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# Work and family policy in the United States: past gaps, future possibilities.

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Author: Heymann, Jody

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## Text

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A leader in the world economy, the US still lags far behind the rest of the world on major social policy issues. The current political shift in the US has created opportunities to move work and family policy forward and to ensure that American workers are able to succeed in a globalized economy while caring for family members and supporting their children's education.

### WORK AND FAMILY POLICY: WHERE DOES THE US STAND?

Research evidence clearly supports the importance of basic protections to the health and economic success of working adults and their families. Paid sick leave provides an important first example. Paid sick leave is essential to working adults' ability to obtain preventive care for their own health when they are sick, stay home to prevent workplace spread of infectious disease, and address chronic illnesses so they do not needlessly worsen while continuing to work. (1) Across the world, 162 nations guarantee their workers access to paid sick days, with 156 countries providing a week or more annually. In the US, this right is not guaranteed. (2)

Paid annual leave and a mandatory weekly rest period are important for workers to be able to care for themselves and their families. The right to paid leave is fundamental enough to be included in the UN declaration of human rights, the UN covenant of economic, social, and cultural rights, and in International Labour Organization conventions that have been widely signed globally. Worldwide, 162 countries mandate paid annual leave, 139 of which guarantee two weeks or more each year, and 157 require employers to provide a mandatory day of rest each week. Workers in the US

are guaranteed neither.

In addition to basic employee protections, transformations in the global workforce and in family structure mean that adults need basic rights to allow them to provide essential care for family members while working. These include paid parental leave, the ability of working mothers to breastfeed, and paid leave and work-time flexibility to deal with a realistic range of critical health and developmental needs of family members.

Paid parental leave improves children's health and development by making more time available for parents to provide essential care. Paid maternity leave facilitates breastfeeding, and both maternity and paternity leave alike increase the likelihood that children will receive necessary immunizations. (3) Moreover, paid parental leave improves families' economic conditions by increasing long-term employment and earning prospects for parents. Given the importance of paid parental leave to children's health and family economic stability, 177 countries guarantee maternity leave and 75 ensure that fathers either receive paid paternity leave or have the right to paid parental leave. The US does not guarantee the right to paid maternity, paternity, or parental leave.

Studies indicate a 1.5 to fivefold lower relative risk of mortality among breastfed children and lower rates of gastrointestinal and respiratory tract infections, meningitis, and malnutrition. (4) This has led 132 countries to guarantee working mothers the right to breastfeed. The US does not offer women this guarantee.

A series of studies has demonstrated that parental presence helps children recover more rapidly from illnesses and injuries, and improves both children's outcomes for acute and chronic illnesses and their mental health. (5) Paid leave increases fivefold the likelihood that American working parents can care for sick children themselves. Yet, while at least 43 countries guarantee parents some form of paid leave for children's health problems, the US does not guarantee any.

The divergent experiences of American families and those in other countries is not limited to working conditions. Access to quality early childhood care and education markedly enhances healthy child development, while increasing parents' ability to get and keep jobs, cut down on absenteeism, and improve overall job productivity. (6) Despite this, just a few years ago the US tied with Ecuador and Suriname for 39th in enrolment in early childhood care and education for three- to five-year-olds at 57 percent. Nearly all European countries performed better. (7) Similar issues arise for school age children who would benefit from more year-round and afterschool activities. (8) In the US, the school year is still only 180 days long; 54 countries have longer school years, and 20 of those have school years of over 200 days.

As the percentage of the population over 80 years old and in need of care rises geometrically in the US, increasing both opportunities for older Americans to lead active lives, and the availability of services to support their living at home as long as they can, is critical--both for the quality of life of older Americans and for the ability of

their families to work. Here too, American policy is limited.

## THE QUESTION OF EMPLOYER-PROVIDED BENEFITS

The evidence makes clear that US legislation lags far behind Canada, Europe, and most economically competitive countries. Critics of legislation in the US have argued that it is unnecessary because the private sector voluntarily guarantees these protections to nearly all Americans. The question is: does the data support this?

In 2007, only 57 percent of workers in private industry, but only 44 percent of those earning less than US\$15/hr, had access to paid sick leave. (9) Only 15 percent of workers in private industry had access to employer assistance for childcare, and this number dropped to nine percent for those earning less than \$10/hr. (10) In 2008, 15 percent of workers in private industry, and only nine percent of those earning less than \$15/hr, had access to paid family leave. Only 60 percent of workers in private industry had access to annual leave; among Americans in the bottom decile of income, only 40 percent received any paid annual leave." These statistics provide strong evidence that employer-provided benefits are insufficient and have failed to fill the gaps left by a paucity of work and family policies--gaps that are particularly wide for the working poor.

## WORK AND FAMILY POLICY IN THE US PRIOR TO AND DURING THE BUSH ADMINISTRATION

The 1993 family medical leave act passed during the Clinton administration is the only federal legislation that guarantees leave to US employees. Despite its widespread popularity, the act has severe limitations: it provides only unpaid leave for serious illnesses of the employee or immediate family, and the birth or adoption of a child. Many Americans cannot afford to take this unpaid leave. (12) Moreover, even the unpaid leave covers only those who have worked at least 1250 hours in the previous year in a firm with at least 50 employees. Americans working for small businesses or part-time, who have changed jobs in the previous year, or whose illnesses do not meet the requisite severity stipulated by the act remain uncovered.

Since the passage of the family medical leave act in the early 1990s, no new federal legislation has been enacted for working families. The Bush administration opposed the passage of basic labour rights legislation such as the 2005 healthy families act, which would have provided employees with seven days of paid sick leave annually, as well as the 2008 federal employees paid parental leave act, which would have provided federal employees with four weeks of paid parental leave per year. (13) In addition to opposing these efforts, the Bush administration also weakened existing legislation by implementing changes in November 2008 that will make it more difficult for workers to take leave under the family medical leave act. (14)

Given this failure to move work and family policy forward at the federal level during the Bush years, a number of states acted independently. Historically in the US, many social policies were first passed at the state and commonwealth level, paving the way

for a consensus that made federal action more feasible. For instance, Massachusetts passed minimum-wage legislation in 1919.; Nebraska, Colorado, California, Oregon, Washington, Minnesota, Wisconsin, and Utah followed suit in 1913; Kansas and Arkansas in 1915; Arizona in 1917; the District of Columbia in 1918; and Texas, North Dakota, and Puerto Rico in 1919. (15) This subnational level policy implementation contributed to the adoption of the fair labour standards act in 1938, which established a national minimum wage.

In the absence of federal openings, recent work and family legislation in the US has followed a similar "state first" approach. In 2002, California passed a paid family leave law, 100-percent employee funded, through the state disability insurance program. (16) The initiative provides working Californians with up to 55 percent of their wages for up to six weeks to care for a newborn, a newly adopted child, or a seriously ill family member. In 2007, Washington passed the family leave insurance law, securing the right to five weeks of paid leave for employed parents to care for a newborn or newly adopted child with protected income of up to \$250 per. (17) weeks. In 2008, New Jersey passed the paid family leave act, which guarantees six weeks paid leave in any 12-month period to tend to the needs of children and other family members at two-thirds regular weekly earnings up to a maximum of \$524 per week. (18)

#### WORK AND FAMILY POLICY IN THE 2008 PRESIDENTIAL CAMPAIGN

The economy has repeatedly been critical in US presidential campaigns. The economy was the top issue for 18 percent of voters in 2000, for 20 percent in 2004, and for fully 62 percent in 2008 due to the financial crisis. (19) At the same time, over recent elections, women in working families have emerged as a significant portion of the swing vote--with women outvoting men across all ethnic categories in the 2004 and 2008 elections--thus focusing greater attention on their specific concerns. (20)

The Republican platform, while speaking to the importance of the economy, did not explicitly formulate policies targeting working families, despite the financial crisis that emerged during the campaign--an approach that reflected the low priority placed on work and family policy under the Bush administration. The only proposal for working families was the establishment of a national commission to discuss workplace flexibility and choice. (21)

In contrast, the Democratic platform addressed the heightened concerns about the economic downturn by explicitly proposing policies that would benefit working families, including raising the minimum wage to \$9.50/hr by 2011 and indexing it to inflation; expanding tax credits on earned income and for child and dependent care; legislating a minimum of seven sick days per year; expanding the family medical leave act, afterschool programs, and flexible work arrangements; and encouraging states to adopt paid leave. In addition to directly addressing the challenges faced by working families, the campaign also linked the needs of working families to some of the most important overarching themes of the Democratic platform, such as the economy, education, taxes, and poverty and women. (22)

## POTENTIAL FOR CHANGE DURING THE OBAMA ADMINISTRATION

Despite a strong emphasis on the need to help working families and a clear commitment to legislative, policy, and programmatic change, the Obama administration will be deeply affected by one of the most severe financial crises in American history, a massive federal debt, and a military heavily engaged overseas. While the difficult economic context will raise important questions of what changes remain feasible, it is noteworthy that it was during the great depression that the US federal government passed much of its most important legislation to protect individual workers, including the fair labour standards act and the social security act. In fact, periods of economic crisis often raise awareness of the need for a floor of labour standards and a social safety net.

There are a number of important first steps to which President Barack Obama committed that could feasibly be implemented with limited budgetary implications, and which would have a major impact on the lives of working Americans.

**Expansion of paid sick leave:** Most Fortune 100 companies in America provide paid sick leave and have shown the ability to economically compete while doing so, yet 60 million Americans do not have paid leave to meet health needs. Federal legislation to guarantee seven days of paid sick leave was proposed by Ted Kennedy and cosponsored by then-Senator Obama--a policy objective also endorsed in Obama's presidential campaign. This modest number would place the US still far behind the rest of the world, but would be a necessary start.

**Increase in the minimum wage:** People who work fulltime should not have to live in poverty. The US minimum wage has recently been raised by small amounts, but it would need to be significantly increased in order for workers to be able to meet all basic personal and family needs. The Obama administration has proposed raising the minimum wage to \$9.50 by 2011--up from \$6.55 in 2008--and indexing it to inflation. (23) This increase is economically feasible and would be enormously important to working poor families.

**Expansion of unpaid leave:** The Obama administration has proposed expanding the family medical leave act so that it covers businesses with 25 or more employees and more purposes, including leave for elder care, leave for children's academic activities at school, and leave to address domestic violence and sexual assault.

Beyond these explicit campaign pledges, other basic standards could be readily passed that would be important to working Americans and their families.

**Breastfeeding breaks:** In the US, as around the world, breastfeeding infants leads to a marked decrease in both morbidity and mortality. Any company that can find a way to provide workers with breaks for lunch is able to find a way to provide women with the breaks they need to feed their infants. This low-cost but high-benefit guarantee should be rapidly passed in the US.

**Paid annual leave:** The modest cost of the US providing workers with at least two weeks of paid leave would be much lower than any recent rise in the minimum wage, and there was no evidence that these increases in the minimum wage lead to job loss or small business closings. For families living near the poverty line, taking even two weeks of leave without pay means dropping their annual income by four percent, something that is completely unaffordable.

Legislating a number of basic work protections to bring the US up to commonly accepted standards will not require a change in the national budget, however other important policies and supports proposed by the incoming administration will.

**Paid family and medical leave:** Leave is currently unaffordable to two-thirds of Americans because it does not provide any wage replacement. Changing this will require either the creation of a new social insurance program with accompanying costs, or of a tax credit system with accompanying loss in revenue. Obama has proposed aid to states that initiate paid leave. This is a valuable start but federal action is ultimately needed. While the costs are real, they are small in comparison to the recent \$700 billion bailout of the financial industry and are just as important for America's economic recovery. Illness is one of the primary causes of job loss, bankruptcy, and housing foreclosures. (24) This is due to the simultaneous lack of universal health insurance and paid leave in the case of illness in the US. Nearly equal to the frequency of job losses due to health problems are those that occur at the birth of a child. (25)

**Early childhood care and after-school opportunities:** Early childhood care and education and quality afterschool programs are essential for the US to catch up academically and remain competitive globally. Obama's proposals to double funding for afterschool programs, while investing \$10 billion per year in high quality child care are critical to the future of American children.

The passage of core labour standards could be significant for other countries around the world, as well as for Americans. With a president and key cabinet members who have a stated commitment to changed conditions at work and at home on a national level, as well as to multilateralism in international affairs, the US has an opportunity to address these challenges anew in a global context. It remains to be seen whether and how it does.

(1) Jody Heymann and Alison Earle, "A comparative analysis of paid leave for the health needs of workers and their families around the world," *Journal of Comparative Policy Analysis* 8, no. 3 (2006): 241-57.

(2) Jody Heymann, Alison Earle, and Jeffrey Hayes, "The work, family, and equity index: How does the United States measure up)." project on global working families, Harvard School of Public Health and Institute for Health and Social Policy, McGill University, 2007; Jody Heymann, Alison Earle et al., "The work, family, and equity index: Where does the United States stand globally)." updated data, project on global working families, Harvard School of Public Health, 2004.

(3) Lawrence Berger, Jennifer Hill, and Jane Waldfogel, "Maternity leave, early maternal employment and child health and development in the US," *Economic Journal* 115, no. 501 (2005): F29-47.

(4) Natalia Leon-Cava, "Quantifying the benefits of breastfeeding: A summary of the evidence," Pan-American Health Organization, Washington, DC, 2002.

(5) G. Van der Schyff, "The role of parents during their child's hospitalisation," *Australian Nurses Journal* 8 (1979): 57-61; Sarah J. Palmer, "Care of sick children by parents: A meaningful role," *Journal of Advanced Nursing* 18 (1993): 185.

(6) Jody Heymann, *The Widening Gap: Why America's Working Families are in Jeopardy and What Can Be Done About It* (New York: Basic Books, 2000).

(7) Heymann et al., "Where does the United States stand globally?"

(8) Heymann, *The Widening Gap*.

(9) "Table 19. Leave benefits: Access, private industry workers," National compensation survey: Employee benefits in private industry in the United States, March 2007, US Department of Labor, bureau of labor statistics, [www.bls.gov](http://www.bls.gov).

(10) "Table 23. Quality of life benefits: Access, private industry workers," Ibid.

(11) "Table 21. Leave benefits: Access, civilian workers," National compensation survey: Employee benefits in the United States, March 2008; "Table 21. Leave benefits: Access, private industry workers," National compensation survey: Employee benefits in private industry in the United States, March 2008,; "Table 21. Leave benefits: Access, state and government workers," National compensation survey: Employee benefits in the United States, March 2008, US Department of Labor, [www.bls.gov](http://www.bls.gov).

(12) "A workable balance: Report to congress on family and medical leave policies," US Department of Labour, women's bureau, Washington, DC, 1996.

(13) "Statements of administration policy, H.R. 57: Federal employees paid parental leave act of 2008," American presidency project, 17 June 2008, [www.presidency.ucsb.edu](http://www.presidency.ucsb.edu).

(14) Debra L. Ness, "New FMLA regulations offer bad news for workers, good news for military families," National Partnership for Women and Families, 14 November 2008, [www.nationalpartnership.org](http://www.nationalpartnership.org).

(15) Willis J. Nordlund, *The Quest for a Living Wage: The History of the Federal Minimum Wage Program* (Westport, CT: Greenwood Press, 1997).

(16) Eileen Appelbaum and Ruth Milkman, "Paid family leave in California: New research findings," University of California Institute for Labor and Employment, 2004, <http://repositories.cdlib.org/>; "Paid family leave," Employment Development Department, State of California, [www.edd.ca.gov](http://www.edd.ca.gov).

(17) Anmarie Widener, "Family-friendly policy: Lessons from Europe, part II," *Public Manager* 36, no. 4 (2007): 44-49; "Family leave insurance law," Department of Labor and Industries, Washington State.

(18) Denise Marra DePekary, "A step forward: The paid family leave act (New Jersey)," *New Jersey Law Journal*, 11 August 2008.

(19) CNN exit polls, 2000, 2004, and 2008, [www.cnn.com](http://www.cnn.com).

(20) Susan J. Carroll, "Moms who swing, or why the promise of 'the gender gap remains unfulfilled,'" *Politics & Gender* 2, no. 3 (2006): 362-74; data from CCN exit polls, 2008.

(21) John McCain, "Country first: Reform, prosperity, peace," [www.johnmccain.com](http://www.johnmccain.com).

(22) "Obama for America," [www.barackobama.com](http://www.barackobama.com).

(23) US Department of Labor, employment standards administration, wage and hour division, [www.dol.gov](http://www.dol.gov).

(24) David U. Himmelstein, Elizabeth Warren, Deborah Thorne, and Stef-fie Woolhandler, "Illness and injury as contributors to bankruptcy," *Health Affairs* 24 (2005): 63-73.

(25) Alison Earle, J. Z. Ayanian, and Jody Heymann, "What predicts women's ability to return to work after newly diagnosed coronary heart disease: Findings on the importance of paid leave," *Journal of Women's Health* 15, no. 4 (2006): 430-41.

Jody Heymann is the director of the Institute for Health and Social Policy at McGill University, where she holds the Canada Research Chair in global health and social policy, as well as professorships in political science, epidemiology, and biostatistics. Giulia El-Dardiry is a research assistant at McGill's Institute for Health and Social Policy.