

**Submission to the Inquiry into Paid Maternity, Paternity and Parental Leave by
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Dr Nadine Zacharias (University of Ballarat)

Australia has an infamous reputation as one of only two OECD countries that has not introduced a universal paid maternity leave scheme. In 2008, only the United States of America and Australia do not grant all women the right to paid leave following child birth which is seen as a basic entitlement to women in all other developed countries and in much of the developing world. There is now evidence that the current parental leave regime in Australia results in highly inequitable access to leave periods and even more so to paid leave periods (ABS, 2006; Whitehouse, Baird, Diamond, & Hosking, 2006; also Submission 153). Less than 50 per cent of Australian mothers can rely on wage replacement benefits while on birth-related leave and only a very small minority of fathers have access to paid paternity leave. For equity reasons alone, not to mention those related to the wellbeing of the child and the mother, bonding time for both parents, etc., the parental leave regime in Australia is in need of substantial reforms.

In the reform process commenced by the Rudd government, it is advantageous to analyse the parental leave schemes of other countries. The current Inquiry by the Productivity Commission has started this process of comparison which was also pursued by the HREOC inquiry in 2002. While comparisons of different parental leave schemes are essential, they often focus only on specific design features, such as the length of the leave period, the level of wage replacement benefits and funding options. However, I will argue in this submission that a comparison of different leave regimes needs to be taken one step further and consider the underlying social norms and expectations regarding care work, especially parenting, and employment in order to create an equitable and effective policy solution.

I base my analysis and recommendations on the findings of my recently completed doctoral research which compared in depth the parental leave regimes in Australia and Sweden. I will only present selected data in this submission but am happy to discuss the material further with the Inquiry. My key argument is that a reform of the Australian parental leave regime needs to address the ways in which the costs and benefits of paid and care work are shared between women and men as well as between parents, employers and the state.

The importance of gender ideals as the normative foundation of parental leave regimes

The greatest difference between the Australian and Swedish parental leaves regime is the way in which women and men are conceptualised as earners and/or carers. While the Australian parental leave legislation relies on a traditional breadwinner/homemaker ideal, the Swedish legislation is based on the ideal of an earner/carer citizen, regardless of sex.

In Australia, the couple is granted 52 weeks of unpaid parental leave. Because it is unpaid, the parent who takes leave, usually the mother, becomes dependant on the income of her breadwinning partner or, in the absence of a partner, on payments by the state. The carer

cannot maintain an income in her own right but is instead placed in a dependant relationship until she returns to paid work. The care work she engages in while on leave is not financially rewarded and there is no compensation of foregone earnings. Following the same traditional logic, men are conceptualised by the Australian legislation as sole breadwinners with no active role in the care giving of their young children. Men are not given a dedicated leave period in their role as fathers apart from one week of unpaid paternity leave which needs to be taken immediately after the birth of the child. The normative foundation of the Australian parental leave regime consists of a traditional gender ideology.

In contrast, Swedish mothers and fathers have access to equal numbers of parental cash benefit days, 240 for each parent. Of the 240 days, 60 need to be taken by each parent or are lost to the couple. The remaining 180 days are transferable between parents. The equal entitlements to mothers and fathers stress that both women and men are seen as capable of, and responsible for, active care giving **and** earning an income. The legislation does not assign one activity exclusively to one parent, i.e. care work to mothers and paid work to fathers, in the same way the Australian legislation does but expects mothers and fathers to engage in both activities. In Sweden, the parental leave legislation is used as an active tool to enhance gender equality, the father's quota of 60 days being the most powerful instrument. The normative foundation here is a gender egalitarian ideology.

Parental benefits in Sweden are a universal entitlement. All Swedish parents are eligible for parental cash benefit days as well as 18 months of protected parental leave. However, the benefits are paid at three different levels:

1. As wage replacement benefits at 80 per cent of the previous income for those parents who have been employed for at least 240 days;
2. As a basic benefit for those parents who do not qualify for the wage replacement benefit; and
3. As a flat-rate benefit for parents who want to stay out of the workforce beyond the period of time which is paid at wage replacement levels.

In 2006, virtually all mothers (95.7 per cent) of newborn babies and almost half of the fathers (43.7 per cent) took some share of their parental benefits (Forsakringskassan, 2007). Of all parental cash benefit days paid out to Swedish parents in 2006:

- 74 per cent were claimed by parents who were eligible for the 80 per cent wage replacement benefits;
- 13 per cent were claimed by parents who were not eligible for the 80 per cent wage replacement benefits and, thus, received the basic level benefit; and
- 13 per cent of days were claimed as flat-rate benefits by parents who wanted to stay on leave after their wage replacement benefits were used up.

This illustrates that almost all Swedish parents could rely on an income while on parental leave, the vast majority receiving wage replacement benefits which offset the largest share of their foregone earnings. Swedish parents maintain an earner/carer status while they dedicate their time to caring for a young child. Moreover, the generous wage replacement level (80 per cent of prior income) indicates that care work is valued in Swedish society because it is financially rewarded to a very similar extent that paid work is. The point to be made here is that the Swedish parental leave regime is based on a very different normative framework than the current Australian regime.

The need to ask some essential normative questions

During the reform process, this normative basis of the Australian parental leave legislation needs to be addressed and the social norms and values on which the new policy framework is based need to be discussed. Questions that have to be asked relate especially to the social roles of women and men. What are the default roles for women and men defined by the legislation? Are both mothers and fathers expected to be carers of young children as well as contribute to family income? Is the Australian society ready to embrace the ideal of the earner/carer citizen? Is the Australian government committed enough to facilitate it? How can the legislation be designed so that it increases parenting options rather than limits parents in their decisions?

In addition, the value of care work in Australian society needs to be addressed. Is it fair to relegate care work into the private realm of the home and define it as the 'personal choice' of some individuals? Should care work be conceptualised as a social responsibility which needs to be shared by all members of society? Is it sensible to regard children as the private benefit of parents instead of a benefit to society overall?

I appreciate that these are normative questions but they need to be addressed. Research by Brandth and Kvande (2001) in Norway found that via its parental legislation the state acts as a normative third party. By means of legislation design the government defines ideal gender roles, whether or not it intends to do so. Arguably, Australians would be better served by a policy reform which actively considers these questions. The discussion of reform to the Australian parental leave regime needs to go beyond the economically reasonable and practically feasible and address this normative dimension of policy change. Such a debate also has to include the role of employers in addition to individuals and the state.

Sharing the costs of parenting: the role of parents, employers and the state

The current parental leave regime in Australia puts the costs of parenting squarely on individual families and, because it is largely women who take up parental leave, those costs are carried predominantly by mothers. The only expectation towards employers incorporated in the Australian legislation is the granting of a period of 52 weeks of unpaid parental leave to employees who have 'earned' this right by 12 months consecutive service. Current legislation requires parents to access the leave period in a consecutive, full-time fraction which means that parents forego any unused leave entitlements once they return to employment. The employer needs to guarantee the same, or similar, position to the parent upon their return to employment.

In Australia, only employers in the public service are required to provide paid maternity leave. Private sector employers can decide to pay a wage replacement benefit to all or selected staff if they perceive a 'business case' for doing so. There are examples of 'best practice' in that some large employers are paying wage replacement benefits to some groups of staff, often women in permanent positions. However, despite claims to the contrary by the Howard government, there is no evidence to date that paid maternity leave, let alone paid parental leave, can be negotiated at the workplace level by individual employees, or collectively, to any significant extent.

While the Australian government makes a lump-sum payment to mothers, it has been argued repeatedly that the Maternity Payment is not a wage replacement benefit because it is paid to mothers regardless of their employment status (Baird, 2006; HREOC, 2007). Thus, the current parental leave regime leaves individual mothers and their families to deal with the loss of income experienced by most Australian women who take up parental leave. It does not oblige employers or the state to offset at least some of the costs involved in leave taking.

Conversely, the Swedish legislation positions employers and the state as 'social partners' who need to share the costs of leave taking experienced by Swedish parents. The parental cash benefit scheme is collectively funded by Swedish employers, irrespective of the actual policy use by their staff. Employers have to make compulsory contributions to social insurance in the form of a levy which represents 2.2 per cent of individual gross earnings for each employee in the company (Duvander, Ferrarini, & Thalberg, 2005). The scheme is administered by the Swedish Social Insurance Agency which is part of the Department of Health and Social Affairs.

Not only do Swedish employers fund the parental cash benefits, they are also required to accommodate a very flexible parental leave scheme and grant the preferred working arrangement to employees upon their return to paid work. The very fact that parental cash benefits are counted as 'days', rather than weeks or months, signals the flexibility of the scheme. Swedish parents can access the parental cash benefits:

- In various fractions, ranging from one eighth of a day to full time;
- In up to three periods per year; and
- Until the child is eight years old or completes the first year of school.

Swedish parents also have the right to reduced working hours (of up to 25 per cent of their previous working hours) upon their return to paid work. Employers can only refuse the requests of parents if there are serious business reasons. Thus, there are substantial legislated requirements on Swedish employers to share the costs of parenting and facilitate a work environment which allows individuals to be earners and carers. This is in stark contrast to the Australian parental leave regime which leaves the decision to provide a supportive work environment up to the individual employer.

The policy challenge

The challenge for policy makers in Australia will be to find a compromise of sharing the costs associated with parenting between mothers, fathers, employers and the state. Thus, the final set of questions relates to the level of entitlement to parenting benefits. Should parental benefits be seen as a workplace right that needs to be 'earned' or as a citizenship right which is granted to all employed parents? Should all parents receive the same benefits regardless of their employment status? Is there a middle way of compensating lost income and rewarding care work so that parents in different circumstances are treated equitably?

Under the Howard government, the decision to contribute to the costs of parenting was left to employers. As a result, access to paid parental leave provisions is highly inequitable and the costs of parenting are largely carried by individual parents. The evidence suggests

that parents are unjustly burdened under the current regime and that all employers have to contribute to the parental leave regime in some capacity.

Moreover, current government payments, such as the Maternity Payment, could be re-directed into a scheme which provides universal benefits to carers but is also attached to the labour market status of parents and, thus, provides parenting benefits as well as wage replacement benefits. The German government has recently crafted such a compromise which guarantees a minimum payment to parents who are out of the labour force, unemployed or in low paid employment while providing wage replacement benefits (two thirds of the previous income) to all other parents. Such a compromise also leaves room for employers to get involved for 'business case' reasons and top up the wage replacement benefits provided by the legislated scheme or extend the period for which the benefit is paid.

Conclusion

This brief summary of my key findings demonstrates that government, via its parental leave legislation, acts as a normative third party who defines ideal gender roles as well as the responsibilities of mothers, fathers, employers and the state in sharing the costs of parenting. So far, the Australian discussion has largely focused on the economic arguments of parental leave reform. However, these are only one aspect of the complex issues involved in the reform process. Discussion of the normative foundation of policy change is necessary in order to deliver equitable and effective policy solutions to future parents in Australia. The key points that need to be addressed are:

- Ideal social roles for women and men;
- Value of care work in Australian society;
- Level of entitlement to parenting benefits;
- Extent to which the costs of parenting have to be shared by mothers, fathers, employers and the state.

The Swedish experience demonstrates that a coherent policy response to work/parenting issues is only possible when these normative questions are addressed and Australian policy makers cannot avoid them. The question is not whether they need to be addressed but how.

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