

The Annual Clare Burton Lecture

2009

A Slow (and Unfinished) Revolution:

Maternity Leave, Women and Work

Marian Baird¹

University of Sydney

Women ♀ Work Research Group

wwrg@econ.usyd.edu.au

(Speech only)

Acknowledgement to country.

Distinguished guests, friends and colleagues, this year marks the 11th anniversary of the Clare Burton lectures and I am privileged to be here. I met Clare in the mid 1980s when, as a 'youngish' mother after maternity leave, I worked as a part-time tutor at Kuringai CAE. Clare was an inspiring scholar and her critical assessments of pay evaluation systems, merit systems, university staffing and pay equity are as relevant now as they were path-breaking in their day.

I wish to extend my thanks to the ATN WexDev organisers and sponsors of the Clare Burton Annual Lecture for keeping Clare's work, and our shared interests, alive and in the public domain. Special thanks are also due to Sybille Frank in Sydney for her wonderful support in organising the lectures nationally. Congratulations too on the book, *The Promise and the Price*, it is a wonderful record of the last ten lectures and a reminder of achievements made - but also the work that still needs to be done if we are to improve gender equity in Australia.

I have been asked specifically to talk about maternity leave in Australia and the new paid parental leave policy. For that reason and given the time I have - I cannot cover all the ground I would like to cover – so I acknowledge now the limits of what I will say – especially that I do not discuss the legitimate concerns of women without children, or the specific issues relating to single mothers, or mature aged women with care responsibilities, the pressing issue of child care in Australia, or the lack of women in senior management and on boards. These are all important issues and worthy of future CB lectures.

I'd also like to emphasise that much of the research I draw on for this lecture has been undertaken in collaboration with colleagues and PhD students. I am grateful for their work and their friendship. Working with others is one of the joys of being an academic. Of course the opinions remain my own and I take responsibility for them!

So, to return to my topic -- 2009 is a significant year. 2009 marks the thirtieth anniversary of the first *unpaid* maternity leave test case decision of the Australian Conciliation and Arbitration Commission.² Importantly, this year also marks the government's announcement of a national system of *paid* parental leave for Australia.

With those 30 years having passed since the unpaid maternity leave test case, the intriguing question is 'Why has it taken so long for women in Australia to achieve paid maternity leave?'

I suggest the answer to my question about 'why so long, and why is policy change so slow?' is to be found in two sets of interlocking explanations: the first are the gendered structures of the labour force and workplace policy; the second are the orientations to women and mothers in paid work. In Australia (and internationally) most attention has been paid to the politics and institutions of parental leave policies³ – but I argue that we need shifts in both policies and orientations in order to achieve greater equality in both opportunities and outcomes for women at home and in work. This will require a combination of legal and normative reforms.⁴

I begin with a brief overview of perhaps the most important structural change in the labour market over the last 30 years – the increasing participation of women in the paid workforce – and particularly of mothers – and then move on to a necessarily abbreviated history of the policy responses and implications followed by some observations about changing attitudes in orientations to and of women at work. You will note that I have also amended the title – to include – 'and unfinished' revolution. I therefore conclude by offering some recommendations about what should happen next.

On the structural side, the most significant is the change in the composition of the labour market, namely, increased female participation in the labour market. As we all know, the policy response over the past 30 years has been slow and partial and has failed to meet the challenges raised by the demographic and social changes in the

labour market. The accommodation of those changes has therefore largely been met by women themselves.

The Australian labour force is now approaching 50 per cent female (47%). Over the last thirty years it is important to notice the increasing participation of women and the declining participation rates of men. One of the defining characteristics of female participation is the almost 50/50 split between full-time work and casual or part-time work, with many mothers engaged in this latter segment. This is very different from the pattern of male labour-force participation. It is a problematic feature for policy makers in government, unions and business to contend with because they are so steeped in the concept of the 'ideal worker'⁵, or the 'care-less worker'⁶ for whom jobs, policies and expectations were built around full-time and life-time attendance at paid work with the necessary support provided in the private domain of the home and by women.

Perhaps the most illuminating change in the labour force, and one that directly impacts on the issues I am highlighting today, is represented by the change in female participation rates over the life cycle. Between 1979 and 2009 a dramatic change is apparent in women's workforce engagement. until the child bearing ages, women are now at work in increasingly similar proportions as men; women are staying in the workforce longer before having children; those women who have children are out of the workforce for shorter periods of time while the children are young; they are having fewer children and having them later in life; and finally, as mothers they are returning to the workforce and working for more years overall.

This reality highlights the falseness of the distinction between mothers-at-work and mothers-at-home, perpetrated by some groups fond of scoring political points with such egregious rhetoric. The truth is that women over their life course are more and more likely to have periods in paid work and periods at home, in unpaid work and care, whether it be of elder relatives, the disabled or young children.⁷ The lines between home and work are always fluid for women. Policies that improve upon work based conditions will therefore improve conditions at home.

This changing pattern (shown in the slide) more than any other, crystallizes the profound workforce demographic change over the last generation – and demonstrates the need for policies that reflect and respond to these transitions in the life cycle of women. (And here I am not even considering the implications of elder care demands at the other end of a women’s working life. That is the subject for another CB lecture.)

How then have policy makers responded to these paradigmatic changes? And why have the responses been slow and incomplete?⁸

This question brings me to the crux of my analysis today. I suggest it is about the confusion and ambivalence to women’s workforce role, which at times manifests as outright hostility: are women regarded primarily as mothers needing welfare and support from the state; or as workers entitled to bargain for and receive decent pay and suitable working conditions, as expected for male workers?

These contradictory, underlying and often unspoken orientations to women, to mothers, in the Australian workplace have a very long history⁹ – but for today I will just go back to the 1970s – and to the origins of the first maternity leave test case.

While the marriage bar was lifted in the state and federal public services in the mid-late 1960s, employed women who had children had no maternity leave and therefore no right to return to their jobs. Effectively, this meant that having a child ended a woman’s job tenure.

In the private sector there was little understanding of maternity leave. At the test case, one witness, Mrs Cornelius (of Cornelius Furs), said the following:

“(Y)es I believe in maternity leave. I’ve got all these machinists and they go and have their babies and then if there’s a vacancy some time down the track I let them come back’ (interview, Marsh, 27 May 2009).

In 1972 Whitlam won the ‘It’s Time’ election and in 1973 introduced significant legislation providing 12 weeks paid maternity leave for federal public servants. The responsible Minister, Clyde Cameron, stated that ‘(t)he Bill will also help women

endeavouring to pursue their careers on the same terms as men' (Second reading speech, 1973).

However, simultaneously, the government stated that paid maternity leave 'cannot' flow on to other employees (i.e. private sector) and that 'if the matter came before the Australian Conciliation and Arbitration Commission, the Government would be prepared to intervene and officially oppose it' (second reading speech). Further, the government believed that any flow on would also be detrimental to employees, as it would discourage employers from hiring women of childbearing age.

These are familiar arguments to your ears I am sure. The two sets of comments again represent the polarised orientations to women: on the one hand, advocating equal career opportunity for women, while on the other hand, assuming and accepting this comes with the costs of potential and actual discrimination in the workplace.^{10, 11}

Not surprisingly then, during the early 1970s there was considerable feminist activity, within and outside the union movement seeking to change policy and ideas about women and work which led to the development of the Working Women's Charter,¹² subsequently adopted by the ACTU in 1977.

In 1978 the ACTU held a 'special union conference' on the Working Women's Charter and from this came a recommendation for prioritising maternity leave by demanding that:

- a submission be made to the Australian Government that they provide paid maternity leave (1978, 3)
- a claim for unpaid maternity leave to be included by unions when negotiating with employers (1978, 4),
- and the ACTU to conduct a test case for unpaid maternity leave (1978, 8).

The Charter also supported the establishment of community child care centres, union action to gain workplace-based child care, part-time work and trade union training.¹³

The ACTU submission to the government argued for 6 weeks *paid* maternity leave to be paid from social security, but from our research, seems to have gone no further. It was the test case for *unpaid* maternity leave that was pursued most energetically by the ACTU and resulted in the biggest policy change of the time. Interestingly, like the Whitlam government, the ACTU opposed claiming paid maternity leave from employers fearing women would lose their jobs as a result.¹⁴

In fact, women's workforce participation increased rapidly throughout the 1970s with a higher increase for "married women" than "non-married women".¹⁵ Yet, community attitudes to women working outside the home were slow to change and lively debates were being conducted on whether 'married' women should be working at all. Again, the disjuncture between labour market changes and orientations to women and work are evident. These were especially pronounced during the period of higher unemployment -- which at the end of 1978 was 7.1 per cent¹⁶. This ignited debates about whether married women in the workforce were taking 'men's' jobs.¹⁷

Newspapers ran stories proclaiming "(i)f Mum Quit Work there'd be jobs for the Boys (and Girls)"¹⁸. It was reported that the head of a major employers' association was quoted as saying that married women were a major factor in causing youth unemployment¹⁹.

As an aside - not only was there some hostility to the decision to grant unpaid maternity leave – there were those who were surprised a woman could be a research officer for the ACTU – when she was first appointed it was reported that:

'Jan Marsh, 24, causes a ripple of admiration when she walks into the dry, tension-filled atmosphere of a dispute hearing in the Arbitration Commission. This slim, pretty blonde who joined the ACTU as an assistant research officer has the intellect to match her good looks' (Hussy, 1.11.72, 17).'

And the Woman's Day reported in 1978 in the lead up to the case –
'Jan Marsh purrs in your presence with huge, blue beguiling eyes, a soft voice and a frame so petite you'd swear she'd crush in one hand.'

She doesn't bombard people with union policy, and is quite ready to listen and talk on other subjects' (Woman's Day, 21.8.78, 14).

Despite the hostility to women working, considerable momentum built and in response to the ACTU's claim, a Test Case for unpaid maternity leave was held. Jan Marsh, the first female ACTU research officer and then advocate, ran the case. When visiting Jan earlier this year we found the very campaign poster used by the women's movement and the ACTU which Jan had in her office in 1978.²⁰

The maternity leave test case of 1979, which would extend unpaid maternity leave and job protection to *private sector* award covered employees, represented an enormous change in industrial and social norms – just as the equal pay cases of the early 1970s had.²¹

When the decision to grant 52 weeks unpaid maternity leave and the right to return to one's job was handed down by the Commission, there were some joyous and some very hostile reactions. Jan was reported in *The Australian Women's Weekly* (4.4.79, 8) as saying 'A lot of people think it's a new concept construed by madwomen, but it's not new, Maternity leave has been established a long time internationally', referring to overseas trends – which for years to come surpassed Australian policy.

On the Mike Walsh show, the decision was put to the vote of the day-time female audience – who were overwhelmingly against it (!) – in Jan's words – for them it was 'too radical'.

In our interview with Jan Marsh, she recalled that

'It made me realise how courageous the Commission was to take that step because it really wasn't just reflecting where the community was (in its thinking) ... It was really actually advancing (the cause) which is not what the Commission was known to be doing.' (Interview, 2.5.09)

In effect, that Test Case decision of 1979 to grant unpaid maternity leave lasted for the next 30 years (with some modification in relation to adoption and parental leave and the extension to casuals (in 1985, 1990 and 2001 respectively). It was included in

industrial relations legislation from 1993 (IR Reform Act). The right to 52 weeks unpaid parental leave and importantly, job protection, now sits in the Fair Work Act as one of the ten National Employment Standards.

But perhaps, despite its seeming to be the best that could be achieved then, it was in effect a lost opportunity to win paid maternity leave for at least a whole generation of women. As the rest of the developed world increased *paid* maternity leave, and then *paid* parental leave during the 1970s, 80s, 90s and early 2000s,²² Australia and the USA remained the only two countries without such a system, relying instead on individual arrangements, union bargaining interest and strength and more recently, on employer's 'business case' rationales. These are very different arguments to those used in the unpaid maternity leave test case where the emphasis was on maternal welfare and job security.

In Australia, however, the bargaining system only slowly and very partially diffused paid maternity leave to private sector employees. For example, our research this year showed that only 16 per cent of current private sector agreements had paid maternity leave clauses.²³

In 2007 the federal Labor Government was elected with Prime Minister Rudd saying it was 'time to bite the bullet on paid maternity leave'. In 2008 the government referred the question of paid parental leave to the Productivity Commission - to investigate the economic and social costs and benefits of a PML scheme.

There were bouts of active campaigning in the intervening years but time does not allow me to cover them all here. Important were the 1998 HREOC report on pregnancy discrimination which again raised the need for PML and then the 2002 inquiry into PML by HREOC, which recommended 14 weeks paid maternity leave,²⁴ and Senator Natasha Stott Despoja's private member bills.

The campaigning involved in this most recent round was again very strong, drawing together, perhaps more than ever before groups of women (and some men) in business, unions and academia and also those with breastfeeding and infant health interests at heart. In contrast to the 1970 case, by 2007/08 there was widespread

community support, as various surveys found.²⁵ It wasn't just the 'madwomen' who agreed it was time for change!

So, this year (2009), thirty years after the unpaid maternity leave test case (almost to the day), we had the announcement by the Treasurer on Mother's Day (!) of a paid parental leave scheme for Australia. Thirty years in the making - a slow revolution indeed!

The case for a government funded scheme – which the ACTU had originally suggested 30 years ago – was carefully developed and made by the Productivity Commission. Much of it was accepted by the Government in

How good is the policy? What does it mean for working women? (And men? And employers?)

First, let me very briefly summarise the objectives and main features of the new Paid Parental Leave scheme.

The stated objectives²⁶ of the scheme are threefold and again demonstrate the various pulls of welfare, industrial and gender equity needs:

1. to enhance child and maternal health and development;
2. to facilitate greater workforce participation for women;
3. to promote gender equity and work/family balance.

Following most, but not all, of the Productivity Commission's recommendations, from January 2011 the government will provide 18 weeks paid parental leave at federal minimum wages to the primary carer – who may be a permanent employee, a casual worker, contractor or self-employed with 330 hours of work in 10 of the previous 13 months. For the majority, the payment will be made by the government to the employee with their employer acting as paymaster. At the current federal minimum wage, the parental leave payment is equal to almost \$10,000.²⁷ This will be

treated as income and will therefore be taxed. Recipients will lose Family Tax Benefit B while Paid Parental Leave is being paid and also the dependent spouse offset.

It is difficult at this stage to accurately assess the exact number of women and parents who will make use of the scheme. According to the government, around 148,000 mothers will be eligible each year. Many (not all) of these mothers will be better off than with the 'Baby Bonus'. Our research shows that the majority of women in retail, hospitality and low level production work are currently unlikely to receive any paid maternity leave from their employer and so should benefit from the scheme, provided 'casual' is widely defined.²⁸ With a new baby, loss of income and financial stresses are a significant burden on women and families. The Parental Leave in Australia Study found that financial concerns were the most commonly cited reasons for women returning to work earlier than preferred.²⁹ Some working women will now have access to paid maternity leave where they had none before – and based on estimates of who currently has access through employer provided schemes, it could be up to 40 - 50per cent. For other women who have employer provided paid maternity leave, the scheme may increase the time they can stay at home with their babies by up to 18 weeks.

The optimal duration of maternity leave is another contested question and has not received significant attention in Australia to date. And of course, optimum means different things to employers, employees and infants. This is set to become a challenging issue when coupled with the potential to take an unpaid period of leave of up to two years. I am not convinced that this is good policy if improved gender equity is the aim.

The health literature points to 6-12 months for optimum infant health,³⁰ with Moss and O'Brien concluding that 'the positive child effects are maximized when the leave is *paid and provided in a job secure context*'.³¹

From our research we know that using current policies, a period between 9 to 12 months is when Australian mothers are most satisfied with their return to work.³² The review of the New Zealand scheme suggests 6 months is preferred by employers; and Canadian research suggests any more than one year may negatively impact on female

workforce attachment and employer reactions. The evidence from overseas does also show that women return to their employers after leave, although in Australia most often to part-time hours.³³

Class will also impact on the use of leave – Canadian, American and NZ research showing that well-educated, higher-earning women in the core labour market are most likely to be eligible for paid maternity leave; while less educated, lower income earners are less likely to use or know of the leave.³⁴

While the new Australian scheme expands on existing paid maternity leave provisions, I have a number of concerns with it:

Technically, the name of the scheme is misleading. The scheme - and the forthcoming legislation - are really designed to provide a system for government funding of the pay – not for maternity or parental *leave* – as there is no job protection element in the proposal. That remains in the NES *unpaid* entitlement, which has different eligibility criteria. It is possible that some women will be eligible for PPL but not the NES unpaid leave, thus are without a job guarantee.

As we know, many women are not employed full-time in permanent jobs, thus employment status is a critical factor in determining women's access to entitlements. The definition of eligible 'casuals' is yet to be finalised, but will we understand be wide ranging.

Because it is paid at minimum wages, not all women will receive wage replacement – although, because many women are concentrated in low paying jobs they may in fact receive wage replacement or above.³⁵ Wage replacement is necessary for gender equity.

At the present policy, lifer time earnings will be negatively affected as payment of superannuation is not included and to match this, a recent tax office ruling has made changes to some existing superannuation payments voluntary.³⁶

It is also as yet unclear how employers will integrate the scheme with existing policies – some may or could use it to subsidise their current payments, or even wind back current entitlements to the new policy level. I would hope instead that it is used as a foundation from which to improve current provisions.³⁷ This is where union bargaining will become increasingly important.

There is no specific paternity leave provision (as recommended by the PC) and evidence strongly indicates that fathers will not use the paid leave when set at minimum wages, so gender relations in the home will remain largely unchanged.

If gender equality is one of our goals, then we also need to consider the interaction of the new PPL policy with aspects of the new Fair Work Act. Of particular relevance to us today are the two new ‘right to request’ provisions in the National Employment Standards.

The NES provide for both mothers and fathers to have 12 months each of unpaid parental leave, or the right to request an extension to unpaid parental leave of up to 12 months for one of the carers. The NES also include a right to request changes in working arrangements.³⁸ *Note, however, that the right has limited strength – unless it is also in an enterprise agreement.*

How might these new rights be used?

First, there is a wealth of evidence internationally to show that men do not take unpaid parental leave because of household economic needs and workplace and employer resistance.³⁹ In Australia, less than 10% of eligible fathers used any unpaid paternity leave; and only 5% of leave takers used unpaid paternity leave only⁴⁰ – a provision available to them since 1990. Unfortunately, extending female usage of unpaid leave by another 12 months may be counterproductive – further entrenching gender roles and raising employer resistance to employing women in career track positions.

Second, while some evidence suggests that the UK right to request provisions have been reasonably successful,⁴¹ other evidence from the UK also sounds a warning for gender equity as the increased flexibility has not altered gendered patterns in caring

responsibilities and may have even further reinforced gender inequalities in pay and job allocation. Not surprisingly, the majority of requests for changes to working arrangements, principally to part-time work, are being made by women, particularly mothers of young children,⁴² this continuing the trend of women working in low paid, low status part-time employment.⁴³ One solution is to raise the status of part-time work, so that both women and men can work part-time and also spend time in care work.⁴⁴ This requires commitment from men to work part-time and for employers to make part-time work available to fathers and to improve the quality of that work.

Overall, while the new Paid Parental Leave scheme and the new rights to request are significant policy changes – even revolutionary in the Australian context - the paid parental leave scheme still falls short of a comprehensive scheme and the right to request changes may have unintended consequences.

As I mentioned at the outset, policy change is just one side of the reform needed to achieve greater equity, but will there be a change in the gendered orientations *to* and in the orientations *of* working women, working mothers?

On reviewing the history of policy developments in maternity leave in Australia, one disturbing consistency that underpins much of the government and ACTU reluctance to introducing paid maternity leave was perceived and real employer opposition. In addition, from some quarters there also appears to be a long held and deep seated ambivalence and reluctance to accept working women – particularly working mothers in some sections of industry. These sentiments continue - from the 1970s when women were accused of taking jobs from men and youths, to the ongoing need to placate employers and the unwillingness to fully compensate women for taking maternity leave in the most recent policy. In 2005, after the HREOC recommendation for 14 weeks paid maternity leave, Pru Goward (then Sex Discrimination Commissioner) said that ‘the debate had made it clear that Australia was still struggling with the concept of mothers working as a moral issue’.⁴⁵ This is despite the fact that women are clearly needed to boost an otherwise shrinking labour force, itself a result of our ageing population and historically low birth rates.

It seems to me that there remains an uneasy settlement in the public's mind between women as mothers and women as workers. Yet women's experience of both work and mothering are changing. Barbara Pocock (also a Clare Burton lecturer) has previously argued that 'most Australians now come to motherhood with an identity partly rooted in paid jobs'.⁴⁶ Based on our interviews with 100 women as part of the Parental Leave in Australia Study,⁴⁷ we would now say that for many women their orientation to motherhood is now *significantly* associated with their investment in, and experiences of, paid work. A very strong 'worker' identity emerged from the working mothers in the sample, shown to be formed by the extensive engagement in paid work prior to the maternal role. As a result, a personal identity shaped by paid employment, financial independence and breadwinning capability is evident. These women continued to recognise their need to maintain workforce skills in case of partner's job loss, divorce or death. They also stressed the personal importance and satisfaction of paid work for them and they displayed very strong work commitment and were good employees. We argue that the strong personal attachment to paid work and financial independence of these women interacts with their unpaid caring and domestic work in early parenthood to produce a new female-specific breadwinning structure, identified by one of the interviewees - that of the 'backstop breadwinner'. The 'backstop breadwinner' recognizes herself as a mother *and* an essential earner and provider for the family. (For many this may lead to a double guilt of trying to be the 'ideal mother' and the 'ideal worker'.) Yet, under current policies and gendered arrangements, over her life time she will earn almost a million dollars less than a man.⁴⁸

At the same time,⁴⁹ many references were made by the women to being 'lucky mothers' (or, as Belinda Probert has argued, 'grateful slaves') – who said they were fortunate to have employers who allow 5 days work in 4; fathers who collect the children from child care one day a week etc ... Because supportive public and workplace policies are so limited, women continue to accommodate the needs of employers, of husbands, of children over and above themselves and their own careers.

Is this selflessness still needed? Can we not construct alternative working and care arrangements to enable men and women to continue to work and care for their children (and others)? I am not the first to have asked this question, but perhaps we have not pressed for a solution strongly enough.⁵⁰

Many years ago (in the late 1960s), the researchers Rhona and Robert Rapoport⁵¹ documented the emergence of the dual career family in the UK. As a sociological phenomenon, this was a new group, who represented variants, even deviants, in the order of the day. Today, dual earner couples are the norm, representing 62.1 % of all couple households with children, with one-fifth (21.4%) of couple families with children have both parents working full-time. As to the traditional Harvester couple - one parent in the labour force⁵², one not in the labour force, that is now just one-third of households (33.5%).⁵³ We might therefore speculate that in time, not even the too distant future, a new variant will emerge as a social category - where the female ‘backstop breadwinner’ will become the *primary breadwinner*.

But should women be expected to continue to be disadvantaged in pay, superannuation, hours, job security and access to leave, in order to combine production and reproduction - the two roles they play under the uneven policy and gender order that we have constructed? I certainly hope not. The latest policy changes in Paid Parental Leave and rights to request are positive changes but they are only partial solutions and represent unfinished business. Around the world countries continue to review and adapt work and family policies and we should not think that because after 30 years we finally have something called ‘paid parental leave’ that we have reached a working woman’s paradise!

So, to come back to my opening question: why did it take so long to achieve paid maternity leave for Australian working women? I think the answer is to be found in the way we have conceptualised maternity leave and women’s and mother’s rights at work:

In Australia we have struggled to define the purpose of maternity leave – and to find an appropriate place to ‘house’ the policies. Maternity leave policy has been argued for on welfare grounds, industrial grounds and business case grounds. It is now beholden to a complex interplay of FaHCSIA⁵⁴ policies and workplace – in companies, in unions, and in state governments – and in bedrooms couples struggle and wrangle over the best way to resolve work and family responsibilities! Then again, perhaps our hybrid model will prove workable.

Of course, the obvious question is – what should be done next?

Australia is now a society where men and women are in the workforce in roughly equal proportions, but under unequal conditions. It would be better for all, individuals, society and business, if change was made and a genuine rights based approach to equitable opportunity and outcomes was adopted.

The timing is apposite! Reviews on equal pay, child care provision, the Sex Discrimination Act, Equal Opportunity for Women in the Workplace and the taxation system are all either currently underway or the findings are awaited. Changes are essential across all these areas. A coherent policy approach should be adopted by government to remove overt and covert discrimination against women and mothers (and to improve conditions for men's leave taking from work). The opportunity is there for government to take leadership in making the dual earner / dual carer role available to men and women in such a way that real change happens – so that policies and practices do genuinely alter.

Specifically, there are obvious improvements that could be introduced to paid maternity/parental leave and to improve gender equity in parenting and at work. For instance, just as a start I recommend we must:

- bridge the gap between minimum wages and replacement wages;
- ensure superannuation and other leave entitlements are covered;
- ensure job protection for all women/men taking paid parental leave;
- drastically improve stay in touch practices, return to work practices
- make provision of workplace lactation facilities compulsory;
- strengthen employee rights to flexibility at work;
- introduce designated paid paternity leave;
- eliminate all discrimination at work – before and after pregnancy, in pay, promotion and in access to training.
- Improve child care provision both for pre-school and out of school care needs

Further, introduce lactation breaks by law; provide adequate quality child and vacation care and introduce compulsory pay transparency and pay audits as well as quotas/targets of women in senior management. The cross national study by Lambert shows that more women in senior positions leads to more gender equitable outcomes.⁵⁵

I have suggested that some women's orientations to work and to being working mothers are changing. Working women will become a louder voice for change in the community and at home and they will demand more action. The above list indicates the policy deficit that must be addressed in the near future. Finally, discrimination against women and mothers at work is still sadly rife and this MUST change.

On the eve of two significant public policy changes – the rights to request extension of unpaid parental leave and changes in working arrangements from 2010, and the introduction of paid parental leave in 2011, we need to take on board the lessons from the past and actively challenge the status quo at work and use the policy, institutional and personal resources to hand to bring about far more positive and rapid change for working women. We do need to acknowledge I think, the importance of the industrial relations system in Australia – (for all its faults, it has also provided a channel and an avenue to meet some of the fundamental concerns of working women and men. It is time to closely monitor, evaluate and alter the gendered nature of policies and of orientations to working women, especially mothers. The revolution must be renewed and our attention and energies must now turn to the unfinished business. I am sure that Clare Burton would agree.

Thank you.

¹ I wish to acknowledge the research assistance of Sue Williamson, whose archival research has been especially valuable. I also wish to sincerely thank Sara Charlesworth, Rae Cooper, Bradon Ellem, Alex Heron, Russell Lansbury, John Murray and Belinda Smith for their wisdom and support over the years. I also thank them for their feedback and comments on earlier drafts of this speech. Responsibility for what I say, however, remains with me.

I also acknowledge that none of the work I do is done alone – so I would like to take this opportunity to thank *all* my colleagues in academia, unions, business and other organisations, and my family and friends, who have supported and critiqued my work in this field over the last ten years.

There are also so many active women whose work I admire immensely. The policy progress that has been made to date, and often in very difficult contexts, is a tribute to them.

² It is also the 25th anniversary of the Sex Discrimination Act.

³ See Kammerman S and Moss P 2009 *The Politics of Parental Leave*

⁴ For example, as very recent reports from the Workplace Ombudsman identify, discrimination against women at work, especially mothers and mothers-to-be, seems to be endemic and a constant.

⁵ Kanter; Bailyn et al

⁶ Pocock

⁷ A similar point is made by Marian Sawer (1999) in EMILY's List and Angry White Men: Gender Wars in the Nineties, *Journal of Australian Studies*, pp4-5,

⁸ Anne Summers says we have a GFC – a Gender Fairness Crisis: Anne Summers 'The New GFC: the Gender Fairness crisis, Address to Victorian Premier's Women's Summit, Melbourne, 8 September, 2009.

⁹ See Marian Sawer's work and other feminist historians eg Marilyn Lake eg Women and Nation in Australia: The Politics of Representation Journal article by Marilyn Lake; The Australian Journal of Politics and History, Vol. 43, 1997 – see also women who want to be women backlash and the association with working women and anything that encouraged this with communism, abortion etc

¹⁰ If the potential disruption to employers of female working patterns is to be acknowledged, then is it not important for governments to spread the risk or for the community to change their attitudes and accept this in the way we accept LSL and army reserve training

¹¹ Babies and Bosses 3

¹² In 1975 the Women's Trade Union Commission, exerted pressure on the ACTU to hold a trade union women's conference to compensate for union *inaction* during International Women's Year in 1975. The conference was held in 1976 and determined to formulate a Working Women's Charter.

¹³ The charter also called upon unions "to promote the establishment of community child care centres". Unions were encouraged to organise discussion groups to increase

awareness of the issue amongst members and to increase support for claims "demanding" the provision of child care. The Charter also recommended that the ACTU request that building unions negotiate the provision of child care centres in new industrial developments. The Charter also recommended that the ACTU consider establishing, with councils, union sponsored child care centres (6).

The ACTU Recommendations to the 1977 Congress expanded on the child care claim somewhat. As well as calling on unions to establish child care centres, it was also recommended that work-based child care "should be under the control of a Union Committee...elected by workers concerned, so that this service is not used in any way to intimidate workers" (ACTU, 1978, 90).

Ref: ACTU. (1978) "ACTU Executive Recommendations to 1977 Congress: Charter for Working Women", in *Women and Labour: Conference Papers*, ed. The Convenors, Women and Labour Conference, Sydney. (The ACTU recs are 1977, but inc in this 1978 publication). ACTU. (1978) "ACTU Executive Recommendations to 1977 Congress: Charter for Working Women", in *Women and Labour: Conference Papers*, ed. The Convenors, Women and Labour Conference, Sydney. (The ACTU recs are 1977, but inc in this 1978 publication).

¹⁴ Beyond Australia, the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women in 1979.¹⁴ Australia ratified CEDAW in 1980 - but with a reservation to section (11(2))¹⁴ which goes directly to governments' obligations to prevent discrimination on the grounds of pregnancy, maternity or marital status and to provide maternity leave with pay or comparable social benefits. (The reservation still stands.)

¹⁵ In 1968 the participation rate for women was 37.8 per cent, by 1978 it had increased to 44.4 per cent. ABS (1986) 'The Labour Force: Historical Summary, 1966 to 1984', ABS, Canberra. (In comparison, male participation rates decreased from 83 per cent in 1968 to 79.8 per cent in 1978 (ABS, 1986). This trend, of increasing female participation and decreasing male participation in the paid workforce, has continued – as we saw earlier.

¹⁶ Fuller, D. (1979) "To Work or Not to Work – The case of women", *Journal of Industrial Relations*, 21:3, 316-330 (p316)

¹⁷ Similar to M Heagney's analysis of the 1930s: Heagney, M. (1935), *Are Women Taking Men's Jobs?*, Hilton and Veitch, Melbourne

¹⁸ cited in Owen, M. (1978) "Notions About the Employment/Unemployment of Women", in *Women and Labour: Conference Papers*, ed. The Convenors, Women and Labour Conference, Sydney

¹⁹ Fuller, 1979, 317

²⁰ Acknowledge the artist

²¹ References – equal pay cases

²² NZ introduced 12 weeks PPL in 2002

²³ Baird M, Frino B and Williamson S, 'Bargaining for paid maternity and paternity leave: An analysis of current enterprise agreements in Australia', *Australian Bulletin of Labour*. (Forthcoming). For state sector employees it also took a long time for improvements to come, with one State government only introducing paid maternity leave for their own employees as late as 2002 (WA), and in the case of NSW only increasing it to 14 weeks from 9 weeks in 2005. (Include state legislation here relevant to where the speech is being given.)

²⁴ Human Rights and Equal Opportunity Commission (HREOC). (1999). *Pregnant and productive: It's a right not a privilege to work while pregnant*. Report of the National Pregnancy and Work Inquiry. Sydney: HREOC.

Human Rights and Equal Opportunity Commission (HEROC). (2002a). *Time to Value — Proposal for a national paid maternity leave scheme*. Sydney: HREOC.

Human Rights and Equal Opportunity Commission (HEROC). (2002b). *Valuing Parenthood, Options for Paid Maternity Leave: Interim Paper*. Sydney: HREOC.

²⁵ the NFAW survey, GetUp etc

²⁶ As per consultation doc; PC report

²⁷ Exact amount is \$9,788 (\$543.78 x 18).

²⁸ Baird M, Frino B and Williamson S 2009 ‘Bargaining for paid maternity and paternity leave: An analysis of current enterprise agreements in Australia’, *Australian Bulletin of Labour*, 35 (2). (Forthcoming)

²⁹ Whitehouse, G., Hosking, A. and Baird, M. 2008 ‘Returning too soon? Australian mothers’ satisfaction with maternity leave duration’, *Asia Pacific Journal of Human Resources*, vol.46 (3) 288-302.

³⁰ Ruhm, C. (2000). Parental leave and child health. *Journal of Health Economics*, 19, 931–960; Tanaka, S. (2005). Parental leave and child health across OECD countries. *The Economic Journal*, 115 (February), F7–F28; Tanaka, S., & Waldfogel, J. (2007). *Effects of parental leave and working hours on fathers involvement with their babies: Evidence from the UK Millennium Cohort Study*. Fathers, Work and Family Life [Special issue]. *Community, Work & Family*, 10(4), 409–426; Waldfogel, J., Wen-Jui Han, & Brooks-Gunn, J. (2002). The effects of early maternal employment on child cognitive development. *Demography*, 39(2), 369–392.

³¹ Moss, P., & O’Brien, M. (Eds.). (2006). *International review of leave policies and related research 2006*, Employment Relations Research Series No 57, Department of Trade and Industry, United Kingdom p27 (conclude this on the basis of an international review of primary and secondary data)

³² Whitehouse G, Hosking A and Baird M 2008 ‘Returning too soon? Australian mothers’ satisfaction with maternity leave duration’, *Asia Pacific Journal of Human Resources*, 46 (3) pp. 288-302.

³³ Baird M and Charlesworth S 2007 ‘After the Baby: A Qualitative Study of Working Time Arrangements Following Maternity Leave’, *Labour and Industry*, 17 (3) April 97-118.

³⁴ Callister, P. (2007). *Parental leave in New Zealand — 2005/2006 Evaluation*. New Zealand Department of Labour. Wellington; Evans, P. (2007). Comparative perspectives on changes to Canada’s paid parental leave: Implications for class and gender. *International Journal of Social Welfare*, 16(1), 119–128; Milkman, R. (in press). Class disparities, market fundamentalism and work-family policy: Lessons from California. In E. Olin Wright, J. Gornick & M. Meyers (Eds.), *Institutions for gender egalitarianism: Creating the conditions for egalitarian dual earner/dual caregiver families*. New York: Verso.

³⁵ WESKI data

³⁶ ATO

³⁷ This was also the aim of the Productivity Commission, to enable women to have up to 6 months paid leave.

³⁸ SC: Note the limits of these ‘rights’ - Sections 739 (2) and 740(2) of the *Fair Work Act* provide there can be **no determination** of whether an employer had reasonable business grounds for refusing a request, *unless* the employer has specifically consented in an enterprise or other agreement (and how likely this in female dominated industries even where EB?)

39

⁴⁰ Whitehouse G, Baird M and Diamond, 2006 C Highlights from The Parental Leave in Australia Survey, December. Available at <http://www.polsis.uq.edu.au/highlights-from-the-parental-leave-in-australia-survey-december-2006>

⁴¹ Fitzner, 2007

⁴² Himmelweit, S. (2007). The right to request flexible working: A ‘very British’ approach to gender (in)equality? *Australian Bulletin of Labour*, 33(2) p. 255.

⁴³ Himmelweit, 2005: 256

⁴⁴ Himmelweit, 2005: 258

⁴⁵ Goward P 2005 ‘Reforming the Policy Framework’, in P Grimshaw, J. Murphy and B. Probert (eds) *Double Shift: Working mothers and social change in Australia*, Melbourne Publishing Group, Melbourne, p179.

⁴⁶ Pocock –

⁴⁷ Whitehouse et al

⁴⁸ Cassells, R. Miranti, R. Nepal, B and Tanton, R (2009) *She works hard for the money: Australian women and the gender divide* AMP/NATSEM Income and Wealth Report, Issue 22

⁴⁹ Similar to the ‘grateful slaves’ concept outlined by Belinda Probert in an earlier CB lecture.

⁵⁰ Paradoxically, the recession has forced many employers and employees to seek alternative ways of working – can the lessons be extended beyond the recession?

⁵¹ Rapoport R and Rapoport R 1971, *Dual Career Families*, Penguin, Harmondsworth, Middlesex England

⁵² The stats don’t specify if this is full-time or part-time

⁵³ ABS Australian Social Trends, 4102.0, September 2009

⁵⁴ Department of Families, Housing, Community Services and Indigenous Affairs (

⁵⁵ Lambert PA 2008 ‘The Comparative Political Economy of Parental Leave and Child Care: Evidence from Twenty OECD Countries’, *Social Politics*, 15 (4) 315-44.