

WHAT IS THE BEST PAID
PARENTAL LEAVE ARRANGEMENT
*to promote gender-balanced caregiving in the home, and
gender equality in the workplace in New Zealand?*

Joy Guo*

Parental leave-taking behaviour after a child is born sets a precedent for the division of childcare labour in the long-term. In New Zealand, mothers take significantly more parental leave than fathers. Being the primary caregiver is negatively correlated with workforce participation, earnings and promotion opportunities. This article examines how New Zealand's paid parental leave policy shapes a gendered division of childcare labour by deeming mothers as the primary caregiver, and reinforces gender inequality in the home and workplace. This article critiques notions of equality that promote either women-specific schemes or gender-neutral treatments, both of which fail to address male caregiving behaviour. A new vision of equality that focuses on incentivising male leave-taking is needed in order to disrupt traditional gender norms in relation to care-giving. Through examining international experience, this article argues that father-specific bonuses, which give families benefits when fathers take their share of the leave, have the potential to significantly re-balance the current division of child-care labour, and advance gender equality in both the home and workplace.

I INTRODUCTION

Gender inequality in the home contributes to gender inequality in the workplace. In New Zealand, over 90 per cent of mothers take paid parental leave to care for a newborn.¹ This article examines how New Zealand's paid parental leave scheme shapes a gendered division of childcare labour, and

* BHSc/LLB (Hons). Associate Consultant at Bain and Company. The author would like to thank Julia Tolmie of the University of Auckland for her excellent lecturing on Women and the Law, which formed the necessary foundation for this article.

1 See Ministry of Business, Innovation & Employment *Regulatory Impact Statement: Modernising Parental Leave* (2 March 2015) at 4.

thereby contributes to gender inequality in the home and workplace. The article will explore policy options that facilitate more gender-balanced caregiving and provide lessons from overseas experiences. Ultimately, this article advocates the implementation of fatherhood bonuses: a model of substantive equality that incentivises male caregiving. Central to this article is the view that promoting male caregiving and shared-leave arrangements is key to advancing the goal of gender equality in both the home and workplace.

A Gender inequality and paid parental leave

Gender inequality in the home and workplace are interdependent. After decades of formal equality, women still lag behind men in workforce participation, earnings and leadership positions.² This is partly due to the disproportionate amount of time that women care for children compared to men. Research shows that one in four mothers aged 25 to 44 are not in work, and women's average work hours are substantially below full-time.³ By contrast, most men forego parental leave and fulfil familial obligations by providing for the household.⁴ Being the primary caregiver means that, in general, women participate less in the labour force than men and, in doing so, they forego skill development crucial to their market position.⁵ After women have children, the pay gap between men and women becomes dramatically wider, and increases with each child.⁶ This reality further justifies family decisions for women to continue to be primary caregivers. Moreover, the gendered division of care penalises all women in the workplace. Women (including those who do not have children) experience 'maternal profiling' or statistical discrimination due to their employers' perception that women (and not men) will reduce their workplace commitment because of the children they have or will eventually bear.⁷ For these reasons, re-balancing childcare work between women and men

2 Sheryl Sandberg *Lean In: Women, Work, and the Will to Lead* (Alfred A Knopf, New York, 2013) at 2.

3 Joan C Williams *Unbending Gender: Why Family and Work Conflict and What to Do About It* (Oxford University Press, New York, 2000) at 2 as cited in Joan C Williams "Jumpstarting the Stalled Gender Revolution: Justice Ginsburg and Reconstructive Feminism" (2012) 63 *Hastings LJ* 1267 at 1283.

4 Williams, above n 3, at 1285.

5 Martha Albertson Fineman "Fatherhood, Feminism and Family Law" (2001) 32 *McGeorge L Rev* 1031 at 1041.

6 Michelle Budig and Paula England "The Wage Penalty for Motherhood" (2001) 66 *American Sociological Review* 204 as cited in Stephen Benard, In Paik and Shelley J Correl "Cognitive Bias and the Motherhood Penalty" (2008) 59 *Hastings LJ* 1359 at 1359.

7 Rangita de Silva de Alwis "Examining Gender Stereotypes in New Work/Family Reconciliation

is crucial to also reducing gender inequality in the workplace.

It is important to acknowledge that not all women desire or aspire to workplace participation, equal earning power and leadership roles. Some women actively choose to forego career opportunities in order to be primary caregivers, and feel empowered in this role. This article does not suggest that paid employment is a more valuable social or personal pursuit than child caregiving. Rather, it observes that caregiving responsibilities significantly shape workplace participation. Therefore, gender inequality in the workplace cannot be isolated from the consequences of paid parental leave policy, and vice versa.

II CRITIQUE OF THE NEW ZEALAND PAID PARENTAL LEAVE POLICY

The paid parental leave policy shapes the distribution of caregiving responsibilities between parents both when a child is born and in the long-term. Initial divisions of labour morph into long term patterns both for families and wider society.⁸ Research shows that fathers who take parental or paternity leave are more likely to perform childcare tasks and stay more involved as children grow up.⁹

New Zealand's paid parental leave scheme provides eligible mothers and other primary carers paid leave for 18 weeks.¹⁰ Fathers (or spouses/partners who are not fathers) are allocated one to two weeks' unpaid leave and can get up to 18 weeks of paid parental leave if it is transferred by the mother and both the father (or spouse/partner) and mother qualify for paid parental leave.¹¹ This means that fathers (or spouses/partners) do not have a separate entitlement to leave unless it is transferred to them. However, there is a low uptake of paternity leave and paid parental leave by fathers. In heterosexual parenting relationships, around four per cent of fathers take paternity leave,¹² and paid

Policies: The Creation of a New Paradigm for Egalitarian Legislation" (2011) 18 Duke J Gender L & Pol'y 305 at 312–313.

8 CEDAW General Recommendation No 23: Political and Public Life A/52/38 (1997) as cited in de Silva de Alwis, above n 7, at 315.

9 Laura Addati, Naomi Cassirer and Katherine Gilchrist *Maternity and paternity at work: Law and practice across the world* (International Labour Office, 2014) at 61–62.

10 Parental Leave and Employment Protection Act 1987, ss 71DA and 71J.

11 Section 71E.

12 Amanda Reilly *Paid paternity leave and recognition of the importance of fathers* (Centre for Labour, Employment and Work, October 2015) at 2.

parental leave is transferred to the father in less than one per cent of cases in practice.¹³ This means that although mothers can transfer part (or all) of their entitlement, this does not occur frequently in practice.

New Zealand's paid parental leave policy reinforces traditional gender roles. Although paid parental leave purports to be available to women and men, it deems the mother as the default primary caregiver. Fathers, on the other hand, are only entitled to leave if it is transferred to them. In this way, the policy normatively reinforces the traditional caregiver/breadwinner dichotomy by defining the fatherhood role as the 'economic' provider, and the motherhood role as the 'carer'. It therefore sanctions male absence from childcare, whilst simultaneously maintaining the structural supports from which men derive their economic and social power.¹⁴

Further, some parents are excluded from obtaining benefits from the scheme. The restrictive eligibility criteria based on work experience¹⁵ excludes the poorest families who struggle to be consistently employed, and who need the most financial support. Although these families may still be entitled to the Parental Tax Credit, this only offers minimal financial support.¹⁶ The lack of separate entitlement of paid parental leave to fathers means that, if the mother does not qualify for paid leave, the father does not qualify either. In low-income, solo-earner families, the father will often be forced to remain at work. In addition, the policy denies the option of alternative caring arrangements. In tikanga Māori, it is the role of relatives and grandparents to share caregiving work.¹⁷ The current policy forces Māori families to adhere to the nuclear family model and discard a communal model which could uphold the working role of women.

In the context of increasing fluidity of family formations, mothers may also not have partners male or otherwise. Nonetheless, the policy, in being primarily designed for heterosexual, two-parent families, still plays a vital role in shaping normative gender constructions, and thereby defines gendered leave-taking responsibilities in heterosexual parenting families in New Zealand.

13 Ministry of Business, Innovation & Employment *Regulatory Impact Statement: Modernising Parental Leave* (2 March 2015) at [18].

14 Fineman, above n 5, at 1041.

15 Parental Leave and Employment Protection Act 1987, ss 71CA, 71CB, 2BA(4).

16 Income Tax Act 2007, s MD11; and Parental Leave and Employment Protection Act 1987, s 71G.

17 Cindy Kiro "Ngā Matua – Māori parenting – Types of parenting" (5 May 2011) Te Ara Encyclopaedia of New Zealand <www.teara.govt.nz> at 5.

Changing the paid parental leave structure is therefore necessary to facilitate the participation of women in the workplace. Although liberal feminists may argue that families should have freedom from state interference,¹⁸ the subjugation of women to the private sphere hinders their access to the public domain.¹⁹ It is therefore necessary to recognise that the government, market factors and the family are interdependent forces in shaping gender equality and the crucial role of policy in reducing gender inequality within the family.

III PAID PARENTAL LEAVE REFORM OPTIONS

A policy that promotes equality is usually underpinned by a formal equality or substantive equality framework. Formal equality advocates equal treatment between men and women, and challenges gender-based laws as violations of equal protection.²⁰ Substantive equality views differential treatment of genders as necessary to achieve equal outcomes. The position of this article is that neither framework is workable in the context of paid parental leave in New Zealand.

A Increasing paid parental leave entitlement and protection for mothers

Some advocates of substantive equality, such as cultural feminists,²¹ may argue in favour of increasing access to and benefits of paid parental leave for mothers, such as through extra pay or length of parental leave. This would account for the costs that women disproportionately bear due to pregnancy and caregiving. This approach was reflected in Labour MP Sue Moroney's 2015 Member's Bill to extend paid parental leave from 18 to 26 weeks.²² The Bill attempted to create more flexible work options without losing paid parental leave entitlement. However, it did not attempt to create a separate entitlement

18 See Katherine O'Donovan "With Sense, Consent, Or Just a Con? Legal Subjects in the Discourse of Autonomy" in Ngaire Naffine and Rosemary J Owens (eds) *Sexing the subject of law* (LBC Information Services, North Ryde, 1997) 47.

19 *CEDAW General Recommendation No 23: Political and Public Life A/52/38* (1997) at [9] as cited in de Silva de Alwis, above n 7, at 315.

20 See generally O'Donovan, above n 18, at 47–64.

21 See Carol Gilligan *In a Different Voice: Psychological Theory and Women's Development* (Harvard University Press, Cambridge (Mass), 1982) at 24–33.

22 Parental Leave and Employment Protection (6 Months' Paid Leave and Work Contact Hours) Amendment Bill 2015 (51–2).

to paid parental leave for men, and was not intended to change the distribution of leave-taking between mothers and fathers. Given that mothers typically take up paid parental leave, the Bill's effect would have been to extend leave protections for mothers only.²³

There is no doubt that women do bear greater costs in relation to pregnancy and childbirth, which should be appropriately recognised by maternity leave. However, extensive 'special treatment' for women in relation to paid parental leave both incentivises and justifies women assuming a primary caregiving role. It does not promote shared care. It normatively sanctions a gendered division of childcare labour, and reinforces the conception of women as costlier workers than men. This approach may inadvertently reinforce maternal profiling in the workplace, and reconstitute gender inequality.

B Making leave equally available to both sexes

Proponents of formal equality (such as liberal feminists) may advocate for a gender-neutral approach to paid parental leave.²⁴ This may involve making parental leave equally available to mothers and fathers, through equal pay (or non-payment) length and eligibility requirements.

However, the rationale that equal accessibility equates to equal uptake and division of care is flawed. When men and women have socially constructed differences and entrenched behavioural patterns, "sex-neutral solutions ... can yield sex-skewed results".²⁵ Although formal equality removes direct barriers, it does not alter cultural norms, which act to reproduce a gendered division of labour. Therefore, even if parental leave is equally available to men, this may not significantly increase its uptake by men. In the United States, for example, unpaid parental leave is equally available to both sexes.²⁶ While intending to promote gender parity, mothers in practice take nearly two months more leave than fathers.²⁷ This shows that the policy has done little to break longstanding sex-based patterns of care in the United States.

23 (16 September 2015) 708 NZPD 6743–6744; and Ministry of Business, Innovation & Employment, above n 13, at [18].

24 See O'Donovan, above n 18.

25 Keith Cunningham-Parmeter "(Un)Equal Protection: Why Gender Equality Depends on Discrimination" (2015) 109 *Nw U L Rev* 1 at 5.

26 Family and Medical Leave Act 29 USC § 2601.

27 Naomi Gerstel and Amy Armenia "Giving and Taking Family Leaves: Right or Privilege?" (2009) 21 *Yale JL & Feminism* 161 at 167 as cited in Cunningham-Parmeter, above n 25, at 12.

In addition, non-transferable leave penalises: solo-mothers who cannot use a father's or spouse's leave; families who cannot afford both parents to take leave; and mothers or fathers who want to be the sole primary caregiver. The danger of a formal equality approach is that any resulting inequality is hidden behind the rhetoric of equal opportunity and is, ostensibly, unchallengeable.

C Critique of current reform options

Increasing the male share of caregiving is essential to changing the reality and expectation of parental leave being a 'women's issue' for which all women are penalised in the marketplace. Both approaches fail to address the specific factors that hold men back from caregiving. A new form of substantive equality that focuses on changing male behaviour could radically disrupt this dynamic.²⁸ Governmental imprimatur that specifically encourages male caregiving is vital if the aim is to promote shared care. Research suggests that more equal leave-taking behaviour by women and men will reduce maternal profiling and increase the employment and promotion opportunities for women of childbearing age.²⁹

Research conducted by the Organisation for Economic Co-operation and Development (OECD) shows that men's leave-taking behaviour is significantly influenced by gender norms and a fear of negative career implications.³⁰ While women are expected to assume a greater share of the child caring role, men fear the career and social consequences of taking leave. For example, when Sweden first offered fathers paid parental leave, society applied the label 'velvet dads' to men who took leave, and men came to believe that 'velvet dads' were committing career suicide.³¹ As a result, less than 10 per cent of fathers took up leave. This demonstrates that the socialisation and behavioural patterns of women and men are interdependent, and mutually reinforcing. Targeting the cultural socialisation of men therefore, is essential to encourage male leave-taking.

28 Cunningham-Parmeter, above n 25, at 8.

29 Organisation for Economic Co-operation and Development *Policy Brief: Parental leave: Where are the fathers?* (OECD Publishing, March 2016) at 1.

30 OECD, above n 29.

31 Katrin Bennhold "In Sweden, Men Can Have It All" *The New York Times* (online ed, New York, 9 June 2010).

1 *Masculinities theory*

It may be helpful to examine the gender socialisation of men by drawing from aspects of masculinities theory, which attempts to explain how gender norms limit the boundaries of appropriate male behaviour. According to this theory, men are socialised to constantly try to establish their manhood status by displaying attributes of hegemonic masculinity and a rejection of conduct associated with femininity.³² For example, boys are taught from a young age to hide their emotions and that “boys don’t cry”.³³ Given the “feminised” nature of caregiving, masculinity norms discourage co-equal forms of parenting.

There are limitations to this theory. As argued by Richard Collier, the concept of “masculinity”, and in particular, “hegemonic masculinity”, is problematic in itself.³⁴ It is an essentialist account of the male experience, and “distils the aggregation of activity of men in the social world into one neat word.”³⁵ As such, it may inadvertently reinforce the gender norms that it attempts to dismantle. It fails to acknowledge the variable nature of masculinity between different intersecting identities, such as race, class, sexuality, culture and age. For example, in Māori culture, child caregiving is a shared responsibility between female and male whānau members.³⁶ Additionally, it diminishes the importance of other compounding factors that entrench the gender divide, such as inflexible workplace policies and the gender income gap. Furthermore, there are varying displays of masculinity by reference to each person’s lived practices and complex every-day experiences.³⁷ Finally, gender norms should not become a justification or excuse for male behaviour.

32 Frank Rudy Cooper “Against Bipolar Black Masculinity: Intersectionality, Assimilation, Identity, Performance, and Hierarchy” (2006) 39 UC Davis L Rev 853 at 898–899; Keith Cunningham-Parmeter “Men at work, Fathers at Home: Uncovering the Masculine Face of Caregiver Discrimination” (2013) 24 Colum J Gender & L 253 at 271–274.

33 Michael Kimmel *Guyland: The Perilous World Where Boys Become Men* (Harper Collins, New York, 2008) at 45 as cited in John M Kang “The Burdens of Manliness” (2010) 33 Harv JL & Gender 477 at 490.

34 Richard Collier “Masculinities, Law and Personal Life: Towards a New Framework for Understanding Men, Law, and Gender” (2010) 33 Harvard Journal of Law & Gender 431 at 458–459 and 473–474.

35 Jeff Hearn “Is Masculinity Dead? A Critique of the concept of masculinity/masculinities” in Máirtín Mac an Ghaill (ed) *Understanding Masculinities: Social Relations and Cultural Arenas* (Open University Press, Buckingham, 1996) 202 at 202.

36 See Dr Will Edwards and Dr Mihi Ratima *Engaging Māori fathers, A literature review – father involvement, Māori parenting and engaging Māori fathers in parenting* (Mana Ririki, Brainwave Trust Aotearoa and Great Fathers, August 2014) at 15.

37 Collier, above n 34, at 452.

Removing individual agency is counter-productive to encouraging individual leave-taking behaviour.

However, the diversity of men's lives can be accounted for while simultaneously recognising the existence of a culturally and socially exalted form of masculinity. As all policies are based on trends and population characteristics, generalisations cannot be avoided. Masculinities theory is still largely reflective of the New Zealand male "rugby culture", which socialises men to be tough, unemotional and stoic. Particularly in rural New Zealand, anything contrary to being a "man" is frowned upon.³⁸

The lack of paid paternity leave in New Zealand is an exception in the OECD; three-quarters of countries provide at least a few days of father-specific paid leave, while 12 countries provide father-specific leave for two months or more.³⁹ New Zealand's paid parental leave policy reinforces the socialisation process that signals to men that their primary role is to work, not care. This suggests that our society judges men predominantly by their professional success, not their personal achievements. In this way, men's disengagement from domestic work frees them to pursue market work without being critiqued for their domestic absence. Acceptance of men's reduced caregiving role therefore results in a loss of social power and workplace privileges for women.

The social construction of the male role, in turn, shapes workplace expectations. Research shows that employees who use parental leave often face penalties ranging from substantial pay-cuts to lost promotions or marginalisation.⁴⁰ However, men often pay an even higher price. When male employees take family-related leave, they can face negative consequences that range from receiving lower performance ratings to reducing their chance for a raise or promotion.⁴¹ Gender-specific expectations remain self-fulfilling. The belief that mothers are more committed to family life than their jobs penalises women more generally because employers assume that they will be less dedicated to their work. The reverse expectation applies to men, who are expected to

38 See Katherine Dolan "New Zealand is no paradise, it is brutal" (14 September 2016) *Stuff* <www.stuff.co.nz>.

39 OECD, above n 29, at 2.

40 Debora Spar "Why Do Successful Women Feel So Guilty?" *The Atlantic* (online ed, 28 June 2012).

41 Adam B Butler and Arnie Skattebo "What is Acceptable for Women May Not Be for Men: The Effect of Family Conflicts with Work on Job-Performance Ratings" (2004) 77 *Journal of Occupation and Organization Psychology* 553 at 553–564.

prioritise their professional careers.⁴² Further, fathers who devote themselves to full-time child care can face negative social pressure and feel isolated.⁴³

Therefore, it is necessary to change male gender norms to incentivise male caregiving and reorient workplace expectations to support parental leave-taking. Because cultural change depends on structural support, paid parental leave must involve father-specific governmental signalling.⁴⁴ Policies can signal to both men and their workplaces the social desirability of leave-taking by men. As long as parental leave remains de facto ‘maternity leave’, maternal profiling will prevail and men will be expected to take less leave to fulfil their childcare duties. It is therefore necessary to loosen the current gender-based structures surrounding paid parental leave. Social norms shape patterns of behaviour, and behaviour in turn reinforces social norms. If men take more leave, this behaviour becomes normal, and eventually, normative.

Those who advocate for radical change may argue for an inversion of the current paid parental leave structure, in an attempt to reconceptualise masculinity and femininity.⁴⁵ This may involve giving men the same paid parental leave benefits that mothers currently have, while reducing paid parental leave entitlement to mothers. However once a policy becomes coercive, resistance mounts. Further, such a policy would not promote shared care in circumstances where it would disentitle those women who choose to be the primary caregiver. It may also create an absolute right for all men to be involved in equal co-parenting, which may be harmful for the child or mother in certain circumstances.

Instead, paid parental leave policy should expand the concept of masculinity to include caregiving, and reorient both workplace and societal expectations so that it becomes increasingly acceptable (and eventually expected) for men to take childcare leave. Instead of being coercive, policy should incentivise and reward male caregiving and shared care. This creates buy-in and ownership by men, and facilitates behavioural change.

42 Sandberg, above n 2, at 62.

43 At 61–62.

44 See generally Jane Waldfogel *What Children Need* (Harvard University Press, Cambridge, 2006).

45 Such advocates for radical change include Catherine A MacKinnon *Feminism Unmodified* (Harvard University Press, Cambridge (Mass), 1987) at 32.

D Father-specific parental leave and fatherhood bonuses

Merely offering fathers paid paternity leave may be insufficient to effect a meaningful change in male behaviour. For example, as previously mentioned, when Sweden first offered men paid parental leave, society applied the label ‘velvet dads’ to men who took leave. This resulted in a gender-norm reinforcement whereby less than 10 per cent of fathers took paternity leave.⁴⁶

It was not until Sweden introduced fatherhood bonuses in 1995 that men’s use of leave significantly increased. The bonus allowed families to receive an additional month of leave if fathers utilised 30 days of paid, non-transferrable leave.⁴⁷ Women were entitled to the same period of non-transferable leave, but with no added bonus if the leave was taken.⁴⁸

As a result, the proportion of men who took leave during the child’s first two years increased from 40 per cent to 75 per cent.⁴⁹ Women’s earnings increased by seven per cent for every month of parental leave that fathers took. Men who took longer leave engaged in a greater share of caregiving tasks.⁵⁰ Similar trends are seen in Germany, a country with a similar legal and social system to New Zealand. Under the 2007 *Elterngeld* (parental benefit) system, families receive two extra months of paid parental leave when fathers take two months’ leave.⁵¹ Six years after Germany implemented this policy, the proportion of German fathers taking leave increased from 3.3 per cent to 27.8 per cent.⁵²

In other jurisdictions that have enacted father-specific leave policies, such as Quebec and Norway, women spend more time in paid work and earn

46 Cunningham-Parmeter, above n 25, at 14.

47 Föräldraledighetslag (1995:584) (translation: Parental Leave Act (1995:584)) (Sweden).

48 The leave for each parent has since increased to three months. A remaining 300 days of paid leave is available between the parents, who receive a SEK50 tax-free incentive if leave is shared equally.

49 Ann-Zofie Duvander and Mats Johansson “What Are the Effects of Reforms Promoting Father’s Parental Leave Use? (2012) 22 J Eur Soc Pol’y 319 at 325.

50 Linda Haas and C Philip Hwang “The Impact of Taking Parental Leave on Fathers’ Participation in Childcare and Relationships with Children: Lessons from Sweden” (2008) 11 Community, Work & Fam 85 at 99, as cited in Cunningham-Parmeter, above n 25, at 16.

51 Bundeselterngeld und Elternzeitgesetz – BEEG (translation: Parental Allowances and Parental Leave Act (BGBl IS 2748)) 2006 (Germany).

52 Peter Moss (ed) *International Review of Leave Policies and Related Research* (International Network of Leave Policies and Research, 2013) at 36 (reporting that this increase occurred in the third quarter of 2011).

higher wages than they did previously.⁵³ Leave-taking men perform a greater share of childcare work long after their parental leave ends.⁵⁴ Although these outcomes are correlative and not necessarily causative, the improved equality outcomes in all jurisdictions indicate that it is likely that these policies played an important role in reducing gender inequality.

These examples indicate that the way in which parental leave policies allocate benefits between mothers and fathers largely determines whether such policies challenge gender inequalities or simply reinforce or reconstitute them.⁵⁵ Policy is a social engineering tool. In order to reorient cultural norms of caretaking, New Zealand should move towards a new model of substantive equality that targets men. Father-specific quotas and fatherhood bonuses loosen the association between parental leave and femininity. It signals the social acceptability (and desirability) of male caregiving to men, their workplaces and society. It helps to reduce maternal profiling, while simultaneously increasing the acceptability of leave-taking by men in the workplace. Further, it expands the norm of the 'primary caregiver' to shared caregiving.

1 Application of father-specific parental leave and fatherhood bonuses to New Zealand

Currently, the total length of paid parental leave that a family can receive (shared between the mother and father/partner) in New Zealand is 18 weeks.⁵⁶ Fundamental differences in cultural, social and governmental systems between New Zealand and Sweden mean that it is unrealistic to replicate the Swedish model. New Zealand relies less on government-funded benefits; has a smaller budget allocation for paid parental leave; and places more emphasis on individual autonomy than state-funded benefits. However, there is scope to change the paid parental leave model and extend the total length of paid parental leave in New Zealand. For example, although (then Finance Minister) Rt Hon Bill English vetoed Moroney's Bill to extend paid parental leave to 26

53 Elly-Ann Johansson *The Effect of Own and Spousal Parental Leave on Earnings* (Institute for Labour Market Policy Evaluation, Working Paper No 2010:4 2010) at 1–29 (finding that father's use of paternity leave positively correlated with maternal earnings).

54 See Nevena Zhelyazkova *Fathers' Use of Parental Leave What Do We Know?* (Maastricht Economics and Social Research Institute on Innovation and Technology Working Paper No 2013-022, 2013) at 26.

55 Cunningham-Parmeter, above n 25, at 19.

56 Parental Leave and Employment Protection Act 1987, s 71E.

weeks, the possibility of extending leave in the future has not been ruled out.⁵⁷ Public support or demand may reinstate the debate.

This article proposes that in order to increase the feasibility of a new paid parental leave model in New Zealand coming into effect, the current leave entitlement for each parent should be retained. However, the model should incorporate the system of father-specific parental leave and fatherhood bonuses, with the total period of paid leave entitlement extended to 26 weeks. This model incentivises shared leave and explicitly signals the desirability of father-specific leave.

An example of this model is to have around eight weeks of non-transferable leave available to each parent, and six weeks of sharable leave available between parents. A further four weeks of sharable leave should be available as a bonus if the father takes the father-specific leave. Additionally, parents who share leave should receive a tax-free bonus for each day that they use the leave equally. Further, each parent should qualify separately for paid parental leave.

This policy does not decrease a parent's current paid parental leave entitlement; 18 weeks of paid parental leave can still be taken by mothers or fathers who choose to take the whole period of the available shared leave. This feature maximises the political attractiveness of the policy, while encouraging male caregiving. The scheme transforms paid parental leave from an 'election system' between the parents to a 'shared care' system. Unlike the Swedish model (which does not pay either parent if they do not take the requisite individual leave), parents would be paid for any leave that is taken. Further, under this policy, families where the father is the solo earner have equal access to paid parental leave. This scheme therefore allows flexibility in family arrangements and reserves autonomy, while incentivising fathers to share leave-taking arrangements. It therefore legitimises the diversity of women and men's choices and experiences, while promoting gender equality.

It is important that paid parental leave should be inclusive for all. Enabling the father-specific leave to be transferred to other nominated caregivers or a partner of the same sex allows for alternative and culturally appropriate childcare arrangements (such as for Māori families). Allowing solo-parents to take as much leave as a couple is entitled to ensures that solo-parents are not

57 Bill English and Michael Woodhouse "Government vetoes paid parental leave bill" (press release, 16 June 2016).

disadvantaged. Further, the leave should be well paid to limit the financial cost of taking leave. Moreover, ensuring that leave arrangements have flexibility in allowing parents to resume part-time work during the parental leave period without losing paid parental leave entitlement assists job continuity, and helps partners to “shift-share” leave and work commitments. Finally, making financial support available for those who do not qualify for paid parental leave ensures that support is available to those who need it most.

IV THE NECESSITY OF AN INTEGRATIVE, MULTI-AGENCY APPROACH

The mutually reinforcing nature of gender inequality in the home and workplace, however, means that changing the structure alone may not ensure equal uptake of the leave. Nor would it solve gender inequality in the workplace. An integrative approach, which places responsibility on workplaces to enact family-friendly and equality policies, is crucial to transforming gender equality in the private and public spheres.

Policy must go further than normalising male caregiving. First, a gender-balanced division of caregiving should go beyond the period of leave-taking, but involve a balancing of the nature and type of caregiving tasks. Second, if leave-taking still attracts a career penalty, parents (especially fathers) may not truly be encouraged to take leave. Our government should therefore incentivise a workplace culture where employees (men and women) are encouraged, not penalised, for taking parental leave. To do so, the government needs to better articulate the corporate benefits of having and retaining employees who have enriched family lives. This helps to change the conception of the ‘ideal worker’ as one that is dually responsible for family and work. Further, unlike in Portugal,⁵⁸ for example, employees in New Zealand do not have an entitlement to flexible working hours, but merely a right to request this option from their employer.⁵⁹ Requiring employers to make flexible work options available to employees would greatly facilitate the sharing of childcare between parents.⁶⁰

58 Peter Moss (ed) *11th International Review of Leave Policies and Related Research* (International Network of Leave Policies and Research, London, 2015) at 262.

59 Employment Relations Act 2000, pt 6AA.

60 OECD, above n 29, at 2.

Finally, reducing the gender wage gap is essential for facilitating an equal division of labour at home; women will still take more leave than men if men earn more.⁶¹ The current gender pay gap further entrenches traditional gender roles in the home by incentivising the male breadwinner model, and justifying a gendered division of childcare labour in the home. Addressing the gender pay gap is an essential and mutually reinforcing goal to equalising paid parental leave policy between women and men. It is necessary therefore to break the barriers between family, state and market and realise that all are inextricably important for facilitating gender equality in the home and workplace.

V CONCLUSION

A gendered division of caregiving in the home shapes a gendered division of workplace benefits. Underpinning this double inequality is New Zealand's paid parental leave policy. This article shows how policy plays a pivotal role in the reproduction of structural and systemic norms and inequalities. The current parental leave entitlement reinforces traditional gender norms by deeming women as caregivers and men as breadwinners.

Notions of equality promoting either women-specific schemes or gender-neutral treatments fail to target the underlying factors that discourage male caregiving behaviour: masculine gender norms and caregiving-associated career penalties. A new vision of equality that focuses on changing male leave-taking behaviour is necessary: one that expands male gender norms and re-orientes workplace expectations to support leave-taking. Father-specific parental leave and fatherhood bonuses address these underlying factors by signalling to men, society and the workplace, the desirability and normativity of male leave-taking. It also changes the concept of primary caregiving to one of shared care. It thereby encourages men to take more parental leave, while making it more acceptable in the workplace. In this way, equalising parental leave-taking between men and women may decrease maternal profiling and caregiving-related discrimination that women may face in the workplace. A father-specific paid parental leave policy therefore has the potential to significantly advance gender equality in both the home and workplace.

61 At 2.