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Spring 2024

Empowering families: the role of labor unions in advancing paid family leave policy

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Empowering Families:

The Role of Labor Unions in

Advancing Paid Family Leave Policy

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HONORS THESIS

Presented in Partial Fulfillment of the Requirements for
Graduation from the Honors Program of
St. Mary's University
San Antonio, Texas

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Abstract:

Enacted in 1993, the Family and Medical Leave Act (FMLA) was the first substantial piece of federal legislation offering job-protected, unpaid leave to Americans. Since then, several states have passed laws offering an expansion of these protections including paid leave options, but no further policies have been adopted federally. Americans in need of these expansions are looking to a social force capable of advocating for such policy adoptions: organized labor. Thus, labor unions offer a case of interest to economists, political scientists, and sociologists in search of the expansion of federal workplace protections. Using both comparative legal and policy analysis as well as a theoretical approach, this paper will argue that labor unions can effectively mobilize for family rights. To establish the history of unions, the essay will first examine how unions have previously advocated for redistributive social policies and their successes as a result. It will then consider the current conditions in which paid family leave exists and its present challenges. Finally, a case for how unions can sustain change will be made by offering a comparison of Sweden's model for parental leave that can serve as a guide for future policy adoption.

Key Words: paid family leave, Family and Medical Leave Act, unions, labor

Introduction

The Family and Medical Leave Act (FMLA) is the only piece of federal legislation offering job-protected, unpaid leave to Americans in the public and private sectors. Because of its strict guidelines, approximately forty-four percent of Americans are ineligible for the FMLA's protections (Brown et al. 2020). If individuals do qualify, they may not be able to go weeks without pay; therefore, new legislation is needed including paid family leave provisions, and these issues are of interest to every American who cares for a child or family member. With the support of labor unions, more substantive policy can be adopted benefitting both union and non-union members alike.

Many in the field of industrial relations have explored the history and efficacy of unions in the United States, with some giving special attention to the FMLA and future policy. Scholars such as Budd and Brey (2003) address this particular dimension, arguing that unions have been successful in enforcing the FMLA in the years immediately following its enactment. Building on Budd and Brey's (2003) research, this paper will argue that unions can not only enforce the FMLA but also call for more comprehensive policy including paid leave, such as the case in California with the California Labor Federation, and continue to be successful in their advocacy. In doing so, it will underscore the role of unions in amplifying the voices of their members, lobbying for change, and educating employees about their rights in the workplace. Other scholars such as Moller and Li (2009) emphasize the importance of theories, such as power resource theory and liberal economic theory, to understand these interrelated issues of unions and policy adoption. This essay will apply Moller and Li's critical framework to unions in the context of paid family leave, establishing that unions are a mechanism to advance social policy. This research seeks to address the gap concerning the present-day state of unions in the United States

and its potential role in widespread policy adoption that expands the coverage and protections of the FMLA.

Ultimately, this paper will argue that unions are capable of successfully and effectively mobilizing for family rights and play a critical role in achieving better leave policy. First, it will establish the historical context of unions in the United States and compare the height of union power to its present state, emphasizing the legacy of labor victories and the momentum that unions can sustain. Next, this paper will consider how employer opposition and weak labor law can hinder progress. Third, it will explore the FMLA and its shortcomings and how states have begun to adopt paid leave policies to supplement the limitations of the FMLA. This essay will consider the merits of these state-wide policies and how they can be applied at the federal level. Finally, it will examine Sweden's paid parental leave policies, with its emphasis on flexibility, as a comparative model that can be prioritized in further leave policy expansion in the United States. This paper also addresses criticisms that unions are too weak, unionization rates are too low, and unions lack the power to achieve widespread policy adoption. In linking unions and paid family leave together, this essay will respond to this counterargument by emphasizing how unions can achieve success through advocacy and adaptation of existing models as well as monumental recent strides for paid leave in the public sector.

Historical Background

In order to understand the present state of unions, it is imperative to provide a brief overview of the timeline and significant moments of the American labor movement. Beginning in the 19th century, labor unions were formed in response to the Industrial Revolution when workers direly needed protections in the workplace against employer exploitation and unsafe

working conditions. Beginning as a series of local unions in loose coalition, union leaders began to join together to form federations where multiple labor unions were represented within it. One such example is the American Federation of Labor (AFL), founded in 1886, which continues today with its partner organization, the Congress of Industrial Organization (CIO), under the joint name of the AFL-CIO (Gildemeister 1981, 262). Today, the AFL-CIO is the largest federation of unions in the United States, representing over 12 million workers and made up of over sixty unions (AFL-CIO).

The labor movement received much credibility during the Great Depression under the New Deal policies of President Franklin Delano Roosevelt. In 1935, FDR signed the National Labor Relations Act (NLRA), also known as the Wagner Act, into law (Skocpol, Finegold, and Goldfield 1990, 1297). The NLRA protects unions' right to organize, strike, and negotiate with employers through collective bargaining agreements. It also prohibits employers from "interfer[ing] with, restrain[ing], or coerc[ing] employees in the exercise of their rights" and considers these acts "unfair labor practices" (U.S.C. 29 §152-8). Today, the NLRA is the leading legislation governing unions in the private sector; it does not apply to employees in the public sector. When it was enacted, the NLRA also established the National Labor Relations Board (NLRB), an independent federal agency tasked with enforcing the NLRA and investigating unfair labor practices. The NLRB continues to be a structure utilized by many employees and unions to report violations and an entity that upholds the rights of employees in the private sector.

In the post-World War II era, union density was at an all-time high, with approximately a third of the workforce (U.S. Library of Congress 2023, 1). Total unionization has steadily declined since then, partly due to the gradual decrease in private sector unionization, though

unionization in the public sector has been increasing steadily as the size of government increases. According to a recent study conducted by the U.S. Bureau of Labor Statistics in 2023, 32.5 % of public sector employees were unionized, compared to the private sector at 6.0% (U.S. Department of Labor). In 2023, 10.0% of workers in the U.S. were union members, totaling approximately 14.4 million members overall (U.S. Department of Labor). The unionization rate has held steady from the previous year, though unionization rates have been declining in recent decades. For example, in 1983, 20.1% of workers were unionized, and the American workforce included 17.7 million union members (U.S. Department of Labor). Some factors linked to this overall decline may include pro-business legislation such as right-to-work laws, which weaken union power, as well as larger efforts of employer opposition.

Obstacles and Efficacy of Unions

Employer opposition is often synonymous with anti-union tactics. Kris Warner writing in an article for the Labor Studies Journal, describes this phenomenon arguing that "many of the tactics that employers use to oppose unionization are illegal; however, in the United States, there has long been abundant opportunity and little disincentive to engage in them. Illegal tactics to oppose unionization are, therefore, a standard business practice" (Warner 2013, 118). These anti-union tactics, as detailed by Warner, reflect a corporate culture that can disregard the NLRA and continue to carry out "unfair labor practices." In an attempt to quash union organizing, employers may hire outside resources, so they are distanced from union opposition. Employers tend to hire those in the "union avoidance industry" such as consultants, law firms, industry psychologists, and strike management firms (Warner 2013, 119; Logan 2006, 651). These efforts can successfully scare employees with the threat of termination before they can vote to certify

the union with the NLRB (Warner 2013, 120). This would in effect cause the union to lose voters in its election for certification and serve as an example to other employees who might be considering organizing (Warner 2013, 120; Weiler 1983, 1793). Efforts like these can hurt unionization in the private sector and can lead to a decline in union membership as a whole.

Given declining unionization rates, union efficacy has been a topic of interest to many researchers of industrial relations. Discussions of union efficacy tend towards the union's ability to successfully achieve the interests of its members. According to Warner, "a union is not effective unless it is able to negotiate a collective bargaining agreement with the employer of its members" (Warner 2013, 125). Negotiating a contract with employers then is paramount for the credibility of the union and its continued support by members. Other scholars such as Professor E. Paul Durrenberger have compiled several key issues, as he argues that unions are effective when "workers see their interests as separate from those of management; when necessities of organization of production promote worker self-organization; when it's possible for workers to discuss their concerns with each other; when laws and practices are not aimed specifically at hurting unions; when unions organize horizontally and show people how to address emotional, space, and ideological issues at work" (Durrenberger 2007, 74). Conversely, unions are ineffective "when they are corrupt, racist, and inattentive to changes in the surrounding political economy" (Durrenberger 2007, 74). Putting Warner and Durrenberger's considerations together, they address aspects of efficacy that highlight a union's ability to serve their members given present conditions like legislative environment, connections between workers or lack thereof, and the strength of collective bargaining negotiations.

At its core, the mission of unions has centered around advancing the rights of workers, amplifying their voices and needs, and negotiating on behalf of members with their employers.

Areas such as safety, pay, and benefits have been primary concerns. Workers' interest in paid leave, and unions' prioritization of this interest then, is of utmost concern when no national federal paid leave policy is in place. The next section will unpack current leave policies, beginning with the FMLA.

The FMLA

Signed in 1993 by President Bill Clinton and passed with the support of Republicans, the FMLA is the only piece of federal legislation to offer job-protected unpaid leave to Americans. It offers employees the ability to take twelve weeks of unpaid leave, citing family or medical reasons. More specifically, the FMLA allows individuals to care for a new child, whether they are a newborn or adopted within the first year of birth or placement; care for a spouse, child, or parent with a serious illness; recover if the individual themselves has a serious health condition; and finally, other reasons involving the employee's spouse, child, or parent if they are designated as active duty in the military (U.S.C. 29 § 825-200). In terms of job protection, employers must allow employees to return to the same or "equivalent position," with similar responsibilities and pay under the FMLA. The employee is also able to retain group health coverage through their employer during the duration of their leave. Additionally, another protection includes discrimination and retaliation for FMLA leave, as employers are prohibited from punishing employees for utilizing the FMLA (U.S.C. 29 § 2615).

The FMLA applies to private businesses that employ fifty or more employees within a seventy-five-mile (120 km) radius (U.S.C 29 § 2611-2b). If an individual does work for an employer that meets this requirement, they must also meet other criteria to be eligible for the FMLA's benefits. An employee must have worked for the employer for a minimum of twelve

months and worked at least 1,250 hours during that period before requesting to take leave. (U.S.C. 29 § 2611-2a). Covered employers include private sector employers with at least fifty employees in twenty or more workweeks, public agencies, including federal, state, and local governments, regardless of the number of employees, and local educational agencies, regardless of the number of employees (U.S.C 29 § 2618).

Though it is an important first step in leave policy legislation, the FMLA has its limitations. In outlining the conditions needed to receive eligibility for the FMLA, it becomes more clear that a statute with the intention of providing unpaid leave to Americans does not in fact apply to all Americans. According to a recent study produced by the U.S. Department of Labor and its Chief Evaluation Office, only 56% of U.S. employees are eligible for the FMLA. 21% are ineligible because of their limited hours or work history with their employer, 15% are ineligible due to the size of their worksite, and 7% are ineligible for both hours or tenure and worksite size (Brown et al.). In addition to the statistical ineligibilities as detailed in the study above, other Americans may be eligible for the FMLA, working for a larger company for over a year and performing over 1,250 hours of labor, and yet they still choose not to utilize the FMLA. Because the FMLA offers only unpaid leave, individuals may not be able to afford to forgo a paycheck; if they do use FMLA leave, they may need to apply for public assistance, such as food stamps (Dube and Kaplan 2002, 44). Despite offering federal leave, the FMLA is not a solution for everyone.

Another problem associated with the FMLA is education surrounding eligibility. In the same study by the U.S. Department of Labor, 76% of employees had heard of the FMLA, and 27% believed themselves to be eligible when they were in fact not. Additionally, more than half of employees believed the FMLA covers more family members than it actually does, with some

participants adding grandparents, grandchildren, and siblings to the acceptable reasoning for family illness coverage (Brown et al.). Interestingly, when union and non-union employees were asked about the FMLA, union members tended to be more knowledgeable than their non-union counterparts (Budd and Brey 2003, 95). Unions then can be credited to some degree with the expanded education of FMLA rights and eligibility. Unions can achieve this by disseminating policies, such as the FMLA, for its members as well as increasing awareness for the protections of leave policies through “workshops, newsletters, or other channels” (Park, Lee, and Budd 2019, 666). Unions’ task of educating members plays a critical role in the expansion of FMLA education. Serving as a resource, unions can assist millions of Americans who are unsure of their benefits, while also reassuring them when they return to work, that they cannot be terminated for using their FMLA leave. With such a large percentage of Americans not eligible for coverage, aware of their protections, or misunderstanding their eligibility under the FMLA, many states have begun to adopt paid leave policies to supplement the FMLA.

Paid Family Leave Policies

As of 2024, twelve states and the District of Columbia have enacted paid family leave policies. These states include California, New Jersey, Rhode Island, New York, Washington, Massachusetts, Connecticut, Oregon, Colorado, Maryland, Delaware, and Minnesota. Each state’s policies vary greatly in length and eligibility, but all expand on the FMLA and provide paid leave options to its residents. The following are key differences between these state family leave policies.

California

Enacted in 2002, California was the first state to enact paid family and medical leave provisions and boasts one of the most generous leave packages (Engemen 2021, 1759). It has been expanded three times since its original passage and currently includes eight weeks for family leave and fifty-two weeks for one's own disability, including pregnancy (Cal. Unemp. Ins. Code § 3301a). The state's definition of family members includes domestic partners, grandparents, grandchildren, siblings, and parents of a spouse or domestic partner. (Cal. Unemp. Ins. Code § 3301a). To be eligible, an employee must have received a minimum of $300 in wages from a covered employer, and funding comes from paycheck contributions (Cal. Unemp. Ins. Code § 3301b).

New Jersey

New Jersey passed the "NJ Program" in 2008, offering qualifying employees twelve weeks for family leave and twenty-six weeks for self-disability, with expectant mothers given an additional four weeks prior to giving birth (N.J. Stat. § 34:11B-4). Employees must have worked for a covered employer for a minimum of twelve months totaling over 1,000 hours (N.J. Stat. § 34:11B-4). Family members include those mentioned above in California's provision with the addition of "any other individual related by blood to the employee, and any other individual that the employee shows to have a close association… which is the equivalent of a family relationship" (Noteware 2023, 282).

Rhode Island

The state of Rhode Island formally created its Temporary Caregiver Insurance Act (TCI) in 2013. To qualify, individuals must work full-time for an employer with at least fifty employees to receive up to six weeks of paid leave through wage withholding (R.I. Gen. Laws § 28-48-2).

Prior to the TCI, the Rhode Island Parental and Family Leave Act governed leave, though it was unpaid.

New York

New York's Paid Family and Medical Leave Act (NY PFMLA) went into effect in 2017. To receive twelve weeks of up to 67% of one's average weekly wage, an individual must work for their employer for a minimum of twenty hours per week for twenty-six consecutive weeks (NY CLS Work Comp. § 204-205).

Washington

Enacted in 2017 and expanded in 2021 and 2022, Washington offers twelve weeks for family and medical leave, with an additional two weeks for "pregnancy-related serious health conditions that result in incapacity" (Rev. Code Wash. (ARCW) §§ 50A.15.020-3b). To qualify, employees must have worked for a minimum of 820 hours in four out of the five quarters preceding leave (Rev. Code Wash. (ARCW) §§ 50A.04.015).

Massachusetts

The state of Massachusetts enacted its Paid Family and Medical Leave Act (MA PFMLA) in 2018 and expanded again in 2021. Under the MA PFMLA, employees can take up to twenty-six weeks of combined leaves between family, medical, or military caregiver-related leave; this includes twelve weeks for family leave and twenty weeks for one's own serious illness, with an additional six weeks granted for medical complications post-pregnancy (H.B. 4640 § 175-2). Qualifying employees include those in the private sector with more than twenty-five employees and the state government, with local government and self-employed persons able to opt in if they choose. (H.B. 4640 § 175-29-1).

Oregon

Passed by Congress in 2019, the Paid Family and Medical Leave Insurance Fund offers twelve weeks of paid leave and possibly an additional two depending on other complications (ORS § 659A.162). To qualify, individuals must have worked for an employer for 180 days, averaging a minimum of twenty-four hours per week, though the requirement is waived for the caring of a new child (ORS § 659A.162). Funded jointly by employee and employer payroll contributions, all employers are covered.

Connecticut

Connecticut formally created its Paid Family and Medical Leave Act (CT PFMLA) and its Paid Family and Medical Leave Insurance Authority (FMLIA) in 2019 (Noteware 2023, 270). Connecticut has a history of leave options available to its residents as it first offered unpaid leave in 1989, four years prior to the FMLA (Noteware 2023, 270). Its paid leave details twelve weeks over a twelve-month period, though that can become fourteen weeks if serious health conditions occur during pregnancy. If two married individuals have the same employer, their combined leave cannot exceed twelve weeks (Conn. Gen. Stat. § 5-248a). The CT PFMLA also offers job protection to full-time employees (Conn. Gen. Stat. § 5-248a).

State PFMLs and Unions

In showcasing the variety of paid leave policies across the United States, it is clear there is no one, set type of policy that every state follows, nor are there two programs that are identical. Of the policies detailed above, all have paid options available to residents, ranging from leaves of six weeks to fifty-two weeks. Twelve weeks seems to be the most standard leave offering by states, which follows from the FMLA as a widely accepted length. Important to note is also the timeline of these policies. In the three decades since the FMLA was passed by Congress, no other additional federal policies have expanded the FMLA protections and have

been aimed at all Americans. Within the last ten years or so, state legislatures passed the majority of these state-wide paid family and medical leave (PFML) policies. Their recency speaks to the need for paid leave for which the federal government has failed to respond.

To respond to these needs, coalition building is often needed. Coalition building can be understood as mutual interests in alignment with different groups coming together to advocate for a specific outcome, in this case, PFML. Coalition building is an important cornerstone of politics that facilitates change, as opposed to stalemates where no further action or expansion can occur. California's PFML policy provides an excellent example of coalition building that has produced a string of policies and involves unions as a key stakeholder in this process.

California has a long history of prioritizing family leave, as it first created a law in 1978 that offered pregnancy disability leave for four months, before later in 1991, two years prior to the FMLA, the state also passed the California Family Rights Act (CFRA), which established family and medical leave (Engeman 2020, 1759). After the CFRA, bills were "introduced with the support of members of the California Work & Family Coalition – a coalition of labor, legal and women's rights organizations, coordinated by the Labor Project for Working Families, an organization funded in part and made up of labor unions, labor councils, and state labor federation to help unions negotiate family-friendly benefits in union-employer contract negotiations" (Engeman 2020, 1760; Firestein and Dones 2007). Labor unions have been very involved since the beginning of leave legislation discussions, especially in California, as Engeman notes that "of the twenty-three leave bills introduced between 1991 and 2016, state legislative documents cite the California Labor Federation, the state's AFL-CIO and largest union federation, as the sponsor of eight bills and a supporting organization for thirteen leave bills" (Engeman 2020, 1760). With the unions' role in sponsoring and supporting these bills, the

California Labor Federation has signaled paid family leave as an important item on their legislative agenda. Organized labor also helped to facilitate connections among coalition leaders. The Labor Project acknowledged that the "state labor federation served as a bridge between coalition leaders and state government officials" and credited much of their legislative success to labor unions (Engeman 2020, 1761). California's labor organization serves as one example of how unions can assist in the policy process and play an active role in sustained efforts, again and again, before the desired policy is successfully achieved. Moreover, California PFML also highlights the years-long process it takes to achieve success and paints an optimistic picture of what is possible with the support of organized labor.

Another example that highlights the importance of coalition building is the case of Oregon's paid family leave. More recently enacted than California, Oregon adopted its paid leave policy in 2019 (Dumet and Nelson 2023, 75). Like California's policy, Oregon's was a product of broad coalition building and included the Time to Care Oregon Coalition, comprised of community advocacy groups, labor organizations, and public health organizations, as well as the Fair Shot for All Coalition including over thirty community-based organizations and labor unions (Dumet and Nelson 2023, 78). These groups came together with a shared goal, paid family leave for Oregon residents, and advocated for its adoption, with unions playing a substantial role in this process. Scholars LissetDumet and Hal Nelson draw in an Advocacy Coalition Framework when examining Oregon's paid family leave policy and identify three areas from which these coalition groups were able to learn that ultimately led to their success. The first was policy-oriented learning where the coalition utilized incremental strategy, adjusting their approaches as previous bills failed or different criticisms, such as the cost to taxpayers or the lack of responsibility by employers, were raised in opposition (Dumet and Nelson 2023, 79). Next,

Dumet and Nelson described learning from national organizations as local groups sought the support and resources of national coalition partners. (Dumet and Nelson 2023, 79). Finally, the third area was learning from community organizations, as the coalition built partnerships with those in the community, heard their concerns firsthand, and shifted their goals so they better aligned with the needs of residents. (Dumet and Nelson 2023, 79).

Union involvement in these areas of learning cannot be underemphasized. Unions' strength lies in their ability to adapt in negotiations and collective bargaining, so Oregon labor unions were well suited to be coalition leaders. Likewise, unions, especially those with branches in various states, were able to share information and provide much-needed research surrounding leave legislation in other states. As an advocate for the rights of workers, labor unions are also receptive to the needs of members, and build local networks based on addressing shared concerns. From these three areas, the coalition with strong union involvement gained more bi-partisan support for paid family leave, allowing for the bill to pass. Successful policy adoption in Oregon can be credited in part to the substantive role of unions, with Oregon's coalitions demonstrating that paid leave advocacy involves learning.

Conservative States and Paid Leave

Though the two examples above provide compelling instances of union involvement in paid family leave adoption, California and Oregon demonstrate two key differences from states such as Texas and Florida: unionization rates and state legislature control. These factors suggest an alternative union strategy for paid leave policy adoption.

California and Oregon are both states considered to be progressive and generally supportive of paid leave measures. Other more conservative states, like Texas or Florida, are more opposed to paid leave measures and have significantly lower unionization rates at

approximately 4.5% and 4.7%, compared to California and Oregon's unionization rates at 15.4% and 14.1%, respectively (U.S. Dept. of Labor). According to Engeman, there is a connection between union density and the likelihood of leave policy adoption, as "a one percent increase in union density is associated with an increase in the odds of leave policy adoption of fourteen percent" (Engeman 2021, 1755). Greater unionization then can be associated with stronger union influence in elections and its ability to elect allies to office that are more favorable to paid leave policies (Engeman 2021, 1756). The party control of the state legislature is another factor that is directly correlated to the likelihood of paid leave enactment, as majority control often dictates the session's legislative agenda. In Engeman's examination of state policies, most leave legislation occurred when there was a Democratic majority in both state houses, though a few occurred in split houses, while none occurred while Republicans controlled both (Engeman 2021, 1758).

Though these cases present a challenge for unions in conservative-controlled states, how these paid leave programs are funded and marketed might be a solution for unions advocating in states without a history of success. The states' paid leave policies detailed previously typically operate under a state insurance fund, where citizens can file a claim similar to federal Social Security, and there are payroll deductions, where a certain percentage is withheld from each paycheck to fund paid leave. Reframing this concept, unions might illustrate payments already made into state insurance funds to mitigate "government handout" criticisms while also emphasizing that paid leave is inherently pro-family. Addressing these concerns may provide unions a first step into gaining more bi-partisan support in conservative-controlled states and slowly increasing the likelihood of paid family leave adoption.

An International Comparative Look: Sweden

Of the thirty-eight countries that comprise the Organization for Economic Co-Operation and Development (OECD), the United States is the only country that does not offer paid family leave to its residents (OECD 2022, 3). One OECD country that is widely acclaimed for its expansive paid leave offerings is Sweden. In examining Sweden's paid family leave policies, an alternate model on the national level can be better explored. Because Sweden's leave offerings are so expansive, only parental leave will be discussed.

Like many Nordic countries, Sweden offers generous leave options that promote a work-life balance that is accommodating for families. A leader in family policy, Sweden was the first country to introduce a gender-neutral parental leave plan in 1974, which offered six months of paid leave after the birth of a child (Duvander, Lappegård, Andersson 2010, 46). Since then, leave legislation has only expanded further. Under Sweden's Parental Leave Act of 1995, every parent is entitled to take up to 480 days of parental leave, with each parent entitled to half of those days if there is joint custody between parents (SFS). Parental leave between parents cannot overlap except for thirty days for the first year of a child's life, and these days are considered "double days" and count towards both parents' leave (UNFPA 2021, 4). All those with permanent residence status in Sweden are entitled to parental leave benefits, and taking parental leave is a common practice as "practically all mothers take parental leave and approximately 80% of fathers take parental leave" (Duvander, Lappegård, Andersson 2010, 47). Another important component of Sweden's paid leave is its flexibility. As parents, Swedish residents can take their leave consecutively or spread out until their child turns eight years old, though only ninety-six days can be taken after the child turns four years old (UNFPA 2021, 4). At no additional cost to employers, Sweden's parental benefits are funded exclusively through taxes. The benefits are

only the minimum offerings guaranteed to parents in Sweden, as "additional parental leave pay has been negotiated in collective bargaining agreements in the public sector and is commonplace in the private sector" (UNFPA 2021, 5).

Application to U.S.

With a better understanding of another country's paid family leave policies, one can begin to compare Sweden to the United States and evaluate what aspects the US could replicate. As it stands currently and has been emphasized previously, the U.S. offers no federal paid family leave. Comparing the two, one could argue that the U.S. has fallen behind with leave legislation and is even fifty years behind Sweden's first offering of paid leave. If the U.S. were to pilot a program, it would likely not be as sophisticated or comprehensive as Sweden's immediately; it would take several years to adapt and reform based on the needs of the American people. Like Sweden, the U.S.'s current policy, the FMLA, applies to both women and men as parents and caregivers. The FMLA does not discriminate based on gender and allows for women to take unpaid leave for pregnancy and after the birth of a child as well as a father to care for his child or his spouse.

There are two key areas in which the U.S. can learn from Sweden's leave policies: flexibility and extended eligibility. The first area, flexibility, is perhaps one of the most apparent characteristics of Sweden's paid family leave policies. The ability to have hundreds of days of leave, the option to use it over several years, as well as the opportunity to take half or quarter days of leave emphasizes the agency involved in choosing to take leave without worry for lost income. With the U.S. lacking the paid component of family leave, additional concern is placed on the individual, and they may have fewer options available to them. In this same way, extensive criteria for eligibility hinder access to family leave. Sweden's policies include little to

no eligibility requirements for one to be entitled to paid benefits, as all residents are eligible for benefits regardless of how many individuals work for an employer. Expanding coverage in the United States would lessen barriers to access, so more Americans could be eligible and clearly understand their eligibility and rights. Using Sweden as a model, the United States could replicate aspects of flexibility and extended eligibility and fashion it to better serve the needs of the American people.

Union Involvement in Federal Paid Leave

In order to achieve a new direction of policy that is focused on paid leave, a strong collective force, such as unions, is needed to mobilize for these changes. In Moller and Li's discussion of occupational sex segregation and unions in the United States, they determine that family-based policies, such as anti-discrimination legislation and family leave policies, as well as union involvement, minimize occupational sex segregation (Moller and Li 2009, 1535). Moller and Li utilize a series of theoretical frameworks including Power Resource Theory and Liberal Economic Theory (Moller and Li 2009, 1530-1531) in their argument. Drawing on Moller and Li's connection between unions and family, in addition to the emphasis on unions as a facilitator for positive change, this research applies their framework to federal paid leave.

When applied to unions, power resource theory tends to support the idea that the struggle for advancing wages and working conditions would unite workers (Moller and Li 2009, 1530-1531). In the examples of California and Oregon's state paid leaves, coalitions amongst unions and other community-based organizations were formed to advocate for paid leave, with these advocates representing the interests and concerns of workers. Unions, comprised of workers with similar objectives, are therefore the mechanism by which workers organize to advance benefits.

The power of workers resides in this ability to organize and strengthen union capacity to achieve desired outcomes. Similarly, liberal economic theory can be used to justify that unions tend to reduce economic disparities in a sense of balance or equilibrium (Moller and Li 2009, 1533). Putting the two theories together, unions, united behind a shared cause, in this case federal paid leave, can correct the imbalance between the need for paid leave and the lack of policy to support it. Federal paid leave then is the product of millions of Americans ineligible for or unsatisfied with the FMLA who desire a stronger and more comprehensive leave policy and can unite behind unions' advocacy work in reducing leave disparity.

Moreover, the role of unions in this process is crucial to the implementation of paid leave and cannot be understated. In advocating for federal paid leave, unions take several distinctive roles. Tae-Youn Park, Eun-Suk Lee, and John Budd identify four critical roles of unions in areas of availability, awareness, affordability, and assurance of workers' use of paid leave (Park, Lee, and Budd 2019, 662). Broadening the options available to workers through collective bargaining, unions exercise their role focused on availability. Awareness often takes the form of educating and informing workers about their rights and workplace protections. The next aspect, affordability, centers around unions' ability to raise the wage premium. Finally, unions assure workers of their rights and provide support when employers commit unfair labor practices such as retaliation and discrimination for the use of paid leave (Park, Lee, and Budd 2019, 665-667).

Though Park, Lee, and Budd discuss these factors in the public and private sectors, they can also pertain to a larger scale with the implementation of federal paid leave. When considering union advocacy, the first and third roles of unions, availability and affordability, would be sources of the successful enactment of paid leave through widespread collective bargaining, labor coalitions lobbying the government, and further negotiations. The second and

fourth roles, awareness and assurance respectively, would be the results of paid leave legislation. Unions would continue in these roles of educating workers about their paid leave rights and assuring them of their protections once implemented. On the sub-national level, labor unions have successfully achieved this, such is the case with the state of California and the California Labor Federation as well as Oregon and its union-led coalition groups, as discussed previously. With historical success, unions' distinguishable roles in advocacy support their pathway to the successful implementation of paid federal leave guaranteed by the U.S. government.

Counterargument: Labor Unions are Too Weak

While this paper argues that unions are capable of advancing paid leave policies, many could argue that labor unions in their present state are too weak to achieve this. Scholars, such as Todd Vachon and Michael Wallace argue that the weakness of labor unions is a by-product of both corporate restructuring and casualization (Vachon and Wallace 2013, 231). As a result of corporate restructuring, "unionized workers are often the target of downsizing measures when employers wish to eliminate inflexible union contracts" (Vachon and Wallace 2013, 234; McCune, Beatty, and Montagno 1988). Given the emphasis on speed in a globalized market, union contracts can slow down a company's ability to quickly adapt. Looking at other types of workers, companies may choose to employ part-time or temporary workers. This phenomenon is known as the casualization of the workforce. It is harmful to unions as these workers cannot join their unions under the NLRB and may create other obstacles for them (Vachon and Wallace 2013, 235; McCall 1998). These factors, corporate restructuring and casualization, actively hinder unionization, as unions that cannot flourish and negotiate collective bargaining agreements fail to retain any real power. If they are not seen as successful by members, they may

fail to retain their current members and discourage potential workers from joining, thus worsening the issue and providing a cyclical explanation for decline.

These arguments are not without merit. Current unionization statistics are somewhat troubling, and union power is not what it once was, especially at the height of the New Deal and post-World War II era. Moreover, there have been a series of recent Supreme Court decisions that have curbed union power. Despite low total unionization rates, unions have still been able to achieve progress with regard to paid leave. The best example of this is the recent passage of the Federal Employee Paid Leave Act (FEPLA) of 2019, as unions won a massive victory for paid leave in the public sector.

Under the FEPLA which went into effect on October 1, 2020, most federal civilian employees could take up to twelve weeks of paid leave for the birth, adoption placement, or foster care placement of a child (Yu 2002, 171). The FEPLA amended the FMLA, and it applies exclusively to federal employees and does not include medical leave to care for other family members or to recover themselves from illness. As the first of its kind, the FEPLA sets a precedent for federal paid leave offerings, made possible with the assistance of unions such as the American Federation of Government Employees (AFGE), the largest federal employee union. The United States government is the largest employer in the country, and Congressional support of this bill in addition to unions' advocacy speaks to the larger capabilities of labor unions in successfully achieving desired policy outcomes. Strengthened by the FEPLA, unions can continue to successfully mobilize for paid leave legislation.

Conclusion

American labor unions are capable and willing to advocate for paid leave for American workers. Given the lack of widespread paid and job-protected leave offerings in the three decades since the FMLA's enactment, many states have begun to offer their own paid leave programs, made possible with the support of labor unions and coalition building. These programs serve as pilots for how federal paid leave can be achieved. From an international perspective, the United States has fallen behind in this regard and when compared to Sweden's established and comprehensive family leave policies, the United States is a holdout. Emphasized throughout is unions' critical role in supporting workers and advocating for their needs, with a special focus on availability, awareness, affordability, and assurance (Park, Lee, and Budd 2019, 662).

This research is merely one possible angle in the "academic blind spot regarding unions" (Clawson and Gerstel 2001, 293). One potential issue in the research that was not initially considered was the diversity of labor unions with varied interests, as many unions are industry-specific with particular needs that every union may not share. The gender of union members and their eagerness for paid leave benefits is directly connected to this and may complicate the argument further (Clawson and Gerstel 2001, 287). Similarly, the benefits incurred by non-union members as a result of unions' mobilization for paid leave can be explored further. The ongoing nature of paid leave in the U.S. also raises additional questions surrounding a timeline for this process and when paid, job-protected leave will be available to all Americans. If more research were to be conducted in this area, perhaps a study using empirical data surrounding access to paid leave in states that have recently enacted or plan on enacting statutes might be useful. Likewise, given the recency of the FEPLA, its benefits and applications can be further explored. While federal paid leave is not yet available, unions will continue their advocacy for the advancement of workers' rights.

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