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Conversations with the Experts

The California Paid Leave Program



Ruth Milkman

Bio: Ruth Milkman is Professor of Sociology and Director of the Institute of Industrial Relations at UCLA. She did her undergraduate work at Brown University and received her M.A. and Ph.D. from the University of California, Berkeley. Before moving to UCLA in 1988, she taught for several years at the City University of New York. She has also taught as a visiting professor at the University of Warwick (England), the University of Sao Paulo (Brazil) and Macquarie University (Australia). Her research and writing has ranged over a variety of issues surrounding work and labor organization in modern societies. She has written many articles and three books: *Gender at Work: The Dynamics of Job Segregation by Sex during World War II*, which won the 1987 Joan Kelly Prize from the American Historical Association; *Japan's California Factories: Labor Relations and Economic Globalization* (1991); and *Farewell to the Factory: Auto Workers in the Late Twentieth Century* (1997). She also has published two edited volumes: *Women, Work and Protest: A Century of Women's Labor History* (1985) and *Organizing Immigrants: The Challenge for Unions in Contemporary California* (2000).

Editors Note: This month, Sandee Shulkin and Karen Corday interview Ruth Milkman about the California Paid Leave Program, which went into effect on July 1, 2004 as the first paid family leave legislation in any of the United States. Dr. Milkman and Dr. Eileen Appelbaum lead the research team at the California Family Leave Research Project, housed at the UCLA Institute of Industrial relations, "an initiative designed to explore the effects of the state's new paid family leave program."

An Interview with Ruth Milkman of the California Family Leave Research Project

By Sandee Shulkin and Karen Corday

Shulkin: Can you give a brief explanation of the California Paid Leave Program?

Milkman: The Paid Family Leave Law was passed by the state legislature in 2002, but it didn't take effect until July 1, 2004. The law provides up to six weeks of wage replacement at 55% of a worker's weekly earnings, with a cap of \$840.00 per week, for employees who need to take time off to bond with a new baby or to care for a seriously ill family member. It's important to understand that California also has state-administered Temporary Disability Insurance [TDI], so pregnant women who were already eligible for that insurance are now eligible for benefits pregnancy leave in addition to disability leave under this new program as well. In other words, it can be used to extend a maternity leave, but it's not just for biological mothers; it can be used by fathers and adoptive parents as well. The real breakthrough here, in my opinion, is that coverage under the new program is nearly universal. Unlike FMLA [Family and Medical Leave Act], there is no minimum number of employees, and of course FMLA guarantees only unpaid leave. Workers in the public sector are not eligible for the new program, but most of them in California are unionized and already have some type of paid leave. Self-employed people are not automatically included, but they may opt into the benefit.

Shulkin: Where does the money for the program come from?

Milkman: It's funded 100% by a payroll deduction. There is an irony here: while it is a great victory for the movement for family leave, it's funded entirely by workers themselves. The original proposal was that the funding be shared equally by workers and employers, but that didn't happen. However, it is very cheap; people only have a few dollars deducted from their paychecks each month for this program – a maximum of about \$65 a year.

Shulkin: What provisions were in place for employees who needed to take leaves before this law went into effect?

Milkman: Before this, there was no state program aside from the TDI that I previously mentioned. Lots of people have coverage through their employers, but this law covers everyone. It's often the most privileged workers who receive benefits from their employers, so this arrangement levels the playing field quite a bit. The lowest earners, minimum wage workers, who are least likely to have paid leave of any kind provided by their employers, are covered.

Shulkin: How does the program differ from the FMLA?

Milkman: The biggest difference is that FMLA leaves are unpaid. On the other hand, the new California program does not provide job protection, which FMLA does. The California law is based on an insurance model. Employees pay into it the same way they would pay into their health insurance policy. The work requirements before accessing the benefit are very minimal; workers need only have earned \$300 in the "base period" before filing a claim. It's also not a requirement that workers go back to their same jobs at the end of the leave, although most people do.

For a detailed comparison of the Family and Medical Leave Act and the Paid Family Leave Program, please see the California Department of Fair Employment & Housing's Employment Bulletin available at:
<http://www.dfeh.ca.gov/News/Bulletin-Paid%20Family%20Leave%2012-31-03%20web.htm>.

Shulkin: Do most employees just take the six weeks and then return to work?

Milkman: In the first year of the program, the average length of paid leaves was 4.8 weeks, after which they returned to work, in most cases.

Shulkin: How are workers made aware of the program?

Milkman: We have done some research on this topic and we found that awareness of the law is still very limited. And unfortunately, the people who need paid leave the most are the people who are least likely to be aware of it. Employers are supposed to notify new employees and tell existing employees about the benefit if a covered event comes to their attention, but this is hard to enforce. When we did our first survey of 1000 California adults about their awareness of the law in the fall of 2003, before the law even took effect, only 22% of respondents knew about the law. We redid the survey over July and August of 2005, and the figure had only gone up to 29.5%. It's an improvement, but it's not as high as we'd like, obviously. We also asked if they knew of FMLA, and 57% of the respondents had, while 61% knew of TDI. Awareness of the new law, however, is at less than half of that level.

Shulkin: Does the fact that employees are only eligible for 55% of their usual weekly salary hinder participation in the program?

Milkman: It might. It's also important to know that unlike the legislative intent, in the end the Internal Revenue Service decided that this was a taxable benefit, so it's even less than 55%, particularly for a higher income person. It's a good question. Regardless of the reduction in pay, it's so much more than zero, and we do know that many people take leaves even if they are unpaid, so it may be an issue for some people, but it's still an improvement. Studies show that sick children recover more quickly when there's a parent at home. That's one situation in which paid leave can be used. Other research shows that children benefit from having a parent around when they're very young. Furthermore, the worker benefits from the paid leave as well, not just financially, but in terms of their quality of life. There are many negative consequences of not having access to leaves. So this new program is a big step forward; it's not perfect, but it's a start.

Shulkin: Is there a solution for people who can't afford a 45% income reduction? Can they get benefits elsewhere?

Milkman: Someone who had access to other benefits may take them in addition to the paid leave. We have also done some interviews with employers, some of whom "top off" the benefits provided by the law with their own benefits, such as paid vacation time.

Shulkin: Do you have any recommendations for other states who want to replicate this program?

Milkman: Although California's program is weak relative to most other countries' paid leave provisions, it's the only state in the U.S. that offers any type of paid leave. For other states, just the fact that it exists in California proves that it is possible – even in America! There is another feature that I should mention: California already had the Temporary Disability Insurance (TDI) program, and this new program uses the same administrative machinery as TDI. As a result, there was no need to set up an entirely new bureaucracy, as the same agency that administers TDI distributes these new benefits. There are four other states that have TDI programs—New York, New Jersey, Hawaii, and Rhode Island—and Puerto Rico has one as well. They, too, could build on their existing programs, but other states would have to start from scratch.

Shulkin: Are there any critics of the program? What do they say?

Milkman: The main critics have been business people who see it as a form of regulation and therefore oppose it on principle. It's an ideological reaction. However, our research suggests that this law benefits employers as well as workers. The argument that was raised in the debate over the law in the beginning was that it would be an intolerable burden for small businesses. We've done some preliminary research on this, and we've found that small business owners tend to be very concerned about their employees' well-being. They often have strong personal ties to their employees and are even more likely than large employers to find ways to accommodate people who need leaves. It's true that some small businesses can't afford to pay workers while they are on leave, but under this program, there's no direct cost to them. They do have to determine how the necessary work will get done, but our research shows that most employers accomplish their work goals by distributing the work to current employees. We've also found that any successful business needs to have provisions for unexpected employee absences; you can't run a business without a contingency plan. These contingency plans can be put into place to cover for an employee who needs to take leave. Businesses are also more likely to retain employees if this benefit is available.

Another interesting thing about this law was that it went into effect under our former governor, Gray Davis. However, when Arnold Schwarzenegger came into office, he rolled back several other laws and programs, but he didn't touch this one. And, when we surveyed people, we found that this law was extremely popular—85% of the people we surveyed thought it was a good idea, regardless of their political affiliation.

The 2005 National Study of Employers verifies that small businesses are more likely to accommodate employees' needs for time off. To access the study, please click here: <http://familiesandwork.org/eproducts/2005nse.pdf>.

Shulkin: What is your vision for this program down the road?

Milkman: I hope the leaves become longer and the compensation level rises, and that paid leave is extended to other states. Other states are watching California's experience very closely. I'm optimistic about the future; I think this is an idea whose time has come. People really want solutions to the problems of work and family in this country; after all, just about every other country in the world has had paid leave available for many, many years. It's finally coming here, but it will take awhile, especially given the current political climate.

Shulkin: What research would be most useful on this topic?

Milkman: We need a much more detailed picture of what this actually means "on the ground." We also need to know how it plays out for families and individuals who are taking advantage of the program. Are there consequences for them in the workplace, positive and/or negative? Eileen Appelbaum and I are beginning to look into these issues, but we hope others will do so too.

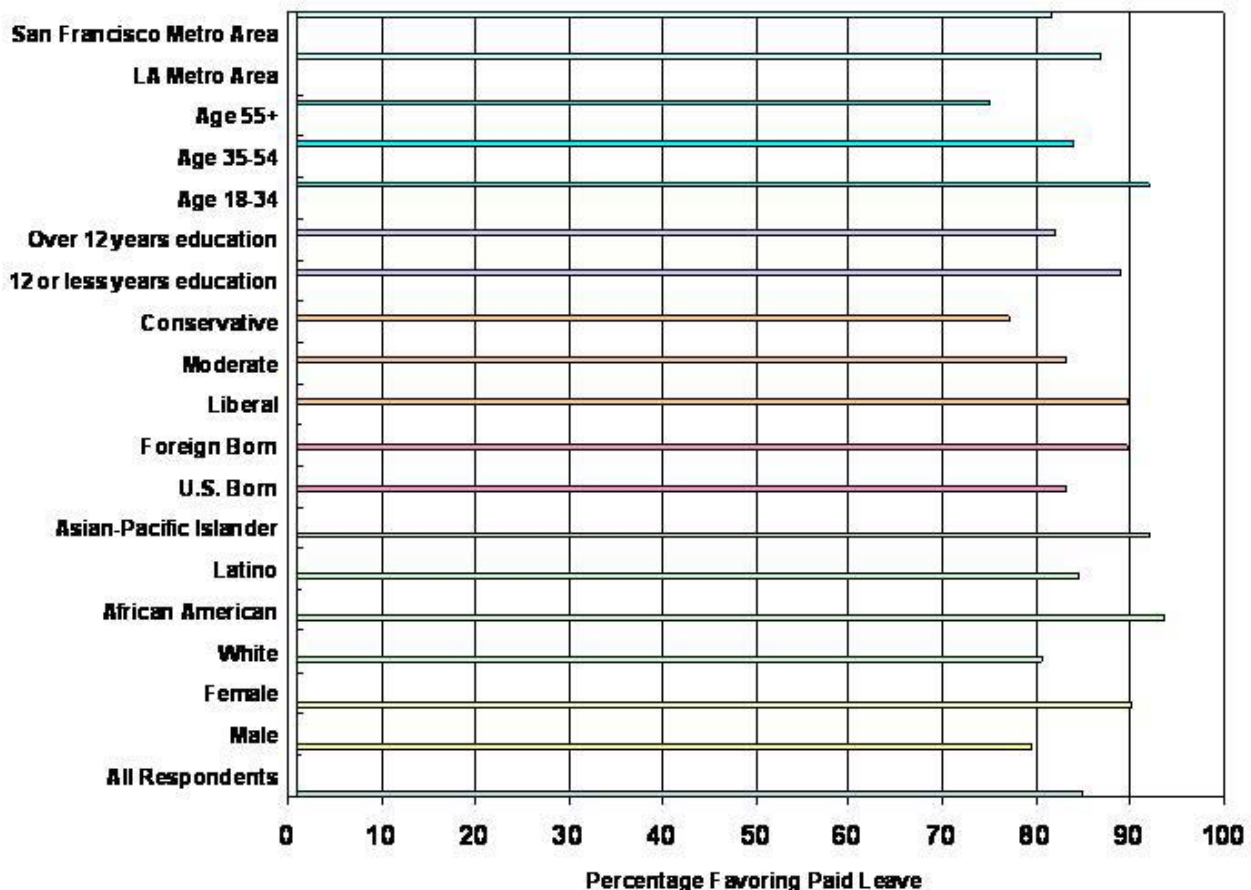
Shulkin: Is there anything else that you think our readers should know?

Milkman: I'd like to emphasize that this legislation came about through a coalition effort. It was a coalition of women's groups, senior organizations, and most importantly, organized labor. This breakthrough simply would not have happened without the support of the labor movement. To build successful campaigns in other states, labor union involvement is critical. Interestingly, most union members already have equivalent benefits available to them, but here in California, labor understood the inequality that existed in the workforce when it came to paid leave access, and worked to make it available to all working people.

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For more information, please visit the California Paid Family Leave Research Project web site at <http://www.familyleave.ucla.edu/>. There you may access the project's latest findings, as detailed in "Paid Family Leave in California: New Research Findings" by Ruth Milkman and Eileen Applebaum, originally published in *The State of California Labor*, Vol.4, pp.45-67. This full text article is available at <http://www.iir.ucla.edu/scl/pdf/scl2004ch2.pdf>.

Support for Paid Family and Medical Leave in California by Selected Characteristics



Source: This chart is adapted from Milkman, R. & Appelbaum, E. (2004). Paid family leave in California: New research findings. *The State of California Labor*, 4, 45-67.

Data for the chart was drawn from the *Golden Bear Omnibus* (GBO) survey, a random digit dial (RDD) telephone survey of 1,050 California adults that was conducted over the period September 17 through November 22, 2003, by the University of California at Berkeley's Survey Research Center. This survey, conducted in English and Spanish, investigated public attitudes about paid leave, public awareness of the state's new paid family leave law, employees' previous experience with family and medical leave, and employees' expectations about future needs for leave. The GBO sample was a cross-sectional RDD sample covering residential telephone exchanges in California. The overall response rate for this survey was 32.6% of all eligible households and 57.8% of selected respondents; 1,817 respondents were selected from 3,225 eligible households. Within this group were 720 refusals and 47 cases where no contact could be made, for a total of 1,050 completed interviews.

Additional Resources Related to Family and Medical Leave

Editor's Note: This month, we highlight resources on the web pertaining to family and medical leave, both within and outside of California.

Anglo and Latino Worker Attitudes Toward California Paid Leave: Written by Karina Ramos, Iris Beltran, and Heidi Rigglio and published in 2004 by the Berger Institute. This brief article reports the findings of a survey that "examined California residents' knowledge of and attitudes toward PFLA, as well as their current concerns involving child care, elder care, family illness, and taking leave from work."

- Access the full text article at <http://berger.claremontmckenna.edu/research/hispCPFL/>.
- View the Berger Institute's plans for research concerning the California Paid Leave Insurance Program: <http://berger.claremontmckenna.edu/tenfacts.asp>.

Employment Development Department's Paid Family Leave page: California's Employment Development Department administers the state's Paid Family Leave program. This section of their web site includes directions on filing a claim, all necessary forms for utilizing the program, answers to frequently asked questions for employees and employers, statistics on the use of the program during the first year of its availability and much more.


- Access the site here: <http://www.edd.ca.gov/fleclaimpfl.htm>.

Paid Leave Clearinghouse: "Today's working families face serious challenges as they attempt to balance the competing demands of work and family, and Americans are engaged in a lively debate as to what public policies will best help families meet these challenges. One major focus of this debate is paid family and medical leave. The National Partnership for Women and Families has launched the Paid Leave Clearinghouse to provide easy access to the facts, ideas, and arguments that inform this discussion. It is an on-line library of citations and, in many cases, full-text documents pertaining to the topic of paid family and medical leave. It includes scholarly publications but also a wide range of other materials such as bills, reports, court opinions, advocacy materials, editorials, and survey findings."

- Visit the homepage at: <http://www.paidleave.org>

Publications and materials from the Labor Project for Working Families: The Labor Project for Working Families has compiled six full text articles and briefs that examine California's Paid Leave Program, including cost and benefit analyses and a survey on public attitude and knowledge about the law. Also available at the site is the Family Fact Sheet Series, "an information resource on five state laws designed to help Californians balance work and family," available in English, Spanish and Chinese.

- Visit the homepage at: <http://www.laborproject.org>
- View the full text articles and briefs on California's Paid Leave Program here: <http://www.laborproject.org/publications/paidleave.html>
- View the Family Fact Sheet Series here: <http://www.laborproject.org/bargaining/familyfactsheets.html>

 **Global Perspectives – *The Work, Family and Equity Index: Where Does the United States Stand Globally?*** Written by Jody Heymann, Alison Earle, Stephanie Simmons, Stephanie M. Breslow and April Kuehnhoff and published in 2004 by The Project on Global Working Families, Harvard's School of Public Health. This report investigates worldwide policies on "the working conditions that are needed to care for children and other family members."

- Access the full text of the *Work, Family and Equity Index* here: <http://www.hsph.harvard.edu/globalworkingfamilies/images/report.pdf>.
- Visit the homepage at: <http://www.globalworkingfamilies.org>.

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