

## PATERNITY LEAVE: A NEED FOR BETTER PARENTING

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### ABSTRACT

*Every employee is granted with some kind of rights and benefits which are being written down in the form of labour laws. The labour laws derive its authenticity and strength from the Indian Constitution. Paternity leave is also a kind of scheme that is being provided by the employer to his employees but has not been made mandatory for all kind of employees through any piece of legislature. However, Civil servants are being provided with mandatory paternity leave of fifteen days under Rule 43A and 43AA of Central Civil Services (Leave) Rules, 1972. It is a scheme in which the male parent is provided with leave of few days either before or after the delivery date of his child. In India there is no as such provision which makes it compulsory in all the sectors. Even, though there are some organisations which provides its employees with such kind of rights. Paternity leave is a right of male parent and shall be provided to every employee without any discrimination between civil servants and other employees. The provision of paternity leave will help in better parenting of child as it is the joint responsibility of both the parents and will definitely help in changing the perception of society that it is the sole responsibility of women to take care of her child. Paternity leave will too help the husband to take care of his wife in the most critical situation when she needs both mental and physical support. In today's scenario where both men and women are equally working in every field, paternity leave is a much needed scheme which shall be made mandatory through a piece of legislation.*

### **Key words-**

Paternity Leave, civil servants, employee benefit scheme

## **Introduction**

Every employee is granted with some kind of rights and benefits which are being written down in the form of labour laws. The labour laws derive its authenticity and strength from the Indian Constitution. The Article 16, 19, 23 and 24 of Chapter-III and Article- 39, 41, 42, 43,43A and 54 of Chapter IV of the Indian Constitution protects the right and dignity of a labour and also safeguards his interest. India being the dynamic country keeps on going under sudden reforms which make the legislative to amend the labour law to keep them up to date with the changes in the society. Our labour law has gone through many changes in the past and still it is going on through some.

Employees are being provided with lots of schemes for their benefit through different legislature which includes Gratuity, Bonus, Compensation, Pension, Provident Fund, Maternity Leave etc. Paternity leave is also a kind of such scheme that is being provided by the employer to his employees but has not been made mandatory for all kind of employees through any piece of legislature. However, Civil servants are being provided with mandatory paternity leave of fifteen days under Rule 43A and 43AA of Central Civil Services (Leave) Rules, 1972.<sup>1</sup>

Paternity benefit is a kind of employee benefit scheme which is not mandatory in every organisation but is provided in some. It is a scheme in which the male parent is provided with leave of few days either before or after the delivery date of his child. In India there is no as such provision which makes it compulsory in all the sectors. Even, though there are some organisations which provides its employees with such kind of rights.

## **What is “Paternity Leave”?**

It is a kind of leave either paid or unpaid provided to the father in relation to birth or adoption of a child. It is one of the schemes of employees benefit. The male married employees who are going to become father either by way of adoption or through child birth is eligible for the same.

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<sup>1</sup> “Family Responsibility” available at <https://paycheck.in/main/labour-law-india/family-responsibilities> retrieved on 1/11/2017.

Gone are the days when women were considered to be the sole caretaker of her child. With the fast growing society, the concept of parenting too has gone through major changes. Now, both the parents i.e. the father and the mother both are responsible for the parenting and guidance of their child. As females are walking beside males in every field being it business, politics, corporate, Judiciary, Civil services etc. males too do have the responsibility to keep aside their male ego and change the concept of male dominating society to a society where a male and female are being treated equally not only in statues but in reality. A father too has the same responsibility as that of a mother toward his child.

### **Reasons for paternity leave**

Our social system is changing, large number of families now a days are nuclear in such cases pregnant woman do not have any one else rather than her husband for taking care of her, this is one of the most basic reason why there shall be mandatory paternity leave for employees of all the sector.<sup>2</sup> Not only the physical support but the lady needs mental support too of his husband. The presence of father during the time of the birth of the child gives the support to the mother and also makes the father understand the sensitive needs of the new born baby and creates a special bond between them. Parenting is not the sole responsibility of the mother; it is needed to be understood by the society. Father also have some of the responsibilities towards his child, a father is best friend of his child so he needs to understand each and every need of the child from the time of the birth. In immediate days of delivery the woman gets week and she isn't able to do all the works by herself in such situations the presence of the father makes her strong. The paternity leave will result in a stronger bond between the couples as father becomes more supportive and helps in taking care of child.<sup>3</sup> There is physical issues attached in case of maternity leave which makes it stronger for making it mandatory but father too plays a substantial role during those times and in the life of his

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<sup>2</sup> Vidya Raja, "3 moths leave and more: what the new Paternity Benefit Bill can mean for dads" available at <https://www.thebetterindia.com/115826/paternity-benefit-bill-pushes-for-three-month-leave-for-new-fathers/> retrieved on 2/11/2017.

<sup>3</sup> Rebecca Furtado, "Importance of Paternity Leave in India" available at <https://blog.ipleaders.in/importance-paternity-leaves-india/> retrieved on 4/11/2017.

child. In the absence of paternity leave we won't be able to change the perception of the society that the mother has the sole responsibility of taking care of the child which is going on from long back. Providing paternity leave can have a great impact towards the motion of gender equality and will surely have a great effect towards changing the scenario of male dominating society to the one with gender equality.

### **Laws on Paternity-**

The concept of paternity leave came for the first time in the year 1977 when the civil service leave Rule introduced paternity leave for the first time a new concept, a new kind of leave for the government sectors.<sup>4</sup>

In India the civil servants are granted with mandatory 15 Days Paternity leave either on the birth of the child or during adoption. The central government by notification in the official gazette made provisions for the male employees (including apprentice and probationer) regarding paternity leave of fifteen days to be granted within six month of the birth of the child. The male employees having less than two surviving children are only eligible for the leave. After the expiration of the six month of the birth of the child the leave gets collapsed and the employee is no further eligible for that. The employees on paternity leave are being provided with the full amount of salary which he was receiving before leave.<sup>5</sup>

But there is no as such provision for private sector employees. It's totally up to employer whether to provide paternity to his/her employees or not. There is few private institution where paternity leave has been recognised as right of the employee but the others have no provision in their service contract for the same.

### **Paternity laws in other countries-**

#### 1) Norway-

In Norway both parents are entitled to 46 weeks of Leave for which full pay is given or 56 weeks in which 80% of the pay is given to them.

#### 2) Germany

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<sup>4</sup> Ibid.

<sup>5</sup> "Maternity leave and paternity leave benefit in India" available at <http://www.helplinelaw.com/family-law/MPB11/maternity-and-paternity-benefits-in-india.html> retrieved on 1/11/2017.

Both the parents are entitled to take at least two month leave, total leave of both mother and father can extend up to 60 weeks.

3) Iceland

A male employee can opt for 6 month leave from his employer as paternity leave in which three month is compulsory and the other three is left up on the option of the employee. He is paid 80% of the amount of his salary he was drawing before leave.

4) Sweden

In Sweden the parents are entitled for 480 days of leave for which 80% of the actual pay is given. The 18 weeks of the leave are reserved for the mother and in the remaining duration the parents can split among themselves.

5) Spain

In Spain the fathers are entitled for 30 days leave with the complete amount of pay as he was getting before leave.<sup>6</sup>

The methodology of my study is thus empirical research which is evolutive in nature asking for mandating paternity leave as a compulsory part of employee benefit scheme in all sectors of economy. According to **table No. 1**, a survey has been conducted and the results are as follows-

1. Paternity leave can be termed as	
a. Privilege from employer	32.5%
b. Right of employee	67.5%
2. Paternity leave shall be mandatory part of employee benefit scheme	
a. Yes	80%
b. No	20%
3. Duration of paternity leave	
a. 7 Days	15%
b. 15 Days	25%

<sup>6</sup> Supra 1.

c. 20 Days	30%
d. 1 Month	30%
4. Need for a separate legislation on Paternity leave	
a. Yes	51.28%
b. No	48.72%
5. Paternity leave will help in better parenting of child.	
a. Yes	74.36%
b. No.	26.64%
6. Paternity leave shall be provided during miscarriage, adoption and tubectomy	
a. Yes	97.5%
a) 7 Days	42.5%
b) 15 Days	47.5%
c) 20 Days	0%
d) 1 Month	7.5%
b. No	2.5%
7. Paternity leave shall be provided before expected date of delivery	
a. Yes	55%
b. No	45%
8. Amount of salary to be provided	
a. Total amount	64.10%
b. Half of the amount	35.90%

9. Providing mandatory leave to Civil servants infringes the right to equality of other employees.	
a. Yes	66.67%
b. No	33.33%
10. Reasons for providing paternity leave.	
a. Child care is joint responsibility of both the parents	70%
b. It will make father involved with his young children	30%
c. It is the duty of the husband to take care of his wife and new born baby	60%
d. It will change the perception of society that it is the sole responsibility of women to take care of her child	55%
e. It will enable the family to spend more time together	25%

**TABLE NO. 1****Discussion-**

The view about Paternity Leave can be termed as are 32.5% Privilege from employer and 67.5% Right of employee.

The view about whether paternity leave shall be mandatory part of employee benefit scheme is 80% yes and 20% no.

The view about duration of paternity leave is 15% goes with 7 Days, 25% goes with 15 Days, 30% goes with 20 Days and rest 20% goes with 1 Month.

The view about whether there is a need for separate legislation on paternity leave is 51.28% yes and 48.72% no.

The view about whether paternity leave will help in better parenting of child is 74.36% yes and 25.64% no.

The view about whether paternity leave shall be provided during miscarriage, adoption and tubectomy is 97.5% yes in which views on duration is 42.5% 7 days, 47.5% 15 Days, 0% 20 days and 7.5% 1 Month and 2.5% no.

The view on whether the paternity leave shall be provided before the expected date of delivery is 55 % yes and 45% no.

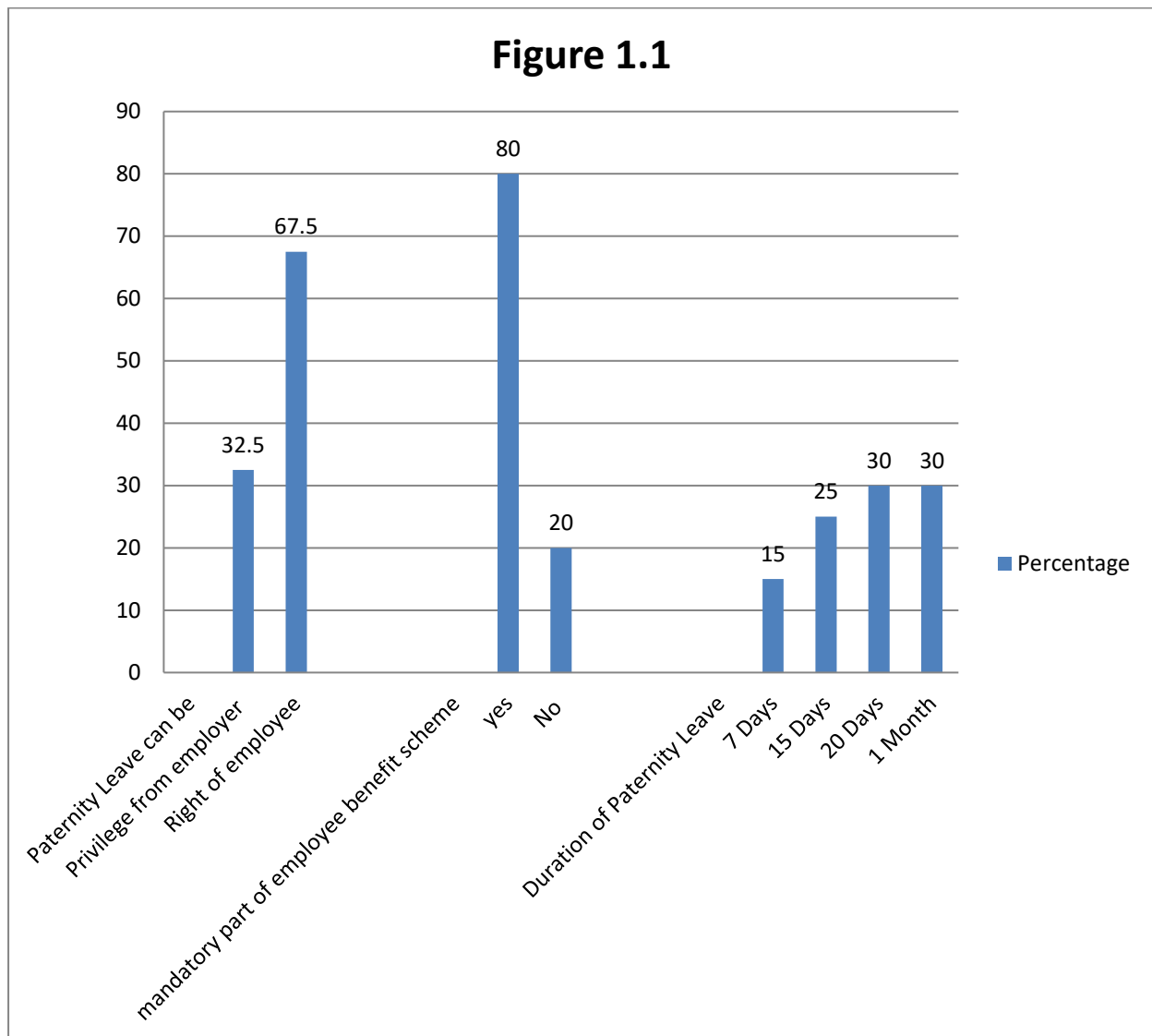
The views on what shall be the amount of salary is 64.1% full amount he was receiving before leave and 35.9% half of the amount he was receiving before leave.

The views on whether the compulsory paternity leave of 15 days to civil servants violates the right of other employees are 66.67% yes and 33.33% no.

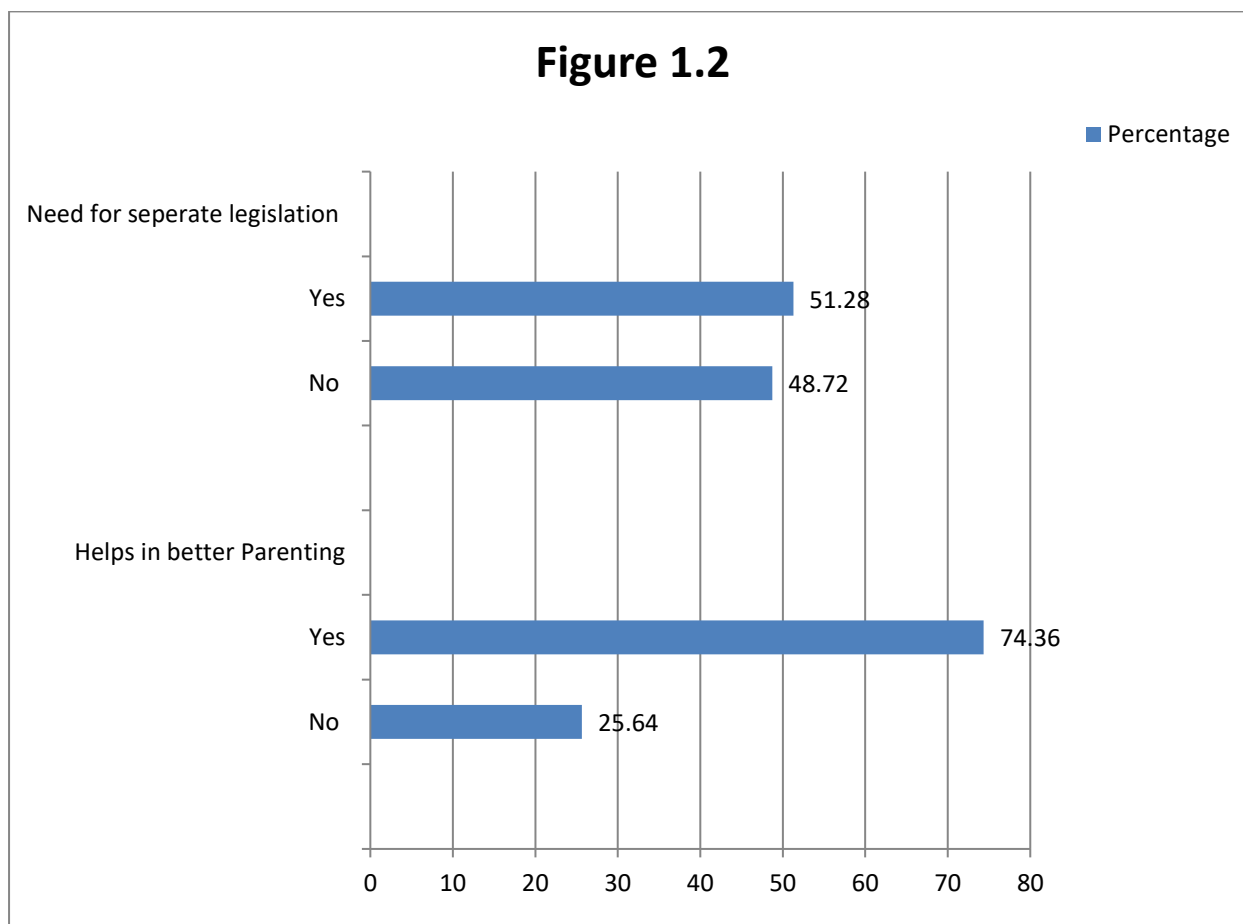
The view on reasons for providing paternity leave are 70% child care is joint responsibility of parents, 30% it will make father involved with his young children, 60% it is the duty of the husband to take care of his wife and new born baby, 55% it will change the perception of society that it is the sole responsibility of women to take care of her child, and 25% it will enable the family to spend more time together.

### **Results-**

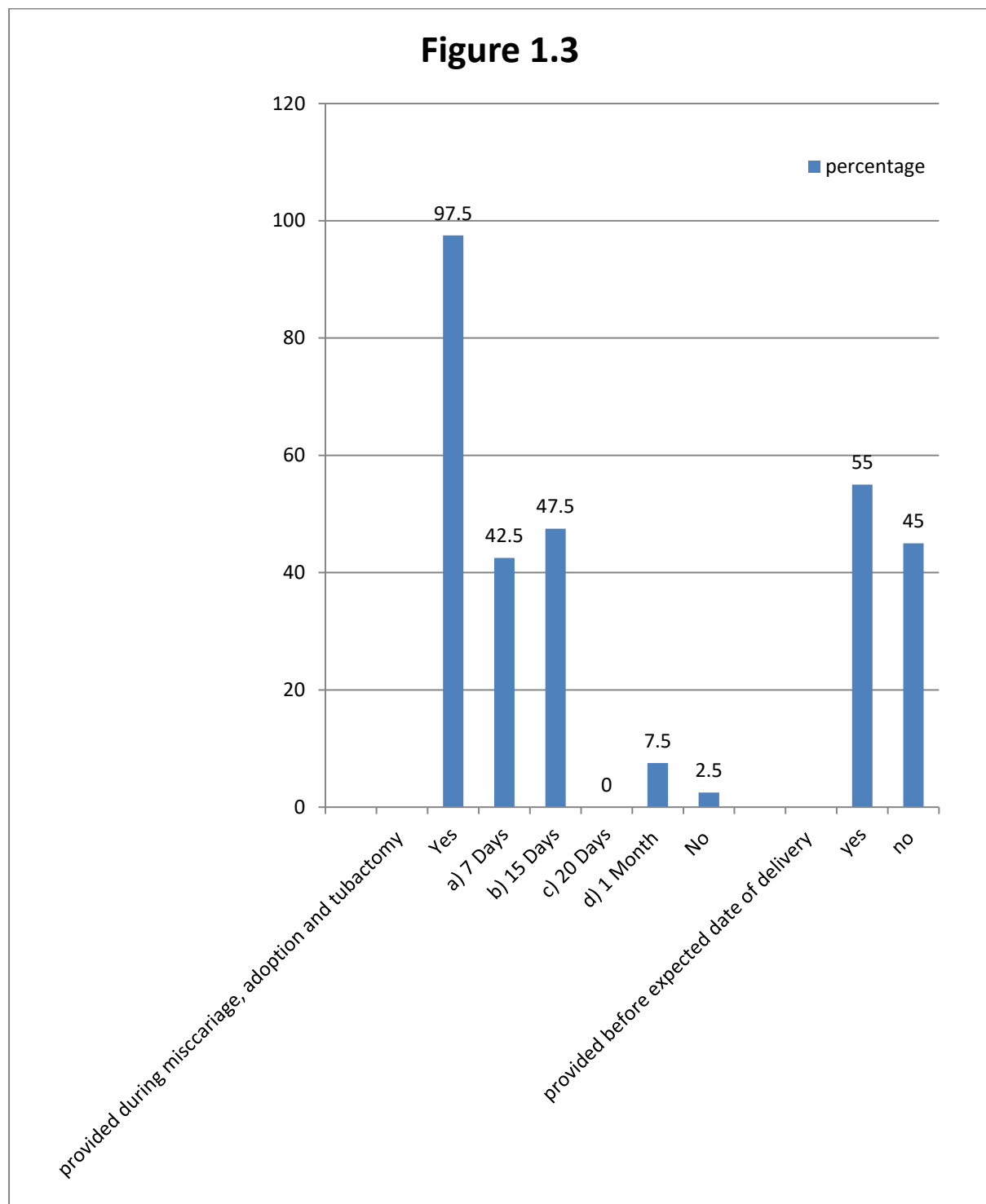




In figure 1.1 32.5% employees believes that paternity leave can be termed as privilege from employer where as 67.5% employees believes that it is the right of the employee. In today's world paternity leave is an essential part of employees benefit scheme. 80% of the respondent believes that it shall be made a mandatory part of the employees benefit scheme whereas the 20% believes that there isn't a need to make it mandatory part of employee benefit scheme. The different organisations have their own rules according to which they provide paternity leave for specific duration. When it comes to duration of paternity leave 15% of the respondent believes that 7 days are enough whereas 25% believe, 30% believes that 20 days are good whereas rest 30% wants 1 Month term as paternity leave.

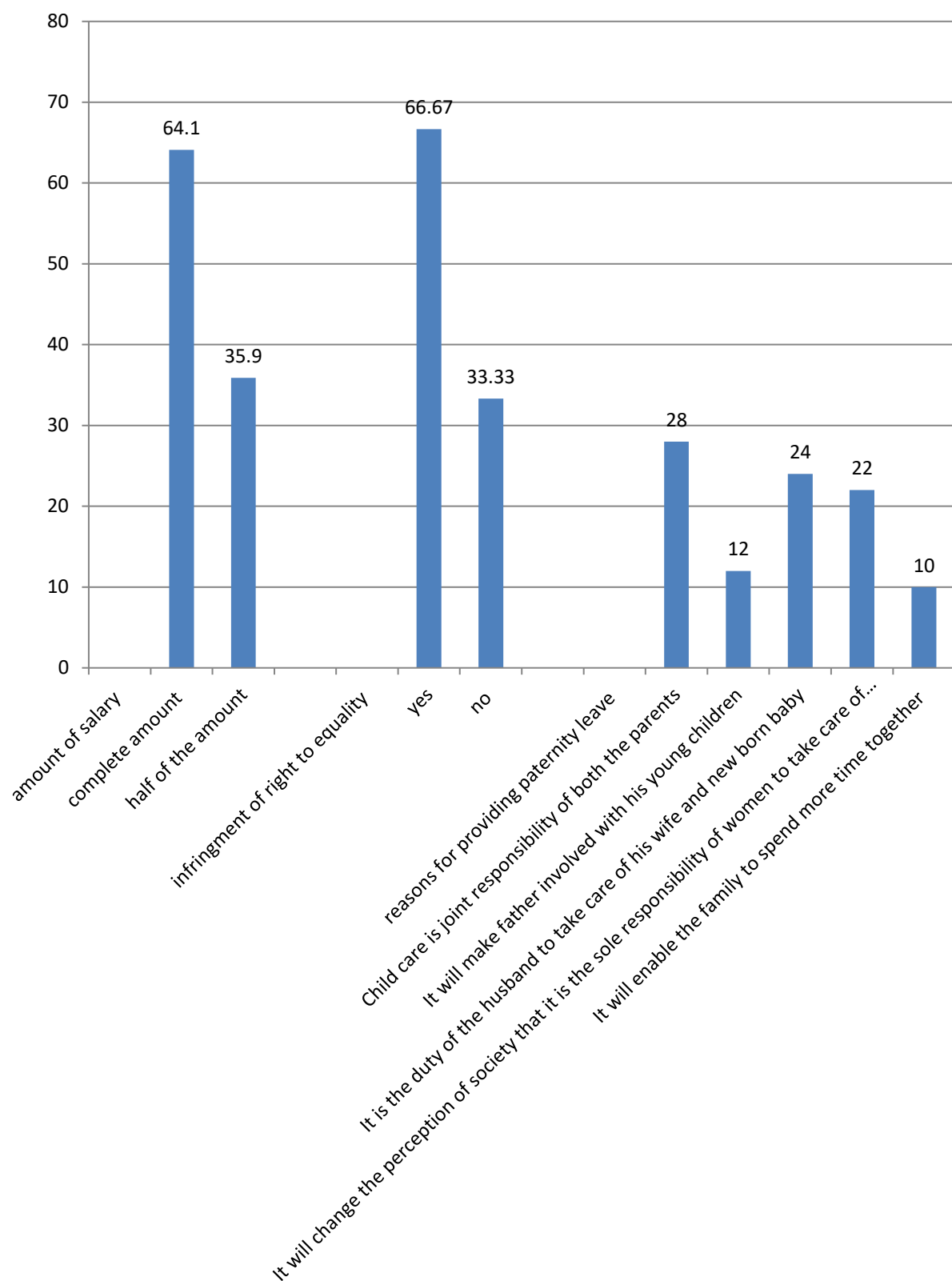


In figure 1.2 51.28% respondents believes that there is need for bringing a separate legislation on paternity leave whereas the 48.72% believes that there is no need for separate legislation. Now a days as both male and female are moving ahead together in every sphere of life the father do also share the same responsibility as that of the mother in taking care of the child. 74.36% believes that paternity leave will result in better parenting of child whereas the rest 25.64% believes that it won't change the scenario.



In figure 1.3 97.5% respondent believes that paternity leave shall be provided during miscarriage, adoption and tubectomy in which 42.5% believes 7 Days time is enough, 47.5% wants 15 Days paternity leave in such case, and 7.5% believes that there is a need for 1

month leave in such conditions whereas 2.5% believes that there is no need of paternity leave while miscarriage, tubectomy and adoption. The woman not only wants mental but physical support too of his husband during pregnancy. The 55% believes that paternity leave shall be granted before the expected date of delivery while the rest of 45% believes that it is not important to provide paternity leave before the expected date of delivery of the child.

**Figure 1.4**

In figure 1.4 64.1% respondent believes that there shall be no change in the amount of salary he was drawing before leave while 35.9% respondent believes that he shall be given half of the salary that he was drawing before leave. The civil servants are being provided with compulsory leave of 15 days as per the civil servant rules while there are no as such provisions for any other employees. 66.67% of the respondents believes that there is infringement of right to equality of the other employees by providing compulsory leave to civil servants where as 33.33% believes that there no violation of right to equality. There can be a lot of reasons for providing paternity leave. 28% believes that Child care is joint responsibility of both the parents, 12% respondent said It will make father involved with his young children, 24% believes that It is the duty of the husband to take care of his wife and new born baby, 22% believes that It will change the perception of society that it is the sole responsibility of women to take care of her child, while the 10% believes that It will enable the family to spend more time together.

### **Conclusion/ Suggestion-**

Paternity leave benefit is a kind of employee benefit scheme in which the male married employees are eligible for getting either paid or unpaid leave for a specific duration for taking care of the new born baby and the mother during and after delivery of child. In India, the civil servants are eligible for compulsory paternity leave for fifteen days which get lapsed within six month of the delivery of child if not taken by the father. The employer cannot deny providing paternity leave under any circumstances. But there is no provision for private sector employees it depends wholly on the discretion of the employer. There is an urgent need of bringing laws on paternity leave and making it mandatory. Paternity leave is a right of employee which shall be made a mandatory part of employee benefit scheme. The duration of paternity benefit shall be either 20 Days or 1 Month in case of birth of a child. There shall be a separate legislation drafted for Paternity Leave which will help in better parenting of the child. In case of adoption, miscarriage and tubectomy paternity leave of minimum fifteen days shall be given to the male employees. The paternity leave shall be granted before the expected date of the delivery and the pay for the duration of leave shall be as same as the amount he was drawing before leave. The right to equality of the other employee is being infringed by providing compulsory paternity leave benefit of fifteen days to civil servants. There are various reasons for providing paternity benefit leave in which the major reason is that the child care is the joint responsibility of both the parents and it will help in changing the perception of the society that mother has the sole responsibility of taking care of her child. Therefore, paternity leave shall be made mandatory for better parenting of the child.