

The New Work Life Balance: Emerging Family Rights and Leaves Across the Globe



TABLE OF CONTENTS

- 1. Introduction**
- 2. Scenario before the European Union Directive on Work Life Balance**
- 3. Changes introduced via the EU Work Life Balance Directive**
- 4. Proposed Reforms across Europe**
- 5. Time off trends in other parts of the world**
- 6. COVID 19 effect on Family Leaves**
- 7. Conclusion**

Introduction

“And on the seventh day God ended his work which he had made; and he rested on the seventh day from all his work which he had made” – King James Bible

In today’s rapid paced environment, work has become an important part of our life which ensures that we have enough in our pockets to not go to the bed empty stomach. However, as we keep growing with increased advancement in technology, it has become extremely difficult to draw a line between our professional and personal life and therefore, it appears more like a dream to attain a good work life balance.

Hence, bringing a work life balance revolution has become of such importance. Now, many developed as well as developing countries are working towards bringing in reforms in order to provide professionals with good quality time to help them get indulge well in their personal life.

Aiming towards providing a good work life balance, European Union has passed a **WORK LIFE BALANCE DIRECTIVE**, in 2019 which provides new rights for carers and working parents. The Directive is a collaboration of measures from both governmental and non-governmental angles which also address underrepresentation of women in the labour market and encourage a better participation in caregiving responsibilities by men.

The main aim behind Article 3 of the Treaty on European Union also, is to promote equality between women and men. The work life balance policies are aimed at achieving equality between working men and women by providing a better or more rather an equal participation in the labour market. This will also enable equal sharing of responsibilities between both the genders and the closing of gaps in earnings.

There are several directives both at the Union and the State level which addresses issues that are important for work life balance, such as Principles 2 and 9 of the European Pillar of Social Rights which was proclaimed by the European Parliament.

Even with a considerable number of directives, there still exists various challenges when it comes to leading a balanced work life. This may be due to long working hours, changing work schedules, health issues etc. Working women under participation in the labour market can also be attributed to the difficulty faced by them in balancing both work and family obligations.

At present, the legal framework around leaves in many of the EU member States lack ***paid paternity and parental leave***. This in turn puts pressure on the female counterparts to take up more leave or sometimes give up on their career in order to provide care and support to the new-born child.

Policies of equal treatment between both the genders which aim towards breaking stereotypes and encourage both genders to take up responsibility equally as far as practical is the need of the hour. Also, several studies have shown that flexible working arrangements have a positive impact both in personal and professional lives as fathers are encouraged to take up leaves or work for a lesser number of hours and contribute equally in the family, allowing the mothers to get back to work soon.

The new work life balance directive laid out via the EU provides various provisions which needs to be implemented by the member states by 2022, with respect to paternity, parental and carer’s leave along with flexible working arrangements for workers who are parents or carers. The Directive shall contribute to the Treaty based goals of equality between men and women with regard to the labour market and equal treatment at work.

Scenario before the European Union Directive on Work Life Balance

The Directive aims to bring into existence better participation of the female population in the Labor market and also to uplift leaves such as parental leave across member states, that would help parents to spend quality time with the family without having the fear of job security.

In the current scenario, there are no statutory paternity leave provided in any of the EU Directives, however, many member states provide for the paternity leave with an average of 2 weeks, which is far less a leave compared to maternity across various EU member states. Countries such as Spain and Austria, provide one month of leave while other countries such as Netherlands, etc give less than a week leave to Fathers.

Even though many member states provide parental leave, there are only a handful of countries which provide payment for such leave. In most of the countries, the payments are collectively borne both by the employer and the State. Sometimes, paternity leave is also dwelled with parental leave which employees are allowed to take for providing care and support to the newborn child.

In many member states, pregnant employees are entitled to take one month leave before the birth and remaining after the childbirth in many states. The length of maternity leave varies from 14 weeks to the average of 18 weeks in most countries.

Countries like Italy and Poland offer maternity leave periods of more than 20 weeks, whereas Ireland and Czech Republic offer an average of 35 weeks to pregnant employees. In most of the countries, the maternity leave is paid by the State and in a few countries are shared both between the employer and the State.

The period of parental leave provided across EU member states varies from an average of 18 weeks to 26 weeks until the child is 3 years old.

Since, EU does not stipulate whether the parental leave should be paid or unpaid, the payment for leave in each country varies. The countries that offer paid leave (whether by employer or state) are Portugal, Poland, Italy, France, Germany, Romania, and Denmark. In some countries, both parents can share the parental leave and are paid at a flat rate by the State. Countries such as Germany, Austria and Italy offer bonus month incentives provided both parents share the parental leave.

Changes introduced via the EU Work Life Balance Directive

The *EU Work life Balance Directive* has been passed in 2019 which aims to bring flexible working arrangements and provide parental and carer leave to working professionals. Some of the important provisions have been discussed below in detail:

(i) Paternity Leave

Member states in the EU should ensure to provide Fathers or equivalent second parent right to paternity leave of 10 working days which can be taken upon the birth of the child. The decision to provide such leave to be taken either wholly/partially or in any other flexible arrangement is left to the discretion of the member states. This right to leave of absence shall be provided irrespective of the worker's marital/family status.

Employees taking paternity leave shall be provided an allowance or payment equal to at least what he would have received in case of a break in the working activities based on reasons concerning the health etc.

(ii) Parental Leave

Every worker shall be entitled to a right to parental leave for 4 months which shall be taken before the child reaches the age of 8. The age shall be decided in a way that each parent is able to use their right to leave on an equal basis. Member states shall also ensure that 2 months of parental leave cannot be transferred. The right to leave can however be made subject either to a period of qualification or length of service qualification but shall not exceed the period of one year in any manner.

The directive allows the employers to postpone the parental leave for a reasonable period on the ground that taking of such leave will seriously disturb the good functioning of the employer. The postponement is allowed only when a reason in good faith is provided in writing by the employer.

The payment or allowance shall be decided by the member states and shall be laid out in a way that it can be taken up by both the parents.

(iii) Carers Leave

Each member state shall provide carer's leave for 5 working days per year. Member states are allowed to lay down the scope and conditions of leave in accordance with national law or practice. Such leave can be provided on the basis of a reference period other than a year, per person in need of care or support, or per case.

(iv) Flexible Working arrangements

- a) All the EU member states shall ensure to provide measures that would allow the workers to request for flexible working arrangements to provide care and support to their children (until the child reaches 8 years of age) and carers. The member states can provide a limitation period up to which such arrangement would be available for the employees.
- b) Any request made by the employee with regard to the flexible working arrangement has to be responded by the employer within a reasonable period of time. In case, where the employer refuses or postpones the grant of such flexible arrangement, he/she shall provide the reasons in writing.
- c) The employee shall have the right to return to the original working arrangement at the end of the agreed period. However, the worker will also have the right to an early return to work

before the end of the agreed period due to change in the circumstances. The employer should consider and respond to such requests for early arrival within a reasonable period of time considering the needs of both the employee and the employer.

- d) Member states will be allowed to make the flexible working arrangement subject to a certain length of work or service qualification, which shall not exceed 6 months. In the case of successive fixed term contracts with the same employer, the sum of those contacts shall be considered for the purpose of calculating the qualifying period.

Proposed reforms across Europe

The year of 2019 embarked on a wide range of reforms, mostly in the area of *Family leave* across EU. Various member states proposed a lot of changes in the existing maternity leave and also increased the period of paternity leave. Certain countries in European Union also introduced parental leave for better sharing of family responsibilities.

The Austrian Paternity Leave Act was amended in 2019 which allowed new fathers in Austria to take one month off from work following the birth of their child, if they are living in the same household as the mother. The leave called as “Daddy month”, also provides special protection to the employees against dismissal.

Ireland increased the parental leave entitlement by an additional eight weeks and increased the eligible age of the child from eight to twelve. Croatia announced that it aims to provide full payment for full 12 months of maternity leave and also introduce 10 days of paid leave for Fathers.

The Government of Finland has proposed a reform in line with Finland’s policy of maternity and paternity leave that would allow for a longer period of maternity and paternity leave. In the proposed reform, the government intends to increase the maternity and paternity leave up to 5 months. Both maternity and paternity leave shall be exclusive to each parent and cannot be shared. In addition to two five-month periods, another five months of parental leave will also be provided to both parents, which can be transferred from one to another.

These policies allow one parent to take care of the new-born child and as and when either the maternity or paternity leave expires, one of the parents can still continue to provide support to the child by being at home without having job insecurity.

Time off trends in other parts of the world

In the current fast-moving work life, there exists various reasons which explain how much time off from work is important for both the employer and employees. Recent studies have shown that many employees have been opting for sabbatical options in order to take a good amount of leave from work to either improve their mental/physical health or spend quality time with their loved ones. Certain countries have decreased the upper limit on daily working hours while some have introduced the weekly averaging of hours in their employment code.

Australia

Effective July 1, 2020 Australia introduced a paid parental leave pay scheme which allows employees to take leave in a split manner, over 2 periods within 2 years. Employees can use parental leave for one fixed week period which is available for 12 continuous weeks, ending within 12 months from the birth or adoption of a child, in which 60 days is payable. The second period or the flexible period is available for 30 paid days, which starts after the first period ends and shall be taken within 24 months of a child's birth or adoption.

New Zealand

Recent legal changes in NZ, recognizing different family and care arrangements have provided more flexibility to employees in sorting their leaves. New Zealand provides for caregiver leave and partner leave under which an employee who has been employed with the same employer for an average of at least 10 hours per week during the immediately preceding six months is entitled to 22 weeks of caregiver leave, 22 weeks of parental leave payments, up to 13 weeks of preterm-baby payments by the government and 52 weeks of unpaid extended leave.

There is also a very warm provision for a woman employee to take up 10 additional unpaid days of special leave for pregnancy related reasons.

North America

USA

In comparison with most of the developed countries, it has been found that the US does not have paid maternity leave. The federal law provides for 12 weeks of parental leave for qualifying federal employees around the time of the birth, adoption, or foster care placement of a child. Federal law requires employers with 50 or more employees to allow qualifying employees up to 12 weeks of unpaid parental leave that can be taken up to a year after the birth or adoption of a child. The legislation also requires employers to give the new parents their jobs back or place them in similar jobs after they return from leave.

Owing to the gravity of the situation, several states in the US have created their own paid parental leaves for employees. States such as California, New Jersey etc have created their own paid parental leave with rules towards the application of paid and unpaid leaves accordingly linked to a state insurance model that employees or employers fund with payroll contributions.

Canada

Canada has a parental leave policy with both a job protection and benefits component. It allows pregnant women or new mothers to get paid for maternity leave of up to 15 weeks, after which either parent can

take 35 weeks of paid parental leave after the birth or adoption of a child. Employees are paid 55% of their average weekly insurable wage, up to a cap that is determined based on income.

Asia

The family leaves vary tremendously across different Asian countries. Let's have a look at family leaves coverage provided across different regions in Asia –

India

In India, a pregnant employee who has worked for at least 80 days in the 12 months prior to the expected date of delivery is eligible for 26 weeks paid maternity leave. But, if the employee already has two or more living children, she is entitled to only 12 weeks of paid leave. There is no legal entitlement to paternity leave provided at the Central level, however, States are free to offer paternity leave to their employees.

China

China allows female employees to take up 98 days of maternity leave, inclusive of 15 days of parental leave. An employee is also entitled to 15 additional days of leave in case of difficult childbirth. Compared to female employees, male employees are entitled to paid paternity leave of varying length, dependent upon jurisdiction of the employee.

South Korea

Most Asian countries provide for an extended family leave of up to 6 months. In South Korea, an employee is entitled to 3 months of maternity leave in which at least 45 consecutive days must be taken after the birth of the child.

Employees who have a child aged not more than 8 years or children in the second or lower grade of an elementary school are also eligible for one year of childcare leave for which the payment is made by the Employment Insurance Fund at 40 percent of normal wage.

Singapore

Employees who have been in continuous employment with the same employer for at least 3 months are entitled to 16 weeks of paid maternity leave.

Malaysia

Pregnant women are entitled to 60 consecutive days of paid maternity leave for each child, starting as early as 22 weeks' gestation and no later than the day after the birth. To be eligible for paid leave, a pregnant employee must have worked for the employer at some time during the four months preceding her due date and for at least 90 days out of the nine months before her due date. There is no statutory paternity leave in Malaysia.

Indonesia

In Indonesia, pregnant employees are entitled to paid leave of 1.5 months before and after the birth of a child. An employee who suffers miscarriage is entitled to a period of rest for 1.5 months or a period as stated in the medical statement issued by a doctor.

Philippines

Recent developments in Labor Law have increased the paid maternity leave from 60 days to 105 days, with an additional 15 days maternity leave allowed to solo parents. The Paternity leave has also been increased to 14 days from the current 7 days legislation.

LATAM

Latin American countries provide a varying range of family leaves. For example, in Argentina, a female employee is entitled to 45 days of unpaid leave to their expected childbirth and 45 days after, which can also be reduced at the discretion of the employee and added to the parental leave, whereas in Mexico pregnant employees receive 12 weeks of maternity leave and male employees are entitled to 5 days of paid paternity leave.

United Arab Emirates

A woman employee is entitled to 45 days of paid maternity leave and should also be provided 2 hours of daily leave for the purpose of nursing their child until the child reaches 18 months. The maternity leave can also be extended until 3 years. Recent decree passed in UAE allows Fathers to enjoy five days of paid paternity leave.

COVID 19 Effect on Family leaves

Covid 19 – The pandemic which took the world in its grip early this year of 2020, have brought the world to a halt. This has made Governments and Companies to rethink and reframe various policies including the Family and Sick Leave Policies in order to curb the toil caused to the working professionals by the virus across the globe. Amid the disaster, many companies are ramping up their efforts to provide support for working parents with increased parental leave and flexible working arrangements in an attempt to attract and retain talent.

Governments have been issuing notifications which require employers to provide the necessary paid sick leave and family leave to working professionals in order to help them provide care and support to their loved ones in such crucial periods.

Quite a number of provinces in Canada have allowed employees who have a continuous employment for at least 3 months with the employer, job protected leave up to 17 weeks called as Medical and Family responsibility leave.

In the wake of rising cases of coronavirus, the USA has implemented **Families First Coronavirus Response Act**. Under this Act, employees are eligible for up to 80 hours of paid sick leave either to address their own health needs or to take care for family members. It also provides for emergency paid family leave for parents who cannot work because their children's schools are shut down.

Certain European countries such as Romania, allowed parents to apply for leave for the purpose of supervision of their children. In order to be eligible for the leave, parents must have children up to the age of 12 years or have children with disability up to the age of 18. Such parents are entitled to paid leave during the entire period of suspension of the educational places.

In Spain, a Royal decree was passed, which provides employees with a right to reduced working hours or other flexible arrangements such as change of duties, change of workplace etc. in order to carry out family responsibilities.

Italy introduced a parental leave for a maximum duration of 15 days, which can be used on a continuous or non-continuous basis for employees in the private sector. In France, an employee who has to take care of a child below the age of 16 may also benefit from a special medical/work leave option.

Conclusion

Perfect work life balance may be called out as a myth!! But, inculcating a habit to lead a healthy work life balance can be brought into practice not just to maintain any particular physique or for mental calmness, but also to increase productivity and to create more loyal employees in today's fast paced working life. Some of the most basic reasons for which employers should advocate the policy of flexible work arrangement is because it leads to better engagement of the employee, decreases health problems, lesser absenteeism etc. Hence, the need to bring policies which are more employee centric in nature is the need of this hour more than ever.

According to various studies and surveys, it has been found that many employees are not able to take up their earned leaves due to excessive workload or the fear of coming back to piled up tasks, job insecurity, etc. This in turn leads to burnouts and increase in absenteeism, which becomes a hurdle in the smooth functioning of the organization.

Hence, employers should encourage individuals to take out time for themselves from work and strike a balance between their professional and personal lives. Bringing in more employee engagement activities, more number of breaks or simple gestures to take out team members for evening coffee will help bring the much awaited change in the culture of an organization.

Employees should be encouraged to take leaves which would provide them break from work and help them fulfil family responsibilities. This will help male employees to get engaged in household responsibilities and in turn reduce the burden on the female employees and help them return to their work and not give up on their careers. This would not only break stereotypes which exist between both the genders but also help in providing a more sustainable way of living.

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