

Australian Greens Report

The Australian Greens support paid parental leave – for women and men – but do not support the Australian Democrats’ bill because it fails to address several critical issues on this topic.

Most industrialised nations with which Australia generally compares itself provide paid leave for women on the birth or adoption of a child. Various international agreements also include provisions for paid leave in such circumstances.

The International Labour Organisation (ILO) considers paid maternity leave an essential element in establishing a process to overcome the unequal treatment women experience in their employment because of childbearing. ILO Convention 183 *Maternity Protection* 2000 provides for 14 weeks paid maternity leave without an eligibility period, with payment to be at the rate equal to two-thirds of the woman’s previous earnings. ILO Recommendation 191 *Maternity Protection* 2000 sets the period of paid leave at 18 weeks and the rate of payment equal to the full amount of previous earnings.

The World Health Organisation recommends women breastfeed an infant for four to six months, and studies have shown that returning to work is a reason that women cut short feeding.

The International Covenant on Economic, Social and Cultural Rights states that mothers should be given paid leave or leave with adequate social benefits for a time before and after childbirth.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) provides that parties should introduce maternity leave with pay or comparable social benefits.

While technically Australia may not be legally bound by some of these obligations, by virtue of the fact that it has not signed or ratified instruments or in the case of CEDAW has entered a reservation on the relevant article, it is clear that, when combined with the practice of comparable nations, paid parental leave has acquired the status of a basic entitlement.

The Bill

This bill is a minimalist option and while it is certainly better than the status quo, The Australian Greens believe it contains serious shortcomings. If Australia is to introduce a paid parental leave scheme it ought to be the best scheme possible.

The Australian Greens do not support full replacement of previous earnings for a publicly funded scheme because this could lead to public funds being used to compensate high wage earners. The payment level should accord with the principles of the international instruments, that is, to provide an adequate income for the period

of leave. Evidence to the committee indicates that a scheme capped at average weekly earnings would provide at least two-thirds of previous income for around 95 per cent of women, and income replacement for around 75 per cent of women.

The period of paid leave proposed in this bill, 14 weeks, is inadequate. It fails to meet the latest ILO guidelines and will not assist women to breastfeed for at least four months, as the World Health Organisation recommends. It is also out of step with comparable nations. Sex Discrimination Commissioner Pru Goward confirmed this view in evidence to the committee, on the basis of her community consultations and advice she has taken from medical and child welfare experts for her own inquiry into paid maternity leave. She noted that European nations now offered at least six months paid leave. Britain is shifting from 18 weeks to 26 weeks from next year.

The bill excludes Commonwealth, State and Territory Government employees on the presumption that they already have similar benefits or ought to. Yet the Department of Employment and Workplace Relations provided evidence that showed Commonwealth public sector employees are paid 12 weeks, while entitlements of state and territory public sector employees range from nil in Western Australia (with a capacity to bargain for up to six weeks) to 12 weeks in Tasmania and Victoria. This exclusion is unacceptable because it creates two classes of entitlement without justification.

A number of witnesses were asked their views about how to ensure that introduction of a Commonwealth scheme did not enable state and territory governments to evade their responsibility for paid leave. The Australian Greens recognise that states and territories are involved in providing paid parental leave to public sector employees. This should not be presented as a barrier to establishing a national scheme. We believe it is possible to develop a formula for states and territories to continue their contribution as part of a national scheme.

In the interests of equity, The Australian Greens support paid parental leave being available to women and men. While recognising that two of the factors in support of paid parental leave are to provide time for a woman to recover from childbirth and to assist with breastfeeding, couples should be able to choose how to share the paid leave period. This bill does not address this issue. We note that the principle of sharing leave is recognised in the right of a woman and her partner to share the 52 weeks of unpaid leave provided for in federal awards.

This bill stipulates a 12-month qualifying period. ILO Convention 183 states that there should be no eligibility period for paid parental leave. A scheme that includes a 12-month qualifying period not only conflicts with the ILO Convention, it fails to address the circumstances of women and men who have been with their employer for less than this period. Neither does the bill cover self-employed people, who account for 20 per cent of employed people. This means a substantial proportion of working people would be ineligible under the scheme this bill proposes to introduce.

The Australian Greens recognise that some employers may be unwilling to guarantee a right to return to work for an employee taking a maximum of 12 months paid and

unpaid leave where that employee has been working for the employer for fewer than 12 months. It is also the case that a number of existing certified agreements and awards include a 12-month qualifying period for paid parental leave. As well, it may be difficult to guarantee a return to work for casual employees who have been with an employer for fewer than 12 months.

However, it is possible to devise a scheme that provides paid leave to employees with fewer than 12 months service with a current employer and self-employed workers. This has been done in Britain where all female employees are entitled to 18 weeks of paid leave if they have worked for their employer for 26 weeks and their income meets a minimum level. Women who are employed but do not meet this qualifying period, or have been recently employed or are self-employed also qualify for 18 weeks paid leave provided they have been employed or self-employed in at least 26 weeks in the previous 66 week period.

The National Pay Equity Coalition proposed a different formula, which would extend paid leave to self-employed women and workers with a strong workforce attachment but without continuous employment with a single employer. Under this model, self-employed women in business for 52 of the last 104 weeks before taking leave and employees in employment in 52 of the last 104 weeks before taking leave would be eligible for paid leave.

Many OECD countries provide for longer than 52 weeks of leave for a parent to care for a young child. In Australia, most workers who have been with their current employer for 12 months are entitled to 12 months of unpaid leave. However, evidence to the committee and to the HREOC inquiry indicates strong interest in extending the period of unpaid leave. This bill does not touch on this issue but The Australian Greens see merit in examining the extension of the basic unpaid leave period, with a right of return to work. However, this needs to be done alongside the introduction of paid leave because many women and men now ineligible for paid leave may find it financially impossible to make use of a longer period of unpaid leave without a reasonable period of paid leave.

One of most important issues for parents returning from parental leave is how to accommodate family responsibilities and paid work. Many women, in particular, return to paid work on a part-time basis in the early years of childrearing. Any paid parental leave scheme which provides an entitlement to return to work must also provide an entitlement to return to part-time work if that is what the person chooses. The onus should be on an employer to show that the enterprise cannot accommodate part-time work. This bill does not address this issue.

Committee majority report

The committee majority notes that paid parental leave straddles industrial relations and social policy, but this is not a dilemma, as the committee majority states. Paid parental leave marks a point at which private and public spheres intersect. Bearing and raising children is a personal decision but it is not entirely a private matter, as some within Government would like us to believe and as the debate about falling fertility

levels attests. While it is a private choice whether and when to start a family, this personal decision has social impacts. Conversely, and contrary to Government assertions, public policy impacts on this decision. Policies such as deregulating the labour market, compelling citizens to pay a higher direct cost for their health and education costs and towards their retirement income, and policies that promote rising accommodation costs through taxation and other means all influence family formation.

Paid parental leave is a work entitlement that enables women and men who have or adopt a baby to take a break from employment to undertake the tasks involved with early childcare and for women to recover from childbirth and to breastfeed. Paid parental leave enables women and men in these circumstances to maintain their attachment to the workplace so that they may resume paid work at some later time. This provides benefits for the individual – who maintains skills and income-earning potential; for the family – which has a waged income; and for society - the individual resumes an economically productive role and reduces the need to rely on income support.

Paid parental leave is an important social justice issue and any policy needs to be developed in the context of a review to improve current social security entitlements. All women and men are entitled to a guaranteed adequate income that supports their choices about how they make their contribution to society, including the unpaid caring roles, and assistance with the cost of raising a family. Those groups and individuals who argued that women not in paid work should also be granted paid parental leave fail to understand the purpose of the paid leave entitlement. Those who are not in the workforce cannot be paid for time out of the workforce to give birth and to care for a baby. Their needs must be addressed through a progressive social security system.

The fact is that many families either need to, or wish to have two income earners. For many single parent households, earned income can mean the difference between poverty and making ends meet. Data from the year 2000 show that almost half of women aged 15 to 44 years had dependent children and almost two-thirds of these women were in the labour force. Almost three-quarters of employed women who took a break from work on the birth of a child were on leave for fewer than 12 months.

The committee majority states that a government-funded paid parental leave scheme would run counter to the direction of the Howard Government's industrial relations policy. It is clear this argument is accurate but it misses the point. Devolving the negotiation of working conditions to the workplace level has not delivered paid parental leave to most employees. HREOC has found that there are paid maternity leave provisions in only 3.4 per cent of currently operating certified agreements. Only seven per cent of all current federal certified agreements contain paid maternity leave provisions. The average duration of leave across all current agreements is just seven weeks. Around four out of ten employed women (38 per cent) have access to paid parental leave.

As the deregulatory approach to industrial relations tends to favour those with market power at the expense of those without market power it is inevitable that, in the

absence of state intervention, improved working conditions and benefits, such as paid parental leave, will be more likely to be secured by highly-paid executives striking individual arrangements and highly unionised workplaces. The widespread access of public employees to paid maternity leave, and in some cases paid leave for fathers, and the paucity of such an entitlement beyond this group bear out this theory.

Some employers have recognised the social and economic benefits of providing paid parental leave but they are currently in the minority. It is clear that to leave this matter to the workplace in a time of increasingly insecure work means that with the exception of motivated employers, there will be little, if any, progress in expanding access to paid leave. It will also mean that those unable to secure this work entitlement will continue to struggle to have a family while maintaining their attachment to the workplace, with all the long-term benefits that such attachment provides to the individual, their family, and Australian society.

It follows then that Government will need to play a major role in funding a paid parental leave scheme. Public funding also ensures that every member of the community contributes to the cost, in recognition of the social benefits of supporting the care of children and the shared responsibility for this task. It will also ensure that no parent is denied access to this payment by virtue of being employed by a business that may be unable to fully fund the entitlement.

A scheme funded substantially by Government does not preclude employers and employees reaching agreement about particular arrangements that suit their circumstances. A national paid parental leave scheme, however, must not erode existing entitlements, for example where employees are entitled to a higher payment than any minimum rate a national scheme might set.

There is merit in examining in more detail a range of funding options, from a fully publicly funded scheme to the proposal in several union submissions for employers to contribute towards the cost of a national scheme through a levy.

The Australian Greens disagree with the committee majority that a public scheme would be difficult to mesh with existing state and territory government-funded entitlements. Paid parental leave has the potential to deliver productivity savings to offset the additional costs to state and territory governments. By enabling an employee to take leave and to return to work, employers can save the costs of rehiring, retraining and the loss of skills and knowledge.

Financial Cost

As with the spending of all public monies, the scheme must be financially responsible but this is not the same as saying 'it will cost a lot; therefore we cannot afford it'. Commonwealth Budget decisions are as much political as economic ones. Governments choose their spending priorities.

The Baby Bonus is an example. It will provide financial assistance to women who choose to take up to five years' leave from work to care for a child. The benefit rises the longer the period of absence from the workforce and the higher the income. This is

a non-means-tested benefit for which the Government has budgeted \$510 million a year by the time it is fully implemented in 2005-06. This benefit is configured to encourage time out of workforce and provides a greater benefit to high-income earners than to those on low and moderate incomes. It will not assist those most in need – low-income earners who currently have little or no access to paid parental leave, and it does nothing to assist people to maintain their attachment to the workforce.

The bill's Explanatory Memorandum estimates the cost of the proposed paid leave scheme at around \$354 million a year, with payment at the level of the minimum wage or less for those earning under this amount. Ms Goward told the committee that a model with 14 weeks of leave capped at average weekly earnings would cost less than \$700 million a year.

This compares with the Commonwealth Government's current financial support for families, which HREOC has estimated totals \$18 billion a year, including substantial non-means-tested components. Even the most expensive of the Federal Government's recently costed paid maternity leave options is equal to around one-third of the amount of public money being spent to subsidise private health insurance premiums, and the Government has just approved an automatic annual premium increase which means this sum will continue to rise.

Government costings of various options appear to have failed to take into account the economic and social benefits of paid parental leave, so they do not represent an accurate picture of cost of introducing this entitlement. Nor do Government costings appear to take into account the social and economic costs of not introducing such a scheme.

Conclusion

The Australian Greens support paid parental leave but cannot support this bill because it falls short of the kind of scheme that Australia should introduce to support women and men who choose to have a family, and to acknowledge the value of this role and the benefits it delivers to the entire community.

Senator Kerry Nettle