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Research Article

The Missing Half of Parental Rights: Paternity Leave, Labour Market Penalties, And the Future of Gender Equality in India

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Abstract

The question of whether paternity leave can materially alter women's career outcomes has become a critical point of inquiry in contemporary debates on gender equality, labour regulation, and economic reform. Despite global evidence that men's participation in early childcare significantly reduces the motherhood penalty and improves women's long-term labour market outcomes¹India's policy landscape remains marked by legislative silence and cultural inertia. The absence of a statutory paternity leave framework—contrasted sharply with the comprehensive, father-inclusive parental leave regime of Sweden²—reveals a deeper structural disconnect between legal reform, workplace realities, and entrenched gender norms³. While Indian labour law has expanded maternity protections, this unilateral emphasis inadvertently reinforces the patriarchal assumption that childcare is exclusively a woman's responsibility⁴, thereby intensifying the very inequalities the law purports to remedy. This paper argues that the limited uptake of caregiving roles by men is not merely a social habit but a symptom of a broader institutional and economic architecture that structurally devalues unpaid domestic⁵. The persistence of the glass ceiling in India is thus closely linked to the legal invisibility of fathers and the economic hyper-visibility of mothers in the sphere of care⁶. A comparative examination with Sweden—the global exemplar of gender-neutral and non-transferable paternity leave—demonstrates how a well-designed leave system can shift societal expectations, equalise career interruptions, and facilitate women's upward mobility within the labour market⁷. The failure to establish similar reforms in India exposes a fundamental "equality gap": a space where symbolic commitments to gender justice coexist with the practical perpetuation of women's economic disadvantage⁸. Ultimately, this paper contends that without legislating and normalising paternity leave, India's aspirations for workplace equality will remain aspirational rather than transformative⁹, revealing a critical blindspot in the nation's pursuit of substantive gender parity.

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1. INTRODUCTION

PATERNITY LEAVE, GENDER ROLES, AND THE LEGAL FRAMEWORK

1.1 Contextualising Paternity Leave Within Gendered Labour Structures

The question of paternity leave occupies a central position in contemporary debates on gender equality, labour reform, and the restructuring of care responsibilities. Extensive global research demonstrates that men's participation in early childcare reduces the "motherhood penalty" and materially improves women's long-term labour market outcomes¹⁰. Countries adopting father-specific, non-transferable leave quotas—such as Iceland, Norway, and Sweden—show narrower gender gaps in wages, promotions, and employment continuity¹¹.

India's statutory landscape, however, continues to reflect a persistent asymmetry. While maternity leave is mandated under the **Maternity Benefit Act 1961**, paternity leave remains unregulated for the private sector and exists only as a 15-day administrative entitlement for Central Government employees¹². This legislative silence reinforces the cultural presumption that childcare is inherently a woman's responsibility¹³. As a result, the legal framework entrenches gendered caregiving by making women the "default parent," contributing to disproportionate career interruptions, wage stagnation, and decreased labour-force participation among mothers¹⁴.

The omission of paternity leave is therefore not neutral; it is a normative posture that shapes economic outcomes. It situates fathers as legally invisible actors in childcare and mothers as captive to unpaid domestic labour. This structural imbalance sits uneasily with constitutional guarantees of equality under Articles 14, 15, and 16, which require the State to dismantle—not reproduce—gendered disadvantage¹⁵.

1.2 Cultural Norms, Legal Invisibility of Fathers, and the Reinforcement of the Motherhood Penalty

Although the 2017 amendment to the Maternity Benefit Act, which expanded paid leave to 26 weeks, was celebrated as a progressive reform, scholars caution that one-sided maternity provisions risk reinforcing employer perceptions that hiring women is costlier and riskier¹⁶. The law thus unintentionally magnifies the motherhood penalty by deepening the association between women and prolonged workforce absence. Without a corresponding obligation on men, the burden of care remains gendered in both law and practice.

This phenomenon has been described in feminist jurisprudence as the "care conundrum": the State recognises reproductive labour but fails to redistribute it, thereby institutionalising inequality¹⁷. Women consequently experience dual burdens—full responsibility for unpaid domestic work alongside assessments of how HEIs are implementing these reforms remain limited.

This study empirically examines skill development initiatives in HEIs under NEP 2020, focusing on institutional practices, perceived skill outcomes, and implementation challenges.

diminished bargaining power in the formal economy. Economic analyses confirm that women's time-use patterns are a key determinant of wage suppression, reduced mobility, and career stagnation across sectors¹⁸.

The glass ceiling in India is thus not simply a product of individual bias but the predictable result of a structural framework that legally assigns childcare to women and excludes fathers from statutory caregiving roles. Research from multiple jurisdictions indicates that when men are provided with non-transferable leave, women experience faster return-to-work rates, greater full-time employment, and improved promotion trajectories¹⁹. India's policy vacuum blocks this equalising mechanism and perpetuates a gendered hierarchy within both households and workplaces.

1.3 Comparative Legal Insights: Sweden as a Model for Gender-Neutral Caregiving Reform

Sweden's parental-leave regime stands as the paradigmatic example of gender-neutral, father-inclusive policy design. The "father's quota," introduced in 1995 and expanded thereafter, provides non-transferable paternity leave that fathers must "use or lose," thereby embedding paternal involvement in early childcare²⁰. Empirical studies show long-term increases in fathers' domestic participation, higher maternal employment rates, and reduced gender disparities in career continuity²¹.

This comparative framework exposes India's "equality gap": a structural disconnect between constitutional rhetoric and legislative action. While India espouses commitments to gender justice, it continues to legislate care through a maternal lens, thereby reinforcing outdated gender roles. The absence of paternity leave not only burdens mothers but grants men uninterrupted economic privilege, resulting in entrenched workplace inequality.

In contrast, Sweden's model demonstrates that legally enforced paternal caregiving recalibrates social expectations, normalises shared domestic responsibilities, and redistributes the economic costs of reproduction. It provides a workable blueprint for transforming caregiving from a gendered obligation to a shared societal responsibility. Without similar reforms, India's pursuit of substantive gender parity remains aspirational rather than transformative.

2. THE LEGISLATIVE VACUUM: PATERNITY LEAVE IN INDIA AND THE LIMITS OF MATERNITY-CENTRIC LAW

India's statutory framework on childcare leave is defined more by omission than by inclusion. The Maternity Benefit Act 1961 (MBA)—the primary legislation governing reproductive rights in the workplace—provides extensive maternity protections yet remains entirely silent on corresponding entitlements for fathers. This asymmetry has produced what scholars term a "maternity-centric" architecture of care²². Although the 2017 amendment expanding paid maternity leave to 26 weeks was heralded as progressive, it has inadvertently reinforced the patriarchal presumption that childcare is exclusively a woman's responsibility. Employers consequently internalise maternity as a gender-specific cost, increasing

statistical discrimination in recruitment, retention, and promotion of women²³.

Paternity leave, by contrast, exists only as an administrative privilege for Central Government employees under the Central Civil Services (Leave) Rules 1972, which provide 15 days of paid leave.²⁴ The private sector remains governed by no statutory mandate, making access contingent on voluntary employer policy. Empirical data indicates that fewer than 10% of private organisations offer paid paternity leave, and uptake remains minimal due to workplace stigma, gendered expectations, and the absence of legislative backing²⁵. In effect, Indian labour law constructs fathers as peripheral to childcare while legally burdening mothers with the entirety of early caregiving.

This statutory vacuum raises significant constitutional concerns. By creating a gender-differentiated structure of reproductive labour, the Indian labour regime conflicts with equality guarantees under Articles 14, 15, and 16 of the Constitution, which prohibit discrimination on the basis of sex and mandate equal opportunity. Judicial interpretation has repeatedly emphasised that equality must be substantive rather than formal, requiring the State to dismantle—not reinforce—structural disadvantage²⁶. Without legislating paternity leave, India’s maternity-centric regime entrenches patriarchal norms, exacerbates the motherhood penalty, and undermines women’s long-term economic mobility.

3. THE ECONOMICS OF CARE: LABOUR MARKET PENALTIES, LEGAL DESIGN, AND THE VALUE OF UNPAID WORK

The economic consequences of gendered care work illustrate the deep structural connections between labour-market inequality and legislative design. Empirical scholarship establishes that the “motherhood penalty”—including reduced wages, slower promotion rates, and lower labour-force participation—is directly tied to women’s disproportionate burden of unpaid domestic labour²⁷. Women in India perform nearly three times more unpaid care work than men, yet this labour remains economically invisible and legally unaccounted for, distorting the allocation of paid employment²⁸.

The legislative refusal to mandate paternity leave further exacerbates these distortions. By placing childcare obligations exclusively on mothers, India’s maternity-centric statutory framework reinforces employer perceptions that women represent higher productivity and cost risks, thereby amplifying statistical discrimination in hiring, wage-setting, and promotion²⁹. Economic research demonstrates that unequal caregiving responsibilities generate “disrupted career trajectories” for women, causing substantial lifetime income losses, occupational downgrading, and reduced representation in high-skill sectors³⁰. Comparative evidence from Sweden and Norway—jurisdictions that incorporate non-

transferable, father-specific leave—shows that equalising early-childhood care responsibilities leads to long-term reductions in

gender wage gaps and more stable female labour-force attachment³¹.

From a legal perspective, the invisibilisation of unpaid care work constitutes a structural deficiency within Indian labour regulation. The constitutional guarantees of equality under Articles 14, 15, and 16 impose an obligation on the State to dismantle systemic barriers that disproportionately burden one sex. Indian courts have affirmed that entrenched gender-based economic disadvantage violates the norm of substantive equality³². Nonetheless, statutory frameworks continue to treat unpaid care as a private household obligation rather than a productivity-enhancing economic activity essential to national development.

Viewed through a law-and-economics lens, paternity leave emerges not as a welfare concession but as a corrective regulatory instrument. By redistributing care costs, improving labour-market efficiency, and mitigating gendered disparities in human-capital accumulation, paternity leave becomes central to any effort to realise gender-equal labour markets in India.

4. THE GENDERED CARE BURDEN: MEN’S NON-PARTICIPATION IN HOUSEHOLD WORK AND THE POST-CHILDBIRTH GLASS CEILING

The persistence of the post-childbirth glass ceiling in India is inseparable from the gendered division of unpaid household labour. Empirical research consistently shows that Indian men perform significantly less domestic work than women, a disparity that widens sharply after childbirth³³. This unequal care burden creates what economists term a “gendered time-poverty gap,” wherein women’s unpaid work directly restricts their capacity to invest in human-capital accumulation, full-time employment, and career advancement³⁴. Despite increased female educational attainment and professional entry, the structural distribution of household labour remains overwhelmingly gendered, producing career stagnation for women during the critical post-childbirth years.

The absence of statutory paternity leave exacerbates this imbalance by legally cementing mothers—not fathers—as the default caregivers³⁵. Without legal mechanisms mandating paternal involvement, household negotiations around childcare often conform to existing patriarchal norms, reinforcing the expectation that women will shoulder the majority of domestic responsibilities. This results in predictable labour-market penalties: slower promotion rates, reduced access to managerial tracks, and higher rates of attrition among mid-career women³⁶. The glass ceiling thus emerges not solely from workplace bias but from the cumulative constraints imposed by the gendered care regime within the home.

Comparative studies indicate that societies with father-inclusive parental-leave laws experience measurable increases in men’s participation in household labour, leading to a redistribution of childcare duties and improved career continuity for mothers³⁷. In India, however, the legal invisibility of fathers in reproductive labour reinforces a cycle where women’s economic output is limited by the double burden of paid and unpaid work. Courts have emphasised that substantive equality

requires dismantling systemic barriers that entrench gender-based disadvantage³⁸. Yet the State's failure to legislate paternal caregiving continues to reproduce the very structural inequalities the Constitution seeks to eliminate.

5. A TALE OF TWO MODELS: A COMPARATIVE ANALYSIS OF INDIA AND SWEDEN'S PATERNITY LEAVE FRAMEWORKS

The divergent trajectories of India and Sweden's parental-leave regimes illustrate how legislative design fundamentally shapes gender norms, labour-market outcomes, and the distribution of care work. India follows a maternity-centric model in which the Maternity Benefit Act 1961 confers extensive protections exclusively on women, while the law remains silent on equivalent entitlements for fathers³⁹. Paternity leave exists only as a limited administrative entitlement for Central Government employees under the Central Civil Services (Leave) Rules 1972, providing a mere 15 days of leave⁴⁰. This statutory framework reinforces a gendered caregiving paradigm wherein women bear the full burden of early childcare, resulting in predictable labour-market penalties including wage stagnation, interrupted career paths, and reduced access to leadership roles⁴¹.

Sweden, by contrast, operationalises a gender-neutral, equality-oriented model grounded in the principle that caregiving responsibilities must be shared. The Swedish Parental Leave Act provides 480 days of paid parental leave per child, of which 90 days are non-transferable "father quotas" strictly reserved for men⁴². Empirical research shows that the introduction of non-transferable paternity leave dramatically increased fathers' uptake of childcare responsibilities and generated long-term shifts in household labour distribution⁴³. Swedish mothers benefit from fewer career interruptions, higher labour-force participation, and narrower gender wage

gaps relative to similarly situated countries without such provisions⁴⁴.

This comparison highlights not merely a policy difference but a structural divergence in constitutional commitments. Sweden's model embodies an understanding of caregiving as a social good requiring state intervention, whereas India's framework treats childcare as a private obligation predominantly borne by women. The result is a persistent "equality gap" in India—where constitutional guarantees of substantive equality remain aspirational in the absence of statutory mechanisms that redistribute caregiving duties⁴⁵. India's failure to adopt father-inclusive leave thus perpetuates entrenched gender norms that the Constitution seeks to dismantle.

6. DATA, TRENDS, AND POLICY OUTCOMES: GRAPH-BASED ANALYSIS OF LABOUR PARTICIPATION, WAGE GAPS, AND LEAVE UPTAKE

Empirical indicators from India and Sweden reveal the gendered economic consequences of unequal caregiving responsibilities. **Figure 1**, which depicts the Female Labour Force Participation Rate (FLFPR) in both jurisdictions between 2010 and 2025, shows India's persistent stagnation at approximately 20–27%, contrasted with Sweden's consistently high participation exceeding 75%. India's sustained decline until 2020 reflects the structural withdrawal of women from the labour market following marriage and childbirth—an outcome directly linked to the absence of robust paternal leave provisions and the legal reinforcement of women's exclusive caregiving role. In Sweden, by contrast, the near-universal uptake of parental leave by fathers has mitigated career interruptions for women and facilitated high employment continuity.

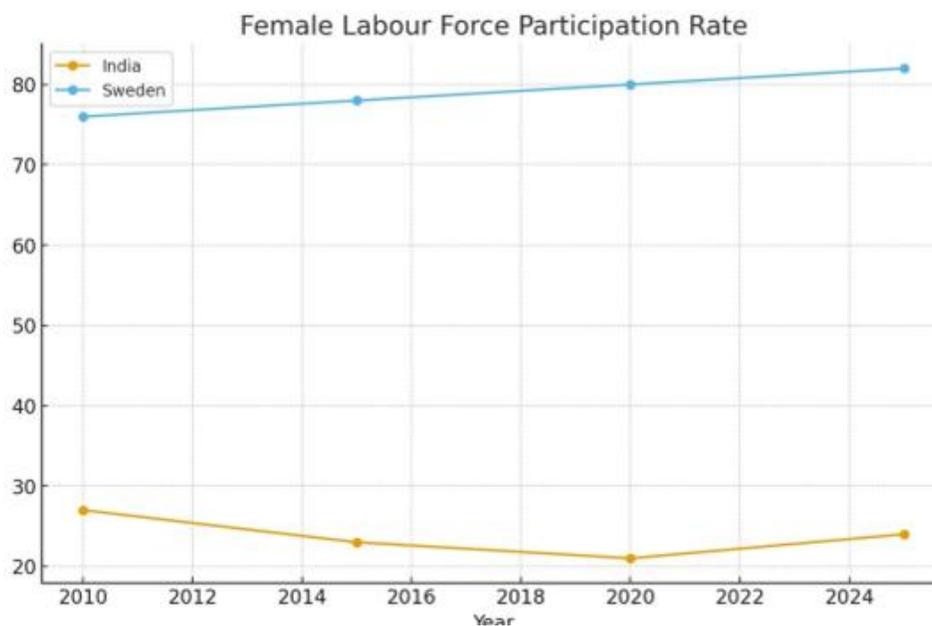


Figure 2, illustrating the gender wage gap, further demonstrates this divergence. India's wage gap remains between 32–36%, while Sweden's gradual decline from 15% to 12% corresponds with deliberate legislative mechanisms to equalise early childcare burdens. Empirical research consistently finds that when leave is shared, women experience reduced “motherhood

penalty” effects and are more likely to re-enter full-time employment with minimal wage depreciation. The Indian framework—centred solely on maternity benefits under the Maternity Benefit Act, 1961—has inadvertently intensified employers’ discriminatory expectations by making women alone costly to retain.



Figure 3, comparing paternity leave uptake, is the most visually stark. Sweden demonstrates uptake levels exceeding 75%, even as India records negligible usage due to the absence of statutory rights in the private sector and the severely limited—and often informally discouraged—provisions available to government employees. The data affirm a clear causal link: low paternal leave uptake correlates with lower female workforce retention, higher wage penalties, and sustained gendered labour segmentation.

Collectively, these graphs reveal the policy outcome gap: Sweden’s gender-neutral parental leave produces measurable equality gains, whereas India’s maternity-centric regime entrenches the economic disadvantages women face post-childbirth.

1. TOWARDS SUBSTANTIVE EQUALITY: LEGAL REFORM, WORKPLACE POLICY, AND THE FUTURE OF PATERNITY LEAVE IN INDIA

India’s contemporary labour framework reveals a structural paradox: while constitutional guarantees under Articles 14, 15, and 16 mandate the dismantling of gender-based disadvantage, statutory design continues to reproduce the very inequalities it seeks to eliminate⁴⁶. The persistence of a maternity-exclusive regime, absent any equivalent entitlement for fathers, entrenches the disproportionate allocation of unpaid care work to women. As demonstrated through empirical trends in labour

participation, wage disparities, and leave uptake, the motherhood penalty is not a natural social outcome but the predictable result of a legal architecture that burdens one gender with the majority of reproductive labour⁴⁷.

Moving toward substantive equality requires a paradigmatic shift from a “protective” model of labour law—anchored in the assumption that only women require special treatment—to a gender-neutral framework that equalises the distribution of caregiving responsibilities. Comparative evidence from Sweden underscores that the introduction of non-transferable, father-specific leave provisions significantly increases men’s participation in childcare and reduces gendered labour-market penalties⁴⁸. Such a model aligns with the Indian Supreme Court’s jurisprudence emphasising that equality must be substantive, not merely formal, particularly where existing social norms create structural barriers to full participation⁴⁹.

Legislative reform must therefore prioritise three interlocking interventions. First, Parliament should enact a comprehensive Paternity and Parental Leave Act mandating paid, non-transferable paternal leave applicable across public and private sectors. Second, workplace policy should incorporate compliance incentives—such as tax credits, cost-sharing mechanisms, or mandatory reporting requirements—to encourage employer adherence. Third, the State must frame paternity leave not as a welfare measure but as an economic intervention essential for labour-market efficiency, gender equity, and long-term human-capital development⁵⁰.

By embedding paternal caregiving within statutory and workplace norms, India can shift from symbolic commitments to genuine structural reform. Only through the legislative normalisation of shared care can

The country meaningfully addresses the motherhood penalty, narrows wage disparities, and advances toward substantive equality in the world of work.

CONCLUSION

The analysis undertaken in this paper demonstrates that India's failure to legislate paternity leave is not a mere policy omission but a structural barrier to gender equality in the labour market. The data, comparative evidence, and doctrinal foundations collectively establish that unequal caregiving responsibilities—amplified by a maternity-exclusive statutory framework—are central to the persistence of the motherhood penalty, the post-childbirth glass ceiling, and the broader gender wage gap. By embedding women as the default caregivers, the existing legal regime reinforces discriminatory employer expectations, reduces female labour-force participation, and undermines India's constitutional commitment to substantive equality under Articles 14, 15, and 16.

The comparative model of Sweden illustrates that legislative design can transform social norms: when fathers are legally required and economically supported to participate in early childcare, labour-market outcomes shift, wage disparities narrow, and women experience fewer career interruptions. The evidence is unambiguous—paternity leave functions not merely as a social-welfare benefit but as a corrective economic mechanism capable of redistributing unpaid labour and rectifying gendered disadvantages entrenched over generations. For India, the path forward is clear. Substantive equality demands a transition from a gender-protective to a gender-neutral caregiving framework. This requires enacting comprehensive paternal and parental leave legislation applicable across sectors, supported by workplace compliance incentives and constitutional interpretation that recognises caregiving as a matter of equality, not charity. Only through such structural reform can India move beyond symbolic gender commitments and deliver measurable economic and social transformation.

Ultimately, the normalisation of paternal caregiving is not simply an aspiration of progressive labour reform; it is a constitutional necessity and an economic imperative. Without it, India's pursuit of gender-equal workplaces will remain incomplete.

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