AN INTERNATIONAL EMBARRASSMENT

THE UNITED STATES AS AN ANOMALY IN MATERNITY LEAVE POLICY

CHRISTINA NECKERMANN
Staff Writer
One would be hard-pressed to identify even a few ways in which the United States, global superpower and home to the world's largest economy, can be appropriately equated to Papua New Guinea, the small island nation in the southwestern Pacific whose emerging market economy currently ranks 135th in the world. In one area, however, the United States is more like Papua New Guinea than like any other nation in the world. That area is federal policy regarding maternity leave, or the temporary period of absence granted to a female employee before and after the birth (or adoption) of a child. Indeed, of 185 countries and territories, the United States, Papua New Guinea, and Suriname are the only three that have no legal provisions to provide cash benefits to women during maternity leave. Until recently, this group included the Sultanate of Oman, but paid maternity leave was declared a statutory right there in 2011.

**Woefully Inadequate Maternity Leave Policy in the United States**

In the United States, maternity leave at the federal level is still primarily governed by a 1993 law known as the Family and Medical Leave Act (FMLA). The Act was signed into law by the Clinton administration after parental rights activists spent nearly a decade advocating for improved access to job-protected leave. Under the FMLA, eligible employees are entitled to take twelve workweeks of leave in a one-year period for approved family or medical reasons, essentially any that would prevent an employee from carrying out the basic functions of his or her job. This includes the birth or adoption of a child, but also a variety of other burdens unrelated to maternity leave concerns, such as the serious injury or illness of an immediate family member. Notably, the FMLA does not require employers to provide pay of any kind during periods of job-protected leave. Of course, employers are free to offer paid leave as a sort of fringe benefit if they so choose, though recent estimates suggest that only about one in ten American workers is covered by such voluntary payments.

To be sure, the FMLA was an important milestone toward improving the ability of new parents to care for a newborn or adopted child. At the time of its enactment, the FMLA was the first federal law to provide a comprehensive leave policy for employees in the United States. However, more than two decades later, maternity leave policy in the United States has progressed little beyond these basic requirements, and there remain significant holes in coverage and eligibility that limit the effectiveness of the FMLA as a comprehensive policy.

Indeed, the FMLA covers far fewer people than most would think. It has been estimated that only roughly half of US workers qualify for the leave entitlements it provides, a figure that includes fewer than 20 percent of new mothers. A major reason for these less than impressive numbers is the FMLA’s exemption of small businesses, defined as any business with fewer than 50 employees. The law’s rather stringent eligibility requirements also exclude many part-time workers; any employees that work less than 1,250 hours for the same employer over a 12 month period (that is, less than 104 hours a month on average) are disqualified from coverage.

The policy has also been criticized for setting unreasonable expectations for families to assume the financial burdens of caregiving, whether for a new child or for other dependent family members. In the absence of any federal legislation mandating paid leave, families are expected to have saved enough on their own to finance 12 weeks of foregone income. For many families, however, doing without the income of one parent for any period of time is very difficult. Indeed, studies conducted in 1996 and 2000 by the US Department of Labor found that two out of three people cited financial reasons for not making use of the FMLA entitlements despite wanting to. Furthermore, the average duration of leave was found to be seven weeks—significantly shorter than the 12 weeks allowed by the legislation. New parents often return to work sooner because of the financial constraints associated with taking unpaid leave.

It should be noted that in many cases, individual states have taken family policies into their own hands, enacting maternity leave provisions far more in line with international standards than those provided for under federal law. At least five—including California, New Jersey, Rhode Island, Washington, and New York—have enacted mandatory paid leave. Still, access to paid leave even in these privileged parts of the country leaves much to be desired when compared with paid leave in other developed economies. While a working mother in California may be able to take six weeks of leave at 55 percent pay, a working mother in Spain can take 16 weeks at 100 percent pay. Even in those US states that do offer paid family leave, rates of compensation are still some of the lowest in the developed world, and the duration of paid leave is quite short when compared with that of even the least generous countries.

**A Very Different Story in the Rest of the Advanced Industrialized World**

Without a standardized external reference point, it is difficult to place the FMLA—and US maternity leave policy in general—in an adequately revealing context. But even a quick glance at maternity leave policies across the rest of the advanced industrialized world is enough to appreciate the dramatic extent to which the United States lags behind.

Countries in Western Europe tend to top the list as far as job-protected parental leave is concerned. A standout is Finland, where each new mother enjoys over three years of job-protected leave (the sum of entitlements for maternity leave, parental leave, and home care of children). Not only that, but all families with children are entitled to receive the so-called ‘maternity package,’ a gift from the Finnish social security system that contains a wide range of baby clothes and other care products, amounting to 50 items altogether. These benefits are multiplied for twins or triplets, and can also be claimed as a nonrecurring cash grant.

In Germany, while there exists no state-provided maternity package, family leave policies are similarly generous. New mothers are entitled to job-protected leave until their child’s third birth-
day. On top of that, new parents (even those not working before the birth of a child) are eligible to receive a parental allowance—roughly two-thirds of their previous income—paid for 12 months, or 14 if the allowance is shared between mother and father.

But wealthy countries in northern Europe by no means have a monopoly on generous family leave policies; even Spain, which has been mired in recession for a large part of the past decade, offers parental leave entitlements exceeding three years in some cases, of which 16 weeks are paid at 100 percent of previous earnings.

Of course, not all advanced industrialized countries are as generous as these upper outliers. Still, a recent evaluation of family policies in fifteen developed countries—a sample that includes the United States, Canada, Australia, Japan, and 11 European countries—revealed that the median duration of job-protected leave provisions for mothers (without consideration of income support) is 60 weeks, five times that offered in the United States under the FMLA.

And, as mentioned before, the United States is the only country where no portion of parental leave is required to be paid by federal law. Though wage replacement benefits vary from country to country, the average woman in the advanced industrialized world can count on roughly half her previous earnings to be replaced by maternity benefits, which are usually funded by social insurance systems and some employee contributions. In the United States, by contrast, the average pay rate for mothers is zero.

What Makes the United States Different?

Why does the United States stand alone among industrialized countries in not mandating paid maternity leave of any kind for its workers? Even ignoring the discussion surrounding paid versus unpaid leave, why is job-protected leave in the United States only a small fraction of the Western average?

The gap between the United States and the rest of the Western world in the sphere of parental leave is more than just an interesting factoid or an isolated example of idiosyncrasy in US policy. Rather, these meager leave policies should be understood as but one example of many in which the United States has demonstrated its contempt for the kinds of generous social welfare policies that have become commonplace in Europe.

Today, Europeans of both the political right and left are much more likely than Americans to accept the affirmative responsibility of the state to provide assistance to persons in need. A strong social democratic left has been able to enact extensive policies designed to help the less fortunate members of society by means of state intervention in welfare, housing, employment, and medical care.

The United States, by contrast, never developed any sort of socialist movement, at least not on the same scale as most European nations. Though the legacy of the Great Depression and the New Deal significantly expanded the government's mandate to engage in economic planning and led to much greater popular acceptance of welfare-promoting policies, modern-day Americans remain much more opposed to a strong collectivist or welfare state than people elsewhere. The United States may not be as laissez-faire and anti-statist as it once was, but it remains much more so than almost all European countries. Even as the world's wealthiest large industrialized country, it devotes comparatively little of its tax income to welfare and allows for much less state involvement in the economy than other developed countries. By way of illustration, trade unions in the United States are much weaker than those of almost all other advanced industrialized countries, and have been experiencing a steady decline since the mid-20th century.

How could US maternity leave policy remain untouched by a political movement that has shaped social policy in most of the Western world? The conception of the United States as somehow exceptional, or qualitatively different from other societies to which one might expect it to be similar, is both long-standing and deeply rooted in the fiber of US culture. One explanation rests on differences in the levels of class consciousness in the United States and Europe. It has been suggested that in post-feudal societies—which most contemporary European societies are—those lower on the socioeconomic ladder are much more aware of their inferior rank than in the United States, which has never been a monarchy, aristocracy, or any kind of feudal society. The residual effects of these feudal structures can also be seen in the sense of noblesse oblige, or an unwritten responsibility to act with generosity and virtue toward the less fortunate, still felt to some extent among the privileged classes in Europe. In Europe, the perception of status may have contributed to the popularity of policies designed to help the less fortunate members of society in areas like welfare, public housing, and family policies. When social structures encourage workers to think of society as being structured in fixed terms of class or rank, they are proven to be more likely to support socialist policies and parties.

By contrast, in the United States, the absence of the major classes of traditional European societies—the land-bound peasantry and the aristocracy—gave rise to a new conception of egalitarianism, one based on equality of opportunity,
but not of result or condition. Consequently, US culture tends to be much more individualistic than collectivist, and as a result, much less statist. The focus of most US social policies is not on redistribution, but rather on opening the door to individual achievement and greater social mobility through, for example, heavier investment in education. Indeed, nearly six in ten Americans believe that individual liberty is more important than ensuring that nobody in society is in need, while majorities in all European nations surveyed prioritized the opposite.

In the United States, there is a much greater tendency than in Europe for people to think about policies not from the perspective of their current position, but rather from the perspective of where they assume they could eventually end up if they were to work hard enough. In other words, US citizens tend to identify less with their own social class and more with the class they aspire to reach. This is confirmed by recent opinion surveys, which show US citizens are much more likely than Europeans to believe that a hardworking individual can make his own success and get ahead in life; 73 percent of Americans agreed with the statement, compared to a European median of only 35 percent. A higher percentage of Americans also disagreed with the statement that that success is determined by forces outside of one's own control.

It is not hard to see how these cultural tendencies could come into play in the realm of maternity leave policy. The US focus on personal achievement through hard work and dedication makes US citizens much more sympathetic to big and small business interests. After all, many US workers think of themselves as potential future businessmen, in which case they would not want their hands tied by any excessive governmental regulations. Generous maternity leave policies, even when no wage replacement is required, do impose substantial costs on firms, especially in the realms of hiring and training costs, which are wasted when a worker leaves either temporarily or for good.

The anomaly that is US maternity leave policy thus fits into a larger pattern of policy anomalies, all of which stem from a fundamental cultural difference between US citizens and Europeans in how they think about work. Vacation days present a similar story: of the world's advanced industrialized countries, the United States is the only one that does not mandate vacation days for its workers. Nor does the United States mandate sick leave, a stance on which it is, again, alone among high-income countries. Thus, in various policy areas, the United States has proven itself to be fundamentally distinct from other Western democracies—an outlier in the broadest sense of the word. It remains to be seen whether these and other limited policies will be sustainable in the long-term, especially as maternity leave has received significant national attention during the recent US presidential campaign and in the first months of the Trump presidency.

Balloons read “Congratulations, it’s unpaid!” outside the headquarters of Starbucks Coffee in Seattle, Washington. Working Washington, an organization petitioning the corporation to offer paid parental leave options to non-corporate employees, placed them there in March 2017.