

Working Women's Centre

258 Flinders Lane, Melbourne 3000. Telephone: 654 1228

Discussion Paper No.38
ISSN 0314-6006

May 1979

PARENTAL AND FAMILY LEAVE

"I believe women who work should get baby leave from the earliest months, I can't stand the sight of pregnant girls working in offices when they ought to be at home."⁽¹⁾

The sentiments expressed in this 19th century stereotype have long been used by employers to discriminate against women in the workforce by:

- (i) not employing women of child-bearing age;
- (ii) denying them access to promotion, transfer advancement or training.

Unpaid maternity leave was recently awarded to all pregnant working women in Australia who have had twelve months' continuous service with the same employer at the time they go on leave. The ACTU sought unpaid maternity leave to ensure real protection for women so they could not be dismissed or discriminated against in employment on account of pregnancy but could combine domestic and labour force responsibilities. The ACTU argued...

"for too long we have given support to the pursuit of the elimination of sex discrimination while not even achieving in some areas the minimum international standards which are designed to apply in all parts of the world. The lack of general job security and protection for the health of a mother on account of pregnancy must surely rank as one of the longest standing areas of discrimination which remains in Australia".⁽²⁾

The Arbitration Commission decided that women could take up to 52 weeks' maternity leave and included a period of 6 weeks' compulsory leave to be taken immediately after confinement. In its decision the Commission stated:

"The preservation of job security in the event of maternity might well facilitate career opportunities and encourage career aspirations amongst women who have hitherto regarded termination of employment as an inevitable consequence of motherhood...we consider that maternity leave...could enhance employment prospects for women and at the same time secure the retention of skills and abilities which might otherwise be lost to industry."⁽³⁾

The Commission acknowledged that some jobs and work environment could be harmful to a pregnant woman and/or her unborn child. The decision provided that:

"...the employee shall, if the employer deems it practicable, be transferred to a safe job..."

but the Commission also said:

"We would expect that, in implementing the clause proposed, an employer would give due consideration to the rights and expectations of other employees in his establishment who might be affected by any proposed transfer."

This could deter women from asking for a transfer for fear of being refused and having to give up work when they need the money.

It is most important that any effects on pregnant women's employment should be monitored by unions because of employers' attitudes reported by the Victorian Chamber of Manufactures following a survey undertaken by them in 1974. Twenty one per cent of employers said they would reduce their female workforce if compulsory unpaid maternity leave were introduced and fifty nine per cent said they would reduce female staff if paid leave were introduced.⁽⁴⁾

Both the ACTU claim and the Commission's decision covered unpaid maternity leave. The question of pay and the issue of paternity leave were not raised. Although unpaid maternity leave with job security will relieve some anxiety, several months off work with no pay and the added expense of a new baby will impose severe financial strain on many families. The only allowance which was previously available - the maternity allowance on the birth of a child - was removed by the Federal Government in the 1977 Budget.

Article 10(2) of the United Nations Declaration on the Elimination of Discrimination against Women states:

"In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity and to provide paid maternity leave, with the guarantee of returning to former employment, and to provide the necessary social services including child-care facilities."

Paid maternity leave with job security were among the minimum targets to be achieved during the second United Nations Development decade outlined in the U.N. Plan of Action, Mexico 1975. The Royal Commission on Human Relationships recommended that -

"Paid maternity leave, leave without pay and preservation of job seniority and salary are essential elements in establishing equality for women. The burden of ensuring that young infants have their parents' care and that their mother does not suffer in her work prospects because she is meeting the child's needs should be borne by the community as a whole...We consider that leave should be available to fathers at the time of birth and that in due course long parental leave should be shared." (5)

Because women's wages are less than men's it is harder for women to save for their period off work. Yet, because they earn less, it is assumed that mothers rather than fathers should take the child-rearing part of the maternity leave and should stay at home if their children are ill.

The Australian Government has not ratified the International Labor Organisation Convention on maternity leave which provides that individual employers shall not be individually liable for the cost of maternity benefits but that these should be financed through compulsory social insurance or public funds. In Australia there is no such national insurance scheme.

Under a system of national compensation loss of earnings for women temporarily out of work during the weeks immediately before and after confinement would be covered by insurance. Even without such a scheme paid maternity leave should not place a heavy financial burden on the economy. Most working mothers now have no more than two children and more than twenty five per cent of working women are probably past childbearing age. Allowing for women who are already covered by existing paid maternity leave provisions (teachers, government employees etc.), it is estimated that 103,098 women per year would be eligible for twelve weeks' maternity leave payments. Table I outlines the cost to the Australian government of alternative levels of payment for maternity leave for 100,000 beneficiaries per annum.

<u>COSTS OF MATERNITY LEAVE</u>	
If paid at 1978 rate for:	p.a.
Unemployment Benefits/Sickness Benefits/Invalid Pension	\$ 60 m.
Widows Pension/Supporting Parents Benefit (basic)	\$ 75 m.
Existing wage levels	\$214 m.
Minimum wage	\$170 m.

An American study⁽⁶⁾ showed that the cost of implementing paid maternity leave would have a negligible impact on overall labour costs and would not raise the effective wages of young women workers enough to injure them in the job market. It has been estimated that the provision of paid maternity leave would add less than half a per cent to the total wages bill.⁽⁷⁾

To ensure that women have equal opportunity in the workforce, men need to be encouraged to play a major part in child-care. Yet the Federal Government recently removed the 5 days' paternity leave available to Australian Government employees, arguing that it was "unnecessary" and "ahead of community standards"⁽⁸⁾ Whose community standards, one might ask.

In Sweden 7 months' paid parental leave is available to either parents and may be divided between them as they see fit. Pay corresponds to ninety per cent of earnings and is paid from a general social insurance system. The "parents'

insurance scheme" provides not only for childbearing and childrearing leave but also for leave -

- (i) if the person who normally cares for the children is sick;
- (ii) if the child has to be taken to a childcare centre;
- (iii) if the child is ill;
- (iv) if the parent wishes to visit the childcare centre.

"Either parent may work part-time for a period up to three years without losing seniority or other benefits. The aim of the Swedish government policy is equality between men and women ... What we are trying to achieve is the same rights and obligations for women and for men in the labour market, in society and in the work of the home...If women are able to improve their position on the labour market and realise their right to gainful employment and economic independence and if they are to build up their participation in political and trade union activities, then we cannot continue to place the whole burden of responsibility for home and family on them...such a burden would be heavy and inhuman."(9)

Similar sharing parental leave provisions are available in France and Norway. In the U.K. maternity leave benefits are paid out of a central fund to which all employers contribute (whether or not they employ women). In Italy the employer individually is required to pay the 6 months' maternity leave.

In the U.K. the Equal Employment Opportunity Commission ruled that "the benefits from health insurance plans for sickness or temporary disability must be extended to women employees disabled by pregnancy, miscarriage, abortion, child-birth or recovery from any of these (i.e. maternity is a temporary disability unique to the female sex) . Under this scheme maternity leave is regarded as a 'temporary disability' like any other job-related illness. As with workers' compensation, a woman temporarily out of work during the weeks immediately before and after confinement is entitled to payment. It makes little difference economically whether an employee is unable to work because of pregnancy or ulcers or any other illness or because of accident . In any case he/she suffers loss of pay and incurs extra medical expenses. Besides,"the economic impact on women and their families when pregnancy temporarily disables a female employee is as great as the impact of other temporary disabilities and the employee has another mouth to feed".(10)

In recent U.S. hearings on discrimination against pregnant workers⁽¹¹⁾ it was suggested that the costs for maternity leave should include the extent to which eliminating pregnancy discrimination saves the employer money by encouraging good experienced workers to return to work thereby increasing productivity, improving employee morale and decreasing the costs of retraining and replacing employees. In its evidence to the hearing the AFL-CW suggested that the cost of providing maternity leave for U.S. industry would be \$1.50 per employee per year - "far less than the cost of equal pay". The United Electrical Radio & Machine Workers Union made the following forceful comments:

"We are not surprised when employers, who have reaped billions of dollars from their exploitation of women, complain loudly when faced with corrective legislation... The cost is not the issue. The real issue is the elimination of existing discriminatory practices and that must be done regardless of cost". (12)

Should a woman decide to bring her baby with her when she returns to work, sufficient paid time should be allowed for nursing. Other countries allow for one or two paid breaks of between half and one hour's duration per day.

Although women may now take up to one year's maternity leave, many may wish to return earlier on a part-time basis. Flexible working arrangements should be supported by unions so that both parents can share the care and upbringing of their children. A number of unions have already adopted far-sighted policies calling for the provision of substantial periods of parental leave (e.g Victorian teachers' unions' policy is 7 years' family leave), to care for dependent children without loss of seniority, tenure or other rights.

The recent maternity leave decision is only one step in the direction of providing women with really equal employment opportunities. Employers still continue to treat women as marginal and expendable workers although the employment patterns of women are changing.

"Equality in the workforce will not exist if men can father children and continue working but a woman risks her career and her level of earnings if she gives birth to a child." (13)

In handing down a judgement against Ansett Transport Industries, who had refused to employ a woman as a pilot because of her sex, the Chairman of the Victorian Equal Opportunities Board, Dr. Ian Sharp, said that the Board's decision implied that women's child-bearing potential should not be used as an excuse to limit their role in society ("The Age", Melbourne, 7/6/79).

WHAT UNIONS CAN DO:

Maternity leave cannot be seen in isolation from the provision of good quality child-care services and time off to care for sick children nor from access to information and facilities concerning family planning. Unions could assist by:

1. Disseminating birth control information in the different languages spoken by their members;
2. pressing for and developing adequate child care and other facilities to assist parents with family responsibilities;
3. developing and implementing policies for both parents to share in the child-rearing responsibilities;
4. encouraging male members to share the responsibilities of raising their children and to campaign for parental leave to enable them to do so.
5. informing women of their right to maternity leave and encouraging them to report any difficulty in obtaining leave or safe working conditions.

REFERENCES

1. Preston Y "Maternity Leave: Government is to blame for all the confusion". National Times March 12.7.73.
2. ACTU Submission for maternity leave, September, 1978.
3. Decision in relation to Maternity Leave: Australian Conciliation and Arbitration Commission, March 1979. P.6.
4. Victorian Chamber of Manufacturers, Child Care Report, Melb. May 1974.
5. Royal Commission on Human Relationships. AGPS, 1977, p.55.
6. Greenwald, C. "Maternity Leave Policy", New England Economic Review, Jan./Feb. 1973.
7. Evidence presented in Australian Conciliation and Arbitration Commission by Dr. C.B. O'Brien, June 1976. C. No. 2977/75.
8. Senator Susan Ryan speaking in the Senate, "Maternity Leave Amendment Bill", November 22, 1978.
9. Millgordh, M. and Rollen, B. "Parent's Insurance" Current Sweden No.76. April 1975.
10. Legislation to Prohibit sex discrimination on the basis of pregnancy. Subcommittee on employment opportunities of the Committee on Education and Labor, U.S. House of Representatives, April, 1977.
11. Op. cit.
12. Op. cit.
13. Submission by the ACT Women's Union Committee in the Maternity Leave Case, 1978 (as above).