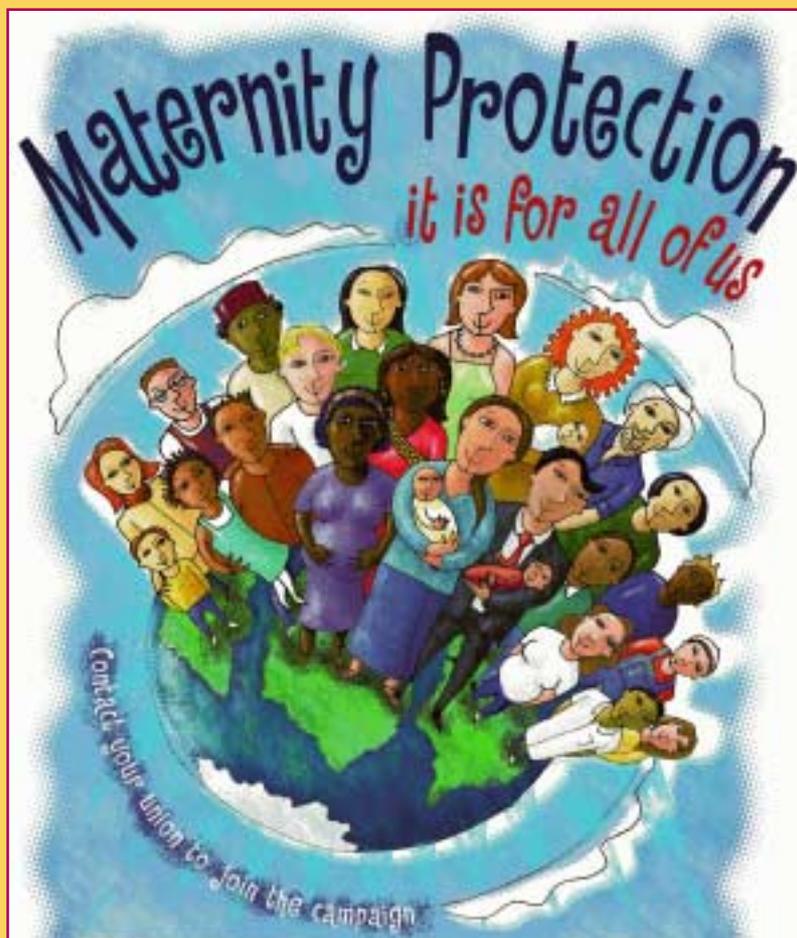


A New Standard for the New Century

Maternity Protection

ILO Convention No.183



Together we can make
Maternity Protection a reality





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June 2001



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***“the need to protect
working women before
and after childbirth.”***

The first Maternity Protection Convention (No.3)



Together we can make it happen!

In the 21st Century, we must make maternity protection a reality!

In June 2000 the International Labour Organization (ILO) adopted a new Maternity Protection Convention and Recommendation (Convention No. 183 and Recommendation No. 191).

Using this new international labour standard as our starting point, trade unions around the world are campaigning to make maternity protection a reality for all working women.

This kit is designed to assist workers, trade unions and community organisations to be a part of the campaign.

Together we successfully campaigned for the adoption of a new Convention and Recommendation, which provides better protection for working women.

It's now up to us to make this protection a reality!

This kit focuses on three priorities:

- Ratifying Convention No. 183 and implementing its associated Recommendation.
- Making maternity protection a reality by ensuring that governments and employers apply the standards in practice.
- Negotiating better protection through collective agreements.

In this kit you will find ideas about how to campaign to have your country ratify the Convention. In some countries, ratification may be a long-term goal. This kit, therefore, also provides ideas and strategies for improving maternity protection through collective bargaining.

Remember: Working to improve conditions in your workplace, industry or country will make it easier to argue for ratification of the Convention.



The Campaign - section one

Campaigning to make maternity protection a reality

The achievement of real standards of maternity protection will require sustained action over a period of time.

The adoption of the new Maternity Protection Convention can be used to promote better provisions in your country.

Remember: Our campaign has three priorities:

- Ratifying Maternity Protection Convention No.183 and implementing its associated Recommendation.
- Making maternity protection a reality by ensuring that governments and employers apply the standard in practice.
- Negotiating better protection through collective agreements.

Use the new Convention to:

- Get people talking about maternity protection and rights.
- Find out what the experiences of women are. Identify the issues they would like addressed as a priority.
- Help people feel that they can make a change by working together. You can do this by assisting them to develop ideas and strategies.
- When you are developing your ideas and strategies, remember to identify those who can work to assist you and those who might be working against you.
- When you are working out your strategies and arguments, remember to consider what those who will oppose might say. This helps you to develop more arguments and to work out counter arguments.

Perhaps you could launch this kit and use the establishment of the forum or national campaign committee to attract media attention to the issue.



Campaign steps

Step One

The campaign to achieve ratification of the Convention and to make maternity protection a reality will have a number of steps:

Establish a forum or a national campaign committee.

This group can co-ordinate building alliances, the gathering of research, the preparation of information materials and the development of strategies. For example, you could contact the ILO office for useful materials.

Depending on your national circumstances, the forum could be made up of a cross section of community organisations and prominent individuals, including the main trade union organisations, women's advocacy groups, health care organisations and key international organisations.

Groups you could invite may include women's networks, women's trade union committees, the ILO, WHO, UNICEF, WABA and IBFAN¹, medical associations, family planning associations, market associations, mid-wives associations, nurseries and primary school organisations and Churches. You may also want to invite supportive people from government agencies who can provide technical assistance, particularly those in departments of labour, health and family welfare.

The purpose of the forum could be to:

- Raise awareness about the ILO Convention No. 183 on Maternity Protection and ILO Recommendation No.191.
- Analyse the current situation with respect to maternity protection in your country, including the state of current legislation and collective bargaining.
- Identify the benefits of, and arguments in favour of, ratification of ILO Convention No.183.
- Propose campaign and lobbying strategies to improve the level of maternity protection, and pressure the government and Parliament to ratify ILO Convention No. 183.
- Draw up a campaign plan of action, with a clear focus relevant to the national situation, including a time frame for the campaign, persons responsible and the level of resources required.

¹ International Labour Office (ILO), World Health Organization (WHO); United Nations' Children's Emergency Fund (UNICEF), World Alliance for Breastfeeding Action (WABA) and International Baby Food Action Network (IBFAN)



Step two

The forum or national campaign committee could carry out an assessment of the current legislation and provisions in collective contracts, compared to ILO Convention No. 183. This is a useful process to see what is actually happening in practice. The national situation can then be compared with provisions within the Convention.

You could look at the situation using the following table:

Protection	ILO Convention No. 183
Scope (who is protected)	<ul style="list-style-type: none"> • All married and unmarried employed women including those in atypical forms of dependent work
Amount of Leave	<ul style="list-style-type: none"> • Not less than 14 weeks • Provision for 6 weeks compulsory postnatal leave
Cash Benefits	<ul style="list-style-type: none"> • Two thirds of the woman's previous earnings OR • Equivalent payment, on average, if an alternative calculation method is used. • Benefits from social assistance funds for women who do not meet qualifying conditions • Benefits to be provided from social insurance or public funds or determined by national law and practice • Developing countries can provide cash benefits at the same rate as for sickness or temporary disability but must report to ILO on steps taken to reach standards
Medical Benefits	<ul style="list-style-type: none"> • Prenatal, childbirth and postnatal care and hospitalisation care when necessary
Health Protection	<ul style="list-style-type: none"> • Pregnant and nursing women shall not be obliged to perform work that is assessed as detrimental to the mother or child
Employment Protection and Discrimination	<ul style="list-style-type: none"> • Unlawful for employer to dismiss a woman during pregnancy, whilst on maternity leave or whilst nursing, unless grounds are unrelated to pregnancy or nursing • Burden of proof rests with employer • Guaranteed right to return to same position or an equivalent position at equal pay • Protection against discrimination in employment on the grounds of maternity. • Prohibition of pregnancy testing at recruitment
Breaks for Breastfeeding	<ul style="list-style-type: none"> • Right to one or more daily breaks for breastfeeding/lactation • Right to daily reduction in daily working hours for breastfeeding. • Breaks or reduction in hours counted as working time and therefore paid



Current Legislation	Current situation – collective bargaining

Note: Trade unions can use this scheme on a sector basis to help them to identify areas for priority action through collective bargaining.

If the information indicates that the majority of protection measures currently afforded to women are similar to those in ILO Convention No. 183, there should be no major obstacles to ratification.

If the information indicates that there are big differences between the current legislation in your country and the provisions in ILO Convention No. 183, then you could draw up a programme of change to achieve the Convention's minimum standards over time.

Remember: ILO Convention No. 183 sets out the internationally recognised minimum standards.



Step Three

Take action to mobilise members of the union and the community.

Some useful strategies include:

- Ask workers whether they have experienced or seen any problems with the current situation at their workplace. Collect testimonies from both male and female workers about these problems.
- Compare the provisions in one country (or sector) with those that exist in another. This is particularly the case when you compare the leave provisions and the benefits.
- Create opportunities for people to exchange information and share stories can be an empowering exercise. Here are some ideas:
 - Get women at a workplace to fill in a survey about their experiences and what changes they would like to see. (An example of a survey form is included in this kit.)
 - Run information sessions at hospitals and maternity clinics, nurseries, family planning associations, Church groups and at legal aid clinics to advise pregnant women and new mothers about their rights at work. Ask women to fill out a survey or petition and put them on a mailing list.
 - Encourage women to write to their Member of Parliament (MP), explaining their stories and arguing for changes in maternity protection provisions.
 - Organise a radio programme on maternity protection, the new ILO Convention No. 183 and the national situation. Include a phone-in facility.
 - Hold information sessions or stalls at markets, shopping malls, etc.
 - Organise a petition through your trade union web-site, or at trade union meetings and events.
 - Have a 'phone-in' for women to ring in and share their experiences of working whilst pregnant and breastfeeding. Publicise the 'phone-in' to the media and develop a press release outlining the results of the 'phone-in'. Invite friendly MPs and other personalities to phone in. (See sample press release within section 2 of this kit.)
 - Stage a public forum on maternity rights. The community needs to understand that maternity protection benefits everyone. You could invite trade union officials, health workers and human rights organisations and women's organisations to give their opinions on what legislative and other changes are required. Publicise the forum widely and invite the media to attend. Have available mailing list and petitions, ready to be signed.
 - Use an Internet facility for women to talk to one another about their experiences. Ask for their ideas about the things that could be changed and what things they think would help them. Use the provisions within the Convention to prompt the debate, for example by asking questions like "Do you think 14 weeks leave is adequate?" Make sure they are asked to sign on to a petition to call for ratification. All of these ideas provide valuable information and networking opportunities and give you opportunities to get media attention.



Step Four

The forum or national campaign committee could develop a set of demands to be put to the government. The same demands can be presented to employers, when negotiating to renew collective agreements. These demands could also be submitted for adoption by your sub-regional and regional trade union organisations. A list of possible demands is contained within this section of the kit

Step Five

Once the demands have been drawn up, ask those organisations and people on your contact list for support. Ask them to take action locally, such as contacting their MP, and promoting the demands within their community.

Why not present your demands to a Member of Parliament? You could ask men and women to attend and make a presentation of the demands to a well-disposed MP publicly. If you can get children there as well, it is bound to create media attention.

Step Six

Remember to set a time frame to your plan of action and to monitor and evaluate your work. At the end of the campaign, evaluate the results and see what worked and what did not. It will be useful for the next campaign!

Remember to publicise the campaign successes to the wider community.

“Create opportunities for people to exchange information”



Making your demands

Whether arguing for ratification of ILO Convention No.183 or seeking improvements through collective bargaining, the following key provisions are vital. Here are some of the arguments you can use to make sure you are persuasive in your demands.

Demand 1

The Big Picture - Why maternity protection is important.

Remember: It is good for everyone!

Fundamental Human Rights - The right to live free of discrimination and harassment is a fundamental human right.

Society and Social Justice - Maternity protection allows women and their partners to make decisions about their babies and the care of these babies without fear of discrimination or the loss of employment.

Many women want to work and even more women have to work to support themselves and their families. Work assists women to maintain their economic independence. The work of women contributes significantly to economic growth in all of our societies.

Protection that allows women to carry out their biological role of bearing and nursing children whilst maintaining their productive roles as workers benefits everyone in society.

Health - Protecting women workers during pregnancy, after birth and whilst nursing enhances women's health and that of the baby. Maternity protection supports the development of the individual health of the mother and child.

Families - Protecting women workers during pregnancy, after birth and whilst nursing is good for families too. Protection that ensures job and income security means those families can enjoy and treasure the experience of birth and childcare. It also means that decisions about child bearing can be made in an atmosphere free from financial and employment anxiety.

Employers - Maternity protection can assist employers to maintain experienced, skilled and valued women employees. Employers who treat employees as if they were an investment (in terms of their skill, knowledge and experience) want these employees to continue working for them. Maternity protection will assist women to make the decision to return to work. An employee who is valued by an employer is a more effective worker.

Governments - Maternity protection that ensures that women can continue to contribute to a country's economic growth, and which maintains women citizens and their children in a healthy state is good for governments. This protection will ensure that a government's scarce resources can be utilised elsewhere. Maternity protection supports the development of a healthy population.



Children - A society that values children protects them. Maternity protection is also about providing a healthy environment for babies. Adequate maternity leave, income security during this time and rights that allow a mother to continue to breastfeed in the best way possible when she has returned to work all promote the health of the newborn child. A generation of healthy children is an asset for any society.

Strong standards of maternity protection benefit all of us - men and women, young and old, employers, employees and governments.

Demand 2

The Scope - Who Gets Access to Protection.

What we want – the maximum number of women to be covered by legislation, regulations and agreements that offer protection to women who are pregnant, nursing and returning to work and which protects the health of their babies. The recognition of emerging employment relationships is significant. This development along with the adoption of the ILO Convention No. 177 on Homework and the ILO Convention No. 175 on Part-time Work means that ILO standards are beginning to recognise atypical forms of work organisation.

What ILO Convention No. 183 provides - ILO Convention No. 183 applies to all employed women, including those in atypical forms of dependent work (e.g. home workers, part-time, temporary and casual workers).

ILO Convention No. 183 applies wherever there is an employment contract, express or implied, written or oral.

Countries can exclude limited categories of workers only when the application of ILO Convention No. 183 would raise “special problems of a substantial nature”.

When lobbying for ratification or negotiating with employers,

Remember: Maximum protection for the maximum number of women workers is needed.

- The definition of “employed women” should be given a broad rather than a narrow definition. Recognition of employment is not dependent on a written contract.
- Avoid provisions that exclude sectors or industries, or parts of sectors or industries wholesale. Remember: ILO Convention No. 183 requires that exceptions are only for special cases.
- Argue against arrangements that require a worker to have fulfilled a minimum service requirement (eg 12 months continuous service with one employer or a minimum number of months or years contribution to a social insurance scheme) before they are able to access the protection.



Remember: Women tend to be in employment situations where they don't have lengthy periods of unbroken service.

- Argue against the exclusion of casual and temporary employees.

Remember: We are arguing here that maternity protection benefits all of society, not just the individual woman and her child.

- ILO Convention No. 183 provides that if a country ratifies the Convention with exclusions, that country is required to take steps to reduce these exclusions over time. The government will be required to consult with the trade unions and employers and submit a report to the ILO.

Demand 3

Maternity Leave - what we want

Women to have a minimum period of paid leave that:

- Allows women to recover physically, psychologically and emotionally from pregnancy and childbirth.
- Promotes the establishment of a healthy feeding regime and care arrangements for babies.
- Gives women (and where applicable their partners) the opportunity to make considered choices about their work and family balance.

What the Convention provides

On production of a medical certificate or other appropriate certification, a woman shall be entitled to a period of maternity leave of not less than 14 weeks.

Arguments In Support of Increasing the Period of Leave

The UNICEF and the WHO recommend a minimum period of 16 weeks of paid maternity leave as a result of the growing evidence of the significant health benefits for babies and mothers of exclusive breastfeeding for a minimum four month period. The World Health Assembly has recently recommended 6 months of exclusive breastfeeding.

Demand 4

Compulsory Maternity Leave - what we want

Women to be in control of the decision about when they return to work after childbirth.



What the Convention provides

With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organisations of employers and workers.

Arguments in support of compulsory maternity leave

Reports from all over the world indicate that too many women have been forced either by their employer or partner to return to work before they were physically and psychologically prepared for this. The compulsory period of postnatal maternity leave is one mechanism designed to provide a minimum period within which women cannot be forced to return to work.

Demand 5

Cash Benefits Provided by Social Security or Public Funds - what we want

Full income replacement for the period that a woman is on maternity leave.

The Convention provides

- That all women on maternity leave shall be provided with cash benefits at a level which allows her to maintain herself and her child in proper conditions of health.
- In those countries that calculate benefits as a percentage of the woman's previous earnings, the amount should be no lower than two thirds of her previous earnings. In countries using other systems, such as a flat rate system, the benefits should be equivalent on average to the amount women would receive if the two-thirds rate had been used.
- The payment of maternity leave cash benefits will be in a manner determined by the State. Wherever a woman doesn't qualify for cash benefits, the Convention establishes that she should receive social assistance funds, subject to a means test.
- Whether it is through government-funded schemes or via negotiation with employers at the national level or by a combination of both, we are aiming for full income replacement. Additional payments can be negotiated with employers over and above the two thirds minimum amount.

Arguments in Support of Paid Maternity Leave

- Over 80 % of ILO Member States provide paid maternity leave of 12 weeks or more. Over 40 % provide 14 weeks or more paid leave.
- Paid leave gives women and their families income security during a time when the mother is recovering from birth and establishing a feeding regime with her baby.



- Income security enables women to choose to return to work at a time when they feel emotionally and physically able. This in turn promotes a happy and healthy return to work.
- Employers report that paid maternity leave assists in the retention of experienced, skilled and valued employees.
- Women's earnings now contribute significantly to the economic growth of a country. A loss of income during pregnancy and following childbirth has a substantial negative effect not only on the household budget but also on the economy overall.
- Children are our future generation. Why should women be penalised economically because they are the ones who give birth?

Developing economies

Countries which do not have sufficiently developed social security systems to allow them to meet the standard in ILO Convention No. 183 can still ratify the Convention, if they provide cash benefits at a rate no lower than that paid for sickness or temporary disability. In that case, they must agree to report to the ILO on the steps taken to reach the standards set in the Convention.

Demand 6

Employment Protection and Non-Discrimination - what we want

- The maximum protection against dismissal during pregnancy, during maternity leave and on return to work while nursing.
- The right to return to the same, or an equivalent, job in terms of pay, conditions and status.
- No discrimination against a woman in any way because she is or may become pregnant, is on maternity leave, or is nursing her child.

What the Convention provides

An employer cannot legally terminate the employment of a woman during her pregnancy, or absence on leave, or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences, or nursing. The previous Convention (No. 103) protected women during absences on maternity leave only.

The employer has to provide proof that the reasons for dismissal are unrelated to pregnancy, or childbirth and its consequences, or nursing.

A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave. This provision did not exist in the previous Convention.

Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including access to employment. This provision, which did not exist in the previous Convention, extends protection against discrimination to women who are seeking employment.



Arguments in favour of employment protection and non-discrimination provisions

- Employers often discriminate against pregnant and nursing women. They make false assumptions about a woman's skills, competence and commitment to the workplace because she is pregnant, on maternity leave or nursing.
- A person's skills and ability to perform a job and their commitment to their workplace must be assessed on criteria that are independent from the fact that they are, or may become pregnant, because they have taken maternity leave or because they breastfeed their child.

The strongest anti-discrimination provisions are, therefore, needed. These provisions, which did not exist in the previous Convention (No.103) should include:

- Any burden of proof to rest on the employer. An employer who seeks to dismiss a woman who is pregnant, or nursing or alter her employment position, should have to prove that the dismissal or alteration was not related to her pregnancy, maternity leave, nursing etc.
- No right to test for pregnancy when applying for employment, unless the employment involves a recognised or significant risk to the health of a woman or her child. It should be noted that these provisions should be used carefully and not simply as a blanket means to exclude women from certain types of work, or from work in particular industries.

Demand 7

Breastfeeding Mothers - what we want

- The right for women to continue breastfeeding their children when they return to work.
- Workplaces which provide facilities for breastfeeding or expressing milk.
- The time spent breastfeeding or expressing milk to be counted as working time.

“Over 80% of ILO Member States provide paid maternity leave”



What the Convention provides

A woman shall be provided with the right to one or more daily breaks or the right to a daily reduction of hours of work to breastfeed her child.

The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice.

These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

Arguments in favour of paid breastfeeding/lactation breaks

- Women do not have to absent themselves from the workplace in order to sustain breastfeeding, provided they have sufficient opportunities to breastfeed or express milk.
- Good practice in this area will enhance employee-employer relations resulting in more motivated, committed and productive workforce.
- There are reduced recruitment and retraining costs due to lower staff turnover as women are healthier, happier and more committed to their employer.
- The employer will benefit from a positive corporate image in terms of the future recruitment of quality staff and also in the eyes of the general public.
- Breastfeeding has significant health benefits for mother and child. For the community, breastfeeding reduces the cost of caring for preventable illnesses. The benefits include a reduction in health insurance costs.
- Breastfeeding is a key component of child care. It encourages the development of a close relationship between mother and child and the hormones, which sustain lactation have a favourable influence on women's overall reproductive health.
- A breastfeeding woman provides the best food for her baby or young child. Breastfeeding reduces the cost of preventable illnesses. It reduces ecological damage through reduction in packaging, distribution and disposal of powdered milk.



Demand 8

Health Protection - what we want

People to work in a healthy and safe working environment without reproductive health hazards.

Provisions which ensure that women cannot be obliged to work in an environment that may be detrimental to their health or the health of their child.

Provisions which ensure health and safety measures are not used to discriminate against the employment of women by excluding women entirely from various forms of work or industries.

What the Convention provides

Member States should consult and then adopt measures to ensure women are not obliged to perform work prejudicial to their health or that of their child.

Work that is prejudicial to health is that which is identified as such by the competent authority.

Arguments in favour of health protection provisions

- Babies do not suffer from malformations as a result of exposure to harmful substances.
- Mothers do not suffer from complications in pregnancy, birth or during the post-natal period as a result of prejudicial strenuous or stressful work.
- There are long-term benefits to the employer and the government associated with having healthier women workers and healthier babies.
- There will be a reduction in the number of stillborn babies and miscarriages.
- There will be an overall reduction in the costs of medical benefits related to maternity as well as medical health care costs in general.



The ILO and Maternity Protection - section two

What are ILO conventions?

The International Labour Organization (ILO) is the United Nations specialised agency, which seeks the promotion of social justice and internationally recognised human and labour rights. It was founded with a mission of achieving universal and lasting peace, through social justice.

The ILO sets international labour standards through the adoption of conventions and, where appropriate, recommendations. Conventions reflect the internationally recognised minimum labour rights. They are designed to be relevant to all countries around the world, regardless of the level of social or economic development. At the same time they must be sufficiently specific to be meaningful in their application.

The ILO is a tripartite organisation. All of its decision-making procedures, including the negotiation of a Convention, involve representatives from governments (Member States), workers and employers.

The ILO's labour standards are designed to provide a benchmark for the provision of human rights within the world of work and are used to guide the design and implementation of labour and social policy at the national level.

Even where a country does not ratify a convention, it is often referred to with authority as the internationally recognised minimum provision.

A convention is not binding on an ILO Member State unless it has been ratified by that State. When a standard is adopted by the International Labour Conference, all ILO Member States are obliged to bring conventions before the authority or authorities within whose competence the matter lies, for enactment of legislation or other action. If that country decides to ratify a convention, it is required to take steps to implement the provisions of the convention in domestic law, policy and practice.

Maternity protection was recognised as a priority by the ILO from its earliest days. The first Maternity Protection Convention (No.3) was adopted in 1919, in recognition of “the need to protect working women before and after child-birth.” Maternity protection is included as one of the aims and purposes of the ILO. In 1952, the ILO adopted the Maternity Protection Convention (Revised) (No.103).

Maternity protection as defined by Convention No.103 included: a minimum period of twelve weeks maternity leave; the payment of cash benefits during this leave, the prohibition against dismissal during the leave period; and the provision of nursing breaks. These standards remained unchanged for almost 50 years until the new Convention was adopted in 2000. Once the new ILO Convention No. 183 is in force, the old Convention is closed for any further ratifications by member States.



The Governing Body of the ILO decided to revise Convention No. 103 in 1997. The revision was undertaken for a number of reasons including:

- Recognition that more women were working in paid employment and were combining work and family responsibilities.
- Developments and improvements over time in the way nations recognise and support working women.
- Recognition of maternity rights in a number of other international treaties including the International Covenant on Economic, Social and Cultural Rights (1966) and the Convention on the Elimination of All Forms of Discrimination Against Women (1979).

Ratifying ILO Standards in Your Country

A Convention does not have a binding effect within any country unless the Government of that country ratifies the Convention. That's why campaigning for ratification is so important.

Once the International Labour Conference has adopted a Convention, member states must bring the Convention before the “competent national authority” for the enactment of legislation or other action.

The “competent national authority “ is the body or authority that has the power to legislate or take action to implement the Convention. It should normally be the legislature because this ensures that the matter is brought before the public so that a complete examination of the issues can take place.

In a federal state, the federal government can take action with respect to the Convention at the federal level if such action is within its Constitution. In that case, the Federal State's obligations are the same as those of other Member States.

However, if the federal government regards the matters contained within the Convention as more appropriate for action at the state, provincial or canton level, then the federal government must refer the Convention to these more appropriate governmental levels for enactment of legislation or other action. The federal government remains responsible for arranging periodical consultations between these various levels of government in order to promote action to give effect to the Convention.

When a government submits a convention to the competent authority, the government should also provide a statement or proposal as to what the government believes is the appropriate action to be taken with regard to the Convention.



In the case of ILO Convention No. 183 this means that the new Convention should be brought before the competent national authority as soon as possible.

Do you know if this is happening in your country?

- Do you know who is considered to be the competent national authority in your country?
- Do you know what action your government is proposing to take with respect to the Convention?
- Who in your legislature is sympathetic to ratification of Convention No. 183?
- Who will oppose ratification?
- Ask sympathetic Members of Parliament to ask questions during Parliament about the process and what the government is intending to do.
- If you think there is not enough support for ratification, consider an alternative strategy such as a recommendation to form a Parliamentary Committee to review and investigate the implementation and ratification of the Convention.
- How can you influence the report that your Government makes when it refers the matter to the competent authority?
- Give particular consideration to talking to the Minister of Labour and Ministry of Health or Women's Affairs to find out what is being said and to try and influence the recommendations in the report that will go forward.

A Government is required to provide information to the ILO about what action it has taken to refer the matter to the competent authority and the action taken by them. They are also required to provide this information to the representative employers' and workers' organisations in their country.

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This means that your trade union centre should at least have information about what the Government is proposing to do.

- Find out this information. Ask your trade union centre to make submissions to the competent authority about the course of action it considers appropriate.
- Your trade union centre can also ask to participate in the process of consultation and discussion about how the competent authority handles the question of ratification, and what action it proposes should be taken with respect to the Convention.
- If a national campaign committee is established, as outlined in this kit, then you should use the existence of this broad coalition of community interests to press for a dialogue with your government and the designated competent authority.
- Ensure that the submission of your trade union centre is sent not only to the government but also directly to the ILO (International Labour Standards Department).
- Information about what your government intends to do can be used as part of your broader community campaign to gain support for ratification.

If your government does not report on its actions within the required time, then your trade union centre can bring this to the attention of the ILO. If your government indicates that it is having difficulties fulfilling the reporting requirements then they should be encouraged to seek assistance from the regional offices of the ILO.



Campaign Resources - section three

Training programme

The following training programme is designed to be flexible in terms of the way it is delivered. It is divided into sessions. These sessions can be delivered together as a one-day training programme or can be delivered as separate short sessions over a period of time. The training sessions can be used to develop a national campaign or to improve maternity protection at the industry or workplace level.

Aims

- Participants understand ILO processes and how an ILO Convention comes into operation.
- Participants understand the role and impact of ILO Conventions in the national environment.
- Participants understand the key provisions of ILO Convention No. 183.
- Participants develop a campaign strategy to lobby for ratification of ILO Convention No. 183 and to improve the level of maternity protection available in their country, industry or workplace.

Session One

- What is the International Labour Organization?
- What is a Convention?
- How does a Convention affect me?

Resources: “Maternity Protection ILO Convention No. 183: A New Standard For A New Century Campaign Kit”

ILO Website at <http://www.ilo.org/>

Session Two

- What is maternity protection?
 - Why maternity protection?
- Resources: “Maternity Protection 2000:It’s For All of Us Campaign Kit”
Sections 1, 2, 3 & 4

- Maternity Protection ILO Convention No. 183

Key Provisions:

Scope
Maternity Leave
Compulsory Leave
Benefits
Health Protection
Employment Protection & Discrimination
Breastfeeding Mothers

Resources: “Maternity Protection ILO Convention No. 183: A New Standard For A New Century Campaign Kit”



Session Three

- What is the situation in my country/industry/workplace?

Resources: “Maternity Protection ILO Convention No. 183:
A New Standard For A New Century Campaign Kit”
Table Section 1

Session Four

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Campaigning! PSI Trade Union Education Materials

“Trade unions around the world are campaigning to make maternity protection a reality for all working women”



Press release to launch the campaign kit

New Campaign Kit Outlines Campaign to Make Maternity Protection A Reality For All Working Women

An international campaign kit has been designed to assist union and community organisations to campaign for maternity rights.

M..... of said the kit will be used by the trade union-community coalition established to pressure the Government to ratify the International Labour Organization’s Maternity Protection Convention No. 183. Trade unions will use the kit to raise their members’ awareness of maternity rights.

“This will lead to new demands being made to employers to improve maternity rights,” M....said.

The ILO Convention, which was adopted in June 2000, took two years to negotiate. “It represents the internationally recognised minimum protection that should be available to all women who work, M. said.

The main forms of protection included in the Convention are:

- the right to at least 14 weeks maternity leave;
- paid maternity leave at a standard equal to two-thirds of a woman’s previous earnings;
- the right to medical benefits, including prenatal, childbirth and post-natal care;
- protection from dismissal ;
- the right to breastfeed in the workplace when returning to work;

The kit will be launched (fill in details of the launch here)

For more information or copies of the kit contact.....



Press release to launch the national campaign

Unions and Community Organisations Form Alliance to Promote the Rights of Pregnant Working Women

Today theTrade Union Centre announced the establishment of a union - community alliance designed to promote the rights of pregnant women and women returning to work after childbirth. M.....said in launching the campaign that the groups involved in the alliance were committed to the aim of making maternity protection for working women a reality in the 21st Century. The alliance includes the following groups.....

The first priority of the alliance is to gain the commitment of the national government to ratify the International Labour Organization's Maternity Protection Convention No.183.

The Convention, which was adopted in June 2000, took two years to negotiate. "It represents the internationally recognised minimum protection that should be available to all women who work," M said.

"It is unthinkable that in the 21st Century we still hear numerous stories from women who face harassment and discrimination in the workplace when pregnant or when returning to work after childbirth. The new Maternity Protection Convention addresses many of these concerns."

The main forms of protection included in ILO Convention No. 183 are:

- the right to at least 14 weeks maternity leave;
- paid maternity leave at a standard equal to two-thirds of a woman's previous earnings;
- the right to medical benefits, including prenatal, childbirth and post-natal care;
- protection from dismissal,
- and the right to breastfeed in the workplace when returning to work.

"The forms of protection contained in the ILO Convention No. 183 benefit all of society. They allow families to make considered decisions about birth and childcare and they promote an on-going connection between women and their workplace during pregnancy and after birth. Damaging and discriminatory behaviour are made illegal," M.....said.

M.... said that the union-community alliance is committed to making maternity rights a reality. "It's our duty to working women and to society. Governments will be strongly encouraged to ratify the Maternity Protection Convention. We will campaign to increase the public awareness of the need for improved maternity protection and to improve workplace practices," M.....said.

For more information contact:.....



Press release launching results of the survey

Survey Results Demonstrate the Need For Maternity Protection

A survey of working women has found that pregnant women and those returning to work after childbirth do not feel they get a fair deal and many still face harassment and discriminatory behaviour in the workplace.

Mof..... said the results of the survey demonstrate that there is a need for strong legislative provisions to protect pregnant working women and women who are returning to work after childbirth.

The survey found that:

For example:

% of working women did not know what maternity protection entitlements they had;

% of working mothers had not received their full maternity protection entitlement;

% of working women did not feel they could access their full maternity protection entitlements without putting their future employment at risk;

(include survey results here)

One survey participant included in her survey response the following remarks:
(include quote from survey here)

M.....called for the Government to respond to the alarming survey results immediately by agreeing to ratify the ILO Maternity Protection Convention (No. 183), which outlines internationally recognised minimum standards, and by introducing legislation to make maternity rights a reality.

“It is clear that we cannot rely on employers individually to introduce practices which overcome harassment and discrimination. Working women want maternity protection to become a reality. Now they are demanding that the Government take decisive action to protect their rights and ensure employers act responsibly,” M.....said.

The survey of working women is part of a national campaign launched by unions and community groups to raise awareness of the need for action to improve maternity protection.

For more information on the survey and the national campaign contact.....



Draft letter to call for ratification of the ILO Convention No. 183

Minister of Labour
From Trade Union Centre

Dear Minister

Re: Ratification of ILO Convention No. 183 on Maternity Protection

I am writing with regard to ILO Convention No. 183 on Maternity Protection, adopted by the International Labour Conference in June 2000. Since this adoption, two countries, Italy and Slovakia, have ratified the Convention.

In accordance with the requirements under the Constitution of the ILO, member States are required to bring the Convention before the competent national authority for the enactment of legislation or other action. I therefore request information from you about the steps that your Office has taken to bring this matter before the competent national authority. In particular we are seeking information concerning the consultation process that will be used to make a decision about ratifying the Convention, or any other action that may be taken, and the mechanism available to the trade union centre to make submissions in this process.

We would be extremely grateful if you could provide us with details of the process that your Department and the Government are using to review this matter. We would also wish to request that a meeting be held between your Department and the trade union centre to discuss ratification of the Convention and other related matters.

Yours faithfully,

Signed on behalf of the
Trade Union Centre



Union journal article

Join the international campaign to make maternity protection a reality

Our members tell us that women, who are pregnant or who are returning to work after childbirth, experience harassment and discrimination. It's hard to believe that as we enter the 21st Century employers are still allowing these unacceptable practices to continue.

The harassment and discrimination includes practices like:

- dismissing women once they have informed their employer they are pregnant;
- moving pregnant women or women who are breastfeeding to lower paid 'safe' jobs;
- questioning the work commitment of women who decide to have children;
- refusing women their full maternity leave or threatening them with demotion or job loss on return to work;
- delaying payments or not paying maternity leave.

Some employers also make it extremely difficult for women who have taken maternity leave to return to work by:

- not allowing a woman to return to her previous job ;
- refusing to negotiate flexible work practices such as part-time work and job-sharing;
- refusing to allow a woman to breastfeed or express breastmilk in the workplace.

New International Standard

Women world-wide face these discriminatory practices. In recognition of this, the International Labour Organization (ILO) adopted a new Maternity Protection Convention in June 2000. An ILO Convention sets out the internationally recognised minimum standards that should apply in any workplace.

The international trade union movement campaigned successfully to make sure that the new ILO Convention represented an improvement in the minimum standards. The new Convention includes the following provisions:

Most women covered

Protection covering all employed married or unmarried women including those in atypical forms of dependent work.

Maternity Leave

A period of maternity leave of not less than 14 weeks.

No forced return to work

Maternity leave includes a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organisations of employers and workers.



Payment during maternity leave

ILO Convention No. 183 works from a model that views cash benefits for maternity leave as a right. It recognises the payment of maternity leave through social insurance or public funds or in a manner determined by national law and practice. In general, the standard that the Convention establishes is payment equivalent to two thirds of a woman's earnings.

Wherever a woman doesn't qualify for cash benefits, the ILO Convention No. 183 establishes that she should receive social assistance funds, although these may be subject to a means test.

Protection from dismissal and discrimination

It is unlawful for an employer to terminate the employment of a woman during her pregnancy, or absence on leave, or during a period following her return to work, to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing.

The burden of proof that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences, or nursing shall rest on the employer.

A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

Each Member State must adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including access to employment.

The right to breastfeed or express milk at work

A woman has the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

Health Protection

Pregnant and breastfeeding women are not obliged to perform work that has been determined to be prejudicial to the health of the mother, or the child or where there is an established significant risk of harm.

It should be noted that these provisions are recognised as the minimum that should be available.

The Campaign

As part of the worldwide campaign, we have identified three priorities:

- Ratification of ILO Convention No. 183 on Maternity Protection and its associated Recommendation.
- Making maternity protection a reality by ensuring that governments and employers apply the standards in practice.
- Negotiating better protection through collective agreements.

To be part of the campaign contact:



Sample survey - maternity and work

Section 1 - General Information

1. How old are you?

- Under 20 20-25 25-30 30-35
 35-40 40 +

2. Where do you work?

Industry _____ Company name _____ Department _____

3. Are you employed?

- Full-time Part-time Casual Temporary
 On a piecework system As a home based worker

4. What is the name or title of your job?

5. Does your workplace have:

- Mostly male employees Mostly female employees
 About the same numbers of male and female employees

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Section 2 - Pregnancy and employment

1. Have you ever been pregnant while employed?

- Yes No
(if no go to question 3)

If yes, how many times? _____

2. What was your employer's reaction to finding out you were pregnant?

- Supportive Unsupportive

Please give examples _____



3. While you were pregnant at work, did you need to request light duties or be transferred to a safe job?

Yes No

If yes, did you experience any difficulty with this request?

Yes No

If yes, why? _____

4. Were you transferred to another post due to your pregnancy in an unnecessary manner? For example were you moved to a lesser paid or less senior position when there was no apparent reason for this.

Yes No

If yes, please give details _____

5. Did you need to take time off work as a result of/during your pregnancy?

Yes No

Reason, e.g. sickness, doctors appointment _____

6. Did you experience any difficulty with your employer in taking time off work?

Yes No

If yes, please explain _____

7. Prior to becoming pregnant, were you aware of your rights and obligations in relation to maternity leave?

Yes No

Did you get this information from:

Work Colleagues Your union Your employer

Others, please specify _____

**8. Did your employer know his/her rights and obligations in relation to maternity leave?**

Yes No

If no, what difficulties, if any, did you experience because of this? _____

9. Was your maternity leave

paid OR unpaid

OR both paid and unpaid

If paid, how long was the paid period and what level of payment did you receive (eg 100% of previous income for 3 months etc). _____

10. Did you have any difficulties accessing medical and/or midwifery services including prenatal, childbirth and postnatal care?

Yes No

If yes, please provide details of these difficulties _____

11. Did you experience any difficulties when returning from maternity leave?

Yes No

If yes, please give details _____

12. When returning to work from maternity leave, did you return to your previous post?

Yes No

If not, why not? _____



13. When returning from maternity leave, did you seek agreement from your employer to return part-time?

Yes

No

Were there any problems and/or obstacles about returning to work on a part-time basis?

14. Did you breastfeed your baby?

Yes

No

15. For how long did you breastfeed your baby? _____

16. If you breastfed your baby, did you continue to do this when you returned to work?

Yes

No

17. If you continued to breastfeed when you returned to work, did you breastfeed/express at the workplace?

Yes

No

18. If you breastfed or expressed milk at the workplace, what facilities were made available to assist you? (e.g. private room, washing facilities, storing facilities etc.)

19. How long were you offered as breastfeeding breaks and were those breaks considered as working time and paid accordingly?

Length of time every day:

Yes

No

20. If you did not continue to breast feed when you returned to work ,was the attitude of your employer or the lack of facilities at your workplace a reason for stopping?

Yes

No

If yes, please provide details _____



21. Please give information about any other experience you had during pregnancy at work (Supportive/unsupportive workmates etc.) _____

Section 3 - Discrimination

1. Do you believe you have been discriminated against because you were pregnant, or have the potential to fall pregnant, or because you are a mother, in any of the following areas:

- Advertising and recruiting for positions
- In the terms and conditions of employment
- Training
- Promotion
- Termination of Employment

Please give details _____

2. Have work practices and/or conditions of employment in your workplace affected your decision to have, or not to have children?

- Yes No Not relevant

If yes, why? _____



Thank you for filling out this survey. In June 2000, the International Labour Organization adopted ILO Convention No.183 on Maternity Protection. The international trade union movement is carrying out a campaign to convince national governments to ratify this Convention and ensure that the minimum standards contained within the Convention are a reality for all working women.

Your union is part of this campaign. The information provided by you in this survey will assist your union. If you would like to receive more information on maternity rights for working women or be part of the campaign please fill out the details below:

OPTIONAL

Name _____

Address _____

Home phone _____

Work phone _____

Work fax _____

E-mail address _____

Adapted with thanks from the Maternity and Work Survey of the Australian Service Union.



Full Text of the ILO Convention and Recommendation Text of the Conventions

C183 Maternity Protection Convention, 2000

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and

Noting the need to revise the Maternity Protection Convention (Revised), 1952, and the Maternity Protection Recommendation, 1952, in order to further promote equality of all women in the workforce and the health and safety of the mother and child, and in order to recognize the diversity in economic and social development of Members, as well as the diversity of enterprises, and the development of the protection of maternity in national law and practice, and

Noting the provisions of the Universal Declaration of Human Rights (1948), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979), the United Nations Convention on the Rights of the Child (1989), the Beijing Declaration and Platform for Action (1995), the International Labour Organization's Declaration on Equality of Opportunity and Treatment for Women Workers (1975), the International Labour Organization's Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), as well as the international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, in particular the Convention concerning Workers with Family Responsibilities, 1981, and

Taking into account the circumstances of women workers and the need to provide protection for pregnancy, which are the shared responsibility of government and society, and

Having decided upon the adoption of certain proposals with regard to the revision of the Maternity Protection Convention (Revised), 1952, and Recommendation, 1952, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention; adopts this fifteenth day of June of the year two thousand the following Convention, which may be cited as the Maternity Protection Convention, 2000.

Scope

Article 1

For the purposes of this Convention, the term woman applies to any female person without discrimination whatsoever and the term child applies to any child without discrimination whatsoever.

Article 2

1. This Convention applies to all employed women, including those in atypical forms of dependent work.
2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.
3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.



Health Protection

Article 3

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

Maternity leave

Article 4

1. On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.
2. The length of the period of leave referred to above shall be specified by each Member in a declaration accompanying its ratification of this Convention.
3. Each Member may subsequently deposit with the Director-General of the International Labour Office a further declaration extending the period of maternity leave.
4. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.
5. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

Leave in case of illness or complications

Article 5

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

Benefits

Article 6

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave referred to in Articles 4 or 5.
2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.
3. Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.
4. Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.
5. Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.
6. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other



manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.

7. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.

8. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:

(a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or

(b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.

Article 7

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.

2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization,

explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken with a view to progressively raising the rate of benefits.

Employment protection and non-discrimination

Article 8

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.

2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

Article 9

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including - notwithstanding Article 2, paragraph 1 - access to employment.

2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:

(a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or

(b) where there is a recognized or significant risk to the health of the woman and child.



Breastfeeding mothers

Article 10

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

Periodic review

Article 11

Each Member shall examine periodically, in consultation with the representative organizations of employers and workers, the appropriateness of extending the period of leave referred to in Article 4 or of increasing the amount or the rate of the cash benefits referred to in Article 6.

Implementation

Article 12

This Convention shall be implemented by means of laws or regulations, except in so far as effect is given to it by other means such as collective agreements, arbitration awards, court decisions, or in any other manner consistent with national practice.

Provisions

Article 13

This Convention revises the Maternity Protection Convention (Revised), 1952.

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General. 3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 16

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.



Article 18

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 19

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

The English and French versions of the text of this Convention are equally authoritative.

Recommendation No. 191

At the same time as the International Labour Conference adopted the new Convention it also adopted a new Maternity Protection Recommendation. The Recommendation is not binding on those countries which ratify the Convention. However, recommendations play an important promotional role setting out higher standards that are recognised as appropriate targets for countries to work towards.

Governments which ratify the Convention should include in their reports how they are progressively working to achieve the implementation of the recommendations.

Key points in the Recommendation include: 18 weeks paid maternity leave, cash benefits at 100%, workplace health protection, appropriate workplace facilities and adoptive and parental leave.

R191 Maternity Protection Recommendation, 2000

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and having decided upon the adoption of certain proposals with regard to maternity protection, which is the fourth item on the agenda of the session, and having determined that these proposals shall take the form of a Recommendation supplementing the Maternity Protection Convention, 2000 (hereinafter referred to as “the Convention”), adopts this fifteenth day of June of the year two thousand the following Recommendation, which may be cited as the Maternity Protection Recommendation, 2000.



Maternity leave

1. (1) Members should endeavour to extend the period of maternity leave referred to in Article 4 of the Convention to at least 18 weeks. (2) Provision should be made for an extension of the maternity leave in the event of multiple births. (3) To the extent possible, measures should be taken to ensure that the woman is entitled to choose freely the time at which she takes any non-compulsory portion of her maternity leave before or after child-birth.

Benefits

2. Where practicable, and after consultation with the representative organisations of employers and workers, the cash benefits to which a woman is entitled during leave referred to in Articles 4 and 5 of the Convention should be raised to the full amount of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.

3. To the extent possible, the medical benefits provided for in Article 6, paragraph 7, of the Convention should include:

- (a) care given in a doctor's office, at home or in a hospital or other medical establishment by a general practitioner or a specialist;
- (b) maternity care given by a qualified midwife or by another maternity service at home or in a hospital or other medical establishment ;
- (c) maintenance in a hospital or other medical establishment;
- (d) any necessary pharmaceutical and medical supplies, examinations and tests prescribed by a medical practitioner or other qualified person; and
- (e) dental and surgical care.

Financing of benefits

4. Any contribution due under compulsory social insurance providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits, whether paid by both the employer and the employees or by the employer, should be paid in respect of the total number of men and women employed, without distinction of sex.

Employment protection and non-discrimination

5. A woman should be entitled to return to her former position or an equivalent position paid at the same rate at the end of her leave referred to in Article 5 of the Convention. The period of leave referred to in Articles 4 and 5 of the Convention should be considered as a period of service for the determination of her rights.

Health protection

6. (1) Members should take measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. The results of the assessment should be made available to the woman concerned.

(2) In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of: (a) elimination of risk;

(b) an adaptation of her conditions of work;

(c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or

(d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.



(3) Measures referred to in subparagraph (2) should in particular be taken in respect of:

- (a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;
- (b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;
- (c) work requiring special equilibrium;
- (d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.

(4) A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.

(5) The woman should retain the right to return to her job or an equivalent job as soon as it is safe for her to do so.

(6) A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical examinations relating to her pregnancy.

Breastfeeding mothers

7. On production of a medical certificate or other appropriate certification as determined by national law and practice, the frequency and length of nursing breaks should be adapted to particular needs.

8. Where practicable and with the agreement of the employer and the woman concerned, it should be possible to combine the time allotted for daily nursing breaks to allow a reduction of hours of work at the beginning or at the end of the working day.

9. Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.

Related types of leave

10.(1) In the case of the death of the mother before the expiry of postnatal leave, the employed father of the child should be entitled to take leave of a duration equal to the unexpired portion of the postnatal maternity leave.

(2) In the case of sickness or hospitalization of the mother after childbirth and before the expiry of postnatal leave, and where the mother cannot look after the child, the employed father of the child should be entitled to leave of a duration equal to the unexpired portion of the postnatal maternity leave, in accordance with national law and practice, to look after the child.

(3) The employed mother or the employed father of the child should be entitled to parental leave during a period following the expiry of maternity leave.

(4) The period during which parental leave might be granted, the length of the leave and other modalities, including the payment of parental benefits and the use and distribution of parental leave between the employed parents, should be determined by national laws or regulations or in any manner consistent with national practice.

(5) Where national law and practice provide for adoption, adoptive parents should have access to the system of protection offered by the Convention, especially regarding leave, benefits and employment protection.



Table of comparisons - Maternity leave around the world

Country	Length of Leave	% of Wages
<i>Africa</i>		
Algeria	14 weeks	100
Angola	90 days	100
Benin	14 weeks	100
Botswana	12 weeks	25
Burkina Faso	14 weeks	100
Burundi	12 weeks	50
Cameroon	14 weeks	100
Central African Rep.	14 weeks	50
Chad	14 weeks	50
Comoros	14 weeks	100
Congo	15 weeks	100
Côte d'Ivoire	14 weeks	100
Dem. Rep. of the Congo	14 weeks	67
Djibouti	14 weeks	50 (100% for public employees)
Egypt	50 days	100
Equatorial Guinea	12 weeks	75
Ethiopia	90 days	100
Gabon	14 weeks	100
The Gambia	12 weeks	100
Ghana	12 weeks	50
Guinea	14 weeks	100
Guinea-Bissau	60 days	100
Kenya	2 months	100
Lesotho	12 weeks	0
Libyan Arab Jamahiriya	50 days	50
Madagascar	14 weeks	100
Mali	14 weeks	100
Mauritania	14 weeks	100
Mauritius	12 weeks	100
Morocco	12 weeks	100
Mozambique	60 days	100
Namibia	12 weeks	as prescribed



Country	Length of Leave	% of Wages
Niger	14 weeks	50
Nigeria	12 weeks	50
Rwanda	12 weeks	67
Sao Tome/Principe	70 days	100 for 60 days
Senegal	14 weeks	100
Seychelles	14 weeks	flat rate for 10 weeks
Somalia	14 weeks	50
South Africa	12 weeks	45
Sudan	8 weeks	100
Swaziland	12 weeks	0
Tanzania	12 weeks	100
Togo	14 weeks	100
Tunisia	30 days	67
Uganda	8 weeks	100 for one month
Zambia	12 weeks	100
Zimbabwe	90 days	60/75
Americas		
Antigua/Barbuda	13 weeks	60
Argentina	90 days	100
Bahamas	8 weeks	100
Barbados	12 weeks	100
Belize	12 weeks	80
Bolivia	60 days	100 of nat'l minimum wage + 70% of wages above minimum wage
Brazil	120 days	100
Canada	17-18 weeks	55 for 15 weeks
Chile	18 weeks	100
Colombia	12 weeks	100
Costa Rica	4 months	100
Cuba	18 weeks	100
Dominica	12 weeks	60
Dominican Republic	12 weeks	100



Maternity leave around the world

Country	Length of Leave	% of Wages
Ecuador	12 weeks	100
El Salvador	12 weeks	75
Grenada	3 months	100 (2 months), 60% for 3rd month
Guatemala	12 weeks	100
Guyana	13 weeks	70
Haiti	12 weeks	100 for 6 weeks
Honduras	10 weeks	100 for 84 days
Jamaica	12 weeks	100 for 8 weeks
Mexico	12 weeks	100
Nicaragua	12 weeks	60
Panama	14 weeks	100
Paraguay	12 weeks	50 for 9 weeks
Peru	90 days	100
Saint Lucia	13 weeks	65
Trinidad/Tobago	13 weeks	60-100
United States	12 weeks	0
Uruguay	12 weeks	100
Venezuela	18 weeks	100
Asia/Pacific		
Afghanistan	90 days	100
Australia	1 year	0
Bahrain	45 days	100
Bangladesh	12 weeks	100
Cambodia	90 days	50
China	90 days	100
Fiji	84 days	Flat rate
India	12 weeks	100
Indonesia	3 months	100
Iran	90 days	66.7 for 16 weeks
Iraq	62 days	100
Japan	14 weeks	60



Maternity leave around the world

Country	Length of Leave	% of Wages
Jordan	10 weeks	100
Korea, Republic of	60 days	100
Kuwait	70 days	100
Laos	90 days	100
Lebanon	40 days	100
Malaysia	60 days	100
Mongolia	101 days	
Myanmar	12 weeks	66.7
Nepal	52 days	100
New Zealand	14 weeks	0
Pakistan	12 weeks	100
Papua New Guinea	6 weeks	0
Philippines	60 days	100
Qatar	40-60 days	100 for civil servants
Saudi Arabia	10 weeks	50 or 100
Singapore	8 weeks	100
Solomon Islands	12 weeks	25
Sri Lanka	12 weeks	100
Syria	75 days	100
Thailand	90 days	100 for 45 days then 50% for 45 days
United Arab Emirates	45 days	100
Viet Nam	4-6 months	100
Yemen	60 days	100
Europe		
Austria	16 weeks	100
Belarus	126 days	100
Belgium	15 weeks	82 for 30 days, 75%* thereafter
Bulgaria	120-180 days	100
Cyprus	16 weeks	75
Denmark	18 weeks	100* 10 more weeks may be taken by either parent



Maternity leave around the world

Country	Length of Leave	% of Wages
Finland	105 days	80
France	16-26 weeks	100
Germany	14 weeks	100
Greece	16 weeks	75
Hungary	24 weeks	100
Iceland	2 months	Flat rate
Ireland	14 weeks	70* or fixed rate
Israel	12 weeks	75*
Italy	5 months	80
Liechtenstein	8 weeks	80
Luxembourg	16 weeks	100*
Malta	13 weeks	100
Netherlands	16 weeks	100
Norway	18 weeks	100, and 26 extra paid weeks by either parent
Poland	16-18 weeks	100
Portugal	98 days	100
Romania	112 days	50-94
Russia	140 days	100
Spain	16 weeks	100
Sweden	14 weeks	450 days paid parental leave: 75%, 360 days; 90 days, flat rate
Switzerland	8 weeks	100
Turkey	12 weeks	66.7
Ukraine	126 days	100
United Kingdom	14-18 weeks	90 for 6 weeks, flat rate after

* *up to a ceiling*



Sources for further information

National Level

National laws:

1. Labour Code
2. Social security Legislation
3. Equality Legislation

Government Ministries/Departments

1. Ministry of Labour
2. Ministry of Health and Social Security
3. Ministry for Women's Affairs

Local Offices of International Organisations

1. The International Labour Organization (ILO)
2. The World Health Organisation (WHO)
3. United Nations Children's Emergency Fund (UNICEF)

International Organisations

ILO - International Labour Office
Route des Morillons 4
CH - 1211 Genève 22 Switzerland
Tel: 41 22 799 6111
Fax: 41 22 798 8685
E-mail ilo@ilo.org
Web: www.ilo.org

WABA - World Alliance for Breastfeeding Action, P.O. Box 1200
10850 Penang
Malaysia
Tel: 604 658 4816
Fax: 604 657 2655
E-mail: secr@waba.po.my
Web: www.waba.org.br

IBFAN - International Baby Food Action Network,
CP 157, 1211 Genève 19, Switzerland
Tel: 41 22 798 9164
Fax: 41 22 798 4443
E-mail: info@gifa.org
Web: www.ibfan.org

WHO - World Health Organisation
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Web: www.who.int

UNICEF - United Nations Children's Fund
UNICEF House, 3 United Nations Plaza
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PSI - Public Services International

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