

Leave policies and legislation in Malta: How gender equal?

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In this article, Prof **Frances Camilleri-Cassar** gives a direct insight into Malta's leave policies through unravelling reactions and experiences of a purposive sample of graduate women. The rest of the article can be found in id-Dritt XXX.

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1. Introduction

How much do leave policies in Malta assume that men and women both need time to care, as well as for paid work? To what extent do Malta's leave benefits allow time for the equal sharing of care responsibilities between women and men that, in turn, enhance gender equality in the workplace and domestic sphere? For example, does unpaid parental leave help change or strengthen a traditional gender arrangement? More specifically, to what extent does parental leave support women and men in the equal sharing of time between economic activity, career advancement and family life?

The question that concerns this study is the extent to which Malta's care policies promote gender equality in employment between women and men. It explores care benefits that discriminate between the public and private sectors, such as the five-day paternity leave for fathers in the public sector, and the one-day leave for men who make up the rest of the labour supply. It also investigates the current state of affairs in terms of the take-up of parental leave and the career break in the public sector; no comparative data exists for private sector employees. Through the voices of Maltese women, the study also addresses their concerns about employment, career regression and economic dependence on men resulting from long and unpaid care leave.

2. What is known about care leave measures in Malta?

In Malta, six weeks after parturition and eight weeks before or after are reserved for the mother, as obligatory. Moreover, the mother is obliged to take six weeks following the birth. There is no ceiling on payment, and leave is funded by the employer. A further period of up to four weeks may be taken immediately after the take-up of the statutory fourteen weeks, and which carry a flat-rate payment equivalent to the statutory minimum wage. The four-week leave, which is not obligatory, is funded by government. Public service employees in Malta have the most far-reaching leave arrangements, compared with those in private sector, concerning child and other family-related tasks, such as responsibility leave to care for elderly parents, disabled children and spouses. Indeed, the time-to-care leave scheme in Malta's public service combines maternity, paternity, parental and a career break, which are benefit entitlements that, to date, are not enjoyed by private sector employees.

For instance, employed parents in Malta's public sector are entitled to shared leave of absence for one year, for each child under five years, and a one-off five-year career break, while retaining job security and rights to seniority and promotion. However, no wage compensation is attached to the benefit. A study of the Shared Parental Leave Policy introduced in the UK in 2015 finds that the most frequently reported barriers to the take-up were financial reasons and risks to the

partners' career, highlighting the importance of adequate leave remuneration.¹ Indeed, there is consensus in the literature that in countries with gender-neutral leave policies and shared parental leave, which carry no compensation for lost wages, these have not been much in demand by fathers.

Although parental leave has some potential to change Malta's gendered arrangement between paid and unpaid work, the entitlement is generally taken up by mothers. Maltese fathers who take advantage of these benefits are still a marginal group. Duvander² suggests that the key determinant of the length of leave taken by mothers is family responsibilities, whereas it is the economic dimension of work that influences the duration and take-up of leave by fathers. For example, data that draws on Malta's Office of the Prime Minister Standards and People Division point to a disproportionate use of parental leave by women and men in the public sector. In 2018, fathers' take-up rate of a one-year unpaid parental leave was three per cent of total number of beneficiaries. In parallel, men's share of an unpaid five-year career break was a low six per cent of total number of beneficiaries. However, such data are hardly surprising. In view of men's higher earnings, and the overwhelming reduction in family income if fathers were to stay at home with their children, men are unlikely to take leave, unless it is paid.³ A more recent study of why British fathers do not take up their leave benefits finds that financial compensation for lost earnings remains the key determining factor.⁴

In view of Malta's legislation for the promotion of gender equality, to what extent have parental leave schemes in the Maltese public sector enhanced men's rights as carers, and their role as fathers? Has parental leave been instrumental in changing the traditional gender arrangement by uprooting the gender divide to a fairer division of paid and unpaid work? I argue that while State policies may be seen as enabling gender equality in the progression of careers, in practice, they are trapped in the traditional way.

Additionally, Malta has an employment sector divide. For instance, workers in the private sector have the right to three months unpaid, non-transferable parental leave. However, as there is no statutory entitlement, the benefit remains at the discretion of the employer. Following a critical analysis of Malta's CEDAW report, the UN Committee on the Elimination of Discrimination against Women drew up a list of key areas of concern and recommendations, one of which was

¹ Katherine Twamley and Pia Schober, 'Shared Parental Leave: Exploring Variations in Attitudes, Eligibility, Knowledge and Take-Up Intentions of Expectant Mothers in London', (2019) 48(2) *Journal of Social Policy* 387.

² Ann-Zofie Duvander, 'How Long Should Parental Leave Be?: Attitudes to Gender Equality, Family, and Work as Determinants of Women's and Men's Parental Leave in Sweden', (2014) 48(2) *Journal of Family Issues* 387.

³ Peter Moss and Freddy Deven, 'Parental Leave in Context' in Peter Moss and Freddy Deven (eds.) *Parental Leave: Progress or Pitfall?* (NIDI/CBGS Publications 1999).

⁴ Gayle Kaufmann, 'Barriers to Equality: why British fathers do not use parental leave' (2018) 21(3) *Community, Work and Family* 310.

expressly pointing to insufficient opportunities for parents engaged in the private sector, to balance their employment and family responsibilities.

In 2015, government introduced the Maternity Leave Trust Fund as a means of addressing discriminatory practices against the employment of women. The Fund obliges all private employers to pay a contribution to the state's coffers for the reimbursement of maternity leave salaries in the private sector. It comes as no surprise that a ten-day paternity leave for fathers, based on the 2019 Work-life Balance Directive by the European Parliament and Council of Ministers, was shot down by Maltese employers.

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