

New Scholars

**“WE THOUGHT WE WERE GOING TO GET IT DONE”:
EXAMINING THE PAID FAMILY LEAVE CAMPAIGN
IN MASSACHUSETTS**

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ABSTRACT

This case study identifies the factors that promoted the mobilization and de-escalation of the paid family leave campaign in Massachusetts from 1998 to 2002. These factors are compared against those involved in the California campaign that resulted in the successful passage of legislation. The present article provides a unique exploration of paid family leave organizing and reveals the problems that are specific to mobilization for this issue. This research is significant to social movement research and policy studies because it highlights the elements, processes, and resources that influence and foster meaningful and effective coalition building, and the relationships between mobilization groups and larger systems. This case study applies interview, documentary and economic indicators. The primary conclusion is that intertwined economic, political, and organizational factors coupled with proposed policy components impeded success in Massachusetts and that the factors and policy in Massachusetts differed from the conditions and policy proposals in California.

The United States has a long history of using social policy to influence the behavior and composition of the workforce. Progressive legislation is usually first introduced and enacted in some states before the federal government mandates it for the entire country. For example, 22 non-southern states had fair employment laws by the time the 1964 Civil Rights Act was passed (Collins,

2003). Currently, the proposed, Employment Non-Discrimination Bill, supported by President Obama, would prohibit workplace discrimination on the bases of sexual orientation and/or gender identity (White House, 2009). Additionally, 20 states and the District of Columbia prohibit private employers from discriminating on the basis of sexual orientation (Cail & Wang, 2008).

This article will accomplish the following: (1) review the current status of federal family leave law and explain why it inadequately protects workplace rights; (2) show that the campaign for paid family leave is an example of a social movement, and explain why we need more research into the determinants of social movement success; (3) explain what advocates tried and failed to do in Massachusetts and how it would have been better than federal law if it had succeeded; and (4) use a grounded theory approach to interview supporters and opponents of the Massachusetts paid family leave campaign. Fifth, this article will offer suggestions for campaigns that could facilitate the enactment of paid family leave legislation at the state and ultimately at the federal level.

THE NEED FOR PAID FAMILY LEAVE

The Family Medical Leave Act (FMLA), the first federal program of its kind, allows for job protection for some workers, without wage replacement, to provide care to self or family in some situations. The implementation of the FMLA has significantly impacted family leave practices for many companies. This act permits an employee to take up to 12 weeks of leave with job protection for the following reasons: the birth of a child and the care of the newborn child; the placement of a child for adoption or foster care; the need to care for an immediate family member; or the need to take medical leave when unable to work because of a serious health condition (U.S. Commission on Family and Medical Leave, 1996). The FMLA applies to all public agencies, including local, state, and federal employers, local education agencies, and private-sector employers who have employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year (U.S. Commission on Family and Medical Leave, 1996).

According to the 2000 Department of Labor update of the FMLA surveys, 66.2% of employees worked for covered employers and met the eligibility requirements. However, many of those who are covered simply cannot afford to take unpaid time away from work. In a 2000 survey conducted by Westat for the U.S. Department of Labor, the number one reason for not utilizing leave was affordability, reported by 77.6% of those who needed leave but did not take it. The majority of leave takers, 52%, took leave due to their own illness. Twenty-six percent of leave takers took time for a new child or a maternity-related disability, such as a disability caused during birth. Those caring for a spouse, parent, or child accounted for the remaining leave takers. Leave taking also varied according to income: those making less than \$30,000 annually accounted for 27% of the leaves taken; those earning between \$30,000 and \$74,999 accounted for 51%; and those

earning more than \$75,000 a year accounted for 22% (Cantor et al., 2001). Of workers who needed leave for a reason covered by the FMLA, 63% did not take it (U.S. Commission on Family and Medical Leave, 1996). This same study found that over 20% of workers with incomes less than \$20,000 needed to apply for welfare to care for their families because they were unable to afford to live in the absence of pay and that 1 in 10 families who used the FMLA needed to use public assistance while on leave.

In addition to the legislative activity on the federal level, a flurry of activity has occurred on the state level, including proposals in 27 states to expand family leave policies. In 2004, California became the first state to provide paid family leave benefits, followed by Washington in 2007 and New Jersey in 2008. (Washington has delayed implementation and the program will not start until 2012.) The military has also recognized the need to expand care coverage, and in 2008, President Bush signed into law H.R. 4986, the National Defense Authorization Act for FY 2008 (NDAA). The NDAA amends the Family and Medical Leave Act of 1993 (FMLA) to permit a “spouse, son, daughter, parent, or next of kin” to take up to 26 workweeks of leave to care for a “member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness” (U.S. Department of Labor, 2008).

Depending on the private sector to fill this gap has not been a successful strategy. The Institute for Women’s Policy Research (2007: 1) found that paid care provisions remain limited:

... nearly one-quarter (24 percent) of the best employers for working mothers provide four or fewer weeks of paid maternity leave, and half (52 percent) provide six weeks or less. Nearly half of the best companies fail to provide any paid leave for paternity or adoption. While more than one-quarter of the best companies (28 percent) provide nine or more weeks of paid maternity leave, many of the winners’ paid parental leave policies fall far short of families’ needs.

In the current economic climate, this trend is not likely to change, as employers tend to offer these benefits when they have to compete for the best workers.

SOCIAL MOVEMENTS’ SUCCESS AND FAILURE

The campaign for paid family leave can best be understood through the application of social movement theories, adopting an interdisciplinary approach. The present research merges the perspectives of policy studies and social movement theory in a holistic approach, to foster an understanding of the failed paid family leave campaign in Massachusetts. The application of the differing theoretical frameworks is used in an effort to examine their shortcomings in explaining such campaigns.

The sociology of social movements investigates how movements behave, how they form, develop, and end, or how they differ from other modes of social association (Fuchs & Plass, 1999). Social movement perspectives range from theories assessing the functional responses of the discontented masses to frame analyses, which explain the schemas of interpretation, to theories based in conflict analysis. Social movement theory began by examining the conditions and structural forces that caused such movements to form, and then it began to turn its attention to the conditions that caused such movements to succeed, or the actors and organizations involved in these movements (Jenkins, 1983). Cress and Snow (2000: 1063) state that "One of the major rationales for studying social movements is the belief that they have important consequences or effects typically conceptualized as outcomes." There is growing interest in the interplay between social movements and the political process, as Oliver (1993: 282) explains: "There are several recent formalized attempts to compute the complexity of dynamic interplay between movements and regimes. All are promising but flawed by problems of metric[s] or specification." Tarrow (1998) suggests that the study of collective behavior and social movements is influenced by political events more than most areas of sociology. Tarrow (1998) further argues that collective action is best understood in relation to the political process. More recently there has been an attempt to enrich social movement theory through insights from political science, but there is a shortage of research on actual political successes and failures. Several theoretical frameworks from a political science perspective attempt to explain the process of policy adoption. The multiple streams approach developed by Kingdon is most relevant to this research, because it examines the feasibility of the proposed policy while concurrently highlighting the existing conditions in government that promote and inhibit adoption; it overlaps with many of the concepts and questions raised earlier in the social movement theories. Kingdon (1995) suggests that policies are not developed in a linear fashion, but rather that policy solutions are floating around waiting for an open policy window, a period of time that lends itself to a higher probability for adoption. Kingdon (1995) examines the policy process by applying multipronged approaches to understanding why some policy items are attended to and others are neglected. He divides the policy process into three designated "streams" and examines the merging of these independent streams. The streams are defined as problems, policies (solutions), and politics. The merging of the three streams into a single stream while a policy window is open increases the chances that an issue will receive considerable attention from policymakers (Zahariadis, 1998). Andrews and Edwards (2004: 491) explain that "Analysis of the role and influence of advocacy organizations in politics has been limited by methodological challenges and abstract debates detached from strong empirical research." This article provides a useful qualitative case study of a social movement's political failure, applying aspects of both the multiple streams approach and social movement theory.

MASSACHUSETTS: A CASE STUDY

Massachusetts advocates organized unsuccessfully during the 1980s to make paid family leave a policy reality. The issue lay dormant for several years and was reinvigorated in part due to welfare reform debates and organizing. In May 1998, the Women's Statewide Legislative Network organized the first meeting of the Massachusetts Family Leave Policy working coalition. This group consisted of representatives from academia, the AFL-CIO (a federation of national and international labor unions), Greater Boston Legal Services, the Boston's Women's Commission, and other nonprofit organizations. This coalition crafted two family leave bills including a comprehensive family leave plan and a parental leave plan using Unemployment Insurance. Both bills included a paid component, but the proposed funding sources differed. The objective was to create a wage replacement program for family leave using employer taxes as a funding vehicle. The creation of such legislation needs to be in compliance with federal regulations, Yelen (2002: 9) explains:

The Employment Retirement Income Security Act of 1973, which regulates private insurance and benefits plans offered by employers, limits the ability of states to mandate new insurance requirements for private employers. The limits on the states have three exceptions—Temporary Disability Insurance, Unemployment Insurance, and Workers' Compensation.

This restricted funding approaches and subsequently dictated the way that proposed legislation would be shaped. The first bill, H.1700, "An Act Establishing Family and Employment Security through the Provision of Family and Temporary Disability Leave Insurance," provided all workers who met the base period earning requirements of unemployment to receive partial wage replacement, exempting employers who provided comparable benefits. In addition, this proposed legislation aimed to guarantee workers up to 26 weeks of job-protected leave in the following situations: the worker's non-work-related illness, the illness of a family member, and childbirth or adoption. Employees would also have been eligible for parental leave of up to 16 weeks for the birth, adoption, or foster care placement of a child. Advocates for this legislation proposed various funding sources including the application of the Family and Medical Security Trust Fund, a pool generated by employer contributions to an unemployment health insurance program, and possibly a portion of the Temporary Assistance to Needy Families (TANF) block grant surplus, which existed during that time. (Public assistance, commonly referred to as welfare, is administered at the state level for qualifying families.) In Massachusetts, nearly 40% of workers were not reached by the FMLA because they worked for companies with fewer than 50 employees. This bill would have expanded family and medical leave to all workers in Massachusetts, regardless of employer size.

The second bill, commonly referred to as “Baby UI,” S.61/H.1890, titled “An Act to Provide Unemployment Insurance for Family and Medical Leave,” was a paid parental leave proposal. This proposal would have been funded through the unemployment insurance program, a fund generated by state and federal employer taxes. This bill would have benefited workers eligible for the FMLA, those eligible under the Massachusetts Maternity Leave Act, those whose employer granted leave voluntarily, and all other workers who were eligible for up to 12 weeks of wage replacement but had no right to get their job back. “Baby UI” would have offered employees 50% of average weekly wage, capped at \$402 per week, and \$25 per dependent.

METHODOLOGY

Applying the concepts outlined in social movement theory and the multiple streams approach, this article hypothesizes that the paid family leave campaign in Massachusetts was influenced by a complex set of factors that were not limited to advocacy and opposition organizations but involved an interplay between institutions, key players, and the economic, social, and political environment. This research also hypothesizes that the proposed legislation, particularly the funding vehicle, will influence the success of a campaign. Using a grounded theory approach, this research primarily relies on interview data from members of the paid family leave coalition, members of the legislature, and opposition groups. Grounded theory was developed by Glaser and Strauss (1967), emphasizing the discovery of theory from the data systematically obtained from social research. Qualitative research using a grounded theory approach often uses interview structure to identify the individual’s experiences around the social experience with an emphasis on process (Gubrium & Holstein, 2001). Secondly, this research uses economic indicators and documentary data from the media and from opposition and advocacy groups. Individuals working in various key positions were chosen for the sample, including politicians, leaders in business/trade organizations, legal services, and the primary advocacy groups. Representatives from both opposition and advocacy groups were interviewed until exhaustive and corroborative accounts of events were produced. Categorizations consist of individuals from “advocacy groups” and “opposition groups” or what Kingdon (1995) terms “pressure groups.”

The interviews were 45–60 minutes in length and were audiotaped and transcribed. The interviews were coded to identify specific themes and patterns related to the perceived factors that influence the mobilization and dissolution of the campaign in Massachusetts. Secondary data was obtained from documents of the advocacy/opposition groups and those produced by local and national newspapers. Specifically, the document analysis consisted of a review and comparison of coalition meeting minutes, coalition memos, editorials, legislative testimony, and outreach materials constructed by opposition and advocacy groups.

The economic conditions in Massachusetts during the time of the campaign were perceived as providing a critical opportunity for the mobilization of the campaign and conditions for the de-escalation of the campaign. Annual data from 1998 through 2002 was compiled with the aim of capturing a picture of the economic conditions present while the campaign was active.

RESULTS

Policy Proposals

Both of the theoretical frameworks being used here emphasize the importance of the political context in mobilizing and sustaining social campaigns. The political context in Massachusetts was shaped by upcoming state elections, the national mood, and economic realities. Interviewees in this case study identified a palpable shift in the national mood, in the area of family social policy, preceding the upsurge of campaign activity and accompanying the downswing of organized activity. This shift in national mood worked both as a mobilizing and as a counter-mobilizing force in the life cycle of the campaign in Massachusetts. The role of national mood in campaign mobilization was clear on several levels for activism in Massachusetts during the late 1990s. The first aspect of national mood was the overarching mood promoted by the Clinton administration's increased emphasis on family-focused social policy, signaled by the passage of the 1993 Family Medical Leave Act. The FMLA alerted state advocates interested in paid family leave that the issue of wage replacement had the capacity to move forward.

The second aspect of the national mood that spurred mobilization on the part of both advocates and opponents was the affirming of the appropriate use of the Unemployment Trust Fund by the Department of Labor in 2000, also facilitated by the Clinton administration. Individuals both within and outside the statehouse had been raising concerns about the use of unemployment insurance as a funding vehicle for the wage replacement component. The language of the affirmation stipulates that an individual needs to be "ready and able to work," and individuals using such funds during parental leave are unable to meet this criterion. This affirmation was a direct byproduct of work being conducted by the Massachusetts AFL-CIO, an active group in the paid family leave coalition, which urged Senator Kennedy to seek the Department of Labor order from Clinton. At the time of this order, Massachusetts was one of several states with proposals considering the unemployment insurance surplus as a funding vehicle. The Clinton order, allowing such use by the states, validated the work of advocates on the state level, as the policy director for an advocacy group explains: "after the Clinton order . . . I think that was a major impetus for people to really feel like there was actually support."

This order and the accompanying media attention signaled to advocates that there was a commitment to family leave by the federal government and provided validation to the campaign efforts; however it also signaled to business groups that

paid family leave was a real possibility. The downside of the national spotlight for advocates in Massachusetts was the increased attention paid to the issue by the opposition, explains an advocate and author of the proposed legislation: “Business kicked into high gear to try and stop this, so we did this huge mobilizing effort on the DOL regulations.” When asked to consider when business groups first encountered paid family leave as an issue, a business lobbyist responded:

The Federal Department of Labor enacted regulations which allowed states to pay for maternity leave out of unemployment proceeds. And once that happened, the Massachusetts senate adopted a provision in which Massachusetts would have enacted a law that would have allowed Massachusetts to take advantage of that new law. It happened late in the process—It just sort of popped out of nowhere.

A director of a small business advocacy organization representing over 11,000 small and independent businesses in Massachusetts stated that “when President Clinton allowed the use of UI, it really put it on the front burner.” The upswing of activity from both sides really began to peak during 2000 and 2001. In a memo entitled “Paid Parental Leave Coming This Fall,” dated September 10, 2001, the business lobby states that “Like a State House feature movie, the paid parental leave debate is coming to Beacon Hill this fall. When it is over, Massachusetts may have a paid leave program for employees with new children funded by a tax on employers unless a sizable and influential constituency speaks up loudly and forcefully.” The national mood was enhanced by the increased generation of federal and state legislation further promoting a sense of commitment to paid family leave.

Economic Climate

One of the most critical factors in most campaigns is the economic climate. The boom economy that paralleled the campaign was mentioned as an inciting and primary factor by all individuals interviewed. When asked to consider why the paid family leave campaign dissolved when it did, a business lobbyist stated, “I am sure the economy changing had a lot to do with it—because people then are just grateful to have their jobs.” The importance of the economy to this campaign cannot be overstated. The unemployment rate in 1998 was 3.6% and was even as low as 2.6% for several months in 2000; a business lobbyist states that “If you could stand up, you could get a job.” Another business lobbyist further explains: “That was why people could go in and demand whatever they wanted for a salary, and in that climate it is easier to pursue more generous benefits.” It was during this period of economic growth that the campaign saw its largest success, particularly as it received the nod from Clinton and saw the increased generating of paid family leave proposals in the legislature.

Open Policy Windows: The Upcoming Election

The upcoming gubernatorial election in 2002 prompted the opening of a policy window. Until this point, the foundation for the campaign had been established by a favorable national mood, the economy, and social conditions. The upcoming election became a campaign opportunity for individuals jockeying for the governorship.

In August 2001, Republican Governor Swift released her proposal, which also provided up to 12 weeks of wage replacement during the first year of life or during adoption for a new parent, providing 50 percent of average weekly wage plus \$25 per dependent, but with a cap on the total benefit set at \$300 per week. She also included a provision that would have required families with income over 250% of the federal poverty line to repay all or a portion of their benefit. Her proposal suggested the use of the Massachusetts Medical Security Trust Fund surplus, appropriations by the legislature, and repayment funds (Yelen, 2002). This interest in paid family leave was in part a reaction to the activism, but it was also a response to the upcoming election. Sherman (2001: 68) explains: “In the summer of 2001, with the primary season about to unfold, candidates would be openly vying for the women’s vote and publicizing their records on family policies to shore up support among a critical block of voters, married women with children.” Sherman (2001: 61) also states that “Paid leave had not surfaced as a popular demand and would probably not have registered among the top twenty preferences of citizens’ major concerns. Nevertheless, Beacon Hill lobbyists and legislators alike had become embroiled in a policy fight over a potentially expensive, permanent universal benefit for workers, a policy some in the press were now calling a litmus test for the next state election.” Paid family leave made its way onto the political and social agenda and maintained a place there for almost four years. At the end of 2001, six paid leave plans were under consideration in Massachusetts, none of which made it through the legislature or acquired the political will to be placed on the November ballot.

Organizational Capacity and Campaign Decline

Although the social, political, and economic factors were favorable at the start of the campaign for family leave, it was going to take organized resources and a mobilized constituency. Sherman (2001: 63) explains that “Since government officials set the policy agenda for deliberation, interest groups—sometimes only a few well-organized people—play a central role by providing information and arguing for specific policy choices.” The Women’s Statewide Legislative Network (WSLN), in collaboration with the AFL-CIO, played the central role, and helped to define the issue for the broader base. However, maintaining a nonprofit organization with redistributive economic social policy ambitions can be a challenge under the best of circumstances. According to resource mobilization theory, resources such as labor, facilities, and money that are used to fuel a social

movement play a role in determining the direction of the organization and its effectiveness. Resources impacted the organization on two levels in this campaign, particularly labor and finance. WSLN was caught in a cycle of having to divert limited labor resources to securing funding and having to define organizational goals in accordance with funding interests. At a minimum, WSLN needed the funds to pay its staff, which consisted of two to three individuals during the campaign, provide health insurance, and generate outreach materials. The other major area impacting the movement was labor resources. WSLN and other invested organizations were just unable to achieve the level of activity they needed on the grassroots level or at the statehouse. The problem of mobilization was exacerbated by the resources of the well-organized opposition. An organizer notes that

The other big problem was business. They went absolutely berserk about it, and they have full-time lobbyists. At the statehouse every single day, no matter how many letters a legislator would get from their constituents. Beside lobby days we weren't at the statehouse nearly as much as we should have been. As a nonprofit I was limited as to how much direct lobbying I could do.

The visible business lobby also benefited from a clearly identified and organized group of constituents that could be easily mobilized and could unite in opposition to policy creation. According to Kingdon (1995), politicians will be more influenced if several interest groups are presenting a unified front on an issue. A business lobbyist notes that

We do grassroots advocacy at the local level, which takes what we have done and spins it out into conversations all around the state. Another thing that we did not mention was asking other business groups [to join] us in opposing these bills, which they did: Massachusetts Tax Payers, Business Round Table, and the National Federation of Independent Business.

Competing with organizations that benefit from larger resources is very challenging, particularly when the constituency for your organization is hard to identify. When people think of social movements, they think of visible campaigns, of people who go to the streets and engage in confrontational interactions that are visible to the public. There is often a disconnect between how people experience day-to-day struggles and the presence or absence of social welfare policy. The focus of frustration is often directed toward institutions with which people are in direct contact. Many campaigns aiming to use social policy as a tool for changing economic conditions can appear abstract to a perceived base, particularly in the case of campaigns with a diffuse constituency. An organizer for the campaign articulated the challenge of identifying and mobilizing a constituency:

If people weren't experiencing a problem with it at that moment, it was hard for them to find time in their rat race lives to get interested and actually do something. And that seems to be the problem with any organizing effort. So it

was hard to identify a constituency and then work to organize that constituency, because it really was everyone. We would have conversations about trying to go to hospitals. Those people [individuals who could benefit from paid family leave] might be more interested, but what are they going to do while they are in the midsts of a crisis?

In addition to the challenges presenting themselves when proponents were attempting to mobilize a diffuse constituency, proponents also struggled to make the issue accessible to the masses: “We were in education mode all the time,” said a labor organizer. Creating social policy that has little institutional context can make a movement appear abstract and inaccessible. Paid family leave is a benefit that most individuals have not considered or had access to and that exists in a limited context, such as the elite private sphere or foreign government; this situating of a social policy can make broad-based organizing a challenging endeavor. It is not enough to have the appropriate social and economic conditions in place. Taylor (2000: 222) explains that “Expanding political and institutional opportunity may create possibilities for collective action, but the emergence of a social movement depends also on whether aggrieved groups are able to develop the solidarity to mobilize.” As discussed in the social movement literature, individuals work to mobilize issues because they believe that there is the potential for success. There is an essence, a perceived window, and a collective sense that an issue can be cultivated in an existing climate. Kingdon (1995: 166) explains that “windows open in policy systems. These policy windows, the opportunity for action on given initiatives, present themselves and stay open for only short periods. If the participants cannot or do not take advantage of these opportunities, they must bide their time until the next opportunity comes along.” Once the legislation failed to make it through the committee stage, WSLN experienced a loss in resources on several levels, including a reduction/withdrawal of foundation support, a dwindling of coalition support, and a reduction of internal leadership support, and ultimately the organization collapsed. Individuals involved in the campaign became frustrated and recognized that they were not going to achieve success. A labor organizer explains that

The momentum that we gained in the late 1990s was really great and we thought we were going to get it done, but we lost a lot of people who were involved in that coalition when things started going downhill. People just got discouraged.

An additional reason for the closing of a policy window provided by Kingdon (1995) is that the events that prompted the window to open have passed.

The social, economic, and political changes that occurred during the period from 1998 to 2002 were profound on both the state and national levels; they included the rapid rise in unemployment, the swearing in of George W. Bush in 2001, and the events of September 11. The political conditions during this time were difficult for economic social policy creation. Even with the flurry of

legislative activity, advocates were up against a Republican governor and Speaker of the House. The economic downturn resulted in a substantial reduction in the surplus in the Massachusetts Unemployment Insurance fund. The unemployment rate went from a low of 2.6% in 2000 up to 4.2% in September 2001. As the unemployment insurance fund was the funding vehicle for the primary proposal, the outlook for paid family leave was looking bleak. Additionally, a key event that exacerbated the inhospitable conditions and punctuated the economic uncertainty was September 11, as the campaign organizer explains:

Once 9/11 happened, even I felt like this seemed so trivial. That to me was the point when this just wasn't going to go anywhere. The economy was in the crapper. Unemployment was going up, 9/11, that was really it for me. . . . I felt like that's it. It's not going anywhere and we as an organization actually started looking at other things to try and organize women around.

September 11 was identified as a key factor in the de-escalation of activism by all interviewees. In the October 2001 outreach letter, the coalition tried to encourage individuals to see the importance of family policy following the attacks:

WSLN would like to express our condolences and support to victims and their families of the September 11th attacks. In the aftermath of the attacks, we all recognize the importance of family and security—physical, financial, and emotional. Now more than ever we must support our working families. Although we face uncertain times, we must continue to fight for justice where we can. Our thoughts are with you.

Although it might not have seemed to be immediately relevant, this major event proved to be a key factor promoting de-escalation. Campaign advocates inside and outside the statehouse commented on a perceived shift in national mood after the election of George W. Bush and the events of September 11. This shift promoted a climate that was unreceptive to the creation of new social policy. Labor leaders also perceived the larger political shift as a countermobilizing force: “The political climate was changing. The era of feel-good policies that Clinton was able to talk about was gone; when Bush came into office it was just pushed to the side.”

CONSIDERING CALIFORNIA

Paid leave proposals were put forward in 27 states during the period 1998–2002. The only state that was able to get a family leave policy adopted was California; the failure to get a policy adopted in Massachusetts was not an anomaly, considering the failed efforts nationwide. Identification of the factors that made California the only success story is not possible within this article; however, it is worth identifying the differences between the two states and the way in which advocates in Massachusetts saw the California success in relationship to their work of attempting to make paid family leave a state-level policy.

In 1999, the California Work and Family Coalition organized to develop a state-paid family leave policy. The advocacy base in California consisted of the Work and Family Coalition, the state-level AFL-CIO, and constituency groups representing the needs of women, families, children, immigrants, and disabled populations (Labor Project for Working Families, 2003). With the support of a two-year grant from the Packard Foundation, the coalition was able to begin drafting legislation, seeking sponsors, seeking stories, getting support from progressive businesses, and building union awareness (Labor Project, 2003). The first proposal involved 12 weeks' leave with costs split between employers and employees, through the expansion of California's existing state disability insurance program. California's disability insurance program has been in existence since the 1940s; under this program, workers are eligible to receive between 55% and 60% of their weekly wages (up to a maximum of \$602) for up to 52 weeks (Dube & Kaplan, 2002). This program is funded through employee payroll taxes exclusively (Dube & Kaplan, 2002). The coalition was able to mobilize remarkably fast, but an organized response from business resulted in an alteration to the original proposal. The 2002 legislation signed by Governor Gray Davis allows employees to receive partial wage replacement for up to six weeks during periods of family leave. This law allows workers to receive wage replacement for the following reasons: to care for a seriously ill child, spouse, parent, or domestic partner; or to bond with a new child (Milkman & Appelbaum, 2004). While on leave, employees receive payments from an employee contribution-based state fund to replace 55% of wages, up to a maximum of \$728 a week (Milkman & Appelbaum, 2004). Research conducted on the campaign in California highlights some of the elements that were present and assisted in encouraging the adoption of this law. According to a report by the Labor Project for Working Families (2003), California was particularly fertile ground because of the preexisting disability benefits infrastructure, the strong advocacy base, its ability to enlist powerful partners, and the Democratic majority in the assembly, senate, and governor's office during the period of adoption. In contrast, Massachusetts lacked Democratic leadership on the gubernatorial level, a preexisting state disability insurance program, and the 10 years of well-organized work-family advocacy that had occurred in California. Paid family leave has been very well received among the people of California; in a 2003 survey, 84.9% of respondents declared themselves in favor of paid family or medical leave (Milkman & Appelbaum, 2004).

Can California Provide a Model?

Given the success of California, interviewees in this study were asked to consider whether they believed that the proposed funding vehicles in Massachusetts, specifically the employer-funded model, were inhibiting factors in their campaign, and the responses were mixed. A WSLN leader states that

The only other place, of the five places that have TDI [Temporary Disability Insurance], that has been able to do any thinking about it is New Jersey, and New Jersey has stalled time and again in committee. It doesn't go anywhere, but there is a group of legislators who are committed to it, which is more than I can say anywhere else. In New York there is a very small not so vocal group, affiliated largely with the AFL, who are interested in expanding TDI, but it's not even on the radar screen.

When another advocate in Massachusetts was asked to respond to the same question, she stated: "You know that is always the conventional wisdom with California. The funding source was really not the issue. We had enormous opposition. Employers just don't want a mandate." When business lobbyists were asked to consider whether they would have supported such a model, one responded:

There are a lot of companies that offer short term disability insurance as an option. I think that our fear always is "one size fits all" decisions about scales of pay, types and kinds of benefits. Policies around family are best made at the company level based on the economic circumstances of that company.

The creation of state-level paid family leave policy is accused by the business lobby of putting states at a competitive disadvantage. When considering the change in California, Allen Zarembler, president of the California Chamber of Commerce, was quoted in a *New York Times* article (Broder, 2002) as stating: "We're opposed to a lot of bills, but this is one of the worst. When you're the only state in the country with paid family leave and they've tried it in 27 other states and it's failed in each and every one, we see it as a competitive disadvantage in attracting or keeping businesses here." This sentiment was echoed in the interview with members of the business lobby:

That is why the decision does not belong in Massachusetts general law. I think it creates all sorts of competitive problems for Massachusetts; in the long run it will hurt the Massachusetts economy, particularly when they try to implement [it] on the state level. I mean if it is a national policy it becomes a little different story, but when it is a state issue and we are the only state that requires it, we are an outlier and that causes issues for the state.

In Wisensale's (2003: 143) research on California, he also examines the role of the proposed funding vehicle in the state-level failures throughout the country: "Perhaps a primary reason for such a massive failure across the board can be attributed to the legislatures' lack of confidence in such a fairly novel funding mechanism, the use of Unemployment Insurance." Kingdon's (1995) policy stream identifies technical feasibility as a criterion for survival, suggesting that a proposal must be perceived as technically viable by the legislature. The proposed funding vehicle in Massachusetts was a contentious area for individuals on both sides of the campaign. Some advocates felt that a proposal utilizing employer, employee, and government contributions would have been more fitting and would have had a considerable likelihood of success. The AFL-CIO did not want to

propose a policy that included an employee contribution; however the group might have engaged in discussion had the momentum been sustained. Other advocates were not so sure that using employee contributions would have increased the likelihood of adoption. They believed that business did not want a mandate and that business benefited from the support and allegiance of Finneran, then Speaker of the House. Essentially, they concluded that, regardless of the funding vehicle, the issue lacked the necessary political will.

DISCUSSION

This research reveals several political, economic, and historical opportunities and conditions in Massachusetts that fostered the mobilization/de-escalation of the paid leave campaign. Interviewees in this case study commented on a palpable shift in the national mood, particularly in the area of family social policy, preceding the upsurge of campaign activity (see Figure 1). The first aspect was the

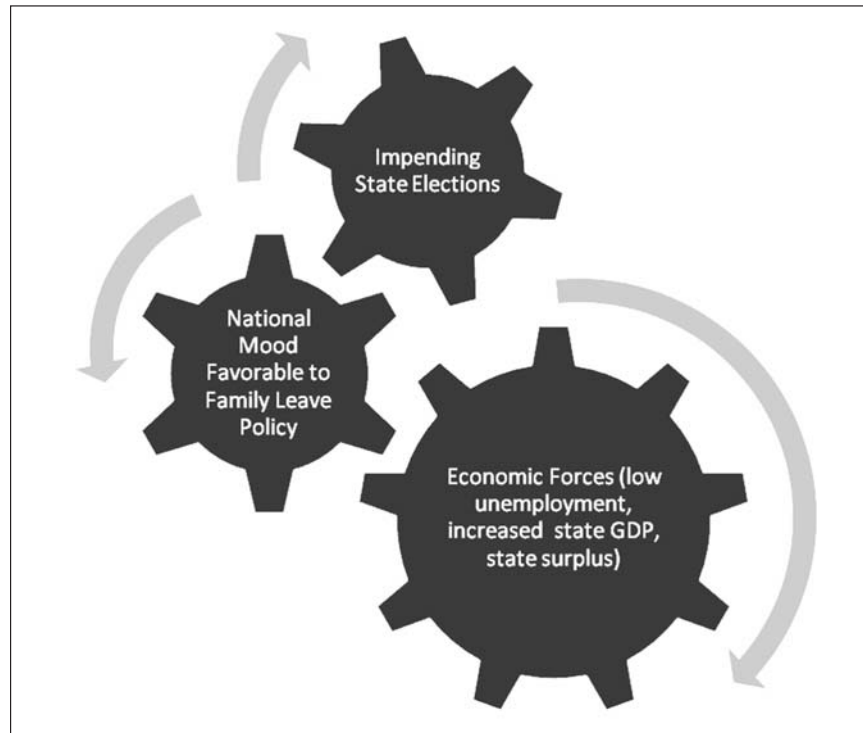


Figure 1. Factors that promoted mobilization.

overarching mood promoted by the Clinton administration's increased emphasis on family-focused social policy, signaled by the passage of the 1993 Family Medical Leave Act. The second aspect of national mood that spurred mobilization on the part of both advocates and opponents was the affirming of the appropriate use of the Unemployment Trust Fund by the Department of Labor in 2000, also facilitated by the Clinton administration. The boom economy that paralleled the campaign was mentioned as an inciting and primary factor by all individuals interviewed. Resource mobilization theory states that a movement's success depends on the resources of the major social and political systems as well as the movement's own resources. The present research points to the organizational struggles involved when attempting to create a movement advocating a policy for paid family leave. Although the political conditions allowed for a degree of visibility for the campaign, it lacked the capacity to mobilize and maintain a constituency. Resource mobilization theory establishes that the social organization is the backbone of the movement. In the fall of 2001, activists became frustrated with the campaign, and organizers were having a difficult time maintaining momentum. As WSLN dissolved, the campaign also deteriorated.

It was also clear in the case of WSLN that inadequate organizational resources contributed to the dissolution of the campaign. WSLN was caught in a cycle of having to divert limited labor resources to securing funding and of having to define organizational goals in accordance with funding interests.

In terms of a political opportunity analysis, this study points to several structural forces that worked against the campaign and promoted its de-escalation.

As political opportunity structure suggests, conditions need to be appropriate for coalition activity to become political action. Through the interview data and economic indicators, this research was able to determine that the decreased political will, the weakening economy, the increase in the unemployment rate, and the evaporation of proposed funding sources, including the surpluses in the general fund, the Unemployment Insurance Trust Fund, and the Medical Security Trust Fund, inhibited campaign success (see Figure 2).

Kingdon (1995) emphasizes the importance of a "policy window," the role of the national mood, and the behavior of the business lobby and its interaction with the campaign. Massachusetts's advocates for paid family leave were unable to get a proposal through before the closing of their policy window, which resulted from the political, economic, and social circumstances in the fall of 2001. The political dynamics in the state were identified as problematic for the proposals, particularly the presence of a Republican governor at the earlier stages of the campaign, and a Republican interim governor who was not taken seriously by advocates of paid leave. Additionally, advocates came up against a Republican Speaker of the House, who was seen as pro-business.

In addition to the state-level political dynamics, advocates perceived a general shift to the right following the election of George W. Bush and the events of September 11. Activity promoting paid family leave policy has essentially come to

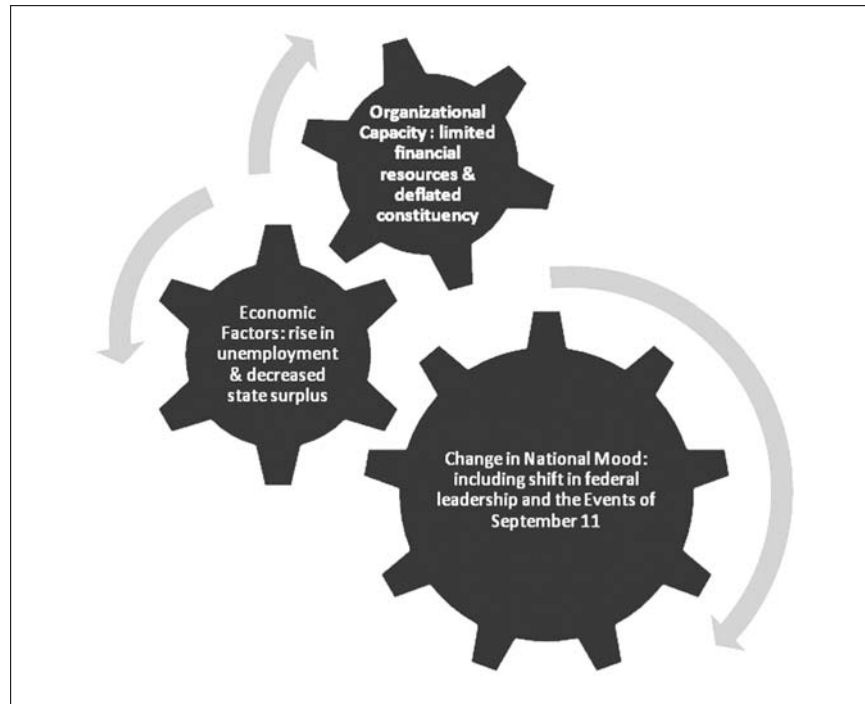


Figure 2. Factors that influenced de-escalation.

a halt across the country. Bush overturned Clinton's regulations allowing for the use of unemployment insurance funds for "Baby UI" programs, and many family leave advocates have now redirected their efforts to the maintenance of the FMLA. Massachusetts's advocates for paid family leave have responded to the changing climate and have adopted a more incremental approach, proposing a policy that would provide workers with seven paid sick days annually.

With the increase of women in the labor force, the increased life expectancy, and the continued demand for two-income households, will groups and individuals organize and demand social policy that aids the work-family balance? Or will we make adjustments independent of government intervention? From the data in this study, I can conclude that should another organizing effort for paid family leave occur, to have a reasonable likelihood of success it would need to occur during a period with the necessary political and structural opportunities, the necessary organizational resources, and an open policy window.

The interesting point is not that the legislation was unable to get through, but that the coalition was able to generate such a high level of momentum and

visibility with so few resources. Had the structural opportunities not shifted, particularly in the economy, advocates and opponents believe that Massachusetts would probably have passed a paid family leave policy. When asked to consider whether paid family leave had the capacity to reemerge in Massachusetts, the National Federation of Independent Businesses (NFIB) director said, “I think so; all issues do.”

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