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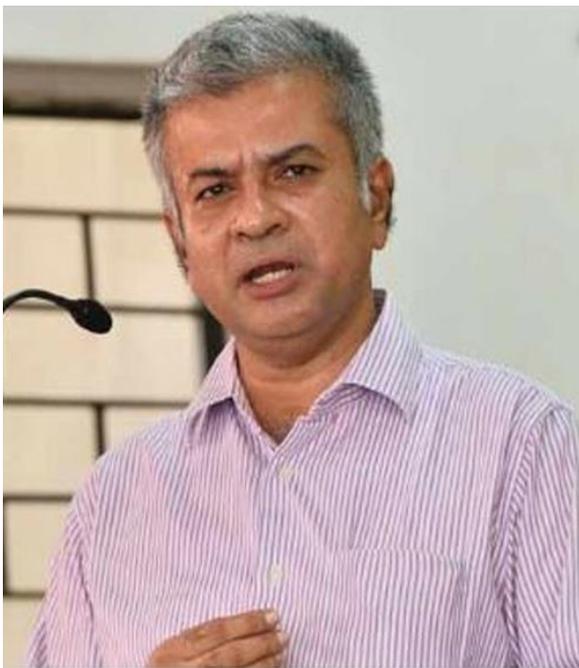
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## *ABOUT US*



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



# **THE CHANGING ROLE OF MEN IN PARENTHOOD AND THE WORKPLACE: PATERNITY LEAVE AND GENDER ROLES.**

AUTHORED BY - SIDDHI RUPAREL & NIYATI SODHA

"Maternity," it has been said, "is a matter of fact, paternity is a matter of opinion."

— Walter Bagehot

## → **Abstract**

The following research shows that Paternity leave is a crucial policy that allows fathers to take some time from work to take care of their newborns. It promotes gender equality, build up family bonds. Many countries and organizations have recognized the benefits of paternity leave, implementing paid or unpaid leave policies to encourage active fatherhood. Research indicates that paternity leave leads to many benefits, including child development not just child but spouse as well, enhanced mental health, and increased employee satisfaction. However, challenges such as societal expectations, workplace resistance, and economic concerns, etc. This paper explores the implications of paternity leave, emphasizing the need for progressive policies that benefit both families and employers

→ **Key-words** : Paternity leave , Gender roles , Men in Parenthood , Cultural Shifts , Work-Life Balance , Societal Perceptions of men , Benefit of paternity leave .

## **1 → The Concept of Paternity Leave**

A well-made leave policy often provides flexibility to help employees manage both work and personal life. Paternity leave is one such leave that allows employees to spend time with their newborn baby.

The concept of paternity leave is evolving in India. While female employees are entitled to mandatory maternity leave, male employees have traditionally relied on casual leave or privilege leave to spend time with their newborns. Although there is no specific labour law mandating paternity leave, many private organisations are beginning to include it in their leave policies to support the well-being of their employees and their family.

### **1.1 → Definition / Introduction**

Paternity leave is a type of paid leave provided to fathers when they have a newborn child. This leave allows new fathers to spend quality time with their families and helps them form a strong bond with their new-born child.

Paternity leave is also applicable in cases of adoption, giving fathers the opportunity to be present and involved in their child's early life. By offering this leave, employers support gender balance in parenting responsibilities.

### **1.2 → Duration, Eligibility & Private companies / Government employees**

#### **Duration:**

The Central Government offers 15 days of paternal leaves taken either before or within 6 months of child's birth or adoption. The leave tenure may vary for different private companies.

#### **Eligibility:**

- All male employees welcoming a baby are eligible. Some companies allow paternity leave to people from the LGBT community as well.
- Applicable for the birth or adoption of a child (under one year old).
- Typically, it requires a minimum tenure with the employer, which is a minimum of 80 days.
- Subject to employer-specific paternity leave policy in India and government regulations.

#### **Paternity leave rules for private companies in India:**

The Indian labour laws do not mandate paternity leaves to employees. As a result, private companies can choose to include or exclude the same from their policies.

The duration of this leave varies based on the company policies. Nevertheless, it may range from 15 days to five weeks within six months of the birth or adoption of a child.

#### **Paternity leave rules for government employees:**

Both the central and state governments have the authority to regulate and establish paternity leave policies. The rules for avail paternity leave vary depending on whether an employee works for the central government or a state government.

## **2 → Historical Overview of Gender Roles in Parenthood and the Workplace**

Gender roles fall into multiple classification. Some gender stereotypes describe how adult men and women are expected to function inside a family. In 20th-century Western culture in a two-parent household with children, the husband was typically the breadwinner and the wife managed the household. However, such dynamics shifted drastically in the later half of the 20th century and onward. Traditionally all male occupations include those in engineering and medicine, as well as jobs requiring high levels of technical skill or physical strength. Traditionally feminine occupations include teaching and secretarial work, as well as caregiving professions like nannying and nursing. Today such stereotypes are being challenged greatly, with women advancing in almost one-third of STEM (science, technology, engineering, and mathematics) careers. Additionally, one-fourth of teacher positions are now held by men. Gender roles include expectations around physical appearance, with American men typically having shorter hairstyles and wearing pants and women often having longer hairstyles and wearing dresses or skirts in certain social situations.

Gender roles regarding paid work outside the home continue to evolve.

### **2.1 → Traditional gender roles in family**

While most Indians say that men and women should share some family responsibilities, many still support traditional, patriarchal values. For example, a slim majority of Indians (54%) say that both the men and the women in a family should be responsible for earning money. But 43% instead take the view that men should be the primary earners. Moreover, nearly two-thirds of Indians (64%) – including 61% of women – express complete agreement with the idea that a wife always is obligated to obey her husband.

Indian attitudes about gender roles within family settings vary widely across religious groups. In general, Sikhs and Buddhists are the most likely to support an equal distribution of family responsibilities, while Muslims are often the least democratic in their attitudes. For example, a large majority of Sikhs say both men and women should earn money in a family (80%) and that both sons and daughters should tend to their parents' funeral rituals (69%). But Muslims are much less likely to view these as shared responsibilities (37% and 24%, respectively); most Indian Muslims say these roles should fall to men and sons.

Young Indian adults typically are no less traditional than their elders in their views on family gender roles, and these attitudes do not vary much between men and women. For instance, 33% of Indian women (along with 34% of men) say that sons should have greater rights than daughters to inherit from parents. But college graduates often are more likely than other Indians to support gender equality in the family. College-educated Muslims, for example, are much more inclined than Muslims with less education to say that sons and daughters should have equal inheritance rights (83% vs. 55%).

Gender attitudes also differ greatly depending on where people live within India. For example, survey respondents in the country's Southern region generally are less likely than those living in the country's Hindi Belt to say that a wife always must obey her husband. But Indians in Southern states don't necessarily go so far as to support egalitarian gender roles in a family – in fact, people in the South are less likely than those in the Hindi Belt to say responsibilities like caring for children or earning money should be shared between men and women.

## **2.2 → How do gender roles affect parenting?**

Mothers are far more likely than fathers to describe themselves as overprotective and to say they give in to their children too quickly. Among parents of children younger than 18, about half of mothers (51%) say they are the type of parent who tends to be overprotective, compared with 38% of fathers. On the flip side, fathers are more likely than mothers to say they tend to give too much freedom (24% vs. 16%). Similarly, mothers (40%) are more likely than fathers (27%) to say they give in too quickly, while fathers are more likely than mothers to say they stick to their guns too much (36% vs. 24%).

There are more modest differences when it comes to how much praise or criticism parents offer: 23% of fathers (vs. 18% of mothers) say they criticize their children too much, while 29% of moms (vs. 23% of dads) say they praise them too much. There are no significant differences between mothers and fathers on whether they push their children too hard or not hard enough, but mothers are slightly more likely than fathers to say neither of those fits their parenting style. Mothers (48%) are more likely than fathers (40%) to say they are trying to raise their children in a very or somewhat different way compared with how they were raised. In turn, fathers are more likely than mothers to say they're raising their kids very or somewhat similarly to how they were raised (47% vs. 40%, respectively).

### **3 → Legal Framework of Paternity Leave**

The rules for paternity leave in India can be different significantly between the public and private sectors. Here's an detailed look at the regulations and guidelines that define how paternity leave is implemented across different sectors:

**Central Government Employees:** Must have been employed for at least 80 days during the 12 months preceding the delivery date or adoption.

**Private Sector:** Eligibility criteria can vary. Some companies may require similar tenure, while others may have different conditions.

#### **3.1 → Overview of paternity leave laws across India.**

When father-specific breaks are brief, they are frequently well-paid; nevertheless, as entitlements exceed one month (4.3 weeks), payment rates typically decrease. Norway has some of the highest payout rates among nations that offer at least one month; on average, payments there nearly entirely replace gross wages. Earner during parental leave — and Spain, where fathers are eligible to 16 weeks of paid paternity leave paid in full. Parental leave payments in Japan, where fathers-only leave is paid for 52 weeks, replace about 60% of an average earner's prior gross income. This results in 31.1 weeks of "full-rate equivalent" father-specific leave, by far the largest paid father-specific entitlement in the OECD. Sorting paid leave benefits by periods (effectively) designated for mothers and fathers, as well as the portion that is fully shareable between them, is an alternative to classifying paid leave benefits as available for mothers and (effectively) designated for fathers. (In point 3.2 you will get to know more about other countries' paternity leave.)

Fathers are entitled to shared portions of the total leave entitlement for families, while mothers continue to take the majority of all paid family leave. In fact, the majority of OECD nations offer a sizable portion of leave, on average 26.2 weeks, that could theoretically be taken by either parent. At the same time, moms have a significantly larger individually reserved right than fathers, which is 12.7 weeks, with an average of 25.7 weeks. The Central Civil Services (Leave) Rule 551 (A), 1972, a paternity benefit bill, establishes the legal basis for paternity leave in India and requires specific rewards for qualified male government workers. Within six months following the birth or adoption of a child, these employees are entitled to a fifteen-day leave of absence. An employee must have worked for a company for at least 80 days in the

12 months prior to the expected date of delivery or adoption in order to be eligible. Additionally, the rule offers related advantages including wage payments during the leave term.

### **3.2 → Policies related to paternity leave in different countries and companies**

#### **IN DIFFERENT COUNTRIES:**

Nordic countries are among the most liberal when it comes to paternity leave policies. Many of these countries provide a mix of flexible leave options that offer different pay rates.

#### **1. Japan**

While many companies take the approach of providing flexibility through shared parental leave, Japan offers a maximum of one full year of paid parental leave exclusively for fathers. This leave is entirely separate from any leave granted to mothers. Pay is tiered with the first half (or 180 days) paid at 67% of the employee's regular salary. The remainder is paid at 50%. Pay is provided by the Japanese government.

#### **2. Portugal**

In Portugal, fathers receive 20 days of standard paternity leave, plus an additional five optional days. Paternity leave in Portugal is paid at 100% of the employee's regular salary through social security.

#### **3. Norway**

Norway is another Nordic country with Open-handed paternity leave laws that balance parenting duties to allow for equal workforce participation. In Norway, fathers are entitled to either 15 weeks at 100% pay or 19 weeks at 80% pay through social security.

#### **4. Canada**

Canada updated its paternity and parental leave laws in 2019, providing five weeks of paternity leave for new fathers. Canada pays 55% of the employee's average annual salary up to a maximum of \$573 per week for the duration of paternity and parental leave.

Across the country, only 11% of dads use their entitlement. But in Quebec, where the culture is notably family-friendly, up to 84% of dads take their paternity leave. Families in Canada also receive 35 weeks of parental leave that can be shared between parents.

#### **5. France**

France recently doubled their paternity leave allowance from two weeks to four weeks. The employer is responsible for the first three days of pay. The remaining 25 days are

paid through social security. An additional seven days of leave are given for multiple births.

#### IN DIFFERENT COMPANIES:

##### 1. **Netflix**

The Netflix website states its policy on parental leave is “take care of your baby and yourself” and that new parents generally take between four and eight months off.

Additionally, the streaming giant offers family formation and reproductive support for parents going through fertility, surrogacy, or adoption processes.

In 2015, Netflix Chief Talent Officer Tawni Cranz said, “We want employees to have the flexibility and confidence to balance the needs of their growing families without worrying about work or finances. We’ll just keep paying them normally, eliminating the headache of switching to state or disability pay.”

##### 2. **Google**

On January 22, 2022, Google announced that all of its employees globally will be able to access between 18 and 24 weeks of paid parental leave. New birthing parents will receive 24 weeks of leave, while surrogate and adopting parents will receive 18 weeks of leave. Google has long been a leader in employee benefits, so the move came as no surprise.

Fiona Ciccioni, Google’s chief people officer, said, “We want to support our employees at every stage of their lives, and that means providing extraordinary benefits, so they can spend more time with their new baby, look after a sick loved one, or take care of their own well-being.”

##### 3. **Cure.fit**

Cure.fit — the Bengaluru-based parent company of fitness chain Cult.fit — announced its gender-neutral parental leave program for its 3,500 employees in November 2022. The policy provides for six months of paid leave for parents of any gender, regardless of whether the baby is adopted, born through surrogacy, or born of conception. After that, flexible working options are available for those who want a longer break.

Ankit Gupta, Head of Product and Engineering at Cure.fit said, “The program empowers our employees to design a life best suited to their aspirations and eliminates bias.”

## **4 → Challenges and Barriers to Men taking Paternity leave**

Despite the increased acceptance of paternity leave in India, there are many challenges and barriers with its application. These barriers make it difficult for fathers to take leave rights and enjoy its benefits.

### **4.1 → Lack of financial incentives or support, career setbacks etc**

Men from all across the world have said that taking leave off makes them look bad at work.



They worry that people will think they are "slacking off" and have lost interest in their jobs. These men claim that taking paternity leave in the middle of their employment is viewed as a break, which may result in fewer opportunities for promotions and appraisals. One of the main obstacles to fathers taking leave, according to the survey, is the expense. The baseline statutory rate, which is far less than the fathers' wage, is used to pay paternity and SPL. Paternity leave and SPL are paid at the basic rate, while maternity leave is paid at 90% of the mother's income or basic pay, whichever is higher. The gender disparity in leave and compensation, which highlights the hegemonic masculinity that males are the family's primary breadwinners, upset many of the fathers. Individuals tend to take yearly leave instead of paternity leave after internalizing these masculinity standards.

We'll explore a few of the reasons why new fathers aren't taking paternity leave below,

#### **1. It is not provided**

Just 15% of companies provide paid paternity leave of some kind. The Family and Medical Leave Act (FMLA), which grants qualified workers up to 12 weeks of unpaid leave following the birth or adoption of a child, does not apply to all 85% of those

businesses.

## **2. Approaching projects or deadlines**

Where a new father may find it difficult to take time off work due to upcoming deadlines or ongoing projects. When it's not medically required, he might not feel that his management supports his decision to leave during a crisis.

## **3. Telecommuting replaces paternity leave**

For some fathers, taking a leave of absence from work does not mean abandoning their work. When coworkers are constantly calling for things, it frustrates men to continue working when they should be supporting and spending time with their families.

## **4.2 → Societal Perceptions of men as primary breadwinners**

Men do not use FMLA provisions for paternity leave for a number of reasons. The most important of these is the dominant societal perception of women as caregivers and men as the breadwinners. Our culture still views motherhood as strongly gendered, with differing expectations for mothers and fathers, even in the face of rising male participation. Men do not have a strong bond with their kids. Many employers provided maternity leave before the FMLA was passed, but fathers were not granted the same benefit. Despite the FMLA, males still receive inferior treatment for newborns. Communications from employers stating that their spouses are in charge of child care and that they have a space in the office. For instance, a lot of legal businesses still demand male staff members to prove they are the primary caretaker before granting them paternity leave.

## **5 → Psychological and Emotional effects of Paternity leave on Men**

Fathers themselves also experience the advantages of paid paternity leave, such as improved mental and physical health, greater engagement in and satisfaction with child care, and more. Extending paid paternity leave laws may promote greater levels of father engagement, particularly among non-resident fathers, according to studies on the subject.

### **5.1 → Mental health benefits of taking paternity leave**

For most men, fatherhood is a time of great joy, happiness, and contentment, even though it also brings along a lot of negative emotional stress. Positive emotional responses are acknowledged in the majority of qualitative studies on men's mental health during pregnancy, but few have thoroughly examined them. In their systematic study of the subject, Baldwin et

al. (2018) observed that mastery, confidence, and joy over the realities of raising a child, becoming a capable father, and doing it in a positive manner with one's spouse were the main factors contributing to paternal satisfaction. Paternity leave is a vital aspect of modern workplaces, fostering stronger family bonds, improving maternal health, and enhancing employee morale and work-life balance.

Following are the benefits of paternity leave:

- **It Can Help a Father's Mental Health:** It is seen that fathers who take Paternity leave were less likely to suffer from depression and other mental health disorders or stress.
- **New parents can form close relationships with their children:** Paternity leave allows fathers to spend time with their newborns which is essential in the initial days of the birth. Parents and children develop solid and lifelong bonds when they are together.

**Parents Can Get the Rest They Need:** New parents are exhausted mentally as well as physically, taking leave can help them rest and help focus on themselves.

- **After giving birth, parents can get back into shape:**

The ability to be more active in their child's life from the start is another advantage of paternity leave for fathers. Paternity leave recipients are more involved in childcare duties and make decisions later.

All things considered paternity leave can benefit both parents and kids. Families who utilize these leaves are more likely to have long-term happiness and health.

Not just this but there are many more to talk about such as

- Enables new fathers to form a lifelong bond with their newborn.
- Strengthens the relationship between fathers and their partners.
- Encourages new fathers to support the career goals of their partners.
- Boosts the happiness of fathers and energizes them.
- Aids new parents in establishing their parenting roles.

## **5.2 → The benefit of paternity leave on employer**

There are also definite strategic advantages for firms when it comes to offering paternity leave:

### **Ensures that workers remain motivated:**

In the absence of paternity leave, men will have to spend the rest of the day balancing their

parenting and professional obligations. They will eventually become psychologically and physically exhausted, which will reduce their productivity at work. Men who take leave will be able to spend more time with their families and return to work with greater energy.

**Attract and keep outstanding talent:**

Businesses and organizations that place a high priority on family-friendly practices, including paid paternity leave, have a better chance of being on top. Paternity leave can improve employee retention and engagement. Additionally, giving workers paid time off and job stability encourages loyalty and makes them more likely to support and refer their business to others.

**Encourage a pleasant culture at work:**

By allowing fathers to spend time with their children and encouraging them to take part in family duties, an organization fosters work culture. It may result in higher levels of productivity at work.

**Make the workplace more equitable:**

You can foster a gender-equal workplace by guaranteeing that both men and women have the right to fraternal leaves. Research conducted in Sweden found that mothers' incomes improve by 7% when men take paternity leave.

Because of this shared duty, conventional gender roles are broken down, creating a more equal workplace and better job opportunities for both parents.

**6 → Case Law**

**In the year 2009, in Chander Mohan jain v. N.K Bagrodia Public School**

In a first ever litigation over an employee claiming paternity leave to take care of his wife and newborn, Chander Mohan Jain, a private school teacher, approached the Delhi High Court to contest the denial of his paternity leave application and the subsequent deduction from his salary by N K Bagrodia Public School. His request for leave was made to attend to his wife and newly born child. In the absence of specific legislation on paternity leave, the Delhi High Court, in its judgment, established that all male employees of unaided recognized private schools were entitled to paternity leave.

Consequently, the court issued a directive for the school to refund the deducted amount to Chander Mohan Jain, providing a significant legal precedent and relief to private sector teachers. This decision sets a noteworthy standard for recognizing and granting paternity leave rights to male employees in unaided private schools.

## **7 → Conclusion**

The changing role of men in both parenting and the workplace mirrors broader societal expectations towards gender equality. Policies on paternity leave play a vital part in reshaping traditional gender roles, enabling fathers to engage more actively in child-development while also challenging workplace standards. By promoting shared responsibilities in parenting, these developments encourage a better work-life balance, decrease gender inequalities in career advancement. However, to fully enjoy these advantages, ongoing efforts are necessary to enhance paternity leave policies, and establish supportive settings for working fathers. In the end, transforming the concept of masculinity to include care-giving will lead to benefits not just for families but for society as a whole.

## **8 → Q&A**

→Is paternity leave mandatory in India?

Paternity leave is mandatory for new fathers working in Central Government-run organisations. However, it is not required for state government organisations or private companies in India to provide this leave to their employees.

→How do corporate cultures influence men's perceptions of paternity leave?

These cultural perceptions of fatherhood prevent fathers from taking up more responsibilities in the family or spending time with the family when the baby is born.

→What are the most common barriers men face when trying to access paternity leave?

### **1. WORKPLACE CULTURE AND CAREER ADVANCEMENT**

Many men worry that taking paternity leave will hurt their reputation at work with colleagues and risk the chance at a promotion.

### **2. LOSS OF INCOME**

Income loss is a common concern for many men thinking about paternity leave.

### **3. PERSONAL DOUBTS**

Can I hack it?" "Will I be a good dad?" "How will I know what to do?" Many men doubt their ability to care before the child arrives.

→Who is eligible to take paternity leave?

Eligibility for paternity leave is reserved for fathers, Here are some common situations:

- Biological fathers
- Adoptive fathers (in the event of a birth or adoption)
- Custodial adults (foster children)

In some countries, the father may be restricted from taking paternity leave unless certain conditions are met, like the death or incapacitation of the natural mother. Some countries exclude same-sex couples. And many countries enforce the minimum length of employment requirements.

→What are the laws for paternity leave in India?

The legal framework for paternity leave in India is provided by a paternity benefit bill known as the **Central Civil Services (Leave) Rule 551 (A), 1972**, which mandates certain benefits for eligible male government employees.

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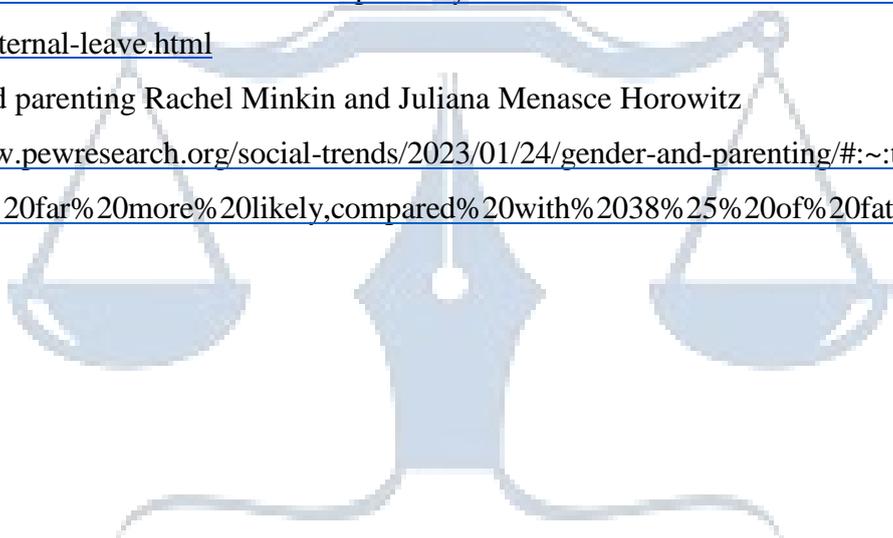
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