

COMMENTS

RED, WHITE, AND BLUE-COLLAR DADS: USING INTERNATIONAL EXAMPLES TO ESTABLISH A PAID FEDERAL PARENTAL LEAVE POLICY TO BENEFIT LOW-INCOME FATHERS IN THE UNITED STATES

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INTRODUCTION

Benji, an American waiter expecting his first child, worked at a restaurant that was too small to be covered by the Family Medical Leave Act (FMLA).¹ Even if it was covered by the FMLA, he would only be able to take unpaid time off.² Benji's girlfriend worked as a nanny and was also unable to get paid leave. Benji was "lucky" to have an employer who allowed him to call out last minute when his girlfriend went into labor and allowed Benji to get his shifts covered in the days after the birth of his child. Benji's employer also temporarily switched him to day shifts, so that he could care for his wife overnight.³ Although others might struggle with the idea of having no paid time off to be with their newborn, Benji recognized it could have been even harder for him if he had less helpful coworkers or a less understanding boss.⁴ In effect, United States (U.S.) law says that budgeting and saving money, combined with the possible generosity of coworkers and employers, are enough for working parents; however, blue-collar workers would likely disagree.

Currently, the United States is far behind the curve in providing paid parental leave. Worldwide, all but eight countries have laws ensuring that at least one parent receives some paid parental leave; the United States is one of the eight that does not.⁵ Ironically, considering

1. Lauren Hoffman, *Why These 6 Dads Didn't Take Paternity Leave*, COSMOPOLITAN (Sept. 3, 2015), <https://www.cosmopolitan.com/career/a45864/men-didnt-take-paternity-leave/>.

2. *Id.*

3. *Id.*

4. *Id.*

5. Press Release, UNICEF, 2 in 3 Infants Live in Countries Where Dads Are Not Entitled to a Single Day of Paid Paternity Leave (June 13, 2018), <https://www.unicef.org/press-releases/2-3-infants-live-countries-where-dads-are-not-entitled-single-day-paid-paternity>; Malaka Gharib, *Which Countries Guarantee That New Dads Get Paid Paternity Leave?*, NPR (June 14, 2018, 4:31 PM), <https://www.npr.org/sections/goatsandsoda/2018/06/14/619604235/which-countries-guarantee-that-new-dads-get-paid-paternity-leave> (listing the other countries without guaranteed leave: Suriname, Papua New Guinea, and five small island nations in the Pacific).

President Trump's condescending comments about the living conditions in Africa,⁶ lower-income countries such as Mauritius, Gambia, Rwanda, and the Democratic Republic of the Congo, all guarantee more paid paternity leave than the United States.⁷ This is true even for middle-income countries with high infant population rates like Brazil.⁸ Arguably then, population size and income levels are not insurmountable blockades to guaranteeing paid leave; so, why has the United States not done it?

The problem keeping many American parents from having access to paid leave is the United States' reliance on employers to address the issue, rather than changing the law. Currently, at the federal level, the FMLA only covers less than half of all workers.⁹ Paid parental leave policies are left primarily to states and private employers to provide, or not. Unlike Nordic countries, for example, the United States typically views parental leave as a job benefit, rather than a human right.¹⁰ Although employers in various industries are slowly adopting their own paid leave policies, those usually only reach white-collar employees.¹¹ Americans with lower incomes and less education have the least access to paid parental leave.¹² Unfortunately, without new, thoughtful federal legislation, blue-collar workers will have to continue enduring the day-

6. See Cara Anna, *Trump Speaks Out About Africa Again, and Many Cringe*, ASSOCIATED PRESS (Aug. 23, 2018), <https://apnews.com/574c854775264a9882220a0b281af2e7> (comparing certain African countries to filthy toilets).

7. Gharib, *supra* note 5.

8. *Id.*

9. Kelli K. Garcia, *The Gender Bind: Men as Inauthentic Caregivers*, 20 DUKE J. GENDER L. & POL'Y 1, 7 (2012).

10. See generally INT'L NETWORK ON LEAVE POLICIES & RESEARCH, 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 (Sonja Blum et al. Moss eds., 2018).

11. See COUNCIL OF ECON. ADVISERS, EXEC. OFFICE OF THE PRESIDENT, THE ECONOMICS OF PAID AND UNPAID LEAVE 12, 13 (2014), https://obamawhitehouse.archives.gov/sites/default/files/docs/leave_report_final.pdf.

12. See Chris M. Herbst, *How Do Parental Welfare Work Requirements Affect Children?*, 34 FOCUS 1, 6 (Spring 2018), <https://www.irp.wisc.edu/wp/wp-content/uploads/2018/06/foc341b.pdf>.

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to-day struggles created and/or exacerbated by a lack of access to paid parental leave.¹³

The solutions proposed in this Comment assume that a paid maternity leave policy would be enacted before, or concurrently with, a policy for fathers. In reviewing and evaluating different leave policies, it is important to understand two key terms and how they are used. “Paternity leave” typically refers to the short amount of time around childbirth where men take leave from work to be with and care for a new child, and in some cases, the child’s mother.¹⁴ “Parental leave” is typically a longer period and is available to both parents so that they can care for their children after the initial paternity or maternity period.¹⁵ These terms are sometimes used inconsistently or overlap across different countries, companies, and even research studies. Where the distinction is clear, this Comment will use the terms as set forth above. However, in many instances, “parental leave” will be used as a catch-all term.¹⁶ Where “paternity leave” is used, it should be understood to mean the short period of leave close to a child’s birth or adoption. Ultimately, this Comment proposes a recommendation that uses “parental leave” as an overarching term.

This Comment begins with an overview of the current state of parental leave in the United States in Part II, including the legal framework’s effect and the role of private employers. Next, in Part III, the Comment discusses the parental leave policies of Nordic countries and Israel, which have produced contrasting results in the success of

13. See generally Kate Harveston, *Where Are All of America’s Blue Collar Workers in 2019?*, INT’L POL’Y DIG., (Jan. 11, 2019), <https://intpolicydigest.org/2019/01/11/where-are-all-of-america-s-blue-collar-workers-in-2019/>. Blue-collar jobs are typically those in industries and fields such as “construction, maintenance and repair, agriculture, assembly and manufacturing, material and freight handling and a variety of other mid- and low-pay service-based roles, including food preparation, grounds keeping, personal care, home care, and others.” *Id.*

14. INT’L LABOUR ORG. [ILO], *MATERNITY AND PATERNITY AT WORK: LAW AND PRACTICE ACROSS THE WORLD* 51 (2014) [hereinafter ILO REPORT].

15. *Id.* at 60.

16. This Comment addresses a number of issues on the premise that the parents are a mother and a father. However, this will be done simply for clarity purposes only. Ultimately, this Comment’s recommendations are mindful of the fact that many families do not consist of a heterosexual man and woman, and laws and policies should reflect that.

their parental leave policies. Finally, in Part IV, this Comment discusses how certain aspects of those foreign policies should be adopted in the United States, and specifically, how they should be formulated to address the needs of blue-collar workers. Accordingly, the Comment considers the differences between the countries and the changes that should be addressed to make the system successful in America.

I. BACKGROUND

A. *Fathers Taking Leave Is Good for Everyone*

Unlike the United States, the rest of the industrialized world has recognized the importance of paid paternity leave.¹⁷ While skeptics may think offering fathers paid parental leave is about giving them a paid vacation, taking leave can actually benefit them, their families, their employers, and even society as a whole.¹⁸ However, many of those benefits will only be realized if the leave is paid.¹⁹

One of the most convincing arguments for offering fathers leave is the correlation between taking paternal leave and men's involvement in their child's long-term development, especially when they take at least two weeks of leave at the time of childbirth.²⁰ Those fathers are more likely to be involved in feeding, changing, bathing, and reading to their children than fathers who take no leave.²¹ Moreover, since mothers taking paid leave has led to "increased education levels, IQ, and income level in adulthood," the same could be expected when fathers take paid

17. See Emma Caspar, *Paid Parental Leave in the United States*, 34 FOCUS 1 (Spring 2018). More than 75% of the Organization for Economic Cooperation and Development (OECD) countries have policies granting paid paternity leave, and the United States is the only OECD country to not provide paid maternity leave. *Id.*

18. Natalie Bucciarelli Pedersen, *Is More Parental Leave Always Better?: An Analysis of Potential Employee Protections for Leave Offered Outside the FMLA*, 66 CLEV. ST. L. REV. 341, 348-50 (2018).

19. AMY RAUB ET AL., WORLD POLICY ANALYSIS CTR., PAID PARENTAL LEAVE: A DETAILED LOOK AT APPROACHES ACROSS OECD COUNTRIES 8 (2018).

20. Maria del Carmen Huerta et al., *Fathers' Leave, Fathers' Involvement and Child Development: Are They Related? Evidence from Four OECD Countries* 33 (OECD Social, Employment and Migration Working Papers, No. 140, 2013), <http://dx.doi.org/10.1787/5k4dlw9w6czq-en>.

21. See *id.* at 32, 33.

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leave.²² Additionally, evidence supports that paid leave could help reduce the existing education gap.²³ Further, a study found that men who took longer leave experienced actual changes in their brain, which improved their parenting.²⁴ Meanwhile, a lack of father-child interaction increases children's chances of developing issues, such as bad behavior, youth crime, unemployment, substance abuse, and poor academic performance.²⁵

Moreover, men taking parental leave is also beneficial to women.²⁶ For example, a father taking a longer leave can increase a mother's earnings by almost 7% and reduce her absence due to sickness days by 5-10%.²⁷ Taking leave also gives men the ability to be true co-parents, instead of merely helpers, thus increasing the likelihood of an equal division of work between the genders.²⁸ Men's increased ability to engage in parenting and home life helps combat the traditional presumption that because men are the breadwinners, they can ignore their parenting role.²⁹ A father's increased involvement and the breakdown of gender roles can lead to happier parents, which can positively affect child development and well-being.³⁰

Additionally, there are economic advantages to consider. Paid leave can be financially rewarding for society at large by "decreas[ing]

22. Pedersen, *supra* note 18, at 350; AEI-BROOKINGS WORKING GRP. ON PAID FAMILY LEAVE, PAID FAMILY AND MEDICAL LEAVE: AN ISSUE WHOSE TIME HAS COME 7 (2017) [hereinafter AEI-BROOKINGS].

23. Pedersen, *supra* note 18, at 350.

24. Rachel Gillet, *Prince Harry Will Reportedly Take Two Weeks of Paternity Leave – and Stacks of Research Suggest Paid Leave is a No-Brainer*, BUS. INSIDER S. AFR. (Mar. 19, 2019), <https://www.businessinsider.co.za/scientific-proof-paid-parental-leave-is-good-for-everyone>. See generally Eyal Abraham et al., *Father's Brain Is Sensitive to Childcare Experiences*, 111 PNAS 9792, 9792 (2014), <https://www.pnas.org/content/111/27/9792> (finding that heterosexual father's brain chemistry changes when men take on the traditional role of mothers).

25. Jennifer E. Karr, *Where's My Dad? A Feminist Approach to Incentivized Paternity Leave*, 28 HASTINGS WOMEN'S L.J. 225, 240 (2017).

26. See AEI-BROOKINGS, *supra* note 22, at 7 (arguing that parental leave improves gender equity by promoting the equal division of childcare).

27. BRAD HARRINGTON ET AL., BOS. COLL. CTR. FOR WORK & FAMILY, THE NEW DAD: TAKE YOUR LEAVE 3 (2014).

28. See ILO REPORT, *supra* note 14, at 51.

29. *Id.* at 52.

30. Huerta et al., *supra* note 20, at 40.

reliance (and thus spending) on public benefits programs”³¹ and promoting financial independence and stability for families.³² On the other hand, a lack of parental leave greatly impacts the health and education of children whose parents earn a low income and increases the need for social services.³³ It is important to note companies that offer paid leave report increased retention, loyalty, and productivity from their employees.³⁴ Although lengthy and well-paid leave policies may seem costly, their proven tendency to increase women’s participation in the workforce is a strong counterbalance.³⁵

Treating paternity leave as a secondary benefit minimalizes the positive effects it can have on families. There are many economic, health, and social benefits of fathers taking leave, which makes it illogical and unfair to deny it to so many people; however, our current system does exactly that.

B. Fathers Not Taking Leave Perpetuates Traditional Gender Roles

The lack of paid parental leave legislation is as much a cultural problem as it is an economic one. The, albeit stereotypical, traits of excessive pride and a “go-getter” attitude associated with American men are admirable, but those are outdated and divisive mindsets. Americans generally believe their individual success is a reflection of their own hard work and decision-making, which is part of the reason they view parental leave as a benefit associated with professional success (i.e., high-earners and white-collar workers).³⁶ Additionally,

31. Pedersen, *supra* note 18, at 351.

32. *Id.* at 350 (“The United States Department of Labor observed: Paid maternity leave can increase female labor force participation by making it easier for women to stay in the workplace after giving birth, which contributes to economic growth. When parents are better supported at work through paid family and medical leave, they are also less likely to rely on public assistance benefits.”).

33. Karr, *supra* note 25, at 239-40.

34. Pedersen, *supra* note 18, at 348-49.

35. *The Right to Fatherhood: Recommendations for a Parental Leave Policy Reform in Israel*, ISRAEL’S WOMEN NETWORK (Jan. 1, 2019), <http://iwn.org.il/the-right-to-fatherhood-recommendations-for-a-parental-leave-policy-reform-in-israel/> [hereinafter *Right to Fatherhood*].

36. See Lily Hall, *Unbinding Working Women in a “Binders-Full-of-Women” Nation: How the United States Can Learn from Swedish, Norwegian and Icelandic*

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Americans tend to believe men and women should play specific roles when it comes to career and family.³⁷ These detrimental beliefs have caused women to continuously fight to be viewed as equal workers, while men struggle to be viewed as equal caregivers and parents.³⁸

The major cultural challenge for getting workers to participate in a paid parental leave policy is traditional gender roles: men are the breadwinners, and women take care of the kids. Consequently, those beliefs suggest that even if men are granted access to leave, they may not necessarily utilize it.³⁹ Adhering to gender roles disregards what each individual human desires and dictates what they should want and what they are capable of.⁴⁰ This mindset has augmented the view of men as “inauthentic caregivers.”⁴¹ This term highlights how men are often viewed as incidental caretakers or babysitters and how they are praised as going above and beyond by merely playing an active role in the daily care of their children.⁴² This is problematic and even potentially discriminatory, especially when society asks men to prove they are involved because it “renders fatherhood secondary to motherhood and treats as natural, rather than culturally constructed, the notion that fathers are secondary caregivers.”⁴³ Ultimately, these roles are perpetuated by people’s opinion that mothers and fathers are not equally capable when it comes to parenting.⁴⁴

Success in Gender Pay Gap Legislation, 22 CARDOZO J. INT’L & COMP. L. 627, 651 (2014).

37. See Garcia, *supra* note 9, at 4-8.

38. See Karr, *supra* note 25, at 236.

39. Jody Heymann et al., *Paid Parental Leave and Family Wellbeing in the Sustainable Development Era*, 38 PUB. HEALTH REVS, 1, 7 (2017), <https://publichealthreviews.biomedcentral.com/articles/10.1186/s40985-017-0067-2>.

40. See Garcia, *supra* note 9, at 28.

41. *Id.* at 21.

42. See *id.* at 24.

43. *Id.*

44. See WENDY WANG, KIM PARKER & PAUL TAYLOR, BREAD WINNER MOMS 3 (2013), http://www.pewresearch.org/wp-content/uploads/sites/3/2013/05/Breadwinner_moms_final.pdf (“About half (51%) of survey respondents say that children are better off if a mother is home and doesn’t hold a job, while just 8% say the same about a father.”); see also Gretchen Livingston, *Growing Number of Dads Home with the Kids*, PEW RESEARCH CTR. (June 5, 2014), <http://www.pewsocialtrends.org/2014/06/05/growing-number-of-dads-home-with-the-kids/#fnref-19605-3> (reliable data only became available in 1989).

The cultural issue is not just about the view of men at home, it is about them at work as well. In the United States, fathers who take parental leave are viewed as less committed to their jobs than their co-workers, which negatively impacts their performance evaluations.⁴⁵ Thus, fathers who are fortunate enough to have paid leave may not take leave because they fear it will damage their careers.⁴⁶

In general, all men, regardless of their socioeconomic status, view caring for children as emasculating.⁴⁷ However, this notion has a greater effect on blue-collar men because they often have to justify even minor schedule changes or overtime refusals to their supervisors.⁴⁸ Further, blue-collar men's reluctance to ask for such accommodations shows how prioritizing parenting over work is not socially accepted.⁴⁹ Many men would rather be disciplined or fired than ask for time off or reduced schedules to care for their kids.⁵⁰ Fathers who are part of unions are especially reluctant to discuss their need for flexibility.⁵¹

45. Ifat Matzner-Heruti, *All You Need Is Leave? Rethinking the Concept of Paternity Leave*, 21 CARDOZO J.L. & GENDER 475, 482 (2015).

46. Huerta et al., *supra* note 20, at 23.

47. See Michael Agger, *Are Stay-at-Home Dads Less Manly?*, SLATE (Oct. 14, 2009), <https://slate.com/human-interest/2009/10/are-stay-at-home-dads-less-manly.html>.

48. See generally Lonnie Golden, *Comp Time Bills Off Target*, ECON. POLICY INST. (Apr. 17, 2003), https://www.epi.org/publication/briefingpapers_comp/ (stating labor law allows employers to offer the flexibility employee's need but companies do not use such laws).

49. See Jason Beaubien, *Stay-At-Home Dads Still Struggle with Diapers, Drool, Stigma and Isolation*, NPR (June 17, 2018), <https://www.npr.org/sections/health-shots/2018/06/17/619557786/stay-at-home-dads-still-struggle-with-diapers-drool-stigma-and-isolation> (explaining that even though there is a slight upward trend toward men as stay-at-home parents, there is still a stigma surrounding men as parents).

50. See generally Kathryn Tuggle, *Can Family Responsibilities Get You Fired?*, CBS NEWS (Sept. 3, 2014), <https://www.cbsnews.com/news/can-family-responsibilities-get-you-fired/> (explaining the fears of some parents regarding child care and how they are protected under federal law, including under the FMLA).

51. See, e.g., Lydia DePillis, *Do Workers Want 'Flexibility'? Depends on How You Define It.*, WASH. POST (Jan. 6, 2015), <https://www.washingtonpost.com/news/storyline/wp/2015/01/06/do-workers-want-flexibility-depends-on-how-you-define-it/> (discussing how flexibility in the Postal Service has been rejected by the union).

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Ultimately, despite clear evidence of how fathers and their families can benefit from paid parental leave, most fathers will not be able to experience it. Further, until more fathers are able to take leave and breakdown the damaging stigma labeling them as secondary parents, the situation is unlikely to improve.

II. THE CHALLENGE: AFFORD TO FEED THE KIDS OR RAISE THEM?

This part provides an overview of the current state of parental leave in the United States, specifically focusing on the impact the current system has on blue-collar fathers.

A. Current U.S. Law

Current U.S. law does little to nothing to ensure Americans are provided paid parental leave. At the federal level, regulations only address unpaid leave which do not apply to most workers.⁵² Some states have tried to address the issue by implementing their own paid leave policies, but only a few states have actually implemented them.⁵³

The primary source of work-family policy continues to be the well-intentioned, but arguably ineffective, Family Medical Leave Act.⁵⁴ Enacted in 1993, the FMLA provides eligible workers with the right to take up to twelve weeks of unpaid leave for the birth or adoption of a child, with a guarantee that they can hold the same position, or a similar one, when they return to work.⁵⁵ The Act was originally created to address the growing concern over the American families' need for a

52. See Garcia, *supra* note 9, at 6-7 (only 46% of U.S. workers are covered by the FMLA). See generally 29 U.S.C. § 2611 (2015).

53. See SARAH A. DONOVAN, CONG. RESEARCH SERV., PAID FAMILY LEAVE IN THE UNITED STATES 4 (2019), <https://fas.org/sgp/crs/misc/R44835.pdf>.

54. See generally Family and Medical Leave Act of 1993, Pub. L. No. 103-3, 107 Stat. 6 (1993) (codified at 29 U.S.C. §§ 2601- 2654 (2006)).

55. 29 U.S.C. § 2612(a) (2017). See AEI-BROOKINGS, *supra* note 22, at 3; 29 U.S.C. § 2611(2)(A) (2015) (to be eligible, employees must have been with that employer for the last twelve months and worked at least 1,250 hours during that time); see e.g., Pirant v. United States Postal Service, 542 F.3d 202, 207 (7th Cir. 2008) (holding that a postal worker could not claim FMLA coverage, despite being roughly one hour short of the 1,250 requirement).

second income, while caring for their children.⁵⁶ In its final version, Congress also hoped the FMLA would increase family stability, reduce sex-based discrimination, and promote gender equality in employment opportunities.⁵⁷ While proponents of the FMLA believed families needed support and that a federal family policy would help make a healthier society, critics believed the law unnecessarily allowed the government to intrude into private family-life.⁵⁸

Despite Congress' positive intentions, the FMLA has been justly criticized for being ineffective and flawed since its inception. Many parents cannot take advantage of the FMLA because they are ineligible; the FMLA applies to less than half of all workers.⁵⁹ Even for those who are lucky enough to be eligible, the job-protected leave only applies to "care for a newborn or adopted child within the first year or to care for a family member with a serious health condition."⁶⁰ In 2012, only 16% of the small eligible population used the FMLA,⁶¹ and only 21% of them used the leave to care for a new child.⁶² Moreover, two further indicators of this policy's ineffectiveness are the limited time frame and the exclusion of many situations where parents might need to take leave.⁶³

56. Natasha Bhushan, *Work-Family Policy in the United States*, 21 CORNELL J.L. & PUB. POL'Y 677, 686 (2012) ("Stagnant men's wages paired with high inflation rates starting in the 1970s and continuing into the early 1980s meant that both spouses had to participate in the workforce to maintain economic stability. Mothers who left the workforce put their families at increasingly greater risk of sinking below the middle class.").

57. *Id.* at 685.

58. *Id.* at 686-87.

59. See Garcia, *supra* note 9, at 6-7 (only 46% of U.S. workers are covered by the FMLA).

60. *Id.* at 7.

61. Gayle Kaufman & Shirley G. Gabel, *United States*, in 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 443, 447 (Sonja Blum et al. eds., 2018), https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/country_notes/2018/FINAL.US.2018.pdf (stating that it includes any covered reason for leave under the FMLA).

62. *Id.* ("[A]bout half took it for their own illness; 21 percent took it for reasons related to a new child; and the remainder took it to care for an ill family member (which could be a spouse or child).").

63. Garcia, *supra* note 9, at 6-7 (examples include not being able to get time off to take care of a sick child who is too sick for school but does not have a serious health condition or a parent attending a parent-teacher conference).

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Most significantly, many workers are discouraged from taking leave because it is unpaid.⁶⁴ Unsurprisingly, even if eligible, lower-income workers are unlikely to participate in unpaid leave policies.⁶⁵ Almost half of workers who were entitled to FMLA-covered leave reported that “lack of pay” stopped them from taking leave.⁶⁶ To avoid poverty, low-income families that take leave require at least 80% of their typical wages.⁶⁷ Evidence shows that many fathers would have taken longer leave if they were paid more and that workers who forewent leave chose not to take it because of economic reasons.⁶⁸ The various flaws highlight why American families are generally unwilling or unable to take parental leave under the FMLA.⁶⁹

Although states are able to enact family leave policies that exceed the minimum requirements of the FMLA, few have moved in the direction of paid family leave.⁷⁰ In 1993, when the FMLA was passed, nearly three-quarters of states had already enacted their own family leave policies.⁷¹ However, as of June 2019, only seven states—California, New Jersey, Rhode Island, New York, Washington, Massachusetts, and Connecticut—had active policies allowing parents to

64. *Id.* at 7.

65. ILO REPORT, *supra* note 14, at 67.

66. AEI-BROOKINGS, *supra* note 22, at 4; *Paternity Leave in the U.S.: How Much Do Dads Really Get?*, WHAT TO EXPECT (Reviewed Oct. 14, 2018), <https://www.whattoexpect.com/pregnancy/paternity-leave/> [hereinafter *Paternity Leave in the U.S.*] (“46 percent of people who do have access to FMLA leave don’t take it because they can’t afford to . . . 86 percent of dads say they wouldn’t take parental leave unless they were paid at least 70 percent of their salaries.”).

67. RAUB ET AL., *supra* note 19, at 8. *See also* HARRINGTON ET AL., *supra* note 27, at 14 (one study found most men needed 70% of their normal earnings, as a minimum, for them to want to take leave, but 45% of those surveyed said they would need 100% to take leave).

68. U.S. DEP’T OF LABOR, DOL POLICY BRIEF: PATERNITY LEAVE: WHY PARENTAL LEAVE FOR FATHERS IS SO IMPORTANT FOR WORKING FAMILIES 3 (2015).

69. Kaufman & Gabel, *supra* note 61, at 447 (“[S]tudies have found it has had generally small effects on mothers’ likelihood of taking time off from work at childbirth and little or no effects on time off by new fathers.”).

70. 29 U.S.C. § 2651(b) (2006) (nothing in the FMLA supersedes state or local laws providing greater rights related to family or medical leave).

71. Bhushan, *supra* note 56, at 686 (as of 1993, thirty-five states had family leave policies).

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take paid leave.⁷² California has seen relative success with its comprehensive paid leave policy that provides six weeks of leave with a pay of about 50% of weekly earnings, with a minimum and maximum set by a state formula.⁷³ More than 1.5 million workers took paid leave under California's policy between 2002 and 2014.⁷⁴

Overall, U.S. law does little to provide parents with paid parental leave. Like how America deals with other issues, it mostly leaves parental leave for the market to address, rather than strictly regulating it. Over one hundred million American workers do not have access to paid leave, and almost half of workers who are eligible for unpaid leave under the FMLA forego leave because it would pose a financial hardship.⁷⁵

B. Leaving It to Private Employers

Even though companies do better than the government in providing parental leave, employers treat parental leave as a benefit for elite workers, rather than a right for everyone.⁷⁶ Without any standard paid parental leave policy for companies to follow, only some employers have decided to offer paid parental leave.⁷⁷ Although the number is increasing, only 12% of Americans who work in the private sector

72. NAT'L P'SHIP FOR WOMEN AND FAMILIES, STATE PAID FAMILY AND MEDICAL LEAVE INSURANCE LAWS 2 (2019), <http://www.nationalpartnership.org/our-work/resources/workplace/paid-leave/state-paid-family-leave-laws.pdf> (the District of Columbia also has a paid leave policy).

73. Jake Grovum, *Paid Family Leave Hits a Snag in States*, USA TODAY (Apr. 17, 2014), <https://www.usatoday.com/story/news/nation/2014/04/17/stateline-paid-family-leave/7816837/> (as of 2014, there was a maximum pay limit of \$1,075 per week).

74. *Id.* This Comment will focus on the federal system in comparison to other countries, and therefore, due to space limitations for publication, will not review the particular aspects of those state policies.

75. Sam Vickars & Michael Hester, *What's the Deal with Parental Leave in America?*, THE DATA FACE, <http://thedataface.com/2018/03/economy/parental-leave#scroll-location> (last visited Aug. 15, 2019).

76. See James Dennin, *Paid Parental Leave: More Americans Are Getting It, but Not the Ones Who Need It Most*, MIC (Aug. 2, 2016), <https://mic.com/articles/150386/best-industries-paid-leave-paid-time-off-maternity-leave-paternity-leave-netflix-etsy#.hw9taT8en>.

77. See Vickars & Hester, *supra* note 75.

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receive paid family leave through their employer.⁷⁸ Roughly 15-20% of U.S. companies offer paid paternity leave, usually for one to two weeks.⁷⁹ Further, the country's largest employers that provide paid leave are more likely to provide it to mothers than fathers, and they provide it to more salaried mothers than hourly ones.⁸⁰ Highly paid salaried mothers in white-collar jobs are also more likely to receive their normal earnings, while hourly mothers usually receive only a portion of their typical wages.⁸¹ Of the companies that offer paid leave for fathers, the less generous companies only give about five weeks.⁸² Table 1, below, shows the amount of paid leave that the largest U.S. employers offer.⁸³

Access to paid leave is significantly related to the level of pay offered in a particular industry.⁸⁴ Companies who employ high-skilled individuals use paid leave as a recruitment tool.⁸⁵ Technology and web companies tend to be at the forefront of this practice, with companies like Netflix, Amazon, Facebook, Google, Microsoft, Apple, and YouTube offering comprehensive paid leave policies ranging from twelve weeks to twelve months.⁸⁶ Large legal and financial industry employers also follow this practice; they commonly offer paid parental leave plans to attract and retain their talent.⁸⁷

While it is commendable that some large, multi-billion-dollar corporations reward their employees with the ability to spend time with

78. Pedersen, *supra* note 18, at 349; U.S. DEP'T OF LABOR, DOL FACTSHEET: PAID FAMILY AND MEDICAL LEAVE (2015), https://www.dol.gov/wb/resources/paid_leave_fact_sheet.pdf.

79. HARRINGTON ET AL., *supra* note 27, at 21.

80. *See id.* at 2, 7.

81. *See, e.g.*, Michelle Cheng, *Target Is Expanding Parental Leave, Including for Hourly and Part-Time Workers*, QUARTZ AT WORK (June 10, 2019), <https://qz.com/work/1640142/target-expands-parental-leave-and-other-benefits-for-hourly-and-part-time-workers/> ("Historically, the availability of paid family leave has been skewed toward high-paid workers in white-collar jobs.").

82. Vickars and Hester, *supra* note 75 (in contrast, companies on the high end of the spectrum offer twenty weeks).

83. *See infra* Table 1.

84. COUNCIL OF ECON. ADVISERS, *supra* note 11, at 13.

85. AEI-BROOKINGS, *supra* note 22, at 11.

86. Pedersen, *supra* note 18, at 345-47, 365; Dennin, *supra* note 76.

87. Pedersen, *supra* note 18, at 365.

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their newborn children, the government's reliance on these private employers has left most Americans, particularly blue-collar workers, without access to paid leave. According to the Department of Labor, as of 2015, "less than 10% of U.S. service, manufacturing, farming or construction workers get paid family time off;" in contrast, that number is 30% for those in the technology industry.⁸⁸ Similarly, nearly 80% of people working in the public administration or finance industries have access to paid leave, yet less than one-quarter of hospitality and leisure industry employees receive that benefit.⁸⁹ The difference in access to parental leave benefits is not based on industry alone; workers in lower-wage and/or hourly positions are also less likely to have access to paid leave than their salaried or high-income counterparts in the same field.⁹⁰

Beyond pay and access to leave, companies have also failed to address work-culture issues associated with parental leave. Employees who are not on leave have been found to resent their leave-taking colleagues because of the extra work they get stuck with, especially if it is assumed there is not any pay increase for doing so.⁹¹ Also, employees may feel overworked when they have to assume additional responsibilities because their co-worker took leave.⁹² Consequently, those employees may also feel as though they have less work flexibility than those who decided to have children and take leave.⁹³ Thus, parents are less inclined to take leave at companies where doing so is not a norm and where it may garner their coworkers' resentment.

88. Denmin, *supra* note 76.

89. AEI-BROOKINGS, *supra* note 22, at 10-11.

90. *See id.*

91. Garcia, *supra* note 9, at 40-41.

92. *Id.* at 41.

93. *Id.*

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TABLE 1: WEEKS OF PAID PARENTAL LEAVE OFFERED BY THE 20 LARGEST U.S. EMPLOYERS⁹⁴

Company	Salaried Workers		Hourly Workers	
	Birth mother	Other Parent	Birth Mother	Other Parent
IBM	20	12	20	12
Starbucks	18	12	6	6
Walmart	16	6	16	6
Wells Fargo	16 For primary parents, regardless of gender	4 For nonprimary parents	16 For primary parents, regardless of gender	4 For nonprimary parents
JP Morgan Chase	16 For primary parents, regardless of gender	2 For nonprimary parents	16 For primary parents, regardless of gender	2 For nonprimary parents
Amazon	14 Includes 4 weeks prepartum	6	14 Includes 4 weeks prepartum	6
McDonald's	12 Also applies to some hourly corporate employees	2 Adoptive primary caregivers receive more	0 Depends on franchisee policies	0 Depends on franchisee policies
General Electric	12	6	0	0
Kroger	10 Also applies to nonunion hourly employees	2 Also applies to nonunion hourly employees	0 - 6 At 2/3 pay up to a max.; depends on bargaining agreements	0
PepsiCo	10	4	10	4
Target	8	2	8	2
AT&T	8	2	6 - 8 Depends on collective bargaining agreements	6 - 8 Depends on collective bargaining agreements
Walgreens	6 100% pay	0	6 2 weeks 100% pay, 4 weeks 50% pay	0
Home Depot	6 100% from company disability contributions	0	6 60% pay from employee disability contributions	0
Albertsons	6	0	6 Depends on collective bargaining agreements	0
TJX	6 4 weeks 100% pay, 2 weeks 60% pay	0	6 60% pay	0
FedEx	6 For FedEx Express, the largest operating company	0	6 For FedEx Express, the largest operating company	0
UPS	6	0	0	0
Lowe's	0	0	0	0

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C. The Forgotten Group: Blue-Collar Dads

The law's failure and employers' unwillingness to self-regulate have left most blue-collar fathers without access to paid parental leave. Although 63% of kids are raised in a house where both parents work,⁹⁵ only about 13% of Americans are offered paid family leave.⁹⁶ Unfortunately, paid leave is far less common amongst blue-collar workers, and only 5% of part-time employees have access to paid leave.⁹⁷

A lack of statutory paid parental leave perpetuates the disadvantages of income inequality whereby more advantaged fathers are able to take paid leave than less advantaged ones.⁹⁸ For example, one survey found 16% of employees were unable to take leave when they needed to, and "were more likely to be low earners, . . . women, black, Hispanic or without a college degree."⁹⁹ In fact, minorities, those less-educated, and part-time workers are less likely to be offered any type of paid leave.¹⁰⁰ Consequently, better-educated fathers are more involved in raising their children than less-educated fathers.¹⁰¹ It is not because better-educated fathers care more but because their education increased the likelihood that they will have jobs which make it easier to take time off, especially when their children are born.¹⁰²

Employers have argued it is harder to implement a large-scale paid leave policy for blue-collar positions than it is for white-collar

94. Claire Cain Miller, *Walmart and Now Starbucks: Why More Big Companies Are Offering Paid Family Leave*, N.Y. TIMES (Jan. 24, 2018), <https://www.nytimes.com/2018/01/24/upshot/parental-leave-company-policy-salaried-hourly-gap.html>.

95. AEI-Brookings, *supra* note 22, at 4-5.

96. *Paternity Leave in the U.S.*, *supra* note 66. Although one could argue Americans are working less and thus should have more time to take care of children, many American families rely on multiple part-time jobs.

97. *Id.*

98. IW Staff, *Fathers Not Taking Advantage of Parental Leave*, INDUSTRY WEEK (Apr. 23, 2018), <https://www.industryweek.com/talent/fathers-not-taking-advantage-parental-leave>.

99. Miller, *supra* note 94.

100. AEI-BROOKINGS, *supra* note 22, at 10.

101. Huerta et al., *supra* note 20, at 23.

102. *Id.*

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positions.¹⁰³ For example, in manufacturing or construction industries a worker's physical presence is vital, thus it can be costly for employers to provide flexible work schedules.¹⁰⁴ However, the leisure and hospitality industries illustrate that an employer's ability to offer flexibility still does not guarantee access to paid leave.¹⁰⁵ Despite these arguments and alleged obstacles, employers in most industries, would likely find a way to provide flexible work schedules if the law required them to do so.

Accessing leave is not the only problem blue-collar fathers face; there is also a cultural blockade when it comes to them utilizing the leave. Specifically, in blue-collar professions, men "are far less likely than women to tell their employers that they need to take time off or to refuse mandatory overtime for caregiving reasons, even when the caregiving reason provides a valid excuse."¹⁰⁶ Fathers in hourly positions reported feeling less supported by their managers and work place culture when it comes to taking leave; thus, they were less likely to take time off compared to salaried workers.¹⁰⁷

In sum, the FMLA's unpaid leave is ineffective in helping low-earning fathers that want to care for their children. Further, most employers have failed to provide these workers with any additional parental leave benefits. Without any progress toward wide-spread access to parental leave, blue-collar families will continue to be sidelined.

III. GUIDANCE FROM INTERNATIONAL EXAMPLES

If the United States wants to implement its own paid leave regulation, it should first look to other countries' approaches. As of

103. Although there may be many problems with employing a large-scale paid leave policy, such as funding the program, this section will only focus on the flexibility problem.

104. COUNCIL OF ECON. ADVISERS, *supra* note 11, at 13.

105. *Id.*; see generally Garcia, *supra* note 9, at 32 ("According to one study, one-third of working class men and women did not have the choice of when to take breaks, and sixty-two percent could not choose their starting and quitting times. Among those who could choose starting and quitting times, half could not change those times and fifty-three percent could not take time off to care for a sick child.").

106. Garcia, *supra* note 9, at 33.

107. HARRINGTON ET AL., *supra* note 27, at 7.

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2014, seventy-nine countries offered some form of paternity leave entitlement, and seventy-one countries provided a form of paid paternity leave.¹⁰⁸ While not every country guarantees four paid months of leave, which the European Union (EU) recommends, there is an increasing trend in “gender-inclusive policies” of paid entitlement.¹⁰⁹ While the Nordic countries lead the movement toward paid leave, setting the example with their policies, other countries, like Israel, have not been as successful. The following section reviews the policies both regions have implemented to ascertain recommendations for the United States.

A. Leading the Way: Success in the Nordic Countries

Regarding parental leave, the Nordic countries are often considered leaders.¹¹⁰ All of the Nordic countries have statutory parental leave policies that guarantee time off for fathers.¹¹¹ They have designed their policies with the ultimate goal that fathers actually utilize this guaranteed paid leave.¹¹² In addition to the general advantages of parental leave expressed above,¹¹³ these countries have experienced benefits ranging from increased exam scores for children, to decreased risk of death for fathers.¹¹⁴ Further, on a societal level, these countries have reported a change in the perception of stereotypical gender roles,

108. ILO REPORT, *supra* note 14, at 52, 57.

109. *Id.* at 63.

110. Nabanita Datta Gupta et al., *Child Care and Parental Leave in the Nordic Countries: A Model to Aspire to?*, IZA 2 (IZA Discussion Paper No. 2014, 2006). The Nordic countries are Finland, Iceland, Denmark, Norway, and Sweden. “Scandinavian” refers only to Denmark, Norway, and Sweden. Terri Mapes, *The Difference Between Scandinavian and Nordic*, TRIPSAVVY (Apr. 12, 2019), <https://www.tripsavvy.com/difference-between-scandinavian-and-nordic-1626695>.

111. *See* INT’L NETWORK ON LEAVE POLICIES & RESEARCH, *supra* note 10, at 12.

112. Karr, *supra* note 25, at 243-45.

113. *See supra* notes 19-35 and accompanying text.

114. Karr, *supra* note 25, at 246 (stating Norway reported increased exam scores for children of “educated fathers” who took leave and Sweden reported fathers who took leave saw their risk of death decrease by sixteen percent).

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which has occurred merely from offering the leave, regardless of whether fathers feel encouraged to actually take it.¹¹⁵

Although parental leave policies in this region are regarded as successful, they have varying features. Parental leave policies vary on four main aspects: length, entitlement (or transferability), pay, and flexibility.¹¹⁶ This section will compare these aspects of those policies.¹¹⁷

1. Long Leave Periods

Contrary to what most Americans experience, most fathers in Nordic countries are generally afforded a lengthy amount of paid leave. Most Nordic countries provide fathers with a period of time off at or around the birth or adoption of a child and a separate, longer period of leave in the following weeks and months of that date.¹¹⁸ At child birth, the Scandinavian countries each provide roughly two weeks of leave, and Finland provides nine weeks.¹¹⁹ While Iceland does not specify how much time off fathers may take at the time of their child's birth, it provides three months to be utilized within twenty-four months from that date.¹²⁰

The additional, longer leave period available for either parent to take varies greatly in each country. Generally, during this period, the Nordic countries offer a specific number of days for each parent to take, as well as some days for them to divide up as they see fit.¹²¹ In addition to the ten days provided at childbirth, Sweden guarantees fathers at least

115. Morgan Somerset, *Norway or the Highway: Closing the Participation Gap in the United Kingdom's Labor Force Using Nordic Models of Success*, 50 GEO. WASH. INT'L L. REV. 389, 408 (2018).

116. INT'L NETWORK ON LEAVE POLICIES & RESEARCH, *supra* note 10, at 16 (not including additional childcare leave).

117. This Comment will not focus on or discuss all of the unpaid leave options these countries offer.

118. See INT'L NETWORK ON LEAVE POLICIES & RESEARCH, *supra* note 10, at 219, 225, 243, 257.

119. See, e.g., *id.* at 154, 198, 205, 314.

120. GUÐNÝ BJÖRK EYDAL & INGÓLFUR V. GÍSLASON, *Iceland*, in 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 205, 206 (Sonja Blum et al. eds., 2018) [hereinafter *Iceland*].

121. See INT'L NETWORK ON LEAVE POLICIES & RESEARCH, *supra* note 10, at 12.

another ninety days, while Norwegian fathers have an additional ten weeks available to them.¹²² In 2013, 88% of Swedish fathers took an average leave of ninety-one days.¹²³ In 2015, over 80% of Icelandic fathers utilized their leave, at an average length of eighty-eight days.¹²⁴

The Danish and Finnish policies differ from the other Nordic countries when it comes to the longer, post-birth period of leave they offer fathers. For example, Denmark does not allocate parental leave periods based on sex; rather, it provides families with a total of thirty-two weeks of paid leave for them to divide at their discretion.¹²⁵ On the other hand, Finland follows a similar approach to Denmark, but provides families with 158 working days of paid leave to share.¹²⁶ Significantly, however, Finnish fathers' paternity leave period, at nine weeks, is roughly seven weeks longer than that of Danish fathers.¹²⁷ Still, one-fifth of Finnish fathers do not participate in either phase of leave, most likely because of their work situation, need for money, or lack of employment.¹²⁸

2. *Restricted Transferability*

Fathers in the Nordic countries are given a non-transferrable portion of leave that will be lost if they elect not to utilize it. While the option for men to have parental leave encourages gender equality, it is only good if men actually take advantage of it, and they will not do that if they are forced to share their leave period with mothers.¹²⁹ This is

122. *Id.*

123. *Paternity Leave in the U.S.*, *supra* note 66.

124. *Iceland*, *supra* note 120, at 210.

125. LOTTE BLOKSGAARD & TINE ROSTGAARD, *Denmark*, in 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 133, 136 (Sonja Blum et al. eds., 2018) [hereinafter *Denmark*] (stating that for paternity leave a father can take two weeks to be used right after birth for unemployed fathers and within fourteen weeks of birth for those employed fathers).

126. MINNA SALMI, JOHANNA NÄRVI & JOHANNA LAMMI-TASKULA, *Finland*, in 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 152, 155 (Sonja Blum et al. eds., 2018) [hereinafter *Finland*] (contrasting with Denmark's approach, Finland's shared days must be taken after the end of maternity leave).

127. *Id.* at 154.

128. *Id.* at 160.

129. ILO REPORT, *supra* note 14, at 61.

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what happens for Danish fathers, who of all Scandinavian fathers, are the least likely to take paternity leave.¹³⁰ In Denmark, when both parents take some portion of the leave, fathers typically just take two weeks and let the mothers take the remainder of the thirty-two weeks of sharable parental leave.¹³¹ In Finland, men also participate in the parental leave period at a relatively low rate, with only 5% of dads taking leave, and, on average, for only twenty-seven days.¹³²

A number of countries have quickly realized, however, that having a system that lets parents split the leave period up as they wish, although beneficial in some ways, results in women taking a majority of the time.¹³³ To combat this problem, “fathers’ quotas” were introduced in Iceland, Norway, and Sweden to ensure both parents are participating in the leave period at a more balanced ratio.¹³⁴ The quotas prevent fathers from transferring their time to mothers.¹³⁵ Seeing the success of this model, a recent EU directive recommended that parental leave should “be granted on a non-transferable basis” to promote equal treatment and opportunities for both sexes.¹³⁶ For example, even though women in Sweden still take an overwhelming percentage of the total shared leave period, fathers continue to take an increasing amount of this time each year.¹³⁷

130. *Denmark*, *supra* note 125, at 140-41 (illustrating that introducing a “father quota” had a clear effect on fathers taking leave).

131. *Id.* at 142 (stating a mother takes a total of forty-six weeks, fourteen from maternity and thirty-two of shared weeks).

132. *Finland*, *supra* note 126, at 160-61.

133. ILO REPORT, *supra* note 14, at 62 (the report stated that Sweden was the first country to grant men and women equal access to paid parental leave in 1974; however, few men took parental leave, so, in 1995, Sweden introduced a non-transferable “daddy’s month” and extended this leave to two months in 2002, with pay at 80% of income. Norway also has a non-transferable leave period of fourteen weeks to encourage men’s take-up of childcare responsibilities.).

134. *Id.* at 67.

135. *Id.* at 62.

136. *Id.*

137. ANN-ZOFIE DUVANDER & LINDA HAAS, *Sweden*, in 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 401, 407 (Sonja Blum et al. eds., 2018), https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/country_notes/2018/FINAL.Sweden2018.pdf [hereinafter *Sweden*] (“Fathers of children born in 2008 took on average 106 days of Parental leave during the eight years they could use the leave, while mothers took 342 days (76

Although Denmark's previous quota requirement saw an uptake of leave triple among fathers, the quota was later removed when other changes were made to the country's policy.¹³⁸ While some labor unions ultimately adopted their own quotas, the number of leave days taken by fathers continued to increase overall.¹³⁹ This upward trend was likely due to a cultural shift regarding men as caregivers, which occurred after introducing the original quotas.¹⁴⁰ Even without the statutory quotas, over 80% of Danish fathers take some parental leave, further supporting the notion that fathers want to take leave.¹⁴¹ However, quotas are still helpful in keeping fathers from taking too little of the shared leave period, which they may feel pressured to do because leave is not always paid at 100% of normal earnings, and men typically earn more than women.¹⁴²

3. High Pay

Just as length and sharable time differ among the Nordic countries, each policy pays differently. In Norway, couples will receive 100% or 80% of their wages depending on whether they take forty-nine or fifty-nine weeks, respectively.¹⁴³ Icelandic fathers receive three months of leave with 80% of their normal pay.¹⁴⁴ Sweden's policy requires 195

percent).”). *But see Iceland, supra* note 120, at 210 (noting that in 2015, Iceland saw a decrease by about twelve less days taken by dads on average; however, this is believed to be due to “severe cuts in economic compensation” in the years following the economic crisis).

138. *Denmark, supra* note 125, at 141 (stating that there was a slight decrease in participation after the change followed by a later increase).

139. *Id.*

140. *Id.*

141. The data is as of 2014. *Id.* at 142.

142. *See Norway's “Daddy Quota” Means 90% of Fathers Take Parental Leave*, APOLITICAL (Sep. 17, 2018), https://apolitical.co/solution_article/norways-daddy-quota-means-90-of-fathers-take-parental-leave/ [hereinafter *Daddy Quota*] (stating that because men usually earn a higher salary, pay is another reason for not taking leave).

143. BERIT BRANDTH & ELIN KVANDE, *Norway*, in 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 313, 315 (Sonja Blum et al. eds., 2018) [hereinafter *Norway*].

144. *Iceland, supra* note 120, at 207 (explaining Iceland has a ceiling of roughly (ISK520,000) \$4,266.84, per month. Wages are based on the twelve months prior to

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days to be paid at 77.6% of typical earnings and the remaining forty-five days at a flat-rate of SEK180 per day.¹⁴⁵ Finland provides nine weeks of paid leave at 70% of earnings.¹⁴⁶

Paying fathers close to their normal earning increases the likelihood that they will take-up leave.¹⁴⁷ In Sweden, many employers in both the private and the public sectors pay a greater percentage than what is required by law.¹⁴⁸ Further, for Americans who think paid leave is unattainable because of the burden on small-business owners, Sweden is dominated by small businesses, yet they are able to offer well-paid leave.¹⁴⁹

4. Plenty of Flexibility

It is easy to underestimate how important flexibility options are in a parental leave policy, but the Nordic countries each provide some unique options allowing parents to customize how they take their leave. The most common flexibility options relate to timing.

One popular option is to allow leave to be divided into multiple segments or taken continuously. This option has been well received in Iceland, but workers still need to negotiate with employers exactly how the leave will be divided.¹⁵⁰ In 2015, roughly two-thirds of Icelandic fathers broke their leave into multiple parts, rather than one

six months before birth. This accounts for a conversion of 1 ISK to 0.0082 USD on March 26, 2019).

145. *Sweden, supra* note 137, at 403. SEK refers to the Swedish currency, *Krona*; at present value as of August 19, 2019, 180 SEK converts to \$18.62.24 USD.

146. *Finland, supra* note 126, at 154 (stating this rate applies to those with salaries of €10,563 to €37,167 and that the percentage of pay decreases as salary increases).

147. *Karr, supra* note 25, at 258.

148. *Sweden, supra* note 137, at 404 (“Additional Parental leave pay (föräldralön) has been negotiated in collective bargaining agreements in the public sector and is commonplace in the private sector. A common collective agreement is that the employer pays ten percent extra under the ceiling (i.e., workers receive 90 percent of earnings) or up to 90 percent of income above the ceiling.”).

149. Annie Pelletier, *The Family Medical Leave Act of 1993—Why Does Parental Leave in the United States Fall So Far Behind Europe?*, 42 GONZ. L. REV. 547, 574-75 (2006/2007).

150. *Iceland, supra* note 120, at 207.

uninterrupted stretch.¹⁵¹ Allowing for leave to be taken in multiple segments has also worked in Sweden, where men typically wait until their children are between one and three years old before they take the majority of their leave.¹⁵² Similarly, another option in Sweden is to allow a reduced work schedule, which lets parents return to work “full-time, half-time, quarter-time or one-eighth time with the length of leave extended accordingly (e.g. one day of full-time leave becomes two days of half-time leave and four days of quarter-time leave).”¹⁵³

Norway also provides flexibility in the amount of time a parent may take, depending on what percentage of pay they would like to receive each week; a parent may take either forty-six or fifty-six weeks of paid leave after their child is born, plus three weeks before the birth.¹⁵⁴ Ten of those weeks are reserved for the mother and ten for the father; either parent may use the remaining twenty-six or thirty-six weeks.¹⁵⁵ Also, if the parents live separately, the law allows another relative, aside from the father, to use the available paternity leave.¹⁵⁶ While that time is not necessarily paid, it may provide the needed job security to allow for grandparents, or other relatives, to assist mothers.¹⁵⁷

However, there are some limitations on flexibility that are necessary to appease employers and to prevent abuse of these policies. For example, Swedish parents cannot continue working while on leave, even if leave is unpaid, unless “they are taking the leave part-time.”¹⁵⁸ If taking leave at the same time, parents may only do so before their child turns one, for up to thirty days and by using their shared days, rather than their respective quota days, during that time.¹⁵⁹ In contrast, Finland does not allow parents to concurrently take leave.¹⁶⁰

Overall, the Nordic countries have been at the forefront of designing fair and effective parental leave policies which feature long

151. *Id.* at 210.

152. *Sweden, supra* note 137, at 406.

153. *Id.* at 403.

154. *Norway, supra* note 143, at 315-16.

155. *Id.* at 315 (stating these weeks are the post-natal portions of leave).

156. *Id.*

157. *Id.* at 314-15.

158. *Sweden, supra* note 137, at 403.

159. *Id.* (explaining these days are called “double days”).

160. *Finland, supra* note 126, at 155.

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leave periods, high pay, and various options to support flexibility. Despite these robust leave policies, the Nordic countries recognize that “very low-income men are less likely to take leave, as are some immigrants, men with only a basic level of education, and those who were self-employed or working for businesses with fewer than five or fewer employees.”¹⁶¹ Therefore, although Nordic policies are not perfect, if the United States adopted even one feature of any Nordic leave policy, it would be an improvement from the FMLA.

B. A Cautionary Tale: Israel’s Lackluster Leave Policy

If the United States chooses to look at Nordic countries as success stories, Israel can be seen as a cautionary tale. Despite their legal ability to do so, most fathers in Israel do not utilize the country’s leave policy.¹⁶² In 2011, Israel’s National Insurance Institute found that only 364 fathers took paternity leave.¹⁶³ Paternity leave usage has never surpassed “a third of a percent in comparison with birth leaves taken by women.”¹⁶⁴ Recently, there have been numerous scholarly and political efforts to improve the policy because it is so ineffective at pushing fathers to participate in leave.¹⁶⁵

The flaws of Israel’s policy are best examined in two categories: (1) the general features and design of the policy and (2) the problem of traditional gender roles. The following section reviews the policy’s shortcomings in each of these areas.

I. A Flawed Design

The design flaws in Israel’s paternity leave policy are evident when examining the same characteristics used above: length, transferability, pay, and flexibility. In addition to these characteristics, it is important to consider eligibility requirements under Israel’s policy.

First, the length of time offered is not enough to make the leave beneficial to families. Similar to some of the Nordic countries, Israel

161. *Daddy Quota*, *supra* note 142.

162. Matzner-Heruti, *supra* note 45, at 479.

163. *Id.*

164. *Id.*

165. *Right to Fatherhood*, *supra* note 35 (arguing Israel’s policy is flawed, primarily due to the lack of non-transferrable time for fathers and low compensation).

distinguishes between an initial period of leave and a later, longer period of leave.¹⁶⁶ For the first period, a father may begin leave when his spouse goes into labor and then may continue the leave for six calendar days following the birth.¹⁶⁷ Fathers may also take up to one year of unpaid leave.¹⁶⁸ Whether they can even take part in the parental leave portion depends upon whether the mother wants to give up some of her leave.¹⁶⁹

Unsurprisingly, the biggest flaw in Israel's policy is how it addresses transferability of leave days between mothers and fathers. Israel grants mothers fifteen weeks of paid leave, the first six of which they must take themselves.¹⁷⁰ If mothers would like to transfer some of this time to fathers, they may, but it must be at least three weeks.¹⁷¹ Even if fathers used only the required three weeks, mothers would only receive eleven weeks, from the remaining of the fourteen minimum weeks of paid leave, and would have to return to work once fathers start their leave.¹⁷² It is not a good practice to base a father's ability to take leave on whether he can take it away from the mother. This practice also perpetuates the idea that a father's time with his children is less important than a mother's time.

The amount of pay fathers can receive while on leave also contributes to why they forego it. The first day of the father's leave, which is the day after birth, is unpaid.¹⁷³ The last two days of the initial six days of leave are paid at 50% of normal pay, and the middle three

166. NADEV PEREZ-VAISVIDOVSKY, *Israel*, in 14TH INTERNATIONAL REVIEW OF LEAVE POLICIES AND RELATED RESEARCH 2018 218 (Sonja Blum et al. eds., 2018), https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/country_notes/2018/FINAL.Israel2018.pdf [hereinafter *Israel*].

167. *Id.* at 219 ("Fathers that have not accumulated enough sickness leave or annual leave days are not entitled to this leave.").

168. *Id.* at 219-20.

169. See *Right to Fatherhood*, *supra* note 35; see also *Israel*, *supra* note 166, at 218-20. Mothers receive twenty-six weeks of maternity leave, up to six of which they can use prior to birth. However, mothers are legally obligated to take the first fourteen weeks off after childbirth, and only the first fifteen weeks are paid. *Id.*

170. *Israel*, *supra* note 166, at 219.

171. *Id.*

172. *Id.* at 218-19 (explaining mothers can stay on leave at the same time as fathers but only for one of the transferred weeks).

173. *Id.* at 219.

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days are paid at 100%.¹⁷⁴ However, all of the paid time is based on accumulated sick days and regular leave time; men who have not accumulated enough time are unable to take this leave.¹⁷⁵ When mothers take leave, or transfer it, it is paid at 100% of their normal earnings.¹⁷⁶

Overall, Israel's policy lacks sufficient flexibility options for using leave or adjusting one's schedule. If fathers are fortunate enough to receive transferrable time, it must be used within the first fourteen weeks after a child is born because that is the guaranteed minimum paid period.¹⁷⁷ Employers are not required to help adjust or reduce work schedules.¹⁷⁸ Even the twelve unpaid months are heavily restricted in how they can be used.¹⁷⁹ Parents can neither use this leave simultaneously nor break their portion up into more than two intervals; further, parents must use it before their child turns one.¹⁸⁰ The only slightly flexible option is that mothers with full-time employment can receive one paid hour off each day in the first four months after their maternity leave, and fathers can use this time if mothers do not.¹⁸¹

Additionally, Israel's restrictive eligibility requirements results in fathers being unable or unwilling to utilize the initial six leave days offered to them. Basing eligibility on accumulated sick days leads to a strong likelihood that fathers who have not worked long enough, or have experienced other unique circumstances, will be unable to obtain even the short, poorly-paid leave they are theoretically entitled to.

174. *Id.*

175. *Id.* at 218-19 (explaining paid leave is funded through a combination of employee, employer, and state contributions to the National Insurance Institute, such that "[e]mployers pay 3.45 percent of earnings and employees 0.4 percent up to 60 percent of average earnings; above which payment is 6.75 percent and seven percent respectively up to a ceiling").

176. *See id.* at 218-19.

177. *See id.* at 219.

178. Rachel Harari-Lifshits & Naama Babish, *Israel: Employment & Labor Law 2019*, INT'L COMP. LEGAL GUIDES § 4.6 (Mar. 4, 2019), <https://iclg.com/practice-areas/employment-and-labour-laws-and-regulations/israel>.

179. *See Israel, supra* note 166, at 219-20.

180. *Id.* at 220-21 ("The maximum period of post-natal leave in Israel is 12 months, but most of this is unpaid . . .").

181. *Id.* at 221.

Another flaw lies within the eligibility requirements for fathers seeking to use the mothers' transferrable leave time.¹⁸² The fathers' right to leave is contingent upon proving that mothers and their employers have contributed enough in social security payments.¹⁸³ Assuming that is done, fathers and their employers must establish the same.¹⁸⁴ Further, mothers may transfer some of their allotted time to fathers, in writing, but only if they return to work and sacrifice their final week of maternity leave.¹⁸⁵ This benefit only applies to fathers who are current legal spouses.¹⁸⁶ Ultimately, these eligibility restrictions make it more difficult for fathers to take advantage of an already-flawed policy.

Overall, the statutory paid leave offered to Israeli fathers is so restrictive that it is ineffective. Even if fathers are fortunate enough to be eligible to take leave, they do not receive nearly enough leave time. Moreover, if they *were* guaranteed more time, it is unlikely they would take it unless it offered better pay and flexibility.

2. *Failure to Address Cultural Barriers*

Although there are many reasons for Israeli men failing to take leave, traditional gender roles are a significant part of the problem.¹⁸⁷ Similar to the FMLA in the United States, Israel's policy mainly focuses on advancing workplace opportunities for women, rather than helping fathers bond with their children.¹⁸⁸ Although Israelis experience the same negative effects of adhering to gender-roles as Americans, Israel's policy does nothing to address this issue.¹⁸⁹

182. See Matzner-Heruti, *supra* note 45, at 478-80 ("In order to be eligible for paternity leave, the working father must fulfill a double set of criteria.").

183. This is because fathers' leave is contingent on the mothers qualifying for their own leave. *Id.* at 478-79.

184. *Id.* at 478.

185. Harari-Lifshits & Babish, *supra* note 178, § 4.4.

186. See *Israel*, *supra* note 166, at 220 ("Eligibility is granted to the mother's spouse (and not necessarily to the child's father).").

187. Matzner-Heruti, *supra* note 45, at 479-80.

188. *Id.* at 484.

189. See *id.* at 481-84 ("No concurrent public campaign was initiated in Israel to highlight and stress the importance of fathers' caregiving and encourage them to use the new entitlement.").

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Implementing new laws cannot always be the impetus for social change, as shown by the dismal effort to show men as equally capable caregivers without simultaneously addressing the prevalence of traditional gender roles.¹⁹⁰ Israel's failure to promote changes to workplace and masculinity norms also left fathers without the support and education they needed to feel as though taking leave was a positive option.¹⁹¹

In sum, the differences between the parental leave policies of the Nordic countries and Israel illustrate that simply having a policy does not mean that fathers will actually take more leave. Unsurprisingly, longer, well-paid, non-transferrable leave policies that can be used flexibly are the most successful. By guaranteeing men only a few days of poorly-paid leave, Israel's policy perpetuates the stereotype that men do not need to be as involved in parenting as mothers. Given the number of conservative, traditional Americans working blue-collar jobs, the United States is more culturally aligned with Israel than with the Nordic countries. Therefore, the United States should take heed to avoid making the same mistakes.

IV. THE SOLUTION

The following section suggests specific features for a paid leave policy that would benefit American fathers who work low-income or blue-collar jobs. The recommendations address problems with the FMLA and incorporate lessons from the Nordic countries and Israel. The proposed solutions also consider some unique cultural challenges that such a policy would need to address in order to be successful.

A. A New American Paid Leave Policy

The ability to spend time with your newborn child should not depend on your career path, and it certainly should not be viewed as a job perk. Blue-collar fathers' needs have been consistently ignored,

190. *See id.* (highlighting "the low usage of leave by Israeli fathers demonstrates the gap between formal laws and informal cultural norms," so that without some encouragement campaign around the law, unchallenged cultural norms will continue to deter fathers from taking leave).

191. *Id.* at 479-80 (stating such education could be done through awareness campaigns).

which has contributed to the misconception that they cannot or do not want to be equal caregivers.

The United States should enact a new federal regulation requiring all employers to provide every employee with the opportunity to take a substantial amount of time off to be with their newly born or adopted child. This proposed regulation should not entirely replace the FMLA; it should be in addition to any protections or benefits the FMLA already provides. It is clear from the Nordic countries that an effective leave policy has to be lengthy and well-paid and include a non-transferrable amount of time for fathers to use.¹⁹² The option to work flexible schedules is also extremely beneficial in encouraging all parents to take leave.¹⁹³

The most important consideration for a new, federally regulated, paid leave policy is that it must be inclusive of all workers. As exemplified above, without the government requiring employers to provide workers with parental leave, most employers will not. Another concern the new policy must take into account is that if not implemented properly, low-income fathers could be denied the chance to bond with their children simply because they picked the wrong career or employer. Also, the new policy should accommodate recently unemployed and self-employed fathers as other countries have done. In addressing the shortcomings of the FMLA's requirements and exceptions, the new policy should not include any exceptions based on the size of the employer. Rather, if employers are small businesses or unable to financially cope with the requirements of the policy, they should receive some form of government assistance, such as federal funds or tax breaks.

Additionally, the United States must avoid making the same mistakes made by Israel such as the rule basing the length of the fathers' leave on whether mothers give up any of their leave time. In contrast, the United States' policy should follow the example of the Nordic countries in giving a leave period which could be divided up between the parents.

192. Karr, *supra* note 25, at 257-60. As stated before, Scandinavian countries are part of the Nordic countries. See Gupta et al., *supra* note 110.

193. HARRINGTON ET AL., *supra* note 27, at 25 ("In our survey, 95% of dads rated flexibility as important, with 79% indicating that it is extremely or very important that their employer provides and actively supports flexible work arrangements.").

1. *Length of Leave*

The new parental leave policy should guarantee fathers receive twelve weeks of paid leave. Two of those weeks must be used at the time their child is born or adopted. The remaining ten weeks can be used anytime during the child's first year. Mothers should also be guaranteed twelve paid weeks. Moreover, families should receive an additional twelve weeks which both parents can divide up as they wish.

The length of the fathers' paid leave may be criticized, but this feature of the policy will result in fathers having enough time to be meaningful participants in the parenting process and will allow mothers to be seen as equal workers. Research shows fathers prefer to take two to four weeks of leave at the beginning of a child's life, and they often only utilize that much time, even if offered more.¹⁹⁴ Fathers who take two or more weeks of paid leave in the United States most likely work "middle- and high-prestige jobs," are highly educated, and were born in the United States.¹⁹⁵ While some fathers might think two weeks of leave is enough, this perception will change overtime. Providing fathers with a longer period of leave beyond a mere one or two weeks will help accelerate the change of social norms regarding gender roles.

2. *Transferability*

If we want to ensure fathers actually take leave, fathers must be guaranteed a certain amount of time which is non-transferable to mothers.¹⁹⁶ As stated above, fathers and mothers should each be

194. *Id.* (stating the reasoning may be related to a desire to balance work and family responsibilities, as well as two weeks being more socially acceptable, as it is comparable to a long vacation).

195. Huerta et al., *supra* note 20, at 28.

196. HARRINGTON ET AL., *supra* note 27, at 29; Huerta et al., *supra* note 20, at 16 ("Alternatively, fathers' use of paternity and parental leave is largest when leave is well-paid and when part of the entitlement cannot be transferred, and is lost if not used Countries with parental-leave policies that have been successful in encouraging fathers to take leave meet these criteria. These include Sweden, Iceland and Norway, where around 90% of fathers take some part of the parental leave period Moreover, in these countries a considerable number of fathers stay at home for a relatively long period. For example, in Norway, 70% of eligible fathers took more than five weeks of leave in 2006, after the extension of the father's quota to six weeks").

guaranteed twelve weeks of paid leave. Further, both parents should have the opportunity to transfer one or two of their allotted weeks to the other parent. The physical challenges of giving birth explain why some fathers transfer their time to mothers.¹⁹⁷ Moreover, the premise of this entire policy recognizes that not every family works in the same way; thus, the policy should allow families some freedom to use the time in a way that works best for them. This policy should allow families that freedom, while still ensuring fathers take sufficient leave.

Like Norway's policy, the United States' policy should allow for a small portion of the leave, less than a week close to a child's birth or adoption, to be transferrable to a non-spouse family member.¹⁹⁸ This feature could be tremendously beneficial for low-income families who often rely on extended family to help care for their children.¹⁹⁹

3. Pay

The amount of compensation will greatly affect whether fathers actually take leave but will likely be the most contentious part of this legislation.²⁰⁰ Research indicates that in order for paternal leave legislation to be successful, paid leave benefits need to be at least 70% of normal earnings.²⁰¹ Similar to tax brackets, a person's average

197. See Christina Caron, *A Survival Guide for the Fourth Trimester*, N.Y. TIMES (July 11, 2018), <https://www.nytimes.com/2018/07/11/well/a-survival-guide-for-the-fourth-trimester.html> (recognizing the postpartum period after women give birth, growingly referenced as the "fourth trimester," is often riddled with illness, fatigue, and a variety of physical challenges that are often overlooked or minimalized).

198. Norway, *supra* note 143, at 315 (explaining Norway's policy allows for "two weeks before or two weeks after").

199. See AJAY CHAUDRY ET AL., *Low-Income Working Families' Employment Contexts*, in CHILD CARE CHOICES OF LOW-INCOME WORKING FAMILIES 38 (2011), <https://www.urban.org/sites/default/files/publication/27331/412343-Child-Care-Choices-of-Low-Income-Working-Families.PDF> ("Others said that they could not and had to either rely on family members (their spouse or a child's grandparent or aunt) to help care for the child when he or she was ill, or use child care that would be more likely to accommodate a sick child's care (again, more likely a relative care arrangement).").

200. See ILO REPORT, *supra* note 14, at 61 (illustrating the different types of compensation rates that have worked in European countries, which have been found to be "adequate" enough to encourage fathers to take leave).

201. HARRINGTON ET AL., *supra* note 27, at 14.

earnings should dictate how much of their normal pay they will receive while on leave. The lowest bracket (lowest earners) should be able to receive up to 100% of their normal pay, but no one should receive less than 70% of their pay.²⁰²

In addition to receiving a base percentage of normal earnings, employees should have an option to receive more if they contribute part of their earnings to a fund prior to taking leave. This option would make taking leave even more affordable.

While this Comment will not review funding in depth, the money should come from a combination of employer and employee contributions, as well as government funding. Since some states already provide some funding for parental leave, they should not have a problem in participating in this policy. Moreover, large and more profitable employers would be expected to contribute more funding than smaller or less profitable ones.

As in the Nordic countries, there should be limits on the amount of pay, but such limits should only apply to workers who were unemployed within the few months before taking leave.²⁰³ Another nuance to the policy is that employees who do not plan to participate in paid leave should not be forced to contribute toward the funding of this policy. Moreover, if a person has not contributed enough, their pay should be reduced, although the pay should not drop below a set amount.

4. Flexibility

The best way to make the new parental leave policy manageable for both employers and employees is to provide as many flexible-working options as possible. One study found over 75% of fathers believed they should be allowed to take paid time off flexibly during the first six months to a year after childbirth, compared to 20% who felt leave should only be taken continuously.²⁰⁴

202. *See generally id.* (“[I]t is clear that parental circumstances vary greatly, as do fathers’ expectations and needs, and both company policies and governmental legislation need to be flexible enough to take these variations into account.”).

203. *See supra* notes 110-61 and accompanying text.

204. HARRINGTON ET AL., *supra* note 27, at 12.

Taking Sweden as an example, fathers should also be able to use their leave intermittently over the course of two years.²⁰⁵ Although two of the fathers' twelve weeks would have to be used at the time the child is born or adopted, the remaining ten should be used at their discretion. In some cases, fathers might delay taking those remaining weeks until the child grows a little older.²⁰⁶

To help make this flexibility manageable for employers, parents would be required to declare how they intend to use their leave at least two months before it begins. On the other hand, employers should have the ability to limit the number of blocks parents can break up their leave. For employers of blue-collar workers, this would allow them to properly plan for their operations and to maintain some control over the leave process, while still giving parents enough flexibility. Fathers should also be allowed to use at least two of their paid weeks in a reduced work schedule capacity, meaning they may return to work for just half-days or three-quarters of a normal working day, but still get paid for a full day.²⁰⁷

Admittedly, there are a number of concerns this Comment will not address. Important consideration should be given to problems such as part-time workers with multiple employers; limits on how much employers are expected to contribute to parents who decide to have larger families; and how the system would work when parents change employers before or during their leave period. The proposed policy should also address how to reduce resentment amongst employees who do not intend to have children.

B. Attacking Gender Roles Head-On

Masculinity complexes and traditional gender roles are more prevalent amongst blue-collar men,²⁰⁸ meaning a new policy must

205. *Sweden*, *supra* note 137, at 407 (illustrating in Sweden, leave can be taken up intermittently until the child turns eight years old).

206. *See id.* at 406-07.

207. In Sweden, “[p]arents can take paid leave days full-time, half-time, quarter-time or one-eighth time with the length of leave extended accordingly (e.g. one day of full-time leave becomes two days of half-time leave and four days of quarter-time leave).” *Id.* at 403.

208. *See, e.g., Matzner-Heruti*, *supra* note 45, at 479-80 (illustrating in Israel, unchallenged masculinity norms are a reason fathers do not take up leave).

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directly address this issue for blue-collar fathers to participate. Policies which provide only a few days off for parental leave have not been and are unlikely to be successful in changing mindsets regarding gender roles.²⁰⁹ While longer parental leave can be better for children and may cut down the high costs of childcare services, it has a major downside; women who take longer leave hurt their ability to advance in their careers, perpetuating stereotypical gender roles.

Thoughtful communication campaigns, which Israel ignored when implementing their policy, can introduce fathers to the benefits of taking leave and be an initial step toward changing traditional mindsets.²¹⁰ There must be an effort to advertise paternity leave as a normal, or even integral, activity.²¹¹ This could be done by requiring fathers to complete an online training video before they can take any paid leave or possibly at the time they start contributing to the program. The government should promote parental leave awareness programs through initiatives such as public service announcements, online advertisements, billboards, social media campaigns, and providing funds to local agencies to find other unique ways to reach out to blue-collar workers. Quite simply, it will take time, but challenging the issue of traditional gender roles needs to be addressed from the outset.

CONCLUSION

It's simple: Benji, our struggling waiter, should not have to scramble to get shifts covered just to take a few unpaid days off to be with his newborn child and partner. Rather than relying on the kindness of his coworkers or employers, he should have the legal right to paid time off. Providing him with parental leave will make him a better parent by allowing him to bond more with his child, which could also benefit his child in the long run.

American fathers deserve the right to spend time with their children without the fear of losing their jobs or being unable to make ends meet. The shortcomings of the FMLA and the reliance on employers to offer

209. See ILO REPORT, *supra* note 14, at 60.

210. Huerta et al., *supra* note 20, at 41. See Matzner-Heruti, *supra* note 45, at 481-84.

211. As has been done in other countries, "[l]eave rights [in the United States] need to be well advertised and communicated as a 'normal' part of the transition to fatherhood." HARRINGTON ET AL., *supra* note 27, at 29.

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paid leave is clearly not working, which is hurting hard-working, but less-advantaged men. Other countries of similar size and income levels have been able to successfully enact parental leave policies that fathers actually want to use. The United States should learn from the successes and failures of other countries to design a policy that would work for American families and businesses.

In sum, a successful, wide-spread, paid parental leave policy is an attainable and worthy goal for the U.S. to strive toward. The Nordic countries have shown that thoughtfully designed leave policies can bring benefits to fathers, mothers, children, employers, and society at large. In contrast, Israel's attempt at such a policy exemplifies how a flawed policy can prevent those benefits from being realized. If the United States keeps both these lessons in mind when designing and implementing a new policy, American families, no matter their socioeconomic status, will get to experience how a father's most meaningful contributions to his family can go far beyond his paycheck.

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* J.D. Candidate, California Western School of Law, 2020. Joseph Rebello is a former professional in the insurance and commercial aviation industries. First, I would like to thank Professor Catherine Hardee for her invaluable guidance in the writing of the Comment. Second, I would like to thank the friends, colleagues, and family members who provided me with countless hours of support and feedback. Finally, and most importantly, I would like to thank my parents—this Comment is a tribute to both of you. My hope is that this Comment will help improve the work-life balance of the hard-working families who need it most.