

## The difficult birth of paid maternity leave in Australia

Deborah Brennan

In S. Kamerman and P. Moss eds. *The Politics of Parental Leave*, Policy Press, 2009

---

### Introduction

The absence of a national system of paid maternity or parental leave in Australia presents a puzzle: how is it that a country once regarded as a ‘social laboratory’ and renowned for its progressive social and industrial legislation (Roe, 1976; Castles 1998) does not provide this basic entitlement for working parents? Even if a minimalist scheme of paid leave is introduced in the next year or two, as seems likely following the election of a Labor government, the lack of such leave to date requires explanation, especially since ‘work-life balance’ and ‘family policy’ have been prominent political issues for at least two decades (Pocock, 2003; Brennan, 2007). In seeking to explain this puzzle, I locate Australian approaches to paid family leave (including maternity, paternity and parental leave) within the historical traditions of the welfare state in this country and the distinctive industrial relations regime that prevailed for much of the twentieth century. These historical and institutional characteristics help to explain the absence of paid leave in this country, but they do not fully account for it. Both cultural values and party politics also matter a great deal.

The normative strength of the male breadwinner family has been critical in shaping Australian debates and policies on family support. Despite comparatively low levels of female labour force participation, Australian policy-makers have eschewed ‘in work’ benefits such as earned income tax credits. Instead, Australia’s main family allowance programme, Family Tax Benefit A, provides means-tested support to households with dependent children regardless of parental labour force status. A smaller programme, Family Tax Benefit B, provides additional support to families reliant upon a single earner, effectively imposing a penalty on workforce participation by second earners, almost always mothers.

A focus on women as mothers, rather than workers, is deeply (though not unambiguously) embedded in Australian institutions and values and has been reflected in the debates about paid family leave, especially maternity leave. Prominent individuals – ranging from female trade union leaders to conservative male politicians – have resisted the International Labour Organization (ILO) definition of maternity leave as leave from paid work, insisting that motherhood itself, rather than absence from employment, should be the basis of entitlement to support. The argument that paid maternity leave is discriminatory because it provides no support to mothers outside the workforce is an example of this attitude.

The politics of paid statutory leave in Australia have played out in many arenas: political parties, trade unions, women’s organisations, workplaces and, indeed, the national parliament. Supporters disagree about whether an effective scheme requires income replacement or whether a flat-rate, social security payment – similar to the payments that apply to other contingencies such as unemployment – is adequate. Opinions vary (even among trade unionists) about whether employers should contribute to the cost of paid family leave and, if so, what the appropriate mechanism for this might be. There are divergences about whether eligibility should be limited to those who can demonstrate strong attachment to a single employer or whether less restrictive criteria would be more appropriate given the changing labour market. And there are strongly held views about

whether Australia should aim, first, to meet the ILO standard of 14 weeks paid maternity leave.

The success of the Australian Labor Party (ALP) at the federal election in late 2007 ended more than 11 years of government by the socially conservative Liberal and National parties. The ALP election platform centred on the needs of ‘working families’ and placed considerable emphasis on expanding early childhood education and care services. The platform also committed a future Labor government to introducing “a paid maternity leave scheme for all mothers with no cost burden to small business”. The ALP thus had a broad commitment to maternity leave but no clear policy about how it would be funded, who would be eligible or what level of support would be provided. Not long after its election, the government asked the Productivity Commission (a research and advisory body on economic, social and environmental matters) to identify the costs and benefits of providing paid maternity, paternity and parental leave. In September 2008, the Commission issued a draft report recommending the introduction of 18 weeks parental leave paid at the minimum wage and funded by government (Productivity Commission, 2008). Responding to the draft report, the Prime Minister said it was time to “bite the bullet” and introduce paid leave. However, the characteristics of the scheme – including the basis of entitlement, level of financial support, and mechanisms for funding – remain subject to lively contention (Maiden, 2008). The Commission will produce a final report in early 2009.

The chapter begins by outlining the distinctive features of the Australian approach to social protection and industrial relations. The second section considers Australia’s support for families with children and indicates some of the mechanisms Australia has adopted to meet its international obligations under the United Nations Convention on Elimination of all Forms of Discrimination against Women (CEDAW) and the ILO Convention on Workers with Family Responsibilities. This section also describes current patterns of access to maternity and parental leave and other forms of family income support. The chapter then turns to the politics of paid maternity leave, examining the ways in which political parties, women’s groups, trade unions and employer groups have framed the issue of financial support for new mothers (and, more recently, fathers). The chapter concludes with an assessment of the prospects for paid parental leave in Australia.

The breadwinner/homemaker household in Australian law and social policy

In the late nineteenth and early twentieth centuries, Australia was regarded as one of the most socially progressive countries in the world. Women gained the franchise in 1902 (compared with 1920 in the USA and 1928 in the UK), the first Labour (left) government in the world was elected in 1904, and Australian working men were among the first in the world to win an 8 hour working day (Castles, 1998; Castles and Uhr, 2005).

The establishment of quasi-judicial systems of arbitration to resolve disputes between employees and employers and to determine wages was central to Australia’s approach to labour relations. Arbitration institutionalised the role of trade unions, giving them power to bring their employers before an industrial tribunal. Together with tariffs on imported goods and restrictions on non-white immigration, arbitration ensured relatively high wages for male employees. In the *Harvester* judgment of 1907, the Commonwealth Conciliation and Arbitration Court (later to become the Australian Industrial Relations Commission (AIRC)) determined that an unskilled labourer should receive a ‘fair and reasonable’ wage sufficient to enable him to support himself, his wife and two or three

children ‘in frugal comfort’ (Macintyre, 1985). Similar rulings were made in State jurisdictions (the Commonwealth of Australia includes six States and two Territories). Thus, gendered assumptions about workers and their needs were built into the system from its earliest days.

The ‘family wage’ brought substantial benefits to working-class households, although it was never adequate to meet the needs of a family comprised of two adults and several children (Cass, 1983; Nolan, 2003). Further, adoption of the family wage principle relegated women to the status of secondary earners. For several decades the basic wage for women was set, by the Arbitration Court, at 54% of the male rate. It rose to 75% in 1950 but not until 1969 was the notion of ‘equal pay for equal work’ accepted. In 1974, the ‘family’ component of the male minimum wage was finally discarded and equal minimum wages for men and women were introduced.

Historically, most disputes heard before the AIRC related solely to the parties involved. Some, however, were identified as particularly significant and given the status of ‘test cases’. Interested groups could apply to participate in these proceedings, and unions not party to the initial action could seek to have their awards varied in line with the Commission’s rulings. Through this mechanism, therefore, the Commission was able to set standards for the whole country. From the late 1970s, test cases became an important means for extending different types of family leave to workers throughout Australia. Indeed, since the Constitution did not give the national parliament direct power over the terms and conditions of employees in private employment, the AIRC was more important than the parliament in extending workers’ entitlements (Baird, 2005).

In contrast to the insurance-based systems of social protection established in many European countries, Australia (and New Zealand) focused far more on wage protection. Castles coined the term “wage earners’ welfare state” to encapsulate this approach, arguing that the essential difference between Australia and most other nations was that, throughout much of the twentieth century, “wages policy...substituted for social policy” (Castles, 1994, p 124). However, as indicated above, this “wage-earners’ welfare state” focused primarily on the needs of working men. Women, regardless of their actual circumstances and responsibilities, were assumed to be dependent upon men.

Despite emphasis upon wages, rather than social insurance, Australian governments did not neglect other forms of social protection. The Commonwealth (or federal) government introduced taxpayer-funded age and disability pensions in 1908 and, at least in some States, ‘boarding-out’ allowances helped unmarried and deserted mothers to support their children. In 1912, following sustained advocacy by Labor party women, a non means-tested Maternity Allowance was introduced, equivalent to several weeks’ wages for a woman factory worker and seen by women as partial recognition of their ‘maternal rights’ (Lake, 1993). The Allowance was also an expression of Australia’s preoccupation with increasing its white population or, in the words of the *Australian Medical Gazette*, “breeding ... a stronger and sturdier race”. Aboriginal and Asian mothers were not eligible to receive the benefit (Lake, 1993).

In the 1940s, in the aftermath of the Depression and World War II, the Commonwealth introduced widows’ pensions and unemployment benefits. Like age and disability pensions, these were means-tested, taxpayer-funded benefits, paid at a low, flat rate. In the 1920s and 1930s, the possibility of moving towards European-style social insurance requiring contributions from employers and employees was raised. Such schemes were promoted by the conservative side of politics, but resisted by a coalition of the ALP, the labour movement, the self-employed, and various welfare organisations (Butlin, Barnard and Pincus, 1982; Watts, 1987). Australian social security arrangements have undergone

many changes, especially in the last decade, but all the major income support payments, including unemployment and disability benefits, pensions, and payments to low-income sole and partnered parents are similar: flat-rate benefits, with eligibility determined on the basis of family (rather than individual) income and assets, and funded from general taxation rather than earmarked taxes or individual contributions. The absence of a tradition of social insurance makes it extremely difficult to argue for income replacement for maternity or parental leave and the fact that family income tests are applied to almost all Commonwealth payments further complicates the situation.

The election of the Whitlam Labor government in 1972, following 23 years of conservative rule and coinciding with the efflorescence of second wave feminism, led to a surge of interest and activity in policy areas relating to women's domestic and employment circumstances. Childcare, equal pay, access to education and employment, and protection from domestic violence were central issues for the new government. Maternity leave was less central, but it was the subject of quiet, sustained attention from the Women's Bureau, a small section within the federal Department of Labor. Maternity leave also featured increasingly in debates within the trade union movement. In 1973, the Whitlam government introduced 12 weeks paid leave and 40 weeks unpaid leave for female Commonwealth (federal government) employees, and 2 weeks paid paternity leave for men. Most State governments had already introduced maternity leave for their public servants and teachers and Whitlam's initiative brought the Commonwealth into line. The Women's Bureau noted that maternity provisions around Australia "clearly [fell] short of those described under international standards" and pointed out that "employee associations are taking an increasingly active interest in the subject" (Women's Bureau, 1973, p 11).

From the mid-1970s onwards, the assumption of women's economic dependence was increasingly contested and women entered the labour force in ever greater numbers, especially married women whose participation rate rose from 13% in 1954 to 33% in 1971 (Whitehouse, 2004).

Meanwhile, an emerging group of women activists and officials was beginning to make an impact upon trade unions, building on the historical traditions of feminist advocacy for equal pay. Many of these young women were employed in the growing public service and professional unions, while others held positions in more traditional, blue-collar unions (Booth and Rubenstein, 1990). In 1975, International Women's Year, women unionists adopted a Charter for Working Women calling for equal employment and education, childcare, flexible work hours and maternity and paternity leave. The Charter became a touchstone of feminist activism within the union movement and put the spotlight on contentious issues such as the family wage.

Many male unionists did not welcome the activities of this new breed of young, tertiary-educated women. They resented campaigns for equal pay, seeing them as undermining the family wage and pushing women into paid work. But the leadership of the union movement as a whole was increasingly aware that unions faced new challenges, including a dwindling base of male industrial workers, and that women represented an important source of recruits.

In the wake of a conference called by the Australian Council of Trade Unions (ACTU) to discuss the Working Women's Charter in 1978, Jan Marsh, a young research officer who would later become deputy-President of the AIRC, was charged with advancing the Charter's aims. Marsh took a 'test case' on maternity leave to the Arbitration Commission on behalf of the Electrical Trades Union. The *Maternity Leave Test Case* (1979) established 12 months unpaid leave as the standard for eligible women in the

private sector, bringing them into line with the 52 weeks unpaid leave available to Commonwealth public servants. Adoptive mothers gained access to similar leave in the *Adoption Leave Test Case* in 1985.

Over the ensuing two decades, further cases considerably extended family leave entitlements. The *Parental Leave Test Case* in 1990 transformed ‘maternity leave’ into ‘parental leave’, making it a shared entitlement between the parents. This case also resulted in new fathers gaining a week’s unpaid paternity leave at the time of birth (or 3 weeks at the time of adoption). Eligible parents could thus take a total of 51 weeks unpaid leave (Owens 2005; Baird, Brennan and Cutcher 2002). In two subsequent cases (the *Family Leave Test Case* and the *Personal/Carer’s Leave Test Case*) the Commission extended to employees the right to use their own entitlement to sick leave and bereavement leave to care for members of their immediate family who were ill. For most workers, this resulted in 11 days paid personal leave, up to 8 of which could be used to care for others. This leave is not restricted to those with responsibilities for young children; it can be used to care for ageing relatives, same-sex partners, siblings and grandchildren but these individuals must be seen as part of the ‘immediate family’ and be a member of the worker’s household.

As part of its drive to make the Australian economy more competitive, the Liberal Party, in power from 1996, introduced radical changes to the legislative framework governing labour relations. These reduced the power of trade unions by moving away from the centralised wage determination and dispute resolution that had prevailed since early in the twentieth century and placing the emphasis on enterprise bargaining and individual contracts (Campbell and Brosnan, 1999). Liberal leaders argued that an enterprise focus in industrial relations would allow work/family balance matters to be negotiated at the workplace.

In 2005, the *Family Provisions Test Case* (also known as the *Parental Leave Test Case*) awarded employees a number of new rights: a ‘right to request’ an extension of unpaid parental leave from 52 weeks to 2 years; a right to 8 weeks of parental leave that parents could take simultaneously; and to a right to request part-time employment, following parental leave, until a child reaches school age. Employers could refuse these requests ‘on reasonable grounds’ relating to their effect on the workplace or the employer’s business. About 20% of industrial awards were varied to incorporate these provisions before the Howard government introduced legislation (*WorkChoices*) that prevented the extension of test case determinations in this way. *WorkChoices* also removed parental leave from the list of matters that could, in future, be included in industrial awards, although it did not remove existing entitlement to such leave. Opposition to *WorkChoices* was the single biggest issue behind the defeat of the Howard government in November 2007.

### Employment, family payments and parental leave

Given Australia’s history as a ‘male breadwinner’ society, it is not surprising that the employment patterns of men and women are very different, especially for those with young children. Motherhood, especially the presence of very young children, has a significant impact on the employment of women, especially when children are young. Mothers are far less likely to be employed than fathers, much less likely to work full time, and more likely to be engaged in casual work. By contrast, Australian men work among the longest hours in the OECD with over one third working 45 or more hours per week (Lee, 2004; ABS, 2005). Fathers of young children are especially likely to work overtime and/or ‘unsocial’ hours.

There are contradictory assessments of the Australian government's support for families. An analysis of support for working mothers in twenty OECD countries (based on data collected in 1999) placed Australia near the bottom, with only New Zealand, Mexico and Turkey ranked lower. This assessment was based on a set of measures including paid parental leave, flexible working-time arrangements, childcare subsidies and the taxation of second earners (Jaumotte, 2005). Yet only a few years later, Australia's performance on key work and family indicators - including the proportion of children under 3 years in publicly funded childcare, female employment, the gender pay gap, child poverty and total fertility - was assessed as at or above the average of the thirteen countries included in OECD's *Babies and Bosses* review (Adema, 2008).

A social policy analyst, Peter Whiteford, has shown that the Australian system "privileges part-time work and...penalises second income earners in couples". He emphasises, however, that these negative aspects of Australian performance are not the whole story. Australian expenditure on families as a percentage of GDP is among the highest in the OECD; the system is generous to lone parents and jobless families; and Australia is relatively successful in reducing child poverty (Whiteford, 2008).

But there is no doubt that Australian men and women are poorly served when it comes to the provision of paid family leave. Depending as it does on industrial awards and employer policies, there being no statutory entitlement to paid leave, access to such leave is "patchy and unfair" with the most vulnerable workers missing out almost entirely (Work + Family Policy Roundtable, 2008, p 6). In 2005, 44% of employed women and 35% of employed men had access to some paid leave. But, only 28% of part-timers had access, compared with 58% of full-time female employees; and only one in ten male part-timers had access to paid paternity leave compared with 39% of male full-time workers (ABS, 2006). Paid leave is also far more likely to be available to those on high incomes. Up to 65% of female managers and 54% of professional women have access to paid maternity leave, but only 18% of clerical, sales and service workers and less than 1% of casual workers (Baird and Todd, 2005). Access to paid leave is heavily skewed towards public sector employees: 74% of women in public sector employment had access to paid maternity leave compared with only 32% of those in private sector employment (*ibid.*). A survey of parents in 2005 revealed that at least 27% of mothers and 35% of fathers of new-born babies were not eligible for parental leave, paid or unpaid, either because they were self-employed or because they had not worked for the same employer for 12 months (Whitehouse, Baird and Diamond, 2006).

Even for the minority who do have paid leave, the duration is often short. Very few women in Australia have access to the 18 weeks paid leave recommended by the ILO as a minimum (Work + Family Policy Roundtable, 2007). Perhaps for this reason, fourteen weeks paid leave has become the benchmark for many of those lobbying for paid leave.

A survey conducted as part of the Australian government's 'Longitudinal Study of Australian Children' enables us to look not just at overall patterns of entitlement for men and women, but at the actual leave entitlements and take-up of paid leave by men and women who became parents in 2005. In this study, just over a third (37%) of mothers who were employed in the 12 months prior to the birth of their child made use of some paid maternity leave. Around 60% used some unpaid leave (with approximately a quarter of this group taking *only* unpaid leave). On average, women took 40 weeks leave and, of all the maternity leave taken, around 27% was paid. Confirming the international evidence on the importance of leave being paid (especially if men are to be encouraged to use it), the survey showed that over 80% of fathers who took some leave, took only paid leave. In stark contrast, less than 15% of mothers took *only* paid leave (*ibid.*).

The survey also probed parental preferences. Nearly half (46%) of Australian mothers who took leave and returned to work within 15 months would have taken a longer period if they had had access to *paid* leave. Only 7% said that access to more unpaid leave would have led them to take a longer period off work (*ibid.*).

### The politics of paid maternity and parental leave

Political interest in financial support and industrial protection for mothers has a long history in Australia, predating the ILO Maternity Protection Convention of 1919 (Huntley and Ramsay, 2006). However, activism around *paid* maternity and parental leave did not get underway until the early 1990s. In the period 1983-1996, ACTU entered into a series of agreements (or Accords) with Labor governments, in which unions agreed to moderate their wage demands in return for increases in the ‘social wage’ – that is, through extending health care, superannuation, social security and community services. It was in this context, and “in the spirit of ILO Convention 103 (Maternity Protection)” that Labor made a commitment to provide 12 weeks paid maternity leave to all Commonwealth government employees (Cass, 1994). Part of the political context for this was that Australia had ratified CEDAW in 1983 but had entered a reservation to the provision concerning maternity leave, stating it was “not at present in a position to take the measures required...to introduce maternity leave with pay or with comparable social benefits throughout Australia” (quoted in HREOC 2002a, p 29). Australia had also ratified ILO Convention 156, ‘Convention Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities’ in 1990.

Women’s organizations and trade unions were keen for the government to withdraw Australia’s reservation to CEDAW and give full effect to ILO Convention 156. Family policy debates also took place during 1994 under the auspices of the National Council of International Year of the Family, which had propelled all forms of family support into the centre of national political debate. Against this background, in 1995 the government introduced the Maternity Allowance, a means-tested lump sum payment, equivalent to about 6 weeks of social security benefits, and payable to mothers regardless of their labour force status (Cass, 1994). Although the ACTU accepted this as a step towards paid maternity leave, key women’s organisations condemned it (Brennan, 1995). The Women’s Electoral Lobby was particularly affronted by the means-testing of the benefit. It argued that this was “not a principle the ACTU should embrace lightly” for a payment that should have been available to all women workers (MacDermott, 1996).

The politics surrounding paid maternity leave took a new turn with the election of the conservative government in 1996. John Howard, the Prime Minister, was known for his support of the ‘traditional’ family. Among the first acts of his government were cuts to childcare funding and the re-shaping of family payments to benefit households with a stay-at-home parent while penalizing those in which paid work and care were shared. This was achieved primarily through the design of Family Tax Benefits A and B, described in more detail above.

The renewed campaign for paid maternity leave thus took place against the backdrop of a conservative government determined not to ‘advantage’ women in paid employment in comparison with women in the home. Prime Minister Howard drew on the argument of the UK sociologist Catherine Hakim, that women fall into one of three groups: home-based, work-centred or adaptive (Hakim, 2000). Hakim was invited to Australia to meet with policy-makers and to address a major conference. The message taken from Hakim’s work was that the government should eschew measures such as paid maternity leave that were said to benefit only ‘work-centred’ women (Hakim, 2003).

The Human Rights and Equal Opportunity Commission (HREOC) has been a major source of institutional support for paid maternity leave. Established in 1986, this independent statutory authority has the job of fostering and protecting human rights and overseeing the implementation of various laws. These include the Sex Discrimination Act, which gives effect to Australia's international obligations including CEDAW and ILO Conventions. Given this remit, HREOC has taken a strong interest in women's employment, especially ways of combating discrimination in employment. A HREOC report on pregnancy and work noted that the limited availability of paid maternity leave was a major problem for women in paid employment and urged the government to look further into this issue and to consider removing the reservation that Australia has entered to CEDAW (HREOC, 1999).

Three years later, under a new Sex Discrimination Commissioner, HREOC again entered the maternity leave debate, publishing a carefully researched discussion paper exploring the issue of paid maternity leave (HREOC, 2002a) and following this with consultations around the country. At the end of this process, HREOC put forward a proposal for a government-funded maternity leave scheme that would meet the minimum ILO standard without putting pressure on business. Under the proposal, employed mothers who were not eligible for employer-funded paid maternity leave, including self-employed, casual and contract workers, would receive 14 weeks pay at the minimum wage rate, funded by the Commonwealth government. The proposal was deliberately minimalist because, in the words of the Sex Discrimination Commissioner, "the debate had made it clear that Australia was still struggling with the concept of mothers working as a moral issue; there was no point in muddying the waters further by devising a scheme that could be dismissed because it was 'unaffordable' (Goward, 2005, p 179).

The government made no formal response to the proposal, but individual Ministers were outspoken in their condemnation. Workplace Relations Minister Tony Abbott announced that paid maternity leave would only be introduced "over this government's dead body" (ABC Radio, 2002a). Finance Minister Nick Minchin attacked the proposal as "middle class welfare", saying he had received many calls from people saying "why should I have to pay for somebody else to go on leave to have a baby" (ABC Radio, 2002b). In fact, the HREOC proposal was clearly structured to provide a safety net for vulnerable, low-income women. The sticking point for the government seemed to be that women not in the paid workforce would miss out, an outcome it perceived as 'discriminatory'.

Many of the arguments, indeed the phrases, used by government ministers who opposed the principle of paid maternity leave appeared to draw on a paper published by the Centre for Independent Studies, a libertarian think tank founded in 1976. Its main argument was that "working mothers and at-home mothers should be treated equally in public support for their dependent children" and that "a special benefit restricted to employed women would be discriminatory against mothers engaged in home production" (Maley, 2002, p 7). Rejecting the claim that women had "no choice' but to give up work", Maley insisted that "[w]orking mothers...always have the option of not working. The decision to work is a free one, as is the decision to have a baby, and both have foreseeable consequences" (*ibid.*, p 5). He also implied that only women working full time would benefit from paid maternity leave; since most mothers of pre-school children either work part time or do not have paid work, they would miss out. This misrepresented the HREOC proposal for maternity leave, which was explicitly designed to cover both part-time and full-time workers. Maley's comments echoed Catherine Hakim's contention that "it is mainly work-centred women...who benefit from maternity

leave and related job rights – that is, women who have the lowest fertility and are least likely to need it” (2003, p 12).

Within the parliament, the Australian Democrats, a small political party with representation in the Senate (or upper house) but not the House of Representatives, were the champions of paid maternity leave. The Democrats’ leader Natasha Stott-Despoja, the youngest woman elected to the parliament, introduced two private members’ bills supporting 14 weeks leave at minimum wage for all eligible working women.

In lieu of paid maternity leave, the government introduced a maternity payment – the ‘Baby Bonus’ – currently set at AU\$5,000 (€2,615)<sup>1</sup> and payable to all women in fortnightly instalments on the birth or adoption of a child. This payment, an echo of Labor’s 1912 Maternity Allowance, provided assistance with the costs of a new baby, especially for household reliant on low incomes. It was, though, worth much less than 14 weeks pay at the minimum wage and fell far short of the proposal put forward by HREOC. The maternity payment appeared to be an example of the kind of policy advocated by Hakim; that is, “designed to be neutral” as between work-centred, home-centred and adaptive women.

In fact, the maternity payment was not neutral. While the payment was of clear benefit to women outside the labour force, it could have been developed alongside, rather than as an alternative to, a genuine maternity leave scheme. It seems, however, that concerns about declining fertility trumped the rights of employed women. During a post-budget press conference, the Treasurer linked the maternity payment to the economic implications of population ageing, urging Australians to have three children, “one for your husband and one for your wife and one for your country”.

To the dismay of many trade unions and women’s groups, the Labor Party’s initial response to the Baby Bonus appeared to end the campaign for a wage-related payment for working women at the time of childbirth. In the 2004 election campaign, Labor advocated a Baby Care Payment, similar in structure to the government’s measure but subject to a family income test. Such a scheme, it proclaimed, would “deliver on Labor’s commitment to introduce 14 weeks paid maternity leave” (ALP, 2004, p 2). Yet the structure of the proposal, the level of payment and the fact that it would be means-tested on family income, all undermined this claim. The contrast with other work-related leave entitlements was stark. The leadership of the ALP appeared to have accepted the argument for ‘equal treatment’ of women in the labour force and those outside it – a principle that undercuts the notion of leave as a workforce entitlement and that would never be tolerated in respect of the forms of leave from which men benefit the most (e.g. annual leave).

Meanwhile, the Howard government advocated workplace bargaining, rather than national legislation, as the key to extending paid maternity leave. But, unsurprisingly, the individual agreements that the government promoted in place of collective bargaining, were an ineffective vehicle for achieving paid maternity leave. In 2004, only 11% of Australian workplace agreements contained any reference to maternity leave, and only 7% referred to *paid* maternity leave (Baird and Todd, 2005).

A late delivery?

---

<sup>1</sup> Converted into Euros at exchange rate on 21 October 2008, rounded up to the nearest 5 euros.

The Productivity Commission inquiry into paid parental leave, initiated by the Rudd government in early 2008, was the catalyst for a new round of ideas about paid parental leave to be expressed. Business and government representatives made clear that they would not countenance a scheme involving major costs for employers and this position, combined with the lack of a social insurance tradition in Australia, seemed to rule out a scheme based on income replacement. Other issues – including the primary objectives of a statutory paid parental leave scheme – remain unresolved. Participants in the inquiry put forward many possible objectives for paid parental leave including the health of mothers and babies, gender equity at work and in the home, the promotion of work/family balance and enhanced fertility (Productivity Commission 2008, para.1.5). The proposals embodied different ideas about the objectives of paid parental leave and different understandings of what is possible in the current political and economic environment.

The Commission itself adopted an unequivocal stance, stating that paid parental leave should be a workforce entitlement, not a generalised form of support for parents with newborn, or newly adopted, children. It proposed 18 weeks leave, paid by the Commonwealth government at the minimum adult wage to ‘primary carers’ who have worked for an average of ten hours per week in the preceding twelve months. Eligible parents could share the leave between them, with an additional 2 weeks paid leave available if fathers or other partners shared the leave. Those who shared care would have a total of 20 weeks paid leave. Since many parents already have access to some paid leave, the Commission estimated that ‘the vast majority of children’ could be cared for exclusively by their parents for at least the first six months after birth. Employers would be required to pay superannuation (i.e. private pension) contributions on behalf of employees on paid parental leave. Those outside the labour force and employees not eligible for paid parental leave would receive a maternity allowance equal in value to the current baby bonus.

The recommendations of the Productivity Commission had a mixed reception. Unions and women’s organisations welcomed the proposals, on the whole, but those who advocated a longer period of paid leave and/or a higher level of remuneration, saw them as too cautious. Conservative politicians attacked the recommendations for distinguishing between mothers in the home and mothers in the paid workforce. The Opposition spokesman on families, for example, claimed that paid parental leave would create “first and second class mothers” (Lunn, 2008a). This claim was echoed in *The Australian* by a critic who claimed that paid parental leave would create “two classes of families and two classes of mothers” (Shanahan, 2008). Government ministers responded cautiously. Senior women, such as Deputy Prime Minister Julia Gillard, and Minister for Families, Jenny Macklin, expressed support for paid maternity leave in principle, but joined conservative commentators in expressing concern about measures that differentiate between women in paid work and those caring for children at home. Not a single Labor parliamentarian offered unequivocal support for paid maternity or parental leave as a workforce entitlement.

## Conclusion

The Productivity Commission will release its final report in February 2009 but, whatever its recommendations, they will be put on hold. Late in 2008, the Treasurer indicated that the impact of the global financial crisis on revenue would mean delaying the introduction of paid leave until at least 2010 (Lunn 2008b). In an earlier era, an announcement of this type might have provoked a storm of protest from women Labor MPs, but,

disappointingly, there was not even a gentle rebuke (at least in public). Describing paid maternity leave as ‘something we believe is important’, Deputy Prime Minister Julia Gillard has said it would have to be ‘weigh[ed] in the budget process’ (Maguire 2008). The Minister for the Status of Women, Tanya Plibersek added, ‘when we were elected we didn’t predict the global financial crisis and everything we do ... has to be in the best interests of the whole community’ (Dunlevy 2008). Even when a \$42 billion ‘stimulus package’ passed through the parliament in February 2009, not one member of parliament suggested that the \$450 million paid maternity leave scheme should be included. The Sex Discrimination Commissioner, along with advocacy groups such as the National Foundation for Australian Women, worked hard to promote the benefits of paid leave as part of the stimulus package, describing it as ‘social infrastructure which will improve national productivity and increase women’s attachment to the workforce’ (Dunlevy 2008). But to no avail.

Aspects of the male breadwinner tradition continue to be embedded in Australian culture and institutions. If the Rudd government announces the introduction of a statutory scheme of paid parental leave during its first term of office, it will be a scheme of relatively short duration with a low level of remuneration (closer to minimum wage rather than income replacement). Australia is long way from achieving a system of paid parental leave that recognises men and women as equal (or potentially equal) partners in the workplace and in the home. Nevertheless, even a modest scheme of paid parental level will be a considerable advance on current arrangements, especially for low-paid women.

## References

- ABC Radio (2002a) Transcript of PM [Evening current affairs program], 'Abbott embroiled in baby brawl', July 22.  
<http://www.abc.net.au/pm/stories/s613611.htm> (accessed November 8 2006)
- ABC Radio (2002b) ABC News Online, 'Goward rejects claim paid maternity leave too costly', 15 September.  
[http://www.abc.net.au/news/politics/2002/09/item20020914000556\\_1.htm](http://www.abc.net.au/news/politics/2002/09/item20020914000556_1.htm)  
(accessed November 21 2006)
- Adema, W. (2008) 'Work and Family Reconciliation in OECD Countries: An Overview', keynote address to 10<sup>th</sup> *Australian Institute of Family Studies Conference*, 9-11 July 2008, Melbourne
- ALP (Australian Labor Party) (2004). *Balancing Work and Care: Labor's Baby Care Payment*, Election Statement.
- ALP (Australian Labor Party) (2007) *National platform and constitution*, Canberra: ALP.
- ABS (Australian Bureau of Statistics) (2005) *Australian labour market statistics (Cat. No. 6105.0)*, Canberra: ABS.
- Baird, M. (2005) 'Parental leave and the industrial relations system', *Work, Family and the Law. Special Edition of Law in Context*, vol 23, no. 1, pp 45-64.
- Baird, M., Brennan, D. and Cutcher, L. (2002) 'A pregnant pause: paid maternity leave in Australia', *Labour and Industry*, vol 13, no 1, pp 1-19.
- Baird, M & Todd, P. (2005) 'Government Policy, Women and the New Workplace Regime: A Contradiction in Terms and Policies', in *The Federal Government's Industrial Relations Policy: Report Card on the Proposed Changes*, Work and Organisational Studies, University of Sydney, June.
- Booth, A. and Rubenstein, L. (1990) 'Women in trade unions in Australia', in S. Watson (ed) *Playing the State*, Sydney: Allen & Unwin, pp 121-135
- Brennan, D. (1995) 'Current directions and future prospects', in R. Batten, W. Weeks and J. Wilson (eds) *Social change in the Australian family* (2nd edn), Melbourne: Longman, pp 303-15.
- Brennan, D. (2007) 'Babies, budgets and birth rates: work and family policy in Australia, 1996-2006', *Social Politics: International Studies in Gender, State and Society*, vol 14, no 1, pp 31-57.
- Butlin, N. G., Barnard, A. and Pincus J. J. (1982) *Government and capitalism: Public and private choice in twentieth century Australia*, Sydney: George Allen & Unwin.
- Campbell, I. and Brosnan, P. (1999) 'Labour Market Deregulation in Australia: the Slow Combustion Approach to Workplace Change', *International Review of Applied Economics*, vol 13, no 3, pp 353-94.
- Cass, B. (1983) 'Redistribution to children and mothers: A history of child endowment and family allowances' in B. Cass and C. Baldock (eds, *Women, Social Welfare and the State*, Sydney: Allen & Unwin, pp 54-88.
- Cass, B. (1994). 'Expanding paid maternity/parental leave through family income support: supporting early infant care as a social responsibility', *Social Security Journal*, no 3.

- Cass, B. (2005). 'The contested politics of paid maternity leave in Australia in a transforming family policy regime' in P. Grimshaw, J. Murphy and B. Probert, B. (eds) *Double shift: Working mothers and social change in Australia*, Beaconsfield, Vic: Circa, pp 201-224.
- Castles, F. G. (1994). "'The wage earners' welfare state revisited: refurbishing the established model of Australian social protection, 1983-1993', *Australian Journal of Social Issues* vol 29, no 2, pp 120-145.
- Castles, F. (1998) 'Social Laboratory' in G. Davison, J. Hirst and S. Macintyre (eds) *The Oxford companion to Australian history*, Oxford: Oxford University Press, pp 592-593.
- Castles, F. and Uhr, J. (2005) 'Australia: Federal constraints and institutional innovations', in H. Obinger, S. Leibfried and F. G. Castles (eds) *Federalism and the welfare state: New world and European experiences*, Cambridge: Cambridge University Press.
- Dunlevy, S. (2008). 'No leave for mums', *Daily Telegraph*, 25 November.
- Goward, P. (2005) 'Reforming the policy framework', in P. Grimshaw, J. Murphy and B. Probert (eds) *Double shift: Working mothers and social change in Australia*, Melbourne: Melbourne Publishing Group.
- Hakim, C. (2000) *Work-lifestyle Choices in the 21st Century: Preference Theory*, Oxford: Oxford University Press.
- Hakim, C. (2003) 'Competing family models, competing social policies', paper presented to the annual conference of the Australian Institute for Family Studies, 12 March 2003, Melbourne.
- HREOC (Human Rights and Equal Opportunity Commission) (1999) *Pregnant and productive: Report of the national pregnancy and work inquiry*, Sydney: HREOC.
- HREOC (Human Rights and Equal Opportunity Commission) (2002). *Valuing parenthood: Options for paid maternity leave. Interim paper*, Sydney: HREOC.
- HREOC (Human Rights and Equal Opportunity Commission) (2002) *A time to value: Proposal for a national paid maternity leave scheme*, Sydney: HREOC.
- Huntley, R. and J. Ramsay (2006) 'Never made to follow, never born to lead: Women in the NSW ALP', in D. Brennan and L. Chappell (eds) *"No Fit Place for Women"? Women in New South Wales Politics, 1856-2006*, Sydney: University of New South Wales Press.
- Jaumotte, F. (2004) *Female labour force participation: Past trends and main determinants in OECD countries (Economics Department Working Paper)*, Paris: OECD
- Lake, M. (1993) 'A revolution in the family: the challenge and contradictions of maternal citizenship in Australia', in S. Koven and S. Michel (eds) *Mothers of a new world: Maternalist politics and the origins of welfare states*, New York: Routledge.
- Lee, S. (2004). 'Working hour gaps: trends and issues', in J. Messenger (ed) *Working time and workers' preferences in industrialized countries*, London: Routledge, pp 29-60.
- Lunn, S. (2008a) 'Maternity leave "income substitute, not welfare"', *The Australian*, 4-5 October.
- Lunn, S. (2008b). 'Economic crisis may delay baby leave', *The Australian*, 6 October.
- Macdermott, T. (1996) 'Who's rocking the cradle?', *Alternative Law Journal*, vol 21, no 5, pp 207-212.

- Maguire, T. (2008). 'Pregnant pause in maternity promise delivery', *Daily Telegraph*, 24 November.
- Macintyre, S. (1985) *Winners and losers: The pursuit of social justice in Australian history*, Sydney: Allen & Unwin.
- Maiden, S. (2008) 'Rudd backs paid maternity leave but won't commit to 18 weeks', *The Australian Online*, 29 September (accessed 21 October 2008)
- Maley, B. (2002). *Families, fertility and maternity leave*. St Leonards, NSW, Centre for Independent Studies.
- Murray, J. (2005) 'Work and care: New legal mechanisms for adaptation', *Labour and Industry*, vol 15, no 3, pp 67-87.
- National Foundation for Australian Women (2008)
- Nolan, M. (2003) 'The high tide of a labour market system: The Australasian male breadwinner model', *Labour and Industry*, vol 13, no 3, pp 73-92.
- Owens, R. (2005). 'Taking leave: Work and family in Australian law and policy' in J. Conaghan and K. Rittich (eds) *Labour law, work, and family*, Oxford: Oxford University Press.
- Pocock, B. (2003) *The work/life collision*, Annandale, NSW: The Federation Press.
- Productivity Commission (2008) *Paid Parental Leave: Support for Parents with Newborn Children*, Draft Inquiry Report, Canberra.
- Roe, J. (ed) (1976) *Social policy in Australia*, Sydney: Cassell.
- Shanahan, A. (2008) 'Maternity leave is ok for some', *The Australian*, 4-5 October.
- Watts, R. (1987) *The foundations of the national welfare state*. Sydney: Allen & Unwin.
- Whiteford, P. (2008) 'Assistance for families: An assessment of Australian family policies from an international perspective', keynote address to *10<sup>th</sup> Australian Institute of Family Studies Conference*, 9-11 July 2008, Melbourne.
- Whitehouse, G. (2004) 'From family wage to parental leave: The changing relationship between arbitration and the family', *Journal of Industrial Relations*, vol 64, no 4, pp 400-412.
- Whitehouse, G. (2005) 'Justice and equity: Women and indigenous workers', in J. Isaac and S. Macintyre (eds) *The new province for law and order: 100 years of Australian industrial conciliation and arbitration*, Cambridge: Cambridge University Press, pp 207-240.
- Whitehouse, G., Baird, M. and Diamond, D. (2006) Highlights from the Parental Leave in Australia Survey, December 2006, Brisbane: University of Queensland. Available at: <http://www.polsis.uq.edu.au/index.html?page=55767>  
(accessed 21 October 2008)
- Work + Family Policy Roundtable (2007) *Benchmarks: Work and Family Policies in Election 2007 Work + Family Policy Roundtable*.
- Work + Family Policy Roundtable (2008) *Submission to the Productivity Commission Inquiry into paid maternity, paternity and parental leave on behalf of the Work + Family Policy Roundtable*.