

MATERNITY AT WORK

A review of national legislation

Findings from the ILO Database of
Conditions of Work and Employment Laws

Second edition

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PREFACE

Protecting maternity has been among the first concerns of the ILO. It was during the first International Labour Conference (ILC) in 1919 that the first Convention on maternity protection (Convention No. 3) was adopted. This Convention was followed by two others: Convention No. 103 in 1952 and Convention No.183 in 2000, which progressively expanded the scope and entitlements of maternity protection at work. The core concerns have been to ensure that women's work does not pose risks to the health of the woman and her child and to ensure that women's reproductive roles do not compromise their economic and employment security.

Indeed, the importance of paid work to the lives of most adult members of society makes the intersection of maternity and work a particularly critical focal point for efforts to improve both health and equality. Maternity protection for women workers contributes to the health and well-being of mothers and their babies, and thus to the achievement of Millennium Development Goals 4 and 5 adopted by the member States of the United Nations, which seek the reduction of child mortality and improvement of the health of mothers. And by safeguarding women's employment and income security during and after maternity, maternity protection is also essential for ensuring women's access to equality of opportunity and treatment in the workplace, and progress towards Millennium Development Goal 3, promoting gender equality and women's empowerment.

The conclusions of the 98th International Labour Conference in June 2009 have also acknowledged that strengthened maternity protection is key to gender equality at work and therefore called on the ILO to promote the ratification and application of Convention No.183 and to “[...] *compile and disseminate good practices on parental leave and paternity and maternity leave and benefits, and provide technical support to governments to develop effective laws and policies*”.

This study analyses the main legal provisions that are found in maternity protection legislation all over the world. It is based on the new ILO

Database of Conditions of Work and Employment Laws on Maternity Protection,¹ which covers 167 countries. A summary can be consulted in Annex I of this report. This is a very rich analysis that gives detailed information on the state of legal protection on the different aspects, comparing regions and countries as well as their evolution over the last 15 years. On the positive side, 63 ILO member States are party to at least one of the maternity protection Conventions. Moreover, whether ratified or not, the conventions have had a very broad influence, with virtually all countries having adopted some measures of maternity protection. Over the last 15 years, there have been noticeable improvements in maternity protection legislation, with a shift towards longer rest periods at the time of childbirth, and movement away from employer liability systems of financing maternity leaves. However, uncertainty remains about how effectively existing legislation is implemented, underscoring the importance of social dialogue and tripartite action involving government, employers and workers; monitoring and enforcing existing legislation; and collecting information on maternity protection in practice, to ensure that the principles and goals of maternity protection are realized.

I would like to thank and congratulate Shannon Harper for her extensive revision and update of this book, which was originally issued in 2005 and authored by Ida Öun and Gloria Pardo Trujillo. I would also like to thank Naomi Cassirer and Laura Addati for their guidance and work on this research and Ana Carolina Antunes, Shadia El Dardiry, Najati Ghosheh, Federica Ninni, Carola Nolte and Melanie Poduschnik for their accurate legal review. Finally, special thanks for their administrative and editorial support go to Kristine Falciola, José Antonio Garcia, Claire Piper and Coralie Thompson.

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¹ This can be consulted at <http://www.ilo.org/dyn/travail/travmain.home>. Two other databases are available: one on working time and another on minimum wages.

CONTENTS

Preface	v
Contents	vii
Executive summary	ix
1. Introduction	1
2. Maternity leave	5
Duration of leave	5
Cash benefits	17
Scope	35
3. Related types of leave	43
Paternity leave	43
Parental leave	48
Adoption leave	55
4. Employment protection and non-discrimination	59
Maternity discrimination	61
Protection from discriminatory dismissal	63
Maintaining employment benefits	69
5. Health protection	71
Arrangement of working time	72
Dangerous or unhealthy work	75
Breastfeeding	80
6. Conclusion	87
Bibliography	89
Annex I	
Key national provisions for maternity protection by region	93
Annex II	
Summary of information available in ILO database for each country, by region	103

RATIFICATIONS OF THE MATERNITY PROTECTION CONVENTION, 2000 (No. 183)

**As of February 2012, the following 23 countries had ratified Convention
No. 183:**

Albania
Austria
Azerbaijan
Belarus
Belize
Benin
Bosnia and Herzegovina
Bulgaria
Cuba
Cyprus
Hungary
Italy
Latvia
Lithuania
Luxembourg
Mali
Republic of Moldova
Morocco
Netherlands
Romania
Serbia
Slovakia
Slovenia

EXECUTIVE SUMMARY

This report reviews national legislative provisions for maternity protection in 167 member States with a particular focus on how well countries' provisions conform to the ILO Maternity Protection Convention, 2000 (No. 183), and its accompanying Recommendation (No. 191). The study found legislation on maternity protection in all of the 167 member States studied and no member State has yet been identified without any legislation.

One part of the study covers three key aspects of maternity leave provisions: the duration, the benefit paid and the source of the funding (see Annex I). It compares the legal provisions in 167 ILO member States with the most recent ILO standards, both separately and combined by region. This assessment shows, within the limitations of the data available, that globally 30 per cent of the member States fully meet the requirements of Convention No. 183 on all three aspects: they provide for at least 14 weeks of leave at a rate of at least two-thirds of previous earnings, paid by social security, public funds or in a manner determined by national law and practice where the employer is not solely responsible for payment. The regions with the highest proportion of countries in conformity with these aspects of the Convention are Central Asia and Europe, while conformity is particularly low in, Asia and the Pacific and the Middle East.

Looking separately at the key provisions of Convention No. 183 on

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