

A Look at Paternity Leave Rights across the World and Applications for Jamaica



Introduction

Article 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) outlines the right to work and the enjoyment of just and favourable conditions of work. These rights are concerned with fair wages, equal pay for equal work, equal opportunity, rest and leisure. Paid parental leave falls within the realm of these rights, ensuring that parents are able to play a more active role in the growth and development of their child in the early stages.

Paid maternity leave is associated with improved child and maternal health outcomes, while paid paternity leave is said to have a positive effect on the child's cognitive development and child-parent bonding.

This policy brief will look briefly at parental leave in Jamaica and other jurisdictions, how parental leave is applied to LGBT couples given their realities and recommendations on how gender equality and can be achieved, particularly for queer parents in Jamaica.

Parental Leave in Jamaica

In 1979, the Jamaican Parliament passed the Maternity Leave Act, which ensured for women paid time off from work due to pregnancy. Women get 12 weeks of maternity leave although only 8 weeks are paid. The maternity leave with pay only applies to the first three pregnancies and so for subsequent pregnancies, the leave is unpaid.

The Act is the only piece of legislation to date that addresses any kind of parental leave in Jamaica. While this legislation gives time off to women to care for their newborn, it disproportionately places the burden of caring for a newborn on the mother, effectively ignoring the role fathers play and fails to take into account the realities of queer parents within the Jamaican context.

Parental Leave in English-speaking Caribbean

Many English-speaking Caribbean countries have some form of maternity. In Barbados, for example, a woman is given a period of no less than 12 weeks for maternity leave. There is also a maternity grant given where the child is born to a single man and a single woman who have been living together for 2 years or more before the date the baby is delivered.

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In Trinidad and Tobago, maternity leave is for a maximum of 14 weeks. The employee also has the benefit of reasonable time off for clinic/doctor appointments for prenatal care and resuming work after such leave on terms no less favorable than enjoyed immediately prior to the employee proceeding to leave.

In Dominica, women get a maximum of 3 months maternity leave while in St Kitts & Nevis maternity leave is for a maximum period of 13 weeks.

None of these English-speaking Caribbean countries has a paternity/parental leave law or policy. Countries like Barbados have proposed the drafting of legislation that would see men getting paid time off to help care for their newborns.

There are also no policies for queer parents in the English-speaking Caribbean.

Parental Leave Beyond the Caribbean

Paternity leave across the world is very unpopular. Forty of the world's richest countries, which includes Estonia, Austria, Norway and Mexico, have some amount of paid parental leave, with the majority allocated for maternity leave. However, paid leave for fathers is now available in 34 of those countries. The leave period is usually for two weeks, but in places like Japan, half of 30 weeks available for paid leave is earmarked for new fathers. These policies are a step in the right direction to achieving gender equality, but these policies do little to address the needs of LGBTQ parents.

Parental Leave for LGBT Parents

A study by researchers at the University of California, Los Angeles (UCLA) found that parental leave laws and policies in most countries did not prohibit same-sex couples from paid leave. However, they only referenced the needs of heterosexual couples and did not acknowledge same-sex couples.

It was also found that on average, gay couples had five fewer months of paid leave than heterosexual couples, while lesbian couples received three fewer months than heterosexual couples. Only four countries offer the same paid leave to all couples, namely, Australia, New Zealand, Iceland and Sweden. These countries give insight into how queer couples can be included in parental leave policies and legislation.

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In Australia, a 2008 same-sex law reform package expanded the rights afforded to queer couples, including parental leave. Under the Parental Leave Pay Scheme, primary caregivers of newborns or recently adopted children get up to 18 weeks paid leave. Parents who, having accessed the scheme, return to work before the end of the period and may choose to transfer the remaining leave to their respective partners. There is also the Dad and Partner Pay Scheme, eligible working dads or partners (including adopting parents and same-sex partners) who care for a child born or adopted from January 1, 2013. This leave, however, is only two weeks compared to the maximum 18 weeks of paid leave given to primary caregivers.

Conclusion and Recommendations

Parental leave laws which consider both mothers and fathers are only present in a handful of countries. Further, there are also very few examples of parental leave policies across the world that are inclusive of LGBT couples. Although there is a need for paternal leave legislation in Jamaica, it will not be enough to address faced by queer parents. To promote gender equality, Jamaica should:



1. Repeal section 18 of the Constitution to remove the Constitutional block, preventing same-sex relationships from being recognized.



2. In the long term, enact comprehensive parental leave legislation taking into account the realities of different types of families.



3. In the short term, revise current employment laws to include paternal leave.

