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The shared parental leave framework: Failing to fit working-class families?

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Abstract

Shared Parental Leave has the potential to tackle a traditional gendered binary of roles within the family, by encouraging more men to care. Such legal provisions can operate to shape behaviour, both in terms of what they permit practically, but also from a normative perspective, conveying ideas around the best way to perform 'family.' However, placing particular focus on the latter, we assert that Shared Parental Leave does not speak to working-class parents. We initially consider whether the 'heteronormative' family may, in itself, be a middle-class problem, before highlighting the incompatibility of legislative ambitions of 'equal parenting' with working-class ways of living. 'Equal parenting,' as embodied within the legislation, imposes ideals that sit at odds with working-class people's attitudes, whilst assuming a two-parent family which is often incongruous with working-class family forms. Ultimately, we favour a more holistic approach towards breaking down 'heteronormative' notions of women's and men's roles, to enable people to make more meaningful choices about their lives that are not constrained by gender.

Keywords

Family, employment, care, parenting, class, heteronormativity

Introduction

Research suggests that since the Covid-19 pandemic, when working from home was encouraged, fathers have performed a greater amount of childcare than ever (Burgess et al., 2022).

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As Burgess et al. (2022: 1) note, this is 'significant for gender equality' in the UK. However, working from home was only really accessible to those in occupations more commonly held by the middle classes. This includes those in higher managerial, administrative or professional occupations, as opposed to 'routine and manual occupations' (Office for National Statistics, undated). An awareness of social class is therefore vital to assessing our rate of progress towards gender equality. In this paper, we consider how class impacts the level of uptake of Shared Parental Leave (SPL). The legislative framework for SPL explicitly aimed to 'enable working fathers to take a more active role in caring for their children and working parents to share [...] care,' making 50 weeks of maternity leave transferable to eligible fathers and partners (Department for Business, Innovation and Skills, 2012: 3). Despite widespread acknowledgement that it has failed to achieve that aim, this area of the law is commonly accepted as signifying progress towards equality (Women and Equalities Committee, 2018). Yet, we argue that the legislation is ineffectual in breaking down traditional gender norms within working-class families.

Whilst it has previously been recognised that family-friendly employment legislation has had a predominantly middle-class focus (see Crompton, 2006), the issue has not been interrogated in-depth in England and Wales. This may be because of a wider discomfort towards, and inclination to ignore, class (Benn, 2020). Nevertheless, as Benn (2020: 42) identifies, class still 'plays a big part in how people understand each other,' shaping attitudes and behaviour. Being mindful of it is especially vital when looking at parenting, because 'the class-specific constraints that low-income parents face have important consequences for gender equality in the household division of labour' (Dunatchik, 2022: 16). Accordingly, we agree with Benn (2020: 31) that 'without paying attention to class [...] the law will continue to ignore a major form of discrimination.'

The key theoretical focus of the paper is 'heteronormativity,' which we perceive as manifesting in various practices that work to entrench dichotic gender roles. We concentrate on notions of the 'nuclear family,' consisting of a caring mother, in accordance with ideas of 'femininity', and a working father, aligning with conceptions of 'masculinity'. Although not its main focus, SPL sought to challenge these limiting gendered expectations; the then-Government stated that it could enable fathers to become primary carer, whilst allowing women to achieve their workplace potential (Department for Business, Innovation and Skills, 2012). What that Government failed to acknowledge is how social class can restrict this potential.

We begin by charting the evolution of the legislative framework, before situating SPL in the wider context of the law around children and families, examining the messages conveyed about the best way to perform 'family.' Whilst family law arguably continues to centre around a model of the 'nuclear' family, underpinned by a belief of the presence of two opposing genders, SPL has attempted to challenge this division of labour. We then move on to highlight, though, how SPL is geared specifically towards the middle classes. Practical constraints which disproportionately exclude working-class fathers will be examined, before we analyse two reasons why SPL may not be speaking, on a normative level, to working-class families. First, the 'heteronormative' gender binary which SPL aims to tackle may, in itself, appear to be a middle-class problem. Secondly, the 'narrow' legislative ambition of 'equal parenting,' focusing alone on a two-parent caring model and

on encouraging men to take parental leave, is incompatible with many working-class families. The reasons are twofold: it imposes middle-class ideals that are incongruous with working-class attitudes; and it is not necessarily reconcilable with working-class family forms. We argue that, rather than recognising working-class men's ways of parenting, SPL simply pushes them towards taking leave, and towards a publicly visible form of 'fathering' that is more popular amongst the middle classes. In this sense, we critique the goal of (at least, a 'narrow' conception of) 'equal parenting' as a realistic or desirable aim. A 'broader' conception of 'equal parenting' could acknowledge not only the time and tasks associated with daily caregiving, but also the considerable work of responding to children's needs and sustaining their wider social relationships and commitments (Doucet, 2015). This would better recognise the practical childcare role more commonly performed by working class fathers, in so doing offering a more fundamental challenge gender inequality. In developing our arguments, we compare SPL with the non-transferable, standalone rights to leave in Sweden and Norway, highlighting how class impacts fathers' uptake of leave even within the celebrated Scandinavian model.

Overall, we argue that, unless the impact of class is recognised, SPL is unlikely to achieve meaningful change for working-class families. Instead, the UK risks sustaining a two-tier workplace, where middle-class parents are better able to determine how to balance their paid-work and caring responsibilities. Working-class parents, on the other hand, will remain restricted by 'heteronormative' assumptions about gender.

Family-friendly employment policies: The development of the legal framework

UK family-friendly employment policies have evolved since the 1990s. Maternity leave was the first entitlement introduced, made widely available by the Pregnant Workers Directive 1992. All employees are now entitled to 52 weeks of maternity leave as of day-one of their employment, although eligibility for statutory maternity pay (SMP) is dependent on having been employed by the same employer for a period of at least 26 weeks at the fourteenth week before the expected week of childbirth (Social Security Contributions and Benefits Act 1992 s 164 (2) (a)). SMP is for 6 weeks at 90% of income, followed by 33 weeks at £156.66, with a final 12 weeks unpaid.

Since 2002, legislation has increasingly focused on fathers (or mothers' partners). Ordinary paternity leave enables eligible employees to access 2 weeks of leave when a child is born, paid at £156.66 a week (Paternity and Adoption Leave Regulations, 2002). Paternity leave and all subsequent entitlements made available to fathers and mothers' partners, including SPL, are not a day-one employment right like maternity leave. Instead, eligible parents must have been employed for a minimum period of 26 weeks at the relevant week (Paternity and Adoption Leave Regulations 2002, regs 4 (2) (a) and 8 (2) (a)).

SPL makes 50 weeks of maternity leave transferable to the father (Shared Parental Leave Regulations 2014). This built on, and replaced, additional paternity leave, which made 26 weeks of leave available if the mother had returned to work. Shared Parental Leave Pay (SPLP) is £156.66 for the first 37 weeks, whilst the remaining period is unpaid.

SPL aimed to make leave arrangements more flexible by providing parents with 'more choice in how they care for their children' (Department for Business, Innovation and Skills, 2012: 9). Notably, though, for a father to be able to take the leave, the mother must consent and have been 'engaged in employment […] for any part of the week […] of at least 26 of the 66 weeks immediately preceding the calculation week' (Shared Parental Leave Regulations 2014, regs. 5 (3) (a), 21 (3) (a) and 36 (1) (a)).

The UK Government has yet to publish the results of a long-promised consultation on SPL. Even so, research by law firm EMW suggests that only 2% of eligible couples made use of SPL in 2019. Furthermore, since 2016, there has been a downward trend in take-up, despite hopes that more fathers would access SPL over time (Chartered Institute of Personnel and Development, 2022). Bearing in mind the low uptake, it seems difficult to claim the scheme has been a widespread success. That said, it is arguable that placing a greater legal focus on the potential caring role of fathers is a positive step in breaking down traditional gender norms. We will move on to consider the ways that, at least theoretically, it might help to do this.

A departure from the 'heteronormative' 'nuclear' family?

The law is one of the institutional structures that reproduce the gender order within society (alongside educational systems, the welfare state, labour markets, and so on (Crompton, 1999)). Power performs a productive role; one of the greatest effects of this productive power is the subject, with individuals being constituted, and their behaviour being 'shaped', through their subjection to power relations (Foucault, 1980). In terms of the allocation of gendered roles within the family, the law carries out that 'shaping' role in two ways. First, on an operational level, it sets parameters to what is practically possible. This aspect has been the focus within the existing literature in this area, which we discuss below. Secondly, it conveys a message as to what an ideal family should look and behave like. This more normative aspect of the law means that it can operate as a tool to help to sustain- or, importantly in terms of SPL, to change - the dominant family form, setting out the best way for us to live. In making an original contribution to the field, we will particularly consider how, and why, this normative element appears to fail for the working classes.

Areas of the law relating to children and family have often been premised on a 'heteronormative' ideology. We are using this term to refer to the 'idealised heterosexual nuclear family,' comprising the roles of 'mother' and 'father' (Boyd, 1992: 269). This model asserts the 'correctness' of clear gender difference (Robertson, 2019). Under it, the partners' respective roles are matched with their assigned sex in a manner that aligns with Butler's (1990) 'heterosexual matrix' (where gender and sex cohere, with 'maleness' entailing 'masculinity' and 'femaleness' 'femininity')

The two parents have separate, yet complementary, functions under 'heteronormativity.' Women, acting as 'helpers' to their husbands as 'heads of household,' take the main responsibility for the home and childcare (Fineman, 1995: 23). This is considered 'natural' and 'right,' as caring is 'fundamentally linked to the process of gestation,' making mothers superior caregivers (especially for babies) (Brown, 2019: 9).

Indeed, under this traditional model, women would remain dependent, expected to 'break [their] commitment to paid-work for the unpaid-work of mothering,' although possibly acting as part-time or occasional earners (Bernardes, 1997: 77). Meanwhile, men were to engage in full-time employment to provide financially for their children, not being expected to nurture those children or engage with domestic labour (Bernardes, 1997). Roles are divided, reflecting a split between the:

> Sphere of private, family life [and] the realm of public life, [which, in turn,] leads to [...] the perception of women as primarily suited to fulfil special 'female' functions within the home, and […] to the justification of the monopoly by men of the whole outside world' (Moller-Okin, 1979: 274-275).

Turning, for instance, to the understanding of the parental role within family law in England and Wales, Brown (2019) sets out how this revolves around these binary constructions of 'mother' and 'father.' In parental disputes about residence, there has been 'consistently expressed judicial understanding' that the mother is 'the best person to raise the children' (see, e.g., *Re T (A Child)* [2005] EWCA Civ. 1397) (Brown, 2019: 142). Although there is broad consensus that contact with non-resident parents is beneficial, 'support is premised on the need for continued male parental involvement' (with fathers perceived as offering 'a different form of parenting than that provided by the mother') (Brown, 2019: 154). As Brown (2019: 154) explains, it is not the father's capacity to care that is being given significance, but the 'symbolic importance of the 'father' as completing the […] archetype of the nuclear family.'

It is acknowledged that, in the highly authoritative financial relief case of *White v White* [2001] 1 AC 596, Lord Nicholls opined that:

> The traditional division of labour is no longer the order of the day. Frequently both parents work. Sometimes it is the wife who is the money-earner, and the husband runs the home and cares for the children (p.605).

Yet, Bendall (2014) identifies how, even within that same judgment, Lord Nicholls's presentation of the modern marriage corresponds with 'heteronormative' ways of living (based on one person earning the money and the other 'homemaking'), with the partners operating in their own 'different spheres.' Family law, in its various forms, has therefore helped symbolically to bolster gendered constructions of 'mother as natural carer' and 'father as breadwinner' (Brown, 2019: 7). As explained by Gittins (1985: 72), ideals of family relationships (such as that of the 'nuclear' family) have become 'enshrined […] in our legal […] systems which, in turn, reinforce the ideology.' The law is consequently not just reflecting social norms around the gendered division of labour, but replicating them. It operates normatively, offering guidance and generating pressure for people to adhere to patterns of acceptability, conveying a best form of family living towards which people should aspire (Bernardes, 1997). The repetition of gendered expectations through these regulatory frameworks operates to maintain them, and restrains the subject in their expected familial roles (Butler, 1990).

In contrast, in the context of employment law, SPL could be viewed as an attempt to move away from the traditional gender binary. One might speculate why employment law was the chosen vehicle for this kind of change; it may be because it impacts everyone classified as an 'employee' (as opposed to family law, which only directly involves those experiencing family fragmentation). Equally, whereas family-friendly employment law is largely statute-based, much of family law provides judges with significant discretion, which can mean that it reflects their more traditional attitudes. Nonetheless, it is recognised that employment law has been widely considered problematic amongst feminist scholars, given that the field 'corresponds with […] paid-work,' and that 'unremunerated labour carried out in the home or community is outside of its scope' (Conaghan, 2018: 271). Furthermore, short, finite periods of leave have been viewed to be a relatively weak tool, offering no fundamental change to the workplace and obscuring the interdependent nature of caring relationships and paid-work (Busby, 2011). They deny parents the ongoing support needed to balance their workplace and caring responsibilities, and the 'standard worker model' (which assumes that all workers' focus is on paid-work, with someone else meeting caring responsibilities) remains unchallenged (Conaghan, 2018).

It is noted that, whilst maternity leave helped to challenge traditional constructions of 'femininity' through removing obstacles to women's workforce participation, it simultaneously prioritised mothers' caring work over fathers. More recent legislative changes in this area have, though, shifted from attempting to redefine women's roles within the family to deconstructing 'masculinity,' and towards a notion of dual caring. Margaria (2022) acknowledges, in this respect, a potential for the law to 'create, crystallize, channel, as well as potentially reshape images of 'the father.'' The introduction of SPL has signalled movement towards developing a notion of a private, caring 'fatherhood' (Brown, 2019). As expressed by the Government, 'working fathers [are encouraged, by the legislation] to take a more active role in caring for their children' (Department for Business, Innovation and Skills, 2012). This represents a departure from the 'heteronormative' construction of the 'father' (which also bleeds into conceptions of the 'mother'). Accordingly, the legislation arguably poses an opportunity to disrupt gender stereotypes and achieve 'resignification and subversive transformation,' destroying or redefining gendered norms within the family (Carline, 2006: 35). The law seeks to depart from gender role specialisation, moving towards a model of 'equal parenting.' 'Equal parenting,' in its 'wider' sense, rejects outdated views on 'motherhood' and 'fatherhood', favouring both parents contributing to children's daily care. This focuses primarily upon time devoted to parenting, as well as tasks performed (Doucet, 2015).

We recognise that requiring the mother's consent to the transfer of leave under SPL still places women in the more important position when it comes to childcare. Further, the 'heteronormative' default assumption remains that the mother will take the leave. Whilst there is little case-law to accompany the legislation in this area, in one key case of *Capita Customer Management Ltd v Ali (Working Families intervening) and Hextall v Chief Constable of Leicestershire Police (Working Families intervening)* [2019] EWCA Civ 900, the Court of Appeal reiterated the significance of maternity leave in supporting 'the special relationship between the mother and the newborn child.' This was one reason for finding that employers who enhance SMP, but not SPLP, would not be liable for sex

discrimination. As Mitchell (2022: 18) highlights, this 'language undermines the progressive aims of [SPL], as it perpetuates [...] outdated notions that women are natural caregivers.'

That said, although mothers' care has, in this way, remained prioritised, the existence of SPL carries its own symbolism, suggesting that men and fathers can be empowered to assume a caring role within a more 'egalitarian' family (Fineman, 1995). In fact, it is arguable that this more 'egalitarian' family is conveyed, through SPL, as a new ideal. Public recognition of men's potential to 'do more' in the domestic sphere carries the possibility of breaking down widespread ideas around 'masculinity,' and of actually urging those men to 'do more' (Bernardes, 1997: 79). At the same time, it could challenge 'feminine' assumptions around mothers as primary caregivers, and alleviate their disproportionate care burden. If men spend more time caring, women will also have more time for participation.

Nonetheless, we argue that the legislation is based around 'middle-class' assumptions, meaning that it fails to reach, and consequently has little impact on, 'working-class' families. We will proceed to set out what we mean by this.

Conception of social 'class'

We appreciate that definitions of social 'class' are contested, as it is a 'hazy' concept (Benn, 2020). In the article, as indicated above, we define 'class' largely on the basis of occupation, rather than self-definition, conflating being 'middle-class' with holding one of the 'higher' managerial, administrative or professional occupations within the National Statistics Socio-economic Classification (Office for National Statistics, undated). Moreover, we refer to those who fall into the category of 'routine and manual occupations' within the Classification as 'working-class' (Office for National Statistics, undated). That said, we are also mindful of Benn's (2020: 37) notion, drawing on the work of Bordieu, that those who are of a higher class carry more 'cultural capital,' referring to the 'extent to which other people consider that our interests and preferences are legitimate, in the sense of being valued and respected.'

We are operating on the simplistic basis that having one of the 'higher' occupations will generally mean having higher income and educational qualifications than somebody with a 'lower' classified occupation (although we are cognisant that this will not always be the case). The National Education Opportunity Network (2019), for instance, found that more than half of Universities in England have fewer than 5% of White students who previously received free school meals. Ethnicity is not a particular focus of the article, as recent data suggests that most ethnic groups are now 'broadly level' in terms of occupational class (Li, 2020). An exception is Black Caribbean and combined Pakistani and Bangladeshi ethnic groups, which is worthy of consideration in future research. We further make assumptions around both partners within the family being likely, for example, to have attained similar educational levels (Kiernan et al., 2022), but again are aware that this will not necessarily be true. Our ultimate assertion is that the law's middle-class focus means that it does not do enough, from a normative perspective, to break down ingrained gendered aspects of working-class family living, which we will now examine.

Why SPL excludes working-class families

There are various reasons why the SPL provisions preclude working-class fathers' access, limiting its potential to break down traditional gender roles within those groupings. We initially focus on practical constraints, outlining existing criticisms but with a focus on the working classes. We highlight the consensus that addressing these practical constraints would encourage men to take SPL, a point with which we disagree in relation to working-class men (and which is contradicted by findings from Sweden and Norway). Our focus then turns to consider how the normative messages the SPL regulations conveys are not speaking to working-class people. This is for two reasons: first, because the 'hetero-normative' gender binary that the legislation seeks to address has not been associated with the working classes; and secondly, because more middle-class notions of 'equal parenting,' as conceived of within the law, do not sit well with working-class lives.

Practical constraints

Existing academic work offers several reasons why SPL is not practically enabling many fathers to adopt a more care-focused role. In terms of the first 'shaping' aspect identified above, scholars have concentrated on 'nuts and bolts' problems with the SPL legislation which have contributed towards its low uptake (see Mitchell, 2019, 2022). We argue that a number of these issues particularly hinder the working classes' access to SPL. They include the low rate of SPLP, making taking this leave unaffordable for many (with £156.66 per week being less than minimum wage). Fathers will be especially deterred from taking leave because, due to the gender pay gap (of 14.9%), they are likely to be the main breadwinner within the family (ONS, 2022). Although employers can enhance the level of pay, this is rare; 65% of companies enhance maternity pay, in contrast to 25% offering enhanced SPL pay (Churchill, 2021). The eligibility requirements also limit the uptake of SPL. The minimum service requirements imposed on both parents unduly restrict access. Furthermore, reserving the leave for 'employees' excludes many precarious workers: those performing 'atypical' roles on a non-permanent basis, including those on zero hours contracts, agency workers and some forms of self-employment (Richardson and Living Wage Foundation, 2021).

These practical impediments have been compounded by a lack of awareness of SPL amongst parents. Ndzi (2017) argues that employers are not always informing employees of their entitlement, in part to avoid extra costs and disruption. It appears that, just as the practical impact of discrimination laws are limited, because they require 'awareness of rights; knowledge of how to enforce them; capacity to claim and willingness to do so,' so too is SPL (Dickens, 2014; 238).

We emphasise that these issues are particularly likely to deter working-class fathers from taking SPL for several reasons. First, those in lower-paid jobs are unlikely to be able to sacrifice their income to take leave, because they are less likely to have savings to supplement SPLP. Secondly, working-class women are less commonly performing paid-work in the first place. The type of work that they conduct might force them to reduce paid working hours, sometimes entirely, once they have children (Dunatchik, 2022). For

example, working-class mothers have a greater likelihood of working shifts with a fixed beginning and end time, and are less likely to work predictable hours than their higher-paid counterparts (Dunatchik, 2022). Requests for flexible working arrangements will also more commonly be granted to those with university degrees and/or in professional occupations (Chung and Van der Horst, 2018). Many working-class mothers are, as a result, pushed out of the workplace because their work and parenting responsibilities are irreconcilable. Moreover, working-class mothers may choose to reduce their employment because they have no clear career path, or their work is unsatisfying (Crompton, 2006). Against this background, the idea of being a full-time mother may appear a good option.

A third reason why we argue that the legislative limitations restrict working-class fathers from accessing SPL focuses on the eligibility requirements. The exclusion of 6.6 million people in the UK performing insecure work disproportionately excludes those on lower incomes (Richardson and Living Wage Foundation, 2021). The strict requirements that fathers must meet, even as employees, to access SPL further reflect assumptions that fathers will conform to the 'standard worker model.' Fewer opportunities for advancement, as well as lesser employer and social recognition of the value of the work, also mean that low-paid jobs are less likely to promote continuity of employment, further impeding working-class parents' access to SPL (Dunatchik, 2022).

A final reason why working-class fathers may be excluded, in practice, from taking SPL relates to parents' fears that taking leave might lead to fathers losing their jobs. Employers' attitudes may well have a huge impact in this regard, as supervisory discretion and the informal workplace culture can affect employee behaviour more than formal policies (Crompton, 2006). Ndzi's (2017) findings that employers are unsupportive of SPL, therefore, suggests that parents' fears are well-founded. Those in low-paid jobs are less likely to receive support in accessing family-friendly policies, so the impact on them for taking leave could be particularly detrimental (Dunatchik, 2022). In the aftermath of the pandemic, where mothers' employment was disproportionately impacted, many families may consider it important to hold onto the father's wage (Alon et al., 2022). Whilst trade unions could play a valuable role in bringing about informal workplace change, due to their traditional role of promoting employees' wellbeing, their power is limited. This is in part a result of sustained attack by UK Governments, and because they now mainly represent those with higher-level qualifications (Department for Business, Energy and Industrial Strategy, 2022).

It has been widely accepted that, if these practical problems were solved, more fathers would use SPL. Evidence from Scandinavian countries that men's access to leave increased after the introduction of individual, non-transferable leave entitlements has bolstered arguments that similar legislation should be introduced in this country (Mitchell, 2022). The Scandinavian model is long-established, so provides useful information about fathers' uptake of parental leave. Moreover, this 'proactive and highly interventionist stance towards fathers' is commonly regarded as a successful model for challenging gender inequality through promoting a form of 'equal parenting' (Harris-Short, 2011: 358). Yet, Brandth and Kvande (2015: 124) warn against promoting a 'general narrative of progress [surrounding parental leave] that obscures the situation and circumstances of less privileged groups of women and men in the Nordic countries.' Swedish research

shows that fathers with lower educational attainment and earnings are substantially more likely to take no leave than their better-educated, higher-earning counterparts (Ma et al., 2020). This gap has only increased as the period of non-transferable leave has been extended. Norwegian evidence paints a similar picture; although most fathers do take some leave, men on lower incomes and with limited education are less likely to exercise their right to the whole period than middle-class men (Brandth and Kvande, 2015).

Economic conditions have been identified as a key reason why these men might not wish to take leave (Ma et al., 2020). Despite the high level of income replacement available in both Norway and Sweden, lower-paid men still have reservations about the financial impact. This is partly because of confusion about the extent of the pay (Brandth and Kvande, 2015). As well as this, those with lower educational attainment may have weaker bargaining power. It is probable that this will especially be the case for those in insecure work, who are already vulnerable in the workplace. Brandth and Kvande (2015: 127) found that the workplace environment and attitudes of co-workers further influence men's decisions, observing that:

> Staying home to care for a baby when part of a male environment in which everyone depends on each other might not be considered appropriate working-class, masculine behaviour.

This comparative analysis suggests that, even if the operational impediments of SPL were removed, working-class fathers would still less commonly take leave. The problem therefore appears to be greater than the practical constraints. We proceed to consider that whilst the legislation appears, *prima facie*, to be applicable to all, the reality is that it only speaks to the middle, and not working, classes. Consequently, its ability to 'shape' those working-class families in the second sense, as above, is limited. We argue, first, that the legislation aims to tackle a potentially more middle-class scenario of 'heteronormativity' and, secondly, that the emphasis on 'equal parenting' (particularly in its 'narrow' sense) can be incompatible with the lives and attitudes of working-class families.

Is the 'heteronormative' binary family model itself a middle-class problem?

It is arguable that SPL seeks to address a scenario that has been specifically middle-class (as 'heteronormative culture' itself is classed (Robertson, 2019: 25)). The 'nuclear' family has, at least historically, been a middle-class construct (Boyd, 1992). As Conaghan (2018: 275) explains, the notion that 'women's place is in the home,' whilst being a 'working-class aspiration,' was, for many, 'always more ideal than real.' Whereas it has been financially feasible for just one partner to work outside of the home in middle-class families, both partners have had to do so where resources have been scarce. For working-class women, there has often been little choice *but* to engage in paid-work (Conaghan, 2018).

Where both partners have been in work, 'working-class couples [have often been] compelled to utilize alternating work schedules' (Legerski and Cornwall, 2010: 450). These schedules may be more attainable for working-class parents, who are more likely to work non-standard hours, including nights and weekends (Usdansky, 2011). Alternating schedules enable the avoidance of expensive childcare and prioritisation of parental care.

This may be of particular importance to working-class parents, who report concerns about relying on nursery as a formal provision of care. Nursery may be considered too communal, because these mothers have tended to focus on the child's (perceived) need to build a secure emotional tie with one carer (Duncan, 2005). Furthermore, the level of care provided at more affordable nurseries can mean that, for working-class families, 'good quality childcare can only be assured if […] provided by the mother' (Crompton, 2006: 182).

Accordingly, lower-earning couples have arguably conducted childcare in a more 'egalitarian' way than their wealthier counterparts (Legerski and Cornwall, 2010). This less rigid distinction between 'masculine' and 'feminine' tasks may suggest that a lesser need to tackle a binary division of roles (as SPL seeks to do). This is albeit that we recognise that a 'dual earner/female part-time carer' arrangement represents only a 'modification' of the 'nuclear' model, rather than 'transformation' (Crompton, 1999: 205). Whilst the encouragement of shared parenting has strived towards facilitating women's participation in paid labour, it might initially appear that (working) lower-income women do not require such liberation (Fineman, 1995).

As a result, it may seem that SPL's ambitions are irrelevant to many working-class families' arrangements. Despite this, working-class women are still affected by the socially perceived desirability of confining women to the home, used to put 'moral pressure on them' (Fredman, 1997: 17). Moreover, even when performing paid-work, women remain predominantly responsible for childcare, with the quantity being 'much less sensitive to their employment status than it is for men' (Sevilla and Smith, 2020). A recent study found that, amongst married partners, it can even be the case that 'the gender housework gap opens' to a greater extent where women's relative income increases (Syrda, 2022). Accordingly, work within the home has not been shared in the same way as within the public sphere, with lower-income working women continuing to assume the bulk of responsibility for childcare.

Further, the 'quality and inflexible nature' of lower-paid jobs 'pose barriers to dividing paid-work equally' following birth (Dunatchik, 2022: 4). The difficulties posed by these kinds of constraints- including unpredictable hours, fixed shift times and limited availability of flexible working, combined with a lesser ability to purchase substitutes for their own domestic labour- can push lower-income women to reduce paid working hours (significantly or altogether) (Dunatchik, 2022). Consequently, modern-day working-class families may, in some respects, more closely replicate 'heteronormative' behaviour than their middle-class counterparts, with women falling into a more traditional 'feminine' role. This especially appears to be the case when one considers the increasing engagement in full-time employment among mothers with 'higher' skills (Crompton, 2006). Working-class parents should therefore still benefit significantly from 'heteronormative' constraints being challenged. SPL seeks to undermine 'heteronormativity' by aiming towards a form of 'equal parenting.' However, this ambition also presents problems in a working-class context.

Incompatibility of notions of 'equal parenting' with working-class families

As explained above, 'equal parenting' broadly describes a rejection of traditional 'heteronormative' gender roles in favour of both parents performing similar amounts of childcare

tasks. Yet, as Doucet (2015) recognises, parenting involves much more than just caregiving, whether measured by time or task. She argues that parenting responsibilities, including the 'skills and practices of attentiveness and responsiveness' to children's needs and the 'cognitive and organizational skills and practices [required] for coordinating, balancing, negotiating, and orchestrating' children's wider relationships, additionally require considerable attention (Doucet, 2015: 230). Although 'equal parenting' could include these many different facets of parenting, Doucet's (2015) work suggests that it is conceived of too narrowly when focused only on the time spent on childcare. Despite this, within the law, the focus is even narrower. Legal interventions in employment law which aim to achieve 'equal parenting' are restricted to encouraging fathers to take leave (Harris-Short, 2011). SPL, in its ambition to achieve this 'narrow' form of 'equal parenting,' shows how it is now pushed as the correct way to 'do' family. Notably, in Sweden, although there is likewise an acceptance that 'good' fathering should entail taking parental leave, 'equal parenting' is conceived more 'widely' at law, as joint parenting is actively encouraged within intact families (Harris-Short, 2011). This is reflected, for example, in the requirement that both parents must agree on all matters relating to the child, so parents cannot act unilaterally even in exceptional circumstances, as in England and Wales (Harris-Short, 2011).

We argue that the ambition of 'equal parenting,' when equated only with men taking leave to care at law, is potentially incongruous with working-class families for two reasons. First, promoting this 'narrow' definition of 'equal parenting' risks imposing middle-class ideals on all families. This not only jars with working-class attitudes, but also is not necessarily geared towards achieving a meaningfully 'egalitarian' form of parenting. Secondly, conceptions of 'equal parenting' overall often do not fit with working-class family forms.

Imposing middle-class ideals that are incompatible with working-class attitudes. Despite many working-class fathers having often performed a more hands-on role in parenting (as above), both women and men in lower-paid work are more likely to hold traditional attitudes towards parenting (Legerski and Cornwall, 2010). This may feed into a reluctance to use SPL. Mothers are frequently considered best placed to provide the emotional aspects of childcare by both parents, and there can be 'a strong sense of the necessity to 'be there' at home for your children' amongst poorer mothers (Duncan, 2005: 57). That attitude, along with potential dissatisfaction in their paid-work, means that many working-class women may prefer to prioritise their childcare role. Although fathers from working-class backgrounds often provide day-to-day childcare, they consider that work different to mothers; they are viewed more like assistants than real carers (Usdansky, 2011). Usdansky (2011: 172) labels this 'lived egalitarianism,' which describes:

> A set of day-to-day practices in which men make routine contributions to unpaid labor and women make equally day-to-day contributions to paid labor [...] sometimes despite stated commitments to gender traditionalism.

We argue that these attitudes mean that fewer working-class parents will access SPL. It is recognised that attitudes do not necessarily determine 'lived' parenting and that, when

attitudes and 'lived' reality do clash, it is attitudes which are most likely to change (Crompton, 2006). However, SPL requires that parents make a positive decision about parenting roles, rather than simply responding to necessities. This is highlighted by the legislation's positioning of mothers as gatekeepers, whose consent is required for men to take leave. We suggest that, when faced with this choice, working-class parents' more traditional attitudes are likely to mean that neither parent thinks that maternity leave should be transferred. After all, doing so would deprive each parent of carrying out their 'natural' role. As noted above, even in the Scandinavian model, where the legislative default is that fathers will access parental leave, working-class fathers remain less likely to use it (Ma et al., 2020). This reflects an incompatibility between the 'narrow' conception of 'equal parenting' at law- focused entirely on encouraging fathers to take leave- and working-class parents' attitudes and preferences.

'Equal parenting,' as embodied within the legislation, is a middle-class ideal that is problematically imposed on working-class families by SPL. As mentioned previously, because middle-class people hold more 'cultural capital,' their attitudes are presented and accepted as standard (Benn, 2020). Indeed, there is increasing awareness that what we consider normal derives from 'class-based assumptions about the right and the true' (Robertson, 2019: 142). This approach towards 'equal parenting' has become a legislative ambition in England and Wales because it reflects middle-class attitudes. Parents with higher educational qualifications- again, more likely middle-class- are linked with a more liberal attitude towards mothers' paid workplace commitments, and agreement that fathers should perform housework, than their lower-educated counterparts (Usdansky, 2011). Research in Scandinavia has highlighted how the dominant discourse on fathering, and what should entitle one to parental leave, represents a middle-class conception of 'good parenting' (Brandth and Kvande, 2015). Moreover, Bergqvist et al. (2016: 182) found that some of the more left-leaning politicians in Sweden consider extending the 'daddy quota' problematic because it is akin to telling working-class parents 'that they should behave more like the middle-class.'

'Equal parenting', as 'narrowly' conceived, overlooks important childcare contributions made by working-class fathers. It is consequently problematic if taking leave is considered the accepted way of performing fatherhood, as it has increasingly been viewed in Scandinavia. This is especially the case when recognising that those contributions could do more to achieve 'lived egalitarianism' than the middle-class parents who endorse this form of 'equal parenting.' In this respect, more liberal attitudes towards parenting associated with the middle classes are not always reflected in practice. Middle-class fathers tend to value 'doing fatherhood' in public, rather than conducting hands-on domestic work (Shows and Gerstel, 2008). This form of parenting is less demanding, but more visible; fathering in this way 'sustains gender inequality within families,' whilst simultaneously contributing to the 'appearance of norms of gender equality to outsiders' (Shows and Gerstel, 2008: 182). Usdansky (2011: 172) labels middle-class parents' 'reality' a form of 'spoken egalitarianism':

> A pattern in which couples' expressed commitment to egalitarianism fails to translate into everyday egalitarian practices and may even become a justification for the maintenance of a highly gendered division of household labor.

Depending on how leave is taken, it could be viewed as a way of publicly 'doing fatherhood,' whilst reinforcing gender inequality. For example, research shows that, in Sweden, fathers are more likely to take parental leave during summer and Christmas holidays (Ekberg et al., 2013). Norwegian research moreover indicates that fewer than 50% of fathers are parenting on their own when they take leave; most mothers are still present, either because they work part-time, or because they are on leave (Brandth and Kvande, 2015). In that way, parental leave affords fathers a chance to claim that they are performing a caring role, without necessarily doing much hands-on childcare. Such issues might be exacerbated in the UK as, like its Norwegian counterpart, SPL can be taken concurrently. In this sense, SPL could be used to make middle-class parenting appear more equal than it really is. Furthermore, if taking SPL becomes a standard for how family should be performed, it could be used to pressure those working-class families already conducting 'lived egalitarian' parenting.

It is arguable that these concerns are less relevant to England and Wales, as SPL remains widely underused. Taking leave can hardly be considered the normal approach to fatherhood when so few have taken any. Although true, the normative message that SPL conveys remains that an ideal family should conduct 'equal parenting' in its 'narrow' sense. Additionally, future legislative reform is likely to include extending leave entitlements to fathers, as most policy documents endorse this notion of 'equal parenting' (Women and Equalities Committee, 2018). If this is achieved by reducing mothers' entitlements, working-class parents may consider this disadvantageous. In fact, Swedish research finds that some working-class families consider the imposition of more non-transferable leave to be taking something away from the mother (Bergqvist et al., 2016). This is especially the case when the higher-paid parent, commonly the father, is forced to reduce their pay to take leave.

Therefore, only equating taking leave with 'equal parenting' is too limited, partly because it risks prioritising 'spoken egalitarianism' over 'lived egalitarianism.' It renders invisible the other, more 'egalitarian,' ways that working-class fathers engage in childcare.

Irreconcilability with working-class family forms. Finally, we argue that the SPL framework frequently does not fit with working-class people's ways of performing 'family.' This is in that children from working-class families will often be raised by a lone parent, or by parents that are cohabiting (rather than married). In the first respect, around 16% of children are born to parents who are not living together at their time of birth, with these children being geographically concentrated in areas of high deprivation with low-wage economies (Kiernan et al., 2022). However, the legislation around SPL assumes that caring will only take place within the 'nuclear' family model; leave is available to the mother and her partner, or the child's biological father. Whilst (as previously recognised) the legislation seeks to break away from 'heteronormativity' in departing from traditional gender roles, it retains a 'heteronormative' focus on two parents conducting care. This is despite the fact that, especially when it comes to those that are working-class, children are not always raised by a couple.

Under the existing framework, single mothers, without a partner to transfer leave to, may find themselves 'overwhelmed' by their dual commitments to paid-work and the family (Mitchell, 2019). These families would be better supported were eligibility for leave to be broadened to wider family members (Mitchell, 2019). In fact, intact cohabiting working-class partnerships may also benefit from such a measure, given the importance of extended family members and friends in providing care within this context. Bendall and Davey (forthcoming) have, for example, noted the significant involvement of grandparents in caregiving. Grandparents can be involved in tasks including collecting grandchildren from school and looking after them until parents finish work, or even looking after them during the daytime to enable paid employment. Grandparents have been found, across Europe, to conduct caring work more commonly within working-class families, where both parents have historically worked (Grandparents Plus, 2010). This is presumably not just because of the high cost of childcare, but because working-class people are less likely to travel for studies or work (meaning a greater probability of remaining closer to their family network) (Ro, 2021).

As a result, there is an argument that legislation encompassing a greater range of caring relationships would better accommodate the family lives of the working classes. Somebody else would be able to assist the mother in the particularly labour intensive first year. That said, we recognise that these sorts of measures are unlikely to combat the gendered division of labour. As Mitchell (2019) acknowledges, extending eligibility for SPL would likely result mainly in grandmothers, rather than grandfathers, taking the leave. This is because grandmothers tend to have greater experience of childcare, having cared for their own children. Additionally, support for a traditional gendered allocation of tasks appears most widespread amongst older generations, and the gender pay gap is at its widest for people over 40 (Park et al., 2013; Department for Culture, Media and Sport, 2014). The result of any such legislative change may be that men's caring labour is 'bypassed' in favour of another woman, reinforcing the association between women and care (Mitchell, 2019).

Working-class parents, where living together at all, are also more likely to be in an unmarried cohabiting relationship than a formalised one (Kiernan et al., 2022). Cohabiting relationships have been suggested often to be less stable than those that are married, with couples committing to marriage where they perceive their relationship as being of a higher-quality and longer-lasting (Thomson et al., 2019). Moreover, where those who are working-class do marry, data suggest it probable that their unions will break down more quickly than their middle-class counterparts (Baker, 2018). This may be because money is the issue that couples argue most about, and having less of it will cause a greater strain (Shaw, 2022). Working-class couples face additional stressors, such as often working non-standard hours, which can negatively impact close relationships and mental health (Usdansky, 2011).

Where people are married, rather than simply cohabiting- which, again, is more common amongst the middle-class- they are likely to believe their relationships to be at lesser risk of breaking down (bearing in mind the greater difficulty, legally and socially, of dissolving a marriage). There are indications that this belief may lead to more cooperative behaviour (Crawford et al., 2012). That, in itself, may be associated with fathers' greater

involvement with their offspring; the better the parents are getting along, the more likely that fathers are to do things with their children (Pleck et al., 2004). A knock-on effect is that middle-class fathers may be in a better position to negotiate SPL with the mother and, indeed, more likely to seek to engage with their children in the first place. Equally, where mother and father have a less cooperative, or even confrontational, relationship, fathers might feel less inclined to try to negotiate leave. Given the need for the mother's consent, she may even use the leave as a bargaining chip. Again, this is arguably more likely to occur within working-class families because of the lower uptake, and shorter duration, of marriage.

Notably, where parental relationships do break down, the division of labour within intact families can have 'significant ongoing consequences for [...] family life' post-separation (Harris-Short, 2011: 352). In the case of working-class fathers, their occupations will more commonly present a barrier to forming, and maintaining, a close bond with their children. Importantly, where the formation of these bonds is not facilitated at a point at which the parents' relationship is *intact*, that is likely to feed into the arrangements *post-separation*. From the child's perspective, this may seem logical; as Cashmore and Parkinson (2012) acknowledge, there is a large difference between, for instance, an overnight stay representing a continued reflection of the pre-separation caring responsibilities and the same with a father who is 'something of a stranger.' In relation to the mother too:

> It is perhaps not particularly surprising [if] women resent being forced to share the parenting role [post-separation] with someone they regard as having been essentially disengaged from the day-to-day burdens of childcare when living within the intact family (Harris-Short, 2011: 354).

However, the significance of pre-separation patterns of parenting on post-separation arrangements surely serves to highlight how crucial it is that working-class fathers are encouraged to care for their children from as early as possible. Opposition to a more shared caring arrangement from mothers post-separation- and indeed from the children themselves- is less likely to be expressed where this arrangement closely represents the caring arrangements pre-separation. In fact, whilst fathers' rights groups favour entrenching a presumption of 'shared residence'- with the child's time being split roughly 50/50 between mother and father- this may be inappropriate until more is done to promote co-parenting within the intact working-class family (Harris-Short, 2011). Whilst we earlier highlighted the way that the family law framework centres around traditional gender roles, it might be that this is unable to change before these foundations have been laid.

Conclusion and next steps

We have explained how SPL is not presenting viable or appealing options for working-class families, meaning that it is not offering realistic opportunities for further breaking down gender norms in that context. We have set out how, despite working-class people

not necessarily adopting the division of labour associated with the 'heteronormative' 'nuclear' family, they could still benefit from greater encouragement of men to care (especially in reducing the dual burden commonly placed on women). Yet, the way in which the legislation is currently framed enshrines an outlook that sits incompatibly with working-class attitudes, and the complexity of these families' living arrangements.

We are cognisant that our article may, in itself, be vulnerable to criticism that some form of 'equal parenting'- albeit not the form located within the legislation- is presented as the best way of performing family life, also reflecting a middle-class bias. This is not an accurate representation of our position. Our feeling is that it would be preferable were future policy-makers in this area to conceive of 'equal parenting' in a 'wider' sense, rather than viewing it 'narrowly'. Whilst the primary purpose of this article is to critique, rather than to suggest concrete proposals for change, that may include: recognition of the different ways in which parents engage in the day-to-day childcare tasks (instead of simply taking leave in the first year); and acknowledging that parenting entails more than just childcare (Doucet, 2015). This would better reflect how working-class men parent, more effectively helping to break down 'heteronormative' notions of women's and men's roles. That said, we are open to the argument that 'equal parenting,' as a term, is now so closely associated with a 'narrow' definition, and with a simply 'spoken' form of egalitarianism, that we should seek to depart from it altogether. In any event, our intention is to stress the importance of everybody being able to make meaningful choices about how they wish to live (that are not dictated by gender). If SPL, and other policies designed towards better balancing paid-work and caring commitments, are excluding those in working-class dominated workplaces, those people are being denied that basic choice. Should this remain unchallenged, a two-tier workplace will only be reinforced: the first dominated by middle-class occupations, where family-friendly policies are more regularly utilised; and the second, majority working-class workplaces, where taking this leave poses an altogether less feasible possibility.

As to how to address this scenario, it may, on the one hand, be that we should reflect on how to reframe the law to accommodate working-class ways of thinking and living. Busby (2011: 4-5) suggests it 'productive to take a pragmatic view, by seeking ways in which existing structures might be adapted.' There has been little empirical research into this area; an important next step would be to gather further insights from working-class people 'on the ground' into why they are not taking the leave, and what measures might help to make it more realisable. This could inform how the law might most effectively be developed. The research might, for instance, examine the impact of geographical area on men's decisions to take leave (or not), or look at disparities across different types of industry of occupation. Our prediction is, though, that conducting that type of investigation may reveal that there are limits to the extent to which the law alone- and specifically employment law, at that- is able to change ingrained gender norms without these changes also being facilitated by other social institutions. We began this piece by considering the possible normative value of law, with legislative intervention being viewed potentially as a key tool in challenging gender inequality. Indeed, Margaria (2022) sees the law as a 'springboard for making 'active fatherhood' a more widespread and long (er)-term social reality.' We have subsequently detailed how SPL, as it stands, fails to do this, particularly

for working-class parents. Even the lauded Scandinavian model has not radically changed working-class fatherhood (Harris-Short, 2011). We have therefore established that simply reformulating the legislation is likely not enough to make a significant difference.

Some feminist scholars have been sceptical of the law's ability to effect change altogether, or to 'influence deeply entrenched and deeply engendered social patterns' (Fredman, 1997: 367). One might similarly express cynicism here, in light of the law's tendency to prioritise middle-class values (because of their greater 'cultural capital'). We are not entirely pessimistic about the law's prospects, given its relative success in countries such as Sweden, where fathers' share of leave use increased from around 1% in the 1970s to 23% in 2010 (Ma et al., 2020: 364). Nevertheless, we would stress that the law is just one of the institutional structures operating within society to reproduce the gender order; as Smart (1989) has suggested, non-legal strategies may be of greater importance than 'formal' ones. Whilst these strategies may include seeking to improve the provision of affordable/publicly funded childcare options and tackling the informal culture of workplaces, they might also extend to, for example, considering how notions around gendered behaviour are approached within the education system. Without adopting this kind of more holistic approach towards breaking down 'heteronormative' notions of women's and men's roles, however, the law's ability to achieve transformation for working-class families may remain limited.

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