In a number of countries, adoptive parents are granted the right to parental leave (if it exists), but they should also be entitled to maternity and paternity leave or to a special leave period with provisions specifically for adoption. Adoptive parents in a same-sex partnership or who are single must also be eligible for an equitable guarantee of leave. Though many of the needs of newly-adopted children are consistent with biological children, adoptive families may face unique circumstances related to forming healthy and stable new bonds or attachments early-on. The age of the adopted child is pertinent as well; though the needs of infants versus teenagers will differ, both will at first require dedicated time with their new parents.

**Adoption leave**

In a number of countries, adoptive parents are granted the right to parental leave (if it exists), but they should also be entitled to maternity and paternity leave or to a special leave period with provisions specifically for adoption. Adoptive parents in a same-sex partnership or who are single must also be eligible for an equitable guarantee of leave. Though many of the needs of newly-adopted children are consistent with biological children, adoptive families may face unique circumstances related to forming healthy and stable new bonds or attachments early-on. The age of the adopted child is pertinent as well; though the needs of infants versus teenagers will differ, both will at first require dedicated time with their new parents.

**Adoption leave**

In a number of countries, adoptive parents are granted the right to parental leave (if it exists), but they should also be entitled to maternity and paternity leave or to a special leave period with provisions specifically for adoption. Adoptive parents in a same-sex partnership or who are single must also be eligible for an equitable guarantee of leave. Though many of the needs of newly-adopted children are consistent with biological children, adoptive families may face unique circumstances related to forming healthy and stable new bonds or attachments early-on. The age of the adopted child is pertinent as well; though the needs of infants versus teenagers will differ, both will at first require dedicated time with their new parents.

**Legal harmonization in the Caribbean**

The laws pertaining to parental leave in many of the Anglophone Caribbean countries were passed in the 1970s, and they share many similar features, such as their definitions and provisions. In many countries, for example, mothers and their families can access both maternity benefits and grants. **Maternity benefits** are usually reserved for those who have made around 50 contributions to social security, and the benefits paid correspond to a percentage of the worker’s previous earnings. **Maternity grants** are usually one-time payments that assist families even if they are not covered by the social security system. Another similarity in the legal frameworks of the Caribbean subregion is the definition of “**confinement**,” referring to “labour resulting in the issue of a living child or labour after [24-28 weeks (depending on the country)] of pregnancy resulting in the issue of a child whether alive or dead.” This protects women who experience a stillbirth from having resources suddenly revoked.
The benefit(s) paid to parents while they are on leave may or may not be income-related. Some countries pay 100% of the worker’s previous earnings up to a ceiling; others have no cap; others provide lump-sum payments. To be in conformity with C183, the cash benefits during maternity leave must be at least two-thirds of the worker’s previous salary, or a comparable amount. In cases where statutory benefits paid by the government are less than the employee’s salary, employers may opt to pay the difference (“top up” payments) or do so in response to company policies or collective agreements. The frequency and accessibility of the process of paying benefits are important additional details that should be considered in relation to the living circumstances of all of the likely and intended recipients of the benefits.

Co-parenting

Co-parenting implies parity, or near parity, in the duties and responsibilities undertaken by two adults to raise their child or children. Co-parents might be: a mother and father, two fathers, two mothers, or any other parent and their relative or partner. Co-parents may or may not reside in the same house, and they may or may not be married.

Compulsory leave

In some countries, there is a compulsory leave period for mothers immediately following childbirth — usually of six weeks. This is intended to prevent employers from rushing women back to work before they have recovered from delivery. It takes the female body six weeks on average to return to “normal” physiological functioning after giving birth. However, since pregnancy and post-partum experiences vary significantly, women should be granted as much flexibility as possible about the distribution of their leave before and after they give birth.
Parental leave is an investment in future generations. Providing parents with the time and resources to care for their infant is beneficial to the child’s health and wellbeing, and ultimately, their ability to achieve their potential in the future. When they are supported by leave, parents can better meet their infant’s nutrition, early stimulation, and other healthcare needs – including immunization – which helps to prevent costly health risks in the future. Parental leave is even linked to infant survival; evidence from countries at all income levels shows that longer periods of maternity leave reduce infant mortality rates.

Eligibility requirements for parental leave vary based on the financing scheme used to fund the program. Often, workers must have been employed full-time for the same employer and been paying into a social security plan for a certain period of time – generally one year – to be eligible. This can sometimes mean that those who are self-employed or informally employed are ineligible for any type of parental leave. In certain countries, there is also a limit on the number of children for whom one can take leave from the same employer. Removing these types of eligibility requirements will create greater equity for parents in the workforce and will in general positively benefit low-income workers. Other frequent requirements for eligibility include a doctor’s certification of pregnancy and due date, and written notice of the intended date to commence and end the leave.

Co-responsibility

Co-responsibility is a policy framework that stresses shared contributions and provisions for childcare by the State, families, businesses, and/or communities – the latter group including trade unions, civil society organizations, international organizations, informal networks, and the non-profit sector. Parental co-responsibility is a term to describe measures aimed at promoting men’s increased participation in childrearing and family tasks (i.e., co-parenting). Both co-responsibility and parental co-responsibility have entered legal discourse in the region.
Most countries provide for a few weeks’ extension to maternity leave in the case of complications arising from pregnancy or delivery, and if the child is born with a disability or requires hospital care for an extended period of time. Many countries also extend maternity leave allowance in the case of multiple births (twins, triplets, etc.).

**Extensions**

Maternity, paternity, and parental leave benefits are offered through one of the following:

1) Employment-related social insurance (contributory scheme)
2) Public funds (general taxation)
3) Direct payment by the employer
4) A mix of the above

The third option – known as “employer liability” – is in decline globally as parental leave is being recognized as a social investment administered by the State. When parental leave is paid through some form of contributory insurance fund, it is generally financed by contributions from employers as well as employees in the form of taxation on wages earned. When some or all of the benefits are paid by employers, it is important for them to pay a quota for all employees – not just women employees – to reduce biases. As per the second option above, contributions could instead be financed by the revenue of general taxation, with the costs collectivized.

**Financing parental leave**

Parental leave flexibility can take a number of forms. In some countries, leave can be taken on a full or part-time basis, with the latter allowing for simultaneous part-time employment. Other possibilities include taking leave in a continuous block of time or in several shorter blocks, the ability to transfer leave entitlements to carers who are not the child’s parents, and the option for both parents to take some or all of their leave at the same time. Sometimes leave can be taken for a shorter period of time at a higher benefit rate or for a longer period of time at a lower rate.
Length of leave

There is general consensus in the international practitioner community that a minimum of six months of paid maternity leave is desirable. When maternity leave is too short, mothers may not feel ready to return to work and end up dropping out of the paid labour force. It is also recommended that governments and businesses provide at least nine months of combined parental leaves (maternity, paternity, shared), which would equate to at least three months of parental leave (beyond the six months for maternity leave) that can be shared between the two parents.

Means test

These tests are often used to determine the eligibility of individuals or households for targeted, non-contributory social assistance schemes. The goal is to identify the portion of the population with a level of resources that is below a defined threshold of income or assets. When accompanied by gender-transformative plans of action, these schemes can be important tools for poverty alleviation in developing countries, where much of the population works in the informal sector and is not covered by social insurance.

Take-up rate

The take-up rate refers to the percentage of individuals or families who are eligible for leave and also use it. The take-up rate for parental leave depends greatly on its conditions (payment rate, length of leave, flexibility, etc.). Where it exists, the take-up rate for paternity and parental leave among men is very low in the Americas and the Caribbean (and globally as well), especially if the leave is unpaid. Increased take-up rates can be used as indicators when evaluating the success of existing programs.
Women and men must be guaranteed the right to return to work in the same or an equivalent position, and to be paid no less than what they earned prior to their leave. In cases where a worker brings a claim forward after being dismissed or demoted as a result of pregnancy or parental status, the burden of proof should be on the employer to prove otherwise. Dismissals related to childbearing and breastfeeding are frequent but difficult to prove. In addition to violating worker rights, leave without sufficient job protection is likely to lower women’s attachment to and advancement in paid work.

Transferability

If parental leave is granted as an individual entitlement – as opposed to a family entitlement – it cannot be transferred. However, sometimes the entitlement systems are mixed, and a portion of the shared parental leave can be transferred to the other parent. If the non-transferable portion of shared leave is not used, it is foregone (“use it or lose it” principle). The possibility of the death of the birthing parent is another consideration with respect to transferability. In the region, the benefits that are due to a woman who dies in complications related to pregnancy or delivery can generally be passed to the infant’s father or another designated caregiver.

Protective measures

Women and men must be guaranteed the right to return to work in the same or an equivalent position, and to be paid no less than what they earned prior to their leave. In cases where a worker brings a claim forward after being dismissed or demoted as a result of pregnancy or parental status, the burden of proof should be on the employer to prove otherwise. Dismissals related to childbearing and breastfeeding are frequent but difficult to prove. In addition to violating worker rights, leave without sufficient job protection is likely to lower women’s attachment to and advancement in paid work.

Right to be cared for, right to care

Parental leave is a measure that upholds the right of children to be cared for and the right of adults to care for them. These have been conceived as universal rights. Legislation and constitutions enshrining these rights have gained traction in the Americas, particularly in the wake of the Convention on the Rights of the Child which entered into force in 1990. This rights-based approach is also enshrined in regional agreements from the Regional Conferences on Women in Latin America and the Caribbean. The right to care and to be cared for is pertinent to labour legislation, as well as legislation regulating care facilities and the interaction between individuals’ paid work and caregiving for children or other dependent family members.

Law of note

In 2015, Uruguay passed Law No. 19353 which exemplifies an integrated, universal, and rights-based approach to care. It explicitly recognizes the rights of dependent recipients of care (including young children) and of care providers. The impetus behind this law was national time-use surveys conducted in 2007 and 2013 which showed that women spent two-thirds of their week on unpaid work and only one-third on paid work. The reverse was true for men. Thanks to this data, as well as tireless advocacy by civil society and strong political will, care was reconceptualized as a collective issue. These efforts culminated in the creation of the National Integrated Care System. Since the creation of this system, which is modeled on co-responsibility, Uruguay has expanded parental leave benefits. Among these, both mothers and fathers were granted the right to work part-time until their baby reaches six months.

Work-life balance refers to a state of equilibrium in which the demands of one’s personal and family (private) life, and their professional life, are in harmony. It is also sometimes referred to as a “reconciliation” of one’s work, family, and personal lives. When one’s time and commitments in each of these spheres are aligned in a healthy way, work and family are not in conflict but rather complementary and part of holistic human realization. Work-life balance is increasingly recognized as a policy priority, as it promotes workers’ satisfaction, motivation, and productivity, and it reduces the risk of “burnout” (physical, mental, and emotional exhaustion caused by prolonged stress). The necessary support tools to accomplish work-life balance will depend on the sector or type of work. Examples could include technology-based solutions or more accessible public services. To achieve the cultural changes in support of work-life balance, it is critical that employers both promote and model healthy practices and boundaries.

Law of note

As of 2011, working parents in Chile are entitled to a special paid leave if their child under age one is severely ill. This leave is available to mothers and can be transferred to fathers. In case of a serious illness or accident impacting a child between the ages of one and 18, the mother is entitled to up to 10 days of paid leave, with the same option of transference to the father. A legal guide (called Ley fácil) on the library of parliament’s website explains in plain language the provisions for this leave established in Laws No. 21063 and 20585, as well as how to access the benefits.

Other types of leaves

Some countries provide for other complementary types of leave that can assist workers in the postpartum period and in the early stages of their children’s lives. For instance, once parents have returned to work, babies are in the care of others who may not be able to care for them while they are sick. Paid sick leave can be specifically designated for caring for a sick child; this allows parents to be with their child and obtain timely health care, which may shorten recovery time and allow parents to return to work more quickly in the end. Some countries in the region also provide special leaves and benefits in cases of miscarriage after a certain stage of pregnancy or a stillbirth.