

PAID PARENTAL LEAVE

The Office of Women's Policy, Northern Territory Government welcomes the opportunity to provide feedback on the Australian Government's, Productivity Commission 2008 Draft Inquiry Report, *Paid Parental Leave: Support for Parents with Newborn Children*.

International obligations

Australia, as a signatory to the United Nations Convention on the Elimination of All Forms of Violence (CEDAW) the major international human rights treaty for women, ratified CEDAW in 1983 with two reservations (national paid maternity leave and excluding women from combat duties). The article relating to Employment has specific reference to paid maternity leave: Article 11, 2(b) "*to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances*"¹. The introduction of paid parental leave will remove one of these reservations and introduce "a proper understanding of maternity as a social function" ².

Whilst Australian women are eligible for 52 weeks unpaid maternity leave the introduction of a national paid parental leave scheme should be seen as the next phase to fully ratify CEDAW and will enable Australia to meet it's obligations pertaining to Maternity Protection Convention of the International Labour Organisation³.

Community consultations

The Office of Women's Policy provided funding to the NT Working Women's Centre to conduct public consultations on the proposed scheme and a summary was forwarded to the National Foundation for Australian Women to include in their response. This paper focuses on information gathered through previous work including discussions at Community Cabinet Women's Forums and from Northern Territory Government agencies.

Proposed model

The Office of Women's Policy acknowledges that the model proposed by the Productivity Commission is a workforce participation model as opposed to a universal paid maternity leave scheme and has addressed the response accordingly, however some Territory women thought that a national paid parental leave scheme should be universally available to all parents, particularly for women to be financially independent at this time.

¹ CEDAW Part 3, Article 11 Employment

² CEDAW introduction

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Pregnancy as a normal social function

The introduction of a national paid parental leave scheme acknowledges that maternity is a normal social function, however it must be stressed that pregnancy is not an illness and the use of sick leave should not be included as paid parental leave unless there are medical complications as a result of the pregnancy or the child is ill. Parents should not be required to use their recreation or personal leave (sick leave) as part of a national paid parental leave scheme but that the scheme should be a stand alone model for a minimum of six months exclusive of employer offered conditions of service.

Many women in low paid jobs and part time employment do not have access to any paid maternity leave. There are discrepancies. For example, nurses that work in aged care and many community sector organisations do not include paid maternity leave in their conditions of service. It is also important that employees continue to have annual leave provisions to enjoy holidays with their families and sick leave when they are ill.

Economic security

Superannuation should continue as if on any other type of leave. Australia as a society needs to redress the imbalance of women's long term economic security as part of gender equity principle and in recognition that women face a loss of earnings from having children.

Women outside the scope of workforce participation

Territory women identified that many women carry full time burdens yet do not participate in paid work. There are many women outside the scope of the workforce participation required for the proposed paid parental leave scheme. These being:

- Carers;
- Volunteers;
- Full time students;
- Second pregnancy;
- CDEP participants.

When a single woman is eligible for paid parental leave but has no partner, the scheme should be flexible and extend the benefits attributed to the partner to the mother or grandmother (or father and grandfather).

Aboriginal women in remote areas

Of particular concern are Aboriginal and Torres Strait Islander (ATSI) women who are already vulnerable, disadvantaged or marginalised and participating on Community Development Employment Programs (CDEP).

Many women in the Northern Territory, especially those living in remote areas, have extremely limited access to employment and career opportunities. For the majority of Indigenous women living in remote areas of the Territory, the only source of employment is through the Community Development Employment Program (CDEP) scheme.⁴

Although conditions of service varied from community to community and depended on the host organisation many women on CDEP reported that they did not have long term economic security or personal, maternity, recreational, sick or cultural leave, no superannuation, no long service leave or ongoing training, and no long term job security even though they had identified the CDEP placements as being long term positions. This reflected the lack job prospects in their community.⁵

Currently there are 1,858 women on CDEP (36%) across the Territory which is not income managed on 12 month contracts. Prior to the Northern Territory Emergency Response women were predominantly the recipients of CDEP. 1,400 CDEP positions were transferred to full time employment but it is difficult to ascertain the number of women this benefited based on available information⁶.

There are many women in the Northern Territory remote communities eligible to participate in the CDEP scheme but not able to do so. Unlike urban women, their access to labour market programs, educational and training facilities is limited or non-existent.⁷

Women employed as Interpreters, night patrol workers, carers and health workers participating on the CDEP scheme are on call to carry out their duties 7 days a week at any hour of the day or night in the community. They are not paid award rates for this work and are often placed in physical danger when dealing with violent and abusive individuals and groups yet they do not receive award rates, penalty rates, or have conditions of service that include paid maternity leave.⁸

According to Australia's combined 6th and 7th report to the United Nations on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women July 2003 – July 2008, participation on CDEP reduces unemployment levels in Indigenous communities as program participants are classified as employed in national labour force statistics.⁹

CDEP participants are considered employed under the Australian *Income Tax Act*, however neither the *Social Security Act* nor *Workplace Relations Act* consider CDEP participants to be employees at all. Although participants on CDEP have to pay tax they do not have access to superannuation.¹⁰ CDEP recipients are also deprived of

⁴ OWP Economic security section framework February 2006 unpublished document at F:\NTFC Family and Individual Support Services\OWP New\Strategic Management\SocPol & Action Plans\BuildingOnOurStrengths\draft docs\Economic Security Section for DEET discussion.doc

⁵ MINCO paper agenda item 7.5 NTER

⁶ MINCO paper agenda item 7.5 NTER

⁷ NTWWC, 2001, "Injustice" Indigenous women and community development employment projects, p.11

⁸ *ibid*, p.16.

⁹ CEDAW, p. 51

¹⁰ *ibid*, p.20

Centrelink top up money that is seen as a right for everyone else relying on government payments to keep poverty at bay. Such entitlements would bring low income CDEP workers financially in line with other Australians receiving Newstart, Disability Support, Single Parent benefits and Family tax A and B and other low income supplements¹¹.

Putting aside issues relating to CDEP, the concern for the Office of Women's Policy is that women on the program be included as recipients of the national paid parental leave scheme. Denying women on CDEP access to a nationally paid parental leave scheme further discriminates and reduces the longer term economic security of Aboriginal women. It is recommended that CDEP participants are included as employees for the national paid parental leave scheme.

Prior to 2007 the Darwin regional and the Central region were the only areas of the Territory to have mainstream employment greater than Community Development Employment Program (CDEP) employment.¹² CDEP accounts for more than half of Indigenous employment in the Territory, compared to only one fifth of employment for the Australian Indigenous population.¹³

On census night 2001, there were 5,633 CDEP employees of whom 49 % were women and 61 % were men and there were roughly two hundred more Indigenous females than males. It should be noted that there can be many anomalies with census data and the information must always be treated with caution. The information, however, clearly shows that an Indigenous woman's access to employment is very limited and that they are even less likely to achieve parity and equity in pay and conditions than their non-Indigenous counterparts.¹⁴

A study commissioned through the Commonwealth, States, Territories and New Zealand Ministerial Council on the Status of Women in 2005 found that no Aboriginal women received paid maternity leave entitlements due to the nature of their workforce participation. The lack of maternity rights effectively reinforces their marginal connections with the labour force.¹⁵

Aboriginal family rearing practices

Aboriginal women who attended the public consultations stated that Indigenous family rearing practices needed to be considered for the scheme to be culturally appropriate. If the primary care giver was not the mother, then the paid parental leave should be extended to that person.

The Productivity Commission should acknowledge the unique kinship obligations and child rearing practices¹⁶ of Indigenous cultures¹⁷.

¹¹ *ibid*, p.36

¹² *Workforce NT* – Indigenous Employment Profile. DEET

¹³ F:\NTFC Family and Individual Support Services\OWP New\Strategic Management\SocPol & Action Plans\BuildingOnOurStrengths\responses\Women's stuff- employment_DEET 2.doc

¹⁴ *Ibid*.

¹⁵ *Women's Lifework*, 2005, Uni NSW for MINCO, p.64.

¹⁶ SNAICC is currently undertaking research and documenting child rearing practices in Indigenous Communities. http://srs.snaicc.asn.au/projects/default_resources.cfm?loadref=107

This point was raised in the Human Rights and Equal Opportunity Commission Report, *Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their families*, April 1997¹⁸.

The report stated that:

“Different cultural patterns such as family structure and child rearing practices can lead to poor service provision or poor access to entitlements. The Report of the Aboriginal Women's Task Force noted that extended family responsibilities in child-rearing lead to situations where women with responsibilities for child-rearing, such as grandmothers, were not necessarily receiving entitlements such family allowances”.

At Community Cabinet Women's Forums, facilitated by the Office of Women's between 2003-2007, many Aboriginal women raised issues they faced of the financial obligations of raising their grandchildren and great grandchildren, nieces and nephews but not receiving any financial assistance from the parents or through Centrelink. In addition, many Aboriginal families had care of children through their unique kinship obligations and had full responsibility to raise these children without any recognition from mainstream agencies.

Potential adverse reaction

There was a risk identified with the proposed model in that employers may reduce their employee's current paid maternity leave and/or current conditions of service and leave women with less than six months paid parental leave, particularly if the proposed model is linked to existing entitlements to bring the length of time to six months paid parental leave.

Evaluation, monitoring and reporting

With the introduction of a national paid parental leave scheme some legislation is required for ongoing monitoring be undertaken to ensure women who currently have paid maternity leave are not worse off under a national scheme.

The Office of Women's Policy recommends that other Australian Government reforms and initiatives be integrated to include or have reference to the national paid parental leave scheme including COAG agenda, tax reform, new workplace relations legislation and programs such as the Australian Government, Department of Education, Employment and Workplace Relations, Work and Family program.

The Productivity Commission identifies three underpinning principles on which they have based the proposed model: child and maternal health, workforce attachment and gender equity. It is unclear what data collection, monitoring evaluation or review will be implemented to measure progress against these three principles.

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http://www.ag.gov.au/www/agd/agd.nsf/Page/FamilyLawCouncil_Publications_ReportstotheAttorney-General_ReportontherecognitionofAboriginalandTorresStraitIslanderchild-rearingpracticesinfamilylaw

¹⁸ *Bringing them Home*, Chapter 25, p.479. Downloaded on 22 November 2008

http://www.hreoc.gov.au/social_justice/bth_report/report/ch25.html#Heading242

The Office of Women's Policy proposes that gender analysis be a key instrument in assessing the impact of the national paid parental leave scheme. Accompanying gender indicators as well as a research framework to assess the implementation, monitoring and evaluation should be established prior to commencement so base line data with which to establish trends provides an evidence base for future changes. A set of national indicators should be developed in consultation with MINCO that will provide an evidence base with which to assess the introduction of a national paid maternity leave scheme. It is essential that all Australian workplaces be required to report on these national indicators. This information will enable Australia to provide statistical information for future CEDAW country reports.