

# Better maternity leave laws are needed to protect African mothers

By [Elizabeth Kimani-Murage](#) - March 8, 2016



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***Maternity leave for women in developing countries is still a massive problem, with many women in informal sectors not receiving adequate cover.***

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[More than 70%](#) of working women do not enjoy the full benefits of maternity leave. Only 330 million women – or 28% of working women – are fully protected, meaning they get time off and full pay. About 80% of those without adequate maternity protection are in Africa and Asia. When women do not enjoy full maternity benefits, their health – and that of their children – may be affected.

[Discrimination](#) against women around maternity leave is pervasive throughout the world, according to the International Labour Organisation. And even where legislation does exist, ensuring it is effectively implemented remains a challenge.

The organisation recommends 14 weeks' maternity leave, with six weeks of compulsory postnatal leave for women in countries that have signed the [Maternity Protection Convention](#). At least 167 of the organisation's member nations have passed some form of [legislation](#) on maternity protection. But not all countries fully implement or enforce these laws.

In Kenya, for example, laws provide women in formal employment with three months of maternity leave, but in some instances this is not adhered to. And casually employed women are not entitled to maternity leave, according to [research](#) conducted by the African Population and Health Research Centre in Kenya. These women have to juggle staying home shortly after delivery to rest and [breastfeed](#) their babies with returning to work.

Even where women are entitled to maternity leave, some organisations do not adhere to the regulations and women are asked to work from home during maternity leave or return to work prematurely. Few workplaces provide appropriate policies and an enabling environment for women to combine work with breastfeeding successfully once they return from maternity leave.

### **Maternity leave laws across the globe**

Legislating maternity leave is important because it transposes universally accepted principles into national laws and sets minimum national and subnational standards. The content of the legislation is determined individually by countries.

For example, in South Africa, domestic workers are eligible for maternity benefits because they are covered by the basic labour laws of the country. Domestic workers have the right to paid leave, overtime payments, severance pay, notice of dismissal and a written contract with their employer.

The Brazilian constitution grants women 120 days of maternity leave without prejudice to jobs or wages.

In Gabon, a pregnant woman can ask the labour inspector to examine the work she is doing before she goes on maternity leave to ensure that it is not too strenuous for her. If it is found to be dangerous, she may ask to be moved to a different position without loss of pay until three months after she returns from maternity leave.

The International Labour Organisation notes that its maternity leave convention applies to all employed women, including those in atypical forms of dependent work, including part-time, casual or seasonal jobs. But the organisation admits that few countries have included such a wide scope in their national legislation.

In reality, the percentage of women covered by the law is often quite low. Several [sectors](#) are either excluded or poorly protected. These include:

- the private sector compared with the public sector;
- rural workers compared with urban ones;
- agricultural, informal economy, domestic or homeworkers;
- migrant workers;
- part-time, casual or temporary workers;
- workers in small enterprises or those in family undertakings; and
- self-employed, independent workers.

### **Why maternity leave is important**

Maternity leave allows mothers to breastfeed adequately, and to rest and recover from nine months of pregnancy and subsequent delivery. Research shows that the longer a mother stays on maternity leave, the more likely she is to breastfeed exclusively or [breastfeed at all](#).

Breastfeeding is critical to good nurturing. It has enormous short- and long-term [benefits](#). These include:

- reduced infections and deaths among infants;
- improved mental and physical development; and
- improved [intellectual performance](#), educational achievement and earning ability in adulthood.

Breastfeeding improves mothers' [post-partum recovery](#). It also reduces the risk of non-communicable diseases such as [diabetes](#), cancer and depression, and improves birth spacing.

But adverse work conditions mean many mothers stop exclusive breastfeeding before six months or any breastfeeding before two years, counter to World Health Organisation [recommendations](#).

### **Improving economic activity**

A woman should be given the chance to exercise her right to choose both good nurture for her baby and productivity for herself.

Women should be supported to successfully combine work with breastfeeding so they do not have to choose one over the other. This may include safeguarding the three months' maternity leave provided for in international labour legislation. But it should include the option of providing longer maternity leave of up to six months.

This would cover the World Health Organisation's recommended six months of exclusive breastfeeding. And employers should provide an enabling environment at work for women to continue breastfeeding.

It is also important to consider those categories not entitled to maternity leave in many national labour laws.