

Social Inequities Highlighted by the Prolonged Pandemic: Expanding Sick Leave

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Since the beginning of the COVID-19 pandemic, a number of federal responses have been enacted in the United States to address the public health crisis, as well as the economic fallout and inequalities caused by the pandemic. A key feature globally in fighting the pandemic has been paid sick leave, as other nations have been successful in flattening the curve of infections by enacting emergency paid sick leave. This work explores best practices globally of paid sick leave used during the COVID-19 pandemic. Using the theoretical framework of punctuated equilibrium, this work spotlights the increased need to address paid sick leave in the United States. This work contributes further to understanding how policymaking in a federal system of government occurs during times of crisis.

Keywords: Sick Leave, Social Equity, COVID-19 Pandemic

The COVID-19 pandemic has certainly illustrated gender implications in the workforce and heightened awareness of the ineffectiveness of sick leave policies. While telework has become more of the norm for working during the pandemic, women face challenges in effectively working from home and maintaining a work-life balance. One significant indicator in achieving a work-life balance is having access to sick leave. Alves (2020) argues that increased paid sick leave is the key to fighting the coronavirus in New Zealand. This paper explores this claim. Coronavirus sick leave, particularly paid leave, and other workplace accommodations are important areas to explore as they have the potential to improve workplace equality, enhance employee job satisfaction, improve conditions for female employees, and achieve greater social and gender equity globally.

According to McDonald and Larson (2020), “the outbreak of COVID-19 has created instability in the U.S. economy” as many businesses reduced hours or closed locations to minimize the spread of the virus (p. 378). The U.S. Government acted through passage of the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020. The act increased unemployment benefits, provided for a one-time payment to most Americans, and included the Paycheck Protection Program to financially assist businesses with retaining employees (U.S. Department of Treasury, 2021). The legislation also provided sick leave benefits, which expired in December 2020. For example, Arkansas public schools directed \$15 million from the CARES Act to school districts to offset up to 10 days of COVID-19 related sick leave for employees; however, when the assistance ended in December 2020, flexibility in sick leave was urged (Howell, 2021). Even with this action, many employers still laid off employees leading to widespread, record levels of unemployment.

As unemployment rates and the number of cases of COVID-19 soar, many individuals are

becoming care givers for family members who are sick and are increasingly concerned about workplace protections and benefits. The COVID-19 pandemic has highlighted numerous inequalities globally. Women are more likely to experience significant burdens in caregiving responsibilities under stay at home orders and school closures, which have gendered implications for economic conditions (World Bank Group, 2020). According to Henderson (2020), “Mothers of small children have lost work at three times the rate of fathers in the pandemic, a situation that threatens not only progress toward gender equity but middle class income gains that have become increasingly dependent on working women.” Fewer parents, both mothers and fathers, are working due to COVID-19 and those who are employed, have experienced reductions in hours (Kochhar, 2020). A recent study illustrated that unemployment among single, unpartnered mothers, particularly Black and Hispanic unpartnered mothers, increased drastically in comparison to other working parents (Barroso & Kochhar, 2020).

Globally, governments have responded to various aspects of the pandemic through emergency responses, as well as creating long term plans to address public health and the many unforeseen consequences. As unemployment rates increase and the demand for unpaid, emotional or care labor increases, governments have provided immediate or emergency response via safety nets to vulnerable groups and explored cash transfer programs (World Bank Group, 2020). In order to create long term, strategic responses, governments should “adopt mechanisms to support the economic empowerment of women with high-load unpaid care roles low-paid work roles during this crisis” and “ensure access to formal caregiving support when economic activities outside of the household resume” (World Bank Group, 2020, p. 20). According to the United Nations (2020), only 16% of social protection and labor law responses are gender-sensitive, “meaning they either target women’s economic security or provide support for unpaid care.” In the United States, women’s rights advocates have demanded state and federal policies to help women during the COVID-19 pandemic by “mandating more flexible school and work schedules, requiring more paid leave for family care and establishing more protection against job discrimination because child care tends to fall to women” (Henderson, 2020).

The purpose of this work is to explore these gendered implications for economic conditions and, more specifically, to analyze workplace benefits, such as sick leave, that may further contribute to gender equality. The theoretical framework of punctuated equilibrium is used to highlight patterns of change to organizations’ human resource benefits, such as sick leave, in response to the COVID-19 pandemic, which set the agenda for policy reform. The goal of the paper is to highlight best practices globally in providing meaningful sick leave to employees during COVID-19 and offering policy suggestions to improve FMLA in the future. This paper contributes to further understanding social equity in public policy reform, particularly by evaluating and improving family and medical leave benefits for all workers.

Empathy and Equity

In response, public administration scholars have called for the increased need of empathy during the COVID-19 pandemic to ensure policies are equitable, fair, and effective (Dolamore et al., 2020; Zavattaro & McCandless, 2020). For example, with the unanticipated increase of domestic violence and abuse due to COVID-19, researchers have prescribed empathy, care, and social equity to be used in collaborative planning and responses to victims (Rauhaus et al., 2020). Furthermore, Elias and D’Agostino (2020) explore the use of care in crisis in their work exploring how the COVID-19 pandemic was a catalyst to expand childcare services.

The use of empathy in public administration often aligns with the overarching goals of social equity. Social equity is defined as an active commitment to fairness, justice, and equality in the creation of public policy, distribution of public services, implementation of public policy,

and management of all institutions serving the public (Johnson & Svara, 2011). The COVID-19 pandemic has highlighted a number of social inequalities throughout the United States and beyond. To illustrate, the World Bank Group (2020, p. 1) highlights the importance of understanding “how the pandemic affects particular groups” in order to effectively contain efforts and minimize potential negative impacts. Furthermore, the increased awareness of “racism and inequities across policy domains, all in public administration, must boldly speak truth to power and take responsibility for making positive change” (Berry-James et al., 2021, p. 8).

One area of importance is gender implications for economic conditions. Bishu (2020) studies gender equity in the workforce and social equity, noting that issues of gender most frequently refer to inequalities faced by those who identify as women; however, gender equity issues impact men who also face inequities in family benefits such as paid leave. The COVID-19 pandemic has impacted the workforce and economy in a number of ways, which may promote gender equality and further advance social equity. In response to the pandemic, businesses are quickly adopting flexible work arrangements which may persist, allowing fathers to take on greater responsibility for childcare, which may challenge traditional social norms (Alon et al., 2020).

Family and Medical Leave

According to the World Health Organization (WHO), the United States had over 26.2 million confirmed cases of coronavirus by February 2021, which is more than any other country (WHO, 2020). Therefore, it is imperative to explore sick leave in the United States during the pandemic. Approximately 30 million workers in the private sector did not have paid sick leave prior to the pandemic (Lobosco, 2021). Prior to the passage of the Families First Coronavirus Response Act (FFCRA), the Family and Medical Leave Act (FMLA) provided unpaid sick leave for covered employees who become ill or caregivers for ill family members. In order to address these issues, a number of private organizations, state and local governments, as well as legislation globally provide more comprehensive benefits to employees, such as paid leave (Gordon & Rauhaus, 2020).

Over the years, amendments to federal legislation have been made to expand family and medical leave. Prior to FMLA, federal legislation was narrowly focused on pregnancy discrimination. Reforms to federal legislation have emphasized a reframing of maternity leave, to include a more diverse view of parents and how leave is perceived by employees and employers (Gordon & Rauhaus, 2020). During the COVID-19 pandemic, paid sick leave and more flexible workplace policies have become even more important to all employees regardless of gender or parental status. Thus, the pandemic has led to the need to assess family and medical leave policies once more in a major way for the first time since the 1990s, and reframing the issue of sick leave once again.

Using unpaid sick leave is not feasible for most employees, particularly female caregivers during a pandemic, which illustrates the ineffectiveness and inequalities of the policy. Additionally, medical or sick leave is not readily available to all employees, particularly those working part time. During the pandemic, individuals who are ill are to stay home, but many workers cannot financially do so “unless government steps in to help make that a reality” (Alves, 2020).

The FFCRA temporarily requires certain employers to provide paid sick leave to employees or expand family and medical leave for reasons related to COVID-19 (U.S. DOL, 2020a). FMLA benefits extend to employees who are sick with the coronavirus but do not protect employees wishing to take leave to avoid the coronavirus (U.S. DOL, 2020b). Prior to the expiration of FFCRA, companies were to provide 80 hours of paid sick leave for absences related to COVID-

19 and provide employees with two thirds pay for an additional 10 weeks if they could not work due to school or childcare closures (Barrett & Greene, 2021). Thus, paid sick leave or sick leave entitlements have risen to the agenda and warrant an emergency response.

According to the U.S. Department of Labor (U.S. DOL, 2020b), there is currently no federal law covering non-government employees who take off from work to care for healthy children, and employers are not required by federal law to provide leave to employees who are caregivers to children temporarily dismissed from school or childcare. This creates numerous challenges for working caregivers, managing a global pandemic, and ultimately, hinders the ability for employees to achieve a work-life balance. Much like FMLA, the FFCRA has already being criticized for not providing paid sick leave to those who need it most, such as most essential workers employed by companies that are too large or too small to qualify (Fowers & Tan, 2020).

Employment protections and benefits during the pandemic, such as paid sick leave, must be revisited. This paper seeks to offer a normative approach to incorporating a more humanistic manner to correct social, economic, and gender imbalances.

Theory of Punctuated Equilibrium

Typically, public policy occurs in an incremental fashion; however, in response to crises, public policymaking can occur more swiftly to respond to social needs. The theory of punctuated equilibrium is applied to public policy when crisis or shocking events result in a “tipping point oriented towards sharp and explosive policy change” (Givel, 2010 p. 188). The COVID-19 pandemic can certainly be classified as an event that lead to a tipping point. The pandemic highlights the need to assess a number of public policies beyond public health and develop both short term and long term strategies to address public problems. Punctuated equilibrium policy theory describes the sharp, drastic changes that occur due to disruptive events caused by crisis and allows for reframing of an issue (Repetto, 2006). These drastic changes and departure from incremental policy making also face external resistance from political entrepreneurs, courts and rule of law, policy monopolies, and fragmented political system (Givel, 2010; Baumgartner & Jones, 2009).

The U.S. response to COVID-19 has illustrated key features of our fragmented political system, as short term responses to the pandemic have varied greatly by state. According to Baumgartner, Jones, and Mortensen (2018), “Complexity in political systems implies that destabilizing events, the accumulation of unaddressed grievances, or other political processes can change the ‘normal’ process of equilibrium and status quo” leading to drastic change for a short while to establish a new policy equilibrium (pp. 56–57). Generally, labor laws are protective in nature, with objectives of protecting traditionally underrepresented laborers, including women and young adults. Labor laws protect these groups from harsh workplace conditions, and aim to ensure fairness in wages, promotion, access to benefits, and beyond. The FMLA was passed in 1993 and has been amended over the years in an incremental fashion to respond to the needs of military families, airline flight crews, and same sex couples (Gordon & Rauhaus, 2020).

The prolonged pandemic has led to a number of legislative responses, which include addressing paid sick leave. Paid sick leave has not risen to the agenda at the federal level in the United States in nearly thirty years. The anticipated response may include further workplace protections and a re-examination of paid sick leave.

The gaps in FMLA lead organizations, states, and local governments to be more innovative in creating and adopting family and medical leave, or sick leave, that meets their specific needs. While FMLA does not guarantee paid leave, states such as California, New Jersey, Rhode

Island, and New York have recently been effective in offering paid sick leave. These examples of laboratories of democracy illustrate how policymaking at the local and state level may be more effective in addressing needs of citizens due to the complexities of our federal form of government. These states have also been responsive to revisiting paid sick leave during the COVID-19 pandemic, illustrating that muddling through policy change will not address urgent needs exacerbated by the pandemic.

While the federal government passed the CARES Act, guaranteeing many employees two weeks of paid sick leave if they contracted COVID-19 or were waiting for testing results and quarantining, benefits supporting sick leave coverage expired December 31, 2020 (Lobosco, 2021). Illustrating the fragmented political system, the CARES Act is a broad economic stimulus, which provides tax credits through March 31, 2021, to employers who voluntarily choose to offer the paid leave. The voluntarily nature of family and medical leave policymaking in the United States is commonly apparent, leaving states and organizations to develop sick leave policies that are more effective for their employees.

The COVID-19 pandemic has reframed the issue of sick leave, as more citizens regardless of gender and marital status are in need of access to paid sick leave and greater employment protections. Many people are spending more time at home fulfilling unpaid care work during the pandemic. For example, in the Maldives, COVID-19 has prompted men to help more with household chores and care responsibilities (Duerto Valero & Tinonin, 2020). There is a window of opportunity to reform sick leave legislation and enact policy change at the federal level, as the narrow framing of sick leave is no longer accurate or useful. Sick leave is no longer gendered during a pandemic. While the pandemic is ongoing and our political institutions are changing, there is a window of opportunity for paid sick leave to remain a policy priority on the agenda with the goal of expanding sick leave in an equitable, inclusive fashion.

Sick leave and workplace protections during COVID-19 appear to be on the Biden administration agenda, as he plans a more extensive response to the pandemic. The president's plan includes extending OSHA protections to those not currently covered and expanding mandatory paid leave benefits under FMLA, as the FFCRA expired in December 2020 (Mitchell, 2021). President Biden's plan would provide up to three months of paid leave during the pandemic that could be used for those: quarantining or sick with COVID-19, receiving a vaccine, caring for family members ill with COVID-19, caring for children whose day care or school is closed, and caring for older relatives whose long term care facility is closed due to COVID-19 (Mitchell, 2021). The plan does not propose changes to be made in an incremental fashion, as it addresses deficiencies in sick leave policy exacerbated by the pandemic. The proposal would cover more employees, provide paid leave, and be an increase to the number of sick leave days for employees. Supporters of the plan claim "the pandemic has demonstrated the need for paid leave even in ordinary times. The more workers get used to having it, and the more businesses see that it's feasible, the higher the likelihood of broad support for making it permanent" (Mitchell, 2021).

Best Practices in Paid Family Leave in Response to COVID-19

Globally, governments have responded to the greater need for paid sick leave and greater workplace flexibilities highlighted/caused by the pandemic. Traditionally, the United States lags behind other nations in the provision of medical or sick leave, as parental leave benefits should offer paid leave, have a funding mechanism with shared cost, and allow flexibility in scheduling, including part time work (Gordon & Rauhaus, 2020). Traditionally, best practices, which include paid leave and greater employee protections and flexibility, are found globally and in some U.S. states. For instance, California, New Jersey, Rhode Island, and New York offer paid family leave, making it easier to incrementally add greater benefits to address the COVID-19 pandemic. In analyzing best practices, it is common to find innovative approaches

taken by state and local governments in the United States, as well as internationally.

According to the United Nations (2020), at least 36 countries have expanded family leave to respond to the global pandemic. This illustrates the importance of revisiting sick leave under the punctuated equilibrium framework. Of these nations, only 6 have provided paid sick leave. In Chile, parents have been granted sick leave extensions of up to 90 days (United Nations, 2020). Norway, a country traditionally known for family-friendly benefits and gender equality, increased annual childcare leave from 10 to 20 days for each parent, allowing single parents and parents of children with chronic illness extra days of sick leave (United Nations, 2020).

Among advanced industrialized nations, all provide for some paid sick leave as a legal right except for the United States (Rho et al., 2020). The success of these nations in combating COVID-19 varies as nations such as New Zealand and Australia are experiencing relatively few cases and deaths (Johns Hopkins, 2021). Australia has a population of 25 million people having experienced 909 deaths and 28,571 cases as of January 2021 (Johns Hopkins, 2021). By law, Australia grants sick leave of 10 working days a year to employees from their first day of employment (Rho et al., 2020). As of January 2021, New Zealand has had 2,188 cases and 25 fatalities attributed to COVID-19 among its almost 5 million inhabitants. The nation requires employees to be granted five days of sick leave per year after with minimum length of employment restrictions and an ability to carry forward days from prior years (Rho et al., 2020). New Zealand has provided guidance stating, “If a worker is sick with COVID-19, or required to self-isolate, the first consideration for an employer should be to look after people, contain COVID-19, and protect public health. Businesses may be able to apply for the COVID-19 Leave Support Scheme to support their employees” (Employment New Zealand, 2021). The Leave Support Scheme provides funding for eligible self-employed individuals and funds employers to pay employees who are ill with COVID-19 or awaiting a test result for 3–11 days of pay (Work and Income, 2021).

These types of employment support to expand sick leave are important as the parallel economic crisis of COVID-19 has unfolded. Employees without guaranteed sick leave may risk infecting others by returning to the workplace too early in order to ensure they continue to receive their pay and maintain employment. These actions in turn may have a detrimental effect on national efforts to contain the spread of the virus as people are less likely to quarantined.

The spread of COVID-19 has numerous factors including social, political, and economic drivers. The lack of guaranteed sick leave through federal law in the United States should be studied in this context given that the nation has led the world in the number of COVID-19 cases and fatalities, while making no provision for legally required sick leave (Johns Hopkins, 2021; Rho et al., 2020). A small number of state and local governments in the United States do provide for sick leave, but the lack of a unified approach largely leaves these decisions to be made by employers.

In the United States, few state and local governments have also addressed the need for better family and medical leave benefits and some states are introducing innovative approaches, which illustrates the momentum in policy change, adoption, and implementation. Most of these responses expired in December 2020, due to federal support concluding. New Mexico, California, and Illinois allocated funding for childcare subsidies in response to the COVID-19 pandemic (Henderson, 2020). In Oregon, the Department of Consumer and Business Services (2021) has created a COVID-19 Temporary Paid Leave Program, which has yielded over 19,000 applications. The program is available to those who must quarantine or isolate due to COVID-19 and provides a \$120 daily payment for up to 10 days. In Washington, the Department of Labor and Industries “encourages employers to provide flexible paid sick leave that are consistent with state and local public health guidance and laws, and to make

employees aware of those policies” (Washington State Department of Labor & Industries, 2021).

In New York, new paid leave for COVID-19 has been implemented after being signed into law by Governor Andrew M. Cuomo. The law guarantees job-protected paid leave to workers who are quarantining or isolating due to COVID-19 or caring for a minor dependent child due to COVID-19 and are unable to work remotely. Employees of medium sized businesses (11–99 employees and annual income greater than \$1 million) will be granted job protections during quarantine or isolation and at least 5 days of paid sick leave (New York State, 2021). Employees of large businesses (100 employees or more) or the public sector are granted job protections for the duration of their quarantine and at least 14 days of paid sick leave (New York State, 2021).

In addition to existing paid sick leave, California implemented COVID-19 supplemental paid sick leave, which expired in December 2020. This supplemental plan includes employees previously exempt from paid sick leave and covered wages more extensively than FFCRA Emergency Paid Family and Leave. The FFCRA paid two thirds of the regular rate, not to exceed \$200 per day and \$10,000 total. The supplemental plan in California provided employees the highest of their regular rate of pay for their last pay period, not to exceed \$511 per day and \$5,110 in total (California Department of Industrial Relations, 2021).

While Louisiana does not have paid sick leave, the state has extended benefits similar to those provided by the FFCRA until the end of March 2021 to classified employees in the executive branch. Louisiana’s Civil Service Director noted that the sick leave benefits provide an “incentive to quarantine” when necessary and to slow the spread of COVID-19 (Barett & Greene, 2021).

Local governments also created and implemented incremental approaches to address sick leave during the COVID-19 pandemic. The City of Philadelphia Department of Labor provided a number of resources for sick leave during the pandemic, which also expired in December 2020. In September 2020, the City of Philadelphia amended Chapter 9-4100 of the Philadelphia Code to support health care workers (City of Philadelphia, 2021). In order to qualify for the COVID-19 pandemic paid sick leave, health care workers must have worked for the employer at least 40 hours in the three months before contracting COVID-19 (City of Philadelphia, 2021). The updated policy also required employers with 500 or more employees to provide up to 112 hours of paid sick leave related to the COVID-19 pandemic (City of Philadelphia, 2021). Sonoma County, California, claimed that “through a combination of federal, state and local legislation, almost everyone has the right to paid sick leave” (County of Sonoma, 2021). Residents in Sonoma County were entitled to up to 80 hours of emergency paid sick leave, up to 100 percent of their wages for COVID-19 related leave.

Conclusion

The number of COVID-19 cases continues to climb at a staggering rate and further highlights social inequities. As more people fall ill, the burden of the pandemic will fall upon families and care givers, often unpaid caregivers. The economic uncertainty that has paralleled the pandemic has created financial struggles for families as well. In order to both care for themselves, their families, and the broader community, workers need the flexibility to take sick leave. The pre-pandemic sick leave allocations in the United States have proven woefully inadequate during this time and continues to reinforce social inequalities.

The future of COVID-19 related paid sick leave in the United States remains uncertain. Best practices in the United States originated from state and local governments able to incrementally modify existing paid leave. While much of the United States does not have paid

sick leave in place, the COVID-19 pandemic has highlighted the gaps in coverage of sick leave and the inability of employees to remain in quarantine without pay. Expecting employees to work if they are potentially ill or could spread the virus is a risk not only to the health of the individual but could promote significant spread, highlighting inequities and burdens to workers. Thus, sick leave policies have a wide ranging effect.

After decades of minor reforms to FMLA, the U.S. Congress created and passed legislation to temporarily respond to the need for more effective sick leave during the COVID-19 pandemic. The pandemic has highlighted many issues of social and economic inequalities, leading to increased agenda setting of many policy areas. The pandemic has punctuated the status quo of family and sick leave, highlighting the need for more practical, flexible policies that employees, including part time employees, can afford to use. The prolonged pandemic has led to a reframing of sick leave legislation, as recipients of sick leave are much broader than the intent of original legislation in FMLA. Reassessing paid sick leave and workplace protections during COVID-19 to include a more flexible, empathic frame may be integral in reshaping sick leave among sectors and implementing an effective, equitable policy for all employees.

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