CARING Webinar Series Highlighting the strategic recommendations from the State of the World's Fathers 2023 Report



MenCare Webinar Series 5

Normalize Parental Leave

Friday, 3 November, 2023

07:00 - 08:30 am PT / 10:00 - 11:30 am EST / 04:00 - 05:30 pm CEST







Agenda

Opening and welcome	Mpho Mabhena	
Introduction of topic and speakers	Mpho Mabhena	
MenCare, State of the World's Fathers and CARING recommendations:		
	Taveeshi Gupta	
Fathers and parental leave	Jonathan Hoffenberg	
Litigating for equal parental leave in South Africa	Kayan Leung	
Advocacy for parental leave in Argentina	Delfina Schenone Sienra	
Global trends and insights on parental leave	Nick Perry	
Speaker and audience reflections and Q and A	Mpho Mabhena	
Closing and announcement of next webinar	Mpho Mabhena	



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Normalize equal parental leave

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Kayan Leung Lawyers for Human **Rights - South Africa**



Delfina Schenone Sienra ELA Argentina



Taveeshi Gupta Equimundo







Jonathan Hoffenberg The Parent Centre





Mpho Mabhena moderator Sonke Gender Justice

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OUR VISION IS TO SEE MEN DOING 50% OF THE DAILY CARE WORK















A GLOBAL FATHERHOOD CAMPAIGN

Inaugural conference Cape Town 2013 equimundo MenCare State of the World's hers 2023 Centering Care in a World in Crisis

Center care systems in policies and public institutions, focusing on the most marginalized

Advocate for a culture of care in all workplaces

Revolutionize the way boys are taught about care

nvest in care, measure it, and disaggregate by gender, social class, and age

Normalize equal parental leave for mothers, fathers, and all caregivers, and for care of all kinds

Generate and disseminate mainstream media that portrays men and boys as caring and competent caregivers



equimundo Men Care

State of the World's

Fathers 20 "Not all Malaysian men are able to bond with their newborns from their first days of a World in Crisis life, as there are still zero days of paid paternity leave provided in employment laws in parts of Malaysia (Sabah and Sarawak). It is still widely believed that a man's role as a parent is to 'help' rather than be an active and engaged partner."

- Sabrina Aripen, president and founder of the Society for Equality, Respect And Trust for All Sabah (SERATA), MenCare partner, Malaysia





Parental leave is transformative when done right

- •Establish a pattern of shared participation in care work that persists after the leave period.
- Increase fathers' comfort, competency, and sense of responsibility as parents so that they are more likely to take leave and care more equitably.

•Change the social and political acceptability of men's uptake of leave and shift individual attitudes about care roles.



Benefits of paid parental leave



OF MOTHERS SAY

MOTHERS' LEAVE WILL BENEFIT FATHERS AND CHILDREN



OF MOTHERS SAY

FATHERS' LEAVE WILL BENEFIT MOTHERS AND CHILDREN

85%

OF FATHERS SAY

MOTHERS' LEAVE WILL BE BENEFIT FATHERS AND CHILDREN



OF FATHERS SAY

FATHERS' LEAVE WILL BENEFIT MOTHERS AND CHILDREN



Parental leave increasing but...

...varies in length and is often short

...set up to benefit those in formal employment

...inequitable for same-sex couples





Percentage of fathers and mothers willing to make changes for more parental leave





What impact do you feel your company's paid family leave policy has had on the company's employee morale and retention during the pandemic?







RECOMMENDATION 14: Governments should establish equal, fully paid, nontransferable parental leave for all parents, in addition to maternity leave for pregnancy- and birth-related health needs.

> **RECOMMENDATION 15**: Make more paid parental leave days available for men, getting to equal, paid, and substantial parental leave for all parents, with 14 weeks for both parents as a minimum and a nontransferable portion for fathers.

RECOMMENDATION 16: Governments must work to

ensure the distribution of paid parental leave across diverse income groups and employment categories, including informally employed workers.

RECOMMENDATION 17: Regional multilateral entities, such as the European Union, Organization of American States, and African Union, can work toward regional directives that encourage or mandate parental leave provisions across more countries, especially in the Global South.

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3 November 2023, Kayan Leung, Head: Strategic Litigation and Gender Equality Programme

Normalize Equal Parental Leave: A MenCare CARING Webinar

Litigating for equal parental leave in South Africa



LAWYERS FOR HUMAN RIGHTS

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LAWYERS FOR HUMAN RIGHTS

Van Wyk and others v Minister of Employment and Labour [2023] ZAGPJHC 1213

- Applicants: Van Wyks (1st & 2nd), Sonke Gender Justice (3rd), Commission for Gender Equality (4th)
- **Respondent**: Minister of Employment and Labour

Facts of case:

- Mr & Mrs Van Wyk had a child in April 2021. Mrs van Wyk was a CEO of two small independent businesses.
- They decided that Mr Van Wyk would be the primary care giver of their child as it made most financial sense as well as in their child's best interest. He applied for 'maternity leave' stipulated under BCEA and employer's policy.
- It was rejected as it did not fall under any category of: i) maternity leave for female employees giving birth to the child (4 months); ii) adoption leave of 10 weeks for primary caregiver (incl same sex relationships) and other partner can take 10 days, iii) parental leave (aka paternity leave) for fathers or same sex partners
- Mr Van Wyk ended up taking annual leave and a sabbatical (demonstrated short term financial prejudice to care for their child).



Legal arguments:

- 1. First and Second Applicant (van Wyks):
 - Reading of 'employee' S 25(1), 25(2)(a) & 25(5) of the BCEA Act 75 of 1997 includes all parents irrespective if they gave birth or not.
- Alternatively, S 25 of BCEA is unconstitutional & invalid excludes non-birthing parents.

2. Second and Third Applicant (Sonke & CGE):

- S 25 of the BCEA is unconstitutional & invalid (not aligned with definition of parent in Children's Act 38 of 2005 incl. biological fathers, commissioning parents in surrogacy, adoptive parents and spouses of partners who give birth via artificial fertilisation using one of spouses' gamete (same leave not granted elsewhere in BCEA for such parents).
- S 25(A)(1) of BCEA should allow for all parents to be granted 4 months vs 10 days in law.



2. Second and Third Applicant (Sonke & CGE) continued:

- S 25(B)(1), 25(B)(6) & 25(B)(7) of BCEA should allow *each* adoptive parent 4 months parental leave vs current 10 weeks for one and 10 days for other, fail to grant any leave for adoptive parents of child over 2 years.
- S 25(c)(1) & 25(c)(6) of BCEA should allow each commissioning parent in surrogacy to 4 months parental leave vs 10 weeks for one and 10 days for other.
- S24 of UIF Act 63 of 2001 is unconstitutional & invalid as it excludes parents except biological mother to claim benefits.
- S 26(A)(1), 26(A)(4), 27(1), 27(5), 29(A)(1) & 29(A)94) of UIF to allow every parent to claim benefits to max of 17.32 weeks under act vs 10 weeks/10 days, should include adoptive parents of children over 2 years.



3. Respondent:

- Process must go before NEDLAC (all labour related legislation)
- Laws not unconstitutional, if discrimination then justified rationally developed in line with South African economy (no evidence/report on impact of UIF given)
- "uniqueness of SA landscape" of family structure and single parent families and migrant workers
- Need for women to recover
- Concern of abuse of fathers of leave



Judgment handed down 25 October 2023 (Sutherland DJP):

It was declared that sections 25, 25A, 25B, 25C of the Basic Conditions of Employment Act no 75 of 1997 and corresponding provisions in the Unemployment Insurance Fund Act no 63 of 2001 are invalid, and inconsistent with provisions of the Constitution, to the extent that they:

- unfairly discriminate between mothers and fathers,
- unfairly discriminate between one set of parents and another, on the basis of whether the children were born of their mother, conceived by surrogacy, or adopted.
- Parliament will have two years from the date of judgment to cure the defects of these provisions, with an interim relief that entitles all parents to a collective period of at least 4 months of parental leave.



Judgment handed down 25 October 2023 (Sutherland DJP):

{40} The proposition is advanced that the application is 'not procedurally justified and negates the realities of South African society and culture and economic realities.' What can this mean? The contention is fleshed out by the suggestion that the legislature should not 'attempt to engineer cultural and societal changes in the family structures'. The 'free services' of mothers and the 'roles of fathers' ought not to be interfered with. No more motivation is provided. Perhaps the less said about this mind-set is best. It suffices to say that the subordination of women as family-servants and commodities, however widespread such attitudes may be among many inhabitants of the country, is in no degree consistent with the norms of the Constitution. The reach of the Constitution, in its most modest aspirations, requires social equality between men and women and is uncompromising in actualising that as the status quo for everyone.

[33] There are many examples where other countries prescribe more generous periods of leave. However, it is no part of this case that the court is called upon to address more than the question of an inequality of the duration of leave for each class of parent and for fathers and mothers or same-sex partners. The helpfulness of this literature is in the *ubiquitous recognition of parents qua parents rather than a strict delineation between fathers and mothers, a norm wholly in line with the International instruments and with our Constitution*.

Thank you.



@LHR_SA



Lawyers for Human Rights



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Advocacy for equal parental leave

The case of Argentina

Delfina Schenone Sienra dschenone@ela.org.ar





20 years collective construction ELA is a feminist civil society organization created in Buenos Aires in 2003. We work to promote women's rights and gender equality in Argentina and Latin America, through research, capacity building and advocacy, promoting access to justice and better public policies to improve the living conditions of women and girls, in all their diversity.

For more than 10 years we have sought to influence the creation of public policies that ensure the right to care for all people, that allow the possibility of choosing how to care and promote social coresponsibility so that caring does not mean less employment, lower income, more poverty, less social security and worse quality of life for women. National context regarding parental leave



Research Reports Arguments







Working with different stakeholders

















EMPRESAS QUE CUIDAN

Reports and investigations 3




Reports and investigations

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Campaigns and raising awareness

POR MÁS DÍAS DE LICENCIA PARA VARONES

LISLICENCIA (PATERN



Making alliances





















In public forums as specialists



Proyecto de Ley "Cuidar en Igualdad" 000000

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	PROGRESIVIDAD SEGÚN AÑOS DE VIGENCIA					
Licencia	AHORA	A LA ENTRADA EN VIGENCIA DE LA LEY	A 2 AÑOS	A 4 AÑOS	A 6 AÑOS	A 8 AÑOS
Licencia gestantes (LCT, TCP, Régimen Agrario)	90 DÍAS			126 DÍAS		A
Licencia no gestantes (LCT, TCP)	2 DÍAS	15 DÍAS	30 DÍAS	45 DÍAS	60 DÍAS	90 DÍAS
Licencia no gestantes (Régimen Agrario)	30 DÍAS			45 DÍAS	60 DÍAS	90 DÍAS
Licencia para adoptantes	NO EXISTE	•		90 DÍAS	•	• •
Asignación personas gestantes monotributistas, monotributistas sociales y autónomos	NO EXISTE			126 DÍAS		
Licencia personal no gestante monotributistas y autónomos	NO EXISTE	15 DÍAS	30 DÍAS	45 DÍAS	60 DÍAS	90 DÍAS









El estru



Thank you very much!

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✓ X: @equipoELA
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Global Policy Progress towards Normalizing Equal Parental Leave and Advancing Equality Nicholas Perry Senior Research Analyst and Outreach/Partnerships Manager, WORLD Policy Analysis Center

worldpolicycenter.org



WORLD Policy Analysis Center: Data Areas

WORLD has data on more than 2,500 policies in 193 countries in policy areas that affect **human health**, **development**, **well-being**, and **equity**, including:

- Gender
- Nutrition
- Reproductive Health
- Public and Population Health







Is paid leave available for mothers of infants?



Source: WORLD Policy Analysis Center, Adult Labor Database, 2022



Do countries reserve paid leave for fathers of infants which supports gender equality in caregiving?



Source: WORLD Policy Analysis Center, Adult Labor Database, 2022









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Explicit legislative guarantees to parental leave



Findings for part-time workers reflect guarantees to part-time workers either a) without a minimum threshold of hours, or b) to those working a quarter of full-time hours or less.





Are working parents guaranteed any leave for children's everyday health needs?



Source: WORLD Policy Analysis Center, Adult Labor Database, 2022





How much paid leave is available to workers to meet a parent's serious health needs?



Source: WORLD Policy Analysis Center, Adult Labor Database, 2022









Paid Parental Leave: Peer-Reviewed Evidence for Promoting Norm Change

- Examining the effects of paid parental leave policy that incentivize or encourage fathers to take time off on attitudes towards women's work
 - ✓ 68,214 individuals in 9 countries
- **Findings**
 - In countries with policies incentivizing or encouraging fathers to take paid parental leave, both men and women were 27% more likely to disagree with the statement "when jobs are scarce, men should have more right to a job than women" with only marginal differences across gender.



Source: Omidakhsh, N., Sprague, A. and Heymann, J. (2020), Dismantling Restrictive Gender Norms: Can Better Designed Paternal Leave Policies Help? . Analyses of Social Issues and Public Policy, 20: 382-396. https://doi.org/10.1111/asap.12205



All Data Publicly Available and Downloadable



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Website Available in 6 Languages



worldpolicycenter.org



We welcome collaborations or questions about the data

Nick Perry Outreach/Partnerships Manager <u>nperry@ph.ucla.edu</u>

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NEXT WEBINAR: 1 DECEMBER 2023



equimundo MenCare State of the World's thers 2023 Centering Care in a World in Crisis

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www.men-care.org Get Involved - info@men-care.org

MenCare is coordinated by Equimundo and Sonke Gender Justice