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Collective bargaining for paid parental leave in Australia 2005–2010: A complex context effect

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Abstract

In the period leading up to the federal government's May 2009 announcement of a paid parental leave scheme, there was a surge in community and media debate about the absence of such a scheme in Australia. This article explores whether this context had some bearing on bargaining outcomes during that time. We analyse data from the Australian Workplace Agreements Database to determine the incidence and length of paid parental leave in collective agreements registered between 2005 and 2010. The results show an increase in the number of agreements that included paid parental leave clauses in the period, with just over 14% of all current agreements including a paid parental leave clause by 2010. Moreover, 18% of all agreements lodged in 2010 included a paid parental leave clause, suggesting an increase in bargaining outcomes over time. We also find a slight increase in the average duration of paid parental leave in collective agreements. A leave of 14 weeks is most common in public sector agreements but less than 3% of agreements in the private sector provide for 14 weeks or more. These marked differences between the public and private sectors suggest minimal change in private sector bargaining outcomes. We conclude that the legislative context does influence bargaining outcomes, but that this effect is felt more in public sector than private sector bargaining.

JEL Codes: J52, J81, J82

Keywords

collective bargaining, labour standards legislation, paid parental leave, public sector employment, private sector employment conditions, work/family, work/life balance

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Introduction

In the period leading up to the newly elected federal Labor government's announcement in 2009 of the introduction of a national paid parental leave[1] (PPL) scheme and the commencement of that scheme in January 2011, there was a surge in community and media interest and debate about the absence of such a scheme in Australia. The Australian public became acutely aware of international comparisons, with the frequently quoted fact that of all Organisation for Economic Co-operation and Development (OECD) countries, only the United States of America and Australia did not have a PPL scheme. Although maternity and parental leave had been debated in Australia on various occasions in the past century (Brennan, 2009), we are particularly interested in the context of heightened debate following the release of the 2002 Human Rights and Equal Opportunity Commission report canvassing options for national PPL. In the intervening period between that report and a 2009 report commissioned by the government from Productivity Commission report, the conservative government in power until late 2007 stridently opposed the introduction of PPL. That government instead introduced a 'Baby Bonus' in 2002, a cash payment to all new mothers regardless of employment status, and argued that individual employees and unions were free to bargain for PPL, but that the government would not support such a scheme. The evidence showed quite clearly, however, that bargaining led to variable outcomes, with approximately 50% of the workforce without access to PPL (Baird et al., 2009). Unions, women's coalitions and some employer groups began to support the introduction of a government scheme to provide PPL for all working women. With that background in mind, this article examines the possible link between this context of heightened debate and the collective bargaining outcomes for PPL.

In investigating the extent to which collective bargaining delivered PPL, the article begins by outlining previous research on such bargaining, and by providing an overview of the social and political events occurring in the period under consideration. The following section explains the data and methodology, including information on bargaining outcomes to 2010. This is followed by an evaluation of the major patterns in collective bargaining and PPL in the period under examination. The article concludes with comments about the interaction of the legislative context and collective bargaining outcomes.

Research on collective bargaining and paid parental leave

There is considerable research examining the various ways that work–family policies, including PPL, are provided. One research stream focuses on legislative means, much of this with a European focus, where welfare state policies and European Union mandates have resulted in a suite of work–family entitlements (Moss, 2012). A second stream of research relates to the delivery of work and family policies through organisational initiative, and the third stream relates to the capacity of trade unions to deliver work–family provisions in collectively bargained agreements (Demetriades et al., 2006). With the exception of a small body of research that combines these areas (see Berg et al., 2013), each of these three streams tends to be considered independently. Furthermore, beyond

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commenting on the demographic and social changes in labour markets, there has been little specific attention to the legislative, media and community contexts as catalysts for the introduction of new work and family policies.

In terms of the first stream focusing on legislation, there is an extensive body of research on the availability of PPL in different countries. Much of this research refers to statutory entitlements (see, for example, Moss, 2012) and there is a dearth of research on work–family entitlements as they are found in union collectively bargained agreements. However, such knowledge is particularly relevant for neoliberal states such as the United States and Australia, where governments have tended to absent themselves from the work and family regime and have emphasised the responsibility of either the family or individuals, or employers and employees, to make arrangements to accommodate work and family demands (Baird, 2011).

Demetriades et al. (2006) provide one of the few European overviews of the provision of work and family entitlements that reference collectively bargained outcomes. They found that collective bargaining was increasingly dealing with work and family issues in the European Union (EU). Most of this bargaining related to working time, flexible hours, teleworking and child care, with special leaves such as PPL and career breaks less frequently on the agenda. They also found there was considerable diversity in how conditions were set, including through legislative, framework, sectoral and company-level agreements. In a comparative study of collective bargaining outcomes for annual lave, PPL and working-time flexibility in US and Australian universities, Berg et al. (2013) found that Australian union agreements provided more in terms of PPL than US comparators, but that agreements were more similar on matters relating to working-time flexibilities. They suggest that the historically more centralised industrial relations framework combined with more coordinated union strategies in Australia explain these differences.

In Australia specifically, Baird et al. (2001) undertook a study focused solely on the provision of PPL in enterprise agreements using data from two sources, the Agreements Database and Monitor (ADAM)[2] sample of more than 2000 enterprise agreements and the Workplace Agreements Database (WAD, 2011). The WAD includes all federally registered agreements, rather than a sample of agreements. To avoid duplication between the two sets of data, Baird et al. (2001) analysed only state-registered agreements in ADAM and used WAD for the analysis of federally registered agreements. They found that in federally registered agreements, the incidence of PPL clauses was higher in those registered in 1998 and 1999, 9.8% and 9.3% respectively, than in 2000, when the incidence dropped to 6.2%. They also found that public sector agreements were more likely to include a PPL clause. In a subsequent study using only ADAM agreements, Baird et al. (2009) found some increase in the both the incidence of PPL clauses and in the duration of leave. The sample was 1865 agreements still in operation (i.e. that had not reached their nominal expiry dates) at 1 January 2008. In 2008, 22% of agreements included PPL, and while this represented a sizeable increase since 2000, the incidence was still dominated by the public sector (59% of public sector agreements and just 16% of private sector agreements).

Whitehouse (2001) examined the presence of work and family provisions in enterprise agreements using the ADAM information. Her study included PPL as well as other

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entitlements such as paid paternity leave, family carers leave, job share, child care, work from home, career breaks and elder care referrals. PPL was one of the most frequent references in agreements, occurring in 4.5% of agreements registered in 2000. This represented a decrease compared with 1997 (8%) and 1998 (7%) but was similar to 1999 (4.5%). Whitehouse (2001) also found that the incidence of such clauses was significantly higher in the public sector and in agreements covering more than 500 employees. She concluded that as the uptake of family-friendly provisions in bargaining was minimal and occurring at a slow pace, public policies were needed to complement the paucity of family-friendly provision in enterprise agreements. Noting the uneven pattern over the years examined, Whitehouse (2001: 114) suggests,

> [T]he increased incidence of work/family provisions in agreements to 1998 … is unsurprising given the growing emphasis on these issues over the 1990s … In particular, the ACTU Family Leave test cases in 1994/5 focused attention on what could be achieved through agreements, and negotiators may subsequently have been encouraged to move beyond the basic provision of access to sick leave for family purposes.

It is this possibility of an interaction between contextual factors and bargaining outcomes that we seek to explore empirically, especially as the debate about the lack of a PPL scheme in Australia gathered pace at the beginning of the new millennium. Arguably, PPL was an issue on which the union movement felt it could make some headway in terms of influencing public policy, and it was presumably also on the minds of negotiators as they consulted with their members and went to the bargaining table.

In summary, there is little international research explicitly examining collective bargaining for PPL, perhaps because in most countries the state provides the entitlement through legislation. By contrast, in Australia where a statutory scheme did not exist until recently, research has examined outcomes under bargaining as one means of achieving the entitlement. The Australian research to date indicates that despite the increasing inclusion of PPL in collective agreements, the data remain limited. Furthermore, there is a distinct difference between the provision and duration of PPL in the public sector and private sectors.

The industrial and political contexts

Since 1991 Australia has formally had an enterprise bargaining system. Despite the move to a more individualised determination of pay and conditions at work, underscored by legislative changes from 1996 to 2005, collectively bargained agreements remain the most common method for setting the pay and conditions of employment. The proportion of employees covered by collective agreements in Australia in the period 2005–2010 rose slightly from 40% to 43% (Australian Bureau of Statistics (ABS), 2010), partly owing to changes in the regulatory framework allowing unions more negotiation rights (Cooper and Ellem, 2011, 2012).

In these circumstances, the coverage of PPL in collective agreements remained minimal, fuelling arguments for the introduction of a statutory scheme (Baird et al., 2001, 2009; Whitehouse, 2001). The decade beginning 2000 was marked by intense political and social debate about the absence of a PPL scheme in Australia. It was also a period of

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significant regulatory change in industrial relations. The federal (conservative) government at the time, led by Prime Minister John Howard, opposed the introduction of a statutory PPL scheme and argued instead that its provision was best left to individuals and to direct employer–employee bargaining. In 2002 the Baby Bonus was introduced; although controversial and available to working and non-working women, it was partially used to appease advocates for PPL (Baird, 2005). In 2005 the same government introduced the highly contested *WorkChoices* amendments to the industrial relations legislation, restricting union bargaining power and content in collective agreements.

The union movement, largely coordinated through the peak union body, the Australian Council of Trade Unions (ACTU), had campaigned for maternity leave in the late 1970s and in 1979 successfully ran the Maternity Leave Test case in the Australian federal employment relations tribunal, then called the Conciliation and Arbitration Commission. This case set the standard of 52 weeks of job-protected but *unpaid* maternity leave, and was followed by the Adoption and Parental Leave cases of 1985 and 1990 respectively, which extended access to adoptive parents and to fathers (Stewart et al., 2011). In 2005, the ACTU ran another test case, seeking further important changes to family provisions in awards. In this Family Provisions Test Case, the Australian Industrial Relations Commission (AIRC) awarded a range of improvements including the 'right to request' an extension of the unpaid parental leave entitlement from 12 to 24 months (Williamson and Baird, 2007). Nevertheless, PPL was neither sought by the union movement nor awarded by the commission. The new entitlements awarded through this Test Case were soon overshadowed by the introduction of the *Workplace Relations (WorkChoices) Act 2006* and the union movement's attention turned to protecting existing rights rather than expanding into new areas. With the election of the new Labor government in 2007, the *Fair Work Act (Cth)* replaced the *Workplace Relations* (*WorkChoices*) *Act* and became operative in April 2009. Included in the *Fair Work Act* were new National Employment Standards (NES), which commenced in January 2010. One of the new standards was the right to 12 months unpaid parental leave for *each* parent, extending the 12 months per couple previously available under legislation.

Despite these changes and advances in the provision of unpaid parental leave, Australia did not have a PPL scheme until the enactment of the *Paid Parental Leave Act, 2010 (Cth).* This public policy deficit became the focus of a concerted campaign by unions, the Human Rights and Equal Opportunity Commission[3] and women's groups, and was incorporated as a central element of the Australian Labor Party's policy platform in 2007. Soon after their election, Prime Minister Rudd and the new government referred the question of the economic, productivity and social costs and benefits to Australia of paid maternity, paternity and parental leave to the Productivity Commission. The Productivity Commission's final report and recommendations were presented to the government in February 2009 (Productivity Commission, 2009). Following the Productivity Commission's report and recommendations, the government announced its commitment to the scheme in the May 2009 Budget. In July 2010, the *Paid Parental Leave Act* was proclaimed, with the scheme commencing payments from 1 January 2011.

A summary of the relevant and significant events in the period 2005–2010 is provided in Table 1, beginning with the Family Provisions Test Case and ending with the proclamation of the *Paid Parental Leave Act*.

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Table 1. Context.

Timeline of significant events	
2005	ACTU advocates the Family Provisions Test Case
2005–2006	*WorkChoices* amendments to *Workplace Relations Act*
2007	Human Rights and Equal Opportunity Commission recommends 14 weeks paid maternity leave
September–October 2007	Federal Election Campaign, ALP promises paid maternity leave, policy proposal widely debated
November 2007	ALP elected
2008	Productivity Commission inquiry established to recommend suitable supports for 'parents with newborn children'
February 2009	Productivity Commission recommends 18 weeks of paid maternity leave, government funded, at minimum wage
April 2009	*Fair Work Act* proclaimed, operative from June
May 2009	Federal Budget, government commits to Paid Maternity Leave Scheme
January 2010	National Employment Standards of *Fair Work Act* operative, includes 52 weeks unpaid parental leave for each parent
July 2010	*Paid Parental Leave Act* proclaimed, operative from January

ACTU: Australian Council of Trade Unions; ALP: Australian Labor Party.

Method and data

The data used in the article are from the Australian WAD, maintained by the Workplace Relations Policy Group of the Federal Department of Education, Employment and Workplace Relations (DEEWR). Of specific interest to this analysis are the data on PPL. For the WAD, this is coded as 'primary carer's leave' if the 'agreement includes paid maternity leave or paid leave for the "primary care giver" of a child/children'. In Australia, such leave is now generally referred to as PPL. The data are presented in two ways. The first is *trend* data for the period from 2005 to 2010, which includes details for all *new* agreements registered in each quarter throughout this time period. The number of new agreements struck in the 5-year period from 2005 to 2010 was 48,345. The second is *current* data, which include details for all agreements current at two points in time, 31 December 2009, and 31 December 2010. This refers to 22,235 current agreements on 31 December 2009, and 25,272 agreements on 31 December 2010.

Results

The article does not attempt to prove causal relations between collective bargaining clauses and the policy context, but seeks to illustrate the possible importance of social and legislative contexts and to explain patterns in agreement making and the presence of PPL clauses as we observe them for the period 2005–2010. First, we present data on the volume of new collective agreements made through the time period 2005–2010. We then show the outcomes in terms of the incidence of PPL clauses within those agreements, including industry and sector breakdowns. Having identified where and when agreements included a PPL clause, we show the different duration of PPL within those

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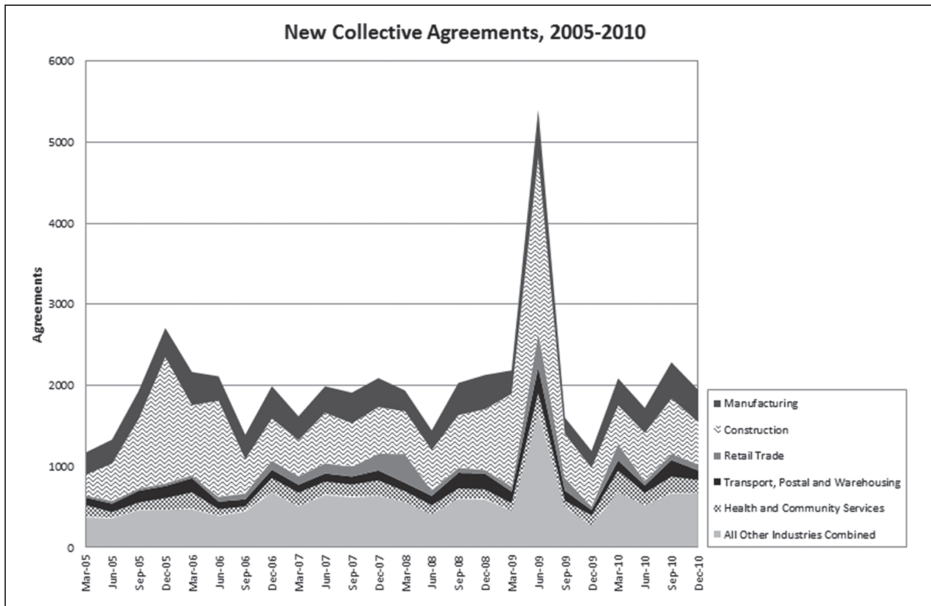

Graph 1. Overall level of bargaining.

agreements, providing industry and sector breakdowns. Overall, the data show marked differences in the incidence and duration of PPL between both the public and private sector as well as between different industries in the private sector.

Graph 1 shows the number of all new collective agreements by industry made in each quarter from March 2005 to December 2010. As the graph indicates, the period 2005–2010 can be characterised as an active bargaining period, dominated by a spike in agreement making in the quarter before the commencement of the *Fair Work Act 2009*. Much of this bargaining activity occurred in the construction industry. Cooper and Ellem (2011) suggest that this paradoxical outcome was a result of increased agreement making by employers seeking to pre-empt the new more employee-friendly legislation before it came into effect.

Incidence of PPL clauses

Of the total number of agreements current at December 2010 (25,272), just 14.3% (3629 agreements) included a PPL clause. This total had increased slightly from December 2009 (13.5%, or 3004 agreements). This mid-2009 spike followed a significant June quarter drop, to 9.4%, in new agreements with PPL clauses (Graph 2), and may be explained by the low incidence of PPL clauses in the Construction agreements which dominated this quarter. Following this decline, 17.7% (495 of 2795 agreements) of all new agreements lodged in the second half of 2009, and 18.0% (1447 of 8037 agreements) throughout 2010 included a PPL clause. Overall, despite these troughs and peaks, the trend was slightly upwards.

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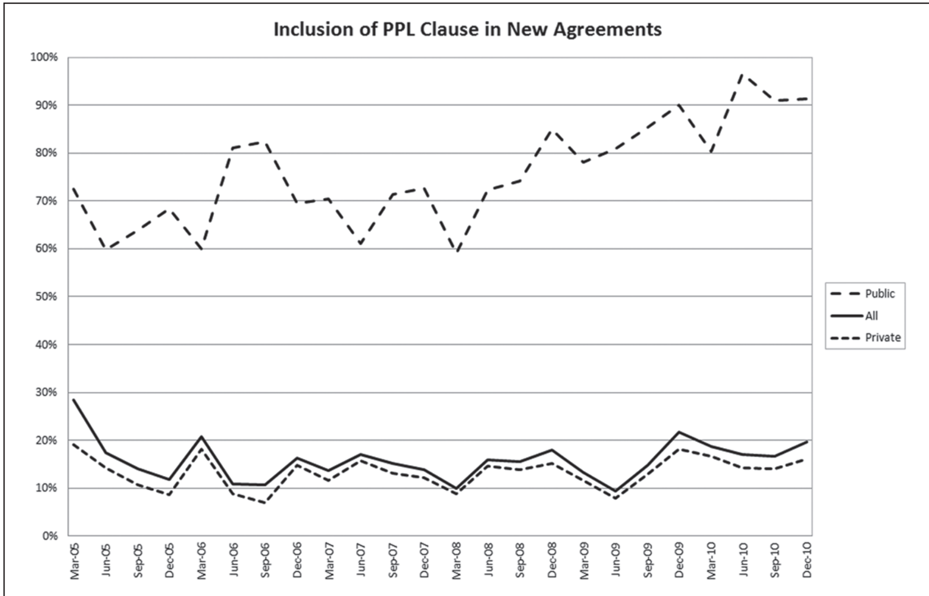

Graph 2. New agreements and paid parental leave clause, by sector.

Incidence of PPL clauses by public–private sector and by industry

The slight growth, over the time period under study, in the proportion of new agreements with PPL clauses, is reflected in the figures for agreements current in December 2009 and December 2010, when the incidence of PPL clauses in all agreements rose from 13.5% to 14.3%. Table 2 provides a breakdown of this incidence by industry and sector.[4] It shows that less than a quarter of all agreements in 15 of the 19 industries in the Australian and New Zealand Standard Industrial Classification (ANZSIC) include a PPL clause. In only three industries, Health Care and Social Assistance, Information Media and Telecommunications and Education and Training, did a majority of collective agreements include a PPL clause. In a fourth industry, Public Administration and Safety, almost half of the agreements included such a clause. These industries have high proportions of women, high skill requirements *and* a relatively high proportion of public sector agreements. However, as already indicated, in Construction, only 2.5% of agreements included PPL clauses. The small proportion of overall agreements in the private sector that included a PPL clause is partially offset by greater coverage of public sector agreements, with an average of 78 employees under each of the 24,602 agreements in the private sector, compared to an average of 1025 employees under each of the 670 agreements in the public sector.

One of the distinctive tendencies identified here and in earlier research is the strong sectoral pattern associated with PPL. Between 2005 and 2010, the public sector consistently recorded a higher incidence of PPL clauses in new agreements than the private sector (see Graph 2). Of new agreements lodged in 2010, 18.0% included a PPL clause.

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Table 2. Paid parental leave clauses in collective agreements by industry and sector.

Industry	Total	Offered & unknown		Not offered (i.e. 0)		0 as % total (%)	Ratio with PPL (%)
		Private	Public	Private	Public		
Agriculture, Forestry and Fishing	635			626		98.6	1.4
Mining	604	6		551		91.2	8.8
Manufacturing	3543	42		3069	2	86.7	13.3
Electricity, Gas, Water and Waste Services	381	3	1	285	7	76.6	23.4
Construction	7987	8		7783		97.4	2.6
Wholesale Trade	374	4		352		94.1	5.9
Retail Trade	2023	9		1984		98.1	1.9
Accommodation and Food Services	1817	41		1724		94.9	5.1
Transport, Postal and Warehousing	1638	26		1365	7	83.8	16.2
Information Media and Telecommunications	245	59	1	98		40.0	60.0
Financial and Insurance Services	317	13		237	1	75.1	24.9
Rental, Hiring and Real Estate Services	425	1		420		98.8	1.2
Professional, Scientific and Technical Services	409	3	1	337		82.4	17.7
Administrative and Support Services	810	5	1	771	1	95.3	4.7
Public Administration and Safety	728	28		314	77	53.7	46.3
Education and Training	881	38	14	169	2	19.4	80.6
Health Care and Social Assistance	1621	95		800	3	49.5	50.5
Arts and Recreation Services	349	7	1	277	2	79.9	20.1
Other services	485	15	2	370	11	78.6	21.4
Total	**25,272**	**403**	**21**	**21,530**	**113**	**85.6**	**14.4**

PPL: paid parental leave.

The public sector dominated, however, with 89.8% of all new agreements including a PPL clause, while only 15.3% of new agreements in the private sector included such a clause. These results show a marked polarisation of bargaining outcomes between the public and private sectors: the outcome suggests that diffusion to the private sector of such bargaining outcomes is not strong, and accords with previous findings. Indeed, the lack of increase between 2005 and 2010 in the proportion of private sector agreements with PPL is perhaps most surprising given the intensity of debate that was occurring in this period.

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It is possible, as the Workplace Gender Equality Agency (WGEA)[5] data suggest, that in the private sector, some employers may provide PPL but do not have it codified in union-negotiated agreements. For instance, data obtained from the WGEA indicate that in 2005 almost 44% of companies with 100 or more employees in the private sector provided PPL. By 2010, the proportion had increased to 51.5%.[6] WGEA data do not differentiate between policies in enterprise agreements or in company policy, but these figures suggest that a number of private sector companies may provide PPL through company policy alone.

Having noted this deficit of clauses in the private sector overall, it is also important to note that there is considerable variation within this sector in terms of PPL clauses. For instance, Table 3 shows the female/male split in each industry as well as the amount of female employment in each industry as a proportion of all female employment. It indicates that more than half of all women in employment during 2009–2010 were employed in the four industries with the highest proportions of female employment: Health Care and Social Assistance, Education and Training, Accommodation and Food Services and Retail Trade.

There was considerable variation among these female-dominated industries in terms of PPL outcomes. A majority of agreements in both Health (50.5%) and Education (80.6%) included a PPL clause. Even so, there was a marked discrepancy between the private and public sectors within each industry, with public sector agreements averaging 10.6 weeks of PPL in Health and 18.7 weeks in Education, compared with 7.3 weeks in private sector Health and 12.7 weeks in private sector Education. Yet these industries compare favourably with Retail and Accommodation, where just 1.9% and 5.1% of agreements respectively included a PPL clause. This suggests that an intersection of skill levels and the presence of public sector employment within different industries impacts on bargaining outcomes, with different pressures in different industries, particularly in the private sector. For instance, it could be that different employment and labour market pressures exist in industries such as Accommodation and Retail, compared with those in the public sector, and that where private sector industries have public sector competitors, this has contributed to higher PPL coverage in Education and Health and Community Services. In the Financial and Insurance Services industry, where 25% of agreements included paid PPL clauses with an average duration of 10.5 weeks, mimetic isomorphic pressures (DiMaggio and Powell, 1983) may have at work, as employers competed with each other to attract and retain skilled labour. As previous research found, industries where there are higher proportions of females with low skill and low bargaining power do not do well in relation to PPL clauses.

Duration of PPL

In the period 2005–2010, the policy debate was not just about access to PPL but also about the optimal duration of leave. Table 4 shows the duration of leave in instances where it was available and a specified amount of PPL is contained in the agreement.

These outcomes reflect a slight increase in not only the incidence but also the duration of leave present in agreements up to December 2010. From the first quarter of 2005 through to the end of 2010, there was a steady but slight increase to an average of 14 weeks of PPL in all new agreements, shown in Graph 3. This, in all likelihood, reflects the

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Table 3. Paid parental leave clauses: Industry, sector and average duration in weeks.

Industry	Women[a]		Agreements					
	Ratio industry (%)	Ratio all employed (%)	Total	Ratio with PPL (%)	Includes PPL		Average duration	
					Private	Public	Private	Public
Agriculture, Forestry and Fishing	31.5	2.3	635	1.4	8		8.9	
Mining	14.0	5.0	604	8.8	47		8.1	
Manufacturing	26.5	5.5	3543	13.3	428	2	7.8	14.5
Electricity, Gas, Water and Waste Services	21.4	0.6	381	23.4	58	27	12.7	13.9
Construction	12.1	2.5	7987	2.6	196		6.8	
Wholesale Trade	31.6	2.8	374	5.9	18		7.2	
Retail Trade	55.6	11.6	2023	1.9	30		8.3	
Accommodation and Food Services	55.8	6.9	1817	5.1	51	1	6.5	14.0
Transport, Postal and Warehousing	22.8	2.8	1638	16.2	181	59	8.4	13.1
Information Media and Telecommunications	43.5	1.9	245	60.0	75	12	8.5	13.9
Financial and Insurance Services	51.9	4.4	317	24.9	66		10.4	
Rental, Hiring and Real Estate Services	50.1	1.9	425	1.2	4		9.5	
Professional, Scientific and Technical Services	42.5	7.4	409	17.7	68		10.3	
Administrative and Support Services	51.8	4.1	810	4.7	32		8.1	
Public Administration and Safety	46.7	6.7	728	46.3	14	295	7.0	12.7
Education and Training	69.5	12.2	881	80.6	605	53	12.7	18.7
Health Care and Social Assistance	79.1	20.3	1621	50.5	703	20	7.3	10.6
Arts and Recreation Services	47.9	1.8	349	20.1	40	22	9.3	13.1
Other services	42.5	3.8	485	21.4	86	1	8.6	6.0

PPL: paid parental leave.
[a]Derived from 2009–2010 figure in Australian Bureau of Statistics (ABS, 2013): Gender Indicators 4125.0, Table 3: Employment by industry, 20–74 years, 2006–2007 to 2011–2012.

debate about optimal duration of PPL, with 14 weeks being the International Labour Organization (ILO) standard and the benchmark in bargaining. Both private and public sectors witnessed slight increases in the number of weeks of PPL in agreements, with the private sector reaching 12 weeks (from average base around 8 weeks), and the public sector 14 weeks or more (from average around 12). Less than 3% of agreements in the private

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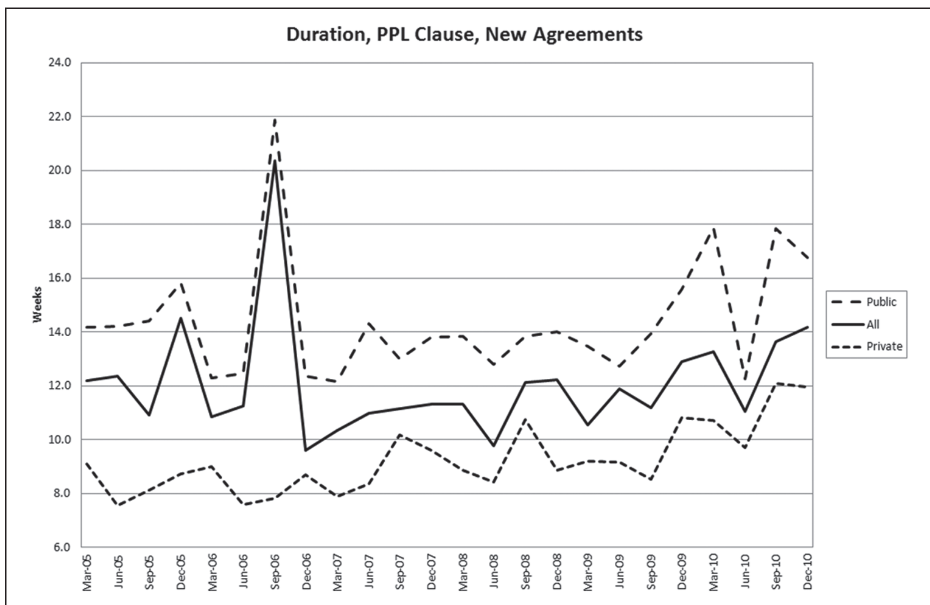
Table 4. Duration (weeks) of paid parental leave if included.

Weeks	Agreements	
	Private	Public
0.1–1.9	89	0
2–3.9	143	3
4–5.9	257	18
6–7.9	609	18
8–9.9	343	17
10–11.9	139	11
12–13.9	477	89
14	600	288
15+	36	63



Graph 3. Duration (weeks) of paid parental leave, new agreements.

sector provide for 14 weeks or more PPL. Graph 3 shows also that the public sector provided a longer duration of leave over all time points between 2005 and 2010, with some significant increases in 2006 to 22 weeks and then in 2010 to near 16–18 weeks.

Discussion

The degree of social and political debate and discussion about Australia's lack of PPL legislation during the 2000s can hardly be overstated. The Human Rights Commission's

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report (Human Rights and Equal Opportunity Commission (HREOC), 2002) and then the Productivity Commission (2009) inquiry and report catalysed response from many quarters, including business. A coalition of interests formed between unions, their peak bodies, a range of women's interest groups and some employers, all in support of the introduction of a government scheme. There was also extensive media debate about the topic and on the whole there was widespread support for a scheme, although the particular details and architecture of any such scheme were contested. It was noticeable that the union movement and employers were aware of the pressure building up for PPL among their own constituents and the community at large. Did this awareness and pressure translate to the bargaining table and settlements? From the data presented in the article, it would appear that it did, but in a more nuanced and complex way than previous studies have suggested.

It is clear that there was a growth in the incidence of PPL clauses in agreements between 2005 and 2010. The evidence in new agreements lodged in 2009 and 2010 suggests a higher incidence of PPL clauses in agreements than a decade before. However, it is also very clear that this growth occurred almost solely in public sector agreements. It is also clear that the duration of PPL tends to be longer in the public sector than the private sector. Community debate around 14 weeks and ILO benchmark at this level appear to have influenced the bargaining outcome, and so here we do quite clearly see a context effect.

The private sector offers a very different story. Significantly, the data presented here suggest that the private and public sectors are on different bargaining tracks and that public sector and private bargaining outcomes, and therefore processes, belong to different species. Furthermore, across the private sector there are clear differences in outcomes. In some private sector industries where there is an influence from the public sector, for example, in education, entitlements are comparatively good; in other industries, such as retail and hospitality, where there are no pressures from the public sector, the outcomes in terms of both incidence and duration of PPL clauses are exceptionally weak.

It is therefore not enough to report that, although operating in the same legislative and social contexts, there has been minimal diffusion of bargaining for PPL from the public sector to the private sector. The variations in patterns between the public and private sectors, as well as within the private sector, are significant and need to be understood and further researched. In our findings there are some industries where there is obviously bargaining for PPL but others where the absence of PPL clauses indicates either there were no PPL clauses on the bargaining table or suggests that early trade-offs may be occurring in the bargaining process.

Again, further research is needed to clarify exactly what is occurring in these sectors and why. A range of possible reasons are canvassed in earlier research and in this article. These include the possibility that employers, particularly in the private sector, are introducing PPL into company policy but not allowing it to be bargained; that there is no business case for the introduction of PPL policies because of low profit margins and low human capital investment; or that there is no bargaining or labour market power of certain groups of employees and hence unions do not have the capacity to bargain for PPL. There may be a range of other factors that relate to the characteristics of unions,

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unionisation levels, the gender of negotiators and processes within unions that impede or promote the progress of certain items, such as PPL, onto the bargaining agenda. Some of these factors have been interrogated by Williamson in her studies of equality bargaining (see Williamson, 2009, 2012). That is, it would seem that the opportunity structures that facilitate successful bargaining for PPL are complex, and differ markedly between the private and public sectors. Much more detailed research is needed to ascertain the other forces at work.

Conclusion

The findings presented here suggest a continuation of the patterns in Australian collective agreements and PPL that have been observed in previous research, but even more variation between and within sectors than previously understood. There was an overall increase in the number of agreements with PPL clauses in the period 2005–2010, with just over 14% of all current agreements including a PPL clause by 2010. A total of 18% of all agreements lodged in 2010 included a PPL clause, suggesting an upward shift in bargaining for this provision. We also found that there has been a very slight increase in the average duration of PPL in those new agreements that did include a clause. Towards the end of 2010, new agreements in the public sector with PPL clauses tended to provide for between 14 and 18 weeks, with up to 12 weeks increasingly common in the private sector.

We attribute this increase in the incidence of clauses and the duration of leave at least partially to the opportunity space created by the social and political debate that was occurring in the period up to the federal government's announcement in 2009 of the introduction of a national PPL scheme. However, there are marked differences between the public and private sectors, with minimal change in private sector bargaining outcomes. There appears to be little diffusion of bargaining to the private sector, except in a few select industries, and in some of those industries dominated by female employees, PPL clauses are almost non-existent. The opportunity structures for bargaining for PPL, for reasons not yet fully understood, do not appear to exist in the private sector.

Thus, to return to the original question, the legislative, social and political contexts do apparently influence bargaining outcomes, but more so in the public sector than the private sector. Furthermore, the absence of a legislated scheme does not necessarily encourage the promotion or achievement of PPL in the private sector through bargaining. As a result, at least in the area of PPL, union bargaining and government legislation are not operating in a mutually exclusive manner.

Postscript

The next iteration of a PPL scheme in Australia is yet to occur. The Abbott Coalition Government, elected in September 2013, has proposed a scheme of 26 weeks' duration, paid at wage replacement levels (to $75,000 for six months) and including superannuation. It is to be funded by a levy on large businesses. There is already controversy about the design and funding of the proposed scheme, however what is certain is that PPL is

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now firmly integrated into the policy scope of government. Despite this, much remains to be seen about how this scheme, if enacted in 2015 as promised, would influence new bargaining agendas and how it would interact with existing collectively bargained PPL policies.

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Notes

1. Although much of the debate in the period under examination dealt explicitly with the issue of paid *maternity* leave, the policy uses the terminology paid parental leave (PPL). For the purposes of consistency, we will refer to PPL, acknowledging that PPL allows for the possibility of the male parent taking the role of primary carer in the first months after childbirth.
2. A sample of agreements registered in state and federal jurisdictions and referred to as ADAM – (Agreements Database and Monitor).
3. Now called the Human Rights Commission.
4. The category 'Offered and Unknown' is coded by Department of Education, Employment and Workplace Relations (DEEWR) in instances where there is a PPL clause in the agreement, but where the application of it varies between employees or is otherwise not specified in the agreement. For analytical purposes, we have interpreted this data in a conservative manner and have not included these clauses in the total of PPL clauses.
5. Formerly the Equal Opportunity for Women in Workplace Place Agency (EOWA).
6. Data provided on request from the Workplace Gender Equality Agency (WGEA), 26 April 2013.

References

Australian Bureau of Statistics (ABS) (2010) *Employee earnings and hours, Australia*. Cat no. 6306.0, May. CanberraBelconnen, ACT, Australia: Australian Bureau of Statistics.

Baird M (2005) Parental leave in Australia: the role of the industrial relations system. *Law in Context* 23(1): 45–64.

Baird M (2011) The state, work and family in Australia. *International Journal of Human Resource Management* 22(18): 3742–3754.

Baird M, Brennan D and Cutcher L (2001) A pregnant pause: paid maternity leave in Australia. *Journal of Labour and Industry* 13(1): 1–19.

Baird M, Frino B and Williamson S (2009) Paid maternity and paternity leave and the emergence of 'equality bargaining' in Australia: an analysis of enterprise agreements, 2003–2007. *Australian Bulletin of Labour* 35(4): 671–691.

Berg P, Kossek EE, Baird M, et al. (2013) Collective bargaining and public policy: pathways to work-family policy adoption in Australia and the United States. *European Management Journal* 31(5): 495–504.

Brennan D (2009) Australia: the difficult birth of paid maternity leave. In: Kamerman S and Moss P (eds) *The Politics of Parental Leave Policies*. Bristol: Policy Press, pp. 33–50.

Cooper R and Ellem B (2011) Trade unions and collective bargaining. In: Baird M, Hancock K and Isaac J (eds) *Work and Employment Relations: An Era of Change*. Sydney, NSW, Australia: The Federation Press, pp. 34–50.

https://doi.org/10.1177/1035304614522566 Published online by Cambridge University Press

Cooper R and Ellem B (2012) Getting to the table: fair work, unions and collective bargaining. In: Creighton B and Forsyth A (eds) *Rediscovering Collective Bargaining: Australia's Fair Work Act in International Perspective*. New York: Routledge, pp. 135–158.

Demetriades S, Meixner M and Barry A (2006) *Reconciliation of Work and Family Life and Collective Bargaining in the European Union: An Analysis of EIRO Articles*. Dublin: European Foundation for the Improvement of Living and Working Conditions.

DiMaggio P and Powell W (1983) The iron cage revisited: institutional isomorphism and collective rationality in organizational fields. *American Sociological Review* 48(2): 147–160.

Fair Work Act (2009) *Fair Work Act 2009 (Cth)*. Available at: http://www.comlaw.gov.au/Series/C2009A00028 (accessed 10 January 2014).

Human Rights and Equal Opportunity Commission (HREOC) (2002) *A Time to Value; Proposal for a National Paid Maternity Leave Scheme*. Sydney, NSW, Australia: HREOC Sex Discrimination Unit.

Moss P (ed.) (2012) *International Review of Leave Policies and Related Research*. London: International Network on Leave Policies and Research.

Paid Parental Leave Act (2010) *Paid Parental Leave Act 2010 (Cth)*. Available at: http://www.comlaw.gov.au/Details/C2010A00104 (accessed 10 January 2014).

Productivity Commission (2009) *Paid Parental Leave: Support for Parents with Newborn Children: Inquiry Report*. Canberra, ACT, Australia: Commonwealth of Australia.

Stewart A, McCarthy E and Jenkin E (2011) *Parental Leave: A User-Friendly Guide*. Sydney, NSW, Australia: Law Book Company.

Whitehouse G (2001) Industrial agreements and work/family provisions: trends and prospects under 'enterprise bargaining'. *Labour & Industry* 12(1): 109–129.

Williamson S (2009) Bargaining for gender equality in the Australian Public Service. *Labour & Industry* 20(2): 159–180.

Williamson S (2012) Gendering the bricks and mortar: building an opportunity structure for equality bargaining. *Journal of Industrial Relations* 54(2): 147–163.

Williamson S and Baird M (2007) Family provisions and work choices: testing times. *Australian Journal of Labour Law* 20(1): 53–74.

Workplace Agreements Database (WAD) (2011) *Workplace Agreements Database*. Canberra, ACT, Australia: Department of Education, Employment and Workplace Relations.

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