Sloan Network Encyclopedia Entry


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Basic Concepts & Definitions

"Family leave" is a policy concept that bundles together several different family-related reasons for taking time off from work. Conventionally it refers to:

- taking time off from work for childbirth,
- care of an infant,
- bonding with an adopted child, or
- care of a sick child, spouse or parent.

Reasons for leave under the rubric of "family leave" include but are not limited to:

- childbirth,
- recovery from childbirth,
- care of an infant, and
- care of a seriously ill family member

Concepts related to family leave are maternity, paternity, and parental leave, which provide for taking time off from work to care for an infant or young child. Pregnancy disability leave allows a woman to recover physically from childbirth.

"Family leave" addresses goals of gender equality and support for family-provided care work.

- Goal of gender equality - creating institutions in which women and men have equal life chances.
- Care work - paid and unpaid work of caring for people.

The concept of family leave addresses the goal of gender equality because it defines a policy available to both men and women.
It supports care work because it allows people to keep their jobs who would otherwise be forced to interrupt employment to care for family members.

Family leave is an important social policy. A significant proportion of health and welfare benefits in the United States is provided through employment relationships. Family leave, whether mandated by law or offered in a workplace for other reasons, is part of these critical employer-administered health and welfare systems.

**FMLA**

In the United States the only federal law giving employees a right to job-protected leave is the Family and Medical Leave Act of 1993 (FMLA) [see the Encyclopedia entry on FMLA]. The FMLA provides for up to 12 weeks of job-protected leave from work annually to recover from childbirth, care for an infant, bond with an adopted child, care for a sick child, spouse, or parent or because of an employee's own illness. The law does not require provision of income replacement during leave and it only covers workplaces with 50 or more employees. The FMLA resulted from feminist-led efforts to pass a family leave law (Elving, 1995; Vogel, 1993; Wisensale, 2001).

**Importance of Topic to Work-Family Studies**

Family leave is a critical topic for work-family studies. It addresses a conundrum at the core of institutionalized work-family conflict: In order to support family-provided care, workplaces and career structures must be able to accommodate family leave without disadvantaging those who take time off to have babies and care for family members.

- If employees who take family leave are channeled into lower-paying jobs and given fewer advancement opportunities, then family leave practices will devalue care work and discourage family provided care.
- Treating leave takers on par with those who do not take leave challenges the assumption, generally taken for granted in the United States, that private households alone should carry the risks of family care work.

Because most family leaves are currently taken by women, how leave takers are treated in workplaces and career structures will have profound consequences for gender equality as well as for the supply of family provided care and the societal valuation of care work.
When employees can take job-protected family leaves, the care they provide to family members contributes to social goods such as healthier post-partum mothers and babies, faster recovery time for sick and injured children, and higher educational achievement (Heymann, 2000; Hyde et al., 1996). As discussed below, employers may also benefit from supporting the care work of their employees. These individual outcomes add up to public goods that we all benefit from as employers, workers, and citizens.

State of the Body of Knowledge

Introduction

Research to date focuses on patterns of leave needing and leave taking, relating leave variables to health and well-being outcomes, and investigating job and career consequences of taking family leaves. Because consequences of leaves are partly an outcome of workplace practices, researchers also investigate how organizational culture and workplace social relations accommodate family leaves. Scholars have also investigated the politics and processes of policy making around family leave.

Needing and Taking Family Leave

The U.S. Department of Labor has commissioned two representative surveys of leave needing and leave taking in the United States. They were fielded in 1995 and 2000 (Commission on Leave, 1996; Cantor et al., 2001). The surveys investigated the extent to which employees take time off from work for reasons covered by the FMLA [see the Encyclopedia entry on FMLA]. The surveys investigated both formal and informal leave taking during an 18 month period in the entire population of employees.

- The survey findings indicate that about 20% of employees will need a leave and about 16.5% will actually take a leave in an 18 month period.
- Based on the 1995 survey, Armenia et al. (n.d.) estimate that 6.2% of the employed population took a family leave, that is a leave to care for a family member including leaves for childbirth, during an 18 month period.
- The mean length of family leaves reported in the 1995 survey was 38 days (Armenia et al., n.d.).

Data collected in 2000 show that of all leaves taken for FMLA-qualifying reasons, most (52.4%) are medical leaves, i.e., leaves taken due to an employee's own health problem.

- Of employees who had taken a leave, only 7.9% did so due to pregnancy disability and 18.5% indicated caring for an infant, or newly adopted or fostered child as a reason for leave.
- Including both medical and family leaves, most leaves are less than 10 days.
- Around the birth of a child, women usually take at least two weeks, but not more than 12 weeks of leave (Cantor et al., 2001).
Patterns of leave taking are marked by gender, racial, and class differences.

- Women are more likely to take leave than men (Armenia et al., n.d.; Cantor et al., 2001; Gerstel and McGonagle, 1999; Sandberg, 1999).
- In particular, women take leaves to care for family members more often than men do, even when controlling for workplace variables and family responsibilities (Armenia et al., n.d.; Gerstel and McGonagle, 1999; Sandberg, 1999).

However, the surveys also document men's need for family leaves.

- Caring for an ill family member and having children at home both strongly increase men's likelihood of taking a family leave (Sandberg, 1999).
- Racial/ethnic differences interact with gender so that men of color are as likely to take a family leave as women in all racial/ethnic groups, while white men are least likely to take a family leave (Armenia et al., n.d).

Yet, even controlling for household income, compared to white women, African American women are less likely to take a leave for any reason (Gerstel and McGonagle, 1999) and less likely to take a family leave (Sandberg, 1999).

The surveys also indicate that higher socio-economic status enables leave taking.

- Salaried employees and those with higher household incomes are more likely to take a leave to care for a family member (Armenia et al. n.d.; Gerstel and McGonagle, 1999; Sandberg 1999).
- Most people who reported needing a leave for a family or medical reason actually did take some time off from work. About 2/3 of these leave takers receive some pay while on leave.
- However, the 2000 survey indicates that 2.4% of the employed population needed a leave for a family or medical reason but did not take a leave during the period surveyed.
- Most (77.6%) of these leave-needers reported not being able to afford the associated income loss; most (87.8%) stated they would have taken time off if some income replacement had been provided (Cantor et al. 2001).

*Family Leave and the Health and Well-being of Family Members*

Studies that investigate relationships among leave variables and health and well-being are concentrated on mothers and very young children. Pediatricians and other child development specialists argue that parents - and perhaps especially mothers - need several weeks at home with their newborn infants in order to establish the secure and sensitive relationship necessary for healthy child development and parent functioning (Brazelton, 1988).
• Using systematic, longitudinal evidence, Hyde et al. (1996) argue that taking a maternity leave of less than 12 weeks is a risk factor for depression in post-partum mothers and may lead to higher incidence of negative mother-infant interactions.

• Similarly, analysis of health indicators in a national, racially diverse sample of postpartum women found that taking more than 6 weeks of maternity leave was associated with significant reductions in mothers’ depressive symptoms (Chatterji and Markowitz, 2004).

• Some research suggests that if mothers work too much during the year after a child is born, there may be small negative affects on cognitive development for some groups of children (Smolensky and Gootman, 2003).

Studies of men's family leaves also focus on the parent-child relationship.

• Pleck (1993) finds that most fathers in the United States actually do take time off from work around the birth of a child although such leave is usually informally arranged and therefore not included in counts of formal leaves.

More recently, interest has turned to how policy can encourage men to take more parental leave (Seward et al., 2002). Experiences in Europe and Canada suggest that reserving job-protected paid parental leave for the father or providing longer durations of paid leave to be shared by the parents can increase the incidence and length of fathers’ parental leaves.

• For instance, only 3% of Swedish fathers took parental leave in 1974 and by the end of the 20th century more than half took some paid parental leave (in addition to the paid “daddy days" reserved for the father around the birth of the child).

• In Norway about 80% of eligible fathers take the one month of paid family leave reserved for them after the birth of a child (Leira, 1999).

• After increasing the amount of paid parental leave available to families in Canada, the rate of new fathers taking parental leave jumped from 3% in 2000 to 10% in 2001 (Statistics Canada, 2003).

The consequences of men's family leave-taking on the health and well-being of fathers, mothers, and children has barely begun to be investigated (see Malin 1998 for a concise review).

• Fathers who take longer leaves are more involved in child care (Seward et al., 2002), which is presumably beneficial for both children and mothers.

• Fathers' leaves are included in research reporting that parents who can take paid leaves are more involved in children's schooling, which, in turn, leads to better educational performance.
• When parents are more involved in children's medical care—which should be facilitated by availability of job-protected family leave—chronic illnesses are managed more effectively and children recover faster from acute illness and injury (Heymann, 2000).

The 1995 survey of leave taking indicates that younger men are more likely to take family leaves than older men, and that men and women are equally likely to have responsibility for the care of an ill family member (Sandberg, 1999). These findings suggest a possible generational shift towards an increase in men's involvement in family caregiving. Furthermore, compared to women, men's leave taking appears to be somewhat more responsive to workplace factors such as being salaried and working for a larger employer (Gerstel and McGonagle, 1999; Sandberg, 1999).

Family Leave and Career Outcomes

The initial impetus for family leave policies was to facilitate women's employment continuity. Thus, early efforts focused on pregnancy disability and maternity leave policies. Research also focused initially on job and career consequences of pregnancy disability and maternity leave policies for women. More recently, investigators have recognized the importance of studying how leave taking for a variety of different reasons might affect career outcomes for both women and men.

In the early part of the 20th century it was assumed that women's roles as mothers prevented them from equal access to employment opportunities. This attitude undergirded practices such as forcing women to quit their jobs upon becoming pregnant (Vogel, 1993). Against this background, feminists view job-protected family leave policies as critical tools for maintaining women's labor force attachment over the life course. Family leaves, even when unpaid, allow women who would otherwise be forced to quit their jobs to maintain employment continuity. Maintaining employment continuity is especially important in the United States due to the high proportion of health and welfare benefits provided through the employment relationship.

Research confirms the positive impacts of leave policies on women's employment.

• For instance, Hofferth (1996) finds that availability of a liberal—even if unpaid—leave policy increased the likelihood of returning to work after childbirth.
• Glass and Riley (1998) find that availability of longer maternity leaves sharply decreased both employment exit and job changes among a sample of women at 6 months postpartum.
• Waldfogel (1997; 1998) finds independent, positive affects on women's wages of both postpartum employment continuity and maternity leave coverage.

When leave taking is an alternative to interrupting employment, it improves employment outcomes. However, when compared to non-leave takers, leave takers experience negative career consequences.
What is the impact of formal leave?

Using personnel data, Judiesch and Lyness (1999) analyzed the impact of formal leaves of absence on performance ratings and salary increases among a very large sample of 10,584 managers drawn from multiple sites within one firm. They found that performance ratings were lower during the year a leave was taken, but were not affected in subsequent years. Nonetheless, taking a formal leave of absence at any time during the period 1990-1994 decreased the probability of promotion and lowered merit salary increases for managers in 1995. The negative impact was equivalent for family and medical leaves, male and female managers, shorter and longer leaves. Furthermore, this result was not influenced by a manager's 1994 performance rating. Although formal leaves had the same negative consequences for men and women, most (89%) of the leaves were taken by women. The researchers were unable to test for an interaction between gender of leave taker and type of leave because they found only two family leaves taken by men in the entire sample. (Note, however, according to Pleck (1993) men arrange family leave informally when possible.)

As noted above, some research exists on the employment outcomes of maternity leaves for women in non-managerial work. However, the impact of family leaves on employment outcomes for men and women in jobs more typical than managerial employment largely remains to be studied.

Family Leave from the Perspective of the Workplace

As part of investigating the implementation of family-friendly policies, organizational scholars have begun to analyze benefits of leave policies for employers, how leave takers are seen and treated in workplaces, and how workplace factors might facilitate or inhibit family leaves. Research focuses mostly on maternity or parental leave, rather than family leave, and studies of organizational practice are concentrated on professional and managerial workplaces.

Potential benefits of leave policies for employers include reduced turnover, increased loyalty, and improved morale.

- Maternity leaves offer an alternative to quitting and thereby reduce turnover (Glass and Riley, 1998; Waldfogel, 1998).
• An economic analysis of potential consequences of introducing paid family leave in California predicts reduction in turnover costs benefiting employers (Dube and Kaplan, 2002).
• Aetna Life Insurance Company increased retention of new mothers and reported improved employee morale with a policy allowing up to 6 months of family leave (Commission on Leave, 1996).
• Fathers on parental leave may learn skills that make them better managers (Haas, 2002).
• Some authors suggest that a family leave policy signals a general stance of caring about employees, thereby fostering loyalty and good morale (Fried, 1998).

Yet, a family leave policy may create dilemmas for managers related to work flow, performance evaluations and fair allocation of rewards. Longer term advantages such as employee loyalty and good morale are not always apparent in the short term in a work group. A leave-taker’s work still needs to get done. Supervisors and co-workers usually pick up the slack and work piles up to be done by the leave taker upon return. Managers may end up in the contradictory position of being charged with implementing family leaves against their own immediate interests (Powell and Mainiero, 1999).

• About 1/3 of American employees feel that a leave taker unfairly burdens co-workers (Cantor et al., 2001).
• Grover (1991) finds that people more likely to benefit and those with more positive attitudes towards women are more likely to view parental leave policies as fair.

These issues raise the question of how work might be organized to accommodate leaves more easily and managers could be rewarded for successful management of leaves.

A few studies investigate family leave taking as part of workplace social processes.

• Ashcraft (1999) found that the maternity leave of the founder and CEO of a company became an opportunity for revising the founder’s role.
• Both Fried’s (1998) study of parental leave in one corporation and Miller et al.’s (1996) review of literature on maternity leave suggest a surprisingly high level of uncertainty within workplaces about how to deal with leaves.
• Miller et al. (1996) advocate a model of maternity leave as essentially an interpersonal process of role negotiation with a variety of possible repercussions for a work group.

Scholars are also interested in how leave-takers are viewed within company cultures. The traditional boundaries between work and family in industrial society have created an "ideal worker norm" (Williams, 2000) that requires employees to act as if they had no responsibilities outside their workplaces (Kanter,
1977). However, this critique offers little practical guidance for the immediate problem of defining comparable performance evaluation criteria for leave takers and non-leave takers.

A closer look at workplaces reveals specific dimensions of organizational culture that affect leave taking and perceptions of leave takers.

- Fried (1998) finds a "culture of overtime" that measures employee contribution in terms of "face time," that is, time actually spent at work. A leave taker is simply viewed as having earned less than non-leave takers.

- Allen, Russell and Rush (1994) ask whether leave takers are seen as less committed to their employer. In an experiment with a sample of business students, they find that fictional leave takers are not viewed as less committed and are equally likely to be recommended for rewards such as a salary increase. Yet, the experimental situation differs importantly from many real life situations in that subjects were not asked to allocate a total "pot" of rewards among leave takers and non-leave takers within a group.

- Haas, Allard, and Hwang (2002) find that aspects of organizational culture, including a stronger ethic of care, a more positive attitude towards women's equality, and flexibility at the work group level increase the likelihood of fathers' taking parental leave and the length of fathers' leaves. Working in a group with task- rather than time-based evaluation of employees increased the length of fathers' parental leaves. Women take family leaves more often and for longer periods of time than men do, but male family leave takers may be treated more harshly (Allen and Russell, 1999).

The specific dilemmas raised by family leave practices in non-managerial and non-professional workplaces and in small businesses remain to be studied. For instance, in bureaucratized and, of course in unionized, workplaces, seniority often determines greater access to choice of jobs, shift schedules, paid time off, and other perks. It might be easier to temporarily replace the labor of a less-skilled worker than a professional employee, but in work groups already cut to the bare minimum, one person's leave might still result in stressful overtime and speed-ups.

A family leave policy might conflict with seniority because it allocates leaves according to need.

- In FMLA-covered workplaces, absences for FMLA-qualifying reasons cannot disadvantage a worker in programs that offer rewards for perfect attendance (Tyler 2001) or be counted in no-fault attendance programs (Silbergeld and Cosgrove, 1999).

- No fault systems allow a specified number of absences for any reason and punish workers for any absences beyond the allowed allotment (Kuzmits, 1984). Absences for FMLA-qualifying reasons cannot be counted towards the allotment.
Smaller businesses have more difficulty covering a leave-taker's work (Butler and Wasserman, 1988).

In labor markets characterized by insecure employment, lacking internal labor markets and fringe benefits, a "family leave" policy could be meaningless. Instead, family leave might mean quitting and finding a new job later.

*Family Leave and Gender Equality*

The concept of family leave was developed to create employment policy addressing the potentially conflicting goals of gender equality and providing time off from work for family reasons. Historically, labor laws restricted women's access to employment on the grounds that working outside the home should not interfere with women's roles as bearers and mothers of children (Burstein, 1995; Vogel, 1993). Such laws regulated employment in the interests of family well-being but reinforced gender inequality. Laws prohibiting sex-based discrimination in employment promote gender equality, but do not help people meet family needs. For decades feminists have argued that the equal opportunity approach falls short. Labor markets reward those who can always put work first, therefore jobs and career structures must change before we can achieve both gender equality and family well-being (Hochschild, 1975; Kanter, 1978; Williams, 2000). Family leave is part of the project to change the workplace to accommodate the family (Burstein, 1995; Vogel, 1990; 1993).

**History and the FMLA**

The federal FMLA in the United States follows Title VII of the Civil Rights Act of 1964, which prohibited sex-based discrimination in employment, and the Pregnancy Discrimination Act of 1978 (hereafter PDA), which prohibited discrimination on the basis of pregnancy and childbirth. These laws established the principle of women's and mothers' equal opportunity within existing occupational structures. The FMLA of 1993 embodies the feminist position that achieving gender equality requires changing occupational structures rather than simply integrating women into existing structures. Prior to the 1980s, a handful of states included pregnancy and childbirth within state-mandated temporary disability insurance programs (Wisenale, 2001, p. 119) and a few states enacted maternity leave laws (Vogel, 1993, p. 73-74). These types of laws gave mothers—but not fathers—the right to leave after the birth of a child. Some later state laws and the FMLA were designed to avoid pitfalls of a law that applied only to women (Elving, 1995; Vogel, 1993; Wisensale, 2001). Because the FMLA is
a gender neutral law that covers a wide range of family care and self-care needs it works against the stereotype that men do not have family responsibilities, it does not risk running afoul of mandates for gender neutral employment practices, and it has a broader political constituency because it helps more people.

**Nevada Department of Human Resources et al. v. Hibbs**

In the United States feminists have successfully defined family leave as a tool for gender equality. This was vividly demonstrated in the Supreme Court's 2003 decision in the case of Nevada Department of Human Resources et al. v. Hibbs et al. Writing for the majority Opinion in a 6 to 3 decision, Chief Justice Rehnquist argued that a federally mandated right to family leave is justified because "[s]tereotypes about women's domestic roles are reinforced by parallel stereotypes presuming a lack of domestic responsibilities for men."

"These mutually reinforcing stereotypes," the Opinion continues, "created a self-fulfilling cycle of discrimination that forced women to continue to assume the role of primary family caregiver, and fostered employers' stereotypical views about women's commitment to work and their value as employees."

Thus, the Opinion concludes, it would not be good enough for States to make leave policies equally available to men and women because this would allow for a policy of no family leaves. And a policy of no family leaves "would exclude far more women than men from the workplace." The Opinion specifically states that in passing the FMLA, Congress recognized the inadequacy of Title VII and the PDA as laws for eliminating sex-based employment discrimination. The Opinion emphasizes the necessity of breaking down the "pervasive sex-role stereotype that caring for family members is women's work" and explicitly condemns discrimination against men in requests for parental leaves. This Opinion indicates a sea change in how the Supreme Court understands gender, work, and family. Notably, it was written by the same man, who, in 1976, wrote the majority Opinion arguing that General Electric's policy of excluding pregnancy and childbirth-related events from health insurance coverage did not constitute discrimination against women in employment (429 U.S. 125, 97 S.Ct. 401).
Implications for Policy and Practice

A policy of job-protected family leave helps people take time off from work to care for family members. Representative surveys of American employees show there is a significant need for job-protected family leave. Further, studies indicate that family care work contributes importantly to health and well-being. Because family leave policies influence the supply of family care work, family leave is both an employment benefit and a social policy. Job-protected family leave is especially important in the United States where a significant part of health and welfare benefits are provided through employment relationships. Family leave blurs the generally taken-for-granted boundaries between work and family. It offers employees job-protected time off from work in response to family needs. Because family leave calls upon employers to help support family care work, family leave can be a tool for affirming the value of care work.

Future directions for practice and research.

1. Investigating the role of job-protected family leaves in family care situations other than childbirth and parenting.
2. Addressing the problem of distributing costs of family leaves fairly.
4. Finally, a critical analysis is called for of how “need” is being defined in family leave policies and practices.

Most research on family leave and health outcomes focuses on mothers and young children. Related topics that should be of interest to scholars include:

- how job-protected leave might help people be better parents of older children and teenagers;
- how fathers’ parental leaves affect children, spouses and the family division of labor;
- how job-protected leave might influence the quality of family care and quality of life for caregivers and recipients in cases of serious or terminal illness and care of the frail elderly; and
- whether leave policies can influence the gender division of care work and economic security of families coping with common family care situations.

While the long term benefits of job-protected family leaves are both individual and social, too often the costs are carried by individuals. Individual leave takers bear the costs if they are penalized in performance evaluations, promotions, and by income loss. Individual members of work groups coping with a leave taker's absence might also bear direct costs such as longer work hours and stressful increases in work load. Providing job-protected leaves might unduly burden small employers.
Practitioners and researchers have begun to conceptualize research questions around these issues. Studies direct attention in particular to problems of covering a leave taker's work, fairly evaluating leave takers, understanding roles of managers, supervisors, and co-workers as part of the social infrastructure of care, and consequences for workplaces of providing job-protected leave. Understanding and then addressing these problems with the aim of fostering family leave practices that promote both equality and family well-being implicates fields of practice and research as diverse as benefit administration and financing, studies of time use and task division within workplaces, and investigations of how people judge the fairness of distributional principles. Furthermore, almost nothing is known about these aspects of family leave as practiced (or not) in blue-collar and service work forces or by small employers and among self-employed and contingent work forces.

In the United States the federal right to job-protected family leave anchored in the FMLA of 1993 is restricted to employees who work in sites with more than 50 employees. The availability of job-protected family leave in the United States is further limited by family economic constraints. Half of leave-takers returned to work earlier than desired due to income loss and almost two thirds of those who needed a leave but did not take one were stopped by income needs (Gerstel and McGonagle, 1999). Providing income replacement during family leaves will make leave more accessible and longer leaves feasible for more people. The State of California has led the way with the first comprehensive paid family leave legislation in the history of the United States. The California law funds partial income replacement during family leave by collecting a small premium as a payroll tax from all employees. At the time of this writing (2004), several other States are considering similar laws. More information about such initiatives is available on the website of the National Partnership for Women and Families (http://www.nationalpartnership.org).

The concept of job-protected family leave is now established in the United States. People continue to debate a variety of specific issues.

- For example, is intermittent leave - leave taken in small increments over a period of weeks or months - a good policy?
- Should the law protect the job security of parents who take time off from work to participate in a child's education as it does in some states (Wisensale, 2001) and has been proposed in the recently introduced "The Family and Work Balancing Act of 2004" (H.R. 3780)?
- Should the definition of family members include grandparents and parents-in-law as it does in some states (Wisensale, 2001)?
- How much time should employees be allowed to take off from work and should leave takers receive income replacement?
Typically, associations representing employers’ interests such as the U.S. Chamber of Commerce, the National Association of Manufacturers, the National Federation of Independent Businesses and the Society for Human Resources Management lobby against legally mandated family leave, against mandated income replacement for leave takers and in favor of narrowing the scope of qualifying reasons for leave and covered family members. Feminist organizations and advocates for the well-being of children and families typically support expanding the array of legally allowed reasons for job-protected family leave and providing financial support for leave takers (Bernstein, 1997; Burstein et al., 1995; Elving, 1995; Wisensale, 2001).

Footnote

1 At issue in this case was whether an individual employee could sue a state employer for damages caused by violation of the FMLA. The Court’s decision turns on the question of whether or not Congress is justified in abrogating sovereign immunity of States. My point here is not this particular legal issue, but the way gender equality is used to justify family leave in general in the Court’s decision.