

Intervention Instruments and Levels for Maternity Protection at Work

You can advocate for maternity protection in the workplace at many levels. This section looks at several different levels of intervention – the global, the regional, the national and the local level to help you see where your campaign fits into the bigger picture. You will try to influence the level where you are campaigning. At the same time, your campaign may also be influenced by events at other levels.

The four levels at which intervention can be made relate to international instruments, regional agreements, national laws and workplace policies and regulations. Each country is sovereign and develops laws based on its own cultural, social, economic and political situation. Within a state, these laws are the minimum acceptable standard.

However, when a state chooses to adopt or ratify an international instrument, for instance by ratifying an ILO Convention or by enacting a regional directive, it must bring its national laws into conformity with that instrument. A national law can nevertheless be stronger than an international agreement.

Within the country, regulations and legislation adopted can be stronger than the national standard, but they can not be weaker. Therefore, legislation adopted in a specific municipality, district or province, for example, as well as workplace policies and regulations instituted by a company or an employer at local level, or collective bargaining agreements (CBAs) negotiated in a specific workplace, throughout a company, must all meet the minimum standards set in a national law. In fact, they can be stronger than the national law. They often are, acting as a model, that is later adopted as national legislation

Your intervention may be to campaign at the international level for instruments that relate to maternity protection and for ratification of these instruments by national governments. Or it may be to formulate and enact improved maternity protection legislation at the national

level. It may be to influence trade unions and employers to come up with policies and agreements supporting maternity protection. In all cases, a basic element of advocacy is raising awareness to ensure that workers and employers know their rights and responsibilities under the law.

1. Global level

i) **International instruments:** directly or indirectly support a woman's right to breastfeed. Some call for specific measures to safeguard breastfeeding in connection with employment. The following are some of these international instruments:

- Universal Declaration of Human Rights (UDHR), 1948
- International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966
- International Covenant on Civil and Political Rights (ICCPR), 1966
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979
- International Code of Marketing of Breast-milk Substitutes, 1981
- Subsequent relevant WHA resolutions, 1982, 1984, 1986, 1988, 1990, 1992, 1994, 1996, 2001, including in 2002 (the Global Strategy on Infant and Young Child Feeding)
- Convention on the Rights of the Child (CRC), 1989
- Innocenti Declaration, 1990
- Beijing Platform for Action, 1995.

ii) **ILO Conventions and Recommendations:** Conventions set minimum labour standards. A country that ratifies a Convention is bound to follow it under international law. Recommendations give detailed guidelines or suggest higher standards.

Maternity Protection Conventions and Recommendations include the following:

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| • C3, 1919 | • R95, 1952 |
| • C183, 2000 | • R191, 2000 |
| • C103, 1952 (no longer open for ratification) | |

- There are numerous other Conventions/ Recommendations which directly or indirectly deal with maternity protection at the workplace.

2. Regional Level

Regional directives and arrangements: In many parts of the world, nations have formed regional political and economic alliances or other forms of agreements (see below). Both regional policies and trade agreements influence or in some cases determine, national rules for working conditions and treatment of workers, so they should be examined carefully, e.g. IBFAN Africa works with SADC Employment and Labour sector to improve maternity protection at that level.

- ASEAN – Association of South East Asian Nations
- AU – African Union
- CONOSUR – network of centres and organisations in southern countries of Latin America: Argentina, Brazil, Bolivia, Chile, Paraguay and Uruguay
- EU – European Union
- MERCOSUR – Common Market of the South
- NAFTA – North American Free Trade Agreement
- SADC – Southern Africa Development Community.

3. National Level

i) National laws and regulations: Maternity protection laws may be found under many headings, including Labour, Women, Occupational Health or Gender Equity. Legislation may be drafted at various levels:

- National or federal
- State, district, province, canton
- Local, i.e. municipality, community

In all cases they have to comply with the national minimum standard.

Most countries in the world provide for *maternity protection legislation* in one form or another. However, maternity protection may also exist in the form of national labour code, or the health insurance regulation, or the civil code, or as policies to protect pregnant workers and new mothers. Thus, maternity legislation may be the responsibility of a number of ministries (e.g. ministry of labour, social affairs, health, industry, agriculture or the ministry of women's affairs).

The vast majority of countries provide for *paid maternity leave*. Paid leave may be as short as eight weeks and only for mothers as in Lebanon or Mozambique. At the other extreme, it may provide five months of maternity

leave at 80 per cent salary as in Italy or it may cover both parents for 16 months as in Sweden, where it is called “parental leave.” For more details see the chart *Status of Maternity Protection by Country*.

ii) Collective bargaining agreements or CBAs are the result of collective bargaining between trade unions and employers. These written agreements are generally short term (a few months to a few years) but may be renewed after their expiry. Maternity protection elements such as the right to exemption from night duty or the establishment of a breastfeeding facility may be included. A CBA contains all the terms and conditions of employment that have been agreed to between the trade union representatives and the management and often go beyond the conditions provided for by national legislation, thereby setting a precedent. A collective agreement is legally binding. It deals with “the rights and responsibilities of 1) management, 2) workers and 3) the union, and must be fair and reasonable to all parties.”¹

CBAs can be negotiated at national or at local level. CBAs may include:

- Agreements that affect an entire sector or profession
- Agreements between a specific union and an employer or a group of employers
- Agreements for a specific workplace.

4. Local Level

i) Workplace Policies: Policies and regulations are specific to a given workplace, firm or group. In the case of multinational corporations, policies tend to differ from country to country, from one plant to another. The details of maternity leave, protection, benefits and workplace facilities should be found in regulations that are accessible to workers and their representatives and they have to comply with national law. Regulations can be:

- Agreements for a specific workplace
- Agreements for a specific firm or corporation.

ii) Community-based programmes: These are also specific to a given workplace, firm or factory. They are usually undertaken after an agreement or contract made between the employer and non-governmental organisations or community based groups. These programmes may include workers' education, conducting awareness programmes on health, maternity protection, C 183, breastfeeding, or setting up and managing crèches at a workplace, etc.

1. PSI Education Department, *An Introduction to Collective Bargaining*, n.d., p. 4.