

Care at work: Investing in care leave and services for a more gender equal world of work ^[1]

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Excerpts from summary:

The ILO report *Care at work: Investing in care leave policies and care services for a more gender equal world of work* provides a global overview of national laws and practices regarding care policies, namely maternity protection, paternity, parental and other care-related leave policies, as well as childcare and long-term care services. The report presents findings from an ILO legal survey of 185 countries, and reviews progress made around the world over the past decade while assessing the persisting and significant legal gaps that translate into a lack of protection and support for millions of workers with family responsibilities across the world. It does so by taking the requirements and principles of relevant international labour standards – in particular the ILO Conventions and Recommendations on maternity protection and workers with family responsibilities – as the benchmark. The report pays attention to the most frequently excluded workers, such as the self-employed, workers in the informal economy, migrants, and adoptive and LGBTQI+ parents. It concludes with a call for action to invest in a transformative package of care policies that is central to the broader international agenda on investing in the care economy – a breakthrough pathway for building a better and more gender equal world of work.

Eight key messages and findings emerge from the report:

Maternity leave is a universal human and labour right, and yet it remains unfulfilled

Paid and job-protected maternity leave and adequate maternal and child healthcare are essential to the life, health, safety and economic fulfilment of women and their children. It is a precondition to the right to care and be cared for and to achieve gender equality at work. In 2021, almost all of the 185 countries surveyed by the ILO have adopted statutory provisions for maternity leave in their legislation. The findings show that there are variations regarding adherence to the requirements of the ILO Maternity Protection Convention, 2000 (No. 183), across countries and across groups of women workers, depending on where they work.

ILO standards mandate a minimum maternity leave period of 14 weeks and recommend increasing it to at least 18 weeks to ensure an adequate rest and recovery time for the mother. In 2021, the duration of maternity leave is at least 14 weeks in 120 countries. In addition, 52 countries meet or exceed the ILO 18-week standard, with 3 in 10 potential mothers¹ globally living in these countries. Since 2011, 23 new countries have met or exceeded the ILO 14-week standard, pointing to the inspirational role of international labour standards even in countries that have not ratified the ILO maternity protection Conventions. However, in 64 countries the duration of maternity leave is still below 14 weeks. This leaves 3 in 10 of potential mothers across the world without entitlements to sufficient time off to rest and recover from childbirth and care for their new-born child.

The amount of maternity leave cash benefits should be adequate to keep the mother and her child healthy and out of poverty and hardship, especially women in the informal economy. ILO standards require the amount of cash benefits to be at least two-thirds (67 per cent) of the woman's previous earnings and recommend increasing it to 100 per cent, when possible. Across the world in 2021, the average duration of maternity leave paid at a rate of at least 67 per cent of previous earnings was 18.0 weeks. This represents an increase of 3.5 weeks since 2011. Globally, 123 countries offer fully paid maternity leave, with 9 in 10 potential mothers living in these countries. Since 2011, 10 countries have increased the amount of maternity leave cash benefits. However, in 13 countries maternity leave cash benefits remain below two-thirds of previous earnings; while in 3 countries maternity leave is still unpaid or not provided.

Maternity protection is a public good and a collective responsibility. ILO standards require that employers should not be individually liable for the direct cost of maternity leave and these cash benefits shall be provided through compulsory social insurance or public funds or non-contributory social assistance to women who do not qualify for benefits out of social insurance. This is especially the case for workers in the informal economy or self-employed women. In 2021, more than two-thirds of potential mothers live in countries where maternity leave cash benefits are funded through social protection. However, 2 in 10 potential mothers remain at risk of inadequate protection and discrimination; since in 45 countries the law still requires full payment of maternity leave by employers. Since 2011, only 8 countries have moved away from employer liability schemes to social security or mixed schemes.

Overall, 98 out of 185 countries are in line with the key three requirements of ILO Convention No. 183. These provisions potentially benefit 7 in 10 potential mothers (1.2 billion women). However, 82 countries do not meet at least one ILO standard on maternity leave, leaving 649 million women with inadequate maternity protection. Between 2011 and 2021, legal reforms have been sluggish, with only 18 countries improving at least one aspect of maternity leave legislation to comply with ILO standards. At the current pace, it will take at least 46 years to achieve minimum maternity leave rights in the 185 countries analysed, compromising the achievement of the SDGs in 2030.

The fundamental right to paid and job-protected maternity leave should be guaranteed to all women, especially mothers from vulnerable groups and in the informal economy. But coverage of maternity leave provisions for some categories of workers remains particularly low. In 2021, 81 countries provide mandatory coverage for maternity leave cash benefits for self-employed women. This means that 496 million self-employed women live in countries without adequate coverage of maternity leave cash benefits, most of these self-employed women are in the informal economy. In addition, only 52 countries offer equal maternity leave rights to adoptive parents, including those in same-sex partnerships. Only 2 in 10 potential parents live in these countries.

Employment protection and nondiscrimination is essential to make the right to maternity leave a reality. In 2021, most countries, mandate protection against unlawful dismissal related to maternity; only 13 do not do so. However, 83 countries do not guarantee employment protection over the full maternity period. This leaves 5 in 10 potential mothers at risk of discriminatory dismissal. In 2021, 89 countries (where almost 5 in 10 potential mothers live) guarantee the right to return to the same or equivalent position after maternity leave. While only 1 in 10 potential mothers across the world live in the 24 countries that explicitly prohibit pregnancy tests, 26 countries have mandated new implicit or explicit prohibitions against such tests since 2011.

Paternity leave is key to enabling men's care rights and responsibilities

In 2021, 115 out of 185 countries surveyed by the ILO offer a right to paternity leave, with 33 new countries doing so in the preceding ten years. This means 4 in 10 potential fathers² live in countries with paternity leave, and points to the increasing recognition of men's caregiving role. However, almost two-thirds of potential fathers (1.26 billion men) live in countries with no entitlements to paternity leave and are missing out on the unique life opportunity to bond with their new-born children.

Across the world, paternity leave remains short: 9 days (1.3 weeks) as a global average, with significant regional variations. When comparing the average durations of maternity leave (18 weeks) and paternity leave (1.3 weeks), there is a global "gender leave gap" of 16.7 weeks. Further, globally, only 1 in 10 potential fathers live in countries that provide at least 10 days of paternity leave. Since 2011, however, 16 countries with paternity leave have increased its duration, with a slow but consistent trend towards reducing the duration gap between maternity and paternity leave.

Paternity leave is also a public good and a collective responsibility. The ILO Resolution concerning the second recurrent discussion on social protection (social security) (ILO 2021e) calls for Member States to foster income security during maternity, paternity and parental leave as part of gender-responsive social protection systems. Globally, when available, paternity leave is paid, except in 13 countries. But it is paid at 100 per cent of previous earnings in only 81 countries, where just 3 in 10 potential fathers across the world live. Low-paid paternity leave discourages fathers' take-up, perpetuating inequalities in the distribution of unpaid care work between parents. And replacement income levels tend to be lower when employers must shoulder the full cost of paternity leave, which is the case in 61 out of 102 countries. Since 2011, six countries have introduced paternity leave cash benefits funded by social protection.

All fathers, without discrimination, should have a right to paternity leave. However, as with maternity leave, some categories of workers are still largely excluded from paternity leave provisions. Only 30 countries offer an equal right to paternity leave cash benefits to self-employed men, many of whom are in the informal economy, with only 4 in 100 self-employed men across the world living in these 30 countries. In addition, only 42 countries have paternity leave provisions applicable to adoptive fathers, with about only 1 in 10 potential fathers living in these countries. Further, only 20 countries provide equal paternity leave rights to same-sex parents. However, an increasing number of countries and enterprises are adopting measures that promote, protect and fulfil the human rights of LGBTIQ+ people.

Take-up rates of paternity leave entitlements remain low, even when fathers are entitled to it. Transforming policy design and gender norms can make leave more attractive to men, for instance, by introducing obligatory paternity leave days, which is the case in eight countries, and public campaigns to raise awareness of the importance of men's caregiving role.

Employment protection and nondiscrimination connected with paternity leave could improve paternity leave take-up rates, but such regulations remain scattered. In 2021, 55 countries have legislation that explicitly protects fathers against unlawful dismissal for taking paternity leave, which means that only 1 in 10 potential fathers worldwide benefit from such protection. Moreover, in 36 countries, employers have the onus of proving that the reasons for dismissal are unrelated to paternity leave, but only 9 in 100 potential fathers reside in these countries. Finally, the right to return to the same or equivalent position after taking paternity leave is afforded to fathers in only 30 countries, covering just 7 in 100 potential fathers globally.

Parental leave and other special care leave can also help balance the work and family responsibilities of mothers and fathers over their life course

Parental leave, long-term care leave and other special care leaves are essential to support carers, especially in COVID-19 times. However, unless well designed and widely available, they remain marginal care solutions. ILO standards call for a period of parental leave – determined by national laws – to be available to either parent after maternity leave without their having to relinquish employment and with their employment rights being protected. In 2021, 68 out of 185 countries surveyed by the ILO offer a right to parental leave, but only 3 new countries have done so since 2011. This means 2 in 10 potential parents³ live in countries with such a statutory right, with the

majority of these countries being found in Europe and Central Asia (48 out of 68).

Some categories of workers remain excluded from parental leave provisions. Only 36 countries offer an equal right to parental leave cash benefits to self-employed parents. This represents only 3 in 100 self-employed workers across the world. Only 56 countries have parental leave provisions for adoptive parents. This means only 2 in 10 potential parents live in countries with such statutory rights. Only 25 countries provide equal parental leave rights to same-sex parents. This represents 1 in 10 potential parents globally.

Take-up rates of parental leave entitlements remain low among men. When used to replace gaps in childcare services, long, low-paid and transferable parental leave is likely to harm women's situation in the labour market, as they remain the main users of this provision. In order to promote men's participation, 15 of the 68 countries with parental leave reserve specific periods of leave for fathers. Employment protection and non-discrimination connected with parental leave could also improve parental leave take-up rates for both women and men, but such provisions remain scattered. Only 60 countries have legislation that explicitly protects parents against unlawful dismissal for parental leave-taking. This provision affects only 2 in 10 potential parents globally. In only 33 countries do employers have the onus of proving that dismissal is unrelated to parental leave take-up. This provision concerns only 7 in 100 potential parents globally. In addition, 43 out of 68 countries guarantee the right to return to the same or equivalent position after parental leave.

With ageing societies, paid long-term care leave can play a key role in supporting new and increasing care needs. Nevertheless, only 55 countries, or 2 in 10 adults globally, have a statutory right to long-term care leave. Moreover, this leave is paid in only 34 countries; however, when paid, long-term care leave is funded by social protection – although self-employed workers remain largely excluded from this entitlement.

Emergency leave is a special leave of short duration for urgent family reasons. In 2021, 127 out of 183 countries, or 6 in 10 adults globally, have a statutory right to emergency leave. In the 90 out of 101 countries with paid emergency leave, the employer is the source of funding, leaving self-employed workers largely excluded from this entitlement.

The workplace is an important entry point to promote safety and health and save lives

All workers should have the right to a safe and healthy working environment, including pregnant or nursing women. However, there are only 40 countries where employers are obliged to protect pregnant or nursing women against dangerous or unhealthy work, as per by ILO standards on maternity protection. This means only 1 in 10 potential mothers are provided such statutory protections globally. Since 2011, only 11 countries have introduced new restrictions against dangerous or unhealthy work being performed by pregnant and nursing women. In 2021, 31 countries still have discriminatory prohibitions forbidding all women from engaging in hazardous or unhealthy work, thereby putting working mothers at risk. Workplace risk assessments are key tools to mitigate occupational safety and health (OSH) risks, especially during the COVID-19 pandemic.

ILO standards require that the law should provide for protective measures for pregnant and breastfeeding women as an alternative to dangerous or unhealthy work. Since 2011, 21 countries have introduced new protective measures against dangerous or unhealthy work for these workers. However, at least 6 in 10 potential mothers globally are not covered by these protective measures, leaving them exposed to OSH risks.

Decent working time is important to the health and quality of working life of all workers, especially pregnant and nursing women. Even so, 66 countries do not provide for legal protection against the health risks of night work, leaving 4 in 10 potential mothers globally without adequate legal protection. In addition, 34 countries still use blanket prohibitions against night work by women, putting all women at risk of discrimination.

Time off for prenatal examinations and adequate maternal healthcare, as called for by ILO standards on maternity protection and social security, can save lives by tackling preventable maternal mortality and morbidity. Despite the crucial health benefits of antenatal care, 132 countries do not offer a right to paid time off for prenatal medical examinations. This potentially compromises the health and safety of 8 in 10 potential mothers across the world, especially workers in the informal economy who remain largely excluded from these provisions.

Breastfeeding-friendly workplaces provide time, income security and space to enable positive nutrition and health outcomes

All women should have the right to paid working time for breastfeeding, as called for by ILO Convention No. 183. In 2021, 138 countries provide a right to time and income security for breastfeeding. These provisions potentially benefit 8 in 10 potential mothers across the world. Since 2011, seven countries have introduced paid nursing breaks. However, breastfeeding breaks remain unpaid in four high-income countries. In 2021, at least four pathfinder countries recognize men's supporting role by offering breastfeeding breaks to fathers.

Almost 5 in 10 potential mothers live in countries that grant two daily breastfeeding breaks; while 109 countries offer the right to daily nursing breaks for six months or more. This would support exclusive breastfeeding in line with World Health Organization (WHO) recommendations for 7 in 10 potential mothers across the world. However, only ten countries provide a right to breastfeeding breaks for at least two years, compromising mothers' ability to continuing breastfeeding.

Workplace nursing facilities are a key ingredient of breastfeeding-friendly workplaces. However, only 42 countries offer the right to workplace nursing facilities, covering roughly 6 in 10 potential mothers globally. While small- and medium-sized enterprises (SMEs) are often exempted from these requirements, research shows that the economic and well-being benefits of breastfeeding for the new-born, the mother and the employer outweigh the limited costs of these measures. Only 13 countries offer a right to workplace nursing facilities irrespective of the number and sex of workers, with only 5 in 100 potential mothers worldwide living in these countries. Conditionalities for nursing facilities based on sex are discriminatory and remain in place in 19 countries.

Childcare services are vital to child development, women's employment and job creation

Childcare services offer many benefits by promoting child development, creating jobs, reducing parents' unpaid care work and promoting women's employment and income over the life course. ILO data also show that there is a strong and positive correlation between the employment-to-population ratios of women with young children and the number of children enrolled in early-childhood educational development programmes for children aged 0 to 2 years. Despite these advantages, lack of childcare services, gaps in quality and provision, and inadequate working conditions remain a missed opportunity for sustainable development and gender equality.

Only in 57 out of 178 countries surveyed by the ILO is there a statutory provision of early childhood educational development (ECED) programmes for children aged 0 to 2 years. This means only 2 in 10 potential parents live in countries with such a statutory right. In only 21 countries these programmes are a universal right, which translates into potential access to free or affordable childcare services for only 1 in 10 potential parents across the world.

A continuum of care leave policies and care services is essential to guarantee the best early start for children and income security for families, enabling women to maintain employment participation and helping to prevent them falling into poverty. Accordingly, ECED entitlements would be important when accessible after the end of statutory paid childcare-related leave⁴ or from childbirth for parents lacking a right and effective access to adequate care leave policies. However, in only 32 countries are parents entitled to use publicly organized childcare services right after the birth of their children. This means only 1 in 10 potential parents globally live in countries with such entitlements. In addition, the statutory weekly duration of this service is largely not aligned with the statutory duration of working hours (40 hours per week in most countries), and even less with the excessive working hours (more than 48 hours per week) of many low-paid workers, especially in the informal economy. In only 30 countries are parents entitled to statutory ECED programmes for at least 40 hours per week (or just 8 out of 100 potential parents globally).

Legal provisions on pre-primary education services for children between 3 years and the start of primary education are more available, but major gaps persist. In 105 out of 178 countries, there is a statutory right to pre-primary education services. This corresponds to 5 in 10 potential parents globally living in countries with such a statutory right. However, pre-primary education services are a universal right in only 63 countries, home to just 4 in 10 potential parents globally. In 80 countries, parents are entitled to pre-primary education services starting when children are aged 3 years, and in only 33 countries parents are entitled to statutory pre-primary education services for at least 40 hours per week (2 in 10 potential parents globally).

Long-term care services are essential to ensure the right to healthy ageing in dignity and independent living

The demand for long-term care services for older persons and persons with disabilities who need care or support has been rising steeply due to increased life expectancy. In addition, the COVID-19 pandemic has disproportionately impacted people who rely on long-term care and those who provide it (both paid and unpaid care work), predominantly women. ILO international labour standards on social security call for the overall and primary responsibility for care service provision to lie with the State. Globally, only 89 out of 179 countries have a statutory provision of public long-term care services for older persons. This is equivalent to almost half of old-age persons with potential care needs living in countries with statutory long-term care services. In addition, in 70 countries the law embeds legal obligations for family members to care for older relatives, intensifying women's care responsibilities and relinquishing collective responsibility

ILO standards on workers with family responsibilities and the informal economy call for the development of family services and facilities for the care or support of family members. Care services should meet the needs and preferences of both workers and care recipients and be adequate, appropriate, flexible and free of charge or at reasonable charge, in accordance with the workers' ability to pay. However, long-term care services remain inaccessible to the large majority of older persons with care needs. Only 87 countries have a statutory provision of residential care services. This represents 5 in 10 older persons with potential care needs. Provision for community day services and in-home care services is even scarcer, and is legally mandated, respectively, in only 33 and 69 countries. This means that only 4 in 10 older persons with potential care needs live in countries with statutory provision of in-home personal care services.

Funding mechanisms for long-term care services should ensure the principles of universality, adequacy, solidarity and non-discrimination, among others. However, less than 2 in 10 older persons with potential care needs globally live in the 29 countries where the law mandates universal long-term care services. These remain inadequate, with high out-of-pocket-costs resting on older persons and their families. As a result, at least 3 in 10 older persons are at risk of income poverty and financial hardship in case of long-term care needs, even when public long-term care services are provided by law. In conclusion, the existing legal and adequacy gaps in services provision mean that globally 84.2 per cent of the total population lives in countries where long-term services are not universal and free, affecting 205 million older persons.

Region: Europe ^[4]

Tags: care economy ^[5]

social infrastructure ^[6]

parental leave ^[7]

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