

PAID PARENTAL LEAVE UNDER (NEW) LABOUR

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Abstract

Broad international comparisons of paid parental leave often leave New Zealand's policies looking less than adequate. This paper compares current policies in New Zealand and the United Kingdom. The extent to which either country has been able to implement maternity and parental leave policies has been comparatively limited, but the UK's relationship with the European Union has led to more comprehensive policies than those found in New Zealand. New Zealand will not be forced to comply with a regional or international standard, and it is unclear if there is sufficient momentum for change without such compulsion. However, the UK experience has demonstrated that these types of policies are certainly feasible within the context of the "liberal" welfare state.

INTRODUCTION

International comparisons of paid parental leave policies often leave New Zealand's policies looking woefully inadequate compared to those of the Nordic societies, and certainly less comprehensive than in most other OECD countries (Department of Labour 2007, Families Commission 2007, James 2002, Susan Kell Associates 2007). While these comparisons provide useful information as to what constitutes best practice, the policies being compared often emanate from vastly different political, cultural and economic backgrounds, and may not aid the development of new policies in New Zealand. Comparisons of New Zealand's paid parental leave policies with those of other liberal welfare states, such as Australia, Canada or the United States, may be more instructive in terms of the potential for further policy development and for the evaluation of policy goals in New Zealand.

In this paper I compare the paid parental leave policies of New Zealand and the United Kingdom (UK) in terms of their shared cultural history, their similar economic and political contexts, and their categorisation as "liberal" welfare states (Esping-Andersen 1990). Both countries have in recent years introduced and expanded policies designed to address "new social risks", such as clashes between work and care responsibilities, single parenthood, and non-standard forms of employment (Falkner and Treib 2003). In addition, both countries have in recent years elected Labour governments whose policies have been described as "third way" (see Giddens 1998).²

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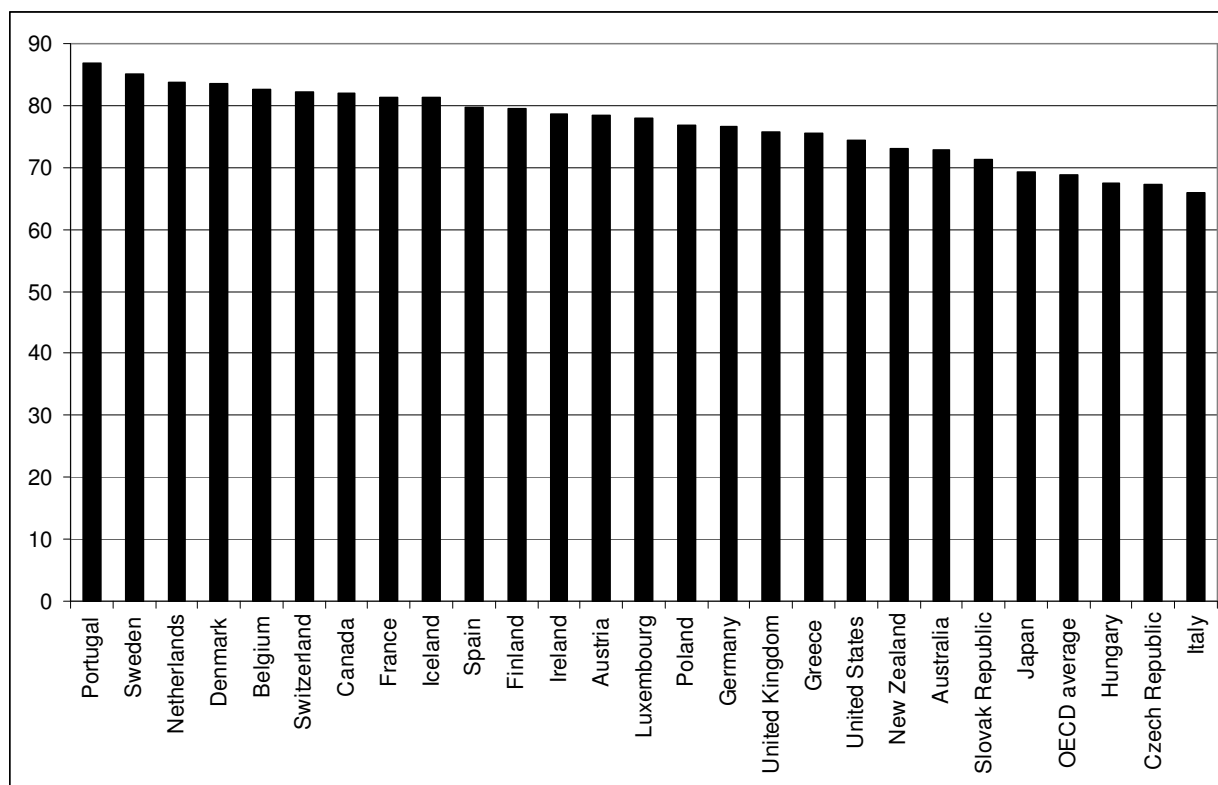
² In New Zealand this has been a series of "Labour-led" coalition governments.

New Zealand and the UK also have similar employment contexts in terms of women's participation in the labour market. New Zealand's labour-force participation rate is slightly higher for women of all ages, but lower for women aged 25--34 (the prime childbearing years). Situated within the context of the OECD, participation rates for women of this age are broadly similar (Figure 1). However, New Zealand's employment rate for mothers of children aged under two years is below the OECD average, alongside quite dissimilar countries such as Germany and Japan, while the UK is above average, and in 2005 even above Finland which is known for its family-friendly policies (Figure 2). Although labour participation and employment rates are influenced by many different factors, the availability of paid maternity leave is perhaps one reason why these figures are higher in the UK than in New Zealand.

Fertility rates also have an influence on these figures, and have historically been higher in New Zealand than in the UK (OECD 2007). This in part explains why New Zealand's labour-force participation rates for women of childbearing age have been slightly lower than those in the UK (Baker 2002). Higher-than-average fertility rates and lower participation rates for women of childbearing age may also help to explain why paid parental leave policies have not been considered to be as urgent in New Zealand as they have in other countries. Paid parental leave (and other welfare policies, see Brewer et al. 2007) has been shown to contribute to both higher female participation rates and higher fertility, which have both become policy priorities among countries experiencing rapidly ageing populations (Ruhm 1998). This effect has been seen to some degree in the UK, as there has been a small lift in UK fertility rates in recent years (OECD 2006).

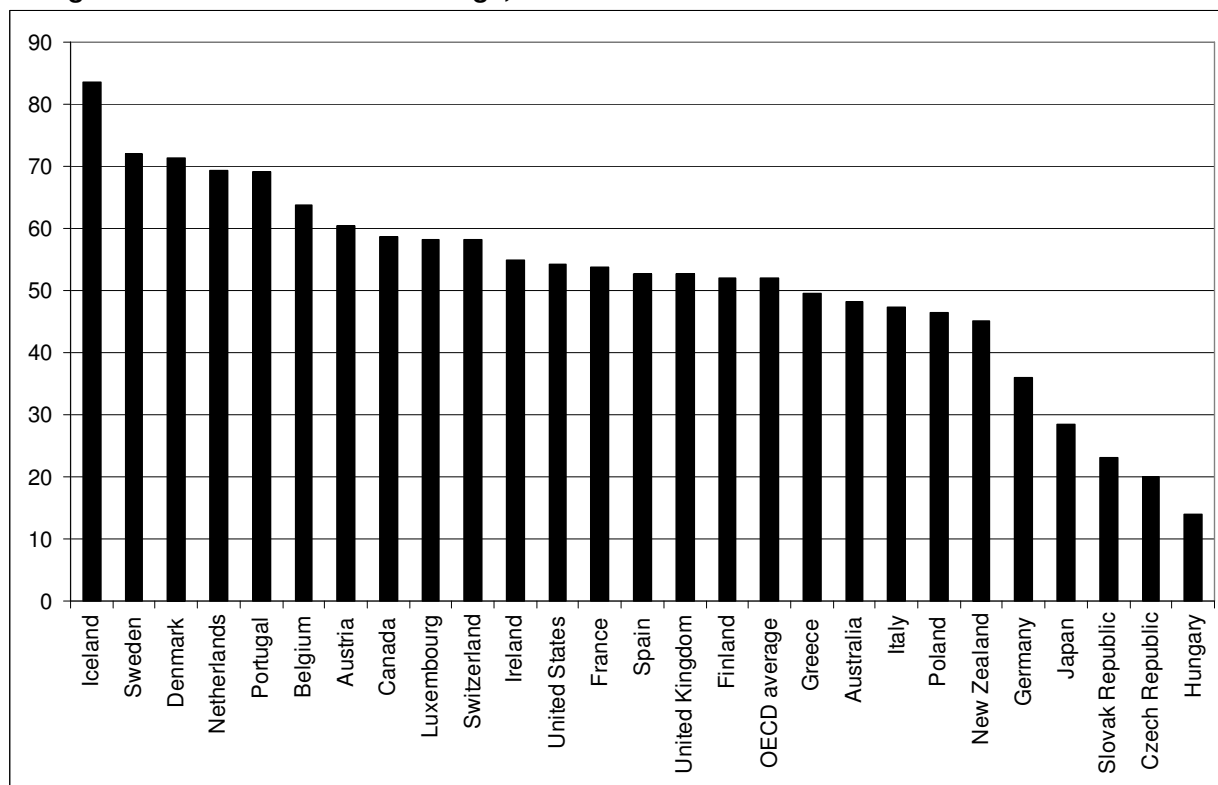
These shared factors suggest that it would be reasonable to expect a similar range of policies to have emerged in the two countries with regard to paid parental leave, but this has not been the case. The Labour government in the UK has been able to introduce a package of policies relating to maternity, paternity and parental leave that is more comprehensive than one would expect to find in a liberal welfare state, while successive Labour-led governments in New Zealand have introduced policies that remain among the least generous in the OECD (Families Commission 2007). This paper will examine current policies in both countries, the influence of the European Union (EU) on policy development in the UK, and implications for policy development in New Zealand.

Figure 1 Labour-force Participation Rates for Selected OECD Countries, Women Aged 25-34, 2007



Source: OECD 2008

Figure 2 Maternal Employment Rates for Selected OECD Countries, Women Aged 15-64, Youngest Child under Two Years of Age, 2005



Source: OECD 2007. Note that the figure is for the youngest child under five years of age in Australia, Iceland and Italy, and for the youngest child aged 0-16 in Poland.

PARENTAL LEAVE POLICY IN NEW ZEALAND

New Zealand's provisions for paid parental leave are among the least comprehensive in the industrialised world, second only to Australia and the United States, which have no national paid parental leave scheme at all.³ Maternity leave was introduced to New Zealand's public sector in 1948, but was not legislated for workers in the private sphere until 1980. The 1980 legislation instituted job-protected leave for up to 26 weeks, conditional upon 18 months of continuous employment working more than 15 hours per week. In 1987 unpaid leave was increased to 52 weeks and leave became gender-neutral and able to be shared between parents. Two weeks of unpaid paternity leave were also added, and eligibility requirements were reduced for both types of leave to 12 months' service of 10 hours or more per week (Callister and Galtry 2006).

In 2001 legislation was passed which introduced 12 weeks of paid parental leave. Eligibility requirements remained the same at 12 months' continuous employment of 10 hours per week, and the leave could be transferred from mother to father (or partner) if he or she also met the employment requirement of 12 months' continuous employment of 10 hours per week. Since 2002 the period of leave has been progressively lengthened to 14 weeks, and eligibility has been extended to include women who have six months' continuous service and women who are self-employed (Callister and Galtry 2006). Extended job-protected leave of 12 months (unpaid) continues to be available only to those parents with 12 months' service, while unpaid paternity leave is available for one week after six months' service, and two weeks after 12 months' service.

Parental leave payments are funded through general taxation and administered by Inland Revenue (Families Commission 2007). Payment is based on replacing 100% of previous earnings, but with a maximum payment level calculated as the average weekly earnings for New Zealand employees. For 2007/08 this is a maximum of \$391.28 per week before tax. Women whose employment record does not entitle them to paid parental leave and who are not receiving another government benefit can apply for a parental tax credit, which is currently paid at \$150 per week for eight weeks.⁴ In addition to maternity and parental leave, all pregnant employees are entitled to 10 days of special leave during their pregnancy to attend medical appointments or to other matters related to their pregnancy. This leave is unpaid. From 1 July 2008 employees with caring responsibilities for children or family members have the right to request flexible working arrangements, and employers have a corresponding duty to consider requests seriously and accommodate them accordingly.

³ Australia does, however, pay a "baby bonus", which is not associated with job protection or employment history (see Callister and Galtry 2008 in this issue). A number of US states have also introduced paid family leave policies, most notably California.

⁴ This payment is means-tested. Payments are abated for families with a total income over \$71,000 for one child, \$86,000 for two children, and so on.

PARENTAL LEAVE POLICY IN THE UNITED KINGDOM

Maternity and parental leave provisions in the UK were introduced on a broadly similar timeline to those in New Zealand, although *paid* maternity leave existed in the UK 24 years before New Zealand women were accorded this entitlement. In 1975 legislation introduced the statutory right of up to 40 weeks' unpaid maternity leave, and in 1976 this was extended to include job protection and unfair dismissal clauses (Earnshaw 1999). A statutory paid period of six weeks operated from 1977, with eligibility for pay predicated on two years' continuous service (or five years for those working between 8 and 16 hours per week).

As of April 2007 all women in paid work in the UK have been entitled to 26 weeks of ordinary maternity leave and 26 weeks of additional maternity leave. Thirty-nine weeks of this period is paid as Statutory Maternity Pay (SMP) if at the qualifying week (15 weeks prior to the expected date of delivery or adoption) a woman is employed, has had the same employer for at least 26 weeks, and is earning above the lower earnings limit for national insurance contributions (£90 per week for 2008). The first six weeks of leave are paid at the higher of either 90% of earnings or the prevailing flat rate, and the remainder at the lower of either 90% of earnings or the prevailing flat rate. This is currently set at £117.18 per week. Those who do not qualify for SMP, but have been in some form of paid work for 26 of the last 66 weeks, can apply for a Maternity Allowance (MA), which is paid at the lower of either the flat rate or 90% of previous earnings (Department of Trade and Industry 2007b).

During pregnancy, women in the UK are entitled to paid leave to attend antenatal classes or medical appointments (Department of Trade and Industry 2003). Job protection while on leave varies according to the length of leave taken. Those who take only ordinary maternity leave are entitled to return to the same job, and maintain related privileges (such as a company vehicle) for the duration of their leave. Those who take the full 52 weeks' leave may be offered a similar job on their return if their employer can prove good cause (Department of Trade and Industry 2007b, Lewis and Campbell 2007). While on leave, women are able (at their own discretion) to engage in paid work for up to 10 days -- known as "keeping in touch days" (Department of Trade and Industry 2007b).

Fathers (and partners, including same-sex partners) in the UK are currently entitled to two weeks' paternity leave if they have 26 weeks' service with their employer at the qualifying week, and Statutory Paternity Pay (SPP) if they earn above the lower earnings limit for national insurance contributions. SPP is paid at the lower of 90% of earnings or the same flat rate as applies for SMP. Both mothers and fathers/partners are entitled to take up to 13 weeks of unpaid parental leave per child, which is to be taken in blocks of no more than four weeks up until the child turns five (Lewis and Campbell 2007). Parents are also legally entitled to time off for family emergencies, and, as in New Zealand, are legally entitled to request (but not necessarily to be granted) flexible working arrangements.

Statutory maternity and paternity pay is paid directly by UK employers, but they may reclaim 92% of the amount they pay from the government; small businesses may be eligible to claim back 104.5% of these costs (Department for Business, Enterprise and Regulatory Reform⁵ 2007). The Maternity Allowance is administered by the Department of Work and Pensions. Further improvements to paid parental leave during the current parliamentary term have been foreshadowed that will see the entire paid period for British mothers increased to 52 weeks,

⁵ Formerly the Department of Trade and Industry.

with part of this period being transferable to fathers if the mother returns to work (Department of Trade and Industry 2007a).

PROGRESSIVE ASPECTS OF UNITED KINGDOM POLICY

Several aspects of the UK's paid parental leave policies directly address those issues that have been raised in regard to New Zealand's current provisions (Families Commission 2007, Callister and Galtry 2008). For example, women in the UK who have been continuously attached to the labour market but have recently changed employer have an individual entitlement to a flat-rate payment that is not assessed on family income. Women who have worked less than 10 hours a week are still able to access employment-based payments, and the 90% replacement rate in the first six weeks goes some way towards acknowledging the different opportunity costs of childbirth for women in different income bands.

Although these aspects of UK policy appear quite progressive, in many ways the overall package of policies is both more protectionist and less gender neutral than those found elsewhere. For example, women are prohibited from working in the two weeks following childbirth -- four weeks if they work in a factory (Earnshaw 1999). While the idea of all women being out of paid work in the initial weeks after birth certainly has some merit, this policy would not address those aspects of parental choice that are considered important in the New Zealand context (New Zealand Government 2006). A compulsory period of leave for women also entrenches the idea that caring is solely the responsibility of mothers, and, by implication, not fathers. Leave intended for use around the time of birth is still demarcated specifically as maternity and paternity leave, and in fact the UK has the longest maternity leave in the EU (Lewis and Campbell 2007). There was also no statutory entitlement to paternity leave until 1999, whereas in New Zealand this was established (albeit unpaid) in 1987. Britain's Equalities and Human Rights Commission has recently suggested that extending *maternity* benefits without equivalent provision for fathers reinforces traditional patterns of care and may actually endanger women's equal participation in the labour force (Bennett and Ahmed 2008).

The UK has "ring-fenced" two weeks of leave for fathers and partners with payment for those who qualify. While international evidence suggests that ring-fenced periods of paternity leave contribute to gender equity in caring, provisions in the UK remain modest (Deven and Moss 2002). Paternity pay is at the flat rate, rather than related to earnings, and the individual entitlement to parental leave is unpaid. Current research suggests that many men in the UK elect to take annual leave at this time to ensure continuity of earnings (Thompson et al 2005), and this is corroborated by international evidence to suggest that take-up rates for fathers are higher where leave is based on individual entitlements for each parent, paid at a high replacement rate and able to be used flexibly; for example, on a part-time basis in combination with part-time employment (Families Commission 2007). However, provisions for parental leave that can be taken up until a child's fifth birthday and time off in the event of a family emergency, support ongoing family responsibilities in way that has not yet been seen in New Zealand. These policies acknowledge that parenting responsibilities cannot be entirely substituted by full-time childcare.

Although parental leave provisions that can be used by fathers are a positive feature, they are designed to be used as part of ongoing parenting commitments rather than around the time of childbirth. The maximum time that can be taken per year is four weeks. This may reflect a more realistic approach to men's involvement in caregiving, but does not provide for fathers

who undertake full-time parenting. The proposed introduction of a paternity leave scheme that permits a mother to transfer her leave to her partner (rather than providing an individual parental entitlement) would be an improvement, but would still create a barrier for fathers becoming full-time caregivers if their wives' employment histories did not qualify them for paid parental leave, as is the case in New Zealand. Despite these weaknesses, the overall package of maternity, paternity and parental leave available in the UK is more comprehensive than that available to new parents in New Zealand (see Table 1 for a summary of the key policy components).

Table 1 Key Policy Components of Paid Parental Leave in New Zealand and the United Kingdom

Policy component	New Zealand	United Kingdom
Pregnancy-related leave	10 days -- unpaid	10 days -- paid
Compulsory leave following childbirth	--	2 weeks, or 4 weeks if working in a factory
Job-protected leave	52 weeks (parental) after 12 months' employment of 10 hours or more per week	52 weeks (maternity) for all women in paid work
Paid period	14 weeks (parental) after 6 months' employment of 10 hours or more per week	39 weeks (maternity) after 26 weeks' employment earning above the lower limit for national insurance contributions (assessed 15 weeks before due date)
Payment rate	100% replacement rate with cap	90% replacement rate for 6 weeks, then flat rate
Current value	Maximum of \$391.28	Flat rate £117.18
Maximum rate / flat rate as a percentage of minimum wage (40 hours)	81.5%	53.1%
Payment as a percentage of national weekly average earnings	Women -- 52% Men -- 42%	Women -- 20% Men -- 18%
Alternative entitlement	Parental tax credit administered by Inland Revenue -- 8 weeks at \$150 means-tested on household income	Maternity Allowance administered through Jobcentre Plus at flat rate for 39 weeks
Paternity leave	1 (2) weeks unpaid after 6 (12) months employment	2 weeks paid at the lower of either flat rate (same as SMP) or 90% replacement rate after 26 weeks' employment earning above the lower limit for national insurance contributions (assessed 15 weeks before due date)
Provision for workplace contact while on leave	--	10 days
Carer's leave	--	13 weeks per parent for each child, taken in blocks of 1 week, for a maximum of 4 weeks per year, until child is aged 5
Family emergency leave	--	Employees legally entitled to time off for family emergencies. No statutory right to pay.
Flexible working arrangements	Right to request -- employees with caring responsibilities	Right to request -- employees with a child aged under 6 or under 18 if disabled.

HOW HAS THE UNITED KINGDOM BEEN ABLE TO INTRODUCE THESE POLICIES?

Both New Zealand and the UK are characterised as liberal welfare regimes (Esping-Andersen 1990, O'Connor et al. 1999) due to features such as modest and targeted benefits, low levels of decommodification (i.e. the extent to which a person can exist independently of the labour market), and a higher level of income inequality than is seen in other countries (see Korpi 2000). Given this, the emergence of a (relatively) comprehensive policy framework for paid maternity leave in the UK, and plans to extend this framework further, are somewhat surprising. Furthermore, the rapid shift from policies framed solely as maternity benefits to policies based on parenthood represents a significant rhetorical shift. These changes can in part be attributed to the increasing relevance of social investment as an alternative to both monetarism and Keynesianism (Kilkey 2006).

However, a closer examination shows that many of the components of the UK's package of parental leave benefits that are more comprehensive or generous than New Zealand's are in place as a direct result of its membership in the EU (Duncan 2002). Articles of EU legislation such as the 1992 Pregnant Workers Directive (92/85/EC) and the 1999 Parental Leave Directive (96/34/EC) have had a significant impact on the policy environment, and are further embedded in broader EU concepts and frameworks such as the European Employment Strategy and the Lisbon Agenda (Hardy and Adnett 2002).

Employment requirements to qualify for paid leave in the UK are much less stringent, and therefore many more women are entitled to paid leave, because discrimination between full-time and part-time workers were alleged to be incompatible with provisions in the Treaty of Rome relating to equal pay for equal work (Earnshaw 1999). The Pregnant Workers Directive made its way into British legislation somewhat by stealth, as a health and safety measure. This Directive required "a minimum of 14 weeks' leave, protection from dismissal, maternity pay at least the level of statutory sick pay and protection from health and safety risks" (Earnshaw 1999:173). There was initially a transition period where separate entitlements existed for those who qualified under different measures, but the Directive eventually lifted standards of provision for all recipients, and ensured that many more women became eligible for a period of paid leave.

When the Parental Leave Directive was introduced in 1995, the UK was one of only three EU countries whose policies were not already compliant (Falkner and Treib 2003). However, as the Conservative government had opted out of the Social Protocol in 1992, the UK was under no obligation to implement its requirements (Sifft 2003). Perhaps significantly, this also meant that the UK was unable to exercise a veto with regard to policies in this area. Although the incoming Labour government of 1997 chose to sign up to the protocol, it was then obliged to introduce time off for family emergencies and an individual parental entitlement to three months' unpaid leave.

These three examples suggest that policy in the UK has lagged far behind that of its European neighbours, and where changes have been made it has frequently been through compulsion rather than by choice. Sifft argues that "without exception British Tory or Labour governments have implemented only the minimum standards of EC equal opportunities directives -- or even less" (2003:154), and that "no other European government has so firmly insisted on its sovereign rights in social and gender policies" (2003:150). Despite the demands of the European Union, policies on maternity, paternity and parental leave continue

to reflect fundamental aspects of the liberal welfare state and can certainly be described as modest, targeted and contributing to social stratification (Wincott 2006). While this illustrates the difficulties involved in introducing social democratic policies into a traditionally liberal policy environment (see Taylor-Gooby and Larsen 2004), it also demonstrates the potential for these policies to be successfully adopted in countries that do not have a history of social democratic welfare programmes.

Although third way politics and social investment discourses have clearly played an important role in the ongoing development of parental and maternity leave policies, especially in relation to the role of fathers (see Kilkey 2006), those aspects of the policy package that have progressed beyond what has been achieved in New Zealand appear to be tightly linked to the demands of the European Union. Weak domestic actors in New Zealand do not have an equivalent of the EU to which these types of appeals can be made. The Council of Trade Unions and Human Rights Commission, among others, has repeatedly highlighted New Zealand's non-compliance with the International Labour Organisation's Maternity Protection Convention, which New Zealand is party to, but this failure to comply does not carry the same moral or legal consequences as departures from EU legislation (Council of Trade Unions 2004, Human Rights Commission 2004).

COULD NEW ZEALAND ADOPT THE MORE PROGRESSIVE ASPECTS OF UK POLICY?

Despite changes in direction since 1999, particularly a stronger focus on social development, social investment and social inclusion, New Zealand's social policy environment remains firmly within the liberal paradigm. In the UK the emphasis on social investment has not itself been enough to prompt the introduction of more generous maternity and parental leave policies. However, the UK experience clearly demonstrates that it is possible for liberal welfare states to introduce these types of policies without putting economic interests at risk. But without the influence of the EU or its equivalent to encourage policy change, it is unclear if there is sufficient momentum for further change in New Zealand.

Paid parental leave policy in New Zealand has thus far been a weak response to the new social risks, such as changes in family structure and changing labour market participation across the life course (see Families Commission 2008). The Families Commission (2007) has canvassed possible developments and recommended that the paid period of leave be extended, maximum payment caps be increased, a ring-fenced period for fathers/partners be introduced, and flexibility allowed in the ways leave can be used. This suggests some consensus that current policies are inadequate, and that 14 weeks is not long enough to have a meaningful impact on the reconciliation of work and family life. The design of the current policy also makes it particularly ineffective at serving those whose paid labour is located in part-time, fixed-term or casual contracts. These failings could lead one to believe that the *raison d'être* of paid parental leave in its current state has been to contribute to economic growth rather than the wellbeing of families. Nevertheless, an evaluation of parental leave policy conducted in 2005 and 2006 found that those families who were entitled to payments welcomed the financial support they received.

In New Zealand, the Labour-led government has indicated that the labour-force participation of women (and particularly mothers) is a high priority. Prime Minister Helen Clark's opening statements to Parliament in both 2004 and 2005 spoke of New Zealand's low female labour-force participation rates compared to OECD averages, particularly for women aged 25--34,

and the impact this has on productivity and GDP in the New Zealand economy (Clark 2004, 2005, see Johnston 2005). Several strategies have been identified in an attempt to increase the labour-force participation of this group, including higher childcare subsidies, increased annual leave entitlements and improved provisions for paid parental leave. The Prime Minister stated that these policies would better enable women to “continue their commitment to the workforce” (Clark 2004). It seems likely, then, that any extensions or additions to the current scheme will be assessed primarily on their ability to alleviate traditional economic and labour market concerns, and, to a lesser extent, public health concerns for mothers and babies (see Galtry 1995). Other aims of paid parental leave -- such as stabilising family income, achieving gender equity in both the labour market and the family, and recognising the value of time spent caring for children -- seem less likely to take precedence.

Although some have argued that the expansion of parental leave provisions in many countries runs counter to the retrenchment of the welfare state in other policy areas (Avdeyeva 2006, Evans 2007), Skevik (2005) argues that parental leave and publicly funded childcare are more than compatible with the labour-market activation policies (such as workfare and welfare-to-work) that have risen in popularity in both the UK and New Zealand. These policies are based on a belief system that promotes “the wage as the best form of welfare, employment as a means of social inclusion, and a flexible labour market as the best means of promoting economic growth and increasing employment” (Lewis and Campbell 2007:6).

Strengthening women’s attachment to paid employment fits within this model because it allows governments to reduce spending in the long term. Parental benefits encourage young women to enter the labour force and become financially independent prior to becoming pregnant (Ruhm 1998). Women who continue to participate in paid work while in couple relationships and during their childbearing years are less likely to require support from the welfare state when a relationship ends (Skevik 2005). Although these factors also potentially have positive implications for women’s personal and financial autonomy, the current policy of low-level payment and narrow eligibility mean that these eventualities are severely limited.

The UK certainly provides some good examples of parental leave policies that could be imported into the New Zealand context, such as paid leave for pregnancy-related medical appointments and the ability to keep in touch with the workplace while on leave. However, it seems that without external compulsion to introduce measures specifically designed to address gender inequalities, both countries will elect to introduce only those policies that are in harmony with economic goals. It seems likely that, despite rhetorical support for policies that support work--family balance (Collins 2007, New Zealand Government 2006), successive New Zealand governments will continue to introduce “the minimum standards ... or even less” (Sift 2003:154) rather than develop the kinds of policies that have been seen overseas to have a real impact. Also, as international research and UK policy has shown, it is notoriously difficult to develop policies that balance the needs of children and parents, let alone the desire of governments to reduce spending and increase productivity (Callister and Galtry 2005).

Parents’ work and parenting decisions are clearly not based solely on the availability of paid parental leave, but nor can they be based solely on personal preferences. Structural factors such as employer flexibility, affordable childcare, annual leave and tax policy all have an impact on the choices that parents make. Recent additions to parental leave policy in the UK have not only eased some of the constraints of combining paid work and parenting for parents

in the UK, but have demonstrated that these policies can function, and flourish, under the social, economic and cultural conditions these two countries share. Despite the appetite among parents for effective policies to support paid work and parenting, further developments in New Zealand remain uncertain.

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