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Collective bargaining and public policy: Pathways to work-family policy adoption in Australia and the United States

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Summary Improving employer support of work and family demands of the workforce is a growing concern across countries, but the pathways to achieve improvements in employer adoption of work-family policies, particularly linkages between collective bargaining and public policy, are not well understood within and across national contexts. In this article, we explore the linkage of collective bargaining and public policy through a comparative case study of collectively bargained work-life flexibility policies (flexible scheduling, leave arrangements such as unpaid family- or health-related leave and paid annual/vacation leave) in two universities in the United States and two universities in Australia. These are critical policies that support the ability of national workforces to integrate work and family time over the life course. Cross-national comparisons are useful given considerable variation in government involvement in promoting these policies, variation in the interplay between employers and governments, and variation in the extent to which specific work-life provisions appear in employment labor contracts. Based on interviews conducted with managers, supervisors, and labor union representatives from 2006–2008, we find that the degree of centralized collective bargaining plays an important role in explaining differences in work-life flexibility bargaining outcomes across organizations and countries. In addition, bargaining outcomes are influenced by the floor established by public policy for particular practices, particularly parental and annual leave. This cross-country comparison study articulates the conditions under which collective bargaining and public policy can work together to further equitable employee access to work-life flexibility practices.

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Introduction

Given changing labor force demographics, the increase in female labor force participation and the rise of dual-earner

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couples, it is not surprising to see explosive growth in scholarship on work-family conflict and employer work-family policy adoption over the last two decades (Kossek & Lambert, 2005; Pitt-Catsouphes, Kossek, et al., 2006). Much of this work is grounded in the industrial-organizational psychology tradition (Kossek, Baltes, et al., 2011), which emphasizes individuals or employers as agents of human resource policy enactment rather than macro influences from government, labor unions, and civil society. While there are a number of international comparative studies of work-family policy that recognize the importance of institutional contexts across countries (Gornick & Meyers, 2005; Ollier-Malaterre, 2009; den Dulk, Peters, et al., 2012; Block, Park, et al., 2013; Kossek & Ollier-Malaterre, 2013), there is a strong need within the work-family literature for greater understanding of how collective actors, such as labor unions, negotiate work-family policies, and how these actors effectively function in different public policy environments. Too often access to and use of work-life flexibility practices are driven by managerial discretion and employer control, especially for working class jobs (e.g., police, secretarial, and industrial workers) (Kelly & Kalev, 2006; Williams, 2010). Although some research has been conducted to date on unions' role in access to work-life flexibility such as paid family leave (Milkman & Appelbaum, 2004), more analysis is needed about the role of collective bargaining and its relationship to public policy as a pathway to increase worker access to work-life flexibility.

Researchers and policy-makers have identified three different ways to meet the work and family demands of workers. One pathway pursued by many countries is public policies, such as mandated paid family leave, paid sick days, and the right to request flexible working time arrangements (Golden & Figart, 2000; Lester, 2005; Milkman & Appelbaum, 2004). For example, most developed countries particularly in the European Union (EU) require through legislation that employees receive at least 4 weeks of vacation/annual leave and several months or more of paid maternity/parental leave from their employers (Hegewisch & Gornick, 2008). A second pathway is organizational or employer-initiated policies, which is the basis for much US work-family research in the social sciences (Kossek & Lambert, 2005). In this approach, employers act unilaterally to establish flexible schedules or paid leaves to recruit and retain key employees.

A third pathway is collective bargaining, where labor unions and employers negotiate over policies such as flexible schedules and various paid leaves (Budd & Mumford, 2004; Gerstel & Clawson, 2001; Gregory & Milner, 2009; MacGillivray & Firestein, 2009; Berg, Kossek, et al., in press). Although the influence of collective bargaining on work-family policy adoption has received relatively little attention in the management and organizational work-family literature, labor unions are a critical voice for workers and historically associated with access to better wages, benefits, and leave arrangements than non-union workers. In high union density industries and occupations, unions also positively influence non-union wages. Moreover, unions have been instrumental in the public policy realm, securing labor legislation and standards such as family or parental leaves (Mishel & Walters, 2003; Rigby & O'Brien-Smith, 2010; Waddoups, 2005, p. 212).

Too often research treats these pathways to work-family policy adoption as separate and distinct, but the industrial relations literature emphasizes that employers and unions make decisions within an institutional context and are influenced and shaped by public policies (Dunlop, 1958). From this perspective, we maintain that public policy and collectively bargained workplace practices can be linked pathways for achieving greater work-family well-being among the workforce.

In this article, we explore the linkage of collective bargaining and public policy through a comparative case study of collectively bargained work-life policies (flexible scheduling, leaves) in two universities in the United States and two universities in Australia. This comparison effectively contrasts organizations nested in a similar industry across two countries that have contrasting approaches to employer work-life policies. The overarching goal of this comparative case study is to enhance understanding of links between government policy, union bargaining agendas, and collective agreement outcomes. We assess flexible scheduling and leave provisions through cross national analysis of collective agreements to examine how government regulation, bargaining structure, and bargaining power are particularly important to the adoption of work-life policies.

Literature review

Unions and work-family flexibility practices

In Australia, unions have been shown to have a positive effect on work-family practices. Bardoel, Moss, et al. (1999) found that certain employee characteristics, such as union membership, are more likely to predispose organizations to providing work-family benefits. More specifically, Baird and Litwin (2005) found that collective bargaining coverage was positively associated with access to paid maternity leave.

Research on the relationship of US labor unions with work-life flexibility practices within firms is more mixed. Most of the studies come out of the sociological and labor relations literatures and tend to be on a limited set of policies with unions often treated as a control variable rather than the focal point of the research. Golden (2009) found that unions are associated with less access to formal and less formal flexible scheduling practices. Glass and Fujimoto (1995) found unions are positively associated with leave benefits but negatively associated with flex-time and part-time work. Guthrie and Roth (1999) and Kelly and Dobbin (1999) found that unions did not have a significant effect on maternity leave policy adoption. Deitch and Huffman (2001) and Osterman (1995) found no significant relationship of union measures with a broad set of care and flexible scheduling practices. Milkman and Appelbaum (2004) found unions played a key role in the adoption of family leave in California; they also found that regardless of company size or whether one was a professional, blue-collar or clerical worker, unionized employees were more than three and one half times more likely to have access to leave benefits beyond what the law required than contrasting workers. These mixed findings highlight the need for a more thorough treatment of unions as bargaining agents for work-life flexibility practices.

Whether unions actually make work-life issues a bargaining priority depend on several factors. Gerstel and Clawson (2001) point to member expectations, gender of members, gender of leaders, and union strength. Heery (2006) studied collective bargaining for equality measures in the UK and found that age and experience, rather than gender, of the negotiators is important to influencing the inclusion of work-life matters. Milkman (1990) emphasizes the importance of the historical period in which a union was formed as influencing the openness of the union to demands from women. With much of the focus on gender and union leadership characteristics, more research is needed on comparing negotiated work-life flexibility provision availability and their linkage to public policy context.

The interaction between public policy and collective bargaining

It is widely understood that laws regulating labor market conditions and the workplace, e.g. minimum wages, prevailing wages, health and safety, influence bargaining demands and outcomes (Dunlop, 1958). However, more research is needed on how work-life policy mandates relate to the availability of union bargained work-life flexibility practices. Although there is considerable knowledge of work and family public policies, the actual interaction between public policy and collectively bargained practices are absent from most work-family debates and analysis (Golden & Figart, 2000; Lewis, 1994; Hegewisch & Gornick, 2008). In particular, little is known about how the existence or absence of work-family public policy influences labor union agendas and collectively bargained work-life provisions. The interaction of collective bargaining and public policy is imperative, we suggest, for a fuller understanding of how work-life policies succeed in union-employer bargaining.

Interest in this interaction is growing, especially in Europe. Demetriades, Meixner, et al. (2006) demonstrated how EU directives on leaves and working time flexibility shape national regulations and labor union involvement in work-life issues. In an extensive study of equality bargaining measures in Europe, Dickens (2000) found that unions may build on mandated policy standards. She argues that "the interaction of law and collective bargaining can be expected to vary with the tradition, culture and industrial relations system of the particular country... Therefore, the 'regulatory space' for collective bargaining varies." (Dickens, 2000, p. 197). Rigby and O'Brien-Smith (2010) compared different union strategies of intervention in work-life issues in the UK retailing and media sectors. They pointed to the importance of gender of members in shaping strategy in the retailing sector and discuss the role of legislation. In their analysis, the Union of Shop Distributive and Allied Workers (USDAW) ran both a political and collective bargaining campaign to increase paid leaves (Rigby & O'Brien-Smith 2010, p. 212). They conclude that legislation was effective in leveraging more parental leave at major companies, but it had limited impact on the key issue of shift flexibility.

In their comparison of insurance and social work organizations in the UK and France, Gregory and Milner (2009) recognized three factors that provide opportunities for labor

unions to engage in work-life flexibility issues: (1) gender politics, (2) national working time regulations, and (3) the characteristics of organizations. They showed how national working time and social policy as well as European policy and projects encourage union activity on work-life issues. While they acknowledged the role of women within unions as important for initiating work-life issues, they found bargaining outcomes are dependent on bargaining structure and leverage (Gregory & Milner 2009, p. 142). Additionally, Gregory and Milner (2009, p. 141) note that "[c]ross-national comparisons of the role of trade unions in WLB [work-life balance] are rare, and not much is known about the factors determining this role" (Gregory & Milner 2009, p. 141).

Contributions to the literature

This paper adds to the work-family literature in several ways. First, although unions have typically been a force for increasing employee benefits, the work-family literature has relatively few studies that focus on the actual collective bargaining agreement outcomes from labor unions' actions in establishing and supporting work-life flexibility practices. Comparative research is an ideal first step in addressing these gaps by focusing on specific collectively bargained issues, such as work-life practices in the context of different public policy regimes. The comparison between the United States and Australia is appropriate because the two countries have contrasting work-life public policies; Australia provides more public policy support for work-life demands than does the United States.

Second, much of the research on employer work-family policies has been conducted in the US, which has weak public policy and collective bargaining systems at the national level (Kossek et al., 2011). This has limited our understanding of how institutional forces shape organizational adoption. The cases we examine offer the ability to make comparisons across public policy environments that have been less supportive of work-life balance than European countries, which have benefited from EU directives on leaves and working time flexibility. Furthermore, our study adds to the newly emerging literature that focuses on union collective bargaining for work-family policies and practices by examining bargaining outcomes across countries for a variety of specific leave and flexible scheduling practices. Cross-national comparisons are apt here as there is considerable variation across countries in terms of whether work-life flexibility policies are seen as the responsibility of public or private institutions (e.g., the government or employers) and the dynamic interplay between these institutional actors (Gornick & Meyers, 2009; Ollier-Malaterre 2009; Poelmans & Sahibzada, 2004; den Dulk et al., 2012).

Third, we believe focusing on leave arrangements in addition to flexible scheduling will enhance our understanding of cross-national policy differences. Leave arrangements are substantively important because they provide employees blocs of time away from work. Appelbaum, Bailey, et al. (2001) found in the US that vacation leave is used as a form of work-life flexibility, often taken by parents to deal with child care issues. Various forms of leave are often treated differently across countries. For example, because

there is no right to paid vacation leave in the US, the ability of unions to negotiate paid vacation is an important source of paid family leave and time flexibility, in which employees are able to spend time focused on the family without sacrificing income. Paid annual leave in Australia, in contrast, is a legal right and used as a source of flexibility as much as a source of recreation. Given these differences across countries, it is important to include paid vacation as a work-life flexibility practice and determine the extent to which US unions will invest in bargaining for paid vacation, which is often referred to as annual leave in other nations (Block et al., 2013). Whereas we include paid vacation as one form of leave in our analysis, we recognize that paid vacation could be viewed as a third form of flexibility. For example, paid time off for recovery from work, or time to relax and be with family or pursue other life interests is a different form of flexibility than leave to specifically care for family. However, given that there are many leave forms, we also could have examined military leave, educational leave, or health-related leave. For parsimony, we focus on paid and unpaid vacation and parental leave together in our results below, but note in our discussion of future research that it would be helpful to specifically investigate vacation leave across countries.

Fourth, we add to the comparative literature examining the adoption of work-life practices across countries (Gornick & Meyers, 2005, 2009; Ollier-Malaterre, 2009; Poelmans & Sahibzada, 2004; den Dulk et al., 2012). Specifically, we advance understanding of the formal availability of work-life flexibility cross-nationally via an in-depth case study examination of actual labor contract provisions in the US and Australia, holding constant industry context (higher education) and workforce groups (non-faculty support staff). As we have discussed, the institutional environment varies across countries, particularly regarding the importance of public policy, the assumptions of bargaining power, and the role of unions and employers in establishing work-life flexibility policy (Block et al., 2013; Kossek & Ollier-Malaterre, 2013).

Nations also vary in terms of whether rights to work-life flexibility access and use are seen more appropriately as individually negotiated, collectively negotiated, or as a group-based benefit that members receive as a right or as a basic condition of employment from the state. A consistent understanding of the relationship between public policy regimes, collective bargaining institutions, and work-life flexibility practices has yet to emerge from the comparative literature. For example, den Dulk (2001) found that more employer work-family flexibility policies were present in countries with regime types characterized by limited public supports. In a follow up study including a larger number of countries, den Dulk et al., 2012 found that extent of unionization was not significantly related to the number of adopted flexible arrangements. In another paper, den Dulk and colleagues found that even when state support for work-life flexibility is declining, the government does not necessarily intervene to pick up the slack (Den Dulk, Peters, et al., 2010). Ollier-Malaterre (2009) suggested that French employers adopt fewer work-life practices compared to employers in the UK and the US in part because of the strong welfare state in France and the fact that work-life is a low priority for most French unions.

We believe a deeper analysis focusing on specific arrangements (leaves (paid and unpaid) and flexible scheduling) and actual collective agreement provisions across just two countries may be helpful. Baird and Murray (2012) argue that examining work-family practices negotiated in collective bargaining agreements is very important for understanding work-life policy in "neo-liberal countries." In these countries, represented in this paper by the US and Australia, government plays a minimalist role in the work-family debate (Block, Malin, et al., 2005).

Sample and method

The data for this study were collected from 2006–2008 as part of a larger research project on work-life policies and practices. This study uses a qualitative methodology and focuses on work-life practices and collectively negotiated policies at two unionized universities in Australia and two in the United States. Australia and the United States represent useful and valid countries for comparison given that they are both highly industrialized and have less supportive public policy environments compared to Europe and have predominantly enterprise collective bargaining structures. Our method of comparing cases within one industry across two countries allows for an in depth examination of collective bargaining outcomes and reduces the likelihood that omitted socioeconomic factors that may covary with our bargaining outcomes will affect our analysis (Gornick & Meyers, 2005, 2009).

The data from the US universities were collected first and were part of a larger sample of public and private organizations from which we gathered data on work-life policies and practices. The university sector was then identified in Australia as an industry from which comparable organizations could be selected to compare with our two US universities. After contacting multiple universities in the eastern part of Australia, two universities agreed to participate in the study. Universities are excellent organizations to study flexibility among represented, non-academic staff. As organizations, universities are subject to cost pressure and compete in the labor market for a wide variety of occupations, such as clerical, information technology, maintenance, and administrative jobs. Moreover, these occupations include jobs with varying time constraints from high customer engagement work to more back office administrative jobs.

Given promises of anonymity to the organizations in our sample, we identify the two US universities as USPublic and USPrivate and the two Australian universities as AusSouth and AusNorth. USPublic is a large state public university with 46,000 students and is a tier one research institution. USPrivate is a tier one research university with about 20,000 students. At USPublic, we focus on the two largest local unions for non-academic staff. The unaffiliated Clerical and Technical Union represents about 1660 clerical and technical workers. The Administrative-Professional Association is associated with the state education association branch of the National Education Association (NEA) and represents about 1700 administrative and professional employees.

Although union membership in the United States and Australia has been declining with union density currently at 11%

in the US and 18% in Australia (OECD, 2011), the labor unions in our sample are well established in the education and public sectors and have higher than average membership density. At USPrivate, we focus on the activity of the clerical and technical workers union which is affiliated with the American Federation of State, County, and Municipal employees. The union represents over 4500 clerical and technical employees or nearly 80% of all unionized workers at USPrivate.

AusSouth and AusNorth are both public, middle tier institutions founded in the 1960s. AusSouth has approximately 16,000 students and AusNorth about 31,000.

The labor unions at AusSouth and AusNorth are part of two national unions: The National Tertiary Education Union (NTEU) and the Community and Public Sector Union (CPSU). The NTEU is a federal, industrial union which has the right to cover all academic and general employees in the higher education sector. In contrast, the CPSU, also a federal union, has a wide and diverse coverage of the whole Australian public sector and related areas. In universities, the CPSU is generally restricted to representing the general staff (i.e. non-academic employees of universities). At both AusSouth and AusNorth, 20–30% of the general staff are members of the NTEU and CPSU, but coverage density is higher because the negotiated agreement covers all employees, whether or not they are union members.

At both universities in Australia and the US, we interviewed supervisors as well as general managers and union officials during visits to the four sites. At USPublic, we conducted interviews with the general manager, human resource manager, four union officials, and supervisors from 28 departments. At USPrivate we conducted interviews with the general manager, human resource manager, three union officials, and supervisors from 14 departments. At AusNorth, we conducted interviews with the general manager, human resource manager, two union officials, and 17 departmental supervisors. At AusSouth, we conducted interviews with the general manager, human resource manager, two union officials, and nine departmental supervisors. We selected departments that cut across each university and represented a range of occupations.

Our interviews were conducted with structured interview protocols tailored to the position being interviewed. In addition, to gathering information from each interviewee about the availability of a variety of work-life flexibility practices, we collected data about the competitive pressure faced by each university, basic human resource practices, and the labor relations climate. Our extensive interviews from multiple sources within each university provided us with a comprehensive picture from different points of view of the work-life policies and practices.

To complement the interview data, we conducted a comparative analysis of the collective bargaining agreements. We identified the contract provisions linked to the flexible scheduling and leave provisions in our study. We noted the existence of contract provisions related to flexible scheduling and leaves. If such a provision was present, we coded various dimensions of the provision. For example, what was the length of the leave or the extent of the flexible schedule provided? Is access to the flexible schedule or leave subject to employer discretion, does the employee have the right to request a flexible schedule, are there

any constraints on accessing the leave or flexible schedule (e.g. length of service)? We also coded our interview data with managers and union leaders along a variety of dimensions. These included the extent to which work-life flexibility practices are a bargaining priority, the sources of bargaining power for labor and management, and the extent to which the parties identified public policy as affecting their work-life flexibility bargaining outcomes.

Results

Our results are derived from a comparison across our four cases and focus on the relationship between the collective bargaining and public policy pathways to achieve flexible scheduling, vacation leave and parental leave. We characterize the US and Australian public policy environments by the extent to which work-life policies are mandated at a national level and the degree to which the industrial relations system encourages centralized bargaining structures. The results of our analysis of union contracts and union bargaining approaches indicate that the bargained outcomes across the cases in each country show distinct differences, more so than similarities. In addition, there is more variation between the two US cases than between the two Australian cases. Table 1 provides a summary of the work-life policy standards and contract provisions associated with each flexible scheduling and leave practice in our data. The first two columns show the public policy standards in the United States and Australia for each flexible scheduling and leave practice. The remaining columns summarize the contract provision for each flexible scheduling and leave practice in the enterprise collective agreements.

In the collective agreements negotiated for both US cases, seniority is an important determinant of employee access to work-life benefits. In both US universities, due to the absence of legislated vacation leave, employee entitlement to paid vacation leave relates directly to seniority, and ranges from 3 to 5 weeks. With regard to parental leave, USPrivate provides 13 weeks of unpaid leave, (just one week more than the Family Medical Leave federal standard). In addition, one has access to 4 weeks of paid parental leave after 7 years of service. At USPublic, parental leave is unpaid and of 12 weeks duration; however, under the collective agreement employees can access their paid sick or vacation leave during the 12 weeks unpaid family leave period. At both US universities, there is also considerable management discretion in relation to flexible scheduling. At USPublic there is variation between union contracts, and therefore different employees at USPublic have access to more or less working time flexibility, depending on their union affiliation.

When comparing the outcomes at the two Australian universities, far more consistency of the leave and flexible scheduling outcomes is evident between the two university cases. The Australian employees have access to more entitlements through their collective agreements than their US counterparts. All full-time employees at both Australian universities, consistent with long-established collective bargaining policies, are entitled to 4 weeks paid annual leave after 1 year of service; in addition, seniority or length of tenure does not affect the leave entitlement. Employees

Table 1 Public Policy Standards and Contract Provisions across US and Australian Enterprise Agreements as of 2008.

Flexibility practices/Union type:	US policy standards	Australia policy standards	US private (clerical and technical)	US public (APA)	US public (CTU)	AusNorth (NTEU/CPSU)	AusSouth (NTEU/CPSU)
<i>Flexible Scheduling</i>							
Part time work with prorated benefits	No standard	No standard	May be negotiated with supervisors	Employment option: 1/2 and 3/4 appointments available.	Employment option: 1/2 and 3/4 appointments available.	Employment option: Defined as employment for less than the normal weekly working hours. Standard schedule is a 9 day fortnight. May be altered by mutual agreement.	Employment option: Defined as employment for less than the normal weekly working hours.
Compressed work weeks	No standard	No standard	May be negotiated with supervisors	No contract language	Option subject to employer discretion	Option subject to employer discretion	Option subject to employer discretion
Flextime (vary start and stop hours)	No standard	No standard	Option if mutual agreement:	No contract language	Option subject to employer discretion	Option subject to employer discretion	Option subject to employer discretion
Telecommuting	No standard	No standard	May request	No contract language	No contract language	Employees may request to perform some or all of their duties from home	No contract language
<i>Leaves</i>							
Paid vacation	No standard	4 weeks paid	3 weeks up to 5 years of service. 4 weeks thereafter. Additional vacation with additional years of service.	4.8 weeks after 1 year or 6 months of service, depending on pay grade.	Between 2.4–4.5 weeks depending on length of service.	4 weeks for full-time employees	4 weeks for full-time employees
Parental leave (weeks)	12 weeks unpaid leave under Family Medical Leave Act (can be combined with privately determined paid maternity leave)	52 weeks unpaid parental leave. ^a	13 weeks. 4 weeks paid at 100% of salary if 7 years of service. Add options. Birth or adoption	12 weeks unpaid. 4 weeks prior to birth and 8 weeks after birth. May use paid vacation and sick time.	12 weeks unpaid. 4 weeks prior to birth and 8 weeks after birth. May use paid vacation and sick time.	14 weeks paid, additional 12 weeks with 1 year service; can take leave until child's second birthday. Can be combined with Long Service leave but reduces parental leave	12 months continuous service = 52 weeks parental leave, which comprises: Maternity leave, full pay for first 18 weeks (also 8 days paid antenatal leave), can take at half pay and get 36 weeks.

^a This was the standard at the time of our research. Australia has subsequently passed a paid parental leave law which still supports the importance of centralized national work-family public policy for work-family policy adoption.

also receive a 17.5% loading on the 4 weeks annual leave pay. Employees at both Australian universities are also entitled to paid parental leave. At AusNorth the provision negotiated by the unions is for 14 weeks paid parental leave for all employees, with an additional 12 weeks for those employees with one or more years of service. That is, 26 weeks paid parental leave for employees with more than one year's service. For employees at AusSouth, the union agreement specifies 18 weeks paid parental leave for all employees after 1 year of service. In relation to flexible scheduling, there is some similarity with the US collective agreements. For example, flextime in both the Australian universities is subject to employer discretion. Compressed work weeks are also subject to employer discretion at AusNorth but not at AusSouth. However, part-time work with pro-rated benefits is normalized in both Australian cases, which is quite different to the US cases.

How do we account for these variations between cases and countries? We suggest there are two main explanations. The first explanation is centered on the centralization of the collective bargaining system. Although changing since the early 1990s, Australia has had a history of strong, centralized industrial relations systems, which has resulted in outcomes such as standardized annual leave and leave loadings for all full-time employees and unpaid parental leave entitlements. In addition, the main union involved in the bargaining at the two Australian universities, the NTEU, had a centralized bargaining approach with mandated minimum outcomes. Thus, even though bargaining itself took place at the local university level, a degree of parity was maintained between universities. This combination of coordinated union bargaining and a historically more centralized industrial relations system, has resulted in similar vacation and parental leave work-family policy outcomes in the union contracts at both the Australian universities.

In the US, with a more fragmented and local approach to union contract bargaining and where seniority rules have historically dominated, the variations in leave outcomes is determined by the specific unions and employers, rather than reference to national union standards. The results are reflected in the greater variation in leave outcomes in the two US cases. In contrast, flex-time, part-time, compressed work weeks, or telecommuting, have not been standardized in Australian or US industrial relations, and thus we see that in all four cases, these practices are most open to employer discretion and subject to less contract language or determination overall.

The second explanation is focused on the floor of public policies in place in each country. The US approach to work-family public policies tends to emphasize a non-interventionist government, with decisions made at the individual employer or state level, or at times between the employer and unions. Given this approach, work-life flexibility policies and practices in the US tend to be heavily influenced by the labor market in which bargaining occurs. The US does not have a federal mandate for paid parental leave. Unpaid parental leave of 12 weeks can be accessed by employees of large companies through the Family and Medical Leave Act. As we have seen in our cases, one US union agreement has bargained for just one additional week of unpaid leave and provides for 4 weeks of parental leave if the employee has more than 7 years of service. This is in stark contrast to

the Australian case. Beginning in the late 1970s Australian unions won unpaid maternity, and later parental, leave of 52 weeks (12 months) and in the early 1970s the Australian federal public service provided employees with 12 weeks of paid maternity leave. In combination, these two standards influenced the bargaining of the unions in our Australian cases. Furthermore, during the period of research for this paper, the Australian union movement was campaigning strongly for a paid parental leave scheme, and the unions present in our cases were an integral part of that campaign. The relatively good paid parental leave bargained outcomes, 18 and 26 weeks, in the two Australian cases, reflects the impact of the external campaigning for a national standard and the leverage one has with the other.

Our cases suggest that public policy sets a floor for the parties in bargaining, and in circumstances where union power is weak, centralized strong public policy can be used to improve the prevalence of work-family policies. In the case of Australia, this floor is only set for paid leaves such as vacation leave and parental leave and in the US, only for family medical leave. As a result, the bargaining outcomes for leaves differ dramatically in quality across our US and Australian cases. In contrast, neither Australia nor the US provides strong public policy standards with regard to flexible scheduling practices. The bargaining outcomes for these practices result in no contract language, leave employee access up to a manager, or explicitly give an employee the right to request (as in the case of telecommuting). Thus, employees have fewer explicit rights to a flexible schedule compared to leave practices, yet differences across our cases remain that provide some employees greater access (USPrivate, AusNorth) to flexible schedules.

These flexible scheduling outcomes can be explained to some degree by differences in bargaining structure. At USPublic, the two unions operated as decentralized local unions, negotiating work-life provisions separately with a centralized management. These unions were consistently whipsawed by management, who refused to agree to the work-life flexibility practices because of the perceived likelihood of these practices spreading to the bargaining agendas of other unions. The net costs of agreement by management were increased in this bargaining environment and the unions at USPublic did not have the power or the interest in pushing work-life flexibility relative to other bargaining issues.

In contrast, the clerical and technical union at USPrivate operated as a more unified force among a decentralized management structure. Although salary and benefits are determined centrally, individual departments within the university have autonomy to set their own employment arrangements. It is the union that holds the institutional knowledge and memory about labor relations across the departments throughout the university. This arrangement gave the union knowledge and power to negotiate a role for the union itself as part of a process for implementing flexibility within departments across the university. This process involved the union in working with departmental managers to establish flexible schedules and to counsel employees on how to negotiate flexibility with their supervisors. The union at USPrivate was aided by the structure of management and also by favorable labor market conditions for employees that lowered the cost to management

of agreeing to such processes and work-life flexibility practices. Thus, the union experience at USPrivate shows that unions can be effective, if the right conditions exist, in negotiating work-life flexibility practices beyond public policy standards and in creating processes and forms of representation (counseling) beyond simply access to a particular form of leave or flexible schedule.

In contrast, the enterprise agreements at AusSouth and AusNorth are both single table agreements, in which the NTEU and the CPSU form a joint bargaining committee and negotiate one agreement. This reduces the ability of management to whipsaw the unions at the bargaining table and obtain concessions. In addition, because the NTEU represents both academic and general staff, they are able to leverage the power of the highest skilled workers in the university in negotiations for general staff. The coordinated bargaining strategy of the NTEU also provides some power in bargaining, particularly in comparison with the local US unions in our sample. In addition, the enterprise-based coordinated bargaining strategy has benefited greatly from the Australian award heritage and historical norms these awards established. For example, the 9 day fortnight at AusNorth was taken from the industry award and adopted into the enterprise agreement. Thus, the national union structure, single table bargaining, and the legacy of the centralized award system strengthened union bargaining power and collective agreement outcomes.

Conclusion

We recognize a key limitation of our study is a small number of cases from one industry. In addition, our focus on universities limits the generalizability of our results to other sectors. Although universities are subject to competitive pressures and must deal with hard budget constraints, they are known to operate differently than strong for-profit businesses that compete globally.

Nevertheless, our analysis across four cases in the US and Australia does provide insight into the interaction between the union bargaining and public policy pathways for achieving greater work-life flexibility bargaining outcomes. As discussed, public policy establishes minimum standards for the parties in bargaining and the influence of public policy on actual bargaining outcomes is connected to union bargaining power and priorities. When facing unfavorable labor market conditions, low bargaining power, internal union preferences, and challenges to union jobs, as in the case of USPublic, achieving any work-life flexibility or provisions above public policy standards is very difficult. Our findings suggest that there are circumstances for which collective bargaining priorities and work-life balance practices are consistent. The conditions must support low net costs on the employer and the practice must be seen as beneficial or acceptable to a sufficient number of union members. In addition, our Australian cases show that unions can use public policy debates to change policy standards while bargaining over those standards as well. The NTEU essentially pursued this dual approach by participating in public policy campaigns to expand legal parental leave rights for all Australian female employees while simultaneously using collective bargaining negotiations to raise the parental leave

standards within enterprise agreements for their own members. In addition, it was the Australian Council of Trade Unions (ACTU) that worked with the Labor Party to push for the right to request a flexible schedule as part of the new Federal minimum labor standards introduced in 2010.

Unlike traditional union health and pension entitlements that benefit all employees, work-life policies are more of a contingent benefit with differential effects on employees depending on how the practice is defined and the life cycle stage of the employees in the union. This makes it difficult for unions to negotiate work-life policies, especially flexible scheduling, as a generally accepted benefit through collective bargaining. In this case, public policy may be a better way to achieve access to flexible schedules and paid family leave for US workers than relying on collective bargaining. The paid parental/carers leave initiatives in the states of California and New Jersey are good examples. This has been the case in Australia with its recent legislation on paid parental leave and the right to request flexibility which has given employees with low or no union power some access to these provisions where previously they had none (Baird & Whitehouse, 2012).

The Australian experience also demonstrates how the symbiotic relationship between union bargaining agendas and public policies can drive the public policy debate, and how the public policy can be used to leverage improved bargained outcomes. In the words of Gregory and Milner (2009, pp. 124–25), the space created by the national debate on paid parental leave in Australia also created an ‘opportunity structure’ to pursue improvements in the conditions in bargaining with employers. Thus, based on our cases, we would encourage US unions to adopt a more coordinated dual approach by investing resources in support of both policy efforts to adopt for example paid parental/carers leave, sick leave, or rights to flexibility as well as in bargaining capital to increase leave and schedule flexibility practices at the workplace.

This article makes a theoretical contribution to our understanding of the effects of national context on work-life research by showing that there is a relationship between public policies and union bargaining and that public policies impact collective bargaining outcomes related to work-life flexibility. The institutional environment within nations mandating work-life flexibility policies, such as paid parental leave or the right to request a flexible schedule, establishes minimum standards for bargaining. National industrial relations systems shape bargaining structures that influence bargaining power and the ability of unions to bargain for work-life flexibility practices. In that context, unions must decide whether to invest bargaining power in negotiating for work-life practices above the minimum or accept the mandate as an acceptable maximum. Consideration of industrial relations institutions and bargaining power are particularly lacking in work-life flexibility research and we argue, should be more fully incorporated into analyses of work-life flexibility practices in unionized environments.

Thus, we encourage scholars to pay more attention to the nature and extent of government regulation of work-life flexibility policies and the strength and structure of the collective bargaining system. We also hope that future analysis

of work life policy includes examination of specific collective bargaining provisions and compares and contrasts them to public policy entitlements and employer policies.

We also believe that more in-depth cross-national analysis is needed, focusing on specific flexibility forms, holding industry and workforce type constant as we did in our approach. As recent reviews (Kossek & Michel, 2011) and meta-analyses (Allen, Johnson, et al., 2012) found, the specific form of flexibility matters for effects on work-family conflict. We have shown that collective bargaining interacts with public policy in ways that may result in different workforce groups having differential access to various forms of flexibility. Future research should continue this analysis to examine linkages to contract provisions regarding different forms of leaves (from paid vacation time to unpaid and paid parental leave to education and military leaves) to different forms of flexible scheduling from telework to part-time work to flextime, as these different flexibility forms may have long term differential impacts on society, as well as personal and family well-being and health. Finally, we hope this study helps scholars move toward a more refined measurement and analysis of public policy and collective bargaining relationships.

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