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## Women's Movements and the Passage of Family Leave Policies

Family leave policies vary enormously throughout the world. At one extreme, Sweden offers 480 days of paid leave to new parents. Ninety of those days are reserved for the father; the other days can be shared between the parents any time within the first eight years of their child's life. Although most nations have policies that are far less generous, almost all of them guarantee some amount of paid leave to new mothers. Benefits are typically the most substantial in European states. For example, Finland provides eighteen weeks of paid maternity leave, nine weeks of paid paternity leave, and twenty-six weeks of paid parental leave. In an attempt to increase gender equality, Iceland gives each parent the nontransferable right to three months of paid leave, as well as three months that may be shared between the parents. The United Kingdom has also recently amended its family leave policies to promote a more egalitarian division of labor in the family. After an initial two weeks of paid maternity leave and two weeks of paid paternity leave, parents in the United Kingdom can share thirty-seven weeks of paid leave.

Although European countries generally provide the most generous benefits to parents, paid maternity leave is now customary around the world. With the exception of Suriname, every country in Latin

America and the Caribbean offers at least twelve weeks of paid maternity leave. Across Africa, most countries provide between twelve and fourteen weeks of maternity benefits; Tunisia is an outlier, with only four weeks of paid maternity leave. There is greater variance throughout Asia, but the continent still averages approximately twelve weeks of paid leave for new mothers. In the Middle East, maternity benefits hover around eight weeks. Leave benefits for fathers have also become more common in recent years; eighty-seven countries currently provide paid leave to new fathers in the form of either paternity or parental leave. For example, Canada provides seventeen weeks of paid maternity leave and up to thirty-seven weeks of paid parental leave.

Of the 185 countries that the International Labour Organization examined for its 2014 study, only Papua New Guinea and the United States do not guarantee paid family leave for either men or women (Addati, Cassirer, and Gilchrist 2014). The World Policy Analysis Center adds the Marshall Islands, Micronesia, Nauru, Palau, Suriname, and Tonga to the list of primarily low- or middle-income states without paid maternity leave. The United States remains the only industrialized nation in the world that does not provide paid family leave at the national level for either men or women (World Policy Analysis Center, n.d.).

The purpose of this book is to explain the development of family leave policies at both the national level and the state level in the United States, with special attention paid to the ways in which women's movement actors and other activists influence the policy-making process. The United States has continually lagged behind the rest of the developed—as well as developing—world with regard to family leave benefits. The Pregnancy Discrimination Act (PDA) of 1978 mandates that pregnant women receive the same sick days and disability benefits as other employees. The law also prohibits an employer from firing or refusing to hire or promote a woman because of her pregnancy. However, the PDA does not provide time off to care for a new child. It was not until 1993 that the United States passed the Family and Medical Leave Act (FMLA), granting certain categories of women and men up to twelve weeks of *unpaid* job-protected leave to care for a new child. Yet because of the stringent parameters of the law, only about 6 percent of corporations and 60 percent of the workforce is covered (Ray, Gornick, and Schmitt 2009; Heymann and Earle 2010, 57).

In the more than two decades since the passage of the FMLA, there have been numerous unsuccessful attempts to expand family leave benefits at the national level. However, in the United States innovations in family policies often arise at the state level. In the American federal system, states can legislate social policy not addressed by the federal government. Subnational governments have more freedom to design policy that is consistent with the dominant political culture of their state. Local elites and activists may campaign for different goals than federal policy makers. As a result of the greater leeway subnational governments have in the policy-making process, there is significant variation in family leave policies among states. Before the FMLA was implemented in 1993, nearly forty states had crafted some type of unpaid family leave policy, although there was little uniformity across state lines. Since 1993, more than two dozen states have proposed paid family leave. Three states—California, New Jersey, and Rhode Island—have successfully implemented paid leave programs. Beginning in 2018, New York will become the fourth state to guarantee paid family leave. Although Washington State passed a paid parental leave bill in 2007, budgetary constraints have delayed implementation indefinitely, and family leave advocates have largely abandoned that law and are working toward the passage of a more expansive policy.

In this chapter, I define the different types of family leave policies, describe the importance of family leave for society, and detail the current policies in the United States. I then review the literature on public policy making and social movements. Because family leave policy is a gendered issue, I situate it within the larger context of the literature devoted to the study of women's movements in shaping gender-based policies. I also introduce other key variables that influence the policy-making process in the United States, such as unions, critical actors in the legislature, and party control of the government. After detailing my methods and data sources, I conclude with a brief outline of the remainder of the book.

## Family Leave Policies

### *Defining Family Leave Policy*

Family leave policy encompasses a variety of leave types. Maternity leave is granted to mothers for a limited period around the time of

childbirth or adoption; paternity leave is given to fathers for a limited period around the time of childbirth or adoption (Gornick and Meyers 2003, 112). After maternity and paternity leave expire, parental leave provides longer periods of gender-neutral, job-protected leave for parents to care for small children (Haas 2003). Most countries typically have separate programs that cover leave to care for a sick family member. For example, the Employment Insurance program in Canada provides “compassionate care benefits” for this purpose (Service Canada 2016). However, in the United States, family leave often encompasses both parental and disability leave, including leave to care for a family member with a serious illness or because of an employee’s own illness or injury.

Family leave policies are measured on two dimensions: availability and generosity. Availability refers to the inclusiveness of the policy. Individuals must meet certain requirements to be eligible for leave, such as the sex of the claimant, amount of time spent in the labor force, and income earned. Generosity refers to the duration and the wage replacement levels of the leave, as well as job protection (Gornick and Meyers 2003, chap. 5).

### *The Evolution of Family Leave Policies*

There are many reasons nations may decide to grant family leave. Most early leave policies arose as a result of governments’ concern for the health of mothers and children (Gauthier 1996, 50). In some cases, leave policies are part of a larger pronatalist campaign to increase birthrates;<sup>1</sup> other countries offer leave to allow parents—usually women—more time with their children. Some governments use such policies as a way to increase participation in the workforce, while allowing employees to balance work and family life. Urie Bronfenbrenner (1979) found that allowing parents time with their new child may benefit both the child and the whole family system. Only within the past few decades has gender entered the debate over family benefits in the form of concern about women’s double burden in the home and workplace.<sup>2</sup>

In 1877, Switzerland passed the first maternity leave policy, allowing women eight weeks of unpaid, job-protected leave surrounding the birth of a child. Six years later, Germany became the first

country to provide paid maternity leave. The plan was part of Bismarck's social security system, which recognized that the government and employers were responsible for assuming the risks facing employees, such as illness and accidents (Gauthier 1996, 50–51). By World War I, fourteen countries had enacted paid maternity leave laws (Kamerman and Moss 2009, 1).<sup>3</sup> In the 1920s, the International Labour Organization (ILO) recommended that member countries enact maternity leave laws; leave policies in most European countries today took root from these recommendations (Radigan 1988, 5). By World War II, almost all developed countries provided women workers with some form of paid maternity leave (Gauthier 1996, 50). As described earlier, almost every country in the world today provides paid maternity leave, though the generosity of these leaves varies significantly. Moreover, paternity leave is becoming more common as an increasing number of governments recognize the benefits of allowing all workers to take the time that they need to care for their families. As the population ages, leave for elder care has also taken on increased significance.

### *The Importance of Family Leave Policies*

Demographic shifts in the United States have made it increasingly difficult for many Americans to reconcile their work lives with their family lives. Most notable among these changes is women's increased labor force participation. In 1938, most workers had a family member at home—usually a woman—who was a full-time caregiver (Boushey and Mitukiewicz 2014, 1). Such an arrangement is much less common today. Women currently make up 46.8 percent of the American labor force (U.S. Department of Labor, n.d., "Labor Force by Sex"); their participation rate is 57 percent. The labor force participation rate of mothers with children under eighteen is 70 percent; it stands at 57.3 percent for women with children under age one (U.S. Department of Labor, n.d., "Women in the Labor Force"). Since the majority of women now work outside the home, it is much less likely that families will have a stay-at-home parent to provide care. Indeed, in 2012 only 28.3 percent of married couples consisted of a father in the labor force and a mother who stayed home (Glynn 2014, 5). Also contributing to greater demands for time off from paid work for caregiving

responsibilities is the rise in the number of single-parent households. In 2012, 26.1 percent of families with children were headed by single mothers; single fathers headed 8.2 percent of them (3).

As the structure of the family continues to change in the United States, it has become clear that family leave is not just a women's issue. It is no longer assumed that men will be the exclusive breadwinners in families. From 1977 to 2008, the percentage of employees who agree that it is better for all parties if the man earns the money and the woman takes care of the home and the family dropped from 64 percent to 39 percent (Galinsky, Aumann, and Bond 2011, 9). During that same period, there has also been a change in men's roles and behaviors at home. The amount of time that fathers spend with their children under age thirteen on workdays has increased from two to three hours; women's time with children has remained steady at 3.8 hours (14). Although men and women have not reached parity in caregiving, the gender gap continues to narrow. It is therefore not surprising that the proportion of men who reported work-life conflict increased from 34 percent in 1977 to 49 percent in 2008. Fathers in dual-earner families had a more pronounced increase, from 35 percent to 60 percent (18; see also Hill et al. 2003). A recent poll finds that 56 percent of working parents say that it is difficult for them to balance their work responsibilities with their family responsibilities. Slightly more working mothers (60 percent) are likely to report this difficulty than working fathers (52 percent) (Pew Research Center 2015, 5).

With most mothers entering the labor force and more fathers contributing to the care of children, increasing attention has been given to the availability of leave for men in the form of either paternity or parental leave (Brandth and Kvande 2009; C. Miller 2014; Morgan 2009; Otani 2015). Although FMLA leave is extended to both men and women in the United States, there has been little change in men's usage of unpaid leave since the law's passage (Han and Waldfogel 2003). Men are less likely than women to know that they qualify for FMLA leave, and they often use vacation days to take parental leave (Kaufman, Lyonette, and Crompton 2010; Baird and Reynolds 2004). When fathers do take leave, it positively affects their level of involvement in child care and housework, and it ultimately improves outcomes for both children and the fathers themselves (Cabrera,

Shannon, and Tamis-LeMonda 2007; Haas and Hwang 2008; Huerta et al. 2013; Nepomnyaschy and Waldfogel 2007; O'Brien, Brandth, and Kvande 2007; Tanaka and Waldfogel 2007).

America's rapidly growing elder population also highlights the need for greater family leave policies. In 2013, the number of Americans age sixty-five or older reached 44.7 million, which is about 14.1 percent of the total population. The number of older Americans increased by 8.8 million (24.7 percent) between 2003 and 2013; this rate was only 6.8 percent for the population under age sixty-five. It is estimated that the number of people age sixty-five or older will reach 56.4 million in 2020; by 2060, the number is expected to be 98.2 million (U.S. Department of Health and Human Services, Administration on Aging 2014). In 2008, 42 percent of the workforce (54.6 million employees) indicated that they had provided elder care within the previous five years; 49 percent of the workforce expected to provide elder care in the next five years (Aumann et al. 2010). As the elder population continues to increase at a dramatic rate, greater demands will be placed on the younger generations to care for them. Indeed, it is estimated that by 2020, one in three households will be responsible for caring for an elderly relative (Wisensale 2009, 261).

Today most workers have some level of responsibility for the care of either children or older family relatives (Boushey and Mitukiewicz 2014). Policies that recognize these changes and allow employees the job-protected leave that they need would ease the pressure on both workers and their families. Indeed, the effects of family leave policies—or the lack thereof—are far reaching. The availability and generosity of leaves affect parents' time for caregiving, their ability to participate in civil society, and their families' economic well-being (Gornick and Meyers 2003, chap. 5). Numerous studies have also found a connection between parental leave and the health and welfare of mothers, fathers, and children (Human Rights Watch 2011). Moreover, employers are positively affected by family leave policies. Workers who receive paid leave are more likely to return to their same employer, which greatly reduces turnover costs (Milkman and Appelbaum 2013; Bell and Newman 2003, 4). Companies in the United States that are required to provide unpaid leave under the FMLA have reported that the policy has either a positive or neutral effect on profitability and growth (Cantor et al. 2001).

Family leave policies are especially important for women because—even with the growing involvement of men—they are still typically the primary caregivers in the family. Indeed, 60 percent of caregivers for adults are female (American Association of Retired Persons Public Policy Institute and National Alliance for Caregiving 2015, 16). Likewise, women are more likely to provide care for children. As caregivers, women often need time off from work to fulfill their unpaid duties. Throughout the Western world, women take an overwhelming majority of leave available, even when it is extended to fathers (Morgan 2006, 9; Bruning and Plantenga 1999). Without leave benefits, women often must exit the workforce or end up in low-paid, part-time, irregular, and unstable jobs after they have children. Family leave coverage helps raise women's earning capacity because it allows them to remain with the same employer throughout the period of childbirth (Waldfogel 1998). This increases both women's and their employers' incentives to invest in firm-specific training for women, which can help them advance in their careers. Maintaining workplace ties is also important because social benefits such as health care and pensions are often contingent on labor force participation (Orloff 1993).

Clearly the availability of leave is crucial for gender equality. But even policies that are nominally gender neutral often affect men and women in different ways.<sup>4</sup> Because public policy has typically been based on traditional ideas of women's roles, it has reinforced women's subordinate status (Conway, Ahern, and Steuernagel 2005, 6). Therefore, it is important to examine both the availability and the generosity of leave policies in order to understand their full gendered repercussions. The length of leaves can negatively affect women's participation rates in the workforce, lowering their earning capacity, increasing occupational segregation, and contributing to continuing gender inequality in the home. For example, women who take leave for a year or longer are much less likely to return to their jobs. Likewise, if women are granted only a minimal amount of time away from work, they are more likely to quit after giving birth (Gornick and Meyers 2003; Waldfogel 1998). Finally, as is discussed in detail in Chapter 3, wage replacement during leave is crucial for women. Many women cannot afford to take unpaid leave and must return to work early (Lerner 2015; Jacobs and Gerson 2004; Heymann 2005).



Shortened leaves can be harmful to the physical and emotional health of both mother and child (Tanaka 2005). Moreover, unpaid leave decreases women's lifetime earnings, which can affect gender equity in the workplace and the home (Rose and Hartmann 2004, iv; Waldfogel 1997, 1998; Appelbaum and Milkman 2011).

Many advocates of the expansion of family leave policies hope to strengthen women's position in society by providing them with better ways to reconcile their work lives with their family lives. Often they point to laws that promote a dual earner-carer model to achieve balance.<sup>5</sup> The countries that have the most supportive policies for dual earner-carer families have prioritized gender neutrality in leave benefits and created incentives for men to take advantage of the benefits (Gornick and Meyers 2003, 101).<sup>6</sup> National-level leave policies in the United States are gender neutral in name yet do little to encourage men to use them. At the same time, women are often excluded from coverage because of the stringent parameters of the law, and only three states currently provide wage replacement during leave.<sup>7</sup>

### *Temporary Disability Insurance*

In the United States, there is no federal-state insurance system for short-term disability that compares with the federal-state system of unemployment insurance. However, in 1946 Congress amended the Federal Unemployment Tax Act "to permit states where employees make contributions under the unemployment insurance program to use some or all of these contributions to pay disability benefits." Rhode Island had already passed the first state law in 1942; California, New Jersey, and New York followed throughout the 1940s. In 1969, Hawaii became the last state to adopt such a program (U.S. Social Security Administration, Office of Retirement and Disability Policy 2014). Funding and coverage varies among the five states; Table 1.1 summarizes these differences. Temporary Disability Insurance (TDI) programs provide paid leave to employees during a temporary illness or injury unrelated to work; however, the benefits did not apply to pregnant women until the passage of the PDA in 1978 (Fass 2009, 6). At that time, TDI covered about 50 percent of all women and over 80 percent of working women in the five states that

TABLE 1.1 EXISTING STATE TEMPORARY DISABILITY INSURANCE PROGRAMS, 2016

	California	Hawaii*	New Jersey	New York	Rhode Island
Year enacted	1946	1969	1948	1949	1942
Eligibility	Earned at least \$300 from which State Disability Insurance (SDI) <sup>†</sup> deductions were withheld during any quarter in the base period	(1) Worked at least fourteen weeks in Hawaii in the previous year; (2) received pay for at least twenty hours of work during each of those weeks; (3) earned at least \$400 in that year	(1) Worked at least twenty calendar weeks of New Jersey covered employment; (2) earned either at least \$165 during each of the twenty weeks or at least \$8,300 during the base year	Must work for a New York covered employer for at least four consecutive weeks	Earned at least \$11,520 from which TDI/TCI deductions were withheld during the twelve-month base period or alternate base period <sup>‡</sup>
Benefit level	55 percent of an employee's weekly earnings, up to \$1,129 per week	58 percent of an employee's weekly earnings, up to \$570 per week	66 percent of an employee's weekly earnings, up to \$615 per week	50 percent of an employee's weekly wages, up to \$170 per week	4.62 percent of an employee's wages paid in the highest quarter of the base period; minimum is \$84 per week; maximum is \$795 per week <sup>§</sup>

Length of benefits	Fifty-two weeks	Twenty-six weeks	Twenty-six weeks	Twenty-six weeks	Thirty weeks
Funding source(s)	Employee only	Employee and employer	Employee and employer	Employee and employer	Employee only

Sources: California Employment Development Department, n.d., "State Disability Insurance"; Hawaii Department of Labor and Industrial Relations, Disability Compensation Division, n.d.; New Jersey Department of Labor and Workforce Development, n.d.; New York State Workers' Compensation Board, n.d.; Rhode Island Department of Labor and Training, n.d., "Temporary Disability Insurance."

\* Although Hawaii has a TDI program, it has largely been privatized.

† SDI is California's TDI program.

‡ If this amount has not been met, an employee may still be eligible for benefits if he or she earned at least \$1,920 in one of the base period quarters, the total base period taxable wages are at least one and one-half times the employee's highest quarter of earnings, and the base period taxable wages are at least \$3,840.

§ An employee may also be entitled to a dependency allowance if he or she has dependent children under age eighteen or over age eighteen and incapacitated. This allowance is limited to five dependents and is equal to the greater of \$10 or 7 percent of the benefit rate.

had adopted it, so access to paid maternity leave expanded dramatically under the policy (Stearns 2015).

Although TDI allows biological mothers to take paid leave from work around the period of childbirth, it is considered disability leave rather than some type of family leave. These programs do not provide benefits for fathers or adoptive mothers. Because the leave is aimed only at women, it may be considered the type of special treatment that women's movement actors in the United States fervently opposed during the fight for the FMLA. Indeed, a study by Sylvia Guendelman and colleagues (2006) demonstrates the reluctance that many women felt when using TDI for maternity leave. The authors examined the rates at which women in Southern California used the paid leave available to them through TDI from 2002 to 2003, a year before paid family leave was implemented. Although the state provided them with four weeks of paid antenatal leave and six to eight weeks paid postnatal leave, women were hesitant to take advantage of the full time allotted to them, especially antenatally. Of the women surveyed, 52 percent worked until they gave birth, 32 percent took antenatal leave with the expectation that they would return to their job sometime after giving birth, 9 percent quit their jobs, 5 percent cut back on their hours, and 2 percent were fired during pregnancy (66). More telling is the fact that 52 percent of the women who took leave cited medical problems as the reason; only 25 percent named maternity leave benefits as their motivation. Most women did not want to be classified as an employee needing special treatment beyond the disability leave that was afforded all employees.

In addition to allowing women to take paid maternity leave, TDI programs have facilitated the implementation of paid family leave in California, New Jersey, and Rhode Island. Since those states had already developed the necessary infrastructure to fund TDI, it was relatively easy to expand the program to be used for paid family leave. Beginning in 2018, New York will administer paid family leave through its TDI program as well. Because of the ease of use, it is somewhat surprising that no other states have adopted similar TDI models. As Steven K. Wisensale (2001, 122) indicates, it is also rather curious that none of the five states has abandoned the program.<sup>8</sup>

*Family Leave Policies in the United States*

*At the National Level*

In the United States, under the Family and Medical Leave Act of 1993, eligible employees can take up to twelve weeks of unpaid job-protected leave for the following reasons: the birth and care of a newborn child of the employee; the placement with the employee of a son or daughter for adoption or foster care; to care for an immediate family member (spouse, child, or parent) with a serious health condition; and the employee's own illness. However, there are many restrictions in the act: the company must have at least fifty employees within a seventy-five mile radius, the employee must have been employed by the company for at least one year and have worked at least 1,250 hours in that year, and employees in the top 10 percent of the company's pay scale may be excluded.<sup>9</sup> This means that many employees of small businesses, those who cannot afford to lose twelve weeks of pay, and those at the top of their organizations will not be able to capitalize on this leave (Conway, Ahern, and Steuernagel 2005, 189).

*At the State Level*

There is no federal paid leave in the United States, but California, New Jersey, and Rhode Island have implemented paid family leave policies. In 2016, New York adopted paid family leave that will take effect in 2018. In May 2007, Washington State passed a law providing five weeks of paid leave to parents to care for a newborn or newly adopted child (Washington State Legislature, n.d., "SB 5659"). This law was originally scheduled to take effect in October 2009, but the implementation date has been postponed indefinitely because of budgetary conflicts. As detailed in Chapter 5, activists have largely abandoned this law to work toward more comprehensive family leave legislation.

In July 2004, California became the first state to provide paid family leave to all workers who are covered by the State Disability Insurance (SDI) program. The Paid Family Leave (PFL) insurance program offers up to six weeks of benefits during a twelve-month period in order to care for a seriously ill family member or to bond with a new minor child.<sup>10</sup> Employees receive approximately 55 percent of their lost wages during this time, up to a maximum of \$1,129 per

week. Administered by the California Employment Development Department, the PFL program is funded by employees through the SDI program, rather than employers. To be eligible, an employee must have earned at least \$300 from which SDI deductions were withheld during any quarter in the base period, which is approximately five to eighteen months prior to the claim (California Employment Development Department, n.d.). Although California's PFL program does not protect the employee's job during leave, many employees are covered under the FMLA and the California Family Rights Act (CFRA).<sup>11</sup>

On May 2, 2008, New Jersey governor Jon Corzine signed a bill to allow up to six weeks of paid leave during a twelve-month period to care for newborns and newly adopted or foster children, or for seriously ill family members.<sup>12</sup> Funded through the state's TDI program, the plan provides workers with up to two-thirds of their usual wage, with a weekly maximum of \$615. The benefits extend to employees who have worked for a New Jersey employer for at least twenty weeks and who have earned at least \$168 in a base week, or \$8,400 during the base year, which is the fifty-two weeks prior to the start of leave (New Jersey Department of Labor and Workforce Development, n.d.). This law does not guarantee the employee's reinstatement upon return from leave; only employees covered by either the FMLA or the New Jersey Family Leave Act (NJFLA) receive this protection.<sup>13</sup>

On July 23, 2013, Rhode Island enacted the Temporary Caregiver Insurance (TCI) program. Taking effect on January 5, 2014, TCI provides Rhode Island workers with up to four weeks of benefits during a twelve-month period to bond with a new child or care for a family member with a serious health condition.<sup>14</sup> As in California and New Jersey, the program is funded completely by employee payroll deductions. While on leave, employees receive 4.62 percent of the wages paid to them in the highest quarter of their base period; the maximum benefit is \$795. Rhode Island's program also provides job protection and health benefits protection for all employees eligible for TCI. Employees in Rhode Island are eligible for benefits if they have earned at least \$11,520 in either the base period or an alternative base period (Rhode Island Department of Labor and Training, n.d., "Temporary Disability Insurance").

On March 31, 2016, government leaders in New York announced that they had reached a budget agreement that included the country's

most extensive paid family leave program to date. On April 4, 2016, Governor Andrew Cuomo signed into law a bill providing employees eight weeks of job-protected, paid leave during a twelve-month period. The law will take effect in 2018, with the length of leave increasing to twelve weeks by 2021. Workers will be able to take leave to bond with a new child, care for a seriously ill family member, or address certain military family needs. Benefits will start at 50 percent of an employee's weekly earnings, up to a cap of \$648. By 2021, the wage replacement rate will be 67 percent, up to a cap of \$868. As in California, New Jersey, and Rhode Island, New York will provide paid family leave through its existing TDI system. Although New York's TDI program is financed by both employers and employees, only employees will pay into the paid family leave fund (A Better Balance 2016; Katz et al. 2016).

### Explaining Public Policy Variation

A vast literature seeks to explain why governments decide to adopt certain public policies while eschewing others. Typically, scholars point to the effects of social and economic conditions and political institutions, processes, and behaviors on public policies. For example, the existence of multiple veto points in a political system often slows the pace of policy change (Tsebelis 1995; Huber and Stephens 2001). Numerous studies have examined the effects of public opinion on the policy-making process (Key 1961; Page and Shapiro 1983; Burstein 2003). Other scholars have focused on the role of political parties, interest groups, elites, and social movements (Aldrich 2011; Blaise, Blake, and Dion 1996; Schattschneider 1960; McConnell 1966; Wright 1996; Burstein and Linton 2002).

Family leave policy is clearly a gendered issue, as women are much more likely than men to take leave to care for a new baby or a sick family member (Boushey, Farrell, and Schmitt 2013; Lewis 1993; Morgan 2006). Therefore, I place the issue within the larger literature that studies the role of women's movements in shaping gender-based policies. In recent decades, an increasing number of women's issues have found a place on the public agenda in postindustrial democracies. Also, a growing body of research examines the role of political actors in shaping such gender policies.

Differences in actors' characteristics and strategies and the political environment in which they work are central to explaining changes in gender policies (Banaszak 1996; Haussman and Sauer 2007; McBride and Mazur 2010; Morgan and Zippel 2003; Weldon 2002b, 2006, 2011). With regard to family leave in the United States, women's movements have a significant influence on the policy-making process.

### *Women's Movements*

A women's movement is a type of social movement aimed at promoting the well-being or status of women (Tilly 1978). Therefore, to understand women's movements fully, a brief discussion of the broader social movement literature is necessary. A social movement is "a sustained series of interactions between power holders and persons successfully claiming to speak on behalf of a constituency lacking formal representation, in the course of which those persons make publicly visible demands for changes in the distribution or exercise of power, and back those demands with public demonstrations of support" (Tilly 1984, 306). Such a movement entails a wide-ranging social group, rather than the isolated activity of a few people, where there is "solidarity in pursuit of common goals" (Molyneux 1998, 70). Social movements affect democratic political systems in a number of important ways, including stopping or prompting government action, changing social values, influencing policy debate, improving substantive representation for marginalized groups, reducing social conflict, and transforming government institutions (Rochon and Mazmanian 1993; Tarrow 1994; Tilly 1995; Diani 1992; Wolbrecht and Hero 2005; Weldon 2011).

Social movements work to get particular ideas recognized as problems by both the general public and policy makers through tactics such as protests, voter mobilization, the creation or co-optation of interest groups, and the endorsement of and work for specific candidates and referenda proposals. Once a social movement has drawn attention to an issue, the issue has the opportunity to be seen and adopted by government officials, legislators, and other policy makers. Thus, getting an issue on the agenda is crucial to policy change (Kingdon 1984; Cobb and Elder 1972).



Social movements attempt to frame issues in terms that will enhance their goals (Benford and Snow 2000; Snow and Benford 1992). “Framing” refers to the “conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action” (McAdam, McCarthy, and Zald 1996, 6; see also Schattschneider 1960). Movement actors attempt to link their ideals to popular beliefs in order to rally support for their cause. If the movement’s frame of the issue gets incorporated into the dominant frame of debate, the movement can then claim to have a place in the policy-making process (Schneider and Ingram 1993).

Women’s movements share most characteristics of social movements; they are set apart from other social movements in that they are “consciously and explicitly gendered” (McBride and Mazur 2010, 145).<sup>15</sup> A women’s movement consists of both “the discourse of women’s movements—the ideas, aspirations, and identities developed from gender consciousness that inspire collective behavior—and the actors articulating these points in public” (McBride and Mazur 2010, 144; see also Ferree and Hess 2000). Because it is difficult to adequately observe the formation of women’s movement ideas and discourse, empirical studies focus on women’s movement actors (WMAs). WMAs are the individuals and formal and informal organizations that “are inspired by movement thinkers to promote what they see as women’s interests” (McBride and Mazur 2010, 30). By definition, WMAs are nonstate actors.<sup>16</sup>

Scholars have repeatedly identified women’s movement strength as a predictor of policy success (Amenta et al. 2010; Katzenstein 1989; Mazur 2002; Weldon 2002b, 2011).<sup>17</sup> Strength can be gauged by the level of political support the movement garners and the resources it commands (Weldon 2006). It can also be assessed through an examination of the narrative accounts of the movement, specifically looking for descriptions such as “strong” or “powerful.” Likewise, the number of women’s organizations or the number of members they have can signify the strength of the women’s movement. Movements that are strong or influential “can command public support and attention, while weaker ones have trouble convincing the media and others that their positions and opinions are important for public discussion” (Weldon 2002b, 80).<sup>18</sup>

When women's movements are strong, they increase their chances of advancing women's rights. WMAs play a crucial role in getting their priority issues on the governmental agenda because they are often the first to articulate the matter. Indeed, agenda setting is one of the main ways in which WMAs influence public policy (Mansbridge 1995; Morgan 2006; Weldon 2002b). A strong movement will be better poised to influence the government's agenda, for it can successfully mobilize grassroots action and electoral support, and its spokespeople become legitimate contributors to public discourse (Kingdon 1984; Rochon and Mazmanian 1993). Legislators are also more likely to respond favorably to women's demands when women's movements are highly mobilized (Costain 1998).

Clearly, the strength of women's movements plays a role in determining gender policy outcomes. However, in the case of family leave policy, strength does little to explain the lack of paid leave at the national level, for the American women's movement has historically been strong. Indeed, the United States has produced one of the strongest women's movements in the Western world (Gelb 1989; Morgan 2006, 19–20; Weldon 2011). Although there is some variation at the state level, it does not correspond to the variation in family leave policies. In other words, the states with the strongest women's movements have not automatically adopted the most generous family leave policies. At the same time, the states that have already passed paid family leave do have strong, autonomous women's movements. To gain a fuller understanding of the ways in which women's movements affect policy development, I also examine the cohesiveness and issue prioritization of movements. When the women's movement is united in its support of a piece of legislation and positions it as a priority on its agenda, WMAs can better influence the policy-making process.

### *Cohesion*

Even when a women's movement is strong, it may be internally divided on certain issues; such fragmentation decreases the amount of influence the movement can have on the policy-making process. Therefore, it is necessary to examine the cohesion of the women's movement in the context of family leave policy making. Cohesion "is present when movement groups active on the issue agree on the frame of the debate and the policy proposal" (Lovenduski 2005, 16).

Framing is a key function of women's movements. Because the way in which the major policy actors depict policy issues can greatly affect the content of both policy debate and the policy itself, WMAs continually try to insert their own ideas and frames into the dominant discourse (Lovenduski 2005, 6–8; Mazur 2001). Once successful in framing the issue in terms that would improve the status of women, the women's movement will attempt to maintain these frames so debates surrounding the issue will always be conducted in such terms. Problems arise when WMAs cannot agree on how to frame an issue. But when a movement is cohesive, it will be more likely to successfully influence the policy-making process (Lovenduski 2005; Outshoorn 2004; Stetson 2001b).

In the United States, there has historically been dissent within the women's movement regarding discourse on family leave. Many WMAs are wary of pressing for "maternity leave" for fear of drawing too much attention to gender differences in the workplace. Major women's groups, such as the National Organization for Women (NOW), have gone as far as to protest against protective labor legislation, including paid maternity leave (Barakso 2004). These "equal-treatment" feminists argue that by singling women out for special privilege, leave that is provided only for women will further the belief that they should be treated differently. Such WMAs clash with "special-treatment" feminists who claim that women are different from men and that pregnancy presents job obstacles for women that men do not face. For that reason, these WMAs advocate maternity leave that compensates women for their special needs (Kay 1985; Vogel 1990, 1995; W. Williams 1984–1985). Equal-treatment feminists have generally won out, which is why the first bill introduced in Congress in 1985 identified "parental" leave instead of "maternal" leave (Wisensale 2001, 139).<sup>19</sup> This disagreement between equal-treatment feminists who want formal equality and special-treatment feminists who advocate substantive equality weakened the bargaining power of the women's movement during the fight for the FMLA. Likewise, discord regarding the details of the legislation, such as whether leave should be paid, diminished WMAs' influence on lawmakers. For the most part, these divisions have not been present within more recent campaigns, as legislative proposals that include formal equality and wage replacement have become the norm. However, in some cases

there is still disagreement over issues such as length of leave, wage replacement levels, sources of funding, and definition of “family member.”

### *Issue Prioritization*

Issue priority refers to the attention WMAs devote to an issue and the position of that issue on the list of overall movement concerns (Outshoorn 2004, 17; Lovenduski 2005, 16). To effect policy change, WMAs must mark an issue as a movement priority; movement strength and cohesion mean little if actors are not committed to the issue. Agenda setting is one of the key contributions that women’s movements can make to the policy process. However, WMAs will not exert much energy trying to get an issue on the government’s agenda if they are not passionate about it. WMAs are more likely to successfully pressure policy makers to adopt family leave policies if the issue is among the top priorities on the movement’s agenda (Lovenduski 2005; Outshoorn 2004).

In the United States, the national women’s movement has historically focused much of its energy on issues like reproductive rights and violence against women. For most of the early part of the second wave of feminism, family leave policies were not even on the women’s movement agenda in the United States. Although the issue has gradually received more attention, it has never become a top priority at the national level. A number of women’s movements at the state level have recently begun to reposition paid family leave higher on their agendas; however, other issues such as domestic violence and sexual assault, equal pay, gay rights, and reproductive freedoms may take precedence.

### *The Interaction Effect*

WMAs can influence the policy-making process in a number of ways, such as agenda setting, framing, and lobbying. However, there is not usually a direct relationship between women’s movements and policy outcomes (Katzenstein 1987, 13). Rather, women’s movements often effect policy change through their alliances with other organizations, interest groups, state actors, and political parties. For example, Susan J. Carroll (2006) finds that female legislators feel more freedom to fight for women in the policy process when they have

alternative spaces—like those that women's organizations provide—that reinforce their feminist identity and support their legislative actions. Women's policy agencies within the state, such as women's commissions or women's bureaus, also benefit from political support from women's movements (Weldon 2002a, 1160).

Policy makers are unlikely to pass generous family leave policies in the absence of a strong women's movement that is united in its support of the legislation and has made it a priority. But when WMAs meet these conditions, they can exert significant pressure on legislators. However, women's movements do not act alone, and no one factor can fully explain the outcomes of the policy-making process. Therefore, I examine other actors that may influence the passage of family leave policies, such as unions and organizations representing the interests of families, children, seniors, and individuals with disabilities. I look for critical actors in the legislature, women's policy agencies within the bureaucracies, and party control of both the executive and legislative branches. I also analyze the strength of the countermovement that works to prevent the passage of paid family leave.