20/egalite-hommes-femmes-les-debats-debutent-en-douceur_974298 [29 Mar. 2014].

European social partners on parental leave (Directive 2010/18/EU, which replaced the earlier 1996 framework, 96/34/EC). The framework sets out minimum requirements for parental leave with the objectives of reconciling professional and family responsibilities and promoting equal opportunities and treatment between women and men (effective as of March 2012). In part, the revision aimed to increase take-up of parental leave by fathers; it increased leave by one month to a total of four months for each parent and strengthened leave as an individual right by making one month for each parent non-transferable. It set out the importance of income replacement for encouraging take-up, especially by fathers.[16] The revised framework agreement also recognizes the diversity of the labour market and applies to all workers and to all types of employment contract, including atypical workers (such as part-time and contract workers). It also acknowledges the diversity of family structures, calling for coverage and measures for single parents, same-sex couples, cohabiting couples, adoptive parents and parents of children with disabilities.

Most EU countries now provide fathers with at some measure of paid leave (Broomhill and Sharp, 2010). However, few provide the type of parental leave that meets the EU Directive, which requires four months of non-transferable leave to be allocated to fathers. Nevertheless, countries are moving towards more gender-inclusive policies. Germany and France offer two such examples of this shift in work–family policy (see box 3.2).

National provisions and duration

In total, parental leave provisions were found in 66 of the 169 countries for which information was available (see Appendix IV). Nearly all of the Developed Economies, Eastern European and Central Asian countries that were analysed provide a period of parental leave to take care of a newborn or young child, even if the length of the leave differs by country. Some 35 countries out of the 36 Developed Economies and all 16 countries in Eastern Europe and Central Asia provide for parental leave. Among the countries in these regions for which full information is available in the database, Switzerland is the only country with no federal parental leave provisions. In Estonia, a mother or a father shall be granted unpaid parental leave to raise a child up to 3 years of age. In Belgium and the United Kingdom, each parent has an independent right to a period of parental leave: four months paid at a flat rate in Belgium and 13 unpaid weeks in the United Kingdom.

Parental leave and, in particular, paid parental leave, is rarer in developing countries and the less industrialized parts of the world. Five countries assessed in the Middle East offered unpaid parental leave solely for mothers. Bahrain, Iraq, Jordan and the Syrian Arab Republic provide 1 year while in Kuwait the employer can grant a working woman four months, at her request. Among the African countries analysed, only five provide for the kind of long-term parental leave described above, all on an unpaid basis: they are Burkina Faso, Chad, Egypt, Guinea and Morocco (where leave is granted with the agreement of the employer).[17] In Guinea, after the expiration of the 14-week maternity leave period, women may take an additional nine months of unpaid leave. In Burkina Faso, male or female employees can request up to six months of unpaid leave (renewable once) to care for their children. In the case of illness, the leave period can be extended to 1 year (also renewable once). Chad also provides the same entitlement to either parent, while in the remaining countries only mothers are eligible.

Among the Asian countries analysed, only three of the 25 where information was available provide for parental leave. In Mongolia, parents are entitled to leave to take care of a child under the age of 3. The Republic of Korea also allows childcare leave, paid at 40 per cent of previous earnings, for up to 1 year for children aged 6 and under. Nepal's labour code grants unpaid "special leave" for up to 30 days in 1 year that can be used by any permanent employee for family-related purposes. In addition, the Philippines provides a specific type of childcare leave that is available only to single parents and which allows up to seven days off work per year.

In Latin America and the Caribbean, parental leave provisions also seem to be rather scarce, with just two countries out of 31 offering this entitlement. In Cuba, following maternity leave, either parent is entitled to parental leave, paid at 60 per cent of wages, until the child reaches 1 year of age. In Chile, women workers are entitled to paid parental leave (at 100 per cent of previous earnings with a ceiling) for up to 12 weeks after the end of their maternity postnatal leave. Women workers may take part-time paid parental leave for up to 18 weeks, in which case they will receive 50 per cent of maternity benefits and 50 per cent of their wages. If the mother agrees, then the father may take part of the parental leave benefit, with at least six weeks reserved for the mother.

Eligibility for parental leave

As is the case for maternity and paternity leave, the right to parental leave and the corresponding cash benefits are often linked to different eligibility requirements, which are determined by each country. These are often similar to the eligibility requirements discussed in the previous sections. One frequent condition for parental leave concerns the worker's previous employment. In the few countries where payment is provided during parental leave, the eligibility requirements for cash benefits may be more restrictive than those governing the leave.[18] In others, entitlement to leave is automatically associated with benefits.[19]

As in the case of maternity and paternity leave, certain categories of workers are implicitly or explicitly excluded by the national legislation that provides for parental leave, including self-employed, non-standard, domestic workers or employees working in SMEs. There are, however, examples of inclusive parental leave policies. In Azerbaijan, for example, partially paid parental leave is available to any worker caring for a child, including single parents or other family members. In other countries, part-time and casual workers are explicitly covered by parental leave legislation, as is the case in Spain, where casual, seasonal

and self-employed workers and students are explicitly covered in the scope of parental leave. Chile covers cooperatives, households, women covered by the welfare system and independent workers for parental leave. Belgium allows for pro-rata amounts of parental leave benefits for part-time workers, related to the number of hours worked.

The age of the child when the right to parental leave lapses varies from country to country. While most countries do not specify an age limit, there are a few which do. For example, in the Republic of Korea, the cut-off point is 6 years of age. Other examples are Belgium (12 years), Iceland (three months for either parent until the child is 18 months old and 13 weeks of unpaid leave until the child is 8), Lithuania (3 years), Mongolia (3 years), the Russian Federation (3 years) and Sweden (18 months). According to the EU Directive on parental leave, the right to parental leave should be available to parents of children under 8 years of age (EU, 2010).

In some countries, parental leave can be used by a person other than the parents, who takes care of the child. In Lithuania, for example, parental leave can be granted, at the request of the family, to the mother/adoptive mother, the father/adoptive father, the grandmother, the grandfather or any other relatives who are actually raising the child, or to an employee who has been recognized as the guardian of the child. Another example is the Russian Federation, where child-rearing leave may be granted, in full or in part, not only to the mother, but also to the child's father, grandmother, grandfather, other relatives or tutor. In Estonia, if a mother or father does not use the parental leave, it may instead be granted to the actual caregiver, provided that they lawfully reside in the Republic of Estonia. Uzbekistan has similar provisions extending the entitlement to childcare leave to whomever cares for a 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.

Cash benefits

Parental leave may be paid or unpaid and, in most countries, it is paid. Of the 66 countries that provide parental leave, 36 offer cash benefits to support parents on leave, while 30 provide parental leave without pay. In the Developed Economies, Eastern European and Central Asian countries, 35 out of 51 countries provide benefits during leave (including Albania, Iceland, Norway and Romania). In 18 of these countries (including Denmark, Poland and Tajikistan), cash benefits provide replacement of two-thirds or more of a worker's previous earnings. A few provide lower levels of support: Canada at 55 per cent of a worker's earnings, Italy at 30 per cent, the Russian Federation at 40 per cent and Uzbekistan at 20 per cent of the minimum wage. In some countries, parental leave is paid at a flat rate, such as Azerbaijan, Austria, Czech Republic and France. Paid parental leave is typically funded by social security systems, largely through social insurance. In many instances, the State also fully or partly funds parental leave cash benefits through general taxation, especially when the amount paid is not income-related. For instance, in the Czech Republic and Hungary public funds supplement social insurance while in Germany, Luxembourg, Romania and Slovakia benefits are fully covered by public funds. In Denmark, as is the case with maternity and paternity leave, employers top up social insurance through collective agreements (see box 3.1 for the system of leave reimbursement in this country). Sixteen countries in these regions provide no financial support during leave, such as Armenia, Austria, Croatia, Cyprus, Estonia, Ireland, the Netherlands, Spain and Turkey.

In Asia, the Republic of Korea provides for 40 per cent of a worker's previous earnings, funded through the social insurance system, while "special leave" is unpaid in Nepal.[20] Of the two Latin American and Caribbean countries which offer parental leave, Chile provides 100 per cent of a worker's previous earnings, subject to a ceiling, paid by a social security fund, and Cuba's social insurance provides for 60 per cent. In the Middle East, parental leaves are unpaid. In all ten African and Middle Eastern countries that provide parental leave, this entitlement is unpaid.

Take-up rates

The introduction of parental leave provisions available to both fathers and mothers can be an effective tool for promoting gender equality. It recognizes the fact that fathers also have caring responsibilities. But, even when parental leave is available to both mothers and fathers,

Box 3.3 The effects of the economic crisis on paternity and parental leave and benefits

As with maternity leave (see box 2.5), a number of countries also reduced the duration of paternity leave periods, the level of benefits or eligibility criteria in direct response to the crisis. While some cuts were temporary, such as those in Lithuania which reduced the level of parental leave benefits, other countries have adopted more permanent changes. In **Latvia**, parental leave benefits decreased in 2009 by 50 per cent for all employed parents, irrespective of the date of the child's birth. Parents of a child born after 1 July 2009 were no longer eligible to receive more than 50 per cent of a maximum allowance of around US$ 1,000 a month (in 2014). Latvia's budget deficits have persisted and the Government of Latvia has taken a decision to extend the current restrictions on sickness, maternity, paternity, parental and unemployment benefits until the end of 2014 (ILO, 2014). Countries such as Czech Republic, Hungary or the United Kingdom, in which the consequences of the crisis were significant, also experienced cuts to or cancellations of previously planned improvements. In **Spain**, the 2007 proposal to increase paternity leave from two to four weeks in 2011 has been repeatedly postponed. This decision was also accompanied by a cut in universal birth benefit, first introduced in 2007, equivalent to almost US$ 3,500 (Escobedo and Meil, 2013). In 2012, **Slovenia** decreased the level of paternity and parental leave benefits from 100 to 90 per cent of previous earnings. The ceiling was also lowered from 2.5 to 2 times the average wage. As an austerity measure, this reduction will be enforced until 12 months after the first year in which economic growth exceeds 2.5 per cent of GDP (Stropnik, 2013).

However, over the same period, positive developments in both paternity and parental leave schemes intended to increase both fathers' allocation of provision and their take-up rates were also reported. These changes point to a trend aimed at fitting fathers into the work–family equation not only in spite of the current financial crisis, but also as a means of overcoming the global economic turmoil by promoting women's labour force participation. In some instances, positive changes or the relative protection of these policies despite overall austerity is also linked to concerns related to low fertility, such as in Poland (O'Brien, 2013). **Australia** introduced paid paternity leave (14 days) in 2013. The father quota was extended from ten, to 12 and, since July 2013, to 14 weeks in **Norway**, which also relaxed the eligibility criteria for fathers' take-up. Partners of part-time women workers have had access to this entitlement since 2010. In **Greece**, a new law on parental leave was adopted in April 2012 in order to adapt the EU Directive 2010/18 on parental leave to the domestic situation. Parental leave can be taken until the child's sixth birthday (an increase from 3½ years of age) for a total duration of four months (instead of three-and-a-half months) per parent (individual right). However, since parental leave remains unpaid, with the deterioration of collective bargaining, it seems likely that, due to the economic crisis, high levels of unemployment and the fear of dismissal, take-up rates will remain low in the private sector (Kazassi and Karamessini, 2013). In 2013, unpaid parental leave was also extended to four months in **Ireland** and it can be taken until the child's eighth birthday (Drew, 2013).

Positive developments or reform discussions are also taking place in other regions. For instance, in 2011, **Chile** introduced a paid "postnatal parental leave" of 12 weeks, in addition to 12 weeks of postnatal maternity leave. Mothers can choose to transfer up to six weeks of paid parental leave to fathers, which should be taken in the final period of the leave. A three-day paternity leave paid by employers was also adopted in **El Salvador** in 2013. In the same year, **Singapore** introduced a one-week paternity leave paid by public funds at 100 per cent of previous earnings with a relatively high ceiling. This entitlement is, however, restricted to married fathers with Singaporean citizenship, which is likely to exclude the large and growing population of migrant workers (Yeung and Alipio, 2013).

Proposals are under discussion in **China** (introduction of a three-day paid paternity leave with 80 per cent of average pay) and **Brazil**, one of first countries to have introduced paternity leave in 1943. Some States and cities in Brazil already provide between 15 and 30 days for Government employees and, in 2007, discussions started about an extension of statutory paternity leave from the current five days to up to 30 days (UN, 2011; O'Brien, 2013). In the **Russian Federation**, since 2012 a national reform has been under consideration to extend the payment of 40 per cent of earnings during parental leave from 18 to 36 months (Kravchenko and Grigoryeva, 2013). A draft law on social insurance, which will be submitted to the National Assembly of **Viet Nam** in mid-2014, proposes to introduce five days of paid paternity leave for workers contributing to the social insurance system. If approved in late 2014, the law will take effect from 1 January 2015.*

* Tuoitrenews: http://tuoitrenews.vn/society/13381/vietnam-intends-to-grant-husbands-paternity-leave [30 Mar. 2014].

it is generally women who take parental leave after maternity leave.[21] In general, there are very limited data on the take-up of leave and comparisons between countries are not possible (see INLPR, 2013 for more on the challenges of cross-national, or even within-country cross-group comparisons of existing data). Studies of higher income countries have shown that fathers with higher incomes, full-time work, higher levels of education and other indicators of socio-economic advantage were more likely to take parental leave than their less advantaged national counterparts (Huerta et al., 2013; O'Brien, 2009).

When parental leave is unpaid, take-up is low among both women and men – for example, in Portugal, Spain and the United Kingdom, where, in 2005, only 11 per cent of mothers had taken parental leave, two-thirds of which took less than one week (INLPR, 2012).When schemes do not compensate for the loss of income while on leave, it is difficult for lower paid workers to participate. High take-up rates are strongly related to the level of compensation for loss of earnings while on leave and availability of job protection (Grimshaw and Rubery, forthcoming). The experience in the Netherlands underscores the importance of compensation for encouraging use of parental leave: take-up rates of parental leave were much higher in the public and health-care sectors, where parental leave is paid at 75 per cent of previous earnings and available to almost 80 per cent of employees compared to only 25 per cent of private sector workers (den Dulk, 2013).[22]

When parental leave is a shared entitlement, fathers' take-up is also low; fewer than 3 per cent of fathers take leave in Austria, Finland or Poland (INLPR, 2012, p. 41). Efforts to increase men's take-up of parental leave through non-transferable allocations of leave have shown some success. In Norway, for example, since July 2013, 14 of the 49 weeks of fully paid parental leave are reserved for the father. If he does not take these weeks, cash benefits are not payable for this period. Of fathers eligible for the non-transferable parental leave allocation (60 to 65 per cent of fathers), 75 to 90 per cent take some leave. However, take-up of parental leave is highly gendered, with fathers taking considerably less time than mothers, at just 9.3 per cent of all parental leave days taken (Ellingsæter, 2009). In Sweden, where fathers enjoy longer individual entitlements to parental leave and around 90 per cent take some leave, fathers take 20.5 per cent of all leave days and, in Iceland, which divides parental leave into three months for mothers (maternity leave), three months for fathers (paternity leave) and three shared months of parental leave, fathers take 32.7 per cent of leave days (Broomhill and Sharp, 2012; Ellingsæter, 2009). The shifts in fathers' participation rates with these policy reforms can be seen over time in Iceland, where the number of leave days taken by fathers doubled between 2001 and 2008 when father-only leave was extended. In Norway, the proportion of fathers taking parental leave went from 4 to 89 per cent, after fathers' quotas were introduced; in Germany, where just 3.3 per cent of fathers took leave in 2006 before the 2007 leave reforms dedicated two months of leave to fathers, to 25.7 per cent by 2010 (although fathers seldom take more than the two months: INLPR, 2012). In Portugal, where a proportion of paternity leave was made compulsory in 2004, take-up by fathers increased from 11 per cent in 2000 to 45 per cent in 2008. After reforms, in 2009, made ten out of 20 days compulsory for fathers, take-up increased to 68 per cent for the compulsory days and 57 per cent of non-compulsory days by 2011 (INLPR, 2012).

Flexible leave arrangements and other innovative policies

Parental leave systems sometimes make it possible for parents to choose how and when to take the leave. In some countries, the parental leave should be taken as a continuous period directly after maternity or paternity leave; in others, it can be split over the period when the child is young. This permits the parents to choose to take parental leave as it suits them. Research shows that men and women tend to take their leaves differently: women as continuous leave, even when flexible leave is available, while men more often take it flexibly and in shorter chunks (Hegewisch and Gornick, 2011). Therefore, availability of flexible arrangements for parental leave uptake can act as an incentive for men's participation. In Malta, for example, an eligible employee is entitled to an unpaid leave of up to three months to care for a child until the child reaches 8 years of age. The leave may be shared by both parents in periods of one month each on a full-time or part-time basis, piecemeal or in the form of a time credit system as agreed between the employer and the employee. In Latvia,

parental leave may also be granted either as a single block or in discrete parts.[23]

In various countries, parental leave can be taken on a part-time basis, which gives the parents the option of reducing their working hours while their children are young. In Belgium, employees can choose to take leave for a continuous period of four months, or by reducing their working time by half over eight months, or by one-fifth over 20 months if they work full time. In the Netherlands, take-up of long periods of parental leave by both women and men reflect the option to take part-time parental leave over several months. On average, mothers and fathers work 27 and 37 hours per week, respectively, during the parental leave period. The use of parental leave by men increased from 15 per cent in 2003 to 27 per cent in 2011 (den Dulk, 2013). In Japan, the employer of a worker who takes care of a child under 1 year of age, but who does not take childcare leave, must, at the worker's request, reduce his or her working hours or take other steps to make childcare easier.[24]

In some countries, the provisions on maternity, paternity and parental leave are integrated within a single system. Under Norwegian law, maternity, paternity and parental leave are treated as one system of "parental leave". In the United States, 12 weeks of unpaid leave are afforded by the Family and Medical Leave Act. No distinction is made between maternity and paternity leave. An employee can, among other reasons, take leave for the birth and care of a newborn child.

Other countries employ innovative policies in order to promote women's return to work while fulfilling childcare responsibilities. In Italy, for example, from 2013, mothers who choose to go back to work after maternity leave, instead of opting for parental leave (six months paid at 30 per cent of previous earnings) can claim a voucher to pay a babysitter or a childcare centre. The voucher is set at around US$ 400 (in 2013) per month, for a maximum of six months following the end of maternity leave. This measure is expected to significantly increase access to formal childcare, from 1 million children in 2011, to 1.4 million in 2016/17 and thereby promote women's labour force participation (ILO, 2014).

In Estonia, a 2011 reform of parental leave allows parents to receive the full parental leave benefit (around US$ 270 per month in 2014), regardless of the number of hours worked or level of earnings. If they opt to work, parents have to ensure regular care for their child by relatives, other persons or in formal childcare centres. In addition, parents may choose to exchange the parental benefit for childcare benefit, which is provided to working or studying parents with children under the age of 3. The childcare benefit is intended to cover part of the documented childcare costs, up to a ceiling of around US$ 315 per month and per child where the childcare service is provided by a recognized institution or registered childminder (or almost US$ 60 per month and per child if childcare is provided by relatives or another person who is not registered) (EU, 2014).

Research shows that family-friendly working arrangements for both women and men, as well as the availability of accessible, affordable and quality childcare services, play a key role in facilitating the return to work of mothers in particular after childbirth-related leave. Employment services providing vocational training, retraining and skills upgrading for parents after leave periods (as in the Russian Federation) or childcare services for jobseekers (such as in France) are also critical in supporting those workers with family responsibilities to reintegrate into the workforce following care-related interruptions. In labour market contexts where conditions for part-time jobs are, for the most part, poor and where childcare provision makes a return to full-time work difficult, available evidence shows that mothers are likely to be penalized where they seek to combine paid work at reduced hours with childcare responsibilities at home (Grimshaw and Rubery, forthcoming). For instance, according to the survey "The social use of leave in Spain, 2012", after leave, all men returned to a full-time job, as opposed to only 55 per cent of women, with 35 per cent returning to part-time work or taking part-time leave and 7 per cent giving up paid work altogether or losing their jobs (3 per cent) (Escobedo and Meil, 2013).

While noting the importance of family-friendly working arrangements to assist workers to reconcile work and family responsibilities, the ILO Committee of Experts has repeatedly exhorted governments to ensure that these work–family measures do not, in practice, result in reinforcing traditional roles and stereotypes, including that women are solely responsible for the family or that they should be confined to certain types of jobs, thus further limiting their access to

the labour market (ILO CEACR, 2014). Work–life balance measures, including quality working time schemes, (e.g., part-time work with pro-rata entitlements), should be made available to all women and men, irrespective of their sex and family status, as a way of effectively neutralizing the potential "penalty" associated with being a worker with family responsibility (ILO, 2011a).

3.3 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(5)**

As indicated by Recommendation No. 191, maternity leave provisions in accordance with Convention No. 183 shall be available for adoptive parents in member States that provide for adoption. This allows the adoptive parents to adapt to the arrival of the child.

In some countries, adoption leave provisions have been enacted that are similar to, or the same as, the provisions for maternity or parental leave. In Senegal and the United Kingdom, for example, the benefits and leave provided for maternity are also available for adoption. In Colombia, all of the benefits available to biological mothers are also available to adoptive mothers of a child under 7 years old.[25] In Brazil, adoptive mothers have the same rights as biological mothers.

The day when the child arrives in the home of the adoptive parents is counted as the date of birth in legislative terms.[26] However, in some countries, parents have the right to start the leave earlier if they have to bring the child from another country. In Iceland, parental leave for adoptive parents starts on the day the child enters the home.[27] In other countries, special leave provisions exist in the case of adoption. In Australia, adoptive parents are entitled to the same parental leave benefits as biological parents, namely 18 weeks of paid leave at the national minimum wage.

In many countries, the leave entitlement for adoptive parents is shorter than for biological parents, because the prenatal leave often available to natural mothers is eliminated. In Tajikistan, for example, adoptive mothers are entitled to 70 days of paid maternity leave for adopting a newborn, which corresponds to the postnatal leave period available to biological mothers. Adoptive parents, however, are entitled to a further 18 months of childcare leave, in line with the parental leave policy for biological parents. In Mongolia, women and single fathers adopting an infant are entitled to the same leave and benefits as women on maternity leave until the child reaches the age of 60 days, while biological mothers are entitled to 120 days of maternity leave. In Uzbekistan, adoptive mothers are eligible for the postnatal portion of the maternity leave available to biological mothers, as well as to parental leave.

According to the EU Directive on parental leave, the individual right of men and women workers to parental leave for at least three months should also apply in the case of adoption of a child.

In the case of adoption, obviously no recovery from childbirth is needed for the woman. Nevertheless, when adoption leave provisions are available, only women workers have access to such leave in several countries. In Peru, for example, a worker applying to adopt is entitled to leave for 30 calendar days, provided that the child is under 12 months of age. However, if the workers applying to adopt are married, the leave must be taken by the woman. Adoption leave is also limited to women workers in Albania, Costa Rica, Guatemala, South Africa and the Bolivarian Republic of Venezuela. In other countries, adoptive fathers are only eligible for adoption leave in limited circumstances, such as when they are single parents or if an adoptive mother does not take the available leave.[28]

Adoptive fathers often qualify when the adoption leave is provided within parental leave schemes.[29] According to Recommendation No. 191, however, leave should be available to both parents adopting a child, which is the case in a number of countries. For example, in Iceland, each parent has an independent, non-transferable right to maternity/paternity leave of up to three months upon the adoption of a child, as well as a joint right to three additional months, which can either be taken by one of the parents or split between them. In New Zealand, adoptive parents have the rights to both maternity and paternity leave.[30]

In some countries, the age of the child affects the duration of the leave. In Slovenia, adoptive parents are entitled to 150 days of paid leave for adopting a child under 4, and to 120 days for adopting a child between 4 and 10 years old. In Latvia, one parent in an adoptive family may take ten calendar days of leave if the child is up to 3 years of age. Until the child is 8, the adoptive parent may take up to 1½ years of leave (in a single period or piecemeal).

Notes

1. This concept refers to the ability of laws, policies and measures explicitly to address gender-specific constraints and vulnerabilities, such as reproduction and care related needs, and result in the achievement of gender equality at work and in the household and social justice (Kabeer, 2013; Holmes and Jones, 2013).

2. Algeria, Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Ethiopia, Gabon, Kenya, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Mozambique, Rwanda, Seychelles, South Africa, the United Republic of Tanzania, Togo, Tunisia and Uganda.

3. Bangladesh, Cambodia, Indonesia, Republic of Korea, Myanmar, the Philippines and Singapore.

4. Azerbaijan, Bosnia and Herzegovina, Croatia, Kazakhstan and Serbia.

5. Australia, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovenia, Spain, Sweden and the United Kingdom.

6. Argentina, the Bahamas, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Paraguay, Uruguay and the Bolivarian Republic of Venezuela.

7. In Slovenia, during the 75 days of additional leave, the state makes social security contributions on behalf of the employee.

8. Libya is not listed since the articles of the Labour Code that regulate emergency leave do not mention whether this leave is paid or unpaid.

9. In the Bahamas, for example, employed fathers are entitled to one week of unpaid leave.

10. The 1994 figures should be considered as references since some information may not have been available to the ILO in 1994.

11. Algeria, Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Ethiopia, Gabon, Madagascar, Mali, Mauritania, Seychelles and Togo.

12. Bangladesh, Cambodia and Myanmar.

13. Australia, Belgium, Denmark, Finland, France, Luxembourg, the Netherlands, New Zealand, Norway, Romania, Spain and Sweden.

14. Argentina, Brazil, Chile, Guatemala and Paraguay.

15. The rest are Libya, Mauritius, Morocco, Mozambique, Rwanda, the United Republic of Tanzania and Tunisia.

16. See European Trade Union Confederation (ETUC), n.d.: available at http://www.etuc.org/IMG/pdf/The_Revised_Parental_Leave_Framework_Agreement_EN.pdf [29 Mar. 2014].

17. In addition, South Africa provides for paid family responsibility leave of three days that can be used by either parent. Men and women employed for longer than four months and who work at least four days a weeks are entitled to this leave, for example when the child is born or sick (until the child reaches the age of 18). This is not a traditional form of parental leave, but could rather be called compassionate leave or emergency leave, as the length of parental leave is usually longer than three days. Moreover, the possible usage of the leave provided in South Africa is broader than what is normally defined as parental leave, as it can also be taken in the event of the death of family members (spouse or life partner, child, grandchild or sibling). A number of other countries offer similar provisions. In Azerbaijan, a single parent or another family member who is directly caring for a child until the age of three, shall be eligible for partially paid social leave. A parent raising a child alone is entitled to parental leave of not more than seven days each year.

18. In the Republic of Korea, parents are entitled to parental leave until the child is one year old. They may receive benefits for leave periods lasting longer than 30 days if they were covered for employment insurance benefits for a total of at least 180 days prior to taking the leave; if their spouse (if eligible for national employment benefits) is not currently on a leave of absence for child rearing; and if they apply for the cash allowance one month after the starting date of the leave and within six months of the end of the leave period. In Sweden, workers who have been in the service of an employer, either for the preceding six months or for not less than 12 months in the past two years, are entitled to leave to take care of a child until the child reaches 18 months, irrespective of whether the parent receives parental cash benefits. In addition, workers are entitled to leave for the time during which they are eligible for parental benefits. However, to qualify for parental cash benefits at a rate of 80 per cent of earnings (flat rate for the last 90 days of a total of 480 days), the parents must have been in insurable employment for at least 240 consecutive days before the birth. If parents do not meet these conditions, they receive a flat-rate benefit during the entire leave period. In Spain, parents are eligible for parental leave without any previous employment requirements. All workers are entitled to paternity leave cash benefits, whether employees or self-employed, irrespective of their sex, if affiliated to any social security scheme and provided they have made contributions over a minimum period of 180 days in the seven years immediately prior to the point at which the leave or the suspension of the contract starts or, alternatively, 360 days in the worker's entire working life prior to that date.

19. In Belgium, workers who have been employed by the same employer for at least 12 months within the 15 months preceding the employee's notification of the intended date of leave are entitled to four months of career interruption for any reason related to spending more time in the care of their child

or in promoting their child's education. Workers who interrupt their careers receive a flat-rate benefit from social security. In Latvia, parents on childcare leave receive 70 per cent of their average insurance contribution wage until their child is 2 years old. Parents can receive a fixed childcare benefit when their child is between one and two years old. In Romania, paid leave (75 per cent of wages) is available to all employed parents or persons who care for the child until the child is one or two years old, depending on the circumstances. Benefits are paid to one parent provided they have been in receipt of income which is subject to income tax during the 12 months preceding the birth of the child.

20. Information on the source of funding of parental leave benefits in Mongolia could not be identified.

21. As noted, in some countries, parental leave is available solely to women or to men only in very limited circumstances. In others, there is an implicit assumption that mothers will care for the child. See, for example, Serbia and The former Yugoslav Republic of Macedonia, 2013 Direct requests on Convention No. 156, available on NATLEX, at: http://www.ilo.org/normlex.

22. Parental leave is unpaid for private sector workers; however, all parents taking such leave are entitled to a tax reduction of around US$ 5 per hour for each hour of leave.

23. In Finland, after maternity leave (105 days), the mother or the father, is entitled to a total of 158 working days' paid parental leave (at 70 per cent of previous earnings up to a ceiling funded from social security), which may be divided into a maximum of two parts, each part lasting a minimum of 12 working days. After the parental allowance is no longer paid, parents can take childcare leave to look after a child under the age of 3 years, although both parents cannot be on leave at the same time.

24. Also, in Sweden, workers who have been in the service of an employer, either for the preceding six months or for not less than 12 months in the past 2 years, are entitled to use their parental benefit days to reduce their working hours by three-quarters, one-half, one-quarter or one-eighth of the normal working hours. Parents are also entitled to a reduction in the normal work time by up to one-quarter without parental cash benefit, until the child is 8 years old. In Finland, parents can choose to take a partial childcare leave, enabling them to reduce their working hours until the end of the year in which their child starts school, although this reduction is not financially compensated. The minimum length of the part-time childcare leave is six months, with specific arrangements being subject to agreement between the employee and the employer.

25. Similar provisions providing maternity leave benefits to parents who adopt young children also exist in Iceland (up to 8 years old for unpaid leave) and South Africa (up to 2 years old), among others. In Israel, paid adoption leave is available for the normal paid maternity leave period (14 weeks) for parents who adopt a child under 10 years of age if at least one of the adopting parents has ten months of coverage in the past 14 months or 15 in the last 22 months. Couples may choose which of them is eligible for payment for the entire period of the adoption leave or they can split it between them, as long as each of their leave periods is no less than 21 days. In Sweden, the provisions on parental leave and benefits also apply to parents on adoption leave.

26. In Sweden, the date on which the parents receive the child into the household is considered to be the date of birth. Parental benefits are not paid for the adoption of a child above the age of 10 years. In Costa Rica, the adoptive mother's right to adoption/maternity leave begins when she obtains custody of the child. In Belarus, the right to maternity leave begins from the day of adoption or the day the child is placed under the care of the adoptive parent (if the child is under 3 months old). After maternity leave ends, adoptive parents are also eligible for parental leave until the child is 3 years old.

27. In Canada, adoptive parents are entitled to 52 weeks of parental leave beginning no earlier than the day on which the child comes into the employees' care and ending no later than 52 weeks after that day.

28. In Colombia and Mongolia, leave for adoptive fathers is only available if the father does not have a permanent partner.

29. In the Russian Federation, when a married couple adopts, the couple can choose to have the father take the leave period of up to 70 days after the child's birth and then, upon request, the parental leave period to which he might be entitled, until the child is 3 years. In Finland, adoption leave benefits are granted to both adoptive parents (with the length depending on the age of the child).

30. Adoptive parents who take custody of a child under the age of 5 are also eligible for an extended unpaid parental leave period for a year from the date on which they took custody of the child, which may be shared between them, if desired, or used by one parent.

Employment protection and non-discrimination

4

KEY MESSAGES

- It is crucial not only to protect women's employment during pregnancy, maternity leave and during a given period following their return to work but to ensure that maternity is not a source of discrimination in employment.
- Convention No. 183 provides protection against dismissal during pregnancy and prohibits dismissal on grounds related to pregnancy, birth of a child and its consequences, or nursing.
- The right to return to work to the same position or an equivalent position paid at the same rate after maternity leave is an essential protective mechanism. It is, however, provided in the legislation of only 64 countries out of 146 countries with available information.
- Convention No. 183 sets out that the burden of proving that reasons for dismissal are unrelated to pregnancy, childbirth or nursing shall rest on the employer. Only 54 countries have legal provisions that impose the burden of proof on the employers.
- The ILO addresses the right of all women not to be treated less favourably in a work situation – including access to employment – because of their reproductive function. All but 20 of the 165 countries with available information had explicit prohibitions against discrimination during pregnancy, leave and/or an additional prescribed period. "Maternity" or "pregnancy" was explicitly given as prohibited grounds for discrimination in 43 countries.
- Yet, maternity discrimination persists around the world, exacerbated in many instances by the economic crisis.

ILO standards on maternity protection call both for (1) the protection of women's employment during maternity leave and during a given period following her return to work and (2) measures to ensure that maternity is not a source of discrimination in employment. The first of these goals, **employment protection**, refers to the right of a female worker *not to lose her job* during pregnancy or maternity leave, including a period following her return to work (the duration of which is specified by national laws or regulations). Employment protection also covers the right of a woman employee, after maternity leave, *to return to the same or an equivalent position* to the one she held prior to maternity leave and to be paid at the same rate. Employment protection has been a fundamental element of maternity protection since the very first ILO Convention on the issue in 1919 and remains a key provision of the most recent ILO Convention on Maternity Protection, 2000 (No. 183). The second aspect refers to **protection against discrimination in employment on the basis of maternity** which addresses the right of all women not to be treated less favourably in a work situation – including access to employment – because of their reproductive function. Convention No. 183 recognizes the fact that, while discrimination might be suffered in the workplace, it can also occur during recruitment and hiring, prejudicing women's chances of finding employment. Therefore, measures are required to prevent maternity from constituting a source of discrimination. Explicit treatment of discrimination on the basis of maternity was not a part of early maternity protection standards (Conventions Nos. 3 and 103) and

is new to Convention No. 183. Convention No. 111 prohibits discrimination on the grounds of sex in all aspects of employment and occupation. The CEACR has determined that discrimination on the grounds of maternity and pregnancy constitutes discrimination based on sex or gender, as these aspects necessarily affect only women in the labour market. At the same time, it has welcomed legislative provisions which explicitly include "maternity and/or pregnancy" as a prohibited ground of discrimination. Convention No. 156 provides that family responsibilities shall not constitute a valid reason for termination of employment (Article 8).

In general, it is very difficult to determine the extent of dismissals and employment discrimination on the basis of maternity. Surveys and studies on the topic are rare, and it is difficult to design surveys that can accurately capture discrimination issues. The information from studies, court cases, equal opportunity bodies and trade unions that does exist, however, points to maternity-related discrimination as a continuing global problem. A study of discrimination in the European Union, where countries have some of the strongest anti-discrimination laws in the world, reports that discrimination on the basis of maternity (which includes pregnancy in the language of Convention No. 183) persists:

> It has been suggested that pregnancy and maternity related discrimination is 'endemic' (United Kingdom) and that women experience a lot of 'trouble' related to the enjoyment of their pregnancy and maternity rights (the Netherlands). In its 2012 annual report, the French Protection of Rights Body highlights that following the period of maternity or parental leave the professional situation of women very often deteriorates, and sometimes leads to harassment or to dismissal. (Masselot et al., 2012)

The European Union country review demonstrates a considerable level of maternity-based discrimination across EU Member States regarding recruitment, dismissals, pressure to resign, harassment and other practices that run counter to the principles of employment protection and non-discrimination (Masselot et al., 2012). The study refers to reports of pressure tactics used by employers to compel pregnant workers or new mothers to resign in Romania, Spain and Lithuania. In Spain, "mobbing" practices are reportedly widespread, with pregnant women reporting having experienced harassment at work during pregnancy and dismissal or pressure to depart (see Masselot et al., 2012). In Croatia, Greece, Italy and Portugal, there are reports of widespread use of "blank resignations" – undated resignation letters that workers are forced to sign upon hiring, which are used to dismiss them if they become pregnant or are faced with a long-term illness or family responsibilities. An investigative report by a national Italian newspaper estimated that around 2 million female workers were affected by this practice, prompting new legislation to tackle this issue (see Masselot et al., 2012, and below). A similar practice, forcing women to sign agreements promising that they will not become pregnant, has been reported in Kenya.[1]

Other reports from around the world also point to continued discrimination on the basis of pregnancy and maternity. In the United Kingdom, a study by the Equality and Human Rights Commission (EHRC) reported that around 7 per cent of pregnant women (approximately 30,000 per year) lose their jobs due to pregnancy. Many more (approximately 45 per cent) suffer some sort of financial loss or are pressured into quitting their jobs (EHRC, 2005). In the Russian Federation, the State Labour Inspectorate uncovered and put a stop to more than 22,900 violations of labour legislation on the part of employers with regard to working women: the two most common types of violations were dismissal of pregnant women and women with children under 3 years of age and non-payment of state social insurance during maternity leave (ILO, n.d.). In Australia, pregnancy discrimination complaints are more common than complaints regarding any other type of discrimination.[2] In China, a study by the All China Women's Federation showed that 21 per cent of rural women who migrated to urban areas were fired after becoming pregnant or having a child (ILO, 2012). In the Republic of Korea, a poll by the job portal Incruit revealed that one-third of pregnant female workers decided not to take maternity leave for fear of discrimination, and 7 per cent were told to resign after claiming maternity benefits (ILO, 2012). In a survey of workers in the garment industry in Cambodia, "pregnancy" was cited as a source of discrimination in recruitment at factories by 68 per cent of the women interviewed (ILO, 2012a). In 2013, in a communication to the CEACR, the General Union of Workers of Cameroon (UGTC) reported that some enterprises

are dismissing women on the grounds of pregnancy (CEACR, Direct Request, Cameroon, C3, 2013).

In the Dominican Republic, the Government received 128 maternity-related employment discrimination complaints in 2009, up from 91 in 2005. In Costa Rica, the labour inspectorate received 635 complaints in 2009, up from 230 in 2008 (ILO, 2012b, Module 9). In the United States, pregnancy discrimination claims grew faster (at 31 per cent) than all job bias claims between 2005 and 2010 (ILO, 2012b, Module 9). Since 2001, US courts have paid out US$ 150 million in damages in pregnancy discrimination cases.[3] It is not clear whether these increases in complaints reflect rising discrimination (particularly in the context of the economic crisis), or increasing awareness among workers of their maternity rights, but they do reflect the persistence of job dismissal and employment discrimination on the basis of maternity.

There have been concerns in a number of countries that maternity-related discrimination became more prevalent during the economic crisis. For example, in Greece, the Ombudsperson has expressed concern that labour flexibility measures undertaken during the crisis have disproportionately disadvantaged women, especially pregnant women and mothers. They have noted that the unilateral conversion (i.e., by the employer) of full-time contracts to shift work increased by 63 per cent between 2010 and 2011, with most of the contract changes happening in cases of women returning from maternity leave (Koukoulis-Spilitopoulos, 2012). The ILO CEACR has noted that, in 2011,

> approximately 300 complaints were lodged with the Office of the Ombudsperson concerning discrimination against female workers in the private sector, in particular concerning illegal dismissal of pregnant and breastfeeding women. The Office of the Ombudsperson also observed that women were exposed to increasingly deteriorating conditions of work, especially during pregnancy and after childbirth (CEACR, Observation, C111, Greece, 2013).

In 2011, discrimination in Greece related to pregnancy and childcare leave was recorded as the most prevalent form of discrimination (making up 42.46 per cent and 21.79 per cent, respectively, of total complaints concerning discrimination) (CEACR, ibid.).

In Spain, an NGO working on mothers' rights published a research study that attributed increases in the percentage of women experiencing maternity-related job dismissals and "maternal mobbing", as well as increases in the difficulties for pregnant women in finding employment, to the economic crisis (Fundación Madrina, 2010). In Singapore, the trade unions have cited tough economic times in helping to explain reports of growing maternity-related discrimination.[4]

In other countries, such as Mozambique, maternity-related discrimination, among other labour law breaches, has been related to a sharpening of labour relations resulting from increased national and foreign investment linked to natural resources discoveries. In 2013, 13,850 violations of Mozambican labour legislation were registered by the General Inspectorate of Labour, which reported that pregnant women were particularly likely to lose their jobs, with their employment terminated by employers who were unwilling to pay for maternity leave.[5]

Data included in the reports submitted to the CEACR by governments, workers' and employers' organizations of countries which have ratified the relevant ILO Conventions (in accordance with Article 22 of the ILO Constitution) show that certain categories of employees are more at risk than others of becoming victims of discrimination on the grounds of pregnancy or maternity in employment or access to employment: domestic workers; women in lower paid jobs and temporary assignments; women employees in the private sector; women who often fall sick during their pregnancy or suffer complications related to pregnancy or childbirth; and even women in managerial positions (ILO CEACR, 2014).

This chapter first considers measures to safeguard the employment of women workers during maternity, such as protection against discriminatory dismissal and maintenance of employment benefits. It then reviews legal provisions against discrimination in employment at the national level, with an emphasis on provisions related to maternity. Information on these issues draws from the ILO Working Conditions Laws Database – Maternity Protection, which at present includes data on employment protection and non-discriminatory practices for 165 countries. See Appendix V for indicators by country for this chapter.

4.1 Employment protection during maternity

The protection of the employment of pregnant women and women on maternity leave has always been an important element of the maternity protection standards of the ILO and has evolved in the instruments adopted by the Organization. In the earlier Conventions (Nos. 3 and 103), there was an absolute prohibition against employers serving notice of dismissal during maternity leave, an additional leave granted in case of illness arising out of the pregnancy or childbirth that made a woman unable to work or at any other time in which the notice would expire during such periods. In Recommendation No. 95 of 1952, which accompanied Convention No. 103, the same principle applied, but it called for a more extensive period of protection from the date of the notification of the pregnancy to the employer until at least one month after the end of maternity leave. Furthermore, this Recommendation set out legitimate reasons for dismissal during the protected period, such as a serious fault on the part of the employed woman, the shutting down of the undertaking or the expiry of the contract of employment. The ILO Termination of Employment Convention, 1982 (No. 158) states that issues including sex, marital status, family responsibilities, pregnancy and absence from work during maternity leave shall not constitute valid reasons for termination (Article 5).

Convention No. 183 provides for a longer period of protection against dismissal than did the previous ILO Conventions. It covers pregnancy, the period of leave and a period after returning to work, to be prescribed by national laws. Dismissal is prohibited only on grounds related to pregnancy, birth of a child and its consequences, or nursing. However, the burden of proving that the reasons for dismissal are unrelated to maternity rests with the employer.

Protection against dismissal in national laws

> *It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations.*
>
> **Convention No. 183, Article 8(1)**

In the vast majority of countries for which information is available in the database, there is some legislative provision to protect employment during maternity, usually prohibition of dismissal during pregnancy and maternity leave, and covering longer periods in some cases. Of the 165 countries with available information, all but 20 had explicit prohibitions against discrimination during pregnancy, leave and/or an additional prescribed period.[6] However, these prohibitions are flexible to varying degrees, depending on the country. In some, dismissal is prohibited with no exceptions;[7] while, in others, it is prohibited on the grounds of maternity, but allowed when unrelated to it.[8]

One of the main concerns in legislative provisions prohibiting dismissals during pregnancy is ensuring that any permissible notices of dismissal (for instance, related to serious misconduct of the worker or grounds unrelated to pregnancy) are not issued during the woman's maternity leave or at a time when the notice would expire during such an absence.[9] The CEACR has noted that the intention of Conventions Nos. 3 and 103 is not to preserve the employment relationship in any situation, but to protect women on leave by ensuring that any dismissal does not take effect while she is away (CEACR Direct Request, C103, Spain, 2009). The CEACR has also noted that protections against dismissal should encompass all workers covered by the relevant instruments. For example, in 2011, the CEACR called for protections against dismissal to be extended to public sector workers in Sri Lanka (CEACR, Observation, C103, 2011). In 2009, the CEACR urged Hungary to extend protection to workers in managerial positions (CEACR, Direct Request, C183, Hungary, 2009). Employment protection is also regulated in the EU Directive on pregnant workers, and therefore applicable to the Member States of the European Union. EU Member States are directed

to adopt the necessary measures to prohibit dismissal of workers from the beginning of pregnancy to the end of maternity leave, except in cases not connected with their condition and authorized under national legislation or practice. Most EU Member States do provide such protections.

Protecting mothers against employment termination after childbirth by combining leave measures with job protection regulations is perhaps the most fundamental policy instrument to protect situation of mothers in the labour market. Transitions to new employers or new jobs within the existing workplace tend to be associated with wage reductions and long-term negative cumulative effects on mothers' wages, especially when associated with reductions in hours. Legal rules that mandate the right to return to the same job with the same pay, as required by maternity protection standards, are therefore a critical measure for addressing the motherhood wage penalty (Grimshaw and Rubery, forthcoming). Employment protection is also fundamental to guarantee the right to paternity and parental leave and improve men's take-up rates. For instance, one aspect of the Brazilian debate on the extension of paternity leave from five to 15–30 days has been the need to insure men's job security during the leave. One proposal is to accompany the leave extension with a right to employment protection over the first four months after birth, targeting households where fathers are the only breadwinners (O'Brien, 2013). In France, the 2014 law on equality between women and men establishes that employers cannot terminate the employment contract of a male employee during the four weeks following the birth of a child.

Length of protection against dismissal in national laws

Convention No. 183 calls for protection against dismissal during a period following a woman's return to work after maternity leave but leaves it to national laws or regulations to define that period. Often, this relates to the period during which the national legislation authorizes interruption of work with a view to nursing a newborn child. In at least 56 countries, national laws explicitly prescribe a duration during which such protection is extended. According to the Committee of Experts and the information in the database, however, there is a fairly widespread trend towards further extending the period during which employment is protected, beyond the strict context of maternity leave. In many countries, the duration of employment protection extends well beyond the end of maternity leave, as in the Republic of Moldova (from pregnancy until the child is 6 years old); in Azerbaijan, Estonia, Lithuania and Mongolia (from pregnancy until the child is 3 years of age); in Gabon (from pregnancy until 15 months after birth); in Chile and Panama (from pregnancy to 1 year after the expiry of the maternity leave); Bolivia (from pregnancy to 1 year after childbirth); in Angola, Somalia and Vietnam, until the child is 1 year old; and in Argentina (from notification of pregnancy to seven-and-a-half months after childbirth). In 2012, the Bolivarian Republic of Venezuela extended the special protection against dismissal from the start of pregnancy up to 2 years after childbirth, instead of 1 year. In 2011 and 2013, Argentina established special regulations governing employment contracts for work in agriculture and for domestic workers. These laws grant protection against wrongful dismissal during the protected period for these categories of workers, who are particularly vulnerable to discriminatory practices (ILO CEACR, 2014; ILO, 2013b).

In other countries, the protection extends until the end of the nursing period. Pregnant women and nursing mothers are protected in Cape Verde, Guatemala, Indonesia, Malta and Portugal among other countries. Nevertheless, there are still some countries where employment protection is limited to maternity leave and any extensions thereof, as in Botswana, Cambodia, Fiji, Lebanon, Lesotho, Libya, Malaysia, Niger and Paraguay. In a small number of countries, protection is even more limited. In Egypt, for example, women are only protected from dismissal during maternity leave or, in Chad, only during pregnancy.

It is worth noting that in some countries where parental or other kinds of leave are available, employment protection is available not only to the mother but also to other persons. In Chile, if the mother dies, the father of the child can take the remainder of "maternity leave" and be protected against dismissal for 1 year after the expiry of the maternity leave, as suggested by Recommendation No. 191. In Mongolia, dismissal is prohibited for single fathers with children below 3 years of age. In Estonia, it is prohibited for an

employer to terminate an employment contract with a pregnant woman or a person raising a child under 3 years of age. In the Russian Federation, protection also extends to the person responsible for caring for the child if the mother is absent. In Finland, Germany, Iceland, Israel, Italy, New Zealand and Norway, prohibition of dismissal also covers employees on different types of leave (maternity, paternity or parental leave). In some countries, such as Spain, Sweden and the Bolivarian Republic of Venezuela, adoption leave is also covered by prohibitions on dismissal.

Permissible grounds for dismissal

One of the aims of protective measures is to prevent discrimination on the grounds of maternity. However, according to Convention No. 183, dismissal should be permitted for reasons not linked to maternity, while Convention No. 103 calls for an absolute prohibition of maternity-related dismissal. Among the countries where dismissal is allowed during the periods of protection, different grounds can be invoked as legitimate. The following are some of the most common:

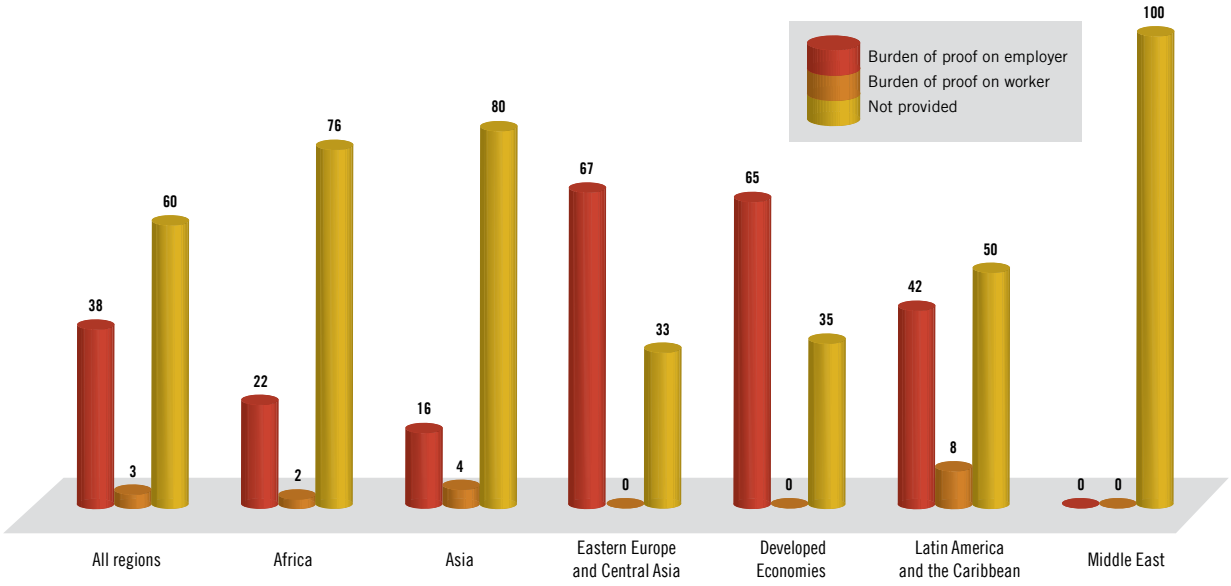
- *serious fault, gross negligence or violation of work discipline on the part of the employee*, for instance, in Barbados, Costa Rica, Cuba, France, Guatemala, Guinea, Italy, Slovakia and the Bolivarian Republic of Venezuela;
- *valid reasons stipulated in common and labour law or by the Ministry of Labour*, for example in Colombia, Honduras, Germany, Nicaragua, Spain and the Bolivarian Republic of Venezuela. In Honduras, however, the fact that the output of a woman worker has decreased by reason of her pregnancy shall not be a valid ground for her dismissal;
- *the undertaking has ceased to exist*, for example, in Barbados, Belarus, Bulgaria, Italy, Republic of Korea, Mongolia, the Russian Federation, Somalia, Tajikistan (provided that alternative employment is found) and Viet Nam. In Germany, women may be eligible to receive maternity benefits from the state if they lose their job because their company is insolvent;
- *expiry of fixed-term contracts or the end of the work for which a woman was engaged*, for instance in Croatia, Italy, Luxembourg, Somalia and Tajikistan (where, however, the employer has a responsibility to find the employee alternative employment). During the period in which alternative employment is being sought, wages shall continue to be paid but not for more than three months from the day on which the fixed employment contract expires. The CEACR has repeatedly expressed concern regarding the maternity protection situation of women in temporary and contract employment, in light of the growth of these non-standard jobs, especially during the economic crisis. Trade unions' comments have reported a significant number of cases of women still experiencing problems of recruitment or of losing their jobs when they become pregnant as their contracts are not renewed in this case. Under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee has exhorted ratifying countries' governments, such as those of the Islamic Republic of Iran and the Netherlands, to tackle the problems of application in practice of the prohibition of discrimination based on maternity more effectively (ILO CEACR, 2014).
- *imprisonment* (e.g., Cuba);
- *cause of dismissal predates pregnancy*, such as in El Salvador. Even when dismissal is allowed on these grounds, it will not take effect until the end of maternity leave;
- *work for another undertaking while on leave* (as in Lebanon);
- *failure to resume work on the expiry of the unpaid leave granted to look after her children* (as in Cuba).

Burden of proof

> *The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.*
>
> **Convention No. 183, Article 8(1)**

A key and innovative element in Article 8 of the Maternity Protection Convention, 2000 (No. 183) is the provision regarding the burden of proof. Specifically, the Convention states that the burden of proving that dismissal is not related to maternity shall rest on the employer. This provision offers important protection

Figure 4.1 Burden of proof, 2013 (144 countries) (%)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [30 Mar. 2014].

to women against discriminatory dismissal. The shift to the defendant to prove that discrimination had not occurred can significantly assist victims of discrimination in judicial or other dispute settlement mechanisms. Given that the "real" reason for dismissal is generally known only to the employer, in practice it is very difficult for workers to show that the dismissal was, in fact, maternity-based discrimination. Thus, transferring the burden of proof to the employer to demonstrate that dismissal was unrelated to maternity strengthens the worker's protection and underpins the principle of equal treatment.

Of the 144 countries for which information was available, 54 (38 per cent) set out legal provisions that impose the burden of proof on the employers (including Belgium, South Africa and Sri Lanka), while only four impose it on workers (Belize, Brunei Darussalam, Guyana and Namibia) (see figure 4.1 and Appendix V). A total of 86 countries (60 per cent) do not specify who bears the burden of proof (including China, Kuwait, Slovakia and Swaziland). In Estonia, the burden of proof is shared between employer and employee. One of the ways to oblige employers to prove in law that dismissal is not discriminatory is to lay down a presumption of dismissal being based on grounds of maternity when it occurs within the protected period. This presumption exists in Albania, Argentina, the Bahamas, Colombia, Finland, Honduras, Mauritania, Norway, Sri Lanka and Zambia. In several countries, whether the presumption exists or not, the employer is obliged to ask for judicial or administrative authorization before giving notice of dismissal. Judicial authorization is required in Austria, Chile, Guatemala and Panama. In Bulgaria, Colombia, Equatorial Guinea, Honduras, Portugal, Slovenia (for dismissals due to negligence) and the Bolivarian Republic of Venezuela, authorization from the labour inspector is necessary. A non-specified authority shall give its authorization in the Dominican Republic, Ecuador and Seychelles.

In Italy, the 2012 law on the Labour Market Reform introduced an administrative authorization to address the *licenziamento in bianco*, that is, the practice of making the worker sign an undated letter of resignation at the time of hiring for future use at the employer's convenience and which affects pregnant women particularly. The law provides that the resignation of a pregnant woman or of any worker with a child under 3 years of age must be validated by the labour inspectorate to be effective. However, the Committee of Experts noted that the number of resignations increased by 9 per cent from 2011 to 2012 and, according to the annual report on the validation of resignations of working mothers and fathers, the great majority of these resignations concern women

between 26 and 35 years of age and the stated reason for resignation alludes primarily to the impossibility of reconciling family responsibilities and working obligations due to the lack of available childcare or parental support. In this light, the CEACR has requested that the Government take additional concrete measures in order to address the issue of resignation without cause of pregnant women and working mothers, and to prevent and eliminate all discrimination against women on the basis of pregnancy and maternity (ILO CEACR, 2014).

Similarly, but providing a wider scope than the provision of Convention No. 183, the European Union adopted Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex, which was recast into Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. It deals with any complaints of direct or indirect discrimination based on sex and is also applicable in cases related to pregnant workers or those who have recently given birth, are breastfeeding or are on parental leave; while Article 8 of Convention No. 183 considers only the termination of employment on the grounds of maternity. The EU Directive is intended to enable all persons who consider themselves wronged because the principle of equal treatment has not been applied to have their rights asserted by judicial process after possible recourse to other competent bodies. It shall be for the respondent (the employer, in cases of dismissal) to prove that there has been no breach of the principle of equal treatment (Article 19). This reversal of the general rules of proof offers a useful means of strengthening the principle of equal treatment and ensures that the principle can be effectively enforced (EC, 2006).

Compensation and other remedies in case of dismissal

Despite the existing protective measures against discriminatory dismissal, it does, nonetheless, occur in practice. When employers do not comply with the ban on discriminatory dismissal, many countries provide compensation. In Albania, Argentina and Ecuador, for example, the compensation is equal to 1 year's remuneration; in Denmark, the employer can be fined and forced to pay between 39 and 78 weeks of compensation, depending on the job; in the Dominican Republic, compensation is five months' ordinary salary; in Belgium, six months of gross remuneration; in Honduras, 60 days' wages; and, in Tunisia, the employer has to pay damages to the worker as a result of dismissal. In Zambia, employers who fire a worker within six months of childbirth are guilty of an offence and subject to unspecified penalties.

In other countries, reinstatement in case of unlawful termination is also mandated. In Cyprus, when a breach of the 2002 law on equality of treatment between women and men is determined, the Labour Dispute Court orders the reinstatement of the unlawfully dismissed employee, irrespective of the size of the enterprise and without examining the good or bad faith of the employer (ILO CEACR, 2014).

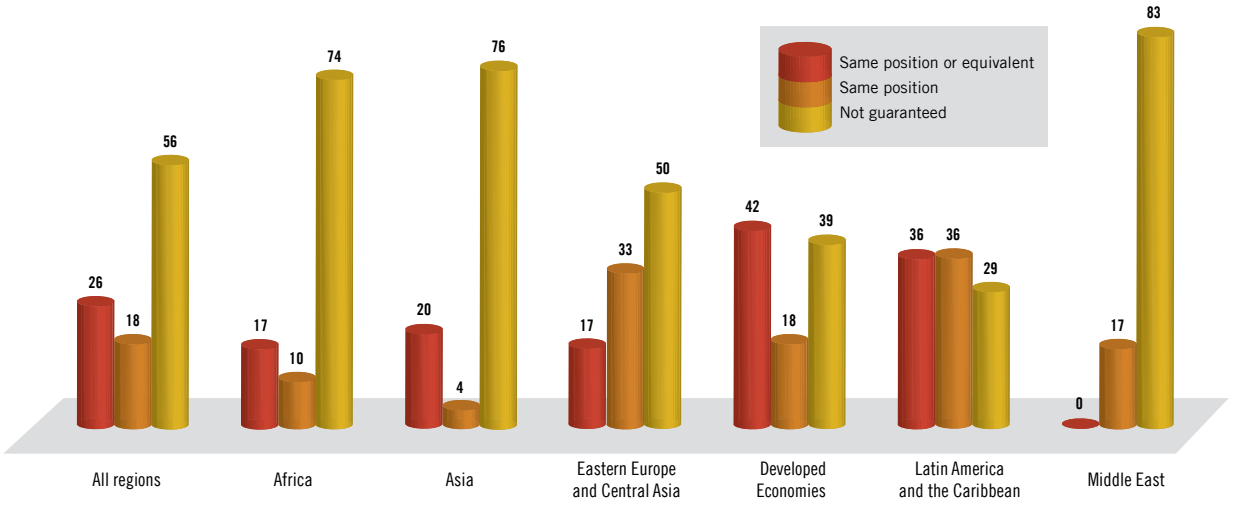
Guaranteed right to return to work

> *A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.*
>
> **Convention No. 183, Article 8(2)**

The guaranteed right to return to work is often included in legislation alongside the prohibition of discriminatory dismissal (see figure 4.2 and Appendix V). The right to return should be implicit in the entitlement to take leave, as it is a temporary interruption of employment. However, in many countries, special provisions regulating the return to work are laid down. Of the 146 countries for which information was available, 38 countries set out legal guarantees of a woman's right to return to the same post or an equivalent one after maternity leave, while another 26 guarantee the same post and 82 do not guarantee the right to return to work.

Examples of countries in which the right to return includes the right to return to the same or an equivalent post, paid at the same rate as at the time when the woman went on maternity leave, include the Bahamas, Barbados, Canada, Cyprus, Fiji, France, Malta, Republic of Korea, Swaziland, Uganda and Vanuatu. In the United States, employees generally have the right to return to the same or an equivalent job with the same pay and other benefits. However, under limited circumstances,

Figure 4.2 Right to return to work, 2013 (146 countries) (%)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [30 Mar. 2014].

where restoring employment would cause the employer substantial economic hardship, employers may refuse to reinstate certain highly paid "key" employees. In other countries, provisions do not seem to be so specific, as they do not explicitly take into account all aspects detailed in Article 8(2) of Convention No. 183. In Italy, seasonal workers, who receive periodical unemployment benefits, are protected from dismissal during the period of maternity leave and have the right to return to work after the compulsory leave period. Some of the provisions found in other countries are detailed below:

- *The right to hold the post that the woman occupied prior to her leave* (possibility of a similar post and payment not specified): Côte d'Ivoire, Cuba, Lithuania, Mexico (if worker returns within 1 year), New Zealand (if leave is four weeks or less), the Russian Federation and Uzbekistan.
- *The post the worker will occupy after leave shall be the same or an equivalent* (payment not specified unless noted): Australia (nearest to equivalent payment specified), Costa Rica (equivalent payment specified), Croatia, Iceland (should be on no less favourable terms), Italy, Mongolia and Swaziland (equivalent payment specified).
- *The right to hold the post she occupied prior to her leave, paid at the same rate* (possibility of an equivalent post not specified): Belarus, Canada (Quebec), Nicaragua and the United Republic of Tanzania. In practice, in some countries, after maternity leave, women who return to work face a reduction in their wage on the grounds that they will have lost the capacity for work that they would have retained and augmented had they not been absent. In 2014, in a communication sent in accordance with article 23 of the ILO Constitution, the Confederation of Autonomous Trade Unions of Serbia (CATUS) indicated that a clause on wage reduction appears in employment contracts, which is contrary to Article 8.2 of Convention No. 183 (ILO CEACR, 2014).
- In some countries, women are required to *pay a contract termination fee or repay wages collected during leave* if they do not return to work after maternity leave or resign within a certain time thereafter. For instance, in Malta, a woman must repay wages received during maternity leave if she does not return or resigns within six months of returning. In the Solomon Islands, the Labour Act does not provide for a guaranteed right to return to work after maternity leave. Rather, it imposes an obligation on workers who have received a cash benefit during a period of maternity leave to return to work after the maternity leave. Where the worker fails to return to work, she must pay to the employer the wages she received while on leave. In a few countries, however, there are provisions which explicitly allow women who do

not wish or are unable to return to work to resign without notice at any time following childbirth without having to pay compensation for breach of contract.[10]

In some cases, provisions guaranteeing the right to return to work cover not only maternity but also other types of leave.[11] For example, in Belarus, Belgium, Canada (Ontario and Quebec), Cuba, France, Iceland and Spain, the right to return to work is also guaranteed to workers at the end of parental leave.[12] The right to return to work has also been addressed at the European Union level in Directive 2006/54/EC (recast) on equal treatment. It provides that return to work must be guaranteed not only to women, but also to workers on paternity, parental or adoption leave (EC, 2006).

Maintaining employment benefits

The period of leave referred to in Articles 4 and 5 of the Convention should be considered as a period of service for determination of her rights.

Recommendation No. 191, Paragraph 5

Whatever the importance of a woman wage-earner's right to be reinstated in her previous work, and however effectively it may be recognized and applied, it is not in itself enough to prevent women's procreative role from becoming an obstacle to the realisation of equality of opportunity and treatment. For this, it must be ensured that a woman's absence on maternity leave and the extension of that leave does not result in the loss or reduction of entitlements and benefits under the terms of the employment contract, which would only exacerbate the often considerable differences between men and women wage-earners.

International Labour Office, 1999

In the legislation of several of the countries analysed, the period of leave is considered to be a period of service with regard to the determination of employment rights. The entitlement to continue in the same work without loss of seniority rights is applicable in Barbados, Fiji, Spain, Swaziland and Vanuatu. In Zimbabwe, it is specified that rights to seniority and advancement, as well as other customary benefits and rights continue during the entire leave period. Maternity leave counts as full service in Belgium, Islamic Republic of Iran and Tajikistan. In Cyprus, workers retain their employment rights during leave. In France, workers are entitled to any wage adjustments that are granted during their maternity, paternity, adoption or parental leave. In the United Kingdom, an employee is entitled, during the period of maternity leave, to the benefit of all of the terms and conditions of employment which would have applied had she not been absent.

Importantly, accumulation of pension benefits during leave periods is essential to recognizing and valuing both women's and men's care work and to ensure adequate pension provision in old age. In 2012, Estonia introduced an act for a parental pension scheme that will decrease inequalities in old-age pensions due to a parent's time out of the labour force. Recognizing that women usually take up parental leave, the measure is expected specifically to improve the future pensions of women (Curtarelli et al., 2013). Some countries, such as France, have moved forward by providing pension credits for caregivers related to periods of unpaid work, with limited or no pension contributions. In 2010, these pension credits were extended to fathers (Fultz, 2011).

4.2 Non-discrimination in employment in relation to maternity

When discussing the adoption of Convention No. 183, most of the ILO member States expressed concern about the struggle of women against discrimination in employment and about the inequality of opportunity between men and women. Some of them considered that, although such discrimination may already be prohibited under Convention No. 111 and other standards, it should be clearly stipulated in Convention No. 183 (ILO, 1999; CEACR, Direct Request, C156, Guatemala, 2000). Thus, for the first time, an ILO Convention on maternity protection calls for member States to adopt appropriate measures, including those covering access to employment, to prevent discrimination in employment specifically on the grounds of maternity.

"Non-discrimination in relation to maternity" refers to the right of all women not to be treated less favourably in a work situation – including access to employment – because of their sex, or due to circumstances arising from their reproductive function.

Discriminatory practices linked to pregnancy and maternity continue to exist and have been particularly linked to dismissal and denial of the right to return to work after maternity leave.[13] Importantly, employers should not be allowed to require a pregnancy test or proof of sterilization as a condition of employment, nor should they be allowed to question a job applicant about their plans for childbearing.

As previously discussed, available data suggest that some employers may intentionally avoid hiring young women, fearing that they may utilize maternity leave at some future point in their careers. In many countries, pregnancy appears to be a factor not only in women losing their jobs but also in their having difficulty in obtaining a job in the first place. This is more than an issue of discrimination between men and women. Pregnant women or women who have young children can be subject to discrimination relative to female workers without children, or breastfeeding women may be subject to discrimination in comparison to working mothers who are not breastfeeding. Clear policies on non-discrimination related specifically to a woman's reproductive function are essential and measures must be put in place to protect women of reproductive age. In fact, this perspective is relatively recent in legislation and as such, not always understood or considered by policy-makers.

The Maternity Protection Convention, 2000 (No. 183) calls for member States to adopt appropriate measures to prevent discrimination in employment specifically on the grounds of maternity, including access to employment. Previous ILO standards on maternity protection did not contain specific provisions on discrimination based on maternity, which is a key concern from the point of view of equality of opportunity and equal treatment of men and women. Convention No. 183 also specifically prohibits requiring women to take pregnancy tests (with a few exceptions related to work-based risks to health, i.e. Article 9(2), see below) at the time they apply for employment. Such a prohibition therefore also needs to be expressly established by national law and practice. A general prohibition of discrimination based on maternity would not be sufficient to give effect to this provision of the Convention.

While no specific provisions on the subject of discrimination are contained in Conventions Nos. 3 and 103 on maternity protection, a number of other ILO Conventions address the matter of discrimination in employment:

- *The equal remuneration Convention, 1951 (No. 100)* requires that rates of remuneration be established without discrimination based on sex. This is one of the Fundamental Human Rights Conventions of the ILO, and has been ratified by 171 member States.
- *The Discrimination (Employment and Occupation) Convention, 1958 (No. 111)* contains a specific definition of discrimination and encourages ILO member States to take measures to eliminate any kind of discrimination with respect to employment and occupation. Although pregnancy and maternity are not specifically included as grounds of discrimination in this Convention, the CEACR considers that sex-based discrimination also includes that based on marital status or, more specifically, family situation (especially in relation to responsibility for dependent persons), as well as pregnancy and childbirth (ILO, 2012d). As with Convention No. 100, this is one of the Fundamental Human Rights Conventions of the ILO, ratified by 172 member States.
- *The Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)* calls for social policy to aim at abolishing all discrimination against workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of labour legislation and agreements; admission to public or private employment; conditions of engagement and promotion; opportunities for vocational training; conditions of work; health, safety and welfare measures; discipline; participation in the negotiation of collective agreements; and wage rates, which shall be fixed according to the principle of equal pay for work of equal value. It has been ratified by 32 countries.
- *The Employment Policy Convention, 1964 (No. 122)* requires freedom of choice of employment and the fullest possible opportunity for all workers to qualify for, and to use their skills and endowments in jobs for which they are well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin. This Convention has 108 ratifications.
- *The Workers with Family Responsibilities Convention, 1981 (No. 156)* aims to ensure equality of opportunity and treatment for men and women workers

with family responsibilities, and between workers with family responsibilities and those workers without such responsibilities, without being subject to discrimination. Article 3 also states that member States shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination. This standard has been ratified by 43 member States of the ILO.[14]

Legal prohibition against discrimination in relation to maternity

> *Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including – notwithstanding Article 2, paragraph 1 – access to employment.*
>
> **Convention No. 183, Article 9**

In all regions, there are countries that have enacted legislation prohibiting discrimination based on sex. However, countries vary in how specifically their legislation sets out the grounds of discrimination. Of the 155 countries for which information was available, 114 had legislation in place prohibiting discrimination in employment (which typically includes access to employment, recruitment, promotion, changes in position, dismissal, retirement and other working conditions) on the basis of "sex" alone or "sex" in addition to other grounds that did not directly link to maternity or pregnancy. Some 43 countries explicitly specify "maternity" or "pregnancy" as prohibited grounds for discrimination, including nine countries in Africa,[15] four in Asia,[16] five in Latin America[17] and 24 in the Developed Economies and in Eastern Europe and Central Asia.[18] A total of 21 countries provide no overarching prohibitions in their labour codes against discrimination in employment on the basis of sex, maternity or pregnancy, although some of these may have very specific prohibitions pertaining to a particular aspect of employment, for example, against wage discrimination by reason of sex or maternity[19] or against dismissal on the basis of maternity (see Appendix V).[20]

In all regions, there are countries that have enacted legislation prohibiting discrimination based on sex, although the nature and scope of such legislation varies. Many countries protect all workers against discrimination based on sex, in terms of (with varying specificity) access to employment, recruitment, promotion, changes in position, dismissal, retirement and other working conditions. Some countries have special anti-discrimination provisions that cover either women[21]

Box 4.1 Regional instruments addressing discrimination in employment in relation to maternity

Regional instruments also address discrimination on the basis of sex, including maternity. In the European Union, the principle of equality and non-discrimination between men and women is enshrined in the treaty that established the European Community. Article 3 states that the Community shall aim to eliminate inequalities, and to promote equality between men and women (European Community, 2002). Developing this principle, some provisions, such as Directive 76/207/EEC on equal treatment, amended by Directive 2002/73/EC and then recast into Directive 2006/54/EC of 5 July 2006, have been adopted. In several of its judgements, the European Court of Justice has considered that refusing to appoint a woman because she is pregnant constituted direct discrimination on grounds of sex and therefore contrary to Directive 76/207/EEC (Commission of the European Communities, 1999). All EU Member States are thus required to respect the provisions concerning equal treatment and non-discrimination between women and men, taking into account the interpretation of the European Court of Justice.

In the Caribbean region, the Caribbean Community (CARICOM) has issued model legislation on issues affecting women, including model legislation on equality for women in employment. The text sets out detailed provisions on the protection of women from discrimination on the grounds of sex, marital status or pregnancy with respect to access to employment and other aspects. Although not binding on CARICOM Member States, the instruments provide clear guidance to countries in the region on how to tackle discrimination on these grounds through legislation.

or men.[22] As regards legal provisions prohibiting maternity- or pregnancy-related discrimination, for example, in Côte d'Ivoire, employers may not use the pregnancy of a woman as an reason for refusing to hire her or terminating her contract of employment during a trial period.[23] In various cases, provisions nullify contracts or restrain employers that attempt to restrict rights related to maternity, as in Fiji, the Philippines and Singapore. In others, it is specifically stated that differential treatment which provides support during maternity is not deemed to be contrary to non-discrimination legislation.[24]

Prohibitions against pregnancy tests

The current international standard concerning maternity protection, Convention No. 183 of 2000, specifically prohibits requiring women to take pregnancy tests (with the exceptions cited below) at the time they apply for employment.

> *Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:*
> *(a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or*
> *(b) where there is a recognized or significant risk to the health of the woman and child.*
>
> **Convention No. 183, Article 9(2)**

The explicit prohibition of pregnancy tests does not seem to be widespread in labour legislation. Among the 141 countries for which information is available in the database, 47 countries set out explicit or implicit provisions banning pregnancy tests (see Appendix V).[25] These include, for example, Albania, Argentina, Brazil, Chile, Colombia, the Democratic Republic of the Congo, Denmark, El Salvador, France, Mongolia, Nicaragua, Panama, Portugal, Romania, Serbia, Slovakia, Slovenia, Uruguay and the Bolivarian Republic of Venezuela.[26] Mongolia's legislation prohibits questioning on the subject of pregnancy, while Slovenia and Slovakia prohibit seeking information about pregnancy, which implies a prohibition against pregnancy tests. While the Convention prohibits pregnancy tests when the woman is applying for employment, a few countries provide for even broader protection, prohibiting tests throughout employment (Brazil and Colombia), in retention, promotion, mobility or contract renewal (Chile) and terminations or transfers (France). Several countries (Albania, Colombia, Congo, Portugal and Serbia), but not all, do include specific exemptions to the prohibition in the case of work-related risk to the woman or child.

Pregnancy testing as a discriminatory practice against women has also been addressed by the CEACR under Convention No. 111, particularly in Latin America, including in the Dominican Republic and Guatemala (CEACR, Observation, C111, Dominican Republic, 2012; CEACR, Observation, C111, Guatemala, 2011). Chile and Honduras adopted legislation explicitly prohibiting the requirement of pregnancy testing as a condition of employment. Recently, the CEACR has noted with interest the adoption by Uruguay of a 2012 law, which prohibits the requirement of a pregnancy test or a medical certificate attesting that a woman is not pregnant as a condition of the selection process, recruitment, promotion or retention in any job or position, in both the public and private sectors (ILO CEACR, 2014).

Monitoring and implementation

Legislative provisions for employment protection and non-discrimination are only effective if implemented in practice. Poor implementation can stem from a number of gaps: lack of awareness of legal requirements and rights by workers and employers; lack of accessible, affordable, reliable and expeditious complaint mechanisms; reluctance to claim or pursue rights for fear of costs, exposure or reprisal; lack of monitoring and enforcement; lack of sanctions or other remedies and many other reasons. For example, a study of maternity protection in the garment factories in Cambodia found that workers and their line supervisors had very little awareness of the details of maternity leave rights and payments (ILO, 2012b). In the United Kingdom, one study found that 71 per cent of women who suffered dismissal or disadvantage based on maternity took no action at all, not even to report the matter to a supervisor or manager (Masselot et al., 2012). In Slovakia, judicial protection for discrimination cases is very limited, providing only limited compensation when discrimination is proved, which serves as a deterrent to

filing cases in view of the high court fees, and failing to deter discriminatory practices (ibid.). The Free Confederation of Mauritanian Workers (CLTM) sent a communication examined by the CEACR in 2013 in the framework of the monitoring of the application of Convention No. 3, in which it indicated that the absence of any monitoring or punishment of offences due to the lack of regulations to implement the 2004 Labour Code is resulting in a "decline in maternity protection": few employers comply with the law and the number of pregnant or nursing women exposed to increased hazards and serious risks is rising (ILO CEACR, 2014).

A number of countries have adopted initiatives to improve the implementation of legal rights in practice. Active research agendas and information dissemination measures, such as websites, media releases and workplace campaigns can be found in a number of countries (e.g., Australia, Hong Kong (China), Italy, Luxembourg, the Netherlands, Norway, Singapore and Sweden). Some governments have established special bodies to investigate and monitor workplaces and to receive complaints. France, for example, has a constitutional authority called the Defender of Rights. This body receives and mediates complaints and promotes information and research on the principle of equality and non-discrimination. Its 2012 annual report noted that pregnancy remains the leading cause of discrimination in France, with 10.6 per cent of women reporting discrimination on the basis of pregnancy over the course of their careers (Le Défenseur des Droits, 2012). Since 2008, the Defender of Rights and the ILO have also published a yearly "Barometer on discrimination at work", which monitors workers' perceptions on this issue. The 2014 Barometer revealed that one-third of working women have been the victim of workplace discrimination and that gender, along with pregnancy/maternity, remain the primary causes of discrimination. Among the measures to promote equality between women and men, the development of accessible childcare solutions is the step most widely supported among the respondents.[27] The Committee of Experts under Convention No. 111 has also pointed out that, in order to repeal discriminatory measures against women, "it would undoubtedly be necessary to examine other measures, such as those to improve the health protection of all workers, safety and adequate transport, the availability of social services to improve the sharing of family responsibilities which would be necessary to enable women to benefit from the same opportunities as men in terms of access to employment" (CEACR, 2014).

In Australia, the Fair Work Act of 2009 provides mechanisms to promote research and education, and to investigate, monitor and enforce compliance with anti-discrimination laws.[28] In Spain, the Labour and Social Security Inspectorate stepped up efforts to monitor companies' compliance with equality provisions, uncovering violations and imposing sanctions (Masselot et al., 2012). In Uruguay, a tripartite commission for equal treatment and opportunities leads efforts to promote gender equality, including the principles of maternity protection, in collective bargaining and has successfully targeted efforts at extending equal opportunity and treatment to domestic workers as well.

Adequately staffed, trained and efficient labour inspection services are also important. In Morocco, in 2013, the Ministry of Employment and Vocational Training organized training sessions for labour inspectors on fundamental rights, including equality and non-discrimination, in various municipalities. A ministerial circular on the implementation of legal provisions against gender discrimination at work was also adopted. It requires labour inspectors to submit data on "labour indicators on women wage earners" to the central administration, which specify, among other things, the number of infringements of maternity protection laws (ILO CEACR, 2014).

Trade unions, employers' organizations and civil society organizations all have key roles to play as well, in research, education, advocacy and representation. In the United Republic of Tanzania, for example, the Association of Tanzania Employers (ATE) has provided training and materials for employers around the country to help them understand the provisions and implications of the law, including those related to maternity protection, while trade unions at national and international levels have produced research on maternity protection and discrimination, as well as awareness-raising information for workers on the principles and rights related to maternity protection, including employment protection and non-discrimination.

The ILO Maternity Protection Resource Package provides practical guidance for all of the stakeholders on practical measures that can be adopted to improve the realization of legal rights (ILO, 2012b, Module 9).

Notes

1. ILO News, available at: http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_193975/lang--en/index.htm [30 Mar. 2014].

2. ABC News, Australia: "Pregnancy overtakes disability as top source of workplace discrimination complaints". See http://www.abc.net.au/news/2013-11-06/pregnancy-overtakes-disability-as-the-top-source-of-discriminati/5072904 [9 Dec. 2013].

3. ILO News, op. cit.

4. R. Basu: "Pregnant? You're fired", in *The Straits Times*, 8 Nov. 2009.

5. CTA-AIM, Mozambique News Agency, Newsletter No. 160, Feb. 2014.

6. The 20 countries are: Afghanistan, Algeria, Antigua and Barbuda, Bangladesh, Brunei Darussalam, Central African Republic, Comoros, Congo, Denmark, Dominica, Guinea-Bissau, Islamic Republic of Iran, Mali, Mexico, Nepal, Sao Tome and Principe, Trinidad and Tobago, United Arab Emirates, Yemen, Zimbabwe.

7. For example, Brazil, Cambodia, Cyprus, Egypt, France (for maternity leave), Japan, Lesotho, Niger, Nigeria, Paraguay, Peru (within 90 days of childbirth), Senegal, Sweden and Uganda.

8. For example, Barbados, Belgium, Bulgaria (only if the enterprise is closing down), Costa Rica, Cuba, Dominican Republic, Ecuador, Finland, Ghana, Guatemala, Honduras, Lebanon, Lithuania, Mongolia, New Zealand, Nicaragua, Panama, Papua New Guinea, Singapore, Somalia, Sudan, Swaziland and the Bolivarian Republic of Venezuela.

9. See, for instance, the CEACR Direct Requests on Maternity Protection to China-Hong Kong SAR, C3, 2008. Available at NORMLEX: http://www.ilo.org/normlex [30 Mar. 2014].

10. These are Cameroon, Madagascar, Mauritania and Niger.

11. In Japan, there are even provisions that extend the right to return to former employees. There, employers must give preference in recruiting to former employees who left their jobs because of pregnancy, childcare or family responsibilities.

12. In the United Kingdom, workers have the right to return to the same job after maternity leave. After parental leave or paternity leave of four or more weeks, workers have the right to return to the same or an equivalent job.

13. See, for example, CEACR, Angola, Observation 2010; Belgium, Direct requests 2010 and 2011; Ecuador, Observation 2011.

14. The number of ratifications in this list is current as of January 2014.

15. These are Democratic Republic of the Congo, Kenya, Mauritius, Namibia, Rwanda, South Africa, the United Republic of Tanzania, Zambia and Zimbabwe.

16. Namely Fiji, India, Indonesia and Republic of Korea.

17. Brazil, Grenada, Guatemala, Guyana and Saint Lucia.

18. Australia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Canada, Croatia, Cyprus, Estonia, France, Greece, Hungary, Ireland, Italy, Kazakhstan, Malta, the Republic of Moldova, New Zealand, Serbia, Slovakia, Slovenia, Switzerland, Turkey and the United Kingdom.

19. Afghanistan, Bahrain, Jamaica, Myanmar, Nepal, United Arab Emirates and Vanuatu.

20. Afghanistan, Bahrain, Brunei Darussalam, Cameroon, Congo, Dominica, Ghana, Jamaica, Jordan, Kuwait, Madagascar, Malawi, Malaysia, Mali, Myanmar, Nepal, Seychelles, Singapore, Solomon Islands, United Arab Emirates and Vanuatu.

21. In Argentina, women may sign any type of employment contract and, as a result of collective labour agreements or official regulations, shall not be subjected to any type of discrimination in employment based on sex or marital status, although that status may change during the course of her employment relationship. In the Philippines, employers cannot discriminate against women on the basis of their sex.

22. In Norway, in addition to comprehensive prohibitions against discrimination on the basis of sex, pregnancy, nursing and a number of other grounds, further provisions may be prescribed as to which types of different treatment are permitted, including provisions regarding affirmative action in favour of men in connection with the care of children.

23. In Canada, at the federal level, discrimination on the grounds of sex is prohibited. Where the grounds of discrimination are pregnancy or childbirth, the discrimination is deemed to be on the grounds of sex. In Ontario, the legal right to equal treatment without discrimination because of sex includes the right to equal treatment without discrimination because a woman is or may become pregnant; and in Quebec the Charter of Human Rights and Freedom guarantees that every person has a right to full and equal recognition and exercise of their human rights and freedoms, without distinction, exclusion or preference based on pregnancy. In the United States, the Civil Rights Act and its amendment, the Pregnancy Discrimination Act, prohibit an employer with 15 or more employees from refusing to hire or dismissing a pregnant employee because of her pregnancy or ay pregnancy-related condition.

24. In Norway, different treatment that promotes gender equality is not a contravention of the provision that prohibits direct or indirect differential treatment based on sex. The same applies to special rights and rules regarding measures that are intended to protect women in connection with pregnancy, childbirth and breastfeeding. In Swaziland, no treatment accorded to females as provided in legislation in connection with the birth or expected birth of a child is deemed to be in contravention of the section of the Employment Act which prohibits an employer from discriminating between male and female employees by failing to pay equal pay for equal work. In the Republic of Korea, measures taken to protect the maternity of working women during their pregnancy, childbirth and child feeding are not to be considered discriminatory. Similar provisions exist in Albania and Tajikistan.

25. An implicit ban includes legislation that explicitly prohibits discrimination in access to employment based on pregnancy, maternity, family responsibilities or sex.

26. The others are: Austria, Azerbaijan, Belarus, Bulgaria, Croatia, Denmark, Fiji, Finland, Gabon, Guyana, Hungary, Italy, Kenya, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Netherlands, Peru, Russian Federation, Saint Lucia, Spain, Tajikistan, United Republic of Tanzania, The former Yugoslav Republic of Macedonia and Zimbabwe.

27. Le Défenseur des Droits and ILO. Available at: http://www.ilo.org/public/french/region/eurpro/paris/actualites/index.htm#baro7 [31 Mar. 2014].

28. See Australian Government, Fair Work Ombudsman, Discrimination. Available at: http://www.fairwork.gov.au/employment/discrimination/pages/default.aspx [31 Mar. 2014].

Health protection at the workplace

5

KEY MESSAGES

- Workplaces have to be safe for all workers, both women and men, at all stages of their life cycle. Gender-specific interventions, for pregnant and breastfeeding workers, are also needed.
- Protective measures should be strictly restricted to maternity and not based on stereotypes of women's professional abilities and roles in society.
- Workers should not be obliged to perform work that is hazardous, unhealthy or harmful to their health or that of their unborn or newborn child.
- There are statutory measures on dangerous or unhealthy work affecting pregnant or nursing women in 111 out of 160 countries with available information.
- The importance of workplace risk assessments in ensuring health protection is increasingly being recognized.
- Arrangement of working time as a means of health protection for pregnant or nursing workers is important. Several ILO member States have provisions covering night work and overtime.
- The ILO Committee of Experts has indicated that blanket bans on dangerous work as well as night work and overtime for all women, however laudable they may seem in terms of concern for health, are contrary to the principle of equality of opportunity and treatment in employment and occupation and contribute to gender-based discrimination at work.
- Time off for prenatal health care is vital for detecting and preventing complications in pregnancy and for ensuring that pregnant women know their HIV status. Yet, 116 out of 156 countries do not provide for time off for prenatal health care.
- Recommendation No. 191 suggests that protective measures should be taken when a workplace risk is established. Of the 160 countries with information, 84 provide some sort of alternative to dangerous work while 76 do not.

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

Convention No. 183, Article 3

Occupational safety and health provisions [shall] take into account the need to provide a safe and healthy environment for both men and women workers, while taking into account the differences which mean that they are exposed to specific risks in terms of health, and to ensure that they are not an obstacle to the access of women to employment and to the various occupations. [Governments should also] ensure that the measures for the protection of women are limited to what is strictly necessary to protect maternity […]

ILO CEACR, 2014)

With the adoption of Convention No. 183, the right to health protection for pregnant or nursing women was recognized for the first time in a maternity protection Convention. Workplaces have to be safe for all men and women workers, at all stages of their life cycle. ILO standards on occupational safety and health set out broad frameworks for fostering a preventative occupational safety and health culture, and extending effective protection to all workers, both women and men.[1] A broad-based and gender-responsive approach to prevention and protection recognizes that promoting reproductive health and guaranteeing safe and healthy workplaces is relevant to both men and women. In fact, some reproductive hazards can lead to reduced fertility in both women and men and also affect their ability to generate healthy children. At the same time, such an approach attaches importance to the need for gender-specific interventions, such as health protection at work for pregnant and breastfeeding workers (ILO, 2012b). Most women work throughout their pregnancy and return to work after childbirth in good health. Generally speaking, working during pregnancy is not in itself a risk, except in certain circumstances immediately before and after childbirth. Indeed, the need to rest and recuperate around the time of childbirth is an important aspect of maternity protection, primarily addressed through maternity leave. However, another important aspect of maternity protection is to ensure that workers are not exposed to working conditions, work environments or substances at the workplace that might pose particular risks during maternity.

In its 2012 General Survey on the Fundamental Conventions, the CEACR has also considered that maternity requires differential treatment if genuine equality is to be achieved. It has also highlighted the fact that the major shift that has occurred over time has developed from being a purely protective approach to the employment of women to one based on promoting genuine equality between men and women and eliminating discriminatory law and practice. The CEACR has considered that a distinction has to be made between measures protecting maternity in the strict sense and those protective measures applicable to women's employment which are based on stereotypes regarding women's professional abilities and role in society, and which violate the principle of equality of opportunity and treatment in employment and occupation (ILO, 2012d).

The first part of this section will consider legislation on the arrangement of working time as a means of health protection for pregnant or nursing women. The second part concerns the avoidance of dangerous and unhealthy work. Appendix VI provides a table of indicators by country for this chapter.

5.1 Arrangement of working time

An important issue for the health of all workers is length of working time. This is even more important during maternity. In Recommendation No. 191, this aspect is treated in relation to maternity protection. Several ILO member States have enacted provisions to protect pregnant and nursing women from the fatigue associated with night work and overtime work. Some countries also afford time off for medical examinations during pregnancy.

Night work

> *A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.*
>
> **Recommendation No. 191, Paragraph 6(4)**

The adoption of Recommendation No. 191 of 2000 reflects the change in policy in terms of the protection of pregnant or nursing women with regard to night work. In fact, contrary to its predecessors,[2] the more recent Convention respecting night work (No. 171 of 1990) no longer bans night work for women, but provides "measures of protection for all night workers including many of those aspects of special concern for women", such as "special measures of maternity protection and safety" (ILO, 2001).[3] The most current guidance on night work and maternity comes from Recommendation No. 191, which specifies that a woman should not be obliged to perform night work if it is incompatible with her pregnancy or nursing, as determined by medical certification. In this way, the current Recommendation takes into account the needs of the individual to a greater extent.

Of the 151 countries for which there were data, 49 specify no restrictions or regulations for night work in their legislation, for example in Barbados, Cambodia, Canada, Niger, Norway, the Bolivarian Republic of Venezuela and Zambia. In 20 countries, night work is not prohibited, but pregnant (and sometimes all) women are not obliged to work at night (such as in China, Ethiopia, Israel, the Russian Federation and Sri Lanka). In 81 countries, legislation does include the prohibition of night work (for example, in Austria, Guinea, Jordan, Kuwait, Mexico, Namibia, Thailand and Viet Nam). In 30 of these, especially in Africa, Asia and the Middle East, there is a general prohibition of night work for all women. For example, in Swaziland, employers may not employ any female between 10 p.m. and 6 a.m., unless they obtain a certificate from the Labour Commissioner. Exceptions are possible in cases of emergency, for persons at managerial level or in family undertakings. Similar provisions are included also in Qatar and Bolivia's labour codes, which call for women to work only during the day, and in Algeria and Libya, where all women are prohibited from working at night, with exceptions only possible with the authorization of the labour inspector.

In several cases, the ban applies only to certain economic sectors, for example industry,[4] and there may also be exceptions to the ban. In Comoros, the restrictions on night work for women do not apply to women working with material likely to deteriorate rapidly, when the work is temporary and when a case of force majeure, which could not have been predicted or prevented and is not a recurring event, obstructs the normal functioning of an industrial establishment. Similarly, in Gabon, where women in general are prohibited from night work, exceptions are made for women who work with materials that deteriorate quickly, where they work in establishments where everyone is from the same family and where work does not involve manual labour. In Guinea, women are also generally prohibited from night work; however, exceptions are made for women who occupy executive posts, posts of a technical nature and posts of a medical or social nature. Similar provisions exist in Guinea-Bissau, Kiribati, Papua New Guinea and Sri Lanka where managerial or technical posts are exempted.

In other countries, night work is prohibited specifically for pregnant and/or nursing women. In Mexico, during the periods of pregnancy and nursing, working mothers may not perform work later than 10 p.m. in industrial, commercial or services establishments. In Chile, night work is prohibited for pregnant women and, in Honduras, it is unlawful to employ a pregnant woman on a night shift that is longer than five hours. In Austria, pregnant and nursing women are prohibited from working at night. In Albania and Thailand, pregnant women are prohibited from night work. In some countries, night work is prohibited during a certain part of pregnancy and for some time after the childbirth,[5] with a possibility of extending the interdiction to other periods of the pregnancy on the basis of medical certification.[6]

In some countries, night work for pregnant and/or nursing women is prohibited only if there is a risk to the health of the woman or the child. In Paraguay, a pregnant woman may not undertake night work in industrial, commercial or service establishments after 10 p.m. if there is a risk to the health of the woman or the unborn child. Similar restrictions exist in Indonesia, Luxembourg, Spain and the United Kingdom.

The legislation in other countries resembles the guidelines suggested in Recommendation No. 191 in that it does not compel pregnant or nursing women to work at night. In Estonia, pregnant women shall not be required to undertake work between 10 p.m. and 6 a.m. Similar provisions also exist in Lesotho. In France, pregnant women or new mothers can request reassignment to daytime work. In Lithuania, pregnant and nursing mothers may work at night only with their consent. In Japan, mothers can request exemption from night work. High levels of compliance in Developed Economies are due to the requirements on night work of the EU Directive on pregnant workers, which are similar to the provisions in Recommendation No. 191. According to the Directive, pregnant women and women who have recently given birth or who are breastfeeding should not be obliged to perform night work during pregnancy and for a period following childbirth, on production of a medical certificate stating that this is necessary for the safety or health of the worker concerned. It should instead be possible for them to transfer to daytime work or, where such a transfer is not feasible, take leave from work or extend the maternity leave (European Economic Community, 1992, Article 7(1)–(2)).

The ILO Committee of Experts, under Conventions No. 111 and No. 171 has been repeatedly drawing ratifying countries' attention to the importance of reviewing the provisions prohibiting night work for all women, which constitute obstacles to the recruitment and employment of women and are contrary to the principle of equality of opportunity and treatment of men and women in employment and occupation. As discussed, protective measures for women should be limited to the protection of maternity in the strict sense and not based on stereotyped perceptions of the capacity and role of women in society (ILO CEACR, 2014).

Overtime

As mentioned above, while Recommendation No. 95 required the prohibition of overtime for pregnant and nursing women, there is no provision in Recommendation No. 191 concerning overtime. However, the Workers with Family Responsibilities Convention, 1981, states that, among the measures to enable workers with family responsibilities to reconcile these with their employment, particular attention should be paid to general measures for improving working conditions and the quality of working life, including measures aimed at the progressive reduction of daily hours of work and the reduction of overtime (Paragraph 17; 18(a)).

Some countries forbid overtime work for pregnant women (including Belgium, Chile, Equatorial Guinea, Mexico and Panama),[7] while others provide that pregnant women shall not be required to work overtime (as in Cuba, Estonia and Japan).[8] Sometimes the restriction also applies to nursing mothers,[9] to mothers with children under a certain age[10] or to overtime work that involves a risk to the health of the woman. In Paraguay, a pregnant or nursing woman shall not undertake overtime if there is a risk to the health of the woman or the unborn child. Several countries, however, still restrict overtime for all women, which is detrimental to gender equality at work. In Libya, only women are prohibited from working more than 48 hours per week. In Mauritania, it is forbidden for women to work for more than ten hours in industrial and commercial establishments. In its comments under Convention No. 156, the CEACR has also called for ratifying countries to ensure that both men and women workers with family responsibilities can enjoy special working time arrangements, including limitation of overtime.

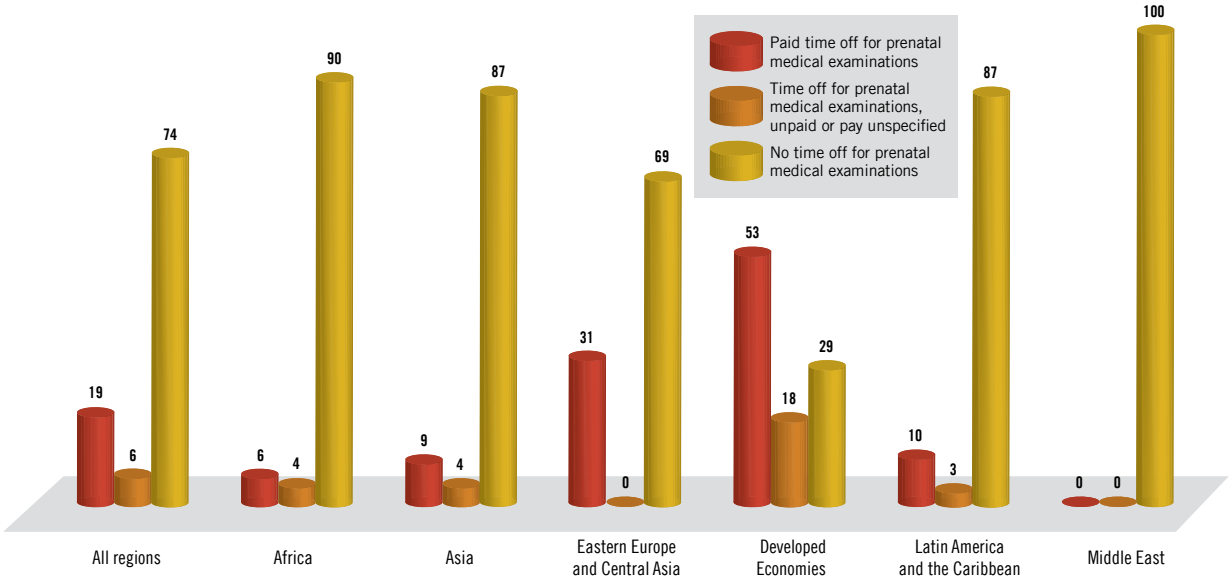
Time off for medical examinations

> *A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical examinations relating to her pregnancy.*
>
> **Recommendation No. 191, Paragraph 6(6)**

Regular prenatal health monitoring is an effective means of preventing abnormalities or complications during pregnancy, at birth and postpartum (ILO, 1994; Paul, 2004). Many health problems in pregnant women can be prevented, detected and treated during antenatal care visits with trained health workers. The World Health Organization (WHO) recommends a minimum of four antenatal visits, comprising interventions such as tetanus toxoid vaccination, screening and treatment for infections, and identification of warning signs during pregnancy (WHO, GHO, n.d.). Since in the most-affected sub-Saharan countries, AIDS-related illnesses are the leading cause of maternal mortality, it is important that pregnant women know their HIV status in order to benefit from prevention, treatment, counselling, care and support to minimize the risk of mother-to-child transmission (ILO, 2012b, Module 10). Globally, during the period 2000–2008, fewer than half of pregnant women received the recommended minimum four visits, although 78 per cent had at least one visit. In low-income countries, only 39 per cent of pregnant women received four or more antenatal visits. In particular, women in low-income rural areas of Africa, Asia and Latin America are less likely to have access to antenatal care than women in urban areas (WHO, GHO).

Both formal and informal workplaces can play a key role in facilitating women's access to antenatal health care, by recognizing its importance for maternal and child health well as families' economic stability (Lewis et al., forthcoming). However, of the 156 countries for which information was available, 116 (74 per cent) do not provide for time off work for prenatal health care (see figure 5.1). This type of leave is particularly uncommon in Africa, Asia and Latin America and it is not provided for in the legislation of any of the countries

Figure 5.1 Time off for prenatal medical examinations, 2013 (156 countries) (%)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [31 Mar. 2014].

in the Middle East. As discussed in Chapter 2, in a few countries in these regions, such as Argentina, Brazil, Bangladesh, India and Indonesia, however, cash transfers can be paid to low-income pregnant women, contingent on completion of prenatal visits.

A total of 40 countries (25 per cent) do, however, provide this right. Of these, 30 specify that this leave is remunerated, while, nine provide for time off without specifying whether the leave must be paid. New Zealand is the only country that specifies that leave is to be granted (ten days) but it will be unpaid. In Africa, paid time off for medical appointments is provided by three countries (Eritrea, Ethiopia and Guinea-Bissau), in Asia, by two (Republic of Korea and Viet Nam); in Eastern Europe and Central Asia, by four (Armenia, Azerbaijan, Russian Federation and Turkey); in Latin America and the Caribbean, by three (Cuba, Nicaragua and Trinidad and Tobago); while no countries in the Middle East provide paid time off. In the Developed Economies, 18 countries (53 per cent) out of the 34 for which information is available provide paid time off for medical examinations.

In Viet Nam, pregnant women are entitled to five days of paid leave for prenatal visits. In Cuba, for example, during her pregnancy and for up to 34 weeks before childbirth, a woman worker is entitled to six days or 12 half days of paid leave to receive medical and dental treatment. During the child's first year, a woman worker is entitled to one day of paid leave every month to attend a paediatric clinic. Similar provisions also exist in Estonia and Japan. In Brazil, pregnant women can take time off for six medical consultations. In Israel, pregnant women are entitled to 40 hours of time off for medical examinations. Paid leave for medical examinations is also available to pregnant women in, among other countries, Denmark, Germany, Ireland, Malta and the Netherlands.

In some countries, time off is only granted if the prenatal examinations cannot take place outside working hours (e.g., Austria, Belgium, Bulgaria, Finland, Norway, Slovakia and Spain). This provision is stipulated in the EU Directive on pregnant workers. According to the Directive (Article 9), EU Member States must take the necessary steps to ensure that pregnant workers are entitled to time off, without loss of pay, in order to attend ante-natal examinations, if such examinations have to take place during working hours (EEC, 1992).

The provision of behaviour-changing measures to encourage men's involvement throughout all the stages of maternity, including the prenatal, childbirth and postnatal periods, as well as in all matters involving reproductive and sexual health, is essential for a fulfilling parenthood, children's well-being and gender equality at work and in the home. Health policies,

along with labour laws and workplace measures, play a key role in supporting both mothers and fathers as parents with a shared interest in the health and well-being of their children. For instance, in Chile, following a public-health reform aimed at promoting breastfeeding and the increased attendance of fathers during childbirth, the share of women reporting the presence of a birth partner grew from 20.5 per cent in 2001 to 71 per cent in 2008 (the partner almost always being the father) (UN, 2011). Paid time off for fathers to attend antenatal health-care appointments is also emerging. In France, the 2014 law on equality between women and men affords partners of a pregnant woman leave of absence to attend three medical examinations.

5.2 Dangerous or unhealthy work

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

Convention No. 183, Article 3

[The ILO Committee of Experts] considers that protective measures applicable to women's employment which are based on stereotypes regarding women's professional abilities and role in society, violate the principle of equality of opportunity and treatment between men and women in employment and occupation. Provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health.

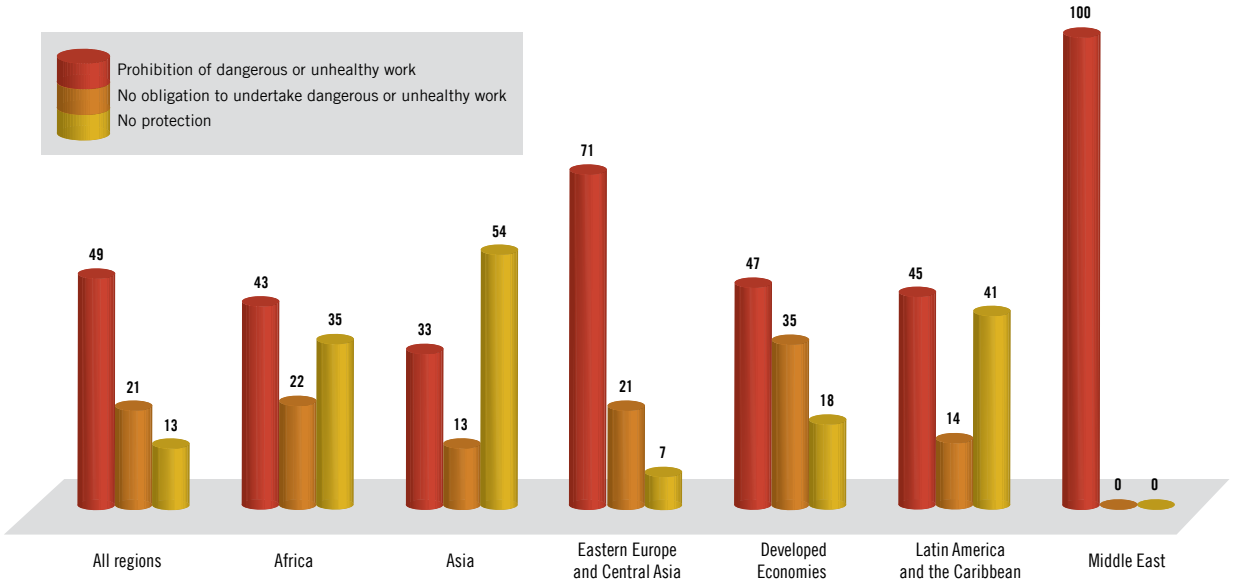
General Survey on the fundamental Conventions concerning rights at work, 2012, Paragraph 840

While the earlier maternity protection Recommendation called for a complete prohibition of employment of a woman on work prejudicial to her health or that of her child during pregnancy and up to at least three months after childbirth, Convention No. 183 sets out the right of pregnant or nursing women not to be obliged to perform work that is hazardous, unhealthy or harmful to their health or the health of their unborn or newborn child. In addition, with respect to this work, Recommendation No. 191 moves towards a position adapted to the needs of the individual by requiring an assessment of workplace risks for the safety and health of pregnant or nursing women and their children (see Paul, 2004, for guidance on risk assessment). If a significant workplace risk is established, protective measures should be taken (see below). The Convention also highlights the key consultative role of workers' and employers' organizations, which are consulted regarding the introduction of legislative, collective bargaining agreements and company-level measures concerning the protection of health in the context of pregnancy, childbirth and nursing.

More than two-thirds of countries (111) have statutory measures on dangerous or unhealthy work which can affect pregnant or nursing women. Of 160 countries for which information was available, 78 (49 per cent) set out explicit prohibitions against such work. For example, Albania's Labour Code sets out the principle that pregnant or breastfeeding women may not be employed to carry out difficult or hazardous jobs, which jeopardize the health of the mother and child. In Equatorial Guinea, pregnant workers cannot perform overtime work, nor perform inappropriate tasks or tasks harmful to their state, while, in Japan, an employer cannot assign a pregnant women or women within 1 year after childbirth to any work injurious to pregnancy, childbirth, nursing and related matters. Under the Labour Code in Iraq, it is forbidden to employ women in arduous work or work which is harmful to their health.[11]

In line with Convention No. 183, another 33 countries (21 per cent), such as Burundi, Madagascar, India and Japan, established the principle that a worker is not obliged to perform dangerous or unhealthy work. In Chile, the labour law enshrines the principle that pregnant workers cannot be obliged to perform any dangerous work and must be transferred to another type of work.[12] In 49 countries (31 per cent), however, no protection exists against performing hazardous work while pregnant or nursing (see figure 5.2), including in Bosnia and Herzegovina, Brazil, Cambodia, Cape Verde, Denmark, Guatemala, Kenya, Myanmar and Romania.

Figure 5.2 Statutory provisions on dangerous or unhealthy work, 2013 (160 countries) (%)



Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [31 Mar. 2014].

Among the 78 countries with provisions forbidding hazardous work, around half (40) impose blanket prohibitions against employing all women in certain types of positions classified as dangerous out of concern for women's reproductive health or more general safety and health concerns. On the surface this may seem laudable; however, it may contribute to gender-based employment discrimination, ignoring working conditions that may pose dangers to male workers and failing to make them safe for all workers and/or denying women equal opportunity to access certain types of jobs. Examples of blanket prohibitions can be found in Costa Rica, for example, where, while women are not permitted to carry out work that is unhealthy, heavy or dangerous, no risk assessments are called for. In Burkina Faso, all women (but not men) are prohibited from work that is likely to affect reproductive functions as determined by law in line with the views of the advisory Work Commission. Examples of blanket provisions prohibiting women's employment exist in Colombia (where women may not work in mines, undertake dangerous or unhealthy work or take jobs with exposure to certain chemical radioactive or ionizing substances), Guinea (where women may not work in underground mines) and Tajikistan (where all women are prohibited from undertaking underground work, heavy work and work in harmful conditions).

According to Recommendation No. 191, measures should be taken specifically in respect of the following risks:

> *(a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;*
> *(b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;*
> *(c) work requiring special equilibrium;*
> *(d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.*
>
> **Recommendation No. 191, Paragraph 6(3)**

With regard to arduous work, such as manual lifting, or carrying, pushing or pulling loads, many countries specify that this is prohibited for all women workers,[13] for pregnant women[14] or during the latter part of pregnancy.[15] In other cases, prohibition continues for a period following the resumption of work after birth, especially if the mother is nursing.[16]

Many countries provide protection from work involving exposure to biological, chemical or physical agents.[17] Countries vary in the types of agents to which they limit exposure and the individuals they protect. In Sweden, pregnant mothers are to be protected from exposure to lead. In Viet Nam, all women are to be

protected from work with radiation, high temperatures, magnetic voltage and a number of other substances that might affect reproduction. In Burkina Faso, all women are also prohibited from working in workplaces that are engaged in, among other processes, manufacture of paint or painting with a base of white lead, work in places where flesh, remains and waste from slaughtered animals are stored, manufacture of alkaline chlorides, or treatment of fruit against insects with nitrogen trichloride or with acetylene or ethylene.

The scope of protection related to radiation also varies significantly from country to country. In this case, the legislation often provides protection for women of childbearing age as well as increased protection for pregnant women or nursing mothers.[18]

Where work involving a particular capacity to maintain physical balance is concerned, protection for pregnant women is specifically provided in a small number of countries in the database. In Colombia, pregnant women may not do any work that requires a marked ability to maintain equilibrium, such as working up ladders or handling heavy machinery, or work that involves dangerous procedures. Austria and Croatia have similar restrictions on work involving heights or scaffolding for pregnant women and/or nursing mothers. In Thailand, this is prohibited for all women.

Some countries provide protection with regard to work involving physical strain due to prolonged periods of sitting or standing, extreme temperatures or vibration. For these risks, the provisions of the countries analysed cover pregnant workers.[19]

In the European Union, the protection from dangerous and unhealthy work for pregnant and breastfeeding workers provided by the Directive on pregnant workers is very detailed. In most respects, it requires the same protective procedures as the ILO's current standards on maternity protection.[20]

Workplace risk assessment

Risk assessments are a primary means of determining whether or not work poses health risks to a worker. A comprehensive review of legislation to determine requirements of risk assessment in relation to pregnancy and maternity was not possible; however, examples of legislation establishing mandatory risk assessments were found in at least 25 countries.[21] In South Africa, for example, there is a legal requirement for employers to conduct risk assessments in relation to the work of pregnant and nursing employees; the employer must undertake this evaluation upon notification by the employee that she is pregnant, and the assessment must be kept under regular review.[22] In the Russian Federation, employers are required to create safe, medically approved working conditions for all women.

> *Members should take measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. The results of the assessment should be made available to the woman concerned.*
>
> **Recommendation No. 191, Paragraph 6(1)**

Another seven countries had legislation that offered the possibility of risk assessments and/or the option for a woman to request the labour inspectorate to undertake an assessment. For example, in Mauritania, a pregnant woman, like other women workers, may request that the labour inspector order an examination by an approved medical practitioner in order to ascertain that the work which is given to her is not beyond her strength. In Benin, the labour inspectorate may require a risk assessment for female workers or minors, or an "interested person" may request one.[23]

Social partners are essential in the development, effective implementation and evaluation of workplace risk assessments, which represent an important entry point to further maternity protection at the workplace. Alongside risk assessments, information and awareness-raising at the workplace are important to prevent and tackle hazardous and unhealthy work or any occupational health and safety (OSH) risks. In the Netherlands, 2012 amendments to a Working Conditions Decree require the employer to provide effective information on work-related risks during pregnancy and breastfeeding periods within two weeks from the date the employer is notified of the worker's pregnancy. Internet resources and toolkits were also developed concerning occupational health risks for pregnant women and also containing communication plans for family doctors, midwives and gynaecologists (ILO CEACR, 2014).

Protective measures related to maternity

> *In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of:*
> *(a) elimination of risk;*
> *(b) an adaptation of her conditions of work;*
> *(c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or*
> *(d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.*
>
> **Recommendation No. 191, Paragraph 6(2)**

Recommendation No. 191 suggests that protective measures should be taken when work involves risks and an alternative to the work should be provided. These measures are strictly related to maternity and therefore are not to be considered discriminatory under Convention No. 111 (Article 5.1). Many of the countries analysed provide for measures designed to protect pregnant or nursing women from workplace risks. Such measures typically include a modification of the tasks involved to make them safer and more suitable for the woman's needs, a temporary transfer to a safer position or, in the absence of other possibilities, placing a worker on temporary leave. Of the 160 countries with information, 84 provide some sort of alternative while 76 provide no alternative. Iceland, for example, calls for the adaptation of working conditions. If the safety and health of a pregnant woman, a woman who has recently given birth or a woman who is breastfeeding is considered to be at risk, according to a special assessment, her employer must make the necessary arrangements to ensure the woman's safety by temporarily changing her conditions and/or working hours or, if adaptation is not possible, transferring her to another post or placing her on temporary paid leave. In France, employers must assess any risks in the workplace that might influence workers' safety or health and define measures to be taken. For pregnant and breastfeeding women, the occupational health practitioner's medical supervision is reinforced. If a pregnant or new mother is exposed to risk, her employer may adapt the post or transfer her temporarily to a safer position without any loss in wages, or the employer may provide paid leave.

In Ethiopia and the Islamic Republic of Iran, a pregnant woman shall be transferred to another place of work if her job is dangerous to her health or pregnancy. The labour code of the Islamic Republic of Iran explicitly outlines the measures to be taken, stating that if the physician of the Social Security Organization considers the work of a pregnant woman to be dangerous or arduous, she must be provided with a more suitable and easier job until childbirth, without loss of income. In Afghanistan, women are to be assigned to lighter work during the course of their pregnancy, while keeping the wages applicable to their main job. In Bulgaria, the employer must take the necessary measures for temporary adjustment of the work conditions and/or the working time with a view to abolishing the security and health risk for pregnant women and nursing mothers. This provision comes with the right to monetary compensation for the difference in remuneration between the two jobs. Similarly, in Brazil, if the performance of her job could pose a risk to her health, a pregnant worker shall be transferred to a suitable alternative job and be reinstated in her regular job as soon as medically practicable.

Transfer to a safer position is a typical measure called for when the work involves a significant risk to the pregnant or nursing woman or to her child.[24] Some countries specify that such a transfer should not entail loss in benefits or pay. This is the case, for example, in Belarus, Bolivia, Bosnia and Herzegovina, Burkina Faso, Chile, Gabon, the Islamic Republic of Iran, Italy, Seychelles, South Africa, Uzbekistan and Viet Nam. In Lao People's Democratic Republic, an employee who is transferred for these reasons is entitled to her former pay for three months, after which she is paid at the level of the new position.

Some countries provide the right to extra leave if other alternatives, such as an adaptation of working conditions or a transfer, are not feasible.[25] In Estonia and Slovakia, for example, pregnant women have the right to request a temporary alleviation of working conditions or a temporary transfer to another position, based on a doctor's certificate. Any difference in wages between these two posts is compensated by social security. In Luxembourg, women who must take extra

leave because there are no alternative jobs available are entitled to fully paid leave, financed by social security. This is a preferable solution, as the employer is not solely liable for the costs of the transfer.

In other countries, leave is paid at less than the usual salary if there is no suitable alternative job for a pregnant or nursing woman. In Portugal, workers are compensated at 100 per cent of their pay if they must take leave for the duration of the risk (according to medical certification) because there is no alternative job for them. In a small number of countries, including Guinea and Seychelles, workers may take sick leave when there is no alternative job available. In the Dominican Republic and the United States, any such leave is unpaid.

> *The woman should retain the right to return to her job or an equivalent job as soon as it is safe for her to do so.*
>
> **Recommendation No. 191, Paragraph 6(5)**

Where the woman's right to return to the same or an equivalent job when it is safe for her to do so is concerned, information is available in only a small fraction of countries. In Canada, an employee who was required to take a leave of absence is entitled to be reinstated in the position they held before the leave of absence began, and the employer is required to reinstate the employee in that position. [26]

Notes

1. Key ILO instruments on occupational safety and health include: The Occupational Safety and Health Convention, 1981 (No. 155) and its Protocol of 2002. The Convention provides for the adoption, implementation and periodical review of a coherent national occupational safety and health policy, as well as tripartite action to promote occupational safety and health and to improve working conditions. The Protocol calls for the establishment and the periodic review of requirements and procedures for the recording and notification of occupational accidents and diseases, and for the publication of related annual statistics. The Occupational Health Services Convention, 1985 (No. 161) provides for the establishment of enterprise-level occupational health services which are entrusted with essentially preventative functions and which are responsible for advising the employer, the workers and their representatives in the enterprise on maintaining a safe and healthy working environment. The Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) aims to promote a preventative safety and health culture and to work to achieve a safe and healthy working environment. It requires ratifying States to continuously improve their occupational safety and health system and to develop a national policy, system and programme on occupational safety and health. See ILO, 2012b, Module 8 Health protection at the workplace.

2. The earlier Recommendation (No. 95 of 1952) stated that night work and overtime should be prohibited for pregnant and nursing women, in line with the Night Work (Women) Convention (Revised), 1948 (No. 89), which stated that women shall not be employed during the night in industrial undertakings. A Protocol was adopted in 1990 to "ease prohibitions where some form of restriction aimed only at women was considered to be still valid" (ILO, 2001, p. 21), thus introducing greater flexibility into Convention No. 89. However, the variations and exemptions permitted according to the Protocol are not allowed for women workers during a period before and after childbirth.

3. The CEACR has noted in its General Survey of 2001 on night work of women in industry, "the question of devising measures that aim at protecting women generally because of their gender (as distinct from those aimed at protecting women's reproductive and infant nursing roles) has always been and continues to be controversial" (paragraph 186). In reviewing protective measures against changes in societal views and in technological and scientific knowledge, it is widely recognized that night work has harmful effects for men and women alike and regulatory frameworks should provide protection for all (paragraph 195), while still recognizing the need for special protection for women under particular circumstances (paragraph 200), including during maternity and breastfeeding in view of research that night work can increase the risks of spontaneous abortion, pre-term births and low birth weight and can exert long-term negative effects on family life (ILO, 2001).

4. This is the case in Colombia. In Austria, at the employer's request, the Labour Inspectorate may, in individual cases, grant permission to employ pregnant employees and employees who are breastfeeding in the hotel and restaurant industry until 10 p.m. and in music performances, theatre performances, public shows, amusements, festivities and in cinemas until 11 p.m. In Belize the prohibition does not apply to women holding responsible positions of a managerial or technical character, women employed in health and welfare services who are not ordinarily engaged in manual work, industrial undertakings in which only members of the same family are employed, and in a case where the work has to do with raw materials which are subject to rapid deterioration. In Cameroon, exceptions are made for women whose work consists of management duties or those who work in services not involving manual labour. In Egypt, the prohibition does not apply to women who occupy administrative, supervisory or technical positions.

5. In Nicaragua, women who are more than six months pregnant may not undertake night work. In Viet Nam, a female employee who is seven months pregnant or who is nursing a child under the age of 12 months may not work at night. In Malta, night work is prohibited beginning eight weeks before an expected birth. In Seychelles, a female worker may not

be employed between the hours of 10 p.m. and 5 a.m. from her sixth month of pregnancy and up to three months after childbirth. In Azerbaijan, Belarus and Hungary, night work is prohibited during pregnancy and until a child is 3 years old (in Hungary, single fathers are also covered by this protection).

6. In Belgium, night work between 10 p.m. and 6 a.m. is prohibited for pregnant women during the eight weeks before the expected date of birth and, on the basis of a medical certificate, at any other time up to four weeks immediately after the end of maternity leave. In Tunisia, women should not work between 10 p.m. and 6 a.m. for a period of at least 16 weeks before and after childbirth. This prohibition also applies during other periods of pregnancy and after childbirth on production of a medical certificate. The chief labour inspector may authorize night work, after medical advice, if the woman so requests in writing and provided that her health and that of her child are not endangered.

7. In the Republic of Korea, overtime is prohibited for pregnant women and limited to two hours per day or six hours per week for new mothers with children under the age of 1. In Afghanistan, overtime is prohibited for pregnant women and women with children under the age of 2. In addition, pregnant women's hours must be reduced to 35 per week.

8. In Tajikistan, pregnant women, and both women and single fathers with children under the age of 3 shall not work overtime or on weekends or holidays or be sent on business trips. Those with children between the ages of 3 and 14 can only work overtime or be sent on business trips with their consent.

9. In Viet Nam, a female employee may not work overtime from her seventh month of pregnancy or if she is nursing a child under the age of 12 months. Nursing mothers (as well as pregnant women) are also prohibited from working overtime in Austria and Mexico.

10. In Mongolia, pregnant women, women with children under 8 years of age, and single fathers with children under 16 years of age may only work overtime or go on business trips (or work at night) with the worker's consent. In Tajikistan, pregnant women, and both women and single fathers with children under the age of 3 shall not work overtime or on weekends or holidays or be sent on business trips. Those with children between the ages of 3 and 14 can only work overtime or be sent on business trips with their consent.

11. Other countries with explicit prohibitions include Albania, Barbados, Belgium, Comoros, Ecuador, the Republic of Korea, Malta, Mexico, Morocco, Panama, Qatar, Sri Lanka, Switzerland and Viet Nam.

12. Other countries with provisions to ensure that women are under no obligation to undertake dangerous work include Belarus, China, Dominican Republic, Gabon, Portugal, Sao Tome and Principe and the United Kingdom.

13. In Mongolia, women are prohibited from lifting and carrying weights heavier than those approved by government regulations. In Afghanistan, women and youths may not be employed in work that is physically arduous. Provisions protecting women from arduous work also exist in Croatia, Libya and Tajikistan.

14. These countries include Bolivia, Colombia, El Salvador, Honduras, Mexico, Russian Federation and Thailand.

15. In Viet Nam, a female employee performing strenuous work must be transferred to lighter work with no reduction in pay from her seventh month of pregnancy. In Mauritius, a woman working in the salt manufacturing industry is not required to lift or carry baskets of salt from her seventh month of pregnancy. There are also restrictions on arduous work for pregnant women in Paraguay (three months prior to the expected date of childbirth).

16. In Niger, pregnant women and women who have returned to work after birth within the previous three weeks, may not carry, push or pull any load whatsoever. There are restrictions on arduous work for pregnant women and nursing or new mothers in Albania, Austria, Azerbaijan (until the child is 3 years old), Belgium, Central African Republic, Germany, Guinea, Ireland (until the child is ten weeks old), Italy (until the child is 7 months old), Madagascar and Senegal.

17. In Belgium, pregnant women and nursing mothers may not be exposed to chemical agents, such as lead and mercury, or to biological hazards, such as certain bacteria and viruses. In addition, they may not work in jobs in which they may be exposed to ionizing radiations. Other countries that protect pregnant women and/or nursing mothers from biological, chemical and physical agents include Austria, Denmark, France, Ireland, Malta and Slovakia.

18. In Mexico, limits are set on the levels of radiation to which women of childbearing age, pregnant women and nursing mothers may be exposed. In addition, pregnant women shall not perform work involving the handling, transport or storage of teratogenic or mutagenic substances, or where xylene or benzene are used. Limits are set on the level of radiation to which women of child-bearing age, pregnant women and nursing mothers may be exposed. Tunisia, also, has lower limits for pregnant women's exposure to radiation than for other workers. General protections from radiation for pregnant women and/or nursing mothers are also present in Ireland, Israel (pregnant women only), Slovakia, Spain and Russian Federation (pregnant women only).

19. In Mexico, pregnant women may not perform work involving abnormal atmospheric pressure or work in conditions in which the environmental temperature is altered, undertake work producing vibration, or work involving standing for long periods. In Belgium, pregnant women may not be exposed to temperatures higher than 30°C. The following countries also restrict pregnant women's ability to work in jobs involving physical strain: Chile, France, Germany, Israel, Lao People's Democratic Republic (until six months after childbirth), Latvia, Mauritius, Paraguay (beginning three months before the expected date of childbirth), Romania and Thailand.

20. For detailed information on the provisions of the Directive, see European Economic Community, 1992, Articles 4–6.

21. These are Albania, Austria, Belgium, Bulgaria, Canada, Chile, Czech Republic, Denmark, Estonia, France, Germany, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Peru, Portugal, Romania, Russian Federation, South Africa, Spain, Switzerland and the United Kingdom.

22. Additionally, in Belgium, in order to establish the necessary measures to protect an employee, the employer, in collaboration with an occupational health physician and the public authority of security and hygiene, must assess the nature, degree and duration of risk factors arising from conditions of work and their incidence in pregnant or nursing women workers. Similar assessments are also required in Denmark, France and Hungary.

23. In Cameroon, Côte d'Ivoire and Congo, similar provisions provide that women can request an inspector to assess whether the work is suitable.

24. In the Dominican Republic, where, as a result of pregnancy or childbirth, the work performed by a woman is harmful to her health or that of her child and a medical practitioner certifies this fact, the employer must provide alternative work. In Algeria, pregnant workers who occupy a post involving exposure to ionizing radiation should be transferred to a different job. Similar provisions to remove pregnant and breastfeeding women from dangerous or unhealthy work exist in Belgium, Cuba, Finland, Iceland, Mongolia, Nicaragua and Thailand.

25. These include Australia, Austria, Bosnia and Herzegovina, Canada, Croatia, Dominican Republic, Ethiopia, Finland, Gabon, Guinea, Haiti, Hungary, Italy, Lithuania, Luxembourg, Republic of Moldova, Netherlands, Seychelles, Slovakia, Slovenia, Sweden, Tajikistan, Turkey, Turkmenistan, the United Kingdom, the United States, Uruguay, Uzbekistan and Viet Nam. In Israel, paid leave is available if this type of leave lasts more than 30 days.

26. In Belgium, the worker must be reinstated in her previous job, under the same conditions as before, as soon as the reason for the prohibition, the reduction of hours of work or the transfer to other duties has ended. In Iceland, the job change is also temporary.

Contents

Breastfeeding arrangements at work and childcare

6

KEY MESSAGES

- Breastfeeding contributes to the health of both mother and child and is particularly important in circumstances where unsafe water can pose a risk to the baby.
- Supporting breastfeeding at work is an integral part of the set of maternity protection measures and international labour standards set out rights and guidance for assisting mothers to continue breastfeeding on their return to work.
- Provision is made in at least 121 countries for breaks or a reduction in daily working hours for nursing mothers. When provided, nursing breaks are largely paid (114 countries).
- Globally, the share of countries lacking statutory provision of nursing breaks in 1994 decreased from 32 to 24 per cent in 2013.
- Almost two-thirds (75) of the countries with provisions allow for a duration of the entitlement to nursing breaks of between six and 23 months.
- Recommendation No. 191 suggests the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace. Only 31 per cent of 159 countries had relevant national legislation.
- Often statutory provisions on nursing or childcare facilities apply if the company employs a minimum number of women and usually they assign the entire cost of provision to the employer, both factors creating potential disincentives to hiring workers with family responsibilities.
- Workplace initiatives alone are not enough: public policies are needed, specifically aimed at improving the availability, quality and affordability of childcare facilities and other work–family measures.
- Evidence shows that childcare plays a key role in enabling parents, especially women, to engage in paid formal work after childbirth.
- Effective work–family measures also result in positive firm-level outcomes, including better performance and commitment, lower rates of absenteeism, higher levels of retention, skills preservation and healthier parents. However, important gaps remain.

Since the first Convention on maternity protection (No. 3), nursing breaks for breastfeeding mothers during working hours have formed part of the international standards on maternity protection. However, the provisions differ. Convention No. 3 stated that a nursing mother should be allowed two 30–minute breaks a day during her working hours for this purpose, while both Convention No. 103 and Convention No. 183 leave it to national laws and regulations to decide the number and duration of nursing breaks, provided that at least one break is provided. Convention No. 183 also introduced the possibility of converting daily breaks into a daily reduction of hours of work.

The World Health Organization recommends exclusive breastfeeding for babies until the age of six months and continued breastfeeding, with appropriate complementary foods, for children of up to 2 years of age or

beyond (World Health Assembly Resolution 55.15). Breastfeeding contributes to the health of both mother and child and is particularly important in circumstances where unsafe water can pose a risk to the baby. Exclusive breastfeeding from birth is possible except in the case of a small number of medical conditions, and unrestricted exclusive breastfeeding results in ample milk production. Exclusive breastfeeding is also a suitable option for many mothers living with HIV, especially in conjunction with antiretroviral treatment (WHO, 2012).

After childbirth, many women face the risk of poverty as a result of losing their job and its income. Many cannot afford to take time away from work to continue nursing or caring for their infants and young children. Without workplace support, working is incompatible with breastfeeding. This is because breast milk production operates on supply and demand; if a woman does not have breaks to either breastfeed or express milk, her supply will diminish and she may no longer be able to produce enough milk for her baby. Indeed, throughout the world, returning to work is a major factor in women's decisions to quit or to reduce breastfeeding (Fein and Roe, 1998; Kearney and Cronenwett, 1991; Mandal et al., 2010; Ogbuanu et al., 2011), raising the risks of food- and water-borne illnesses and diarrhoea and reducing the nutritional and developmental benefits of breastfeeding.[1]

The international labour standards recognize that supporting breastfeeding is an integral part of the set of maternity protection measures and set out rights and guidance for assisting mothers to continue breastfeeding on their return to work. Breastfeeding promotes child survival, health and development (see, for example, WHO, 2009; Anderson et al., 1999) as well as providing significant health benefits for mothers (see for example, Demer, 2001).[2] Breastfeeding support at work provides one element of maternity protection which can be a "win–win scenario" for both employers and employees, providing no or low cost a measure which can result in considerable benefits to both companies and society as a whole, as well as extensive savings for health-care systems. Nevertheless, the benefits that employers gain from supporting breastfeeding employees remain underexplored and there is strong evidence for the persisting barriers that impede the continuation of (particularly exclusive) breastfeeding upon return to paid employment (Lewis et al., forthcoming). The workplace and its actors can therefore make an important contribution in enabling mothers to continue breastfeeding on their return to work, including by informing employers and employees of the health benefits of breastfeeding for mothers and their infants as well as the positive outcomes at firm level.

This chapter presents the status and trends of national legislation and practice on nursing arrangements at work. The minimum standards set by the ILO call for breastfeeding breaks to be established and used. Setting up breastfeeding facilities constitutes a further step in the right direction. Appendix VII presents a table of indicators by country for this chapter.

6.1 Nursing breaks

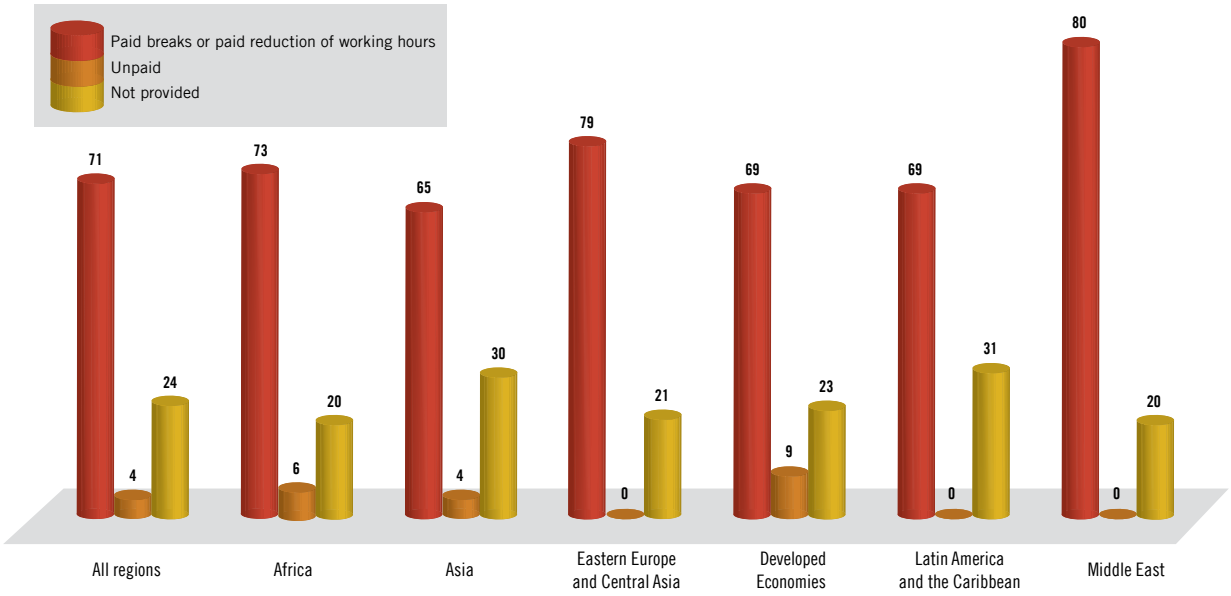
Provision and remuneration

> *A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.* […] *These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.*
>
> **Convention No. 183, Article 10(1)(2)**

Legislation in at least 121 countries (75 per cent) of the 160 with available data provides for paid or unpaid daily breaks or a daily reduction of hours of work for nursing workers, in addition to any other regular workplace breaks (see figure 6.1). This trend is observed consistently in all the regions, confirming the value that national legislation places on supporting this important stage of maternity in the workplace. In fact, in Africa, 39 countries (79 per cent) out of 49 provided breaks;[3] 16 countries (69 per cent) out of the 23 Asian countries[4] and 11 (79 per cent) out of 14 Eastern European and Central Asian countries, granted this entitlement to nursing workers.[5] Twenty-seven countries (78 per cent) of the 35 Developed Economies,[6] 20 (69 per cent) out of the 29 Latin American and Caribbean countries[7] and eight out of ten Middle Eastern countries[8] provided breaks.

However, in 39 of the countries analysed (24 per cent), national legislation contains no provisions on breastfeeding breaks. Two-thirds of this total (26 countries)

Figure 6.1 Statutory provision of nursing breaks, 2013 (160 countries) (%)



Note: Figures may not add up to 100 per cent due to rounding.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [1 Apr. 2014].

are found in African, Asian and Caribbean countries, including Algeria, Bangladesh, Dominica, Jamaica, Kenya, Malaysia, Namibia, Pakistan and Trinidad and Tobago. In eight of the Developed Economies, the statutory right to nursing breaks also is lacking, such as in Australia, Canada and Malta, although this entitlement could be provided through CBAs, as is the case in Greece, Denmark and Iceland. No statutory provision for breastfeeding breaks is made in Lebanon and Qatar in the Middle East, or in Albania, Republic of Moldova and Serbia among the Eastern European and Central Asian countries. In its 2013 report on Convention No. 183, the Government of Serbia explained the lack of nursing breaks by the fact that employees are entitled to parental leave of up to two years. Since this prevents women who wish to return to work before the end of non-compulsory leave to continue breastfeeding their child, the CEACR exhorted the Government to introduce the required paid daily breaks in order to ensure compliance with Convention No. 183 (CEACR, Direct Request, C183, Serbia).

Both Conventions Nos. 103 and 183 stipulate that interruptions of work for the purpose of nursing are to be counted as working time and remunerated accordingly. This is the case in 114 countries analysed (71 per cent of the total or 97 per cent of those offering this right), with the exceptions being Benin, Guinea, Niger, Indonesia, New Zealand, Norway and the United States. Even in one of the three countries in which maternity leave is unpaid, Papua New Guinea, breastfeeding breaks are nevertheless paid as normal working time. In New Zealand, the law establishes that breastfeeding breaks will only be paid if agreed between the parties. In Norway, until recently, only women working in the public sector or under collective agreements were entitled to paid nursing breaks, but the Government recently announced plans to extend paid breaks to private sector employees as well (*The Nordic Page*, 8 Mar. 2013).[9] In China and the Philippines, applicable laws stipulate that both the nursing time and the time taken to travel to and fro inside the unit or lactation station are to be counted as working time and remunerated accordingly. In Libya, breaks are remunerated and are permitted until the child is 18 months old. Switzerland enacted legislation in 2000 to ensure that breastfeeding breaks are counted as working time and are remunerated by the employer. Some countries provide for payment under the social security regime, thus avoiding a direct cost to the employer, as is the case in Angola. In Belgium, nursing breaks are unpaid by the employer; instead the contract of employment is suspended during nursing

breaks and 82 per cent of the remuneration is paid by sickness and indemnity insurance schemes. Similarly, in Estonia, breaks for feeding a child are included in working time and payment of average wages is made, not by the employer, but out of state funds.

Trends from 1994 to 2013 in nursing breaks provision

Drawing on legal data for the 136 countries with available information in 2013 and in 1994,[10] the figures show a global increase in the provision of nursing breaks and a shift away from unpaid breaks towards paid breaks (see figure 6.2). Globally, the share of countries lacking this entitlement in national legislation in 1994 decreased from 32 to 24 per cent in 2013. Eleven new countries have granted nursing breaks, namely Belgium, Cuba, Cyprus, Jordan, Kuwait, Nepal, New Zealand, Sri Lanka and Sudan. The laws of the Philippines and the United States include the most recent changes, having introduced, respectively, paid and unpaid breaks in 2010. In contrast, Greece and Israel provided paid breaks in 1994, while this statutory provision was lacking in 2013.

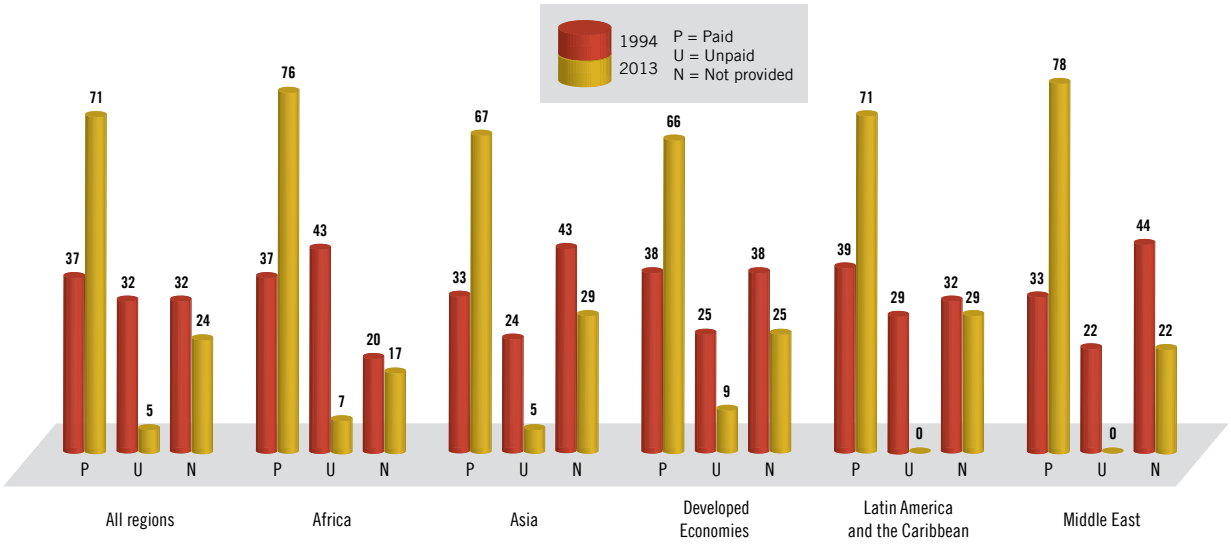
Among the 136 countries surveyed, just 37 per cent provided paid breaks in 1994 but, by 2013, 71 per cent had enshrined this right in national legislation. This trend towards the introduction of paid breaks was significant across regions, with the greatest change being in Africa, where just 47 per cent of countries with nursing breaks provided for these to be paid in 1994 but, by 2013, more than two-thirds (76 per cent) did. Cameroon, Ghana and Tanzania are among the countries introducing this entitlement.[11] Examples from other regions include Argentina, Bahrain, Brazil, Cambodia, France, Japan, Republic of Korea, the Russian Federation and Saudi Arabia.[12]

Number and duration of nursing breaks

> *The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice.*
>
> **Convention No. 183, Article 10(2)**

Countries vary in terms of the number of daily nursing breaks and the amount time allotted for breastfeeding or pumping at the workplace. Often, legislative provisions provide for one hour or more, usually divided into two equal breaks,[13] although two countries specify more frequent (but shorter) breaks.[14] Most countries do not specify when the breaks can be taken while a

Figure 6.2 Statutory provision of paid nursing breaks, 1994 and 2013 (136 countries) (%)



Note: Figures may not add up to 100 per cent due to rounding.

Sources: *Conditions of work digest: Maternity and work* (ILO, 1994); ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [1 Apr. 2014]

few countries explicitly set breaks every three hours.[15] These arrangements are in line with ILO standards, provided that the total duration of daily breaks or reduction of working hours mandated by the maternity protection Conventions are guaranteed. For instance, the CEACR considered the legislation in countries, such as Nicaragua, which provide for a 15-minute breastfeeding break every three hours, as not being in conformity with Convention No. 3, which calls for two breaks of half an hour each over the course of a working day (CEACR, Direct Request, C3, Nicaragua, 2013). A small number of countries allow multiple breaks of over 30 minutes.[16]

In some countries, the number of nursing breaks depends on the working hours. This is the case in Belgium, where a woman who works a minimum of four hours a day has the right to one break of 30 minutes. If she works at least seven-and-a-half hours a day, she can take two nursing breaks of 30 minutes each. In Italy, nursing mothers who work less than six hours per day are entitled to a one-hour nursing break; nursing women who work more than six hours per day are entitled to two one-hour breaks per day. In Slovakia, women working at least half of the statutory weekly working time are also entitled to one half-hour break for nursing until the child reaches the age of six months.

In other countries, the number of breaks or their length depends on the age of the child. In Hungary, for example, nursing mothers are entitled to two hours of breaks in the first six months after birth, then one hour's break until the ninth month. Similarly, in Gabon and Mongolia, nursing mothers are entitled to two hours of breaks for the first six months (in Gabon, beginning at the time of return to work; in Mongolia, from birth), then one hour until the twelfth month.

In some cases, the nursing woman can choose how to distribute the total duration of the daily breastfeeding breaks.[17] In Cambodia and Zimbabwe, for example, nursing mothers can take their allocated time as either a one-hour break or as two 30-minute breaks.[18] In the Russian Federation and Tajikistan, mothers can choose to combine their breaks and take the permitted time at the beginning or end of the day. In Ireland, nursing mothers can choose to take the allocated breaks or reduce their working hours for 26 weeks after childbirth.

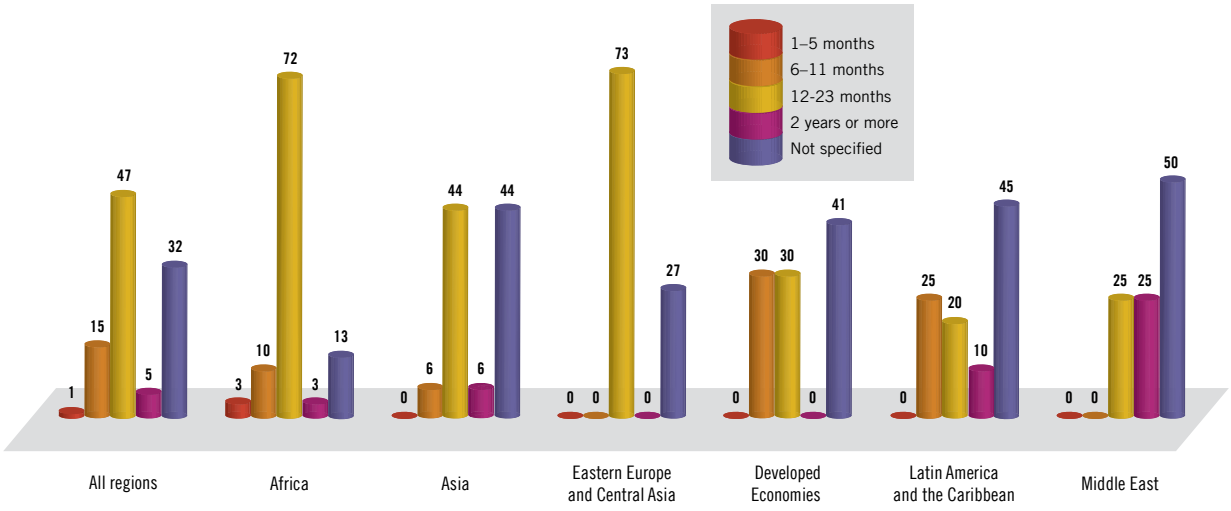
> *On production of a medical certificate or other appropriate certification as determined by national law and practice, the frequency and length of nursing breaks should be adapted to particular needs.*
>
> **Recommendation No. 191, Paragraph 7**

There are examples of countries where longer and/or more frequent breaks are granted in the case of particular needs. In Colombia, the employer is bound to grant more frequent rest periods than the usual two breaks of 30 minutes each if the female employee produces a medical certificate indicating the reasons why she requires more frequent breaks. In Estonia, the duration of a break granted for feeding two or more children of up to 18 months of age shall be at least one hour, instead of the normal duration of 30 minutes every three hours. In certain countries, nursing breaks may also be extended if there are no nursing facilities at the workplace. In the Bolivarian Republican of Venezuela, for example, the breaks are an hour long each instead of the customary 30 minutes.

Duration of the entitlement to nursing breaks

Convention No. 183 leaves it to national law and practice to determine the duration of nursing breaks to which a woman is entitled. The duration of entitlement is a fundamental aspect of enabling women workers to breastfeed in line with their preferences and the international recommendations, namely exclusive breastfeeding throughout the child's first six months of life, and breastfeeding with appropriate complementary foods for children of up to 2 years of age or beyond (WHO, 2002). Of the 121 countries that provide for paid or unpaid breaks or daily reduction of working hours, 82 countries (68 per cent) specify the duration of the entitlement (see figure 6.3).[19] All of them, except Swaziland, provide breastfeeding breaks for at least six months from the birth of the child. Almost two-thirds (75 countries) of the countries with provisions, allow for a duration between six and 23 months, of which 57 countries grant at least one year. Only six countries provide for breastfeeding breaks for two years (5 per cent). None of the countries

Figure 6.3 Duration of the entitlement to nursing breaks, 2013 (123 countries with provisions) (%)



Note: Figures may not add up to 100 per cent due to rounding. The category "Not specified" includes countries in which breastfeeding breaks are provided, but the duration of the entitlement is not specified.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [1 Apr. 2014].

with available information offered nursing breaks beyond the child's second birthday.

Looking at legislation by region, 33 countries in Africa offer breastfeeding breaks for at least six months and, of those, 29 countries made provision for at least a year. Egypt provides breaks for up to two years. In Asia, nine countries provide at least six months of breastfeeding breaks, while seven countries provide one year of breaks and the Islamic Republic of Iran provides up to two years of breaks. In Eastern Europe and Central Asia, eight countries provide breaks of at least a year, and four provide for up to 18 months (Azerbaijan, Kazakhstan, Russian Federation and Tajikistan). In the Developed Economies, 16 countries provide at least six months of breaks, with six offering a year (Czech Republic, France, Italy, Portugal, Romania and the United States). Estonia and Latvia allow 18 months, the longest provision. In Latin America and the Caribbean, 11 countries provide at least six months of breastfeeding breaks, with four of these providing 12 months (namely Bolivia, Cuba, Dominican Republic and Peru). Argentina and Chile offer up to two years. Of the Middle Eastern countries, Jordan and the United Arab Emirates allow, respectively, 12 and 18 months of breastfeeding breaks from the birth of the child, while Syria and Bahrain provide for two years.

Scope

Convention No. 183 and previous ILO maternity protection standards define nursing breaks as a right of breastfeeding women, intended to provide time for women to feed their children or express milk for later bottle feeding. In some countries, however, the scope of eligibility has become broader, in recognition of the fact that nursing breaks, including bottle feeding, are connected to the well-being of the child and that extending nursing breaks to mothers and fathers is an important measure to promote the sharing of care-giving responsibilities and to create a workplace environment that enables both breastfeeding and work–family balance, without precluding nursing workers' rights to nursing breaks.

Research has also shown the importance of the role of fathers in promoting and supporting breastfeeding (such as, Rempel and Rempel, 2011; Bar-Yam and Darby, 1997;) and that their involvement can increase breastfeeding rates (see, for example, Mitchell-Box and Braun, 2013). In Mongolia, women employees and single fathers with a child are entitled to additional breaks for childcare or feeding. In Uzbekistan, whoever cares for the child can take the permitted breaks. In Portugal, the breaks can be split between mothers and fathers. In Tajikistan, the break entitlements are applicable to fathers or legal guardians who are raising the children themselves. In Italy, the father is entitled to the

same daily reduction of hours of work in cases where the child is raised by the father alone, if the working mother does not benefit from the daily breaks, if the mother is not employed or in the case of the death or serious illness of the mother. In Spain, working fathers enjoy the same rights to breastfeeding breaks[20] as mothers for the first nine months of their baby's life, irrespective of the employment status of the child's mother, in order to provide support for their partners. This entitlement followed a ruling of the European Union Court of Justice, which handed down a national court's decision that reserving breaks only for women perpetuates a traditional division of labour that keeps men in a subsidiary position to women in the exercise of parental duties and that such discrimination is not justified by the objective of the protection of women.[21]

Often, legislation covers only certain categories of workers, usually those in standard or formal employment. In Spain, domestic workers are not entitled to breastfeeding breaks and, in Italy, domestic workers and homeworkers are not remunerated for breastfeeding breaks (European Union, 2011). However, a number of countries are working to expand breastfeeding entitlements as part of efforts to improve maternity protection at work. For example, in Mauritius, the law explicitly includes domestic workers within the scope of provisions for breastfeeding breaks (see box 6.1). Nigeria's law explicitly includes all women in public, private, industrial, commercial or agricultural undertakings or any branch thereof and provides two half-hour breaks per day.

Daily reduction of working hours

> *Where practicable and with the agreement of the employer and the woman concerned, it should be possible to combine the time allotted for daily nursing breaks to allow a reduction of hours of work at the beginning or at the end of the working day.*
>
> **Recommendation No. 191, Paragraph 8**

Convention No. 183 allows member States to choose whether breastfeeding women should be provided with a right to daily breaks or to a daily reduction of hours of work. In Yemen, nursing breaks are offered in the form of reduced working time. In several countries, nursing breaks can be taken as paid breaks, or converted into a reduction of working time to allow for late arrival at or early departure from the workplace. This is the case in Armenia, Chile, Ireland, Spain, Sudan and the United Republic of Tanzania. In Chile, a women worker, during the nursing period, may either come to work an hour later than normal or leave an hour earlier.[22] In Ecuador, in enterprises or workplaces where there is no nursery provision, a nursing mother's hours of work for the first nine months after childbirth are limited to six a day.[23]

Box 6.1 Mauritius, the Philippines and India: Expanding the scope of breastfeeding coverage

In **the Philippines**, a recently established law has expanded the scope of coverage for breastfeeding breaks: agricultural workers and people engaged in precarious work (i.e., short-term or seasonal contracts) now enjoy access to nursing break protection, as long as the nursing worker is employed by "private enterprises or government agencies, including their subdivisions, instrumentalities and government owned and controlled corporations".

In **Mauritius**, maternity protection laws explicitly include domestic workers in the scope of provisions for breastfeeding breaks. Domestic workers are entitled to two half-hour breaks or one hour-long break without deductions in pay. They enjoy this entitlement until the child is 6 months old. This period may be extended on the recommendation of a medical practitioner.

In **India**, the Association for Consumers Action on Safety and Health implemented a project to raise awareness of the benefits of breastfeeding among domestic workers from the slum community of Mumbai and their employers. It succeeded in both identifying the obstacles that these workers faced in combining work and breastfeeding and creating an enabling environment for this practice (ILO, 2013).

Sources: Philippines: The Republic of the Philippines, Expanded Breastfeeding Promotion Act, 2009. Mauritius: Employment Rights Act, s. 30(6)(b); Domestic Workers (Remuneration) Regulations 2010. Second Schedule, s. 7(7). India: Funding for the program was earmarked for 2010–2011. India: ILO, 2013, op. cit.

6.2 Nursing and childcare facilities

Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.

Recommendation No. 191, Paragraph 9

All measures compatible with national conditions and possibilities shall further be taken –

(a) to take account of the needs of workers with family responsibilities in community planning; and

(b) to develop or promote community services, public or private, such as child-care and family services and facilities.

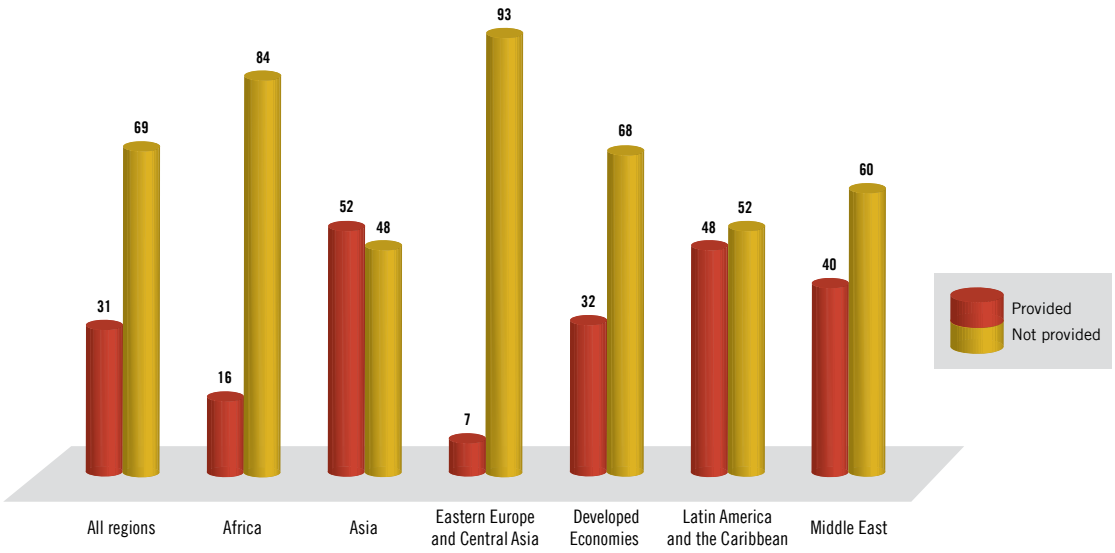
Convention No. 156, Article 5

Recommendation No. 191 suggests that provision should be made for the establishment of facilities for nursing under "adequate hygienic conditions at or near the workplace". Concerning the financing of such facilities, as formulated, Paragraph 9 of the Recommendation leaves open the question of whether such facilities should be established through public or private means (ILO, 1999).

In compliance with Recommendation No. 191, provisions on nursing facilities are present in the legislation of just 50 countries (31 per cent) of the 159 with information on this issue in the ILO Working Conditions Law Database – Maternity Protection (see figure 6.4). The regions with the largest statutory supply are Asia, where half of the countries with data (12) do so, including Bangladesh, China, Indonesia, India and Viet Nam,[24] and Latin America, where 14 countries (48 per cent) have mandatory provisions, including Argentina, Brazil, Chile, Paraguay and the Bolivarian Republic of Venezuela.[25] Among the Developed Economies, the law of 11 countries (32 per cent) offers workplace nursing facilities (for example, France, the Netherlands, New Zealand and the United States).[26] In the Middle East, four countries (Kuwait, Saudi Arabia, Jordan and the Syrian Arab Republic) make such provision, while in Eastern Europe and Central Asia, only Azerbaijan's legislation specifies this service. Finally, in Africa, eight countries (only 16 per cent) make provision for nursing facilities, including Egypt, Niger and Tunisia.[27]

National legislative provisions on nursing facilities vary in the level of detail and guidance they enshrine. In Slovenia, employers are required to provide suitable rooms with beds for pregnant women and nursing mothers. In Colombia, every employer must establish, in premises adjacent to those where the mother works, a room for nursing or a suitable place for the care of

Figure 6.4 Provision of nursing facilities, 2013 (159 countries) (%)



Note: Figures may not add up to 100 per cent due to rounding.

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [1 Apr. 2014].

children. Similar provisions exist in Belgium, Costa Rica, Latvia, the Netherlands, Nicaragua and Niger.

In order to save workers having to travel long distances and support breastfeeding even when children cannot be brought to the workplace, a recent trend has been to have workplace facilities for expressing and storing milk, which can later be fed to the baby. Brazil, for example, has in place a "sanitary rule" to implement lactation facilities at the workplace in order to enable working women to express their milk in hygienic conditions, store it and take it home safely to feed their babies (ILO, 2012b, Module 10). In Peru, a law passed in 2006 requires all public sector institutions employing at least 20 women of reproductive age to set up a facility of around ten square metres for the sole purpose of expressing milk (ILO, 2012b, Module 10). The Philippines' Act on Expanding Breastfeeding of 2009, establishes that the lactation stations shall not be located in the toilet and shall be adequately provided with the necessary equipment and facilities, such as facilities for hand-washing, unless there are easily accessible facilities nearby, refrigeration or appropriate cooling facilities for storing expressed breast milk, electrical outlets for breast pumps, a small table and comfortable seats.

Legislation in some countries calls for the provision of childcare services in addition to or as an alternative to nursing facilities, such as: kindergartens (China); a room for nursing or a suitable place for the care of the child (Colombia); a nursery where the "employees' children may be left" (Ecuador); rooms, cots and areas for the children of workers (El Salvador); an area in which mothers can feed children under 3 years of age without hazard, and in which to leave them while working, under the supervision of an appropriate designated person paid to carry out that task (Guatemala); and a suitable place with an adequate number of babysitters to look after children under the age of 6 (Saudi Arabia). In Cambodia, for instance, managers of enterprises employing a minimum of 100 women or girls must set up, within their establishments or nearby, a nursing room and a day-care centre. If the company is not able to set up a day-care centre on its premises for children over 18 months of age, female workers can place their children in any day-care centre, with the charges being met by the employer. Similarly, in Brazil, employers with more than 30 women employees must provide a day nursery or (under the terms of a collective agreement) provide reimbursement for childcare for nursing mothers. Similar provisions exist in Guatemala, Honduras, Paraguay, Venezuela and Viet Nam (in Viet Nam, employers have the option to pay for offsite childcare instead of establishing a childcare facility).

Information based on national legislation points to the fact that, in 29 countries (58 per cent) out of the 50 with statutory provisions covering nursing or childcare facilities, these apply only if the enterprise employs a minimum number of women. This is more frequently the case in Africa, Asia, Latin America and the Middle East. In Madagascar, for example, a designated nursing room must be provided in or near enterprises employing more than 25 women.[28] One concern with this kind of provision is that it may discourage employers from hiring women. Moreover, it promotes the idea that women alone are responsible for childcare. The ILO Committee of Experts has noted that "measures designed to promote harmonization of work and family responsibilities, such as childcare services, should not be specific to women" and that the right to use crèches should be extended to fathers (CEACR, Observation, C156, Chile, 2011).[29] This is the case in Ecuador, for example, where the provision applies to companies employing 50 employees (men and women) or more.[30]

In the earlier Recommendation No. 95, it was suggested that facilities for nursing mothers should include the provision of facilities for nursing or day care, financed, or at least subsidized, by the community or compulsory social insurance. In practice, however, national provisions for such facilities have usually burdened the employer with the extra cost. Similar to wage replacement during leave (employer liability), when employers are statutorily mandated to shoulder the full direct cost of childcare facilities, this may create disincentives to hiring workers with family obligations. Breastfeeding facilities can often be provided free or at a low cost, including in SMEs (Lewis et al., forthcoming). A basic breastfeeding facility can simply be a small, clean space with a chair. There should be a screen, curtain or door for privacy, access to clean water and secure storage space for expressed milk. More elaborate facilities offer a refrigerator or an electric outlet for an electric breast pump (ILO, 2012b, Module 10).

However, an important concern is that some workplaces may lack the minimal requirements and acceptable sanitary environments. In these settings, state subsidies can play a key role in ensuring the provision of adequately hygienic conditions (see box 6.2).

The nature of the incentives offered by governments has a major impact on whether employers offer any childcare support and the type of support which they offer. A number of middle- or high-income countries have schemes in place that are intended to encourage employers to provide childcare support using grants or direct subsidies and/or fiscal incentives, such as Chile, France, Hungary, the Republic of Korea or the United Kingdom, while in lower income countries such financial incentives are rare. Provision of workplace childcare, however, remains scarce. A study of EU establishments with ten or more employees in 2004–2005 found that, on average, only 3 per cent of all establishments offer an own-company childcare centre; a further 2 per cent offer, some in addition to a company facility, other forms of childcare help, such as a babysitting service organized and/or paid for by the company. Employers who provide support for childcare tend to be large establishments in the services sector and the public sector. In the United States, large companies were much more likely to provide childcare at or near the workplace, reaching 17 per cent of companies with more than 1,000 workers (Hein and Cassirer, 2010). Insufficient support from the state, in the forms of subsidies or tax relief, and the inadequacy of existing regulations provided by legislation or collective agreements are factors most frequently reported as limiting the willingness of companies to introduce work–life balance policies and those concerning childcare in particular (German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), 2010).

On the other hand, there is a recognized "business case" for work–family measures, in particular childcare, bringing about positive firm-level outcomes, including better performance and commitment, lower rates of absenteeism, higher levels of retention, skills preservation, healthier parents experiencing lower levels of stress and work–family conflict, all therefore improving the image of socially responsible companies. A study on medium-sized firms in Germany argues that the introduction of family-friendly measures, including support for childcare, that encourage women to return from maternity leave earlier and thereby reduce replacement and reintegration costs, can result in a return on investment of 25 per cent (Becker et al., 2008, cited in Lewis et al., forthcoming). [31] Evidence of the "business case" is also reported in relation to the provision

Box 6.2 Promoting breastfeeding and the establishment of nursing facilities

In 2013, **Argentina** adopted a law concerning the promotion of breastfeeding, which provides for the establishment of nursing facilities at the workplace for the protection of nursing workers. The law also establishes that all the costs arising from its implementation should be met from public funds through the Ministry of Health.

In **the Philippines**, the Expanded Breastfeeding Promotion Act (2009) provides that expenses for establishing lactation stations are tax deductible. Lactation stations have been established in a number of public places, although there are concerns that many commercial establishments and workplaces have not yet complied with the law. In the framework of a joint UN programme, the ILO is providing technical assistance and support to national and local governments, as well as employers' and workers' organizations, in the effective implementation of the Act. This includes advocacy and training on breastfeeding at the workplace and its benefits as well as setting up lactation stations for both formal and informal workers, such as traders at the markets and workers at bus terminals.

In the **United States**, the 2010 Affordable Care Act introduced support for workplace breastfeeding by allowing both employers and workers to claim breast pumps and lactation equipment as medical tax deductions. However, these incentives apply only in large enterprises.

Sources: Official Bulletin of the Republic of Argentina: http://www.revistarap.com.ar/dgratuitos//1pub0041100095000/documentos-1pub0041100095000-dgratuitos-1.html [1 Apr. 2014]. Republic Act 10028. Available at: http://www.lawphil.net/statutes/repacts/ra2010/ra_10028_2010.html [2 Apr. 2014]. Yamsuan, Cathy (2013), "3 years on, breastfeeding law not fully followed", *Philippine Daily Inquirer*, 3 August 2013. Available at: http://newsinfo.inquirer.net/457293/3-years-on-breast-feeding-law-not-fully-followed [2 Apr. 2014].

of workplace childcare solutions in cases from Brazil, Chile, India, Kenya, South Africa and Thailand (Hein and Cassirer, 2010).

Workplace initiatives can supplement, but cannot substitute for, public policies aimed at improving the availability, quality and affordability of childcare services and facilities. In fact, state-funded or subsidized childcare services are a core element of the continuum of support measures for adequate maternity and paternity provision at work. The Workers with Family Responsibilities Recommendation, 1981 (No. 165) encourages countries to take appropriate steps to ensure that childcare and family services and facilities meet the needs and preferences of workers with family responsibilities. In particular, taking account of national and local circumstances and possibilities, national authorities should "organise or encourage and facilitate the provision of adequate and appropriate child-care and family services and facilities, free of charge or at a reasonable charge in accordance with the workers' ability to pay, developed along flexible lines and meeting the needs of children of different ages, of other dependants requiring care and of workers with family responsibilities" (Paragraph V, 25(b)).

Evidence confirms the vital role of childcare in enabling parents and especially women to engage in paid work after childbirth, by addressing their care needs (IMF, 2013). Better access to comprehensive, affordable, and high-quality childcare, including out-of-school care services, frees up women's time for formal employment (ILO, 2013c; IMF, 2013). In fact, when they do not prevent women from getting into paid work, family responsibilities still normally determine, and de facto limit, the type, location and working arrangements of women's employment. In the absence of affordable, quality and both child- and worker-responsive care services, women are more likely to take up informal work opportunities, especially self-employment or home-based work, that afford them the flexibility to manage their care responsibilities while generating income. They are also more likely to keep the size of these undertakings small in terms of employment and capital (Cassirer and Addati, 2007; ILO, 2013e).

In addition, provision of care services also increases employment opportunities in childcare, and contributes to job creation in the social services sector, which in turn replaces some of the unpaid care and household work done by women and girls and expands their income-earning options (Antonopoulos and Kim, 2011). Finally, the economic return from early intervention is much higher than the return from later intervention. Therefore, investing in young children by means of quality childcare will pay large dividends later on in terms of tax revenues and reductions in social spending, thus contributing to sound public budgets and therefore to society at large (Heckman and Masterov, 2007).

Notwithstanding these benefits, privately supplied home-based child care – whether provided by a family member or a domestic worker – remains the prevalent form of childcare provision. In one-third of the over 140 countries for which information is available, national legislation does not establish public provision of childcare services or public subsidies or allowances to offset childcare costs for pre-school children (World Bank, 2014). However, even where programmes do exist, coverage is often inadequate and not responsive to the needs of children and workers. In several high-income countries, particularly where childcare provisions were still limited, the supply of childcare facilities has grown in the last few years in spite of the economic crisis and the associated austerity programmes (e.g., Austria, Germany, Hungary, Republic of Korea and Slovenia) (Gauthier, 2010; OECD, 2012). However, on average, only 33 per cent of children under the age of 3 were enrolled in formal childcare in 2010, with considerable variation between countries (OECD Family Database, 2013). In almost all high-income countries, except certain Scandinavian countries, childcare coverage is not universal and is socially stratified, meaning that children from low-income families have much more limited opportunities of attending formal childcare than children from high-income families (Lancker, 2012). Similar data are less widely available for developing countries, some exceptions being Brazil (15.5 per cent) and Chile (4 per cent) in 2006 (Hein and Cassirer, 2010). Gross enrolment ratio in early childhood education is also broader in high-income countries (85 per cent in 2011), while it remains low, although expanding, in low-income countries. Coverage in poor and rural communities as well as in sub-Saharan Africa is the lowest (UNESCO, 2014). Even when childcare and

Box 6.3 Supporting the care needs of the most vulnerable through childcare

In March 2014, **Costa Rica** adopted the law No. 9220 which institutionalizes the *Red Nacional de Cuido y Desarrollo Infantil* (National Network for Childcare and Child Development). The programme targets children from birth to 7 years old living in low-in come families where women are heads of household. It aims to promote parents' labour force participation and to foster child development. The service lasts around 10 hours per day and covers more than 32,000 children through a network of 852 centres funded by a number of public and private national and local institutions, according to the principle of "co-responsibility". The Government earmarked around US$ 36 million (in 2014) in order to increase places, construction, remodeling, expansion and equipment of childcare centres.*

The Productive Safety Net Programme of **Ethiopia** includes the provision of time off for pregnancy and breastfeeding, crèche facilities and flexible working hours so that parents can balance paid work with domestic and care-work responsibilities (Holmes and Jones, 2013).

In **South Africa**, the Expanded Public Works Program includes social care service delivery in its definition of public work, an important innovation, which has translated into the provision of early child development services and home- and community-based care for people living with HIV. The programme provides temporary jobs, training and accreditation to caregivers (Kabeer, 2013).

The *Chile Crece Contigo* (Chile Grows with You) in **Chile**, is a comprehensive social protection programme that provides free childcare for the most vulnerable 40 per cent of the population. Along with a strong child development focus, it also aims to promote women's employment. The number of public crèches increased from around 700 in 2006 to more than 4,000 in 2009, caring for over 70,000 infants (ILO and UNDP, 2009).

In **Mexico**, the Federal Daycare Programme for Working Mothers (*Programa de Estancias Infantiles para Madres Trabajadoras*) explicitly aims to address gender inequalities at work resulting from family responsibilities. It provides childcare services to children aged between 1 and 4 years old from households earning less than six times the monthly minimum wage. Mothers and single fathers in paid work or study are eligible. It also includes financial support for the setting up of day-care centres. In 2009, the programme cost less than 0.01 per cent of GDP, covered 261,728 children (in 8,923 centres) and generated around 45,000 paid jobs for childcare providers and assistants. Childcare centres are open at least eight hours per day, five days a week (ILO, 2011a).

* Costa Rica's Embassy in El Salvador: http://www.embajadacostarica.org.sv/index.php/novedades/noticias/239-presidenta-firma-ley-de-red-nacional-de-cuido-y-desarrollo-infantil [14 Apr.2014].

pre-primary education are available, they often do not meet the needs of working parents in terms of costs, duration and opening hours.

In the absence of State-provided childcare, many households turn to "individual coping strategies", which may include the reduction of desired fertility; reliance on often low-paid domestic workers providing home-based care and household work, who also face the challenge of juggling work and their family needs (ILO, 2013b); or dependence on low-quality childcare arrangements such as enlisting older children to care for younger ones, leaving children unsupervised or taking them to the workplace. This, in turn, can lead to lower school enrolment rates and a higher incidence of child labour, thus perpetuating the poverty cycle, or it may contribute to antisocial or criminal behaviour by youths left alone by working parents (ILO, 2011a).

Finally, the benefits of childcare depend on the quality of the childcare services, which mainly rely on the quality of interaction between care providers and children. The care sector is a key source of employment creation, but the working conditions of early childhood education personnel remain challenging. Childcare workers are among the lowest paid workers in all countries, have to cope with high numbers of children, with lack of training opportunities and high staff turnover rates. Facing growing demand for formal childcare, some governments have therefore been prone to prioritize the quantitative component and neglect the qualitative aspect of job creation, with the result that it is often the childcare workers who are "squeezed" by the need to provide affordable childcare (Hein and Cassirer, 2010). Recommendation No. 165 encourages national authorities to "provide or help to ensure the

provision of adequate training at various levels for the personnel needed to staff child-care and family services and facilities" (Paragraph V, 26(3)).

Notwithstanding the above challenges, the development of affordable and reliable social care services is crucial if the unpaid care work needs of workers with family responsibilities across the world are to be recognized, valued and addressed. Therefore, these services are increasingly viewed as integral to social protection strategies and programmes aimed at enhancing the social and economic security and well-being of families, especially the most vulnerable (Kabeer, 2008; UNRISD, 2010) (see box 6.3). Additional efforts are required to extend the coverage of these services to low-income, single parents, indigenous groups and families where parents or children live with disabilities, in order to enhance their gender-transformative potential and improve the quality of jobs in the care sector.

Notes

1. For further information and resources, see ILO, 2012c, Module 10 Breastfeeding arrangements at work.

2. For a full review of the benefits of breastfeeding to children, mothers and families, see ILO 2012c, Module 10, Resource Sheet 10.1. Available at: http://mprp.itcilo.org/pages/en/ [1 Apr. 2014].

3. These include Botswana, Burundi, Côte d'Ivoire, Djibouti, Egypt, Gabon, Guinea-Bissau, Mauritius, Nigeria, Rwanda, Somalia, Sudan, Togo and Tunisia.

4. These are Afghanistan, Cambodia, China, India, Indonesia, Islamic Republic of Iran, , Republic of Korea, Lao People's Democratic Republic, Mongolia, Nepal, Papua New Guinea, the Philippines, Solomon Islands, Sri Lanka, Vanuatu and Viet Nam.

5. Namely Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Kazakhstan, the Russian Federation, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey and Uzbekistan.

6. These are Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United States.

7. Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and the Bolivarian Republic of Venezuela.

8. These are Bahrain, Iraq, Jordan, Kuwait, Saudi Arabia, Syrian Arab Republic, United Arab Emirates and Yemen.

9. See *The Nordic Page*, available at http://www.tnp.no/norway/panorama/3586-all-norwegian-women-to-be-paid-for-breastfeeding-breaks [1 Apr. 2014].

10. Based on 136 countries for which information on breastfeeding breaks was available in the *Conditions of work digest: Maternity and work*, Vol. 13, 1994. The 1994 figures should be considered as references since some information may not have been available to the ILO at that date. Legal data on breastfeeding breaks in Eastern Europe and Central Asian regions were available only for Belarus, the Russian Federation and Turkey in both 1994 and 2013. Therefore, for the purposes of this analysis, the above countries are included in the Developed Countries region.

11. The others are Central African Republic, Comoros, Congo, Côte d'Ivoire, Djibouti, Gabon, Guinea-Bissau, Mauritania, Morocco, Nigeria, Rwanda, Senegal, Togo and Zimbabwe, all of which moved from unpaid to paid breaks between 1994 and 2013.

12. The other countries are Bolivia, Cambodia, Ecuador, Haiti, the Lao People's Democratic Republic, Mexico, Mongolia, Nicaragua, Romania, Spain, Sweden, Switzerland and the Bolivarian Republic of Venezuela.

13. Most countries with breastfeeding breaks provide two 30-minute breaks. A few countries (15) provide breaks totaling more than 60 minutes, namely Armenia, Austria, Bulgaria, Burkina Faso, Gabon, Hungary, Italy, Kuwait, Mongolia, Portugal, Romania, the Russian Federation, Somalia, Tanzania and The former Yugoslav Republic of Macedonia. A few countries that provide at least an hour in total do not provide guidance on how to divide the time: Benin, Bolivia, Burkina Faso, Cameroon, Chad, Chile, Côte d'Ivoire, Cuba, Guinea, Jordan, Kuwait, Lesotho, Libya, Madagascar, Mongolia, Niger, Peru, Rwanda, Solomon Islands, Tanzania and Togo. In the Netherlands, nursing mothers are entitled to breaks as often as needed (up to one-quarter of the working time) until their child is 9 months old.

14. In Nicaragua, the provision is 15 minutes every three hours. In the Dominican Republic, nursing mothers can take three 20-minute breaks per day until their child is 1 year old.

15. In Afghanistan, Armenia, Azerbaijan, Belarus, Estonia, Islamic Republic of Iran, Kazakhstan, Latvia, Lithuania, Nicaragua, the Russian Federation, Tajikistan and Uzbekistan, nursing mothers are entitled to take a nursing break every three hours.

16. In Bulgaria, nursing mothers who work more than seven hours a day are entitled to two one-hour breaks until their child is 8 months old. In Hungary, Italy, Romania, Portugal and Somalia, nursing mothers are entitled to two one-hour breaks until their child is 1 year old. In Austria, nursing mothers may take two 45-minute breaks.

17. In Costa Rica, the provision is 15 minutes every three hours or, if preferred, 30 minutes twice during the working day, unless a medical certificate states that only a shorter period of time is required. In Mauritius, women are entitled to a paid break of one hour, or two paid breaks of 30 minutes each, per day. In Chile, women are entitled to two 30-minute breaks until a child is 2, and they may not refuse this entitlement.

18. In Cambodia, taking two 30-minute breaks (one in the morning and one in the afternoon) is subject to agreement with the employer.

19. In national legislation, duration of nursing breaks can either refer to number of weeks or months during which a woman can use breastfeeding breaks upon her return to work at the end of maternity leave or the total age of the child (usually expressed in months or years) up to which the mother can take this leave. For the purposes of this comparative review, the duration of nursing breaks included in national legislation was converted into months and calculated with reference to the age of the child.

20. They are entitled to a maximum of two breaks per day for a total of an hour or to shorten their workday by 30 minutes.

21. Until recently, Spain's law provided for fathers to take nursing breaks only when the mother was employed full time. However, a self-employed mother brought forward a case arguing that, as a self-employed worker, breastfeeding took away from her productivity, and the father should be allowed to share in the responsibility of feeding the child. The Galician High Court agreed, noting that, along with bottle feeding, nursing should be considered to be time devoted to the child, and the breaks as a means of reconciling work–family commitments. The case went on to the EU Court of Justice which confirmed the Galician's court approach. Spain has since changed its law to extend nursing breaks. See http://curia.europa.eu/jcms/upload/docs/application/pdf/2010-09/cp100094en.pdf [1 Apr. 2014].

22. Similar provisions are available in Cyprus, Estonia, Lithuania and Norway. In Spain, women can take one hour in two breaks for nine months after birth or they may take one half-hour off their normal working hours. Or, if they choose and it is allowed in a collective agreement, women can take all of the permitted breastfeeding leave at once as full working days.

23. These shall be fixed or distributed in the manner described by collective agreement, in the work rules or by agreement between the parties.

24. The others are Afghanistan, Cambodia, Islamic Republic of Iran, the Republic of Korea, Nepal, the Philippines and Sri Lanka.

25. The others are Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua and Panama.

26. In addition to Belgium, Bulgaria, Greece, Latvia, Romania, Slovakia and Slovenia.

27. The others are Cameroon, Central African Republic, Libya, Madagascar and Morocco.

28. In Chile, establishments with 20 or more women workers shall have rooms adjoining and independent of the workplace, where women workers may go to breastfeed children younger than 2 years and leave these children while they are at work. In Cameroon, employers with more than 50 permanent female employees must provide a nursing room near the place of work. In Sri Lanka, employers with more than an unspecified number of women workers must establish a crèche for their employees' children under the age of 5.

29. The 1993 General Survey on Workers with Family Responsibilities also addresses the issue of accessible, affordable childcare services, which both men and women should be able to access on an equal footing; Available at: http://www.ilo.org/public/libdoc/ilo/P/09661/09661(1993-80-4B).pdf [1 Apr. 2014].

30. In permanent places of employment with 50 employees or more, the employer shall set up, in or near the enterprise or work centre, a nursery where the employees' children may be left. In France, employers with more than 100 employees can be asked to install special breastfeeding rooms.

31. The return on investment depends on the specific situation of each firm, its industrial sector and staff structure (poorly/highly qualified, gender, etc.). The calculation took into consideration the costs of family-friendly measures (including informative support, individual/flexible working time arrangements, teleworking and support with childcare) as well as savings resulting from their implementation (particularly in reduced costs for bridging cover, staff replacement, turnover and reintegration). It did not take into account less tangible (but plausible) outcomes of family-friendly practices, such as increased staff motivation and identification with the business.

Contents

Conclusions

7

Maternity protection is a fundamental labour right enshrined in key universal human rights instruments. Maternity protection and work–family measures are essential to promoting the health and well-being of mothers and their children, achieving gender equality at work and advancing decent work for both women and men. The provision of child welfare and maternity protection has been a concern for the ILO from its very beginning. Today, 28 ILO member States have ratified Convention No. 183, while 66 are party to at least one of the three Maternity Protection Conventions. Virtually all countries have adopted important legislative provisions concerning maternity protection at work, while laws and measures to support workers with family responsibilities, including fathers, are increasingly emerging across the world. The report shows that many countries respect key aspects of Convention No. 183 even when they have not formally ratified it. For example, 98 countries (53 per cent) currently provide a statutory minimum of 14 weeks of maternity leave, and 42 of those countries meet or exceed the 18 weeks of leave proposed in Recommendation No. 191. A total of 58 per cent (107 countries) provide for cash benefits during maternity leave through national social security schemes. Over 80 per cent of countries set out explicit prohibitions against discrimination during pregnancy, leave, and/or an additional prescribed period. More than two-thirds of countries have statutory measures on dangerous or unhealthy work which affects pregnant or nursing women, the majority providing protective measures, such as alternatives to hazardous work.

In general, maternity protection standards have been gradually improving over time. At present, more countries provide payment during longer maternity leave periods than in 1994 (when the ILO published its first legal review), and the number of countries relying exclusively on employers to provide cash maternity benefits decreased from 31 per cent in 1994 to 23 per cent by 2013. More than two-thirds (71 per cent) of countries provide breastfeeding breaks with almost all of these stipulating in 2013 that the breaks are to be paid (compared to just 37 per cent in 1994). Overall, many countries across the world increased the level of government support to families during the economic crisis. This included the introduction of paternity leave schemes, increases to the duration of maternity or parental leave periods, expansion of the scope of maternity and parental leaves, and increases in leave benefits. However, some countries that were hardest hit by the economic crisis cut some of their supports to families or postponed announced reforms as part of their austerity measures.

While these figures suggest that many countries have adopted the principles of maternity protection and support workers with family responsibilities in their legislation, lack of such protection in practice remains one of the major challenges for maternity and paternity at work today. The large majority of women, especially self-employed, agricultural and domestic workers and those on non-standard contracts, lack access to quality maternal and infant health care, income security, adequate rest and protection from discrimination based on pregnancy or maternity. Globally, just over two-fifths of employed women (40.6 per cent) enjoy a statutory right to maternity leave, while only 34.4 per cent of the total are legally entitled to maternity leave cash benefits. In practice, due to multiple implementation gaps, around 330 million mothers, representing only 28.4 per cent of women in employment, would receive income support in the event of childbirth. Almost 38 per cent of these mothers are workers in the Developed Economies, while in Africa and Asia, less than 10 per cent of women workers are effectively

protected by maternity leave cash benefits. These are the regions where employer liability schemes are more prevalent, informal work is predominant and maternal and child mortality ratios are still very high.

An increasing number of women and men face important challenges not only in starting their family with health and dignity, but also in earning sufficient income while providing adequate care to their children, dependent elderly people and family members living with permanent or temporary disabilities or illnesses. Women and girls still perform the large majority of unpaid care work, which limits their equal employment opportunities and treatment in labour markets. Measures to assist women and men in balancing work and family responsibilities, particularly adequately paid parental and paternity leave, family-friendly working arrangements and quality, State-funded childcare and other social care services, are unavailable, inaccessible or inadequate for most.

7.1 What works for maternity and paternity at work

The benefits of maternity protection and work–family balance to families, workers, employers and society as a whole are broadly recognized. As discussed in this report, providing adequate maternity protection is not only affordable and feasible even in the poorest countries, but it is also conducive to social and economic development. There are also multiple options for expanding fiscal space for maternity benefits as part of broader strategies to extend social security for all. Yet millions of women and men workers around the world still lack the rights enshrined in ILO international labour standards on maternity protection and workers with family responsibilities. Governments are called upon to prioritize the set-up and implementation of inclusive legislative and policy frameworks for comprehensive work–family policies, with adequate fiscal space. They should also create an enabling climate for social dialogue on these issues and promote collective bargaining that can help workers and employers collaborate in determining a "regulated flexibility" (Lee and McCann, 2011), in order for workers to harmoniously integrate paid work with their care responsibilities. As stated in ILO Conventions, in devising and applying maternity protection and work–family measures, employers' and workers' organizations – representing the needs and concerns of working parents, their children and employers – have a key role to play. The following considerations aim to guide policy design and implementation in order to make maternity protection and work–life balance a reality for all.

Adopting and implementing inclusive laws and policies for effective protection

Access to effective protection rests on labour legislation, policies and regulations that enshrine, explicitly, the right to maternity protection and work–family balance for all working women and men, including self-employed, informal, domestic and agricultural workers and those with non-standard contracts, without any discrimination. Therefore, the first step in extending effective maternity protection and work–family measures is to assess the gaps in current legal and policy frameworks, make their scope universal and eligibility criteria inclusive. The feasibility and the adequacy of the delivery mechanisms to improve access to maternity benefits should be carefully assessed in line with national circumstances and keeping in mind the needs of those most vulnerable to social exclusion and discrimination. Strengthening implementation of maternity protection rights is also a priority, calling for greater efforts in raising awareness among employers and workers of maternity protection rights and investing in monitoring and enforcement mechanisms. To this end, improving data collection to measure adequately the effective coverage of maternity protection legislation and its outcomes requires increased efforts. More statistical efforts are also required to measure unpaid care work, which is a prerequisite if such work is to be recognized, valued and supported as a "public good".

Preventing and eliminating discrimination against women and men with family responsibilities

A comprehensive approach to preventing and combating the multiple forms of discrimination based on maternity and family responsibilities requires the establishment of adequate anti-discrimination frameworks supported by specialized authorities to deal

with discrimination matters. In addition, a reliable, accessible and efficient judicial system as well as adequately staffed, trained and efficient labour inspection services are essential. While sanctions and remedies (such as compensation and reinstatement) are one way of deterring discrimination, another method is placing the burden of proof on the employer that a dismissal is not based on maternity. Time-bound programmes or national action plans are other typical measures envisaged by ILO maternity protection standards. Periodic review of anti-discrimination frameworks, enhanced guidance to both employers and workers on how to comply, as well as collection and publication of data on maternity-based discrimination will increase accountability and public awareness of this issue.

Designing maternity protection and work–family policies as a means of achieving effective gender equality

The design and mix of work–family policies have enormous gender-transformative potential when they make the achievement of effective gender equality at work and in the household an explicit objective, in line with the ILO Workers with Family Responsibilities Convention, 1981 (No. 156). The level of public spending on work–family issues also matters, including during economic downturns, since these measures act as social stabilizers, create jobs in the social care sector and promote women's opportunities to access quality work. Work–family policies should be directed at both women and men and should promote their access to, permanence and progress in quality jobs. Job-protected maternity leave increases women's labour force participation. However, the impact of leave policies should be measured taking into account the persistent implementation gap, which has severe consequences for women's and children's health and women's employment situation. The duration of leave measures, the gap between women's and men's family-related leave entitlements and the level of income replacement are important factors. When leave is too short, mothers might not feel ready to return to work and thus drop out of the workforce. However, very long leave periods, especially with low pay and no job protection may also damage women's attachment to and advancement in paid work, resulting in wage penalties. Availability of affordable, quality and worker-sensitive childcare services, family-friendly working arrangements when leave periods expire, as well as training and reintegration programmes after care-related breaks, should also be part of the continuum of support measures.

Addressing maternity, paternity and care as collective responsibilities

When employers are statutorily mandated to shoulder the full direct cost of work–family reconciliation measures, for instance by financing wage replacement during maternity and paternity leave (employer liability) or workplace childcare facilities, this may create disincentives to hire women and workers with family responsibilities. The principle of solidarity and risk pooling through social insurance or public funds in financing leave benefits is essential to promote non-discrimination at work, preventing employers from bearing the entire direct cost of society's reproduction and well-being. There are links between effective and accessible maternity protection and work–family measures and positive enterprise level outcomes ("business case"). For instance, breastfeeding support at work provides one element of maternity protection which can be a "win–win scenario" for both employers and employees, providing a free or low-cost measure which can result in considerable positive firm-level and societal outcomes, as well as extensive savings to health care systems. However, while workplace childcare services can supplement state-funded or subsidized childcare services, they cannot substitute for such services. Effective regulation which protects maternity and family responsibilities at minimal or no cost to employers, in combination with public support measures and incentives, especially targeting small and medium-sized enterprises, to manage any potential costs are fundamental conditions for the achievement of positive outcomes. In addition to the provision of financial help to small firms, other incentives and support could include targeted information and awareness-raising about good workplace practices and productivity benefits, as well as services providing practical advice to employers dealing with specific issues. More research in both high- and low-income countries is needed to build the business case, evaluate the outcomes of these policies and identify change strategies.

Promoting the equal sharing of family responsibilities between parents

In order to achieve both women's and men's full potential in all realms, policies need to change traditional social attitudes and behaviours by recognizing men's right to parenthood and actively encouraging a shift towards a model in which men act as active co-parents rather than helpers of their women partners. This is crucial for the development of a more equitable division of labour in the home, which is the premise for gender equality at work. The provision of time off to attend antenatal heath visits with the mother, the individual right to extended leave immediately around childbirth exclusively for the father, with income-related benefits, are important behaviour-changing measures to target actively men's participation in childcare. Fathers who take leave are more likely to be involved with their young children, with positive effects for the development of the children. More equitable parental leave policies also increase the likelihood that women return to employment after leave and spend more time in paid work. Finally, high men's take-up of leave could also improve employers' expectations in relation to women's career interruption and thus improve the treatment of women as a group. In enshrining a statutory right to childcare leave for fathers in national legislation, governments, workers, employers and societies as a whole publicly affirm that they value care work of both women and men, which is a crucial step in advancing gender equality at work and in the home. A combination of measures results in higher men's take-up rates: compulsory leave periods; flexible and well-compensated leave; "father quotas" (i.e., individual non-transferable rights for the specific use of leave periods by fathers); and well-designed tax incentives.

Creating a supportive workplace culture

The right to work–life balance is a key ingredient of job quality. To this effect, maternity and paternity, and more broadly care responsibilities, should become *a normal fact of business life*. A supportive workplace culture is crucial for gender-transformative practices. The workplace needs to recognize the role of men as fathers as well as women's breadwinner function, but also that all workers and employers are or can potentially become a caregiver over the life cycle, especially with aging societies. Extending work–life balance schemes to all workers, irrespective of their sex and family status, for instance by allowing shorter working weeks or days, worker-friendly remote work or telework, or providing emergency leave or job-protected career breaks for care, education, training or other personal purposes, are additional measures to reduce the penalty associated with being a worker with family responsibilities. It is therefore important to improve the quality of part-time work, by providing pro-rata entitlements, as well as to increase the availability of quality jobs on a part-time basis. Preference could also be given to part-time workers for full-time vacancies as a means of facilitating their reintegration into the full-time workforce.

Establishing a preventative safety and health culture in the workplace

Governments, employers and workers should participate actively in securing a safe and healthy working environment for all workers, both women and men, with the highest priority placed on the "principle of prevention". At the same time, such an approach attaches importance to the need for gender-specific interventions, such as health protection at work for pregnant and breastfeeding workers. These protective measures should be limited to what is strictly necessary to safeguard maternity, in line with the principle of equality of opportunity and treatment in employment and occupation. Social dialogue at legislative and policy levels is decisive in setting up a system of defined rights, responsibilities and duties. At the workplace, employers and workers, including those who are pregnant and breastfeeding, should work together at all stages to develop jointly a culture of prevention and non-discrimination, to establish rules and procedures, as well as information and awareness-raising initiatives.

Addressing maternity and unpaid care work in social protection strategies to reduce poverty and inequalities

Addressing reproduction-related risks and vulnerabilities remains a priority for women workers, especially the most vulnerable to social exclusion in low-income countries. Women, across the life cycle,

act as the main social protection providers, substituting for the lack of adequate social security systems, public infrastructure and services. This has detrimental effects on maternal and newborn health, families' economic security and gender equality. The progressive establishment of national social protection floors offers a promising framework for recognizing, valuing and supporting unpaid care work by extending contributory and non-contributory child and maternity benefits and comprehensive social care services to the most excluded. Minimum social security guarantees should include adequate prenatal, childbirth and postnatal health care and income security for women during the last weeks of pregnancy and the first weeks after delivery. Access to affordable and quality social care services, and in particular childcare, is an essential social protection measure to reduce poverty and inequality and promote gender equality. These services are also essential to promote transition to formal work, when they are designed and implemented taking into account informal workers' specific vulnerabilities, capacities and needs, including in terms of the location, duration, opening hours and cost of the service and the need for complementary services targeting children (nutrition, health care and education).

Innovative social protection programmes in middle- and low-income countries, such as cash transfers and employment guarantee schemes, have enormous gender-transformative potential when they explicitly aim to reduce women's unpaid care work and promote the equal sharing of care responsibilities between women and men. Public support should also aim to lighten the burden deriving from the family responsibilities of workers. These efforts should include the creation of formal, quality and qualified jobs in the care sector, including home-help and home-care services with decent working conditions; the provision of basic infrastructure and community services, such as roads, public transport, supply of water and energy in rural areas; and increased access to low-cost, labour-saving technologies to reduce girls' and women's unpaid work in food-processing and farm-related activities.

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Contents

Appendices

Appendix I
Methodological notes and summary of information available in the ILO Working Conditions Laws Database, by region

Information was collected for a total of 185 countries and territories, grouped into six separate regions. These regional groupings (see table A1) follow the groupings adopted by the *ILO Global wage report*[1] and are consistent with those used in the ILO's Global Employment Trends (GET) model, with some adaptations as follows. We have collapsed several GET regions into a single region for Asia and the Pacific (which includes the GET regions East Asia, South-East Asia and the Pacific, and South Asia) and also for Africa (which comprises North Africa and sub-Saharan Africa). The Republic of Korea and Singapore are now grouped with Asia (rather than with the Developed Economies). All Member States of the EU are included under "Developed Economies".[2] The division between "Central and Eastern Europe" and "Eastern Europe and Central Asia" is no longer maintained, with all former transition countries (apart from members of the EU) and Turkey included in a single grouping, "Eastern Europe and Central Asia".

Table A1. Regional groups

Regions	Countries and territories
Africa (52 countries)	Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, United Republic of Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe
Asia (26 countries)	Afghanistan, Bangladesh, Brunei, Cambodia, China, Fiji, Hong Kong (China), India, Indonesia, Islamic Republic of Iran, Kiribati, Republic of Korea, Lao People's Democratic Republic, Malaysia, Mongolia, Myanmar, Nepal, Pakistan, Papua New Guinea, Philippines, Singapore, Solomon Islands, Sri Lanka, Thailand, Vanuatu, Viet Nam
Developed Economies (42 countries)	Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Channel Islands – Guernsey, Channel Islands – Jersey, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Isle of Man, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom, the United States
Eastern Europe and Central Asia (19 countries)	Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Montenegro, Russian Federation, Serbia, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, Uzbekistan
Latin America and the Caribbean (34 countries)	Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, British Virgin Islands, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Uruguay, Bolivarian Republic of Venezuela
Middle East (12 countries)	Bahrain, Iraq, Jordan, Kuwait, Lebanon, Occupied Palestinian Territories, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen

Compared to earlier versions of *Maternity protection at work*, a few changes have taken place. The Islamic Republic of Iran has shifted from the Middle East to Asia. The following countries and territories have been added: Andorra, British Virgin Islands, Channel Islands Jersey and Guernsey, Georgia, Hong Kong (China), Isle of Man, Monaco, Montenegro, the Occupied Palestinian Territories, Oman, Puerto Rico, Sierra Leone, The former Yugoslav Republic of Macedonia and Turkmenistan. Because of regional regroupings, regional trends published in the current report may not be directly compared to figures in the previous editions of *Maternity protection at work*.

Chapters 1 and 2 are based on the full set of countries listed in table A1. Chapters 3 to 5 are based on the subset of 170 countries for which legal data were available in the "ILO Working Conditions Law Database – Maternity Protection" as of December 2013 (listed in table A2), which was most recently updated in 2011–12.[3] Information on 15 additional countries is drawn from other direct or secondary sources.[4] Data from 1994 come from the *ILO Conditions of work digest: Maternity and work*, Vol. 1, 1994.

Notes

1. ILO. 2013. *Global wage report 2012/2013: Wages and equitable growth* (Geneva).

2. As of 1 July 2013 Croatia joined the European Union as its 28th member; however, for the purposes of this report, which mostly refers to legal and statistical information prior to this date, Croatia is classified under the Eastern Europe and Central Asia region.

3. The ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [4 Apr. 2014].

4. Additional sources, all accessed on 4 Apr. 2014, include:
- Andorra, Isle of Man, Monaco, and British Virgin Islands: the International Social Security Association (ISSA): http://www.issa.int/.
- Channel Islands Guernsey and Channel Islands Jersey: Social Security Department of the States of Guernsey Government: *Benefit payment and contribution rates for 2014*: http://gov.gg/CHttpHandler.ashx?id=85273&p=0.
- Hong Kong: Labour Department of the Government of the Hong Kong Special Administrative Region, *The Employment Ordinance*, Chapter 57, Maternity leave: http://www.labour.gov.hk/eng/legislat/contentB2.htm; http://www.labour.gov.hk/eng/public/wcp/ConciseGuide/06.pdf; the International Social Security Association (ISSA): http://www.issa.int/.
- Georgia: Labour Code, No. 4113, 2010 as amended in 2013, Articles 27–29: http://www.ilo.ch/dyn/natlex/docs/ELECTRONIC/88313/105780/F206389259/GEO88313.pdf.
- Macedonia, The former Yugoslav Republic of: Labour Relations Act, No. 80/93-2007, Article 58: http://www.lex-adin.nl/wlg/legis/nofr/eur/arch/mac/laborlaw.pdf; *Medical care and sickness benefits*, No. 26/2012, Articles 14–17, available at: World Bank, Women, Business and the Law Database: http://wbl.worldbank.org/data/exploreeconomies/macedonia-fyr/2013#getting-a-job.
- Montenegro: Labour Law 2011, Article 111 8, available at: http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89492/102831/F485803111/MGO-2011-L-89492.pdf) and Law on Social and Child Welfare, 2005, Articles 10, 51–55, 60 and 61, available at: http://www.minradiss.gov.me/en/ministry?alphabet=lat.
- Oman: Sultan's Decree No. 35/2003, Article 83: http://directory-oman.com/labourlaw.htm.
- Occupied Palestinian Territories: Labour Law, 2003, Article 103, available at: World Bank, Women, Business and the Law Database: http://wbl.worldbank.org/data/exploreeconomies/west-bank-and-gaza/2013#getting-a-job.
- Puerto Rico: Ley Núm. 3 del 13 de marzo de 1942, según enmendada: http://www.trabajo.pr.gov/pdf/num3.pdf.
- Sierra Leone: Services Trade Group Collective Agreement of December 14th, 2010, Article 14, available at: the World Bank, Women, Business and the Law Database: http://wbl.worldbank.org/data/exploreeconomies/sierra-leone/2013#getting-a-job.
- Turkmenistan: the International Social Security Association (ISSA): http://www.issa.int/.

Table A2. Summary of information available in the "ILO Working Conditions Laws Database – Maternity Protection", by region (170 countries), 2013

Africa (51)	Asia (25)	Developed Economies (37)	Eastern Europe and Central Asia (15)	Latin America and the Caribbean (32)	Middle East (10)
Algeria	Afghanistan	Australia	Albania	Antigua and Barbuda	Bahrain
Angola	Bangladesh	Austria	Armenia	Argentina	Iraq
Benin	Brunei Darussalam	Belgium	Azerbaijan	Bahamas	Jordan
Botswana	Cambodia	Bulgaria	Belarus	Barbados	Kuwait
Burkina Faso	China	Canada	Bosnia and Herzegovina	Belize	Lebanon
Burundi	Fiji	Cyprus	Croatia	Bolivia, Plurinational State of	Qatar
Cameroon	India	Czech Republic	Kazakhstan	Brazil	Saudi Arabia
Cape Verde	Indonesia	Denmark	Kyrgyzstan*	Chile	Syrian Arab Republic
Central African Republic	Iran, Islamic Republic of	Estonia	Moldova, Republic of	Colombia	United Arab Emirates
Chad	Kiribati	Finland	Russian Federation	Costa Rica	Yemen
Comoros	Korea, Republic of	France	Serbia	Cuba	
Congo	Lao People's Democratic Republic	Germany	Tajikistan	Dominica	
Côte d'Ivoire	Malaysia	Greece	Turkey	Dominican Republic	
Democratic Republic of the Congo	Mongolia	Hungary	Ukraine*	Ecuador	
Djibouti	Myanmar	Iceland	Uzbekistan	El Salvador	
Egypt	Nepal	Ireland		Grenada	
Equatorial Guinea	Pakistan	Israel		Guatemala	
Eritrea	Papua New Guinea	Italy		Guyana	
Ethiopia	Philippines	Japan		Haiti	
Gabon	Singapore	Latvia		Honduras	
Gambia	Solomon Islands	Lithuania		Jamaica	
Ghana	Sri Lanka	Luxembourg		Mexico	
Guinea	Thailand	Malta		Nicaragua	
Guinea-Bissau	Vanuatu	Netherlands		Panama	
Kenya	Viet Nam	New Zealand		Paraguay	
Lesotho		Norway		Peru	
Libyan Arab Jamahiriya		Poland*		Saint Kitts and Nevis	
Madagascar		Portugal		Saint Lucia	
Malawi		Romania		Saint Vincent and the Grenadines	
Mali		San Marino		Trinidad and Tobago	
Mauritania		Slovakia		Uruguay	
Mauritius		Slovenia		Venezuela, the Bolivarian Republic of	
Morocco		Spain			
Mozambique		Sweden			
Namibia		Switzerland			
Niger		United Kingdom			
Nigeria		United States			
Rwanda					
Sao Tome and Principe					
Senegal					
Seychelles					
Somalia					
South Africa					
Sudan					
Swaziland					
Tanzania, United Republic of					
Togo					
Tunisia					
Uganda					
Zambia					
Zimbabwe					

Note: For countries marked with an asterisk (*), information is available only on the duration of maternity leave, cash benefits and the source of funding.

Appendix II
Key national statutory provisions on maternity leave, by region, 2013

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
AFRICA							
Algeria	14 weeks	14 weeks	100%	Social security (social insurance)	✔		
Angola	3 months	13 weeks	100%	Social security (social insurance)[1]			
Benin	14 weeks	14 weeks	100%	Mixed (50% social insurance; 50% employer)			✔
Botswana	12 weeks	12 weeks	50%	Employer liability[2]			
Burkina Faso	14 weeks	14 weeks	100%	Social security (social insurance)[3]	✔		✔
Burundi	12 weeks	12 weeks	100%	Mixed (50% social insurance; 50% employer)			
Cameroon	14 weeks	14 weeks	100%	Social security (social insurance)	✔		
Cape Verde	60 days	9 weeks	90%	Social security (social insurance)❖[4]			
Central African Republic	14 weeks	14 weeks	50%	Social security (social insurance)	✔		
Chad	14 weeks	14 weeks	100%	Social security (social insurance)			
Comoros	14 weeks	14 weeks	100%	Employer liability			
Congo	15 weeks	15 weeks	100%	Mixed (50% social insurance; 50% employer)			
Côte d'Ivoire	14 weeks	14 weeks	100%	Social security (social insurance)	✔		
Democratic Republic of Congo	14 weeks	14 weeks	66.7% (two-thirds)	Employer liability			
Djibouti	14 weeks	14 weeks	100%	Mixed (50% social insurance; 50% employer)			
Egypt	3 months	13 weeks	100%	Mixed (75% social insurance; 25% employer)			
Equatorial Guinea	12 weeks	12 weeks	75%	Social security (social insurance)		✔	
Eritrea	60 days	9 weeks	Paid (amount unidentified)	Employer liability			
Ethiopia	90 days	13 weeks	100%	Employer liability			
Gabon	14 weeks	14 weeks	100%	Social security (social insurance)	✔		
Gambia	12 weeks	12 weeks	100%	Employer liability			
Ghana	12 weeks	12 weeks	100%	Employer liability		✔	
Guinea	14 weeks	14 weeks	100%	Mixed (50% social insurance; 50% employer)	✔		
Guinea-Bissau	60 days	9 weeks	100%	Mixed❖[5]			

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
Kenya	3 months	13 weeks	100%	Employer liability			
Lesotho	12 weeks	12 weeks	100%[6]	Employer liability			
Libya	14 weeks	14 weeks	50% (100% for self-employed women for 13 weeks)[7]	Mixed (employer liability or social insurance for self-employed women)	✔	✔	
Madagascar	14 weeks	14 weeks	100%	Mixed (50% social insurance; 50% employer)❖			
Malawi	8 weeks[8]	8 weeks	100%	Employer liability			
Mali	14 weeks	14 weeks	100%	Social security (social insurance)			✔
Mauritania	14 weeks	14 weeks	100%	Social security (social insurance)	✔		
Mauritius	12 weeks	12 weeks	100%	Employer liability			
Morocco	14 weeks	14 weeks	100%	Social security (social insurance)			✔
Mozambique	60 days	9 weeks	100%	Social security (social insurance)			
Namibia	12 weeks	12 weeks	100% up to a ceiling	Social security (social insurance topped up by employer)			
Niger	14 weeks	14 weeks	100%	Mixed (50% social insurance; 50% employer)[9]			
Nigeria	12 weeks	12 weeks	50%	Employer liability			
Rwanda	12 weeks	12 weeks	100% first 6 weeks; 20% remainder	Employer liability[10]			
Sao Tome and Principe	60 days	9 weeks	100%	Social security (social insurance)❖			
Senegal	14 weeks	14 weeks	100%	Social security (social insurance)			
Seychelles	14 weeks	14 weeks	Flat rate monthly benefit for 12 weeks	Social security (social insurance)			
Sierra Leone	84 days	12 weeks	100%	Employer liability			
Somalia	14 weeks	14 weeks	50%	Employer liability			
South Africa	4 months	17 weeks	60%[11]	Social security (social insurance)			
Sudan	8 weeks	8 weeks	100%	Employer liability			
Swaziland	12 weeks	12 weeks	100% for 2 weeks	Employer liability			
Tanzania, United Republic of	84 days	12 weeks	100%	Social security (social insurance)			
Togo	14 weeks	14 weeks	100%	Mixed (50% social insurance; 50% employer)			
Tunisia	30 days	4 weeks	66.7%	Social security (social insurance)			

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
Uganda	60 working days	10 weeks	100%	Employer liability			
Zambia	12 weeks	12 weeks	100%	Employer liability		✔	
Zimbabwe	98 days	14 weeks	100%	Employer liability			
ASIA							
Afghanistan	90 days	13 weeks	100%	Employer liability			
Bangladesh	16 weeks	16 weeks	100%	Employer liability			
Brunei Darussalam	9 weeks	9 weeks	100% for 8 weeks	Employer liability			
Cambodia	90 days	13 weeks	50%	Employer liability			
China	98 days	14 weeks	100%	Social security (social insurance)			
Fiji	84 days	12 weeks	100%	Employer liability			
Hong Kong (China)	10 weeks	10 weeks	80%	Mixed (employer liability and public funds)			
India	12 weeks	12 weeks	100%	Social security (social insurance)❖			
Indonesia	3 months	13 weeks	100%	Employer liability			
Iran, Islamic Republic of	90 days or 4 months if breastfeeding	13 weeks; 17 weeks if breastfeeding	66.7% for 12 weeks	Social security (social insurance)			
Kiribati	12 weeks	12 weeks	25%	Employer liability			
Korea, Republic of	90 days	13 weeks	100%	Mixed (two-thirds employer; one-third social insurance)[12]			
Lao People's Democratic Republic	90 days	13 weeks	100%	Social security (social insurance)❖			
Malaysia	60 days	9 weeks	100%	Employer liability			
Mongolia	120 days	17 weeks	70%	Social security (social insurance)		✔	
Myanmar	12 weeks	12 weeks	66.7%	Social security (social insurance)			
Nepal	52 days	7 weeks	100%	Employer liability			
Pakistan	12 weeks	12 weeks	100%	Employer liability			
Papua New Guinea	As necessary for hospitalization before confinement and 6 weeks after	As necessary for hospitalization before confinement and 6 weeks after	Unpaid	N/A		✔	
Philippines	60 days	9 weeks	100%	Social security (social insurance)			
Singapore	16 weeks	16 weeks	100% for first and second child	Mixed (8 weeks employer and 8 weeks public funds)[13]			
Solomon Islands	12 weeks	12 weeks	25%	Employer liability			

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
Sri Lanka	12 weeks for first and second child[14]	12 weeks for first and second child	6/7 or 100%[14]	Employer liability		✔	
Thailand	90 days	13 weeks	100% for first 45 days (employer); 50% for the last 45 days (social insurance)	Mixed (two-thirds employer; one-third social insurance)			
Vanuatu	12 weeks	12 weeks	66.7%	Employer liability			
Viet Nam	6 months	26 weeks	100%	Social security (social insurance)			
DEVELOPED ECONOMIES							
Andorra	16 weeks	16 weeks	100%	Social security (social insurance)			
Australia	52 weeks (parental leave)[15]	52 weeks (parental leave)	18 weeks at the federal minimum wage level	Social security (public funds – federal government)			
Austria	16 weeks	16 weeks	100%	Social security (social insurance)		D**	✔
Belgium	15 weeks	15 weeks	82% for the first 30 days; 75% for the remainder (up to a ceiling)	Social security (social insurance)			
Bulgaria	227 days[16]	32 weeks	90%	Social security (social insurance)	✔		✔
Canada	17 weeks (federal)	17 weeks (federal)	55% for 15 weeks up to a ceiling	Social security (social insurance)			
Channel Islands, Guernsey	18 weeks	18 weeks	Flat rate benefit	Social security (social insurance)			
Channel Islands, Jersey	18 weeks	18 weeks	Flat rate benefit	Social security (social insurance)			
Cyprus	18 weeks	18 weeks	75%	Social security (social insurance)			✔
Czech Republic	28 weeks	28 weeks	70%	Social security (social insurance)			
Denmark	18 weeks	18 weeks	100%	Mixed (public funds and employer)[17]			
Estonia	140 days	20 weeks	100%	Social security (social insurance)			
Finland	105 working days	18 weeks	70%[18]	Social security (social insurance)			
France	16 weeks	16 weeks	100% up to a ceiling	Social security (social insurance)	✔		
Germany	14 weeks	14 weeks	100%	Mixed (social insurance for a flat rate benefit and employer liability)	✔		
Greece	119 days	17 weeks	100%[19]	Social security (social insurance and public funds)	✔	✔	
Hungary	24 weeks	24 weeks	70%	Social security (social insurance)	D*	D**	✔
Iceland	3 months	13 weeks	80%	Social security (social insurance)			

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
Ireland	26 weeks paid (plus 16 weeks unpaid)	42 weeks	80% up to a ceiling for 26 weeks	Social security (social insurance)			
Isle of Man	26 weeks	26 weeks	90%	Social security (social insurance and social assistance)			
Israel	14 weeks[20]	14 weeks	100% up to a ceiling	Social security (social insurance)			
Italy	5 months	22 weeks	80%	Social security (social insurance)	✔	D**	✔
Japan	14 weeks	14 weeks	66.7%	Social security (social insurance and public funds for 1/8 of the total cost)			
Latvia	112 days	16 weeks	80%	Social security (social insurance)	✔		✔
Lithuania	126 days	18 weeks	100%	Social security (social insurance)			✔
Luxembourg	16 weeks	16 weeks	100%	Social security (social insurance)	✔	D**	✔
Malta	18 weeks	18 weeks	100% for 14 weeks	Mixed (employer liability and social insurance)[21]			
Monaco	16 weeks	16 weeks	90% up to a ceiling	Social security (social insurance)			
Netherlands	16 weeks	16 weeks	100% up to a ceiling	Social security (social insurance)		✔	✔
New Zealand	14 weeks	14 weeks	100% up to a ceiling	Social security (public funds – State)			
Norway	35 (or 45) weeks[22]	35 (or 45) weeks	100% (or 80% for 45 weeks)	Social security (social insurance)			
Poland	26 weeks	26 weeks	100%	Social security (social insurance)		✔	
Portugal	120 (or 150) days	17 (or 21) weeks	100% (or 80% for 150 days)	Social security (social insurance)		✔	✔
Romania	126 days	18 weeks	85%	Social security (State Health Insurance)	✔		✔
San Marino	5 months	22 weeks	100%	Social security (social insurance)		✔	
Slovakia	34 weeks	34 weeks	65%	Social security (social insurance)			✔
Slovenia	105 days	15 weeks	100%	Social security (social insurance)	✔	D**	✔
Spain	16 weeks	16 weeks	100%	Social security (social insurance)	✔	✔	
Sweden	14 weeks[23]	14 weeks	80%	Social security (social insurance)			
Switzerland	14 weeks	14 weeks	80% up to a ceiling	Social security and mandatory private insurance (50% employer; 50% employee)			
United Kingdom	52 weeks	52 weeks	6 weeks paid at 90%; lower of 90%/flat rate for weeks 7–39; weeks 40–52 unpaid	Mixed (employers reimbursed up to 92% by public funds)[24]			
United States	12 weeks (federal)	12 weeks (federal)	Unpaid[25]	No federal programme			

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
EASTERN EUROPE AND CENTRAL ASIA							
Albania	365 days	52 weeks	80% prior to birth up to 150 days after; 50% for remainder	Social security (social insurance)			✔
Armenia	140 days	20 weeks	100%	Social security (social insurance)			
Azerbaijan	126 days	18 weeks	100%	Social security (social insurance)		D**	✔
Belarus	126 days	18 weeks	100%	Social security (social insurance)		D**	✔
Bosnia and Herzegovina	365 days	52 weeks	50% to 100%[26]	Social security (social insurance and public funds)	D*	D**	✔
Croatia	45 days before birth to 1 year after birth	58 weeks	100% until 6 months after birth, then a flat-rate benefit	Social security (health insurance fund for 6 months, then public funds)	✔	✔	
Georgia	126 days	18 weeks	100%	Social security (public funds – State)			
Kazakhstan	126 days	18 weeks	100%	Social security (social insurance)			✔
Kyrgyzstan	126 days	18 weeks	7 times the minimum wage level	Social security (social insurance)		✔	
Moldova, Republic of	126 days	18 weeks	100%	Social security (social insurance)		D**	✔
Montenegro	365 days from birth	52 weeks	100%	Social security (social insurance)	✔	D**	✔
Russian Federation	140 days	20 weeks	100% up to a ceiling	Social security (social insurance)		✔	
Serbia	140 days[27]	20 weeks	100%	Social security (social insurance)	D*	D**	✔
Tajikistan	140 days	20 weeks	100%	Social security (social insurance)		✔	
The former Yugoslav Republic of Macedonia	9 months	39 weeks	100%	Social security (social insurance)	✔	D**	✔
Turkey	16 weeks	16 weeks	66.7%	Social security (social insurance)			
Turkmenistan	16 weeks	16 weeks	100%	Social security (social insurance)			
Ukraine	126 days	18 weeks	100%	Social security (social insurance)		✔	
Uzbekistan	126 days	18 weeks	100%	Social security (social insurance)		✔	
LATIN AMERICA AND THE CARIBBEAN							
Antigua and Barbuda	13 weeks	13 weeks	100% for 6 weeks; 60% for 7 weeks	Mixed (60% social insurance; 40% employer for first 6 weeks)			
Argentina	90 days	13 weeks	100%	Social security (social insurance)	✔		
Bahamas	12 weeks	12 weeks	100%	Mixed (two-thirds social insurance for 13 weeks; one-third employer for 12 weeks)		✔	

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
Barbados	12 weeks	12 weeks	100%	Social security (social insurance)			
Belize	14 weeks	14 weeks	100%	Social security (social insurance)❖		D**	✔
Bolivia, Plurinational State of	90 days	13 weeks	95%[28]	Social security (social insurance)		✔	
Brazil	120 days[29]	17 weeks	100%	Social security (social insurance)	D*	✔	
British Virgin Islands	13 weeks	13 weeks	66.7%	Social security (social insurance)			
Chile	18 weeks	18 weeks	100% up to a ceiling	Social security (social insurance)	D*	✔	
Colombia	14 weeks	14 weeks	100%	Social security (social insurance)❖	✔		
Costa Rica	4 months	17 weeks	100%	Mixed (50% social insurance; 50% employer)❖			
Cuba	18 weeks	18 weeks	100%	Social security (social insurance)	✔	D**	✔
Dominica	12 weeks	12 weeks	60%	Social security (social insurance)			
Dominican Republic	12 weeks	12 weeks	100%	Mixed (50% social insurance; 50% employer)❖			
Ecuador	12 weeks	12 weeks	100%	Mixed (75% social insurance; 25% employer)		✔	
El Salvador	12 weeks	12 weeks	75%	Social security (social insurance)❖			
Grenada	3 months	13 weeks	100% for 2 months; 65% for last month	Mixed (65% social insurance for 3 months; 35% employer for 2 months)			
Guatemala	84 days	12 weeks	100%	Mixed (two-thirds social insurance; one-third employer)❖		✔	
Guyana	13 weeks	13 weeks	70%	Social security (social insurance)			
Haiti	12 weeks	12 weeks	100% for six weeks	Employer liability			
Honduras	84 days[30]	12 weeks	100% for 10 weeks	Mixed (two-thirds social insurance; one-third employer)❖			
Jamaica	12 weeks	12 weeks	100% for 8 weeks	Employer liability			
Mexico	12 weeks	12 weeks	100%	Social security (social insurance)❖			
Nicaragua	12 weeks	12 weeks	100%	Mixed (60% social security; 40% employer)❖	✔		
Panama	14 weeks	14 weeks	100%	Social security (social insurance)❖[31]	✔		
Paraguay	12 weeks	12 weeks	50% for 9 weeks	Social security (social insurance)			
Peru	90 days	13 weeks	100%	Social security (social insurance)			
Puerto Rico	8 weeks	8 weeks	100%	Employer liability			

Country	Duration of maternity leave (in national legislation)	Duration of maternity leave (in weeks)	Amount of maternity leave cash benefits (% of previous earnings)	Source of funding of maternity leave cash benefits	Ratified Maternity Protection Conventions		
					C3	C103	C183
Saint Kitts and Nevis	13 weeks	13 weeks	65%	Social security (social insurance)			
Saint Lucia	13 weeks	13 weeks	65%	Social security (social insurance)			
Saint Vincent and the Grenadines	13 weeks	13 weeks	65%	Social security (social insurance)			
Trinidad and Tobago	13 weeks	13 weeks	100%	Mixed (two-thirds employer and one-third social insurance)[32]			
Uruguay	12 weeks	12 weeks	100%	Social security (social insurance)	D*	✔	
Venezuela, Bolivarian Republic of	26 weeks	26 weeks	100%	Social security (social insurance)	✔	D	
MIDDLE EAST							
Bahrain	60 days	9 weeks	100% for 45 days	Social security (social insurance)			
Iraq	62 days	9 weeks	100%	Employer liability			
Jordan	10 weeks	10 weeks	100%	Social security (social insurance)			
Kuwait	70 days	10 weeks	100%	Employer liability			
Lebanon	7 weeks	7 weeks	100%	Employer liability[33]			
Occupied Palestinian Territory	70 days	10 weeks	100%	Employer liability			
Oman	6 weeks	6 weeks	Unpaid[34]	N/A			
Qatar	50 days	7 weeks	100%	Employer liability			
Saudi Arabia	10 weeks	10 weeks	50–100%[35]	Employer liability			
Syrian Arab Republic	120 days (for first child)	17 weeks	100%	Employer liability			
United Arab Emirates	45 days	6 weeks	100%[36]	Employer liability			
Yemen	60 days	9 weeks	100%	Employer liability			

D = Denounced
D* = Denounced, C103 ratified
D** = Denounced, C183 ratified
❖ = If a woman is not covered by social insurance but otherwise qualifies for maternity leave, her employer is responsible for the full payment of her maternity leave cash benefits
N/A = not applicable

Methodological notes

Legal information in this appendix refers to the normal general provisions on maternity leave for singleton and uncomplicated childbirths as provided for by legislation at the national level for private sector workers. It does not cover the numerous provisions or exceptions that the law usually sets out for specific sectors, categories of workers or circumstances, such as for multiple births, illnesses and complications, single mothers or number of births, among others. For federal states, the federal legislation is reported.

Duration of maternity leave

Unless otherwise specified, the duration of maternity leave in days is intended as "consecutive" or "calendar" days, since maternity leave is usually provided over a consecutive period. For comparative purposes, duration in days and months as expressed in the national legislation has also been converted into weeks, based on a seven-day week and a 30-day month. For instance, a law that grants 98 days of maternity leave is interpreted as 98 consecutive days, which equals 14 weeks of maternity leave. Three months are converted into 13 weeks. Statutory duration in "working days" has been converted based on a six-day week.

Amount of maternity leave cash benefits

Based on Article 6 of the Maternity Protection Convention, 2000 (No. 183), the amount of cash benefits is expressed as a percentage of the worker's earnings prior to the beginning of maternity leave or of such of those earnings as are taken into account for the purpose of computing benefits. In addition, the classification takes into account the duration of maternity leave. In some countries, benefits are paid up to a ceiling (such as in France) or a flat rate benefit is provided (for example, Seychelles), regardless of previous earnings. In other countries, the amount of the cash benefit entitlement decreases over the maternity leave period (e.g., the United Kingdom).

Source of funding of maternity leave cash benefits

Based on Article 6 of the Maternity Protection Convention, 2000 (No. 183), countries are classified as financed by "Social security" (social insurance or public funds, such as the state or government), the employer ("Employer liability") or a combination of these systems ("Mixed"). A mixed system might involve an initial payment by the employer, followed by a partial reimbursement by social insurance or public funds. Mixed systems might also provide that the employer pays the difference between the social insurance benefit and the worker's previous earnings. Some systems stipulate that the employer has to pay for workers who are not covered by social security. For the purposes of this report, they are classified as funded by social security.

Notes

1. Angola: the employer advances the payment and is reimbursed by social insurance. If necessary, the employer tops up the difference between the social insurance benefit and the worker's wage.
2. Botswana: only employers in certain areas of the country are mandated to pay maternity benefits of at least 50 per cent of the worker's basic pay and other benefits that she would be entitled to receive.
3. Burkina Faso: the benefit provided by the Social Security Fund is equivalent to the percentage of the woman's previous earnings on which social security contributions have been paid. The employer is mandated to cover the difference between this amount and the woman's earnings gained just before maternity leave.
4. Cape Verde: the employer pays the difference between 90 per cent of the worker's "normal" salary and cash benefits paid by social security. If no cash benefits are paid, then the employer must pay the full amount of the benefits during the maternity leave period.
5. Guinea-Bissau: the employer is mandated to pay the difference between social security benefits and previous earnings.
6. Lesotho: according to Section 134 of the Labour Code (Order No. 24 of 1992, as amended in 2006), there is no legal obligation for employers to pay wages during maternity leave. However, the Labour Code Wages (Amendment) Order Notice 2013 (LN No. 152 of 2013) sets out that workers in the textile, clothing, leather clothing and leather manufacturing sectors as well as workers in the private security sector are entitled to six weeks' paid maternity leave and six weeks' unpaid maternity leave. Any other employee who does not fall in either of the above named sectors shall be entitled to receive six weeks' paid maternity leave before confinement and six weeks' paid maternity leave after confinement (other categories include workers in retail, tourism, hotel and restoration, transport, construction, small business with fewer than ten employees and domestic workers).
7. Libya: the amount of maternity leave cash benefits is 100 per cent of presumptive income for self-employed women, paid by social insurance for 13 weeks (three months).
8. Malawi: every three years.
9. Niger: a woman who has worked for at least two years at the same company shall receive from the employer 100 per cent of her salary, after deduction of any amount already covered by the social security or any other fund replacing this service.
10. Rwanda: the employer remains liable for the payment of maternity benefits until the maternity insurance fund is implemented.
11. South Africa: up to 60 per cent depending on worker's level of income. Benefits are paid for four months.
12. Republic of Korea: for employees of enterprises meeting the criteria of the Employment Insurance Act, the Employment Insurance Fund pays the whole maternity

leave period. If the enterprise does not meet these criteria, then the employer pays the first 60 days of maternity leave.

13. Singapore: for the first and second child, the employer pays the first eight weeks and can claim reimbursement from the Government up to a ceiling for the last eight weeks. For the third and subsequent children, the Government pays the 16 weeks up to a ceiling.
14. Sri Lanka: the duration of maternity leave is six weeks for the third and each subsequent child. The amount of maternity leave benefits is 6/7 of previous earnings for employees covered by the Maternity Benefits Ordinance; 100 per cent for those covered by the Shops and Offices Employees Act.
15. Australia: a single parental leave system provides 52 weeks, which may be shared between the parents. The mother may take six weeks of prenatal leave.
16. Bulgaria: the duration of maternity leave is calculated by adding the 45 days of compulsory leave to the 182 days (six months) of postnatal leave.
17. Denmark: about 75 per cent of the workforce is covered by collective agreements, mandating employers to top up the state benefits, which represent on average around 50 per cent of previous earnings (daily cash benefits in relation to previous earnings up to a ceiling). In this framework, workers receive compensation during leave from their employer up to their full previous earnings.
18. Finland: in general, the benefit is 70 per cent of previous earnings up to a ceiling, plus 40 per cent of an additional amount up to a ceiling, plus 25 per cent of another additional amount.
19. Greece: the minimum benefit is 66.7 per cent of the insured's earnings. The insured may also receive a maternity supplement of up to 33.3 per cent of earnings.
20. Israel: employment law allows 12 weeks of maternity leave, but maternity allowance can be paid up to 14 weeks. To be entitled to a full maternity allowance (14 weeks), the woman worker must have contributed for ten out of the previous 14 months or for 15 out of the previous 22 months before the day on which the woman discontinued work during pregnancy. In the event that the woman worker made contributions in six out of the previous 14 months, she will be entitled to a partial maternity allowance (seven weeks).
21. Malta: the Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta) requires employers to provide 100 per cent of previous earnings for 14 weeks of maternity leave. Since January 2013, the Protection of Maternity (Employment) Regulations, No. 452.91, 2004 as amended in 2012, entitles women employees to four additional unpaid weeks of maternity leave. Upon the expiry of the 18th week of leave, the employee can claim a four-week flat-rate "maternity leave benefit" (of approximately US$ 220 per week), which is provided by social insurance in one lump-sum. If for any reason a woman does not avail herself of part of the maternity leave paid by the employer, she will be entitled to a "maternity benefit" for the weeks of maternity leave that she did not take up (approximately US$ 120 per week for a maximum of 14 weeks, paid by the Government).
22. Norway has one system of paid parental leave (with no distinction between maternity and paternity leave) of 59 weeks or 49 weeks altogether (paid respectively at 80 per cent or 100 per cent of previous earnings). For the purpose of determining the length of maternity leave, the 14 weeks of paid leave exclusively reserved for the father have been left out of consideration. The mother may use the remainder of 45 or 35 weeks, of which 14 weeks are exclusively reserved for her, six weeks to be taken after the birth.
23. Sweden: parents are entitled to 480 calendar days paid parental leave paid at 80 per cent for 390 days and at a flat rate benefit for the remaining 90 days.
24. United Kingdom: the employer administers the payment. Employers in medium and large companies can be reimbursed for 92 per cent of the costs by the State (general revenues). Small employers can claim back 103 per cent through reductions of national insurance contributions paid by employers to the Government's tax authority.
25. United States: provisions for paid maternity leave benefits exist in five states (New York, New Jersey, California, Hawaii and Rhode Island). For instance, California provides six weeks paid at 55 per cent of previous earnings.
26. The replacement rate varies depending upon the various cantonal regulations: 50–80 per cent (Federation of Bosnia and Herzegovina); 100 per cent (Republic of Srpska).The employer is reimbursed for initial payment.
27. Serbia: an employed woman is entitled to leave for pregnancy and childbirth, as well as leave for childcare for a total duration of 365 days. She may start her maternity leave pursuant to the advice of a competent medical authority 45 days before the delivery term at the earliest and 28 days before at the latest. Maternity leave shall last until three months after childbirth.
28. Plurinational State of Bolivia: 100 per cent of the minimum wage plus 70 per cent of the difference between the minimum wage and regular earnings.
29. Brazil: optional leave paid by the employer can be provided for 60 additional days.
30. Honduras: the Labour Code (31 March 2003) provides ten weeks' maternity leave, while according to the General Regulation of Social Security Act (15 February 2005) maternity benefits are paid for 84 days by social insurance up to 66 per cent of previous earnings. Beneficiaries of the maternity benefits should abstain from work (Article 69).
31. Panama: the difference between Social Security Fund payments and the worker's entitlement during this

period is paid by the employer. In cases where there is no liability on the part of the Social Security Fund to pay a maternity allowance, the obligation shall be incumbent entirely on the employer.

32. Trinidad and Tobago: under the Maternity Protection Act, an employee is entitled to receive pay from her employer to an amount equivalent to one month's leave with full pay and two months' leave with half pay. The social insurance system pays a benefit depending on earnings. When the amount paid by the employer and the maternity benefit is less than full pay, the employer shall pay the difference to the employee.
33. Lebanon: cash benefits are also statutorily provided by the Social Security Act (Article 26), for a duration of ten weeks paid at two-thirds of previous earnings. Beneficiaries of the maternity benefits should abstain from work. The ISSA reports that the programmes for cash sickness and maternity benefits have not yet been implemented.
34. Oman: according to Article 83 of the Sultan's Decree No. 35/2003, a worker is entitled to choose either to consider her period of absence from work as maternity leave without pay, or as sick leave pursuant to Article 66 of the same labour law. In this case, sick leave is paid by social security on a sliding scale of previous gross earnings as follows: first and second week: 100 per cent; third and fourth week: 75 per cent; fifth and sixth week: 50 per cent.
35. Saudi Arabia: 50 per cent if the employee has one to three years in service before the beginning of maternity leave; 100 per cent with three years or more.
36. United Arab Emirates: 50 per cent before one continuous year of employment.

Sources

All sources accessed on 4 Apr. 2014. All information in the table is based on data available as of December 2013 in the ILO Working Conditions Laws Database – Maternity Protection following the 2011–12 update (available at: www.ilo.org/travdatabase) and in NORMLEX, Information System on International Labour Standards (available at: www.ilo.org/normlex). Information on national legislation collected after 2012 may not yet be reflected in the database. This information covers the following countries:

- Armenia: the International Social Security Association (ISSA): http://www.issa.int/.
- Belgium: ISSA and Social Security, p. 55: http://www.securitesociale.fgov.be/docs/en/alwa2013_en.pdf.
- Bahrain: Labour Law No. 36 of 2012, Articles 32–36: http://www.rrc.com.bh/media/141168/labour_law_2012__1_.pdf.
- Chile: Labour Code, No. 20545 of 2011, Articles 194–197 bis, http://www2.ilo.org/dyn/natlex/docs/ELECTRONIC/89227/102397/F2124137515/CHL89227.pdf.
- Czech Republic (maternity leave benefits): Czech Social Security Administration: http://www.cssz.cz/en/sickness-insurance/benefits-provided-under-sickness-insurance.htm.
- Kazakhstan: the International Social Security Association (ISSA): http://www.issa.int/.
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- Malta: Protection of Maternity (Employment) Regulations, Subsidiary Legislation No. 452.91, 2004 as amended in 2012, Articles 6–7: http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11225&l=1 and https://secure3.gov.mt/socialpolicy/social_benefits/children/mat_leave_ben/mat_leave_ben.
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- Viet Nam: Labour Code, No.10/2012/QH13, Article 157: http://www2.ilo.org/dyn/natlex/docs/ELECTRONIC/91650/106402/F-1475261172/VNM91650%20Eng.pdf.
- Bolivarian Republic of Venezuela: Ley Orgánica del Trabajo del 7 de mayo de 2012, Article 336: http://www.lottt.gob.ve/ley-del-trabajo/titulo-vi/.

Appendix III
Estimates of coverage in law and coverage in practice of paid maternity leave, by region, 2010

Country	Coverage in law of maternity leave (%)	Coverage in law of maternity leave cash benefits (voluntary contributors excluded) (%)	Coverage in law of maternity leave cash benefits (voluntary contributors included) (%)	Coverage in practice of maternity leave cash benefits (%)
AFRICA				
Algeria	***	***	***	***
Angola	10–32	10–32	10–32	0–9
Benin	0–9	0–9	0–9	0–9
Botswana	33–65	33–65	33–65	33–65
Burkina Faso	0–9	0–9	0–9	0–9
Burundi	10–32	10–32	10–32	0–9
Cameroon	10–32	0–9	10–32	0–9
Cape Verde	33–65	90–100	90–100	33–65
Central African Republic	0–9	0–9	0–9	***
Chad	0–9	0–9	0–9	0–9
Comoros	10–32	10–32	10–32	***
Congo	0–9	10–32	90–100	0–9
Congo, Democratic Republic of	0–9	0–9	0–9	0–9
Côte d'Ivoire	10–32	66–89	90–100	0–9
Egypt	33–65	33–65	33–65	33–65
Equatorial Guinea	66–89	66–89	66–89	***
Eritrea	10–32	10–32	10–32	***
Ethiopia	0–9	0–9	0–9	0–9
Gabon	33–65	90–100	90–100	***
Gambia	33–65	33–65	33–65	***
Ghana	10–32	10–32	10–32	***
Guinea	0–9	0–9	0–9	***
Guinea-Bissau	0–9	0–9	0–9	0–9
Kenya	10–32	0–9	0–9	0–9
Lesotho	10–32	10–32	10–32	***
Libya	***	***	***	***
Madagascar	0–9	0–9	0–9	0–9
Malawi	0–9	0–9	0–9	***
Mali	0–9	0–9	0–9	***
Mauritania	10–32	10–32	10–32	***
Mauritius	66–89	66–89	66–89	33–65
Morocco	90–100	33–65	33–65	10–32
Mozambique	66–89	10–32	90–100	0–9
Namibia	66–89	90–100	90–100	10–32
Niger	0–9	10–32	10–32	***
Nigeria	0–9	0–9	0–9	***
Rwanda	0–9	0–9	0–9	0–9
Senegal	10–32	10–32	10–32	0–9

Country	Coverage in law of maternity leave (%)	Coverage in law of maternity leave cash benefits (voluntary contributors excluded) (%)	Coverage in law of maternity leave cash benefits (voluntary contributors included) (%)	Coverage in practice of maternity leave cash benefits (%)
Sierra Leone	***	***	***	***
Somalia	0–9	0–9	0–9	***
South Africa	66–89	66–89	66–89	33–65
Sudan	0–9	0–9	0–9	***
Swaziland	33–65	0–9	0–9	***
Tanzania, United Republic of	0–9	0–9	90–100	0–9
Togo	0–9	90–100	90–100	0–9
Tunisia	66–89	66–89	90–100	33–65
Uganda	10–32	10–32	10–32	10–32
Zambia	0–9	0–9	0–9	0–9
Zimbabwe	10–32	10–32	10–32	0–9
ASIA				
Afghanistan	***	***	***	***
Bangladesh	10–32	10–32	10–32	***
Brunei Darussalam	33–65	33–65	33–65	***
Cambodia	10–32	10–32	10–32	0–9
China	10–32	0–9	66–89	10–32
Fiji	33–65	33–65	33–65	33–65
Hong Kong (China)	90–100	90–100	90–100	***
India	10–32	10–32	10–32	0–9
Indonesia	10–32	10–32	10–32	0–9
Iran, Islamic Republic of	***	***	***	***
Korea, Republic of	66–89	10–32	33–65	10–32
Lao People's Democratic Republic	0–9	0–9	0–9	0–9
Malaysia	66–89	66–89	66–89	10–32
Mongolia	33–65	33–65	33–65	33–65
Myanmar	0–9	0–9	0–9	0–9
Nepal	10–32	10–32	10–32	0–9
Pakistan	10–32	10–32	10–32	0–9
Papua New Guinea	10–32	0–9	0–9	***
Philippines	33–65	90–100	90–100	66–89
Singapore	33–65	33–65	33–65	***
Solomon Islands	10–32	90–100	90–100	***
Sri Lanka	33–65	33–65	33–65	10–32
Thailand	33–65	66–89	90–100	10–32
Viet Nam	10–32	0–9	10–32	10–32
DEVELOPED ECONOMIES				
Andorra	90–100	***	***	***
Australia	66–89	10–32	66–89	66–89
Austria	90–100	90–100	90–100	90–100
Belgium	66–89	66–89	90–100	90–100
Bulgaria	66–89	66–89	90–100	66–89
Canada	66–89	66–89	90–100	66–89
Channel Islands, Guernsey	***	***	***	***

Country	Coverage in law of maternity leave (%)	Coverage in law of maternity leave cash benefits (voluntary contributors excluded) (%)	Coverage in law of maternity leave cash benefits (voluntary contributors included) (%)	Coverage in practice of maternity leave cash benefits (%)
Cyprus	90–100	90–100	90–100	90–100
Czech Republic	66–89	90–100	90–100	90–100
Denmark	90–100	90–100	90–100	90–100
Estonia	90–100	90–100	90–100	90–100
Finland	66–89	90–100	90–100	90–100
France	90–100	66–89	90–100	66–89
Germany	66–89	90–100	90–100	66–89
Greece	66–89	90–100	90–100	90–100
Hungary	66–89	66–89	90–100	***
Iceland	90–100	90–100	90–100	***
Ireland	90–100	66–89	90–100	90–100
Isle of Man	***	***	***	***
Israel	66–89	90–100	90–100	90–100
Italy	66–89	66–89	90–100	66–89
Japan	66–89	66–89	66–89	33–65
Latvia	66–89	90–100	90–100	90–100
Lithuania	90–100	90–100	90–100	66–89
Luxembourg	90–100	90–100	90–100	90–100
Malta	90–100	90–100	90–100	***
Monaco	***	***	***	***
Netherlands	66–89	90–100	90–100	***
New Zealand	66–89	90–100	90–100	90–100
Norway	66–89	66–89	90–100	66–89
Poland	66–89	66–89	90–100	90–100
Portugal	90–100	90–100	90–100	66–89
Romania	33–65	90–100	90–100	***
San Marino	***	***	***	***
Slovakia	66–89	90–100	90–100	66–89
Slovenia	90–100	90–100	90–100	***
Spain	66–89	90–100	90–100	33–65
Sweden	90–100	90–100	90–100	90–100
Switzerland	66–89	90–100	90–100	90–100
United Kingdom	66–89	90–100	90–100	90–100
United States	33–65	10–32	10–32	10–32
EASTERN EUROPE AND CENTRAL ASIA				
Albania	***	***	***	***
Armenia	33–65	90–100	90–100	33–65
Azerbaijan	10–32	90–100	90–100	10–32
Belarus	33–65	90–100	90–100	66–89
Bosnia and Herzegovina	66–89	66–89	66–89	***
Croatia	66–89	90–100	90–100	90–100
Georgia	33–65	90–100	90–100	***

Country	Coverage in law of maternity leave (%)	Coverage in law of maternity leave cash benefits (voluntary contributors excluded) (%)	Coverage in law of maternity leave cash benefits (voluntary contributors included) (%)	Coverage in practice of maternity leave cash benefits (%)
Kazakhstan	33–65	33–65	33–65	***
Kyrgyzstan	33–65	33–65	33–65	***
Moldova, Republic of	66–89	90–100	90–100	66–89
Montenegro	66–89	90–100	90–100	10–32
Russian Federation	90–100	90–100	90–100	66–89
Serbia	66–89	90–100	90–100	90–100
Tajikistan	90–100	90–100	90–100	***
The former Yugoslav Republic of Macedonia	66–89	66–89	66–89	90–100
Turkey	33–65	90–100	90–100	33–65
Turkmenistan	66–89	90–100	90–100	***
Ukraine	66–89	90–100	90–100	66–89
Uzbekistan	33–65	33–65	33–65	***
LATIN AMERICA AND THE CARIBBEAN				
Antigua and Barbuda	***	***	***	***
Argentina	90–100	33–65	66–89	10–32
Bahamas	66–89	90–100	90–100	66–89
Barbados	66–89	90–100	90–100	66–89
Belize	33–65	90–100	90–100	66–89
Bolivia, Plurinational State of	10–32	10–32	66–89	10–32
Brazil	66–89	90–100	90–100	33–65
British Virgin Islands	***	***	***	***
Chile	66–89	33–65	90–100	66–89
Colombia	33–65	33–65	90–100	33–65
Costa Rica	66–89	90–100	90–100	33–65
Cuba	90–100	90–100	90–100	66–89
Dominica	***	***	***	***
Dominican Republic	33–65	33–65	33–65	10–32
Ecuador	33–65	66–89	66–89	0–9
El Salvador	33–65	66–89	90–100	10–32
Grenada	33–65	90–100	90–100	90–100
Guatemala	33–65	33–65	33–65	10–32
Guyana	10–32	90–100	90–100	33–65
Haiti	33–65	33–65	33–65	***
Honduras	33–65	0–9	33–65	10–32
Jamaica	33–65	33–65	66–89	***
Mexico	90–100	33–65	33–65	10–32
Nicaragua	33–65	33–65	90–100	10–32
Panama	66–89	66–89	90–100	33–65
Paraguay	33–65	33–65	90–100	10–32
Peru	33–65	90–100	90–100	33–65
Puerto Rico	66–89	90–100	90–100	***
Saint Kitts and Nevis	***	***	***	***

Country	Coverage in law of maternity leave (%)	Coverage in law of maternity leave cash benefits (voluntary contributors excluded) (%)	Coverage in law of maternity leave cash benefits (voluntary contributors included) (%)	Coverage in practice of maternity leave cash benefits (%)
Saint Lucia	***	***	***	***
Trinidad and Tobago	66–89	66–89	90–100	66–89
Uruguay	66–89	66–89	66–89	66–89
Venezuela, Bolivarian Republic of	33–65	33–65	33–65	33–65
MIDDLE EAST				
Bahrain	***	***	***	***
Iraq	33–65	33–65	33–65	0–9
Jordan	66–89	66–89	66–89	66–89
Kuwait	33–65	33–65	33–65	***
Lebanon	33–65	33–65	33–65	33–65
Occupied Palestinian Territory	***	***	***	***
Oman	33–65	0–9	0–9	0–9
Qatar	33–65	33–65	33–65	***
Saudi Arabia	33–65	33–65	33–65	***
Syrian Arab Republic	33–65	66–89	66–89	***
United Arab Emirates	33–65	33–65	33–65	***
Yemen	10–32	10–32	10–32	***

*** = information is not available, could not be identified or is not applicable.

Methodological notes

The **Coverage in law indicator (or legal/statutory coverage)** estimates the scope of the legislation, namely the number of workers to whom the law applies. The **Coverage in practice indicator (or effective coverage)** determines the extent to which the law is actually implemented and thus the share of the population that is benefiting from its application. This measurement seeks to identify the number of persons covered de facto in relation to those covered de lege. Effective coverage is usually lower than statutory coverage due to gap in compliance and implementation. Coverage in practice can be measured in terms of: *actual coverage* (or actual beneficiaries), namely the number of people accessing the right to maternity leave or maternity leave cash benefits; or *potential coverage* (or protected persons), specifically the number of people who have the rights or benefits guaranteed but are not necessarily currently beneficiaries. The table presents potential coverage, namely the share of protected persons.

Broad ranges: Due to the lack of statistical and administrative data, the estimation of coverage in law and in practice in percentage terms is generally not straightforward, and is not feasible for most countries to calculate it in a robust way. Therefore, in 2008, the Tripartite Meeting of Experts (TME) on the Measurement of Decent Work endorsed the proposition that broad percentage ranges be used to calculate the estimates, such as: few (<10 per cent), some (10–32 per cent), about half (33–65 per cent), most (66–89 per cent), virtually all, or all (90+ per cent).

Coverage in law of maternity leave

This indicator measures the share of employed women (regardless of their status in employment, category of work or the level of formality), who are legally covered by statutory maternity leave. The numerator is the result of the number of women employed, whose sector, occupation or other personal characteristics are explicitly included in the scope of the labour code (legally covered) minus the number of women workers legally covered who do not meet the qualifying conditions to access the right to maternity leave (legally unqualified). The denominator is the number women in employment, without discrimination as to age, nationality, marital status or residence. This indicator reflects the entitlement to maternity leave, regardless of its length or payment.

Coverage in law of maternity leave cash benefits

This indicator provides a measure of the number of employed women (regardless of their status in employment), who are entitled to a statutory right to maternity leave cash benefits, on a mandatory or a voluntary basis. The numerator is the

result of the number of employed women, whose sector, occupation or other personal characteristics are explicitly included in the scope of the labour code or social security law (legally covered) minus the number of legally covered employed women who do not meet the eligibility requirements to access the right to maternity cash benefits (legally ineligible). The denominator is the number of women in employment, without discrimination as to age, nationality, marital status or residence, instead of the number of women in employment who are statutorily covered. The number of women in employment was preferred since the share of women covered in law is an estimate expressed in a broad range. Therefore, using the first denominator allows the calculation of an indicator that is more statistically robust. Finally, this indicator reflects the entitlement to maternity leave cash benefits, regardless of their level, duration or source of funding.

Coverage in practice of maternity leave cash benefits (potential coverage)

This indicator measures the number of *protected persons*, namely the number of employed women who would receive maternity cash benefits if they gave birth, but are not currently recipients of such benefits. The numerator varies depending on the source of funding of maternity benefits. Where these benefits are paid through social insurance schemes or public funds, including in mixed systems, the numerator includes the number of employed women who are potentially protected by a maternity benefit scheme providing cash benefits, either because they are actively contributing to a maternity insurance scheme or because they are registered to a social assistance programme providing maternity cash benefits, according to available administrative data. In countries where an employer liability system operates as the only source of maternity cash benefits, the numerator covers the number of employed women who would potentially receive those benefits from their employer, based on a methodology developed by the ILO. The denominator is the number of women in employment, without discrimination as to age, nationality, marital status or residence. This indicator is calculated on the basis of potential entitlement to maternity leave cash benefits, regardless of their level or duration.

Sources

Definitions, methodology and global and regional estimates in this appendix are drawn from: ILO. *Coverage in law and in practice of paid maternity leave: Global and regional estimates* (Geneva, forthcoming); ILO. 2008. *Measuring decent work*. Discussion paper for the Tripartite Meeting of Experts on the Measurement of Decent Work, 8–10 Sep. 2008, TMEMDW/2008/ILO (Geneva); and ILO. 2012. *Decent work indicators: Concepts and definitions* (Geneva).

Appendix IV
Key national statutory provisions on paternity and parental leave by region, 1994 and 2013h

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
AFRICA													
Algeria	3 days	3 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Angola	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Benin	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Botswana	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Burkina Faso	20 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	Up to 52 weeks (6 months renewable once) (either parent)	***	Unpaid	***	***	
Burundi	15 days	15 days	50%	50%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Cameroon	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Cape Verde	***	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	
Central African Republic	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Chad	10 days	10 days	100%	100%	Employer liability	Employer liability	***	Up to 52 weeks (6 months renewable once) (either parent)	***	Unpaid	***	***	
Comoros	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Congo	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Côte d'Ivoire	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Democratic Republic of the Congo	2 days	2 working days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Djibouti	10 days	3 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Egypt	No paternity leave	No paternity leave	***	***	***	***	***	104 weeks (only mothers)	***	Unpaid	***	***	
Equatorial Guinea	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Eritrea	***	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Ethiopia	5 days	5 days	Unpaid	Unpaid	***	***	No parental leave	No parental leave	***	***	***	***	✔
Gabon	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Gambia	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Ghana	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Guinea	No paternity leave	No paternity leave	***	***	***	***	***	38 weeks (only mothers)	***	Unpaid	***	***	✔
Guinea-Bissau	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Kenya	No paternity leave	14 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Lesotho	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Libya	No paternity leave	3 days	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Madagascar	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Malawi	***	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	
Mali	3 days	3 days	100%	100%	Social security	Social security (employer reimbursed by the National Social Security Institute)	No parental leave	No parental leave	***	***	***	***	

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Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Mauritania	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Mauritius	No paternity leave	5 working days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	✔
Morocco	No paternity leave	3 days	***	100%	***	Social security (employer reimbursed by the National Social Security Fund)	***	52 weeks (only mothers)	***	Unpaid	***	***	
Mozambique	No paternity leave	1 day (every two years)	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Namibia	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Niger	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	✔
Nigeria	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Rwanda	No paternity leave	4 working days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Sao Tome and Principe	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Senegal	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Seychelles	4 days	4 days	100%	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Sierra Leone	***	***	***	***	***	***	***	***	***	***	***	***	
Somalia	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
South Africa	No paternity leave	3 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Sudan	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Swaziland	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Tanzania, United Republic of	No paternity leave	3 days (of a 36 month cycle)	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Togo	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Tunisia	No paternity leave	1 day	***	100%	***	Social security (employer reimbursed by the National Social Security Fund)	No parental leave	No parental leave	***	***	***	***	
Uganda	No paternity leave	4 working days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Zambia	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Zimbabwe	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
ASIA													
Afghanistan	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Bangladesh	10 days	10 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Brunei Darussalam	***	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	
Cambodia	10 days	10 days	100%	100%	Employer liability	Employer liability	***	No parental leave	***	***	***	***	
China	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Fiji	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Hong Kong (China)	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	***	
India	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Indonesia	No paternity leave	2 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Iran, Islamic Republic of	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Kiribati	***	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	
Korea, Republic of	No paternity leave	3 days	***	Unpaid	***	***	52 weeks (only mothers)	52 weeks (either parent)	***	40%	***	Social security (social insurance)	✔

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Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Lao People's Democratic Republic	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Malaysia	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Mongolia	No paternity leave	No paternity leave	***	***	***	***	***	156 weeks (either parent)	***	***	***	***	
Myanmar	6 days	6 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Nepal	No paternity leave	No paternity leave[1]	***	***	***	***	4 weeks (any permanent worker/ employee)	4 weeks (any permanent worker/ employee)[1]	Unpaid	Unpaid	***	***	
Pakistan	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Papua New Guinea	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Philippines	No paternity leave	7 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Singapore	No paternity leave	7 days	***	100% up to a ceiling	***	Social security (state)	***	No parental leave	***	***	***	***	
Solomon Islands	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Sri Lanka	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Thailand	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Vanuatu	***	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	
Viet Nam	No paternity leave	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	
DEVELOPED ECONOMIES													
Andorra	***	***	***	***	***	***	***	***	***	***	***	***	
Australia	7 days	14 days	Unpaid	Federal minimum wage	***	Social security (state)	***	52 weeks, 18 paid (either parent)	***	Federal minimum wage	***	Social security (federal government)	✔
Austria	No paternity leave	No paternity leave	***	***	***	***	12 weeks (either parent)	104 weeks (either parent)	Flat rate benefit	Flat rate benefit	Social security	Social security	

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Belgium	3 days	10 working days	100%	100% for first 3 days, 82% remaining 7 days	Employer Liability	Mixed: employer liability (first 3 days), social security (remaining 7 days)	12 weeks (either parent)	17 weeks (each parent)	Flat rate benefit	Flat rate benefit	Social security	Social security (social insurance)	
Bulgaria	No paternity leave	15 days	***	90%	***	Social security (state public insurance)	156 weeks, 104 paid (either parent)	26 weeks (182 days) (either parent)	Minimum wage	90%	Social security (state public insurance)	Social security (state public insurance)	✔
Canada	No paternity leave	No paternity leave	***	***	***	***	24 weeks, 10 paid (either parent)	37 weeks, 35 paid (either parent)	57%	55%	Social security	Social security (social insurance)	
Channel Islands, Guernsey	***	***	***	***	***	***	***	***	***	***	***	***	
Channel Islands, Jersey	***	***	***	***	***	***	***	***	***	***	***	***	
Cyprus	No paternity leave	No paternity leave	***	***	***	***	No parental leave	13 weeks (either parent)	***	Unpaid	***	***	
Czech Republic	***	No paternity leave	***	***	***	***	***	156 weeks (either parent)	***	Flat rate benefit	***	Social security (social insurance and public funds)	
Denmark	14 days	14 consecutive days	100% up to a ceiling	100%	Social security (state)	Mixed (state and employer)	10 weeks (either parent)	32 weeks (either parent)	100% up to a ceiling	100%	Social security (state)	Mixed (state and employer)	
Estonia	***	10 working days	***	100%	***	Social security (state)	***	36 weeks (either parent)	***	Unpaid	***	***	
Finland	6 working days	54 working days	80%	70%, up to a ceiling , plus 40% of an additional amount up to a ceiling , plus 25% of another additional amount	Social security (Social Insurance)	Social security (social insurance)	28 weeks (170 working days) (either parent)	26 weeks (158 working days) (either parent)[2]	80%	70%	Social security (social insurance)	Social security (social insurance)	✔
France	3 days	11 working days	100%	100% up to a ceiling	Employer liability	Social security (Health Insurance Fund)	156 weeks (each parent)	156 weeks, 26 paid for the first child (each parent)	Flat rate benefit	Flat rate benefit (per household)	Social security (Family Allowance Funds)	Social security (social insurance)	✔

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Germany	No paternity leave	No paternity leave	***	***	***	***	208 weeks, 156 paid (either parent)	156 weeks, 52 paid (either parent)	Flat rate benefit until the child is 6 months, followed by an income-related benefit until the child's third birthday	67%	Social security	Social security (public funds)	
Greece	No paternity leave	2 days	***	100%	***	Employer liability	12 weeks (each parent)	17 weeks (each parent) until the child is 6 years	Unpaid	Unpaid	***	***	✔
Hungary	No paternity leave	5 days	***	100%	***	Social security (Health Insurance Fund)	104 weeks (either parent)	156 weeks (either parent)	65–75% according to the length of insurance	70% up to a ceiling for 104 weeks for insured parents; flat rate benefits for non-insured and all parents for the last 52 weeks	Social security (state social insurance)	Social security (Health Insurance Fund and state)	
Iceland	No paternity leave	90 consecutive days	***	80% up to a ceiling	***	Social security (social insurance)	16 weeks (either parent)	13 paid weeks (either parent) + 13 unpaid weeks (each parent)	Daily allowance	80% up to a ceiling	Social security (State Social Security Institute)	Social security (social insurance)	✔
Ireland	No paternity leave	No paternity leave	***	***	***	***	No parental leave	17 weeks (each parent)	***	Unpaid	***	***	
Isle of Man	***	***	***	***	***	***	***	***	***	***	***	***	
Israel	No paternity leave	No paternity leave[3]	***	***	***	***	52 weeks (each parent)	52 weeks (each parent)	Unpaid	Unpaid	***	***	
Italy	No paternity leave	1 day[4]	***	100%	***	Social security (social insurance)	26 weeks (either parent)	26 weeks (each parent)[4]	30%	30%	Social security (social insurance)	Social security (social insurance)	
Japan	***	No paternity leave	***	***	***	***	52 weeks (each parent)	52 weeks (each parent)[5]	Unpaid	50% up to a ceiling	***	Social security (social insurance)	✔
Latvia	***	10 calendar days	***	80%	***	Social security (state social insurance)	***	78 weeks (each parent)	***	70%	***	Social security (social insurance)	

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Lithuania	***	30 consecutive days	***	100% up to a ceiling	***	Social security (Social insurance)	***	156 weeks, 52 paid (either parent)	***	100% until the child is 1 year or 70% until 2 year; last period unpaid	***	Social security (Social Insurance)	✔
Luxembourg	2 days	2 days	100%	100%	Employer liability	Employer liability	No parental leave	26 weeks (each parent)	***	Flat rate benefit	***	Social security (state)	
Malta	No paternity leave	No paternity leave	***	***	***	***	No parental leave	13 weeks (each parent)	***	Unpaid	***	***	
Monaco	***	***	***	***	***	***	***	***	***	***	***	***	
Netherlands	A short undefined period, as considered "fair"	2 days	100%	100%	Employer liability	Employer liability	26 weeks (each parent) with part-time work (at least 20 weekly hours)	26 weeks (each parent) with part-time work6	Unpaid	Unpaid	***	***	✔
New Zealand	14 days	14 consecutive days	Unpaid	Unpaid	***	***	No parental leave	52 weeks (either parent)	***	Unpaid	***	***	
Norway	14 days	14 consecutive days	Flat rate benefit	Unpaid (though often covered by CBAs or employers)	Social security (social insurance)	***	42 or 52 weeks depending on payment level (18 weeks reserved for mothers; 4 weeks for fathers)	49 or 59 weeks depending on payment level (14 weeks reserved for mothers and 14 weeks for fathers)[7]	42 weeks at 100% or 52 weeks at 80%	49 weeks at 100 % or 59 weeks at 80% up to a ceiling	Employer for 2 weeks and social insurance for the reminder	Social security (social insurance)	✔
Poland	No paternity leave	14 consecutive days	***	100%	***	Social security (social insurance)	156 weeks (only mothers)	156 weeks after maternity leave, 104 paid (either parent)	Flat rate benefit	60% for 26 weeks and flat rate benefit for 104 weeks[8]	Social security (social insurance)	Social security (social insurance 26 weeks and then state)	
Portugal	No paternity leave	20 days (10 of which are compulsory)	***	100%	***	Social security (social insurance)	26 weeks (each parent)	Initial Parental Leave: 17 or 21 weeks. Additional Parental Leave: 13 weeks (each parent)[9]	***	Initial parental leave: 100% (or 80% for 21 weeks); Additional parental leave: 25%	***	Social security (social insurance)	✔

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Romania	Unspecified leave for "special family events"	5 working days (10 days if worker attended infant care courses)	100%	100%	Employer liability	Employer liability	No parental leave	Either parent. Option I: until the child is 12 months old and unpaid parental leave until the the child is 24 months, if the parent decides not to return to work. Option II: until the child is 2 years old	***	Option I: 75% up to ceiling and incentive pay if the parent returns to work. Option II: 75% with a different ceiling and no incentive pay	***	Social security (state)	
San Marino	***	***	***	***	***	***	***	***	***	***	***	***	✔
Slovakia	***	No paternity leave	***	***	***	***	***	156 weeks (either parent)	***	Flat rate benefits	***	Social security (state)	✔
Slovenia	***	90 consecutive days	***	100% up to a ceiling (first 15 days); flat rate benefit (remaining 75 days)	***	Social security (social insurance 15 days and state 75 days; only limited benefits)	***	37 weeks (either parent)	***	90% up to a ceiling	***	Social security (social insurance)	✔
Spain	2 days	15 calendar days	***	100% up to a ceiling	***	Social security (social insurance)	156 weeks (each parent)	156 weeks (each parent)	Unpaid	Unpaid	***	***	✔
Sweden	10 days	10 days	Flat rate	80% up to a ceiling	Social security (social insurance)	Social security (social insurance)	75 weeks (450 days to be shared by parents)	80 weeks (480 days to be shared by parents)[10]	90% (5 weeks each parent); 80% the remainder	80% up to a ceiling for 65 weeks (390 days); flat rate benefits for 15 weeks (90 days)	Social security (social insurance)	Social security (social insurance)	✔
Switzerland	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
United Kingdom	No paternity leave	14 consecutive days	***	Flat rate benefit or 90% of the average weekly earnings, whichever is less	***	Mixed (employers pay the benefit but are entitled to recover 92% of the statutory paternity pay from social insurance)	No parental leave	13 weeks (each parent)	***	Unpaid	***	***	
United States	No paternity leave	No paternity leave	***	***	***	***	12 weeks (each parent)	12 weeks (each parent)[11]	Unpaid	Unpaid	***	***	
EASTERN EUROPE AND CENTRAL ASIA													
Albania	***	No paternity leave	***	***	***	***	***	12 days (either parent)	***	100%	***	Employer liability	✔
Armenia	***	No paternity leave	***	***	***	***	***	156 weeks (either parent or actual caregiver)	***	Unpaid	***	***	
Azerbaijan	***	14 calendar days	***	Unpaid	***	***	***	156 weeks (either parent or actual caregiver)	***	Flat rate benefit	***	***	✔
Belarus	No paternity leave	No paternity leave	***	***	***	***	156 weeks (either parent or actual caregiver)	156 weeks (either parent or actual caregiver)	Flat rate benefit	80% of the minimum subsistence wage	Social security (social insurance)	Social security (social insurance)	
Bosnia and Herzegovina	***	7 working days (federal)	***	100%	***	Employer liability	***	Right to parental leave stems from CBAs, 156 weeks (either parent)	***	Unpaid	***	***	✔
Croatia	***	7 working days	***	100%	***	Employer liability	***	104 weeks (either parent)	***	Unpaid	***	***	✔
Georgia	***	***	***	***	***	***	***	50 weeks (either parent)	***	***	***	***	
Kazakhstan	***	5 days	***	Unpaid	***	***	***	156 weeks (either parent)	***	Unpaid	***	***	✔
Kyrgyzstan	***	***	***	***	***	***	***	***	***	***	***	***	✔

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Moldova, Republic of	***	No paternity leave	***	***	***	***	***	156 weeks (either parent or actual caregiving relative)	***	Partially paid	***	Social security (social insurance)	
Montenegro	***	***	***	***	***	***	***	***	***	***	***	***	✔
Russian Federation	No paternity leave	No paternity leave	***	***	***	***	156 weeks, 78 paid (either parent or actual caregiver)	156 weeks, 78 paid (either parent or actual caregiver)	Flat rate benefit	40% up to a ceiling	Social security (social insurance)	Social security (social insurance)	✔
Serbia	***	7 working days	***	100%	***	Employer liability	***	52 weeks (only mothers)	***	100% (first 26 weeks), 60% (from week 27 to week 39); 30% (from week 40 to week 52)	***	Social security (social insurance)	✔
Tajikistan	***	No paternity leave	***	***	***	***	***	156 weeks, 78 paid (either parent or actual caregiver)	***	Flat rate benefit	***	Social security (social insurance)	
The former Yugoslav Republic of Macedonia	***	***	***	***	***	***	***	156 weeks (either parent)	***	***	***	***	
Turkey	No paternity leave	No paternity leave	***	***	***	***	No parental leave	26 weeks (only mothers)	***	Unpaid	***	***	
Turkmenistan	***	***	***	***	***	***	***	***	***	***	***	***	
Ukraine	No paternity leave	No paternity leave	***	***	***	***	156 weeks, 78 paid (either parent or actual caregiver)	156 weeks, 78 paid (either parent or actual caregiver)	Partially paid for 78 weeks; childcare allowance for the remainder	Partially paid for 78 weeks; childcare allowance for the remainder	Social security (social insurance)		✔
Uzbekistan	***	No paternity leave	***	***	***	***	***	156 weeks, 104 paid (either parent or actual caregiver)	***	20% of minimum wage	***	Social security (social insurance)	

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
LATIN AMERICA AND THE CARIBBEAN													
Antigua and Barbuda	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Argentina	2 days	2 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	✔
Bahamas	No paternity leave	7 days	***	Unpaid	***	***	No parental leave	No parental leave	***	***	***	***	
Barbados	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Belize	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	✔
Bolivia, Plurinational State of	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	✔
Brazil	5 days	5 consecutive days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
British Virgin Islands	***	***	***	***	***	***	***	***	***	***	***	***	
Chile	1 day	5 days	100%	100%	Employer liability	Social security (social insurance)	No parental leave	12 weeks (6 weeks reserved for mothers)[12]	***	100% up to a ceiling	***	Social security (social insurance)	✔
Colombia	No paternity leave	8 days	***	100%	***	Social security (social insurance)	No parental leave	No parental leave	***	***	***	***	
Costa Rica	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Cuba	No paternity leave	No paternity leave	***	***	***	***	***	39 weeks (either parent)	***	60%	***	Social security (social insurance)	
Dominica	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Dominican Republic	No paternity leave	2 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	
Ecuador	No paternity leave	10 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	✔
El Salvador	No paternity leave	3 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	✔

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
Grenada	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Guatemala	2 days	2 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	✔
Guyana	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Haiti	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Honduras	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Jamaica	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Mexico	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Nicaragua	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Panama	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Paraguay	2 days	3 days	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	✔
Peru	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	✔
Puerto Rico	***	***	***	***	***	***	***	***	***	***	***	***	
Saint Kitts and Nevis	***	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	
Saint Lucia	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Saint Vincent and the Grenadines	***	***	***	***	***	***	***	***	***	***	***	***	
Trinidad and Tobago	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Uruguay	No paternity leave	3 days	***	100%	***	Employer liability	No parental leave	No parental leave	***	***	***	***	✔
Venezuela, Bolivarian Republic of	No paternity leave	14 consecutive days	***	100%	***	Social security (social insurance)	No parental leave	No parental leave	***	***	***	***	✔

Country	Paternity leave						Parental leave						Ratification C156
	Duration of paternity leave (days) 1994	Duration of paternity leave (days) 2013	Amount of paternity leave cash benefits (% of previous earnings) 1994	Amount of paternity leave cash benefits (% of previous earnings) 2013	Source of funding of paternity leave cash benefits 1994	Source of funding of paternity leave cash benefits 2013	Duration of parental leave (weeks) 1994	Duration of parental leave (weeks) 2013	Amount of parental leave cash benefits (% of previous earnings) 1994	Amount of parental leave cash benefits (% of previous earnings) 2013	Source of funding of parental leave cash benefits 1994	Source of funding of parental leave cash benefits 2013	
MIDDLE EAST													
Bahrain	No paternity leave	No paternity leave	***	***	***	***	2 weeks (only mothers)	26 weeks (only mothers)	Unpaid	Unpaid	***	***	
Iraq	No paternity leave	No paternity leave	***	***	***	***	52 weeks (only mothers)	52 weeks (only mothers)	Unpaid	Unpaid	***	***	
Jordan	No paternity leave	No paternity leave	***	***	***	***	***	52 weeks (only mothers)	***	Unpaid	***	***	
Kuwait	No paternity leave	No paternity leave	***	***	***	***	No parental leave	17 weeks (only mothers)	***	Unpaid	***	***	
Lebanon	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Occupied Palestinian Territories	***	***	***	***	***	***	***	***	***	***	***	***	
Oman	***	***	***	***	***	***	***	***	***	***	***	***	
Qatar	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Saudi Arabia	1 day	1 day	100%	100%	Employer liability	Employer liability	No parental leave	No parental leave	***	***	***	***	
Syrian Arab Republic	No paternity leave	6 days	***	Unpaid[13]	***	***	No parental leave	52 weeks (only mothers)	***	Unpaid	***	***	
United Arab Emirates	No paternity leave	No paternity leave	***	***	***	***	No parental leave	No parental leave	***	***	***	***	
Yemen	***	No paternity leave	***	***	***	***	***	No parental leave	***	***	***	***	✔

*** = information is not available, could not be identified or is not applicable.

Methodological notes

Paternity leave is defined as a leave period reserved for fathers in relation to childbirth or leave that can be used exclusively by fathers as paternity leave. It does not include parental leave provisions that can be used by the father or mother or parts of maternity leave entitlements that the mother can transfer to the father. It includes "special" leave provisions in addition to annual leave that may be used by fathers at the time of birth but which are not strictly "paternity leave" (e.g., Central African Republic, the Bahamas, Ethiopia and Seychelles).

Duration of paternity leave

The duration of paternity leave is indicated as expressed in the national legislation, usually in days, either "consecutive" or "working". When the law does not specify it, the duration is intended as "working" days, since this leave entitlement is usually short and can sometimes be taken flexibly and not over a consecutive period.

Amount of paternity leave cash benefits

Based on Article 6 of Convention No. 183, the amount of cash benefits is expressed as a percentage of the worker's earnings prior to the beginning of paternity leave or of such of those earnings as are taken into account for the purpose of computing benefits.

Source of funding of paternity leave cash benefits

Based on Article 6 of Convention No. 183, countries are classified as financed by social security (social insurance or public funds, e.g. the state or government), the employer ("Employer liability") or a mix of these systems ("Mixed").

Parental leave is defined as a relatively long-term leave period for the care of an infant or young child typically following the expiry of maternity or paternity leave. It is available to parents, usually in addition to maternity and paternity leave, although a trend towards a single "Parental leave entitlement" connected with family care and featuring a parental and gender-neutral approach is observed in a growing number of countries. Parental leave might be available to *either parent* as a "family entitlement" that can be shared between parents as they please; or to *each parent* as an individual right. An individual right to parental leave can be either transferable to the other parent or non-transferable, for instance via a quota system whereby the unused entitlement is lost. In a decreasing number of countries, parental leave is available only to women, contrary to the provisions of ILO standards on maternity protection and workers with family responsibilities.

Duration of parental leave

Unless otherwise specified, the duration of paternity leave in days is intended as "consecutive" days, since this leave entitlement is usually long, although it can sometimes be taken flexibly in portions over a longer period (e.g., until the child is 8 years old). For comparative purposes, duration of parental leave in years or until the child reaches a certain age (usually in years or months) as expressed in the national legislation has been converted into "consecutive" weeks, based on a seven-day week and a 30-day month duration. Statutory duration in "working days" has been converted based on a six-day week.

Amount of parental leave cash benefits

Based on Article 6 of Convention No. 183, the amount of cash benefits is expressed as a percentage of the worker's earnings (or other standard reference earnings) prior to the beginning of parental leave or a "flat rate benefit" in order to summarize more complex methods used for the purpose of computing benefits.

Source of funding of parental leave cash benefits

Similar to previous indicators, countries are classified as financed by "Social security" (social insurance or public funds, e.g. the state or government), the employer ("Employer liability") or a combination of these systems ("Mixed").

Notes

1. Nepal: any permanent worker or employee who does not have any leave accumulated may be entitled to a period of unpaid "special leave" of up to 30 days in one year. The total period of special leave shall not exceed more than six months in the entire period of service of a worker or employee. Fifteen days of paid "maternity care leave" are provided to male civil servants following the birth of their child.
2. Finland: either parent can take a "homecare leave" from the end of parental leave until a child's third birthday. A state-funded allowance (paid out of municipal and general taxation) can be paid to either parent if the child is not attending a childcare service funded by the local government.
3. Israel: with the mother's agreement, a father can replace his spouse during part of the maternity leave starting six weeks after the date of birth, and for a period of at least 21 consecutive days.
4. Italy: in addition to one paid day of compulsory leave, fathers can take two additional days of paid leave, if the mother agrees to transfer them from her maternity leave allowance. The six months' parental leave is an

individual and non-transferable entitlement, although the total amount of leave that can be taken by the family is ten months. If the father takes at least three months' leave, he is entitled to one additional month, for a total of 11 months of parental leave for the family.

5. Japan: if both parents share some of the leave, parental leave can be extended up to 14 months (as a "bonus").
6. The Netherlands: each parent is entitled to 26 times the number of working hours per week per child. For example, a full-time job of 38 hours a week gives a leave entitlement of 988 hours, namely 26 weeks. Leave is unpaid, but all parents taking parental leave are entitled to a tax break for each hour of leave.
7. Norway: Norwegian law treats maternity, paternity and parental leave as one system of "parental leave" of a total duration of 49 or 59 weeks, depending on payment level. Of these, 14 weeks are exclusively reserved for mothers and 14 weeks are for fathers ("father's quota"). The remaining 21 or 31 weeks is a family entitlement and may be taken by either the mother or the father.
8. Poland: a new parental leave system was introduced in June 2013. Following maternity leave (26 weeks paid at 100 per cent), an additional period of 26 weeks, paid at 60 per cent of previous earnings by social insurance, can be used by either parent. Women also can opt for a total of 52 weeks parental leave paid at 80 per cent or, following the compulsory period of 14 weeks maternity leave, they can transfer up to 38 weeks to the father. Either parent can also take childcare leave until the child is 4 years old. It is paid at a flat rate out of general taxation.
9. Portugal: the Initial Parental Leave scheme provides for 120 days of parental leave paid at 100 per cent or 150 days at 80 per cent. Mothers have to take at least 45 days (six weeks) of postnatal leave. The remaining period may be divided between parents by mutual agreement. A "sharing bonus" of an additional 30 days is provided if both parents share the leave. An Additional Parental Leave of three months is available to each parent immediately after the initial parental leave.
10. Sweden: there are 480 days of paid parental leave available per family. A total of 60 days are reserved for each parent (mother's and father's quota). Half of the remaining 360 days are reserved for each parent.
11. United States: the Family and Medical Leave Act of 1993 provides up to 12 weeks of unpaid leave in a 12-month period to women and men who have worked for a covered employer for at least 1,250 hours over the preceding 12 months. This law provides unpaid leave for a variety of reasons including childbirth or the care of a newborn child up to 12 months.
12. Chile: in 2011, Chile introduced a paid "postnatal parental leave" of 12 weeks, in addition to 12 weeks of postnatal maternity leave. Mothers can choose to transfer up to six weeks of paid parental leave to fathers, which should be taken in the final period of the leave.
13. Syrian Arab Republic: there are no express legal provisions on paternity leave in the Labour Code. Nevertheless, all workers may interrupt work for no more than six days a year and for a maximum of two days at a time for urgent and valid reasons. The emergency leave shall be deducted from the statutory annual leave. Workers who have exhausted their annual leave may take emergency leave without pay.

Sources

All sources accessed on 4 Apr. 2014. All information in the table is based on data available as of December 2013 in the ILO Working Conditions Laws Database – Maternity Protection following the 2011–12 update (available at: http://www.ilo.org/travdatabase), in NORMLEX, Information System on International Labour Standards, available at: http://www.ilo.org/normlex and the *Conditions of work digest: Maternity and work* (ILO, 1994). Information on national legislation collected after 2012 may not yet be reflected in the database. This information covers the following countries:

- Bahrain: Labour Law No. 36 of 2012, Article 34.
- Bangladesh: Labour Act 2006, Article 115.
- Benin: Labour Code, Act No. 98–004, Article 159.
- Burkina Faso: Labour Code, Act No. 028-2008, Article 159.
- Central African Republic: Labour Code, Article 288.
- Chad: Labour Code, No. 38/PR/96, Articles 216 and 133 (parental leave).
- Chile: Labour Code, No. 20545 of 2011, Article 197 bis.
- Comoros: Labour Code, No. 84-018/PR, Article 128.
- Congo: Labour Code, Act No. 45/75, as amended to 6 March 1996, Article 119.
- Côte d'Ivoire: Labour Code, Act No. 95/15, Article 25.4.
- Democratic Republic of Congo: Labour Code, No. 015/2002, Article146.
- El Salvador: Decreto Legislativo No. 332, March 2013. Available at: http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/reformase-el-art.-29-del-codigo-de-trabajo.
- Ethiopia: Labour Proclamation No. 377/2003, Article 81.2.
- Finland: Salmi, M. and Lammi-Taskula, J. (2013) "Finland country note", in P. Moss (ed.), *International Review of Leave Policies and Research 2013*, p. 1110. Available at: http://www.leavenetwork.org/lp_and_r_reports/.

- Gabon: Labour Code, Act No. 3/94, Article 186.
- Italy, Labour Act No. 92/2012, Article 4.
- Luxembourg, Labour Code as amended on 2 June 2011, Article 233–16.
- Madagascar: Labour Code, Act No. 2003-044, Article 87.
- Mauritania: Labour Code, Act No. 2004-015, Article 184.
- Nepal: Labour Rules 1993, Article 33.
- Saudi Arabia: Labour Law (Royal Decree No. M/51) of September 2005, Article 113.
- Singapore: Ministry of Manpower, Singapore Government, http://www.mom.gov.sg/employment-practices/leave-and-holidays/Pages/paternity-leave.aspx.
- Slovakia: Gerbery, D. (2013) "Slovak Republic country note", in: P. Moss (ed.), op. cit., p. 236.
- Sweden: Duvander, A.-Z. and Haas, L. (2013) "Sweden country note", in: P. Moss (ed.), op. cit., pp. 267–268.
- Togo: Labour Code, Act No. 2006-010, Article 158.
- Ukraine: the International Social Security Association (ISSA), http://www.issa.int/.
- Bolivarian Republic of Venezuela: Law for the Protection of Families, Maternity and Paternity, No. 38.773 of 2007, Article 9.

Appendix V
Key national statutory provisions on employment protection and non-discrimination, by region, 2013

Country	Protection from unlawful dismissal	Burden of proof	Right to return to work	Non-discrimination prohibition	Pregnancy test
AFRICA					
Algeria	No protection	***	***	Sex	***
Angola	Pregnancy, Leave, Additional period	***	Not guaranteed	Sex	No prohibition
Benin	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Botswana	Pregnancy	Not provided	Not guaranteed	Sex	No prohibition
Burkina Faso	Pregnancy, Leave	Employer	Not guaranteed	Sex	No prohibition
Burundi	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Cameroon	Pregnancy, Leave	Not provided	***	No prohibition	No prohibition
Cape Verde	Pregnancy, Leave, Additional period	Not provided	***	Sex	***
Central African Republic	No protection	***	Same position	Sex	***
Chad	Pregnancy	Employer	Not guaranteed	Sex	No prohibition
Comoros	No protection	Not provided	Not guaranteed	Sex	No prohibition
Congo	No protection	Not provided	Not guaranteed	No prohibition	No prohibition
Côte d'Ivoire	Pregnancy, Leave, Additional period	Not provided	Same position	Sex	No prohibition
Democratic Republic of the Congo	Pregnancy, Leave	Not provided	Not guaranteed	Maternity	Explicit
Djibouti	Pregnancy, Leave	***	***	Sex	No prohibition
Egypt	Leave	Not provided	Not guaranteed	Sex	No prohibition
Equatorial Guinea	Pregnancy, Leave	***	Same position	Sex	No prohibition
Eritrea	Leave	Not provided	Same position or equivalent	Sex	No prohibition
Ethiopia	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	No prohibition
Gabon	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	Implicit
Gambia	***	***	***	***	***
Ghana	Pregnancy, Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Guinea	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	No prohibition
Guinea-Bissau	No protection	Not provided	Not guaranteed	Sex	No prohibition
Kenya	Pregnancy, Leave	Employer	Same position or equivalent	Pregnancy	Implicit
Lesotho	Leave	Not provided	Not guaranteed	Sex	No prohibition
Libya	Leave	Not provided	Not guaranteed	Sex	No prohibition
Madagascar	Pregnancy, Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Malawi	Pregnancy, Leave	Employer	Same position or equivalent	No prohibition	No prohibition
Mali	Leave	Not provided	Not guaranteed	No prohibition	No prohibition

Country	Protection from unlawful dismissal	Burden of proof	Right to return to work	Non-discrimination prohibition	Pregnancy test
Mauritania	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex	No prohibition
Mauritius	Pregnancy	Not provided	***	Sex, Pregnancy, Family responsibilities	No prohibition
Morocco	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Mozambique	Pregnancy, Leave, Additional period	***	Not guaranteed	Sex	No prohibition
Namibia	Pregnancy, Leave, Additional period	Worker	Not guaranteed	Sex, Pregnancy, Family responsibilities	No prohibition
Niger	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Nigeria	Pregnancy, Leave	***	***	***	***
Rwanda	Leave	Not provided	Same position or equivalent	Sex, Pregnancy, Family responsibilities	No prohibition
Sao Tome and Principe	No protection	Not provided	Not guaranteed	Sex	No prohibition
Senegal	Leave	***	***	Sex	
Seychelles	Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Sierra Leone	***	***	***	***	***
Somalia	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	No prohibition
South Africa	Pregnancy	Employer	Same position	Sex, Pregnancy	No prohibition
Sudan	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Swaziland	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Sex	No prohibition
Tanzania, United Republic of	Pregnancy	Employer	Same position or equivalent	Sex, Marital status, Family responsibilities, Pregnancy	Implicit
Togo	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Tunisia	Pregnancy, Leave, Additional period	***	***	Sex	***
Uganda	Pregnancy, Leave	Employer	Same position or equivalent	Sex	No prohibition
Zambia	Pregnancy	Employer	Not guaranteed	Sex, Pregnancy	No prohibition
Zimbabwe	No protection	Not provided	Not guaranteed	Sex, Pregnancy	Implicit
ASIA					
Afghanistan	Implicit	Not provided	Not guaranteed	No prohibition	No prohibition
Bangladesh	No protection	Not provided	Not guaranteed	***	***
Brunei Darussalam	No protection	Worker	Not guaranteed	No prohibition	No prohibition
Cambodia	Leave	Not provided	Not guaranteed	Sex	No prohibition
China	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	No prohibition
Fiji	Pregnancy	Employer	Same position or equivalent	Pregnancy	Implicit
Hong Kong (China)	***	***	***	***	***
India	Pregnancy, Leave	Not provided	Not guaranteed	Pregnancy	No prohibition
Indonesia	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Pregnancy	No prohibition
Iran, Islamic Republic of	No protection	Not provided	Same position	Sex	No prohibition
Kiribati	Leave	Employer	Not guaranteed	Sex	No prohibition

Country	Protection from unlawful dismissal	Burden of proof	Right to return to work	Non-discrimination prohibition	Pregnancy test
Korea, Republic of	Pregnancy, Leave, Additional period	Employer	Same position or equivalent	Sex, Marital status, Family responsibilities, Pregnancy	Implicit
Lao People's Democratic Republic	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	No prohibition
Malaysia	Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Mongolia	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Sex	Explicit
Myanmar	Pregnancy, Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Nepal	No protection	Not provided	Not guaranteed	No prohibition	No prohibition
Pakistan	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Papua New Guinea	Pregnancy	Not provided	Not guaranteed	Sex	No prohibition
Philippines	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Singapore	Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Solomon Islands	Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Sri Lanka	Pregnancy, Leave	Employer	Not guaranteed	Sex	No prohibition
Thailand	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Vanuatu	Pregnancy, Leave	Not provided	Same position or equivalent	No prohibition	No prohibition
Viet Nam	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Sex	No prohibition
DEVELOPED ECONOMIES					
Andorra	***	***	***	***	***
Australia	Pregnancy, Leave	Not provided	Same position or equivalent	Sex, Pregnancy, Family responsibilities	No prohibition
Austria	Pregnancy, Leave	Not provided	Not guaranteed	Sex, Pregnancy, Family responsibilities	Implicit
Belgium	Pregnancy, Leave	Employer	Same position or equivalent	Pregnancy	No prohibition
Bulgaria	Pregnancy, Leave, Additional period	Not provided	***	Sex	Implicit
Canada	Pregnancy, Leave	Not provided	Same position	Sex, Pregnancy	No prohibition
Channel Islands, Guernsey	***	***	***	***	***
Channel Islands, Jersey	***	***	***	***	***
Cyprus	Pregnancy, Leave	Employer	Same position or equivalent	Sex, Marital status, Family responsibilities, Pregnancy	No prohibition
Czech Republic	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
Denmark	No protection	Employer	Not guaranteed	Sex	Explicit
Estonia	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex, Pregnancy, Family responsibilities	No prohibition
Finland	Pregnancy, Leave	Employer	Same position or equivalent	Pregnancy	Implicit
France	Pregnancy, Leave, Additional period	Employer	Same position or equivalent	Sex, Pregnancy, Family responsibilities	Explicit
Germany	Pregnancy, Leave, Additional period	Employer	***	Sex	No prohibition
Greece	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Sex, Pregnancy, Family responsibilities	No prohibition

Country	Protection from unlawful dismissal	Burden of proof	Right to return to work	Non-discrimination prohibition	Pregnancy test
Hungary	Pregnancy, Leave	Employer	Not guaranteed	Pregnancy	Implicit
Iceland	Pregnancy, Leave	Employer	Same position or equivalent	Sex	No prohibition
Ireland	Pregnancy, Leave, Additional period	***	Same position	Sex, Pregnancy, Family responsibilities	No prohibition
Isle of Man	***	***	***	***	***
Israel	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex	No prohibition
Italy	Pregnancy, Leave, Additional period	Employer	Same position	Sex, Marital status, Family responsibilities, Pregnancy	Implicit
Japan	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex	No prohibition
Latvia	Pregnancy, Leave, Additional period	Employer	Same position or equivalent	Sex	Implicit
Lithuania	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Sex	Implicit
Luxembourg	Pregnancy, Leave, Additional period	Employer	Same position or equivalent	Sex	Implicit
Malta	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Sex, Pregnancy, Family responsibilities	Implicit
Monaco	***	***	***	***	***
Netherlands	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex	Implicit
New Zealand	Pregnancy, Leave, Additional period	Employer	Same position	Sex, Marital status, Family responsibilities, Pregnancy	No prohibition
Norway	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex	No prohibition
Poland	***	***	***	***	***
Portugal	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex	Explicit
Romania	Pregnancy, Leave, Additional period	Employer	Same position or equivalent	Sex, Family responsibilities	Explicit
San Marino	***	***	***	***	***
Slovakia	Pregnancy, Leave	Not provided	Not guaranteed	Sex, Pregnancy, Family responsibilities	Explicit
Slovenia	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex, Pregnancy, Family responsibilities	Explicit
Spain	Pregnancy, Leave	Not provided	Same position or equivalent	Sex	Implicit
Sweden	Pregnancy, Leave	Employer	Same position	Sex	No prohibition
Switzerland	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Pregnancy	No prohibition
United Kingdom	Pregnancy, Leave	Employer	Same position	Pregnancy	No prohibition
United States	Pregnancy, Leave	Not provided	Same position or equivalent	Sex	No prohibition
EASTERN EUROPE AND CENTRAL ASIA					
Albania	Pregnancy	Employer	Not guaranteed	Sex	Explicit
Armenia	Pregnancy, Leave, Additional period	***	***	Sex	
Azerbaijan	Pregnancy, Leave, Additional period	Employer	***	Sex, Pregnancy, Family responsibilities	Implicit

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Country	Protection from unlawful dismissal	Burden of proof	Right to return to work	Non-discrimination prohibition	Pregnancy test
Belarus	Pregnancy, Leave, Additional period	Not provided	Same position	Sex	Implicit
Bosnia and Herzegovina	Pregnancy	Employer	Same position or equivalent	Sex, Pregnancy, Family responsibilities	***
Croatia	Pregnancy, Leave	Employer	Same position	Sex, Pregnancy, Family responsibilities	Implicit
Georgia	***	***	***	***	***
Kazakhstan	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex, Pregnancy, Family responsibilities	
Kyrgyzstan	***	***	***	***	***
Moldova, Republic of	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex, Pregnancy, Family responsibilities	Implicit
Montenegro	***	***	***	***	***
Russian Federation	Pregnancy, Leave	***	Same position or equivalent	Sex	Implicit
Serbia	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Pregnancy, Family responsibilities	Explicit
Tajikistan	Pregnancy, Leave, Additional period	Not provided	Same position	Sex	Implicit
The former Yugoslav Republic of Macedonia	Pregnancy, Leave	Employer	Not guaranteed	Sex	Explicit
Turkey	Pregnancy, Leave	Employer	Not guaranteed	Sex, Pregnancy	No prohibition
Turkmenistan	***	***	***	***	***
Ukraine	***	***	***	***	***
Uzbekistan	Pregnancy, Leave, Additional period	Not provided	Same position	Sex	Implicit
LATIN AMERICA AND THE CARIBBEAN					
Antigua and Barbuda	No protection	Not provided	Not guaranteed	Sex	No prohibition
Argentina	Pregnancy	Employer	Same position or equivalent	Sex	Explicit
Bahamas	Pregnancy, Leave	Employer	Same position or equivalent	Sex	***
Barbados	Pregnancy, Leave	***	Same position or equivalent	***	***
Belize	Leave	Worker	***	***	***
Bolivia, Plurinational State of	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	No prohibition
Brazil	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Pregnancy	Explicit
British Virgin Islands	***	***	***	***	***
Chile	Pregnancy, Leave, Additional period	Not provided	Not guaranteed	Sex	Explicit
Colombia	Pregnancy, Leave, Additional period	Employer	Same position	Sex	Explicit
Costa Rica	Pregnancy, Leave, Additional period	Employer	Same position or equivalent	Sex	***
Cuba	Pregnancy, Leave	***	Same position	Sex	***
Dominica	No protection	Not provided	Same position or equivalent	No prohibition	No prohibition

Country	Protection from unlawful dismissal	Burden of proof	Right to return to work	Non-discrimination prohibition	Pregnancy test
Dominican Republic	Pregnancy	***	***	***	***
Ecuador	Pregnancy, Leave	Not provided	Not guaranteed	Sex	No prohibition
El Salvador	Pregnancy, Leave	Not provided	Same position	Sex	Explicit
Grenada	Pregnancy, Leave	Employer	Same position or equivalent	Pregnancy	No prohibition
Guatemala	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex, Pregnancy, Family responsibilities	No prohibition
Guyana	Pregnancy	Worker	Not guaranteed	Sex, Pregnancy	Implicit
Haiti	Pregnancy	Not provided	Same position	Sex	No prohibition
Honduras	Pregnancy, Leave, Additional period	Employer	Not guaranteed	Sex	***
Jamaica	Pregnancy, Leave	Not provided	Same position	No prohibition	No prohibition
Mexico	No protection	***	Same position	Sex	***
Nicaragua	Pregnancy, Leave	Not provided	Same position	Sex	Explicit
Panama	Pregnancy, Leave	Employer	Not guaranteed	Sex	Prohibition
Paraguay	Pregnancy, Leave	***	***	***	***
Peru	Pregnancy, Leave, Additional period	Employer	Same position	Sex	Implicit
Puerto Rico	***	***	***	***	***
Saint Kitts and Nevis	Pregnancy, Leave	Employer	Same position	Sex	No prohibition
Saint Lucia	Pregnancy, Leave	Employer	Same position or equivalent	Sex, Pregnancy	Implicit
Saint Vincent and the Grenadines	Leave	***	***	***	***
Trinidad and Tobago	No protection	Not provided	Same position or equivalent	Sex	***
Uruguay	Pregnancy, Leave	Not provided	Same position	Sex	Explicit
Venezuela, Bolivarian Republic of	Pregnancy, Leave, Additional period	Not provided	Same position or equivalent	Sex	Explicit
MIDDLE EAST					
Bahrain	Leave	Not provided	Not guaranteed	Sex, Marital status	No prohibition
Iraq	Pregnancy, Leave	Not provided	***	***	***
Jordan	Pregnancy, Leave	***	Same position	No prohibition	No prohibition
Kuwait	Leave	Not provided	Not guaranteed	No prohibition	No prohibition
Lebanon	Pregnancy, Leave	***	***	***	***
Occupied Palestinian Territory	***	***	***	***	***
Qatar	***	***	***	***	***
Saudi Arabia	Pregnancy, Leave	***	***	***	***
Syrian Arab Republic	Leave	Not provided	Not guaranteed	Sex, Marital status	No prohibition
United Arab Emirates	No protection	Not provided	Not guaranteed	No prohibition	No prohibition
Yemen	No protection	Not provided	Not guaranteed	Sex	No prohibition

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [5 Apr. 2014].

Methodological notes

Protection from unlawful dismissal

- PREGNANCY = workers are protected from dismissal during pregnancy.
- LEAVE = workers are protected from dismissal during maternity leave.
- ADDITIONAL PERIOD = workers are protected from dismissal during a period after their return to work from maternity leave.
- NO PROTECTION = the law does not provide any type of legal protection against dismissal in relation to maternity.
- *** = information is not available or could not be identified.

Employment protection and non-discrimination – Maternity Protection Convention, 2000 (No. 183), Article 8.1:

> It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on [maternity leave or leave before or after the maternity leave in the case of illness, complications or risk of complications arising out of pregnancy or childbirth] or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.

This indicator determines whether the legislation provides employment protection during maternity, which constitutes a period including pregnancy, maternity leave and an additional period following the worker's return to work. All the periods covered by statutory employment protection for which information was available or could be identified are reported for each country. The indicator does specify whether the legislation allows dismissal on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The value "ADDITIONAL PERIOD" includes any period of protection from dismissal upon return to work in relation to maternity; the length of this period varies from country to country. For more information on the duration of this period, where this information is available or could be identified, see the ILO Working Conditions Laws Database.

Burden of proof

- EMPLOYER = the burden of proof rests on the employer.
- WORKER = the burden of proof rests on the worker.
- NOT PROVIDED = the legislation does not include a statutory provision on the burden of proof.
- *** = information is not available or could not be identified.

Employment protection and non-discrimination – Maternity Protection Convention, 2000 (No. 183), Article 8.1:

> [...] The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.

This indicator aims to determine on which party, if any, the legislation places the obligation to prove that the unlawful dismissal has or not occurred ("burden of proof"). The shift to the defendant to prove that discrimination had not occurred is a significant asset in assisting victims of discrimination in judicial or other dispute settlement mechanisms.

Right to return to work

- SAME POSITION = workers are entitled to return to the same position after maternity leave.
- SAME POSITION OR EQUIVALENT = workers are entitled to return to the same or an equivalent position after maternity leave.
- NOT GUARANTEED = women are not guaranteed the right to return to the same or an equivalent position after maternity leave.
- *** = information is not available or could not be identified.

Employment protection and non-discrimination – Maternity Protection Convention, 2000 (No. 183), Article 8.2:

> A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

This indicator assesses whether the legislation grants the right to job-protected maternity leave and under what conditions. Since, in some countries, the legislation provides for the right to return to the same position, while in others employers can choose to reintegrate the worker into the same position or an equivalent one after maternity leave, a distinction is made between "SAME POSITION" and "SAME POSITION OR EQUIVALENT". This indicator does not specify whether the same or equivalent position is paid at the same rate as before maternity leave. For more information, see the ILO Working Conditions Laws Database.

Non-discrimination prohibition

- PREGNANCY = the legislation prohibits discrimination in employment based on pregnancy.
- MATERNITY = the legislation prohibits discrimination in employment based on maternity.
- FAMILY RESPONSIBILITIES = the legislation prohibits discrimination in employment based on family responsibilities.
- MARITAL STATUS = the legislation prohibits discrimination in employment based on marital status.
- SEX = the legislation prohibits discrimination in employment based on sex.
- NO PROHIBITION = the legislation does not include any of the above discriminatory grounds in employment, or there is no general prohibition of discrimination in employment based on these grounds.
- *** = information is not available or could not be identified.

Employment protection and non-discrimination – Maternity Protection Convention, 2000 (No. 183), Article 9.1:

> Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including [...] access to employment".

This indicator aims to determine whether the legislation includes an explicit prohibition of discrimination based on pregnancy, maternity, family responsibilities, marital status or sex. All the discriminatory grounds for which information was available or could be identified are reported for each country.

The term "discrimination" is defined in line with Article 1 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and includes:

(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

Pregnancy test

- EXPLICIT = pregnancy testing is explicitly prohibited in the legislation.
- IMPLICIT = pregnancy testing is implicitly prohibited in the legislation.
- NO PROHIBITION = pregnancy testing is not explicitly or implicitly prohibited.
- *** = information is not available or could not be identified.

Employment protection and non-discrimination – Maternity Protection Convention, 2000 (No. 183), Article 9.2:

> Measures [to ensure that maternity does not constitute a source of discrimination in employment] shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:
>
> (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or
>
> (b) where there is a recognized or significant risk to the health of the woman and child.

This indicator determines whether the legislation includes an explicit prohibition of pregnancy tests. In cases where there is an explicit prohibition of discrimination in access to employment based on pregnancy, maternity, family responsibilities or sex, it is interpreted that pregnancy testing is implicitly prohibited.

Appendix VI
Key national statutory provisions on health protection at the workplace, by region, 2013

Country	Dangerous or unhealthy work	Alternatives to dangerous work	Night work	Time off for prenatal medical examinations
AFRICA				
Algeria	No obligation	Transfer	Prohibition (W)	Not provided
Angola	Prohibition	Transfer	Prohibition	Not provided
Benin	Prohibition	No alternative	No restriction	Not provided
Botswana	No protection	No alternative	No restriction	Not provided
Burkina Faso	Prohibition (W)	Transfer	Prohibition (W)	Not provided
Burundi	No obligation	No alternative	No restriction	Not provided
Cameroon	Prohibition (W)	Transfer	Prohibition (W)	Not provided
Cape Verde	No protection	No alternative	No obligation	Provided
Central African Republic	Prohibition (W)	Transfer	Prohibition (W)	Not provided
Chad	No protection	No alternative	Prohibition	Not provided
Comoros	Prohibition (W)	No alternative	Prohibition (W)	Not provided
Congo	No protection	No alternative	Prohibition	Not provided
Côte d'Ivoire	Prohibition	Transfer	No restriction	Not provided
Democratic Republic of the Congo	Prohibition (W)	No alternative	Prohibition	Not provided
Djibouti	***	***	***	***
Egypt	Prohibition (W)	No alternative	No restriction	Not provided
Equatorial Guinea	No obligation	No alternative	***	Not provided
Eritrea	No obligation	Transfer	Prohibition	Paid
Ethiopia	Prohibition	Transfer, Extra leave	Prohibition	Paid
Gabon	No obligation	Transfer, Extra leave	Prohibition (W)	Not provided
Gambia	***	***	***	***
Ghana	No protection	No alternative	No obligation	Not provided
Guinea	Prohibition (W)	Transfer, Extra leave	Prohibition (W)	Not provided
Guinea-Bissau	No obligation (W)	No alternative	Prohibition (W)	Paid
Kenya	No protection	No alternative	No restriction	Not provided
Lesotho	No protection	No alternative	No obligation	Not provided
Libya	Prohibition (W)	No alternative	Prohibition (W)	Not provided
Madagascar	No obligation	Transfer	No restriction	Not provided
Malawi	No protection	No alternative	No restriction	Not provided
Mali	Prohibition (W)	No alternative	Prohibition (W)	Not provided
Mauritania	No obligation	Transfer	Prohibition (W)	Not provided
Mauritius	Prohibition	No alternative	Prohibition	Not provided
Morocco	Prohibition	No alternative	***	Not provided
Mozambique	Prohibition (W)	Transfer	No obligation	Not provided
Namibia	No protection	No alternative	Prohibition	Not provided
Niger	No protection	Transfer	No restriction	Not provided
Nigeria	No protection	No alternative	Prohibition (W)	Not provided

Country	Dangerous or unhealthy work	Alternatives to dangerous work	Night work	Time off for prenatal medical examinations
Rwanda	No obligation	No alternative	No restriction	Not provided
Sao Tome and Principe	No obligation	No alternative	Prohibition	***
Senegal	Prohibition	No alternative	No restriction	Not provided
Seychelles	No protection	Transfer	Prohibition	Not provided
Sierra Leone	***	***	***	***
Somalia	No protection	No alternative	Prohibition (W)	Not provided
South Africa	Prohibition	Transfer	No obligation	Provided
Sudan	Prohibition (W)	No alternative	Prohibition (W)	Not provided
Swaziland	No protection	No alternative	Prohibition (W)	Not provided
Tanzania, United Republic of	Prohibition	Transfer	Prohibition	Not provided
Togo	No obligation	No alternative	No restriction	Not provided
Tunisia	Prohibition (W)	No alternative	Prohibition	Not provided
Uganda	No protection	No alternative	No restriction	Not provided
Zambia	No protection	No alternative	No restriction	Not provided
Zimbabwe	No protection	No alternative	No restriction	Not provided
ASIA				
Afghanistan	Prohibition (W)	Transfer	Prohibition (W)	Not provided
Bangladesh	No obligation	No alternative	No obligation (W)	Not provided
Brunei Darussalam	No protection	No alternative	No restriction	Not provided
Cambodia	No protection	No alternative	No restriction	Not provided
China	Prohibition (W)	No alternative	No obligation	***
Fiji	No protection	No alternative	No restriction	Not provided
Hong Kong (China)	***	***	***	***
India	No obligation	No alternative	No restriction	Not provided
Indonesia	No protection	No alternative	Prohibition	Not provided
Iran, Islamic Republic of	Prohibition (W)	Transfer	No restriction	Not provided
Kiribati	No protection	No alternative	Prohibition (W)	Not provided
Korea, Republic of	Prohibition	Transfer	No obligation (W)	Paid
Lao People's Democratic Republic	Prohibition	Transfer	No restriction	Not provided
Malaysia	No protection	No alternative	Prohibition (W)	Not provided
Mongolia	Prohibition (W)	Transfer	No obligation	Not provided
Myanmar	No protection	No alternative	No restriction	Not provided
Nepal	No protection	No alternative	No restriction	Not provided
Pakistan	***	No alternative	***	***
Papua New Guinea	No protection	No alternative	Prohibition	Not provided
Philippines	No protection	No alternative	Prohibition (W)	Not provided
Singapore	No protection	No alternative	Prohibition	Not provided
Solomon Islands	No protection	No alternative	Prohibition (W)	Not provided
Sri Lanka	Prohibition	No alternative	No obligation (W)	Not provided
Thailand	No obligation	Transfer	Prohibition	Provided
Vanuatu	No protection	No alternative	Prohibition (W)	Not provided
Viet Nam	Prohibition	Transfer, Adaptation, Extra leave	Prohibition	Paid

Country	Dangerous or unhealthy work	Alternatives to dangerous work	Night work	Time off for prenatal medical examinations
DEVELOPED ECONOMIES				
Andorra	***	***	***	***
Australia	No obligation	Transfer, Extra leave	No restriction	Not provided
Austria	Prohibition	Elimination, Adaptation, Transfer, Leave	Prohibition	Paid
Belgium	Prohibition	***	Prohibition	Paid
Bulgaria	No obligation	Adaptation, Transfer, Extra leave	Prohibition	Paid
Canada	No obligation	Transfer, Extra leave	No restriction	Not provided
Channel Islands, Guernsey	***	***	***	***
Channel Islands, Jersey	***	***	***	***
Cyprus	Prohibition	Transfer	***	Not provided
Czech Republic	Prohibition	Adaptation, Transfer	No restriction	Not provided
Denmark	No protection	Adaptation, Transfer	No restriction	Paid
Estonia	Prohibition	Transfer	Prohibition	Not provided
Finland	No obligation	Transfer, Extra leave	No restriction	Paid
France	Prohibition	Adaptation, Transfer, Extra leave	Prohibition	Paid
Germany	Prohibition	No alternative	Prohibition	Paid
Greece	***	***	***	***
Hungary	No obligation	Transfer, Extra leave	Prohibition	Provided
Iceland	No protection	Adaptation, Transfer, Extra leave	No restriction	Not provided
Isle of Man	***	***	***	***
Ireland	Prohibition	Adaptation, Transfer, Extra leave	Prohibition	Paid
Israel	No obligation	Transfer, Extra leave	No obligation (W)	Provided
Italy	Prohibition (W)	Elimination, Adaptation, Transfer, Extra leave	Prohibition	Paid
Japan	No obligation	Transfer	No obligation	Provided
Latvia	Prohibition	Adaptation, Transfer, Extra leave	Prohibition	Provided
Lithuania	Prohibition	Elimination, Adaptation, Transfer, Leave	No obligation	Paid
Luxembourg	Prohibition	Elimination, Adaptation, Transfer, Extra leave	Prohibition	Paid
Malta	Prohibition	Adaptation, Transfer, Extra leave	No obligation	Paid
Monaco	***	***	***	***
Netherlands	No obligation	Elimination, Adaptation, Transfer, Extra leave	No obligation	Paid
New Zealand	No protection	Transfer	No restriction	Unpaid
Norway	No protection	Transfer	No restriction	Paid
Poland	***	***	***	***
Portugal	No obligation	Adaptation, Transfer, Extra leave	No obligation	Paid
Romania	No protection	Adaptation, Transfer, Extra leave	Prohibition	Paid

Country	Dangerous or unhealthy work	Alternatives to dangerous work	Night work	Time off for prenatal medical examinations
San Marino	***	***	***	***
Slovakia	Prohibition (W)	Transfer, Extra leave	No restriction	Paid
Slovenia	Prohibition	Transfer, Extra leave	Prohibition	Not provided
Spain	No obligation	Adaptation, Transfer, Extra leave	No obligation	Paid
Sweden	No obligation	Transfer, Extra leave	No restriction	Not provided
Switzerland	Prohibition	Adaptation, Transfer, Extra leave	Prohibition	Not provided
United Kingdom	No obligation	Elimination, Adaptation, Leave	Prohibition	Provided
United States	No protection	Transfer, Adaptation, Extra leave	No restriction	Not provided
EASTERN EUROPE AND CENTRAL ASIA				
Albania	Prohibition	No alternative	Prohibition	Not provided
Armenia	Prohibition	Elimination, Adaptation, Transfer	No obligation	Paid
Azerbaijan	Prohibition (W)	Transfer	Prohibition	Paid
Belarus	No obligation	Transfer	Prohibition	Not provided
Bosnia and Herzegovina	No protection	Transfer, Extra leave	Prohibition	Not provided
Croatia	No obligation	Transfer	No obligation	Not provided
Georgia	***	***	***	***
Kazakhstan	Prohibition (W)	Transfer	***	Not provided
Kyrgyzstan	***	***	***	***
Moldova, Republic of	Prohibition (W)	Transfer, Extra leave	Prohibition	Not provided
Montenegro	Prohibition (W)	***	***	***
Russian Federation	Prohibition (W)	Adaptation, Transfer	No obligation	Paid
Serbia	Prohibition	No alternative	***	Not provided
Tajikistan	Prohibition (W)	Transfer, Extra leave	Prohibition (W)	Not provided
The former Yugoslav Republic of Macedonia	***	***	***	***
Turkey	No obligation	Transfer, Extra leave	***	Paid
Turkmenistan	***	***	***	***
Ukraine	***	***	***	***
Uzbekistan	Prohibition (W)	Transfer, Extra leave	Prohibition	Not provided
LATIN AMERICA AND THE CARIBBEAN				
Antigua and Barbuda	No protection	No alternative	No restriction	Not provided
Argentina	Prohibition (W)	No alternative	No restriction	Not provided
Bahamas	***	***	***	***
Barbados	Prohibition (W)	Prohibition	No restriction	Not provided
Belize	***	No alternative	Prohibition (W)	Not provided
Bolivia, Plurinational State of	Prohibition (W)	Adaptation	Prohibition (W)	Not provided
Brazil	No protection	Transfer	No restriction	Provided
British Virgin Islands	***	***	***	***
Chile	No obligation	Transfer	Prohibition	Not provided
Colombia	No protection	No alternative	Prohibition (W)	Not provided
Costa Rica	Prohibition (W)	No alternative	Prohibition (W)	Not provided
Cuba	Prohibition	Transfer	No restriction	Paid
Dominica	No protection	No alternative	No restriction	Not provided
Dominican Republic	No obligation	Transfer, Extra leave	No restriction	Not provided

Country	Dangerous or unhealthy work	Alternatives to dangerous work	Night work	Time off for prenatal medical examinations
Ecuador	Prohibition (W)	Transfer	No restriction	Not provided
El Salvador	Prohibition	No alternative	No restriction	Not provided
Grenada	No protection	No alternative	No restriction	Not provided
Guatemala	No protection	No alternative	No restriction	Not provided
Guyana	No protection	No alternative	No restriction	Not provided
Haiti	No protection	Transfer, Extra leave	No restriction	Not provided
Honduras	Prohibition	No alternative	Prohibition	Not provided
Jamaica	No protection	No alternative	No restriction	Not provided
Mexico	Prohibition	No alternative	Prohibition	Not provided
Nicaragua	No protection	Transfer	Prohibition	Paid
Panama	Prohibition (W)	No alternative	Prohibition	Not provided
Paraguay	Prohibition	Transfer	Prohibition	Not provided
Peru	No obligation	Transfer	No restriction	Not provided
Puerto Rico	***	***	***	***
Saint Kitts and Nevis	No protection	No alternative	No restriction	Not provided
Saint Lucia	No protection	Adaptation	No restriction	Not provided
Saint Vincent and the Grenadines	***	***	***	***
Trinidad and Tobago	No protection	No alternative	No restriction	Paid
Uruguay	No obligation	Transfer, Extra leave	No restriction	Not provided
Venezuela, Bolivarian Republic of	Prohibition	Transfer	No restriction	Not provided
MIDDLE EAST				
Bahrain	Prohibition	No alternative	No restriction	Not provided
Iraq	Prohibition (W)	No alternative	***	***
Jordan	Prohibition (W)	No alternative	Prohibition	Not provided
Kuwait	Prohibition (W)	Prohibition	No restriction	Not provided
Lebanon	Prohibition	No alternative	No restriction	Not provided
Occupied Palestinian Territory	***	***	***	***
Oman	***	***	***	***
Qatar	Prohibition (W)	No alternative	Prohibition (W)	Not provided
Saudi Arabia	Prohibition (W)	No alternative	***	***
Syrian Arab Republic	Prohibition (W)	No alternative	Prohibition (W)	Not provided
United Arab Emirates	Prohibition (W)	Prohibition	Prohibition (W)	Not provided
Yemen	Prohibition (W)	No alternative	Prohibition (W)	Not provided

Source: ILO Working Conditions Laws Database – Maternity Protection. Available at: http://www.ilo.org/travdatabase [5 Apr. 2014].

Methodological notes

Dangerous or unhealthy work

- NO OBLIGATION = pregnant or breastfeeding workers cannot be obliged to perform dangerous or unhealthy work.
- NO OBLIGATION (W) = all women cannot be obliged to perform dangerous or unhealthy work.
- PROHIBITION = pregnant or breastfeeding workers are prohibited from performing dangerous or unhealthy work.
- PROHIBITION (W) = all women are prohibited from performing dangerous or unhealthy work.
- NO PROTECTION = there are no legal measures to protect the safety and health of pregnant or breastfeeding workers.
- *** = information is not available or could not be identified.

Health protection – Maternity Protection Convention, 2000 (No. 183), Article 3:

> Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

Paragraph 6(3) of the Maternity Protection Recommendation, 2000 (No. 191) defines work prejudicial to the health of the mother or the child as it follows:

> (a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;
> (b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;
> (c) work requiring special equilibrium;
> (d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.

This indicator establishes whether the legislation includes any provision to protect pregnant or breastfeeding workers from dangerous or unhealthy work. It distinguishes between "NO OBLIGATION", namely the worker's right not to be obliged to perform dangerous work, and "PROHIBITION", namely the statutory interdiction to prevent pregnant or breastfeeding from performing dangerous work. The indicator refers to general non-obligation/prohibition of dangerous or unhealthy work as well as to non-obligation/prohibition which is limited to specific tasks or conditions (for example, working with chemicals, certain loads, etc.). For details, see the ILO Working Conditions Laws Database. In some cases, the legislation forbids hazardous or unhealthy work for all women, with or without special measures for pregnant or breastfeeding workers. These instances are marked by (W).

Alternatives to dangerous work

- ELIMINATION = where dangerous or unhealthy work or a risk has been identified, the hazard/risk should be eliminated.
- ADAPTATION = in case of hazard or risk, pregnant or breastfeeding workers' conditions of work should be adapted in order to prevent hazard or risk exposure.
- TRANSFER = in case of hazard or risk, pregnant or breastfeeding workers should be transferred to a post that does not entail hazard or risk exposure.
- EXTRA LEAVE = in case of hazard or risk, pregnant or breastfeeding workers should be entitled to additional leave.
- NO ALTERNATIVE = the law does not provide for alternatives to dangerous or unhealthy work.
- *** = information is not available, could not be identified or is not applicable.

Health protection – Paragraph 6(2) of Recommendation No. 191:

> In any of the situations [in which work has been determined by the competent authority to be prejudicial to the health of the mother or the child] or where a significant risk has been identified [...], measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of
> (a) elimination of risk;
> (b) an adaptation of her conditions of work;
> (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or
> (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.

This indicator assesses the extent to which the legislation entitles pregnant or breastfeeding workers to any of the above alternative measures to dangerous or unhealthy work. All the statutory alternative measures for which information was available or could be identified are reported for each country. In cases where the worker is entitled to extra leave, the indicator does not specify whether this additional leave is paid, counted as sick leave, paid by the employer or social security or unpaid. For more information, see the ILO Working Conditions Laws Database.

Night work

- NO OBLIGATION = pregnant or breastfeeding workers cannot be obliged to do night work.
- NO OBLIGATION (W) = all women cannot be obliged to do night work.
- PROHIBITION = pregnant or breastfeeding workers are prohibited from doing night work.
- PROHIBITION (W) = all women are prohibited from doing night work.
- NO RESTRICTION = there are no legal provisions to limit night work.
- *** = information is not available, could not be identified or is not applicable.

Health protection – Paragraph 6(4) of Recommendation No. 191:

> A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.

This indicator determines whether the legislation includes any provision to limit night work (defined according to national legislation) by pregnant or breastfeeding workers. It distinguishes between "NO OBLIGATION", namely the worker's right not to be obliged to do night work, and "PROHIBITION", namely the statutory interdiction to prevent pregnant or breastfeeding from doing night work. In some cases, the legislation forbids night work to all women, irrespective of their pregnancy or nursing status. These instances are marked by (W).

Time off for prenatal medical examinations

- PAID = women are entitled to time off from work with pay to attend prenatal medical examinations.
- UNPAID = women are entitled to time off from work without pay to attend prenatal medical examinations.
- PROVIDED = women are entitled to time off from work to attend prenatal medical examinations, but the law does not specify whether this time off is paid.
- NOT PROVIDED = the legislation does not provide for paid or unpaid time off to attend prenatal medical examinations.
- *** = information is not available, could not be identified or is not applicable.

Health protection – Paragraph 6(6) of Recommendation No. 191:

> A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical examinations relating to her pregnancy.

This indicator assesses whether the legislation provides pregnant workers with time off to attend antenatal health care visits and whether this time off is paid.

A

Appendix VII
Key national statutory provisions on breastfeeding arrangements at work, by region, 1994 and 2013

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
AFRICA												
Algeria	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Angola	Paid	Paid	18	12	2	2	30	30	60	60	Not provided	Not provided
Benin	Unpaid	Unpaid	15	18.5	Not specified	Not specified	Not specified	Not specified	60	60	Not provided	Not provided
Botswana	Paid	Paid	6	6	2	2	30	30	60	60	Not provided	Not provided
Burkina Faso	Paid	Paid	15	16.5	Not specified	Not specified	Not specified	Not specified	90	90	Not provided	Not provided[1]
Burundi	Paid	Paid	6	6	Not specified	1	Not specified	60	50	60	Not provided	Not provided
Cameroon	Unpaid	Paid	15	15	Not specified	Not specified	Not specified	Not specified	60	60	50 FW	50FW
Cape Verde	***	***	***	***	***	***	***	***	***	***	***	***
Central African Republic	Unpaid	Paid	15	15	Not specified	Not specified	Not specified	60	60	60	50 FW	50FW
Chad	Paid	Paid	15	15	2	Not specified	30	Not specified	60	60	50 FW	Not provided
Comoros	Unpaid	Paid	15	15	Not specified	Not specified	Not specified	60	60	60	Not provided	Not provided
Congo	Unpaid	Paid	15	15	2	2	30	30	60	60	50 FW	Not provided
Côte d'Ivoire	Unpaid	Paid	15	15	Not specified	Not specified	Not specified	Not specified	60	60	25 FW	Not provided
Democratic Republic of the Congo	Paid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	Not provided
Djibouti	Unpaid	Paid	15	15	Not specified	Not specified	Not specified	60	60	60	Not provided	Not provided
Egypt	Paid	Paid	18	24	2	2	30	30	60	60	Not provided	100FW
Equatorial Guinea	Paid	Paid	Not specified	Not specified	3	2	30	30	60	60	Not provided	Not provided
Eritrea	***	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Ethiopia	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Gabon	Unpaid	Paid	17	12	Not specified	Not specified	Not specified	Not specified	120	120	50FW	Not provided

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
Gambia	***	***	***	***	***	***	***	***	***	***	***	***
Ghana	Unpaid	Paid	***	12	2	Not specified	30	60	60	60	Not provided	Not provided
Guinea	Unpaid	Unpaid	15	15	Not specified	Not specified	Not specified	Not specified	60	60	Not provided	Not provided
Guinea-Bissau	Unpaid	Paid	12	12	2	2	30	30	60	60	Not provided	Not provided
Kenya	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Lesotho	Paid	Paid	7	6	Not specified	Not specified	Not specified	Not specified	60	60	Not provided	Not provided
Libya	Paid	Paid	18	18	2	Not specified	30	Not specified	60	60	Not provided	Women[2]
Madagascar	Paid	Paid	15	15	Not specified	Not specified	Not specified	Not specified	60	60	25FW	25FW
Malawi	***	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Mali	Paid	Paid	15	15	Not specified	Not specified	Not specified	60	60	60	Not provided	Not provided
Mauritania	Unpaid	Paid	15	15	Not specified	2	Not specified	Not specified	60	60	100FW	Not provided
Mauritius	Paid	Paid	***	6	2	2	30	30	60	60	Not provided	Not provided
Morocco	Unpaid	Paid	12	14	2	2	30	30	60	60	50FW	50W
Mozambique	Paid	Paid	12	12	2	2	30	30	60	60	Not provided	Not provided
Namibia	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Niger	Unpaid	Unpaid	12	12	2	Not specified	Not specified	Not specified	60	60	25FW	25FW
Nigeria	Unpaid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	Not provided
Rwanda	Unpaid	Paid	***	12	2	Not specified	30	Not specified	60	60	Not provided	Not provided
Sao Tome and Principe	Paid	Paid	12	12	2	2	30	30	60	60	Not provided	Not provided
Senegal	Unpaid	Paid	15	15	Not specified	Not specified	Not specified	60	60	60	Not provided	Not provided
Seychelles	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Sierra Leone	***	***	***	***	***	***	***	***	***	***	***	***
Somalia	Paid	Paid	12	12	2	2	60	60	120	120	Not provided	Not provided
South Africa	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Sudan	Not provided	Paid or reduction	***	12	***	2	***	30	***	60	Not provided	Not provided
Swaziland	***	Paid	***	3	***	Not specified	***	60	***	60	***	Not provided

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
Tanzania, United Republic of	Unpaid	Paid or reduction	Not specified	Not specified	2	Not specified	30	Not specified	60	120	Not provided	Not provided
Togo	Unpaid	Paid	15	15	Not specified	Not specified	Not specified	Not specified	60	60	Not provided	Not provided
Tunisia	Paid	Paid	12	12	2	2	30	30	60	60	50FW	50FW
Uganda	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Zambia	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Zimbabwe	Unpaid	Paid	6	Not specified	2	2	30	30	60	60	Not provided	Not provided
ASIA												
Afghanistan	Paid	Paid	Not specified	Not specified	Every 3 hours	Every 3 hours	20	30	40	60	Not provided	All
Bangladesh	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	40W
Brunei Darussalam	***	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Cambodia	Unpaid	Paid	12	12	2	2	30	30	60	60	Not provided	100FW
China	Paid or reduction	Paid	***	12	2	2	30	30	60	60	Not provided	Women[3]
Fiji	***	***	***	***	***	***	***	***	***	***	***	***
Hong Kong (China)	***	***	***	***	***	***	***	***	***	***	***	***
India	Paid	Paid	15	15	2	2	Not specified	Not specified	Not specified	Not specified	Not provided	60FW
Indonesia	Unpaid	Unpaid	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	***	Not provided	All
Iran, Islamic Republic of	Paid	Paid	24	24	Every 3 hours	Every 3 hours	30	30	60	60	Not provided	Children[4]
Kiribati	***	***	***	***	***	***	***	***	***	***	***	Not provided
Korea, Republic of	Unpaid	Paid	12	12	2	2	30	30	60	60	Not provided	All
Lao People's Democratic Republic	Unpaid	Paid	12	12	Not specified	Not specified	Not specified	60	60	60	Not provided	Not provided
Malaysia	Not provided	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Mongolia	Unpaid	Paid	12	6	Not specified	Not specified	Not specified	Not specified	60	120	Not provided	Not provided

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
Myanmar	Not provided	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Nepal	Not provided	Paid	***	Not specified	***	Not specified	***	Not specified	***	Not specified	***	50FW
Pakistan	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Papua New Guinea	Paid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	Not provided
Philippines	Not provided	Paid	***	Not specified	***	Every 8 hours	***	40[5]	***	40[5]	Not provided	All
Singapore	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Solomon Islands	Paid	Paid	Not specified	Not specified	2	2	60	Not specified	120	60	Not provided	Not provided
Sri Lanka	Not provided	Paid	***	12	***	2	***	30	***	60	Not provided	Women[6]
Thailand	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Vanuatu	***	Paid	***	Not specified	***	2	***	30	***	60	***	***
Viet Nam	Paid	Paid	***	12	Not specified	Not specified	Not specified	60	60	60	Not provided	Women
DEVELOPED ECONOMIES												
Andorra	***	***	***	***	***	***	***	***	***	***	***	***
Australia	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Austria	Paid	Paid	Not specified	Not specified	2	2	45	45	90	90	Not provided	Not provided[7]
Belgium	Not provided	Paid	***	9	***	2	***	30	***	60	Not provided	All
Bulgaria	Paid	Paid	8	8	2	2	60	60	120	120	Not provided	20FW
Canada	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Channel Islands, Guernsey	***	***	***	***	***	***	***	***	***	***	***	***
Channel Islands, Jersey	***	***	***	***	***	***	***	***	***	***	***	***
Cyprus	Not provided	Paid	***	9	***	Not specified	***	60	***	60	Not provided	Not provided
Czech Republic	***	Paid	***	12	***	2	***	30	***	60	***	Not provided
Denmark	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Estonia	***	Paid	***	18	***	Every 3 hours	***	30	***	60	***	Not provided
Finland	Not provided	Paid	***	Not specified	***	Not specified	***	Not specified	***	Not specified	Not provided	Not provided

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
France	Unpaid	Paid	12	12	Not specified	2	Not specified	30	60	60	Not provided	100FW
Germany	Paid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	Not provided
Greece	Paid or reduction	Not provided[8]	12	***	Not specified	***	Not specified	***	60	***	Not provided	300W
Hungary	Paid	Paid	9	9	Not specified	2	Not specified	60	60	120	Not provided	Not provided
Iceland	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Ireland	Not provided	Paid or reduction	***	6	***	Not specified	***	60	***	60	Not provided	Not provided
Isle of Man	***	***	***	***	***	***	***	***	***	***	***	***
Israel	Paid	Not provided[9]	Not specified	***	2	***	30	***	60	***	Not provided	***
Italy	Paid	Paid	Not specified	12	2	2	60	60	120	120	Not provided	Not provided
Japan	Unpaid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	Not provided
Latvia	***	Paid	***	18	***	Every 3 hours	***	30	***	60	***	All[10]
Lithuania	***	Paid	***	Not specified	***	Every 3 hours	***	30	***	60	***	Not provided
Luxembourg	Paid	Paid	Not specified	Not specified	2	2	45	45	90	90	Not provided	Not provided
Malta	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Monaco	***	***	***	***	***	***	***	***	***	***	***	***
Netherlands	Paid or reduction	Paid	Not specified	9	2	Not specified	45	Not specified	90	Max. of 25% of working hours	Not provided	All
New Zealand	Not provided	Unpaid[11]	***	Not specified	***	Not specified	***	Not specified	***	Not specified	Not provided	All
Norway	Unpaid	Unpaid	Not specified	Not specified	2	2	30	30	60	60	Not provided	Not provided
Poland	Paid	***	Not specified	***	2	***	30	***	60	***	Not provided	***
Portugal	Paid	Paid	12	12	2	2	60	60	120	120	Not provided	Not provided
Romania	Unpaid or reduction	Paid	9	12	Every 3 hours	2	30	60	60	120	Not provided	All
San Marino	***	***	***	***	***	***	***	***	***	***	***	***

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
Slovakia	***	Paid	***	6	***	2	***	30	***	60	***	All[12]
Slovenia	***	Paid	***	Not specified	***	Not specified	***	60	***	60	***	All[13]
Spain	Unpaid	Paid or reduction	9	9	2	1	30	60	60	60	Not provided	Not provided
Sweden	Unpaid	Paid	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not provided	Not provided
Switzerland	Unpaid	Paid	Not specified	Not specified	Not specified	Not specified	Unpaid	Not specified	Unpaid	Not specified	Unpaid	Not provided
United Kingdom	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided[14]
United States	Not provided	Unpaid	***	12	***	Not specified	***	Not specified	***	Not specified	Not provided	50W
EASTERN EUROPE AND CENTRAL ASIA												
Albania	***	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Armenia	***	Paid or reduction	***	Not specified	***	Every 3 hours	***	30	***	60	***	Not provided
Azerbaijan	***	Paid	***	18	***	Every 3 hours	***	30	***	60	***	All[15]
Belarus	Paid	Paid	18	Not specified	Every 3 hours	Every 3 hours	30	30	Not specified	60	Not provided	Not provided
Bosnia and Herzegovina	***	Paid	***	12	***	2	***	60	***	120	***	Not provided
Croatia	***	Paid	***	12	***	2	***	30	***	60	***	Not provided
Georgia	***	***	***	***	***	***	***	***	***	***	***	***
Kazakhstan	***	Paid	***	18	***	Every 3 hours	***	20	***	40	***	Not provided
Kyrgyzstan	***	***	***	***	***	***	***	***	***	***	***	***
Moldova, Republic of	***	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Montenegro	***	***	***	***	***	***	***	***	***	***	***	***
Russian Federation	Unpaid	Paid	Not specified	18	Every 3 hours	Every 3 hours	30	30	Not specified	60	Not provided	Not provided
Serbia	***	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Tajikistan	***	Paid	***	18	***	Every 3 hours	***	30	***	60	***	Not provided

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
The former Yugoslav Republic of Macedonia	***	Paid	***	12	***	Not specified	***	90	***	90	***	Not provided
Turkey	Paid	Paid	12	12	2	Not specified	45	30	90	30	Not provided	Not provided
Turkmenistan	***	***	***	***	***	***	***	***	***	***	***	***
Ukraine	Unpaid	***	Not specified	***	Every 3 hours	***	30	***	60	***	Not provided	***
Uzbekistan	***	Paid	***	Not specified		Every 3 hours	***	30	***	60	***	Not provided
LATIN AMERICA AND THE CARIBBEAN												
Antigua and Barbuda	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Argentina	Unpaid	Paid or reduction	12	24	2	2	30	30	60	60	Not provided	All[16]
Bahamas	***	***	***	***	***	***	***	***	***	***	***	***
Barbados	Not provided	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Belize	***	***	***	***	***	***	***	***	***	***	***	***
Bolivia, Plurinational State of	Unpaid	Paid	Not specified	12	Not specified	Not specified	Not specified	Not specified	60	60	Not provided	50W
Brazil	Unpaid	Paid	6	6	2	2	30	30	60	60	Not provided	30FW
British Virgin Islands	***	***	***	***	***	***	***	***	***	***	***	***
Chile	Paid	Paid or reduction	Not specified	24	2	Not specified	Not specified	Not specified	60	60	Not provided	20FW
Colombia	Paid	Paid	6	6	2	2	Not specified	30	60	60	Not provided	All
Costa Rica	Paid	Paid	Not specified	Not specified	Every 3 hours	2	15	30	60	60	30FW	30FW
Cuba	Not provided	Paid	***	12	***	Not specified	***	Not specified	***	60	Not provided	Not provided
Dominica	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
Dominican Republic	Paid	Paid	12	12	3	3	20	20	60	60	Not provided	Not provided
Ecuador	Unpaid	Paid or reduction[17]	9	9	Every 3 hours	***	15	120	30	120	50FW	50W
El Salvador	Paid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	All
Grenada	Not provided	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Guatemala	Paid or reduction	Paid	10	10	2	2	30	30	60	60	Not provided	30FW
Guyana	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Haiti	Unpaid	Paid	Not specified	Not specified	Every 3 hours	2	15	30	30	60	Not provided	Not provided
Honduras	Paid	Paid	6	6	2	2	30	30	60	60	Not provided	20FW
Jamaica	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Mexico	Unpaid	Paid	Not specified	Not specified	2	2	30	30	60	60	All	Not provided
Nicaragua	Unpaid	Paid	Not specified	Not specified	2	Every 3 hours	30	15	60	45	30FW	30FW
Panama	Paid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	20FW
Paraguay	Paid	Paid	Not specified	Not specified	2	2	30	30	60	60	Not provided	50FW
Peru	Paid	Paid	Not specified	12	Not specified	Not specified	Not specified	Not specified	60	60	Not provided	Not provided
Saint Kitts and Nevis	***	Not provided	***	***	***	***	***	***	***	***	***	Not provided
Saint Lucia	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Saint Vincent and the Grenadines	***	***	***	***	***	***	***	***	***	***	***	***
Suriname	***	***	***	***	***	***	***	***	***	***	***	***
Trinidad and Tobago	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Uruguay	Paid	Paid	Not specified	Not specified	Not specified	2	Not specified	30	Not specified	60	Not provided	Not provided
Venezuela, Bolivarian Republic of	Unpaid	Paid	Not specified	Not specified	2	2	60	30	120	60	Not provided	20FW

Country	Entitlement to paid nursing breaks (1994)	Entitlement to paid nursing breaks (2013)	Entitlement duration (months) (1994)	Entitlement duration (months) (2013)	Number of daily nursing breaks (1994)	Number of daily nursing breaks (2013)	Nursing break duration (minutes) (1994)	Nursing break duration (minutes) (2013)	Total daily duration (minutes) (1994)	Total daily duration (minutes) (2013)	Nursing or childcare facilities (1994)	Nursing or childcare facilities (2013)
MIDDLE EAST												
Bahrain	Unpaid	Paid	Not specified	24	Not specified	2	Not specified	30	60	60	Not provided	Not provided
Iraq	Paid	Paid	Not specified	Not specified	Not specified	Not specified	Not specified	60	60	60	Not provided	Not provided
Jordan	Not provided	Paid	***	12	***	Not specified	***	Not specified	***	60	Not provided	20FW
Kuwait	Not provided	Paid	***	Not specified	***	Not specified	***	Not specified	***	120	Not provided	50FW
Lebanon	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Occupied Palestinian Territory	***	***	***	***	***	***	***	***	***	***	***	***
Oman	***	***	***	***	***	***	***	***	***	***	***	***
Qatar	Not provided	Not provided	***	***	***	***	***	***	***	***	Not provided	Not provided
Saudi Arabia	Unpaid	Paid	Not specified	Not specified	Not specified	Not specified	Not specified	60	60	60	Not provided	50FW
Syrian Arab Republic	Paid	Paid	18	24	2	2	30	30	60	60	Not provided	20FW
United Arab Emirates	Paid	Paid	18	18	2	2	30	30	60	60	Not provided	Not provided
Yemen	***	Paid or reduction	***	Not specified	***	Not specified	***	Not specified	***	Not specified	Not specified	Not provided

Methodological notes

Entitlement to paid nursing breaks

- PAID = women workers are entitled to daily breaks with pay to breastfeed or express breast milk.
- PAID OR REDUCTION = women workers are entitled to daily breaks or a reduction of working time with pay to breastfeed or express breast milk.
- UNPAID = women workers are entitled to daily breaks or a reduction of working time without pay to breastfeed or express breast milk.
- NOT PROVIDED = the law does not provide women workers with the right to daily breaks or a reduction of working time to breastfeed or express breast milk.
- *** = information is not available, could not be identified or is not applicable.

Breastfeeding mothers – Maternity Protection Convention, 2000 (No. 183), Article 10(1) and (2):

> A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child. [...] These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

This indicator determines whether the legislation provides women workers with the right to daily breaks or a daily reduction of working time in order to breastfeed their child or express breast milk to bottle-feed their child later. When the law allows workers to choose between paid breaks or a reduction of working time, this is indicated ("PAID OR REDUCTION"). The indicator also specifies whether this entitlement is paid. Unless the legislation explicitly provides that nursing breaks or reduction of working time are remunerated, they are considered as "UNPAID".

Entitlement duration

- # = number of months during which nursing breaks or the reduction of daily hours of work are allowed by law.
- NOT SPECIFIED = breastfeeding breaks are provided, but the duration of the entitlement is not specified by law.
- *** = information is not available, could not be identified or is not applicable.

Breastfeeding mothers – Maternity Protection Convention, 2000 (No. 183), Art: 10(2):

> The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. [...].

This indicator measures the period during which women workers are entitled to daily breastfeeding breaks or a reduction of working time. In national legislation, the entitlement duration can either refer to the number of months during which a woman can use nursing breaks upon return to work at the end of maternity leave or to the age of the child (usually expressed in months or years) up to which the mother can avail herself of this entitlement. For comparative purposes, the duration of nursing breaks included in national legislation was converted into months and calculated with reference to the age of the child.

Number of daily nursing breaks

- # = number of statutory daily breaks to which workers are entitled in order to nurse their babies or express breast milk.
- NOT SPECIFIED = breastfeeding breaks are provided, but the number of breaks is not specified.
- EVERY 3 HOURS = breastfeeding breaks can be taken every three hours.
- *** = information is not available, could not be identified or is not applicable.

Breastfeeding mothers – Maternity Protection Convention, 2000 (No. 183), Article 10(2):

> The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. [...].

This indicator measures the number of daily nursing breaks as indicated by national legislation.

Nursing break duration

- # = statutory duration of each nursing break in minutes
- NOT SPECIFIED = breastfeeding breaks are provided, but the nursing break duration is not specified by law.
- *** = information is not available, could not be identified or is not applicable.

Breastfeeding mothers – Maternity Protection Convention, 2000 (No. 183), Article 10(2).

This indicator measures the statutory duration of each daily nursing break in minutes.

Total daily duration

- # = total duration of daily nursing breaks or reduction of daily hours of work in minutes.
- NOT SPECIFIED = breastfeeding breaks are provided, but the total daily duration of nursing breaks is not specified.
- *** = information is not available, could not be identified or is not applicable.

Breastfeeding mothers – Maternity Protection Convention, 2000 (No. 183), Article 10(2).

This indicator measures the total daily duration of statutory nursing breaks or reduction of daily hours of work in minutes.

Nursing or childcare facilities

- ALL = employers are requested to provide nursing or childcare facilities at or near their workplaces (or a reimbursement of childcare costs) regardless of the number of workers.
- WOMEN/CHILDREN = employers are requested to provide facilities based on an undefined number of women workers or children, but there is no minimum number included in the legislation.
- #FW = employers with more than # number of female workers should provide for nursing or childcare facilities at their workplace (or a reimbursement of childcare costs).
- #W = employers with more than # number of workers, regardless of their sex, should provide for nursing or childcare facilities at their workplace (or a reimbursement of childcare costs).
- NOT PROVIDED = the provision of nursing or childcare facilities or reimbursement of childcare costs is not mandated by law.
- *** = information is not available, could not be identified or is not applicable.

Breastfeeding mothers – Maternity Protection Recommendation, 2000 (No. 191), Paragraph 9:

> Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.

This indicator provides information on the statutory provision of workplace nursing or childcare facilities and the conditions under which their establishment is mandatory. Cases in which this provision is not included in the law on a mandatory basis are marked as "NOT PROVIDED". In some countries, employers are mandated to provide facilities based on a statutory number of workers (indicated by "W"), both women and men, or only on a specified number of female workers (indicated by "F"). In other instances, the legislation prescribes the creation of nursing or childcare facilities based on an unspecified number of workers, women or children (e.g., "many" women; "prescribed number of women"; "according to the number of children, with due regard to their age"). When the law mandates for the provision of "private rooms" with beds for pregnant and nursing mothers to rest, these are counted as nursing facilities. As an alternative to the provision of workplace facilities, the law can mandate the reimbursement of childcare costs (such as in Brazil and Viet Nam).

Notes

1. Burkina Faso: the setup of breastfeeding rooms is not mandatory. They can be created under conditions fixed by law upon the advice of the advisory Work Commission.
2. Libya: employers who employ women who have children should allocate places for children's care.
3. China: a unit with "quite many" female workers and employees should, in accordance with relevant State stipulations, establish such self-run or jointly run facilities as clinics for women, rest-rooms for pregnant females, nursing rooms, nurseries and kindergartens.
4. Iran, Islamic Republic of: the Labour Code requires the employer to set up children's care centres (such as day nurseries and kindergartens) according to the number of children, with due regard to their age.
5. Philippines: the breaks shall not be less than a total of 40 minutes for every eight-hour working period and shall include the time it takes an employee to get to and from the workplace lactation station.
6. Sri Lanka: the employer of more than a prescribed number of women workers in any trade shall establish and maintain, in accordance with the appropriate regulations, a crèche for children under 5 years of age, and shall allow any woman worker who has in her care a child or children under the age of 5, to leave such child or children in the crèche during the hours when she is required to work for her employer.
7. Austria: the competent administrative authority may order that breastfeeding facilities be established, if the circumstances so demand in individual cases.
8. Greece: no legal provisions on breastfeeding breaks could be identified, although Act No. 1483 of 1983 establishes a duty on the head of industrial enterprises or farms with more than 300 employees to provide adequate facilities for breastfeeding.
9. Israel: a female employee who is prohibited from working at certain jobs by law because of her breastfeeding is entitled to be excused from work and this

absence is treated as leave without pay for all intents and purposes (i.e., the employee's seniority rights are not preserved during such absence).

10. Latvia: if pregnant women or women in the period following childbirth (up to one year) are employed, they shall be provided with the possibility of lying down to rest in suitable conditions in conformity with the hygiene requirements. For women who are breastfeeding, the conditions referred to shall be ensured during the whole period of breastfeeding.
11. New Zealand: breastfeeding breaks will only be paid if agreed between the parties.
12. Slovakia: an employer shall be obliged to establish, maintain and improve the level of social facilities and personal sanitation facilities for women.
13. Slovenia: the employer shall provide suitable rooms, with beds for pregnant and nursing mothers to rest. Pregnant and nursing mothers must also be able to lie down in rooms with beds if so required for medical reasons.
14. United Kingdom: there is no statutory provision of breastfeeding breaks. According to the official website of the Health and Safety Executive, there are no legal restrictions on breastfeeding at work or any time limit for doing so. This is something for the worker to decide but it should not prevent her from returning to work. In this case, it is also advised that a written notification is sent to the employer prior to return to work, so that a healthy, safe and suitable environment can be provided. *Nursing facilities*: the employer may provide a private, healthy and safe environment to express and store milk, although there is no legal requirement for them to do so. However, the employer is legally required to provide "somewhere" for pregnant and breastfeeding mothers to rest and, where necessary, this should include somewhere to lie down.
15. Azerbaijan: if women with children under the age of 18 months encounter difficulties in connection with feeding the child, the employer, at the woman's request, shall transfer her to lighter work or provide the necessary facilities for breastfeeding.
16. Argentina: the Act No. 26873 of 3 July 2013 concerning the promotion of breastfeeding provides for the promotion of regulations for the protection of nursing working mothers and the establishment of nursing facilities at the workplace.
17. Ecuador: women who are nursing their child shall benefit from a working day of six hours.

Sources

All information in the table is based on data available as of December 2013 in the ILO Working Conditions Laws Database – Maternity Protection following the 2011–12 update (available at: http://www.ilo.org/travdatabase [5 Apr. 2014]) and the *Conditions of work digest: Maternity and work* (ILO, 1994), except for:

– Argentina: Law No. 26873 of August 2013 *Salud Pública. Lactancia Materna. Promoción y Concientización Pública*, available at http://aldiaargentina.microjuris.com/2013/08/07/ley-26873-salud-publica-lactancia-materna-promocion-y-concientizacion-publica/ [5 Apr. 2014]
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Maternity and paternity at work

Law and practice across the world

This report provides a picture of where we stand and what we have learned so far on maternity and paternity at work across the world. It offers a rich international comparative analysis on law and practice on maternity protection at work in 185 countries and territories, comprising leave, cash benefits, employment protection and non-discrimination, health protection, breastfeeding arrangements at work, and childcare. Innovating from the previous editions, it is based on an extensive set of new legal and statistical indicators, including coverage in law and in practice of paid maternity leave as well as statutory provision of paternity and parental leave and their evolution over the last 20 years, also in light of the recent economic crisis and austerity measures. It shows how well national laws and practice conform to the ILO Maternity Protection Convention, 2000 (No. 183), its accompanying Recommendation (No. 191) and the Workers with Family Responsibilities Convention, 1981 (No. 156), and offers considerations to guide policy design and implementation. This report shows that a majority of countries have established legislation to protect and support maternity and paternity at work, even if those provisions do not always meet the ILO standards. One of the persistent challenges is the effective implementation of legislation to ensure that all workers are able to benefit from these essential labour rights.

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