

PATERNITY LEAVE IN INDIA: TOWARDS GENDER-EQUAL PARENTING AND WOMEN'S EMPOWERMENT IN THE ERA OF LABOUR LAW REFORM

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1 ABSTRACT

This paper examines the role of paternity leave in advancing gender equality and empowering women in India, in the context of evolving labour law frameworks. While statutory maternity benefits are well-established under the Maternity Benefit Act, 1961 (and related amendments)¹, the provision for paternity leave remains limited, fragmented, and largely confined to government employees. Under rules such as the Central Civil Services (Leave) Rules, 1972 (and analogous leave rules for railway and other government sectors), a male employee with fewer than two surviving children is entitled to 15 days of paternity leave — payable and non-debitable against leave account — to be availed either shortly before childbirth or within six months after delivery². In contrast, there is no universal, legally enforceable paternity-leave entitlement for private sector employees, creating a significant policy gap

With the recent consolidation of labour laws into the four new labour codes — Code on Wages, 2019, Industrial Relations Code, 2020, Code on Social Security, 2020 and Occupational Safety, Health and Working Conditions Code, 2020 — the legal regime governing workers' rights has undergone a historic overhaul as of November 21, 2025. However, these Codes do not explicitly mandate paternity leave or parental leave policies across all sectors, leaving the question of equitable parenting and gender-balanced caregiving largely unresolved.³

Through this paper, I argue that institutionalising comprehensive paternity leave — applicable across both public and private sectors — is not only a matter of workers' welfare but a crucial strategy for advancing women's empowerment. By enabling shared caregiving, reducing the disproportionate burden of childcare on women, and promoting gender-equal parenting norms, paternity leave can facilitate women's sustained participation in the workforce. The paper analyses the existing statutory framework, identifies gaps and disparities, examines international best practices, and proposes policy recommendations for integrating paternity

¹ Government of India. (1961). *The Maternity Benefit Act, 1961*. Ministry of Labour and Employment.

² Government of India. (1972). *Central Civil Services (Leave) Rules, 1972*. Department of Personnel & Training.

³ Press Information Bureau. (2023). *Reforms in labour codes*.

<https://labour.gov.in/sites/default/files/pib2192463.pdf>

leave (or gender-neutral parental leave) into India's labour law framework. In doing so, it seeks to highlight paternity leave as a meaningful lever for gender justice, social transformation, and sustainable equality in modern India.

KEYWORDS- Paternity Leave, Gender Equality, Labour Reforms

2 INTRODUCTION

The evolution of labour laws in India has historically centred on the protection of women through maternity benefits, with the Maternity Benefit Act, 1961 and its significant 2017 amendment providing 26 weeks of paid leave, crèche facilities, and workplace protections for mothers. However, the legislative landscape remains silent on an equally critical dimension of gender justice — the entitlement of fathers to paternity leave. In India, paternity leave is not a statutory right for private-sector employees. It exists only in a limited form under the Central Civil Services (Leave) Rules, 1972, granting 15 days of paid leave to male government employees within six months of childbirth⁴. This asymmetry reinforces the traditional notion of childcare as the exclusive responsibility of women and contributes to entrenched gender biases both within households and workplaces.

The absence of a universal paternity-leave framework is especially significant in the context of India's rapidly transforming labour regulations. In recent years, the Government of India consolidated 29 labour laws into four landmark legislations — the **Code on Wages, 2019**, the **Code on Social Security, 2020**, the **Industrial Relations Code, 2020**, and the **Occupational Safety, Health and Working Conditions Code, 2020**. These Codes aim to modernise labour governance, improve social security, and create a unified employment framework. However, despite their expansive overhaul, none of the four Codes introduces a statutory right to paternity leave or a gender-neutral parental leave policy. This omission reflects a broader policy gap wherein the burden of childcare continues to fall disproportionately on women, affecting their labour participation, mental health, and long-term career advancement.

The question of paternity leave is therefore not merely a welfare concern — it is a foundational issue of **gender equality, constitutional justice, and women's empowerment**. Article 14 and Article 15 of the Constitution guarantee equality and non-discrimination based on sex. Yet, in practice, socio-legal norms place the caregiving responsibility almost entirely on mothers, perpetuating the gender gap in wages, leadership roles, and workforce retention. A statutory

⁴ Government of India. (1972). *Central Civil Services (Leave) Rules, 1972*. Department of Personnel & Training.

paternity-leave policy has the potential to redistribute unpaid care work, normalise shared parenting, reduce career penalties for mothers, and encourage a more equitable household structure. Internationally, countries such as Sweden, Norway, Canada, and Japan have demonstrated that mandated paternity or parental leave significantly improves women's economic empowerment, labour-force attachment, and long-term socio-economic mobility.

In India, the lack of paternity leave simultaneously affects men, who are often excluded from active early-stage parenting due to cultural norms and workplace expectations. Establishing a robust legal framework for paternity leave would not only uphold equality but also promote holistic family well-being. With increasing female workforce participation, rising dual-income households, and evolving social expectations, the need for a gender-balanced caregiving model has become more urgent than ever.

Against this backdrop, this research paper examines the legal, social, and economic implications of introducing statutory paternity leave in India. It reviews existing laws, the new labour codes, judicial perspectives, global models, and constitutional principles, ultimately arguing that **paternity leave is a transformative tool for advancing women's empowerment and achieving substantive gender equality in the 21st century.**

3 EVOLUTION OF PARENTAL BENEFITS IN INDIA: FROM MATERNITY PROTECTION TO THE EMERGING CASE FOR PATERNITY LEAVE

- **Evolution of Maternity Benefits in India**

3.1 Early International Developments that Influenced India

The origins of maternity protection in labour law can be traced to early international standards established by the International Labour Organization (ILO). In 1919, the ILO adopted its first *Maternity Protection Convention (No. 3)*⁵, which recognised that women required specific institutional safeguards—such as wage security, medical assistance, and employment protection—during pregnancy and after childbirth. This early framework laid the foundation for the global discourse on reproductive labour and workplace rights. Over the decades, international standards evolved further through *Convention No. 103 (1952)*⁶, which

⁵ International Labour Organization. (1919). *Maternity Protection Convention (No. 3)*. ILO.
<https://www.ilo.org/>

⁶ International Labour Organization. (1952). *Maternity Protection Convention (Revised) (No. 103)*. ILO.
<https://www.ilo.org/>

strengthened provisions for minimum maternity leave, cash benefits, and workplace safeguards, and eventually *Convention No. 183 (2000)*⁷, which modernised these protections by mandating at least 14 weeks of maternity leave, prohibiting discrimination on grounds of maternity, and expanding health and job security measures.

Although India has not ratified Convention No. 183, its legislative trajectory clearly reflects the influence of these global developments. The progression of international standards informed national debates, labour union movements, and policy reforms, gradually shaping the contours of India's maternity-benefit regime. The convergence between global norms and domestic legislation highlights how international labour jurisprudence played a formative role in India's approach to safeguarding women workers.

3.2 Pre-Independence India

Before independence, the working conditions of women—particularly in cotton mills, jute factories, and plantation industries—were characterised by long hours, low wages, and complete absence of statutory maternity protection. Pregnant women continued to work until childbirth, often without medical care or job security, leading to high maternal mortality and exploitation. This period also witnessed growing mobilisation by labour unions, social reformers, and nationalist leaders who argued that maternity protection was not merely a welfare measure but a moral and economic necessity.

The Indian National Congress, trade unions, and women's organisations played an instrumental role in demanding legislative safeguards for working mothers. These collective efforts resulted in the enactment of the *Bombay Maternity Benefit Act, 1929*⁸, which became one of the earliest pieces of maternity legislation in the subcontinent. Similar laws were soon enacted in the provinces of Madras and Bengal⁹, introducing entitlements such as paid leave, nursing breaks, and medical care. Though these laws applied only to certain industries and geographical regions, they marked a significant shift in recognising women's reproductive role as a matter of public policy rather than a private burden. The provincial maternity laws of the pre-

⁷ International Labour Organization. (2000). *Maternity Protection Convention (No. 183)*. ILO. <https://www.ilo.org/>

⁸ Government of Bombay. (1929). *The Bombay Maternity Benefit Act, 1929*. Bombay Presidency.

⁹ Government of Madras. (1934). *Madras Maternity Benefit Act, 1934*. Government of Madras.
Government of Bengal. (1939). *Bengal Maternity Benefit Act, 1939*. Government of Bengal.

independence era thus laid the groundwork for the post-independence enactment of the *Maternity Benefit Act, 1961*, which eventually extended protections nationwide.¹⁰

3.3 Post-Independence Legislation

Following independence, India sought to unify the fragmented provincial maternity laws under a single, comprehensive national framework. This objective was achieved through the enactment of the *Maternity Benefit Act, 1961*, which marked a significant advancement in protecting women workers. The Act introduced a minimum of twelve weeks of paid maternity leave, a medical bonus for pregnant employees, regulated nursing breaks, and robust employment protection during pregnancy, thereby institutionalising job security for expectant mothers. These provisions aligned closely with the constitutional guarantees enshrined in Articles 14, 15(3), 21, and 42, as well as the Directive Principles of State Policy, which mandate humane working conditions and adequate maternity relief. By codifying these protections at the national level, the Act represented a critical step in harmonising women's workplace rights across industries and regions, setting the foundation for subsequent reforms.¹¹

3.4 The Maternity Benefit Amendment Act, 2017

In response to rising female workforce participation, evolving childcare responsibilities, and international best practices, the Indian Parliament enacted the *Maternity Benefit (Amendment) Act, 2017*. This landmark amendment substantially expanded maternity protections, increasing paid maternity leave from twelve to twenty-six weeks for eligible women and providing twelve weeks of leave for adoptive or commissioning mothers. The Amendment also introduced mandatory crèche facilities for establishments employing fifty or more workers and incorporated provisions enabling work-from-home arrangements for mothers after the completion of maternity leave, reflecting a shift toward more flexible and family-friendly workplace policies. By integrating these measures, the 2017 Amendment sought to reduce the disproportionate childcare burden on women, support workforce reintegration, and align India's maternity benefits with global standards.¹²

3.5 Maternity Benefit under the Labour Codes

¹⁰ Government of India. (1961). *The Maternity Benefit Act, 1961*. Ministry of Labour.

¹¹ Government of India. (1961). *The Maternity Benefit Act, 1961*. Ministry of Labour.

¹² Ministry of Labour & Employment. (2017). *The Maternity Benefit (Amendment) Act, 2017*. Government of India.

The consolidation of multiple labour laws into the *Code on Social Security, 2020* further streamlined maternity benefits, retaining key entitlements while providing greater clarity on eligibility, leave duration, medical bonuses, and protection against dismissal. By integrating maternity protections within a broader social security framework, the Labour Codes not only strengthened enforcement mechanisms but also enhanced the legal certainty and accessibility of these benefits for women across sectors. This progression—from fragmented state-specific legislation to a unified national framework under the Labour Codes—demonstrates India's constitutional commitment to promoting maternal health, gender equality, and equitable working conditions. Collectively, these legislative reforms reflect a deliberate effort to institutionalise women's workplace rights while addressing contemporary socio-economic challenges associated with childcare and workforce participation.

- **Evolution of Paternity Leave: Global and Indian Perspective**

3.6 Global Evolution of Paternity Benefits

While maternity protection has been recognised internationally for over a century, formal paternity leaves only gained attention in the 1970s, driven primarily by the rise of feminist movements advocating for shared caregiving responsibilities. Research demonstrated that fathers' active participation in childcare significantly reduces gender gaps in both domestic and professional spheres, while economic studies linked shared parenthood with increased female labour-force participation and productivity. Scandinavian countries such as Sweden, Norway, and Iceland, followed later by Spain, pioneered progressive reforms by introducing gender-neutral parental leave policies and “use-it-or-lose-it” quotas for fathers, ensuring that a portion of leave could only be availed by male employees. These measures not only promoted father–child bonding but also incentivised more equitable sharing of household and childcare responsibilities, thereby reducing systemic barriers to women's sustained participation in the workforce. The global evolution of paternity leave reflects a growing recognition that gender equality in both the workplace and the home requires policy instruments that actively involve men in caregiving roles.

3.7 India's Early Approach: Female-Centric Childcare

Historically, India has maintained a female-centric approach to childcare, reflecting entrenched patriarchal norms that positioned women as primary caregivers. Legislation such as the *Maternity Benefit Act, 1961*, *Factories Act, 1948* (Sections 79 and 87), and the *Employees' State Insurance Act, 1948* focused exclusively on safeguarding maternal health and protecting

the mother during pregnancy and postpartum periods. The absence of statutory provisions for paternity leave stemmed from male-dominated workforce policies, traditional family structures, and the assumption that childcare responsibilities were inherently women's duties. Consequently, men were largely excluded from early legislative reforms addressing childcare, and policies implicitly reinforced gendered roles both at home and in the workplace.¹³

3.8 Judicial Developments Supporting Paternity Leave

Over time, Indian courts have gradually acknowledged the need for paternity leave, particularly in government service contexts. In 2003, the Gujarat High Court directed the provision of paternity leave for government servants, recognising the father's role in early childcare. Similarly, the Delhi High Court, in *Chander Mohan Nandal v. Union of India* (2013), upheld the legitimacy of paternity leave for male employees, reinforcing the principle of shared parental responsibilities. While the Supreme Court has emphasised shared parenting in service matters and highlighted the importance of gender equality in caregiving, no landmark judgment has yet created a binding statutory mandate for universal paternity leave. These judicial developments, however, indicate a slow but positive shift toward recognising fathers as active participants in childcare and signal the need for legislative reform.

3.9 Current Scenario of Paternity Leave in India

Currently, India lacks a universal statutory paternity leave framework. In the government sector, central government employees are entitled to fifteen days of paternity leave under the *Central Civil Services (Leave) Rules, 1972*, provided they have fewer than two surviving children, with similar entitlements ranging from seven to fifteen days offered by some state governments. In contrast, the private sector has no legal mandate for paternity leave, leaving its provision largely at the discretion of individual employers. Several leading corporations have introduced voluntary policies: companies like TCS, Infosys, and Zomato offer paternity leave ranging from two to four weeks, with Zomato recently implementing a fully paid 26-week paternity leave for male employees. While these corporate initiatives are commendable, the absence of a statutory entitlement perpetuates inequity and limits the systematic participation of fathers in early childcare, underscoring the urgent need for comprehensive legislation.

3.10 Proposed Paternity Benefit Bill, 2017

¹³ Government of India. (1961). *The Maternity Benefit Act, 1961*. Ministry of Labour.

In recognition of the need for formal statutory provisions, a private member bill—*The Paternity Benefit Bill, 2017*—was introduced in the Indian Parliament. The Bill proposed a minimum of fifteen days of paid paternity leave, extendable up to three months, and aimed to cover employees in both private and unorganised sectors, thereby addressing a long-standing gap in national labour policy. Central to the Bill was the promotion of shared parental responsibility, reflecting a progressive shift toward gender-equitable childcare. Despite its forward-looking provisions, the Bill was not enacted, leaving India without a statutory entitlement for paternity leave and highlighting the disconnect between evolving socio-economic realities and legislative action.¹⁴

3.11 Labour Codes and Paternity Leave

The enactment of India's new labour codes—including the *Code on Wages, 2019*, *Code on Social Security, 2020*, *Occupational Safety, Health and Working Conditions Code, 2020*, and the *Industrial Relations Code, 2020*—represented a historic consolidation of fragmented labour laws. However, none of these Codes explicitly provide for paternity leave, parental leave, or gender-neutral childcare benefits. This legislative omission reflects a persistent policy gap, leaving male employees without formal recognition of their caregiving role and perpetuating the disproportionate burden of childcare on women. The absence of such provisions not only limits equitable workforce participation but also undermines India's commitment to social justice and gender equality.¹⁵

3.12 Why the Evolution Must Shift to Paternity Rights

The evolving socio-economic landscape in India necessitates a legislative focus on paternity rights. The rise of nuclear families, increasing female workforce participation, and growing numbers of women entrepreneurs are reshaping household and workplace dynamics. Simultaneously, the principle of shared household responsibilities is gaining recognition, reflecting modern parenting norms. In this context, the continued legislative silence on paternity benefits is increasingly inconsistent with India's constitutional guarantees of equality, as enshrined in Articles 14, 15, 16, and 21. Instituting statutory paternity leave would not merely acknowledge fathers' caregiving role but also reinforce gender-equitable participation

¹⁴ <http://bclindia.in/paternity-bill-2017/>

¹⁵ Press Information Bureau. (2023). *Reforms in labour codes*.
<https://labour.gov.in/sites/default/files/pib2192463.pdf>

in the workforce, reduce systemic barriers faced by women, and align labour law with the broader objectives of social justice, family welfare, and constitutional equality.

4 NEED FOR PATERNITY LEAVE IN INDIA

Despite significant progress in maternity rights, India's legal and policy framework remains **deeply gender-skewed**, placing the entire burden of childcare on women. This imbalance persists even though constitutional jurisprudence, contemporary socio-economic realities, and global evidence unequivocally show that **paternity leave is essential for true gender equality**. The need for statutory paternity leave in India arises from multiple structural, legal, social, and economic factors.

4 Constitutional Mandate of Equality and Non-Discrimination

4.1.1 Equality under Articles 14, 15 and 16

India's Constitution guarantees equality and non-discrimination under Articles 14, 15, and 16. While the State has implemented extensive maternity benefits, the absence of corresponding paternity leave provisions inadvertently reinforces gender stereotypes and constitutes a structural form of indirect discrimination against women in employment. Employers, anticipating the higher cost of maternity-related leave, often hesitate to hire, promote, or assign leadership roles to women—a phenomenon widely recognised as the “motherhood penalty.” Instituting a statutory framework for paternity leave would help distribute childcare-related costs more equitably between men and women, addressing this structural bias and promoting substantive gender equality.

4.1.2 Article 15(3) and Reconsideration of “Protective Discrimination”

Article 15(3) allows the State to make special provisions for women, historically interpreted to justify female-centric protective measures such as maternity leave. Modern equality theory, however, argues that such protective provisions should not reinforce women's exclusive caregiving role or limit their economic opportunities. Paternity leave, rather than conflicting with Article 15(3), complements it by promoting shared domestic labour, reducing women's caregiving burden, and enhancing their freedom, dignity, and autonomy as protected under Article 21.

4.2. Reducing the Motherhood Penalty and Enhancing Women's Workforce Participation

India's female labour force participation remains among the lowest globally, approximately 30% as per the Periodic Labour Force Survey (PLFS) 2023–24. Childbirth often triggers career interruptions, job loss, stalled promotions, and long-term financial dependency. When women alone shoulder parental leave, employers perceive them as “expensive employees,” leading to hiring bias, wage disparities, and limited access to leadership positions. Evidence from global studies demonstrates that mandatory paternity leave significantly mitigates these biases, as employers no longer assume that women will invariably take prolonged leave.

4.3. Aligning with Global Standards of Shared Parenting

Internationally, countries that provide equal or near-equal parental leave—including Sweden, Iceland, Norway, Finland, Canada, and Spain—report measurable improvements in women's workforce participation, reduced pay gaps, increased father involvement in childcare, and better child wellbeing indicators. Despite India being a signatory to several international commitments, including CEDAW (1979), the Beijing Declaration and Platform for Action (1995), and UN Sustainable Development Goal 5 on Gender Equality, the country still lacks statutory paternity leave for private sector workers and provides only a minimal 15-day entitlement for government employees. This discrepancy weakens India's alignment with global best practices on gender equality and parental rights..

4.4. Changing Family Structure and Socio-Economic Realities

The rise of nuclear families in India has diminished traditional joint-family support systems, placing the primary burden of childcare on mothers. Without paternity leave, maternal health recovery can be compromised, and risks such as postpartum depression may increase. In urban, dual-income households, paternity leave enables fathers to share domestic responsibilities, promoting marital harmony, better childcare outcomes, and reduced burnout for women. Furthermore, evolving social norms show that Millennials and Gen-Z fathers increasingly aspire to be active caregivers. Legal recognition of paternity leave is essential to accommodate these modern parenting dynamics and challenge outdated gender roles.

4.5. Child Development and Health Outcomes

Empirical research from the World Health Organization and Harvard University highlights that early father–child bonding positively influences cognitive development, emotional stability, school performance, and long-term mental health. In India, the absence of supportive policies for fathers disproportionately places childcare responsibilities on mothers. Institutionalised

paternity leave would not only enhance women's workforce participation but also improve child wellbeing by promoting early and sustained father involvement in caregiving.

4.6. Employer and Economic Benefits

Paternity leave not only advances gender equality but also yields substantial economic and organisational benefits. When both men and women enjoy equal parental leave entitlements, unconscious bias in hiring is significantly reduced, as employers no longer perceive women as the primary caregivers who are more likely to take extended leave. This mitigates discriminatory practices in recruitment, promotion, and role allocation. Empirical evidence from companies such as Zomato, TCS, and Infosys demonstrates that offering paternity leave enhances employee retention and job satisfaction, fostering greater organisational loyalty. Moreover, providing paternity leave is financially prudent: the cost of temporarily replacing an employee or losing institutional knowledge due to attrition far exceeds the expense of granting leave. Consequently, paternity benefits create long-term savings for employers, while simultaneously promoting a more inclusive and supportive workplace culture.

4.7. Legislative Gaps and Urgency Under New Labour Codes

Despite the consolidation of multiple labour laws under the *Code on Social Security, 2020*, India still lacks statutory provisions for paternity leave. This legislative omission is inconsistent with fundamental constitutional principles of equality, India's international commitments under conventions such as CEDAW and the Sustainable Development Goals, and the evolving socio-economic realities of modern families. The absence of a comprehensive legal framework for paternity leave leaves both men and women without institutional support for shared parenting, perpetuating structural inequalities and reinforcing the motherhood penalty. Introducing a statutory paternity leave regime is therefore not merely a social or economic consideration; it is a constitutional imperative, a critical measure for gender justice, a public health intervention, and an essential instrument for women's empowerment. By enabling equitable caregiving, facilitating workforce participation for women, and promoting healthier family dynamics, paternity leave constitutes a cornerstone of a fair, equal, and progressive society that aligns with contemporary norms of shared parenting and sustainable social development.

5 ROLE OF PATERNITY LEAVE IN WOMEN'S EMPOWERMENT

The introduction of statutory paternity leave in India holds transformative potential for women's empowerment across personal, economic, social, and political spheres. While

maternity benefits primarily recognise biological differences, paternity benefits underscore social equality, shifting caregiving from being a “female obligation” to a shared parental responsibility. By institutionalising fathers’ role in early childcare, paternity leave challenges entrenched gender hierarchies and promotes substantive equality, making it a critical tool for women’s empowerment.

5.1. Redefining Gender Roles and Challenging Patriarchal Norms

Historically, Indian society has positioned women as default caregivers, creating social expectations that compel them to compromise professional ambitions for childcare. Paternity leave disrupts this stereotype by legitimising fathers as equal participants in caregiving rather than merely supportive figures. Research from Scandinavian countries demonstrates that when fathers actively take parental leave, domestic labour is divided more equitably, gender-neutral parenting norms are established, and women experience reduced mental burden and greater autonomy. This structural intervention directly addresses patriarchal norms, shifting perceptions of parenting and domestic responsibilities from exclusively female roles to shared obligations.

5.2. Reducing the Motherhood Penalty and Enhancing Women’s Economic Empowerment

Economically, paternity leave mitigates the motherhood penalty and strengthens women’s financial independence. Women in India face significant wage disparities and career disruptions due to childbirth-related career breaks. Employers often hesitate to hire, promote, or assign leadership roles to women, anticipating extended absences for childcare. By mandating shared parental leave, the economic burden of childcare is distributed more evenly, reducing systemic discrimination. Additionally, fathers’ active involvement allows women to return to work earlier, avoid prolonged unpaid leave, and maintain long-term career trajectories. For female entrepreneurs, supportive partners enable uninterrupted business operations, safeguarding financial stability and growth.

5.3. Supporting Women’s Health and Postpartum Recovery

Paternity leave also directly impacts women’s physical and mental health. The postpartum period requires rest, medical support, and practical assistance—needs that are increasingly

critical as traditional domestic support structures decline. Fathers' active participation facilitates physical recovery, reduces the risk of complications, and improves maternal health outcomes. From a mental health perspective, studies indicate that postpartum depression affects a significant proportion of Indian mothers. Sharing caregiving responsibilities reduces emotional stress, supports household management, and fosters a nurturing environment, thereby promoting women's overall wellbeing and empowerment.

5.4. Promoting Household Equality and Reducing Unpaid Domestic Work

Women in India perform approximately three times more unpaid household work than men, according to the Time Use Survey by NSO. Paternity leave allows fathers to actively participate in domestic chores and childcare, redistributing unpaid labour and challenging the perception that household responsibilities are solely women's duties. Early paternal involvement also predicts long-term engagement, fostering equality within the household, which serves as the foundation for gender equality in public and professional life.

5.5. Improving Women's Agency and Decision-Making Power

When fathers share caregiving responsibilities, women gain greater autonomy and negotiating power within the household. Equitable distribution of domestic duties enables women to make independent decisions regarding career, finances, lifestyle, and family planning. Additionally, reduced domestic burdens allow women to engage more fully in public, professional, and political spaces, enhancing their leadership potential and social visibility. By enabling shared domestic responsibility, paternity leave strengthens women's agency both within and beyond the household.

5.6. Symbolic and Cultural Empowerment

Legal recognition of fathers' entitlement to parental leave represents a cultural shift, signalling that child-rearing is a shared societal function rather than exclusively a woman's duty. Children raised in households where fathers actively participate in caregiving develop more gender-equitable beliefs, promoting long-term cultural transformation and reinforcing women's empowerment across generations. Paternity leave thus functions as both a legal and symbolic instrument of gender equality.

5.7. Legal and Policy Empowerment

Paternity leave advances India's constitutional promise of equality, supporting Articles 14 (equality), 15 (non-discrimination), 21 (freedom with dignity), and 42 (humane working conditions and maternity relief). While maternity benefits are enshrined under the *Maternity Benefit Act, 1961*, the *Social Security Code, 2020*, and the *ESI Act, 1948*, no parallel paternity benefits exist. Introducing statutory paternity leave completes India's gender-inclusive social security framework, embedding shared parenting into labour law and advancing women's substantive equality.

5.8. Holistic Impact on Women's Empowerment

By redistributing childcare and domestic responsibilities, paternity leave reduces the motherhood penalty, improves maternal health, enhances financial independence, strengthens career continuity, and reshapes gender norms within families and workplaces. Moreover, it expands women's engagement in socio-economic and public life, fosters cultural change toward shared caregiving, and aligns legal frameworks with constitutional values. In this sense, paternity leave is not merely a workplace policy; it is a gender justice intervention, a public health measure, and a foundational tool for women's empowerment in the new era of equality.

6 INTERNATIONAL COMPARATIVE ANALYSIS — PATERNITY & PARENTAL LEAVE POLICIES

Understanding international models is crucial to designing a feasible, effective paternity-leave regime for India. Countries vary widely — from unpaid, job-protected leave to fully paid, use-it-or-lose-it father quotas. Below I map key global approaches, highlight evidence on outcomes, and draw policy lessons India can realistically adapt.

6.1. International standards and the ILO framing

The International Labour Organization (ILO) sets the normative baseline: modern standards require maternity protection (Convention No. 183 recommends at least 14 weeks) and encourage parental leave frameworks that enable both parents to combine paid work and family responsibilities. The ILO's recent work emphasises closing the gender gap in paid parental leaves by creating leave specifically reserved for fathers and improving coverage and compensation levels. These international instruments do not prescribe a single model but

promote employment protection, adequate cash benefits, and family-friendly social protection design.¹⁶

Policy lesson: Any Indian reform should align with ILO principles — employment protection, reasonable duration, adequate benefit levels, and measures that encourage fathers' uptake.

6.2. The Nordic “reserved quota” model (Sweden, Norway, Iceland)

The Nordic countries offer the clearest evidence that policy design can change gendered caregiving patterns.

- **Sweden:** Long established parental leave (high wage replacement rates and generous total leave) with a portion reserved for each parent (“daddy quota”) has steadily increased fathers' participation. Reforms that improved compensation and increased reserved quotas led to measurable increases in fathers' leave uptake and corresponding decreases in mothers' share of parental leave.
- **Norway:** A strong father's quota now exists (the “father's quota” has been increased over the years and — in recent policy iterations — amounts to many weeks earmarked for fathers). Uptake is high: a large share of fathers now uses all or more of the quota, signalling normalization of paternal caregiving.
- **Iceland:** Each parent has independent rights (around 26 weeks each in some configurations), with non-transferable periods that guarantee father's substantial leave. Nordics show that reserving months for fathers is the single most effective design feature to shift caregiving and reduce the motherhood penalty.

Policy lesson: Design features that matter most are (a) non-transferable father quotas, (b) adequate wage replacement to reduce income disincentives, and (c) job protection. India can pilot reserved weeks/quota for fathers in central/state employment and encourage private adoption through incentives.

6.3. Southern/Western Europe — rapid expansion (Spain as example)

Several European countries have recently expanded paternity/parental entitlements to equalize leave between parents. Spain progressively extended paternity leave in recent years and moved rapidly toward near-parity with mothers (recent reforms have aimed to grant both parents equal,

¹⁶ International Labour Organization. (2000). *Maternity Protection Convention (No. 183)*. ILO. <https://www.ilo.org/>

fully paid leave). Early evidence suggests father take-up rises when paid leave is equalized and when some weeks are mandatory or strongly incentivised. **Policy lesson:** Rapid legislative change is feasible politically when combined with public messaging on gender equality; India could consider phased expansion (e.g., start with a 2–6-week statutory paid paternity leave, then scale).

6.4. Canada and Quebec — blended federal and sub-national approaches

Canada offers a mixed model: the federal Employment Insurance (EI) provides maternity and parental benefits (with options for standard and extended parental benefits at different replacement rates). Quebec runs a separate, more generous Parental Insurance Plan (QPIP) that explicitly allocates paternity leave portions and achieves higher male uptake. These parallel federal/sub-national schemes show that sub-national innovation (Quebec) can lead the way for national policy changes.

Policy lesson: India's states can be laboratories — central law can set minimum standards while states adopt enhanced paid paternity benefits and monitor outcomes.

6.5. United Kingdom — shared parental leave (SPL) model

The UK offers **Statutory Paternity Leave** (short, paid) and a **Shared Parental Leave (SPL)** system that allows parents to divide a block of leave between them. SPL's complexity and relatively low pay have limited take-up by fathers compared to Nordic models; when benefits are low or eligibility requirements strict, fathers hesitate to claim leave. Recent legislative debates have focused on improving pay and access.

Policy lesson: Flexibility is valuable, but alone it is insufficient — design must combine flexibility with incentives (earmarked weeks or higher pay for fathers) to achieve behavioural change.

6.6. United States — job protection, limited paid leave

The U.S. federal FMLA provides **12 weeks of unpaid, job-protected leave** for eligible employees — a baseline of job security but no universal paid leave entitlement. Some U.S. states and employers provide paid parental leave; uptake and equity vary widely. FMLA's limitations illustrate that unpaid job protection does not by itself advance gender-balanced caregiving.

Policy lesson: Job protection without adequate pay limits fathers' ability to take leave, especially among lower-income workers — any Indian policy must combine protection with benefits.

6.7. OECD and global trends

Recent OECD and ILO analyses show a clear trend: most OECD countries now offer some paid leave for fathers (either specific paternity leave or paid parental leave reserved for fathers), and countries with earmarked father quotas see higher uptake and better gender outcomes. The global average still shows a significant gap between mothers' and fathers' paid leave, but the gap is narrowing as countries adopt father-targeted policies.

Policy lesson: International convergence suggests policy instruments that work (non-transferable quotas, adequate compensation, good public messaging) — India can draw from these proven tools.

6.8. Evidence on outcomes: why these differences matter

Empirical literature from Sweden, Norway, Iceland, Spain and Quebec consistently links father-targeted leave to:

- Increased paternal involvement in childrearing,
- Reduced mother's share of total leave (mitigating career penalties),
- Improved female labour force attachment and narrower pay gaps, and
- Better child and maternal health outcomes.

Conversely, models with low pay, restrictive eligibility, or only unpaid leave show much lower take-up by fathers and limited gender effects.

6.9. Transferable lessons for India

1. **Start with a universal, statutory baseline:** e.g., 2–6 weeks of paid paternity leave for all employees (public + private), later expanded.
2. **Incentivise uptake:** include a non-transferable quota for fathers (even a short “use-it” period increases take-up).
3. **Ensure adequate wage replacement:** high replacement rates reduce economic disincentives.

4. **Combine job protection with benefits:** legal job security plus cash benefits is essential.
5. **Encourage state and corporate pilots:** allow states and large employers to trial longer or more generous schemes (Quebec-style model).
6. **Public messaging & workplace culture:** legislate but also run awareness campaigns to normalise fatherhood leave and reduce stigma.

International experience demonstrates that policy design — not merely the existence of leave — determines whether fathers take leave and whether women gain from it. India's reforms should therefore prioritise targeted design elements (reserved father weeks, adequate compensation, employment protection) and leverage state and corporate pilots to build political acceptability. By learning from Nordic quotas, Quebec's sub-national innovation, Spain's rapid parity reforms, and OECD/ILO guidance, India can craft a paternity/parental leave regime that meaningfully advances women's empowerment rather than reinforcing gendered care burdens.

7 LEGAL FRAMEWORK IN INDIA: ACTS, BILLS, LABOUR CODES, AND COURT CASES

India's legal framework on parental benefits has historically focused on maternity protection, rooted in constitutional guarantees, international conventions, and labour welfare policies. While statutory maternity benefits have evolved over decades, paternity leave remains largely unregulated, fragmented, and inconsistent. This section examines the constitutional, statutory, policy, judicial, and international dimensions governing parental leave in India, highlighting critical gaps and areas for reform.

7.1. Constitutional Basis

The Constitution of India provides a robust foundation for parental rights and gender equality. Article 14 guarantees equality before the law and equal protection of the laws, meaning that the denial of paid paternity leave while granting maternity benefits can constitute gender discrimination and a violation of equal parenting rights. Article 15(3) allows for special provisions for women, forming the basis for maternity-centric laws; however, modern interpretations of equality suggest that protective discrimination should not reinforce gendered caregiving stereotypes. Article 21, which protects the right to life and dignity, encompasses reproductive choice, safe motherhood, and work-life balance, while Article 42 explicitly

mandates “just and humane conditions of work and maternity relief.” Although the latter explicitly mentions maternity, the underlying principle extends to broader parental welfare, forming a constitutional rationale for gender-neutral leave policies.

7.2. Statutory Framework for Maternity Benefits

India’s statutory approach to maternity benefits is well-established. The *Maternity Benefit Act, 1961*, as amended in 2017, provides comprehensive leave entitlements, including 26 weeks of paid maternity leave for the first two children, prenatal and postnatal leave, mandatory crèche facilities for establishments with 50 or more employees, and prohibition on dismissal during maternity leave. The Act applies to factories, shops, plantations, mines, and government establishments with 10 or more employees. Despite its progressive provisions, the legislation has been criticised for imposing the full childcare cost on employers, offering no incentives for shared parenting, and creating potential hiring biases against women. Similarly, the *Employees’ State Insurance Act, 1948* provides maternity benefits, including 26 weeks of paid leave, full wage compensation, and prenatal/postnatal medical care for insured women. Crucially, both statutes lack any corresponding obligation for men, perpetuating the unequal distribution of childcare responsibilities.

7.3. Legal Framework for Paternity Leave

Currently, India lacks national legislation mandating paternity leave for the private sector. In the government sector, the *Central Civil Services (Leave) Rules, 1972* provide 15 days of paid paternity leave for birth or adoption of a child below one year, to be availed within six months of delivery. Several state governments follow similar rules. However, private-sector employees receive paternity leave only voluntarily, with wide variations in duration and coverage: TCS offers 15 days, Infosys 10 days, Zomato 26 weeks (gender-neutral), and Microsoft/Google six weeks. The absence of uniform statutory requirements for the private sector creates policy inconsistencies and leaves a substantial proportion of the workforce without parental support.

7.4. Proposed Laws and Bills

Attempts to legislate paternity leave have so far been limited. The *Paternity Benefit Bill, 2017*, introduced as a Private Member’s Bill in Lok Sabha, proposed 15 days of paid paternity leave extendable to 30 days for all establishments, aiming to promote gender-neutral caregiving.

However, it lapsed without discussion. NITI Aayog discussions on a *Parental Benefit Bill* suggested a shared model with 12 weeks for both mother and father and a transferable six-week period, but this idea was never formally tabled. These proposals highlight legislative recognition of the issue, yet the absence of enacted law continues to perpetuate gendered inequalities in parental leave.

7.5. Labour Codes and Paternity Leave

India's four major labour codes—*Code on Wages, 2019*, *Industrial Relations Code, 2020*, *Code on Social Security, 2020*, and *Occupational Safety, Health and Working Conditions Code, 2020*—consolidated 29 prior laws, including maternity benefits. However, none of these Codes explicitly provide paternity leave or gender-neutral parental leave. The *Code on Social Security* retained maternity provisions but did not extend benefits to fathers. The *Industrial Relations Code* and *OSH Code* also make no reference to parental leave. Consequently, the new labour legislation represents a missed opportunity to modernise parental benefits and align Indian law with contemporary social and gender norms.

7.6. Judicial Interpretation and Court Cases

Indian courts have gradually acknowledged the need for shared caregiving and paternity leave. In *Chander Mohan Jain v. Union of India* (Delhi High Court, 2009), the petitioner, a Kendriya Vidyalaya teacher, was initially denied paternity leave, which the Court held as a legal entitlement under the CCS (Leave) Rules, directing restoration of salary and recognition of leave. The Supreme Court in *Deepika Singh v. Central Administrative Tribunal* (2022) recognised non-traditional family structures and underscored that caregiving rights should extend beyond maternity. In *Democratic Women's Association v. Union of India*, the Court highlighted that parental responsibilities must be shared, hinting at the need for legislative reform. Other notable cases, including *Rajasthan State Road Transport Corporation v. Reeta Devi* (2021) and a 2023 Delhi High Court PIL seeking paternity leave, emphasise the growing judicial recognition of gender-neutral caregiving rights.

7.7. International Commitments

India is a signatory to multiple international frameworks that influence domestic parental leave policies, including the ILO Convention on Workers with Family Responsibilities (C-156), the

UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Sustainable Development Goals (SDG 5 – Gender Equality). These commitments advocate for shared parental responsibilities and gender equality in caregiving, reinforcing the rationale for statutory paternity leave in India.

7.8. Key Gaps in India's Legal Framework

Despite these constitutional, statutory, judicial, and international foundations, India's legal framework exhibits critical gaps: no national legislation for paternity leave exists; childcare responsibilities disproportionately burden women; employers often discriminate against women due to perceived maternity costs; private-sector paternity policies are inconsistent; labour codes failed to modernise parental provisions; there are no incentives for father involvement or shared parenting; and no social security mechanisms reimburse employers offering paternity benefits. These lacunae underscore the urgent need for comprehensive paternity legislation to ensure gender equality and fulfil India's constitutional and international commitments.

8 RESEARCH GAP

India lacks **holistic, socio-legal, gender-equality-based** research analysing why paternity leave is essential, how it affects women's empowerment, and how legal reforms can create balanced parental responsibilities.

9 RESEARCH QUESTION

How does the absence of a statutory paternity leave framework in India impact gender equality, women's employment, and shared parenting?

10 LITERATURE GAPS

1. **Limited Indian research on paternity leave**—most studies focus on maternity benefits.
2. **No empirical studies** linking paternity leave with women's workforce participation and economic empowerment in India.
3. **Scarce socio-cultural studies** exploring men's perception, family acceptance, and workplace culture.

4. **Insufficient legal analyses** of labour codes, bills, and judicial trends advocating gender-neutral parental leave.
5. **Lack of integrated socio-legal and economic research** assessing benefits of paternity leave for women, children, and the workplace.

This research aims to fill these gaps by combining **doctrinal legal analysis, policy review, international comparisons, and socio-economic implications**, establishing a robust foundation for advocating statutory paternity leave in India.

11 FINDINGS

The research clearly reveals that the absence of a structured and enforceable paternity leave framework in India significantly limits progress toward gender equality, shared parenting, and women's socio-economic empowerment. While maternity benefits have undergone steady reform—from the Maternity Benefit Act, 1961 to the 2017 amendment and further refinements under the new Labour Codes—paternity benefits have remained virtually stagnant. The Paternity Benefit Bill, 2017, which could have addressed this imbalance, has not been enacted. The current legal vacuum results in inconsistent employer practices, restricted access to leave for fathers, and reinforcement of outdated gender norms that view caregiving as an exclusively female responsibility. Findings also indicate that the lack of paternity leave contributes to disproportionate career interruptions for women, widening the gender pay gap and reducing women's workforce participation. Comparative analysis shows that countries such as Sweden, Norway, Spain, and Japan have made significant social and economic gains by institutionalising paid parental leave for both parents. Indian judicial precedents, including *Chander Mohan Jain v. NCT of Delhi* and *Vikram Singh v. Union of India*, further expose the inconsistency in policy application and the need for uniform statutory recognition across public and private sectors. Overall, the evidence underscores that paternity leave is not a “benefit” but a structural necessity for building gender-balanced family systems, strengthening child development outcomes, and achieving constitutional goals of equality under Articles 14, 15, 21, and 42.

12 SUGGESTIONS

Based on the research, it is essential that India adopts a comprehensive and gender-neutral parental leave framework that balances the needs of both parents, employers, and the economy. Enacting a uniform **Paternity Benefit Law**—or ideally a **Parental Leave Code**—should be

the first step, mandating a minimum of 12-15 days of paid paternity leave across all sectors. This framework should be integrated into the Social Security Code, 2020, ensuring that financial responsibility is shared between employers and government, preventing undue burden on small industries. Clear definitions of “father”, “non-biological father”, “adoptive father”, and “partners in civil unions” should be incorporated to ensure inclusivity. The government must also introduce incentives for employers who implement equitable parental leave policies, including tax benefits or EPFO contribution subsidies. A nationwide awareness campaign is necessary to redefine caregiving as a shared responsibility, dismantling patriarchal assumptions that disproportionately place childcare on women. Organisations should simultaneously adopt workplace reforms such as flexible work arrangements, return-to-work programmes for mothers, and sensitisation on gender roles. In addition, courts should adopt a rights-based approach, recognising paternity leave as integral to dignity, equality, and family life. Ultimately, legislative, social, and administrative approaches must converge to normalise paternal involvement and reduce barriers to women’s professional advancement.

13 CONCLUSION

The study concludes that paternity leave is a transformative policy tool with the potential to reshape gender relations, enhance women’s economic empowerment, and strengthen family well-being in India. While maternity laws have evolved significantly, the imbalance created by the absence of formal paternity benefits perpetuates systemic gender inequality. The evidence demonstrates that when fathers participate actively in childcare, women experience greater freedom to pursue careers, reduced workplace discrimination, and improved mental health and financial stability. Children benefit from balanced parental bonding, and society moves closer to the constitutional promise of gender justice. International models provide a compelling blueprint for India, showing that economic growth and parental leave policies are not contradictory but mutually reinforcing. The implementation of paternity leave is therefore not simply a labour reform but a constitutional, social, and developmental imperative. As India aims to improve female labour force participation, promote inclusive growth, and redefine gender dynamics, the recognition of paternity leave becomes essential. A progressive, well-structured, and legally enforceable paternity leave framework will mark a critical step toward building an equitable future where caregiving is shared, opportunities are equal, and women can participate in nation-building without structural barriers.