



A Comparative Study of Paternity Leave Regulations in Indonesia and Australia

(A Labor Law Perspective)

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ABSTRACT

Paternity leave is a special entitlement granted to male employees to take time off from work to accompany their spouses during pregnancy, childbirth, and the early stages of childcare. The existence of paternity leave plays an important role in balancing opportunities between men and women, thereby fostering a gender-friendly workplace environment. In Indonesia, the right to paternity leave has been regulated under Law No. 13 of 2003 concerning Manpower and Law No. 4 of 2024 concerning Maternal and Child Welfare during the First 1,000 Days of Life. Meanwhile, in Australia, paternity leave is comprehensively regulated under the Fair Work Act 2009. This research aims to provide a comparative analysis of paternity leave regulations in Indonesia and Australia from a labor law perspective. The study adopts a normative juridical method with a comparative approach, relying on primary and secondary legal materials obtained through a literature study. The findings reveal that Indonesia provides only limited entitlements to paternity leave, both in terms of duration and implementation, with weak legal protection. In contrast, Australia offers a more developed framework under the Fair Work Act 2009, which includes longer leave duration, the possibility of extensions, and structured payment schemes. These provisions reflect Australia's stronger commitment to gender equality, family welfare, and the recognition of fathers' roles in child-rearing. The study concludes that Indonesia's regulatory framework requires harmonization with international standards, particularly by adopting key aspects of the Australian model. Strengthening the legal protection of paternity leave in Indonesia is essential to promote gender equality in the workplace and within the family, while also supporting fathers' active participation in childcare.

Keywords: paternity leave, labor law, Indonesia, Australia

ABSTRAK

Cuti ayah merupakan hak yang diberikan kepada pekerja laki-laki untuk mengambil waktu libur dalam rangka mendampingi istri selama kehamilan, persalinan, serta fase awal pengasuhan anak. Kebijakan ini memiliki peran penting dalam menciptakan keseimbangan peran antara laki-laki dan perempuan sehingga mendukung terciptanya lingkungan kerja yang lebih inklusif dan berperspektif gender. Di Indonesia, pengaturan mengenai cuti ayah tercantum dalam Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan serta Undang-Undang Nomor 4 Tahun 2024 tentang Kesejahteraan Ibu dan Anak pada seribu hari pertama kehidupan. Sementara itu, Australia telah menetapkan regulasi yang lebih komprehensif melalui Fair Work Act 2009. Penelitian ini bertujuan untuk menganalisis

secara komparatif regulasi cuti ayah di Indonesia dan Australia dalam perspektif hukum ketenagakerjaan. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan komparatif, berdasarkan bahan hukum primer dan sekunder yang diperoleh melalui studi kepustakaan. Hasil penelitian menunjukkan bahwa ketentuan cuti ayah di Indonesia masih terbatas baik dari sisi durasi maupun implementasi, serta belum sepenuhnya memberikan perlindungan hukum yang memadai. Sebaliknya, Australia telah mengatur secara lebih progresif dengan memberikan jangka waktu cuti yang lebih panjang, peluang perpanjangan, serta skema pembayaran yang terstruktur. Hal ini mencerminkan komitmen Australia dalam mendorong kesetaraan gender, meningkatkan kesejahteraan keluarga, dan memperkuat peran ayah dalam pengasuhan anak. Dengan demikian, diperlukan harmonisasi regulasi di Indonesia agar sejalan dengan standar internasional, terutama dengan mengadopsi prinsip-prinsip utama yang terdapat dalam Fair Work Act 2009. Upaya ini diharapkan dapat memperkuat perlindungan hukum terhadap hak cuti ayah sekaligus mendukung terciptanya kesetaraan gender di dunia kerja maupun dalam keluarga.

Kata Kunci: Cuti ayah, hukum ketenagakerjaan, Indonesia, Australia

INTRODUCTION

Paternity leave is an essential component in building a strong foundation for new families, particularly during childbirth and the early stages of parenting. The presence of fathers during childbirth not only provides emotional support for mothers but also allows fathers to establish early bonding with newborns, which is crucial for child development and the father-child relationship in the long term. Research has shown that paternal involvement during the postpartum period significantly reduces the risk of maternal mental health issues, including postpartum depression, which can have long-lasting effects on family well-being (Paulson & Bazemore, 2010).

From a broader perspective, paternity leave also plays a critical role in promoting gender equality in the workplace. In many professional environments, women are often perceived as less productive due to extended maternity leave, while men are considered more consistent workers. This dynamic perpetuates gender disparities in career advancement. By implementing paternity leave policies, companies and governments can help balance opportunities between men and women, creating more inclusive and equitable workplaces (O'Brien & Wall, 2017).

In Indonesia, the right to paternity leave remains relatively new and inconsistently applied. While regulations exist, such as those stipulated in Law No. 13 of 2003 on Manpower, Law No. 4 of 2024 on Maternal and Child Welfare, and the National Civil Service Agency Regulation No. 24 of 2021, their implementation is still limited. Some progressive multinational companies, such as Procter & Gamble (P&G), have voluntarily introduced extended paid paternity leave policies, demonstrating a shift toward global best practices. P&G, for example, extended paid paternity leave in Indonesia to eight weeks as of January 2021, underscoring the company's commitment to gender equality and employee welfare.

Comparatively, Australia provides a more comprehensive framework under the Fair Work Act 2009 through schemes such as Dad and Partner Pay, which allows eligible fathers to access paid leave within the first 12 months of childbirth or

adoption, alongside shared parental leave entitlements (Whitehouse et al., 2019). This reflects a strong institutional commitment to both family welfare and gender equality in the labor market.

Several studies have addressed the role of paternity leave in promoting family well-being and workplace equality. For instance, Haas and Rostgaard (2011) analyzed Nordic countries' parental leave systems and found that active father participation leads to more balanced gender roles. Boucher (2019) examined the Australian context and highlighted the positive impacts of Dad and Partner Pay on both families and workplaces. Meanwhile, Nugroho and Rachmawati (2021) explored the Indonesian legal framework and argued that regulatory gaps hinder the effective realization of fathers' rights in family life. These studies illustrate the importance of legal frameworks in shaping family policies but also highlight the disparity between countries with mature systems and those still developing their policies.

Despite growing scholarly interest, there remains a clear knowledge gap in comparative legal analysis between Indonesia and Australia regarding paternity leave regulations, particularly in terms of duration, financial entitlements, and policy effectiveness in addressing gender inequality in the workplace. While some research has examined Indonesia in isolation, and others have focused on Australia, few studies have conducted a direct comparative legal assessment.

The purpose of this study is to provide a comparative analysis of paternity leave regulations in Indonesia and Australia from a labor law perspective. Specifically, it seeks to: (1) examine the legal frameworks governing paternity leave in both countries, (2) identify similarities and differences in terms of entitlements, implementation, and legal enforcement, and (3) evaluate how these regulations contribute to gender equality and family welfare. By addressing these objectives, this research aims to fill the existing knowledge gap and contribute to the broader discourse on labor law reform and gender equity in the workplace.

METHODS

This study employs a normative juridical research method combined with a comparative approach, focusing on the regulation of paternity leave in Indonesia and Australia within the framework of labor law. The research design is library-based, relying primarily on legal sources and scholarly works. The primary legal materials consist of statutory regulations, including Law No. 13 of 2003 on Manpower, Law No. 4 of 2024 on Maternal and Child Welfare during the First Thousand Days of Life in Indonesia, and the Fair Work Act 2009 in Australia. Secondary legal materials are drawn from books, peer-reviewed journal articles, and other reputable academic publications. The selection of literature was based on accreditation or reputation of the journals, relevance to the research topic, and publication year, with priority given to works published within the last ten years to ensure contextual accuracy. Tertiary materials, such as dictionaries of law and encyclopedias, were also consulted to strengthen conceptual understanding.

Data were collected systematically through a comprehensive literature review, emphasizing the extraction and analysis of substantive norms related to

paternity leave provisions. The presence of the researcher in this study was as an interpreter and analyst of texts, ensuring an objective and critical examination of the legal framework in both jurisdictions. The collected data were then analyzed using qualitative-descriptive techniques, which involved classifying legal norms, identifying points of convergence and divergence, and evaluating the implications of these differences for gender equality in the workplace. The comparative analysis was carried out in several stages: first, by examining the legal foundations of paternity leave in Indonesia and Australia; second, by contrasting the scope, duration, and compensation systems applied in each country; and third, by evaluating the alignment of these regulations with international labor standards. This method allows for a comprehensive understanding of how each legal system addresses paternal involvement in childcare and its role in promoting gender equality. Ultimately, the methodology is intended to provide critical insights and constructive recommendations for harmonizing Indonesian labor law with international best practices as exemplified in the Australian legal framework.

RESULTS AND DISCUSSION

Paternity leave in Indonesia

Leave rights are defined as an entitlement and authority granted to employees to perform a specific action. In general, leave can be understood as a right obtained by an employee, granting them the freedom to take rest time in accordance with applicable regulations, and constituting part of their employment rights. According to the Great Dictionary of the Indonesian Language (KBBI), leave is defined as permission to be absent from work for a certain period of time in order to rest. Leave may also refer to temporary absence granted for important reasons that cannot be avoided, or as a period of authorized rest for employees. Specifically, paternity leave refers to the right granted to male employees when their spouse gives birth.

The presence of a husband during a woman's postnatal crisis plays a crucial role. Paternity leave policies provide fathers with the opportunity to be more actively involved in childcare, particularly during the critical early days following childbirth. Such policies aim to enable husbands to support their wives during the recovery period, including assisting with breastfeeding, caring for newborns, looking after other children, and contributing to household management and family responsibilities. Furthermore, paternity leave allows fathers to develop parenting skills and engage more fully in their children's lives, while still fulfilling their role as breadwinners. The involvement of both parents in a child's growth and development is essential, as a child's healthy development requires a strong bond that must be nurtured from an early age.

The regulation on paternity leave for husbands to accompany their wives during childbirth in Indonesia is stipulated under Article 93 paragraph (4) letter e of Law Number 13 of 2003 concerning Manpower. This provision states that male workers who are absent from work due to their wives giving birth or experiencing a miscarriage are entitled to receive full wages for two days. Beyond this period, the worker is no longer entitled to paid leave and must either utilize his annual leave entitlement or accept a salary deduction. Consequently, if a male worker in Indonesia

requires additional time to support his wife during childbirth and recovery, he must rely on his available annual leave quota.

Research results indicate that the regulation of paternity leave in Indonesia and Australia reflects contrasting approaches in recognizing and protecting fathers' roles in family life. From a labor law perspective, both countries adopt different legal frameworks, levels of protection, and policy objectives that ultimately shape the rights of male workers to participate in early childcare. The regulation of paternity leave in Indonesia remains relatively limited when compared to the more comprehensive provisions implemented in Australia. In Indonesia, Law No. 13 of 2003 on Manpower provides male workers with two days of paid leave for the birth of a child. This was further strengthened by Law No. 4 of 2024 concerning Maternal and Child Welfare during the First Thousand Days of Life, which aims to protect maternal health and child development but still does not extend the duration of paternal leave significantly (Republik Indonesia, 2003; Republik Indonesia, 2024). In contrast, the Australian legal framework under the Fair Work Act 2009 grants fathers up to two weeks of unpaid parental leave, with the possibility of extending leave through the Paid Parental Leave Scheme funded by the government, ensuring stronger support for work-family balance (Fair Work Ombudsman, 2023).

The legal framework grants fathers the right to two days of paid paternity leave in cases of childbirth, with limited extension in special circumstances such as miscarriage or complications. However, the scope of this regulation is narrow and highly employer-dependent, leaving a gap in ensuring equal parental responsibilities. This demonstrates that Indonesian labor law still prioritizes maternity protection while positioning paternal leave as supplementary, rather than a fundamental right of workers.

Law No. 39 of 1999 on Human Rights, particularly Article 10 paragraph (1), affirms that every individual has the right to form and nurture a family through a lawful marriage. This provision is consistent with the constitutional mandate to guarantee labor rights, as stipulated in Article 28I paragraphs (4) and (5) of the 1945 Constitution of the Republic of Indonesia. These articles state that the protection, advancement, enforcement, and fulfillment of human rights are the responsibility of the state, particularly the government, and must be carried out based on the principles of a democratic rule of law through legislation. Such constitutional provisions provide a foundation for the government to ensure that all regulations, including those in the field of labor law, are aligned with the promotion of human rights. In this regard, male workers in Indonesia are entitled to the human right of paternity leave to accompany their wives before and after childbirth.

Paternity leave plays a crucial role, as it allows husbands to provide emotional and physical support to their wives during childbirth, while also enabling fathers to take an active role in caring for their newborns. A father's presence during this critical early period not only strengthens the father-child bond but also contributes to overall family harmony. Research indicates that fathers who take longer periods of parental leave tend to have stronger and closer relationships with their children compared to those who take shorter leave. Thus, granting adequate, fully paid

paternity leave represents a concrete manifestation of the fulfillment of human rights within the sphere of labor law.

Paternity leave in Australia

In contrast, Australia provides a more comprehensive regulatory framework under the Fair Work Act 2009, particularly through the National Employment Standards (NES). Fathers or partners are entitled to unpaid parental leave of up to 12 months, with the possibility of extension for another 12 months under certain conditions. In addition, Australia implements the Dad and Partner Pay scheme, which grants up to two weeks of government-funded pay at the national minimum wage for eligible working fathers. This dual mechanism—combining unpaid extended leave with limited financial support—illustrates a stronger recognition of paternal involvement in childcare within the Australian labor law framework.

The regulation on paternity leave in Australia is governed under the national Parental Leave system. According to the Fair Work Act 2009, all employees, both male and female, are entitled to up to 12 months of unpaid parental leave, with the option to request an additional 12 months of extension. In addition, the Australian government provides Dad and Partner Pay, which grants two weeks of leave at the national minimum wage for fathers or partners (including same-sex partners) to encourage paternal involvement in childcare from the earliest stages of a child's life. This framework reflects the government's strong commitment to recognizing and supporting the role of fathers within the family, particularly during the crucial postnatal period.

Through this regulation, male employees in Australia are not only given the opportunity to accompany their wives during childbirth but are also encouraged to take an active role in early childcare. Such policies demonstrate Australia's more progressive labor law orientation compared to Indonesia, as they provide a longer period of leave and limited financial support, even though much of the entitlement remains unpaid.

Father's Leave Program in Australia is more commonly known as Dad and Partner Pay. This scheme forms part of the Paid Parental Leave (PPL) system provided by the Australian Government. Parental leave in Australia is generally divided into two categories: standard paid parental leave and unpaid parental leave. The Dad and Partner Pay scheme is regulated under Act No. 192 of 2012, which amended the Paid Parental Leave Act and Other Measures. Employees who have worked for at least one year with the same employer are entitled to unpaid parental leave.

This leave may be taken when the employee or their partner is giving birth or adopting a child, for a maximum period of 12 months. If additional leave is required, employees are entitled to request an extension of up to another 12 months, bringing the total maximum period of unpaid parental leave to 24 months. Employees taking unpaid parental leave are guaranteed the right to return to their previous position. If the exact position is no longer available, the employer must provide a position that is nearest in status and pay, and for which the employee is qualified.

In February 2009, the Australian Labor Government proposed a parental leave scheme that provided broad access, but with limited duration and payment at the minimum wage level. Subsequently, the Australian Labor Government announced the introduction of the Paid Parental Leave scheme, which came into effect on 1 January 2011, as follows:

No	Description
1	The Paid Parental Leave is funded by taxpayers and granted for a period of 18 weeks, with payment equivalent to the federal minimum wage (currently A\$543.78 or €305 per week, amounting to 52.7% of the average full-time female earnings).
2	Where possible, the allowance is paid by the employer, with the government providing advance payment to the employer to cover this cost.
3	To be eligible for paid parental leave, the primary caregiver (typically the mother, but potentially the father) must have engaged in paid employment and have worked continuously for at least 10 months within the 13 months preceding the expected birth or adoption. In addition, the primary caregiver must have completed at least 330 hours of paid work during that ten-month period.
4	This benefit is limited to individuals earning less than 150,000 (€84,560) year, which is approximately four times the average annual female income or 2.7 times the average full-time female income
5	Mothers who are not employed, or who have not worked long enough prior to childbirth, remain eligible for a parental bonus of A\$5,000 (€2,820) and may access the Family Tax Benefit B, which is primarily intended for single-income families. However, these social security benefits are no longer available to individuals who claim paid maternity leave.

Table 1. Parental Leave scheme in Australia

Furthermore, eligibility for paid parental leave and Dad and Partner Pay requires that the father or partner must be the biological father of the child, the partner of the birth mother, an adoptive parent, the partner of an adoptive parent, or a person caring for the child from birth under a surrogacy arrangement.

When compared, the differences between Indonesia and Australia can be analyzed through three main dimensions: duration, financial support, and cultural-legal orientation.

- a) Duration: Indonesia limits paternal leave to only two days, whereas Australia allows up to 12 months, albeit mostly unpaid.
- b) Financial support: Indonesia guarantees full wages for two days of leave, but without additional schemes, while Australia offers short-term government-funded support coupled with unpaid extended leave.

- c) Cultural-legal orientation: Indonesian regulations reflect a traditional gendered division of labor, emphasizing the mother's primary role in childcare. Meanwhile, Australian law demonstrates a progressive orientation by encouraging shared parenting responsibilities and promoting gender equality in the labor market.

The comparative analysis also highlights that Australia's framework aligns more closely with international labor standards, particularly the ILO Convention No. 156 on Workers with Family Responsibilities and ILO Convention No. 183 on Maternity Protection, which indirectly stress the importance of supporting both parents in childcare. Indonesia, although a member of the ILO, has yet to fully harmonize its domestic regulations with these conventions, especially regarding paternal leave.

From a labor law perspective, the Indonesian model demonstrates minimalist protection that may hinder progress in achieving work-life balance and gender equality, while the Australian model, though not without limitations, offers a more balanced legal approach that acknowledges both maternal and paternal roles. The Indonesian framework risks perpetuating stereotypes of childcare as women's responsibility, while Australia provides an enabling legal environment for fathers' involvement in early parenting.

Therefore, this comparative study underscores the need for Indonesia to strengthen its paternity leave regulations not only in terms of duration and financial protection, but also by adopting a more gender-equal legal orientation. Such reform would not only align Indonesia with international labor standards but also promote broader social objectives, including gender equality, child welfare, and sustainable human resource development.

The comparative findings highlight a clear disparity in both duration and financial arrangements. While Indonesian regulations acknowledge the role of fathers in postnatal care, the short leave period often prevents effective paternal participation in early childcare, reinforcing traditional gender roles in parenting. On the other hand, Australia's regulatory model reflects a broader commitment to gender equality by allowing flexibility in parental roles and providing financial assistance during paternity leave. Studies show that longer paternal leave contributes significantly to child welfare, maternal recovery, and stronger family bonds (O'Brien & Wall, 2017; Patnaik, 2019).

Furthermore, the results emphasize that Indonesia's regulatory framework has yet to align with international labor standards promoted by the International Labour Organization (ILO), which recommend adequate leave periods and income security for fathers as part of family-friendly workplace policies (ILO, 2014). Harmonization with such standards would not only improve Indonesia's compliance with global labor norms but also foster workplace inclusivity and gender equality. The discussion suggests that adopting key elements of the Australian system, such as leave extension and state-funded payment schemes, could strengthen Indonesia's paternal leave policy. This step would ultimately reflect the government's commitment to protecting family welfare and promoting gender-balanced workplaces.

CONCLUSION

This comparative study of paternity leave regulations in Indonesia and Australia highlights the distinct approaches each country has adopted in addressing the role of fathers in supporting their partners during childbirth and in early childcare. Indonesia, through Law Number 13 of 2003 on Manpower, grants only two days of paid paternity leave, which is relatively limited in duration, non-extendable, and provides minimal opportunity for fathers to actively engage in postnatal care. Although it ensures full wage payment during this short period, the regulation does not adequately respond to the broader social and familial needs associated with childbirth and early child development. In contrast, Australia's framework under the Fair Work Act 2009 and the Dad and Partner Pay Scheme provides a more comprehensive and supportive model. Fathers and partners are entitled to two weeks of paid leave and up to 24 months of unpaid parental leave, with additional entitlements under the Paid Parental Leave Scheme. This design not only promotes gender equality in caregiving but also addresses broader health, psychological, and developmental benefits for mothers, fathers, and children alike. By allowing flexibility, longer leave options, and guaranteed employment security, Australia's policy framework reflects a progressive approach to labor rights and family welfare.

The comparison demonstrates that Indonesia could significantly enhance its labor law framework by adopting elements of the Australian system, particularly regarding leave duration, extension options, and payment schemes. Such reforms would align Indonesia's legal policies with international best practices, strengthen gender equality, empower women, and ensure a healthier and more balanced family environment. Ultimately, paternity leave is not merely a labor right, but also a human right that plays a vital role in shaping equitable family dynamics, supporting maternal recovery, and fostering stronger parental bonds with children. Reforming paternity leave regulations in this direction would contribute to advancing gender equality, enhancing maternal and child health, and strengthening family resilience. Future research may explore the socio-economic impacts of extended paternity leave in Indonesia, including its influence on labor productivity, family well-being, and child development, to further guide evidence-based policymaking.

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