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Women in Labor:

**A comparative study of family leave policy and social citizenship
rights in the United States and Norway**

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International Social Welfare and Health Policy

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Summary

Six large national and international reports regarding health indicators for women and children and the provision of national family leave policies came out in the period of 2011 to 2012. These reports, some of which were comparative in nature, described a grim reality in the United States in terms of comparative health and social situations for mothers, and their experiences of motherhood while maintaining participation in the workforce. Within some of the same reports, Norway was hailed as the best place in the world to be a mother (Save the Children 2011; Save the Children 2012). Resources which have a major bearing upon health and social indicators, roughly speaking, the overall health and wealth of these two nations, can be described as being relatively similar; the disparity between these national indicators regarding women and children is surprising and thought-provoking.

Academic research is beginning to illuminate how health and ill-health of populations is determined by more than just access to, and quality of, health care and decent standards of living, but also tends to mimic the gradient of social inequality within a society. These social determinants to health must therefore be connected with some of the manifestations of ill-health and welfare described in these reports previously mentioned.

In this modern age, it is a commonly held value to be able to take care of oneself, especially in terms of economic support. The relationship between the individual, the state and the labor market/private market, and the means and rules by which an individual operates within this triangular relationship, are greatly affected by social policy. The values and norms by which an individual interacts with his/her world greatly influence the framework of social policy, and subsequently, the values and norms within social policy are both reflective of and emphasize those within the larger culture and political spectrum.

The means by which a citizen is able to care for him/herself are adequately covered in T.H. Marshall's 1949 conception of social citizenship, or the right to economic welfare and security, and to be able to participate in society with the basic set of functions and capabilities according to a socially acceptable standard (Marshall (1949) 2006, 30). The social risk of having a child represents one of the most substantive changes in an individual's life, an event

which has the potential to cause great economic and social conflicts for the parent regarding labor market participation and social participation, and thus upon aspects of social citizenship rights.

Family leave policy is uniquely positioned within the triangular relationship previously described in order to mitigate the risk of conflict between the players, and therefore has the potential for substantive impact upon social citizenship rights. Accordingly, this thesis not only explores the reciprocal relationship between cultural values/norms and the policy framework of national family leave policy, but also the potential effects of leave policy upon social citizenship rights.

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I began writing this thesis when I was just a few weeks pregnant, having arrived to live in Norway with my new husband a little over a year earlier. Due to the combined activities of being the mother to a new baby, learning a new language and working part time, the final edition of this thesis is complete one year and a half later. Throughout the research, writing, and what I refer to as the ‘marination process’ my new role as mother, worker and new immigrant played an enormous role in guiding the evolution of my original thesis proposal. My first thanks must go out to the Høgskolen i Oslo og Akershus (the Oslo and Akershus University College) and the professors and other master’s students within the MIS Master’s Degree Program in International Social Welfare and Health Policy, with whom I consider myself exceptionally lucky to have known and work with. Participating in the MIS program has been a hugely eye-opening experience for me and gave me many tools with which to interpret not only welfare and social policy, but also my own experiences. What I learned in the MIS program continues to act as a pair of eyeglasses for me to more clearly see what is in front of me, with all the nuance it contains--to interpret this information, and ask critical questions of it. A special thank you goes out to my thesis supervisor who provided much inspiration and always made time to encourage me and answer my many questions, even before she became my thesis supervisor.

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1. Introduction

1.1 Background

In May of 2011, Save the Children came out with their twelfth annual *State of the World's Mothers Report* which included the ranking of 164 countries based on a complete *Mother's Index* of multiple indicators¹ which represent and affect the health and well-being of women and children (Save the Children 2011, 31-33). Norway ranked first, as the best place to be a mother in the world, while the United States ranked thirty-first² (Save the Children 2011, 30). The main reasons identified by the report for the unexpected disparity between the United States and Norway were risk of maternal death due to pregnancy-related causes (the only tier 1 countries which performed worse than the United States on this measure were Albania, the Russian Federation and Moldova), under-five mortality (forty other countries performed better on this measure than the United States), political status of women (only seventeen percent of congressional seats are held by women), level of preschool enrolment and maternity leave policy (Save the Children 2011, 29). The five indicators discussed by this report and its assessment directly link the two elements of governmental policies regarding the health and support of mothers and the overall well-being of women and children.

When one peruses the actual numbers and indicators being compared in the *Mother's Index*, regarding tier 1 countries³ the differences are for the most part small, prompting one to consider if and why they might actually matter. One answer to this question may come from

¹ These categories were identified by Save the Children in 2000 and those which were used to assess Norway and the U.S. (both tier 1 countries) are as follows: Lifetime risk of maternal death, Percent of women using modern contraception, Skilled attendant at delivery, Female life expectancy, Expected number of years of formal female schooling, Ratio of estimated female to male earned income
Maternity leave benefits, Participation of women in national government, Under-5 mortality rate, Gross pre-primary enrollment ratio, Gross secondary enrollment ratio.

² In the 2012 *Save the Children, State of the World's Mother's Index*, the United States moved up six spots (31st in 2011 to 25th in 2012) due mostly to improvements in education indicators; health indicators (such as maternal mortality and the under-five mortality rate) remain largely the same, with the United States performing dismally against most other industrialized nations (Save the Children Report 2012, 51).

³ This list includes all European countries, the United States, Australia, New Zealand and Japan; a complete list of the most "developed countries," for the sake of comparison.

ongoing discussions within the academic world regarding inequality and studies in the field of epigenetics, having to do with the long term health of populations, beginning in the womb and lasting into adulthood. Epigenetics researchers have focused on how permanent modifications to the growing fetus' DNA and chromatin bring about long-term (birth to adult) changes and even trans-generational changes in gene expression, without bringing about changes to actual DNA coding sequences (Keverne 2008, 4). Interestingly, these changes have been found to cause long-term consequences and increased risks for age-related diseases in adults, even when other potential contributing factors are controlled for. Scientists believe that this process was, in our recent history, evolutionarily advantageous as the pregnant mother, through vital informational cues to the developing fetus (through nutrition and stress responses) communicated to the fetus regarding the type of world it would be born into, and thus what epigenetic changes would allow the fetus supreme chances of survival; a concept called fetal developmental plasticity (Gluckman et al. 2008, 68; Thompson and Einstein 2010, 582; Keverne 2008, 1-4). One of the most effective stimuli discussed in epigenetic studies, thought to be one of the most important contributors to fetal/infant health, is that of maternal stress levels. In essence, the welfare, or ill-fare, of pregnant women and mothers of young children has the potential to translate lifelong health and developmental manifestations to the next generation of a country's human capital, which could have a significant effect upon the healthcare system, economy, and even the health and well-being of their children's children⁴.

A number of recent studies and literature reviews have drawn a significant connection between acute and chronic stress⁵ or anxiety during pregnancy and negative pregnancy outcomes such as low birthweight⁶ (less than 2500 grams), pre-term delivery (less than thirty-seven weeks gestation) and intra-uterine growth retardation (Hoffman and Hatch 1996; Glover 1999, 22; Gluckman et al. 2008; Weck et al. 2008; Nagahawatte and Goldenberg 2008, 82). Additionally, although through pathways that are largely still hypothesized, these

⁴ see Gluckman et al. 2008, 68 - 70 for a discussion regarding a hypothesis that epigenetic markers can be passed down three generations.

⁵ see Hobel et al. 2008, 339- 343 for a detailed explanation of the biological/physiological pathways through which stress is hypothesized to be connected to LBW and PTD.

⁶ Gluckman et al. 2008, 61-65 discusses scientific observations that LBW is associated with increased rates of coronary heart disease, stroke, type 2 diabetes, adiposity, the metabolic syndrome and osteoporosis in the later adult years.

negative pregnancy outcomes and pre-natal conditions are correlated to increased instances of such age-related diseases as various forms of heart disease, diabetes, and osteoporosis when affected infants reach adulthood (Gluckman et al. 2008, 68-70).

Six recently published large reports include discussions regarding the negative impact a lack of means to resolve work and family obligations, and the financial instability this can cause, plays in pregnancy and early child rearing (IHSP report 2011; HRW report 2011; OECD report 2011; Save the Children report 2011; Save the Children report 2012; CWW report 2012). Additional studies have found that poor economic/income situations of pregnant mothers are strongly associated with varied indicators of poor health, and these women are “more likely than their higher income counterparts to experience multiple hardships during pregnancy” (Braveman et al, 2008, 21-29). A common thread throughout interviews with American former leave-takers, were the incredible economic strains that the addition of a new baby to a family can cause, in many instances necessitating social assistance, food stamps, bankruptcy, additional jobs and making family decisions based on finances rather than on health and well-being of the family (HRW report 2011, 37-62). Studies in the United States found that low income negatively affected the stress level of pregnant women, leading to depression, which in turn negatively affected the home environment and emotional environments of families (OECD report 2011, 180) and that the stress of losing a job during pregnancy lead to an average of 4.5 % reduction in birthweight (when compared to other children born to the same woman) (OECD report 2011, 180). It is not only access to health insurance and coverage that affects the health of pregnant women and their fetuses, but also other social determinants of health associated with inequality and inequity (Marmot 2009, 37-61). Studies have demonstrated a significant relationship, through biological, social and environmental mechanisms, between financial instability and adverse pregnancy outcomes (Nagahewatte and Goldberg 2008, 80).

1.2 Social citizenship and the health gradient

The aforementioned discussion is important because family leave can be considered an entitlement central to the foundation of social citizenship, meaning the right to economic welfare and security, and to be able to participate in society with the basic set of functions and

capabilities “according to the standards prevailing in the society” (Marshall (1949) 2006, 30). There are a number of human rights conventions and labor treaties⁷ that call for the provision of paid parental leave. Additionally, maternity leave is included in the nine principle branches of social security within the International Covenant on Economic, Social and Cultural Rights (ICESCR), as interpreted by the Committee on Economic, Social and Cultural Rights (CESCR)⁸. The document itself also states that social security, including social insurance, is a basic right which should be enjoyed by everyone (HRW report 2011, 70). Additionally, on May 15, 2012, in his speech on the International Day of Families, United Nations Secretary General Ban Ki-Moon addressed the importance of family leave policies which enhance work-family balance and promote socio-economic development of families and society (Ban Ki-Moon, 2012)

Daniels et al. (2009) draw connections between socio-economic inequality and corresponding inequalities in public health, even in societies with a universal health care provision program (63). According to subsequent ‘income relativity theory,’ inequality, not only of income, but in the corresponding functions and capabilities of a citizen to practice the kind of human agency and ability to gain “resources of self-respect which are necessary for the full participation in society” may work through certain pathways to affect (negatively or positively) the health gradient of a nation (Daniels et al. 2009, 70). Parental leave that is unpaid, or too short in duration, could represent this relative deprivation and lack of resources which could lead to economic instability, stress, and lack of capability to cope with the changing lifestyle of being the working parents of a newborn. These citizens are more deprived than other citizens who do not have the stresses and responsibilities of settling conflicts between work and family obligations.

The support of a nation’s families, by enabling them to have, care for, and financially support offspring (the next generation of human capital) and maintain participation in the paid labor

⁷ Some examples of human rights conventions and labor treaties which call for paid parental leave include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Labour Organization Convention No. 183 (HRW report 2011, 69-70).

⁸ The CESCR is a body of independent experts which monitors states’ implementation of the ICESCR.

force, is central to sustainable economic and demographic stability. Income relativity theory tells us that the expansion of social citizenship rights improves public health through ‘social determinants of health,’ (Daniels et al. 2009, 70) while the study of epigenetics illuminates the role of female health and well-being in shaping trans-generational health effects regarding future economic performance, which in turn has its own effect upon the health gradient.

Thus, family leave policy is an essential part of securing equal rights in the workplace and the family home. Family leave policy which has a positive effect upon health, family economics, labor force attachment and gender equality may also in this context represent a vast untapped resource for many nations. The previously discussed human rights law and conventions second this viewpoint. Generous and compensated family leave benefits secured by national law and liberal economic theory are not necessarily in conflict, “... what used to be two opposing principles [social citizenship rights and capitalism] can now grow and flourish in the same soil” (T.H. Marshall (1949) 2006, 34) Accordingly, a 2012 study found that women who had paid family leave were ninety-three percent more likely to be working 9 to 12 months post-birth, than women who did not take any leave (CWW report 2012, 6). Thus, paid leave is associated with labor force attachment, which saves employers the costs associated with high turn-over in the workplace (CWW report 2012, 6). Additionally, the same study found that in the United States, unpaid leave was associated with higher rates⁹ of public assistance and food stamp usage during the period of the leave (8-9).

Through interpretation of benefits and eligibility requirements combined with an analysis of discourse embedded in each national parental leave law, I shall attempt to extract the normative social values and perspectives reflected and emphasized by each. One important purpose of this exploration is to analyze how welfare state policies (specifically, maternal leave policies) are cultural products nestled within a context of values and norms, and are the direct result of a complex relationship between relevant actors and institutions (Pfau-Effinger 2004, 7). The cultural values and traditions, which act in conjunction with history and

⁹ According to the study, wage/salary, wage trajectory before the birth, family income, age, education and health were controlled for when calculating the correlation (CWW report 2012, 8-9).

legislative precedent, help determine the trajectory of path dependent¹⁰ welfare policy development. It is said that societies define the criteria for inclusion and, conversely, exclusion, in the status of citizenship rights and in the package of benefits and obligations associated with such rights (Sonia Fleury 2006 (Ed. Fitzpatrick) 156). Accordingly, an important aspect of my analysis is how cultural values and policy frameworks mutually affect one another. Policy and the discourse within then shapes women's agency and autonomy and thus, the health and wellbeing of mothers and children. To do this I analyze the national American and Norwegian family leave policies for discourse and values and review large reports/studies regarding indicators for women and children and experiences of leave taking. What I hope to gain from this thesis is a better understanding of how parental leave policy in the United States and Norway affects the quality of social citizenship. High quality social citizenship, which in turn has been found to have a major bearing on various health and wellbeing indicators for women, and thus for children, is the precursor to successful and sustainable participation in democratic governance, economic stability, demographic stability and public health.

1.3 Research focus and questions

Government, through the avenue of family policy, is uniquely positioned to address inequities and hardships, which have been found to cause adverse health-effects to both mother and fetus (which, through epigenetic mechanisms can have life-long health effects). This thesis seeks to explore the range of governmental investment in pregnancy and early formative childhood by means of comparative analysis of national parental leave policies designed to mitigate the inevitable conflict between work and family obligations and responsibilities. My areas of comparative focus are the United States and Norway, two countries which are similar in their statuses as healthy and wealthy OECD countries¹¹, yet on opposite ends of the welfare state typology spectrum and on divergent paths concerning welfare regime history,

¹⁰ The term path dependency is used throughout this thesis to denote the trajectory of social policy. When I use the concept I use it in terms of the broad definition, as described by Pfau-Effinger 2004, which places a major emphasis upon cultural norms and values, in addition to history, and legislative precedent.

¹¹ Per the OECD Factbook 2010, life expectancy (total) at birth in Norway in 2007 was 80.6 years; for the USA life expectancy (total) at birth in 2007 was 78.1 years. As a measure of wealth, Norway's gross domestic product, per capita measured in U.S. PPP was \$54,600 in 2010; the same measure in the United States in 2010 was \$47,200 (CIA World Factbook)

politics and values (Esping-Andersen 1990, 22). As previously discussed, the U.S. and Norway demonstrate different health and social indicators (Save the Children 2011, 31-33) regarding the health and social situations of pregnant women and infants; yet these two wealthy countries both have the means (in terms of research, advocacy groups and finances) to enact similar legislation and benefits.

In order to analyze Norway's and the United States' parental leave policies I have formulated the the following research questions:

Research Question #1: *What kind of traditions, discourses and normative social values are reflected and emphasized by the national family leave policies in the United States and Norway?*

Research Question #2: *How might these policies and their discursive positions affect social citizenship rights for women?*

Figure 1 illustrates these two research questions and the relationship between cultural values, policy framework and social citizenship rights that this thesis explores.

Based on what I know from Esping-Andersen's three-part welfare state typology, I hypothesize that the national parental leave policies in the United States and Norway will reflect the values of their respective typological groups (the US favoring liberal, market-based solutions which favor business interests; Norway seeking to renegotiate labor market and family relationships while providing for substantial paid leave to foster labor force attachment). With this being said, I also expect that the Norwegian parental leave system will offer women more social citizenship rights and qualities than the American system and that I will be able to locate how and why this may be. I maintain that parental leave legislation is a multi-faceted policy set and can be utilized to address a range of goals (as it attempts to mitigate problems between labor market participation and familial responsibilities), has a significant impact upon gender roles and can be considered a way of investing in future human capital, and has the potential to affect the population greatly.

2. Methodology

The aim of this thesis is to compare federal parental leave policy--the Family and Medical Leave Act (FMLA) in the United States and the two national laws in Norway which govern entitlement to parental leave (Arbeidsmiljøloven) and compensation for such leave (Folketrygdloven). This goal will be met by exploring the cultural and path-dependent context of each set of laws, a comparative discussion of general benefits and eligibility requirements in each law, a discourse analysis of selected portions of each law (the title, findings and purposes sections) and a short literature review of major reports regarding indicators and family leave experiences.

2.1 Methods and data sources

Of each national family leave policy set, I will conduct a brief critical discourse analysis, an exercise to better understand not just what the legislation ‘says’ but what it is attempting to ‘do.’ I will extract value-laden assumptions and positions within the legislation which are political in nature and thus have implications for power relationships and women’s social citizenship rights. Discourse both creates realities and reflects certain social values and norms. Both the creation of values and norms (what the legislation ‘does’) as well as the reflection of cultural values and ideas (what the legislation reflects) affect the nature of women’s social citizenship rights and the arena in which these citizenship rights are conceptualize and practiced (see Figure 1). James Gee (2011) details seven different areas of questions to ask when completing a discourse analysis, two of which I will explore in my discourse analysis of national family leave policy in the United States and Norway, those of *identities* and *politics* (17-20). By *identities*, I mean that I will ask certain questions of the text, during the analysis, in order to syphon out what identities are being created by the legislation and attributed to the targeted populations. By *politics* (or the distribution of *social goods*) I mean the perspectives the legislation is projecting regarding what is acceptable, inappropriate or valuable leave taking and granting behavior. Gee reminds us that language is used to reflect meanings and to create new realities (2011, 16) and that all ‘language actions’ are political in nature, and thus are the way we as a society build and maintain the world that we live in, our cultures and our institutions which operate within that world (2011, 10). Through this discourse analysis I seek

to better elucidate how the wording of this particular type of legislation both creates and reflects a reality in which certain family and work behaviors are being validated, normalized, and granted value (or their opposites).

The method of discourse analysis detailed above is meant to address my first research question, *What kind of traditions, discourses and normative social values are reflected and emphasized by the national family leave policies in the U.S. and Norway?*

This thesis also includes a literature review of sorts meant to address conclusions from the discourse analysis in light of several large reports on the topic of family leave policy, in order to make connections to possible impact of social citizenship rights. The sources from this review are six large reports by various well-known organizations regarding comparative health indicators for women and children and family leave provision. This brief review, coupled with the results of my discourse analysis of selected sections of the laws themselves, is intended to address my second research question, *How might these policies and their discursive positions affect social citizenship rights for women?*

2.2 Study limitations and assumptions

The United States and Norway should be considered to have quite similar interests when it comes to democracy, sustainable economics, demographics and public health. However, social policy research demonstrates the radically different environments family leave policy has taken root and grown in. Although I consider these two countries highly comparable in many respects, in others they are not so. I encountered the following issues during my research:

As previously mentioned, only about half the working population in the United States is covered by FMLA (HRW report 2011, 52) and able to take advantage of the entitlements; in Norway, all working individuals, employed on a permanent and full-time basis are entitled to

take to family leave (and most¹² are entitled to remuneration for the leave time). This represents an issue on its own regarding social inclusion, gender equality and social citizenship rights--that large amounts of the working American population are guaranteed no leave time--and that this thesis is not able to explore this issue due to time and page limit constraints. This thesis focuses only on the quality of the leave time as it pertains to possible effects on social citizenship rights for the users, and for the most part, treats both leave packages as if they covered the population in question (although this is not true in the U.S.). Additionally, it must be mentioned that Norway's welfare state is a single-payer system, and the remuneration for the family leave comes from the government, inevitably changing the power relationship between employers and employees.

Space and time considerations for this thesis were also present, with the result being that the context for parental leave law in each country is explored broadly through Esping-Andersen's three-part welfare typology (1990) and through several scholarly articles regarding social/cultural values and path dependency. Considering history and precedent are paramount to understanding current laws and practices, yet it was not possible to go into deeper detail; this thesis instead explores social understandings and norms concerning welfare.

Additionally, as illustrated in Figure 1, which is meant to model my research questions and the flow of the thesis, there is a back-and-forth relationship between 'cultural traditions/political ideologies' and 'legal framework of leave policy (focus of analysis on discourse).' However, Figure 1 acknowledges only a one-way relationship between 'legal framework of leave policy' and 'social citizenship rights.' Although there is a two-way relationship between the legal framework of leave policy and social citizenship rights in reality, this thesis only explores this relationship as being one-way due to time and space considerations. The rationale behind this decision was that the main analytical substance for this thesis is the

¹² To be entitled to remuneration for family leave in Norway the individual worker must be a legal resident of Norway, a member of Folketrygden (the national insurance scheme) (Folketrydloven § 2-1). Additionally, to qualify for remuneration along with parental leave time, workers in Norway must be working 6 of the last 10 months before the payments begin and must be earning at least half of the current "grunnbeløpet" (which is a basic amount used for tax purposes in Norway, and updated every year) (§ 14-6). The grunnbeløpet is set at 82,122 NOK for 2012, which divided in half (the amount in question in order to qualify for remuneration for parental leave) comes out to 41,061 NOK (a little under \$7,000 in U.S. currency).

discourse analysis of the national leave policies, demonstrated by the two-way relationship in Figure 1 between ‘cultural traditions/political ideologies’ and ‘legal framework of leave policy...discourse,’ and by my first research question. The element of social citizenship rights was included in the model and as my second research question in order to provide some analysis and discussion for why family leave was important, and what it could do for a population, rather than just what it represented how it is legislated. While this thesis falls short of fully exploring the triangle of two-way relationships between cultural norms and values, the legal framework and discourse of leave policy and social citizenship rights, the research enriched my understanding of cultural values regarding welfare, path dependency of welfare regimes policy, and of social citizenship.

When performing the discourse analysis I quickly discovered that each set of legislation was packed with material with which to consider and interpret, and that meaningful boundaries needed to be set around what would be included. I decided upon including only the titles, findings (for FMLA only) and the purposes sections in the discourse analysis, as I felt that the titles of laws represented important value-laden assumptions and messages about the legislation, and the purposes sections were illustrative of not only what the legislation was trying to *say*, but what it was trying to *do* by its use of language. These sections provided a surprising amount of material to interpret and discuss, forcing me to explore the eligibility requirements and benefits sections by means of a general summary rather than including them in the discourse analysis.

Additionally, this thesis does not explore eligibility, benefits, discourse or possible effects on social citizenship rights for same-sex couples regarding family leave. Thus, this work focuses on those discourses applying to the heterosexual family.

Lastly, when performing the discourse analysis, my lack of advanced Norwegian language skills presented a problem, as a complex and nuanced knowledge of language and word-choice are required (among other areas of knowledge). Ultimately, this meant that in order to perform an analysis of the Norwegian parental leave law, the skills and consultation of a native Norwegian speaker were required, although the analysis is entirely mine. Additionally, the translation from Norwegian to English most likely will result in some loss of meaning.

However concerted the efforts to prevent this, some translations may be awkward. However, I do not believe that this presents an insurmountable issue of validity as discourse analysis is ultimately an interpretation in itself, and although my interpretation (discourse analysis) follows a well-respected process of steps (James Gee's), it is ultimately guided by my own viewpoints and realities as a student of politics, social policy and gender studies; experiences and standpoints which have shaped my analytic lens.

3. Findings

In the interest of organization, I separated the findings within this section into four sub-sections, the first being a discussion meant to present the context for the following three sections. The first section employs Gøsta Esping-Andersen's respected 1990 three-part welfare typology, thus placing the discussion regarding specific policy, later to come, within a political and cultural context. Additionally, this section will include a discussion of the role of (society's) cultural norms and values which shape social and welfare policy and contribute to welfare path dependency. While welfare typologies provide a multi-dimensional comparison of institutional aspects of welfare states, it is important to remember that they are based on ideal types (ed. Fitzpatrick 2006, 1427-1428). My purpose is to provide a brief discussion of the intermingled and complex relationship between different political ideologies and cultural values which have contributed to national parental leave policy in the United States and Norway, which I argue is path dependent in nature. The second section will briefly introduce and spell out the benefits offered in each national leave policy, as well as a discussion regarding the eligibility requirements of each. The following section is a discourse analysis of selected and comparable sections of the FMLA in the United States and chapters within two different Norwegian laws which provide the right to family leave and the right for remuneration for such leave (Arbeidsmiljøloven and Folketrygdloven). I have analyzed the specific laws in question for language/word choice in order to siphon out normative moral values imbedded within. My discourse analysis seeks to extract these cultural norms (which are created and reflected in the legislation) with which to later draw connections to possible effects on social citizenship. The results from my discourse analysis of the Norwegian and American national leave policies are contrasted according to several key themes. At the end of the findings section I will utilize the results from my discourse analysis in conjunction with

information from large national and international reports/studies in order to discuss the potential effect these national policies, and the realities they create, may have on social citizenship rights of mothers working within the formal labor market.

3.1 The U.S. and Norway: welfare typologies, cultural values and path dependence

Before identifying and analyzing specific American and Norwegian policy, it is essential to understand political/social/cultural and economic contexts in which these policies were created and set into practice, and in this case, policies which attempt to address women's issues (parental leave and gender discrimination in the workplace), workers' economic security and employer interests. Many social policy analyses allude to a complex and nuanced relationship between societal and cultural values/norms, the content of welfare institutions and the general trajectory of welfare state policies (Pfau-Effinger 2004, 14). In Esping-Andersen's *The Three Worlds of Welfare Capitalism*, the author attempts to identify the type and steepness of the social gradient encouraged by social policy and thus treats the welfare state as a tool for reifying a more equal order of social relations (Esping-Andersen 1990, 23).

Esping-Andersen's three-part welfare regime typology places the United States in the cluster of 'liberal' welfare states. This type is characterized by benefits that are typically marginal, associated with stigma, means-tested and therefore minimally de-commodifying in the sense that the individual is expected to draw social benefits from the market or private sphere (family) rather than in the form of a universal entitlement from the state (Esping-Andersen 1990, 27). In the United States, the value of equality is referenced (by Republicans and Democrats alike) almost purely in the context of opportunities rather than outcomes, as this definition is seen as the solution to the value tensions between the ideals of economic individualism and egalitarianism (Feldman and Zaller 1992, 273). Economic and labor market success is attributed a status of moral value. Such successes are viewed as the ideal of adherence to the idea of the individual taking responsibility for his or her life, and as what can be accomplished when the individual has access to equality of opportunity and freedom from governmental interference (Walker 2008, 119). The moral ideal of receiving benefits through participation in the labor market, rather than from the state reinforces the values of economic

individualism, the Protestant work ethic, and a general suspicion of big government which dominates the political discourse concerning welfare benefits¹³ (Feldman and Zaller 1992, 273 and 292; Walker 2008, 120). Widespread commitment to the definition of equality being viewed in terms of opportunity is thought to be a major contributing factor to conservative opposition to social welfare in general, while support for social welfare programs is generally traced to humanitarian concerns (Feldman and Zaller 1992, 282). The viewpoint that the proper role of welfare is as a charitable act by the state and taxpayers in order to even the playing field of opportunity, or as a way of relieving those citizens who are viewed as not having properly seized the opportunities on offer, sets the stage for welfare benefits which are stigmatizing, means tested and of minimal value. Feldman and Zaller (1992) conclude from interview data collected from the National Election Studies¹⁴ that the ideology of classical liberalism and norms of individualism and limited role of the government are part of the American psyche and expressed by even the strongest supporters of welfare state policies (293).

These conclusions are important because they illuminate the significant role that cultural values and norms play in the structuring of welfare state policy and subsequent reforms, which are said to follow a path dependent trajectory--or that reforms are limited to the substance and value sets of past policy--and that the inputs to this trajectory are more complicated than the idea of 'history matters.' (Pfau-Effinger 2004, 6-9). Moving in the other direction, evidence from empirical studies and opinion polls suggest that the varied cultural

¹³ It must be noted that the term 'welfare' denotes different meanings in the United States and Norway. In the United States the notion of welfare is used to refer to means-tested social assistance benefits, whereas in Norway it is a broader concept to refer to benefits provided on a social assistance, social insurance and social security (universal) type-levels. The concept of family leave does not hold any of the attributes of social assistance and there is therefore not the same type, or level of stigma attached to its receipt. However, I maintain throughout this thesis, and will argue that the basic ideas surrounding these two differing welfare states are applicable because they are reflective of and contribute to these respective welfare values.

¹⁴ The 1987 National Election Studies were a pilot study based on re-interviews with a random sample of 450 people who were originally interviewed as part of another National Elections Study the previous year (1986). This study had a two-wave panel design with the two interviews being conducted with a month of time in between. The sample for the survey were assigned at random. . The questions for these interviews were described as "open-ended probes" regarding welfare policy, and were designed to elicit the thoughts and opinions of the respondents. The responses to these questions were recorded and coded according to an elaborate coding system (involving more than 150 discrete categories) in order to analyze the substance of the response. All interviewees were unaware of the intention of the project, which was to study the active use of values and principles by the U.S. public (Feldman and Zaller 1992, 275-277).

norms and values expressed in national welfare policies and provision of differing countries are subsequently reflected in public opinion (Walker 2008, 123 and 126). This relationship is also illuminated by Figure 1.

Cox (2004) makes a similar claim regarding the importance of cultural values and the trajectory of welfare reforms in Scandinavian social democratic welfare regimes; that all new reforms must be framed in terms of the values which are highly regarded by the public in question in order to be accepted (216). Additionally, the values and norms which are created and reflected in social democratic welfare policy continue to draw borders around the public discourse of what makes acceptable social policy (Cox 2004, 208). Esping-Andersen (1990) places Norway, along with the other Scandinavian countries, into a welfare typology category located on the opposite end of the typology spectrum, the 'social democratic regime.' This welfare regime is distinguished by social policies deriving from principals of universalism, social equality, social solidarity and gender equality (Stjernø 2008, 50). The idea behind the social democratic welfare regime is based on the welfare state being a part of citizens' everyday lives by socializing the common risks of the middle class, the costs of familyhood, the risks of working in the market and of the natural progression of the life cycle. In this system all citizens are described as benefitting, all are dependent upon its entitlements, and all contribute to its funding with their taxes, due to the universality and generosity of the benefits on offer. The social democratic welfare system is thought to provide deep de-commodifying aspects (the freedom to opt out of the market) while depending upon the attainment of near full-employment; this is achieved through minimizing the social risks that might cause people to opt out of the market and maximising the revenue drawn from those who do participate in the market which is redistributed to the populace in the form of benefits (Esping-Andersen 1990, 27-28).

Although the general goals of social democratic regimes are well agreed upon (Stjernø 2008, 67), some social policy scholars continue to explore how the ideological staples of social democratic regimes (mainly the principles of universality, solidarity and market independence/de-commodification) are defined broadly in order to allow for much of the re-invention and re-interpretation of the model apparent in recent welfare reform (Cox 2004, 208; Stjernø 2008, 56-63). The general nature regarding the definition of social democratic welfare values may allow social policy makers to defend new reforms which appear to break

with the social democratic tradition (if defined narrowly), by reference to socially/culturally agreed upon norms and values (Cox 2004, 212; Stjernø 2008, 66). Whether this current trend represents a path deviation of sorts is debatable, however, what is clear is the path dependency of the ‘idea’ of the model; that citizens believe in the values and principles of the model, and thus act in certain ways and pursue certain goals based upon that belief (Cox 2004, 216). Additionally, the path dependency or deviation of a welfare state cannot be determined solely upon its values, but also must take into consideration how those values are translated into substantive policy, and what effect those policies may have upon citizenship rights.

Thus, this thesis is an exploration of how welfare values of the United States’ and the Norwegian welfare states, are dually created and reflected in the discourse of national social policy (family leave policy) and how those values have been translated into policy actions, and what effects those policy actions may have upon citizenship rights (see Figure 1).

3.2 Benefits and eligibility requirements

3.2.1 The United States: Introducing the Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) of 1993 is a federal law entitling qualified employees to twelve weeks of unpaid leave for the birth or adoption of a child, placement of a foster child, in order to care for a child, spouse or parent with a serious medical condition or in order to address the employee’s own medical condition (Family Medical Leave Act, 29 U.S.C. ch. 28 (1993)). The FMLA was designed to provide a federal minimum leave standard, leaving the prerogative to states and/or businesses to formulate more generous policies if they chose to do so. However, not all American workers are eligible for FMLA leave time from employment, despite its unpaid status. There are a number of eligibility requirements which limit the laws reach to about half of all American workers (HRW report 2011, 52). In order to be eligible for FMLA a worker must first work for a covered employer, or any person/agency which is engaged in commerce, who employs fifty or more people (within seventy-five miles) for each working day during a period of twenty calendar workweeks in the current or preceding calendar year (Family Medical Leave Act, 29 U.S.C. § 2611 (1993)). Additionally, all public agencies, including state and local agencies and schools, are covered by FMLA regardless of number of employees employed within a seventy-five mile radius (Family

Medical Leave Act, 29 U.S.C. § 2611 (1993)). If it is determined that the employee works for an employer covered by the FMLA law, the employee must meet a number of requirements in order to be eligible for leave time under FMLA law (in addition to having one of the specified reasons above for such leave). To take FMLA leave, an employer working for a covered employer must have been employed for said employer for at least 1,250 hours during the last twelve months (Family Medical Leave Act, 29 U.S.C. § 2611 (1993)) and not have taken any FMLA leave during the previous twelve month period (Family Medical Leave Act, 29 U.S.C. § 2612 (1993)). Upon return from FMLA leave the employee is entitled to restoration to the position which was held previous to the leave, or to an equivalent position with equivalent employment benefits, pay and terms/conditions of employment (Family Medical Leave Act, 29 U.S.C. § 2614 (1993)). This restoration is mandated unless the restoration is to a “certain highly compensated” job (a salaried employee who is among the highest paid ten percent of the employees employed within a seventy-five mile radius of the facility where the employee is employed) and would cause “substantial and grievous economic injury” to their employer. Additionally, restoration can be legally denied if the employer notifies the employee of the employer’s intent to deny restoration due to economic injury (as previously described), and the employee, after receiving the notice, “elects” to not return to work (Family Medical Leave Act, 29 U.S.C. § 2614 (1993)).

3.2.2 Norwegian parental leave law: Arbeidsmiljøloven and Folketrygdloven

In Norway two large sets of laws govern the entitlement of parental leave from employment. Chapter twelve of Arbeidsmiljøloven (translated as ‘work environment law’) provides a framework for mothers and fathers to take time away from work to be at home with a newly born baby, adopted child or foster child. Additionally, chapter fourteen of Folketrygdloven (translated as ‘national insurance scheme’) entitles parents to remuneration for the leave provided for in Arbeidsmiljøloven. In general, new parents in Norway (whether parenting as a unit of two or as single parents) are entitled to three years of job-safe parental leave from their place of employment within a period of three years (Arbeidsmiljøloven (2005) § 12-5 (1-3)). However, there are various rules for which parent gets how much leave at certain points and for breaking the leave time down to be shared amongst the couple or on a part-time basis. In order to best explain how parental leave in Norway works, I will explain based on an

hypothetical family consisting of both a mother and a father, who have just had a new biological child, and are taking parental leave on a full-time basis.

Parental leave time is generally shared between both the mother and father in Norway and although the couple is entitled to a period of up to three years leave from work under Arbeidsmiljøloven ((2005) § 12-5), Folketrygdloven ((1997) § 14-9) provides remuneration¹⁵ for up to 57 weeks full-time parental leave (57 weeks at 80% pay or 47 weeks at 100% pay). The mother of the child can begin to take paid leave from work up to twelve weeks before her due date, but no later than three weeks before the due date (Arbeidsmiljøloven (2005) § 12-2; Folketrygdloven (1997) § 14-10). When the child is born, Norwegian law stipulates that the mother of the baby must take six weeks off from work for the purpose of physical recovery, unless she obtains a letter from her doctor indicating that it would be better for her to continue working during those six weeks (Arbeidsmiljøloven (2005) § 12-4). Additionally, the father of the baby is guaranteed two weeks ‘welfare leave’ from work to take care of the mother and child beginning post-birth (pay is not guaranteed under Folketrygdloven, but commonly is paid by the employer) (Arbeidsmiljøloven (2005) § 12-3). Additionally, twelve weeks paid parental leave is earmarked to be taken only by the father of the child, and such leave can begin as early as six weeks after the birth of the child (when the mother’s earmarked leave time is over) (Folketrygdloven (1997) § 14-12). If the father fails to take these twelve weeks parental leave, the twelve weeks will be deducted from the total number of weeks given to the couple (47 weeks at 100% pay or 57 weeks at 80% pay). To summarize, the working couple is granted up to 57 weeks paid parental leave, nine of which are specifically for the mother and 12 of which are earmarked for the father only, the rest of the weeks (26 at 100% pay or 36 at 80% pay) are to be divided among the mother or father as they see fit. Additionally, if the couple took their paid parental leave (the past 47 or 57 weeks) at full-time (rather than part-time) each parent is entitled to take up to an additional year of unpaid parental leave each, bringing the total parental leave time allowed up to three years in duration (Arbeidsmiljøloven (2005) § 12-5).

¹⁵ The parent is entitled to remuneration for parental leave for up to six times the current “grunnbeløpet” (which is a basic amount used for tax purposes and updated every year) (Folketrygdloven (1997) § 14-7). As of May 1, 2012, the grunnbeløpet is 82,122 NOK (cite NAV), making the maximum remuneration amount for parental leave from the government at 492,732 NOK for 2012. However, it is a common occurrence that an employee who makes more than this amount as a yearly salary can arrange with his individual employer for that employer to make up the difference so the parent is compensated at the normal level.

3.3 Discourse analysis

The following discourse analysis of selected parts (title, findings and purposes) of the national laws which govern parental leave in the United States (FMLA) and Norway (Arbeidmiljøloven and Folketrygdloven) is meant as an exercise in comparison between the respective countries. The areas of focus for analysis are created and reflected identities and politics, and the purpose of the exercise is to investigate how understandings/norms are dually created and sustained by the language of legislation (see Figure 1). The following analysis is separated into two themed sub-sections: Norms and expectations of leave taking and Images of responsibility and power structures.

3.3.1 Norms/expectations of leave-taking

Title and relation to broader legal framework

The Family and Medical Leave Act (FMLA), from the title, is intended to address and grant provision for two types of temporary leave from employment, for illness and for the placement or birth of a new child. By lumping ‘family leave’ with ‘medical leave’ in the title of the law, the birth or placement of a child is presented as a medicalized issue. By turning the birth, or addition of a child, into a medicalized issue, it then becomes reasonable to only allow family leave for as long as it generally takes a person to physically recover from such an experience. The title of the law contributes to the notion that since it is ultimately women who become pregnant and give birth to children, and consequently require time in order to physically recuperate, women are cast as ‘ill,’ and when pregnancy and the birth/placement of a child becomes medicalized, it is the woman who becomes the normalized leave-taker. The fact that FMLA is not a part of broader U.S. labor law further substantiates the casting of pregnancy and birth as an illness/medical issue. Additionally, by combining medical leave together with family leave in the title, both are presented as areas within the private arena of the home, and thus the ‘responsibility’ of the family to plan for, fund, and undertake, with the law only being put into place in order to allow employees an opportunity to take this leave and to provide a framework for employers’ rights in the matter of employees taking leave time.

As discussed in the previous section, there are two national laws in Norway which address family leave for the purposes of adding a child to a family. The ‘Lov om arbeidsmiljø, arbeidstid og stillingsvern mv.’ (translation, ‘Law on working environment, working time and position protection, etc.’) or ‘arbeidmiljøloven’ (translation, ‘Work environment law’) for short, simply provides for the right to take leave from work in order to have and care for a child (Arbeidmiljøloven § 12). An additional national law titled ‘Lov om folketrygd’ (translation, ‘Law about people’s insurance’) or ‘Folketrygdloven’ (translation, ‘The national insurance scheme’), for short, provides the right to remuneration for such parental leave time (Folketrygdloven (1997) § 14). Arbeidmiljøloven addresses a spectrum of issues having to do with regulating working environments in Norway, of which the right to take parental leave from work is only a small part, relegated to the twelfth chapter titled “Rett til permisjon” (translation, “Right to leave”). By embedding parental leave statutes into the larger law governing working environment (and titled as such), Norwegian law makers seem to be creating the reality that, as opposed to being a special set of circumstances requiring its own law, taking parental leave is rather just part of the natural working environment. This is the opposite of FMLA in the United States, which is a special law, designed to address special circumstances, rather than seeking to normalize family leave by embedding it in a larger policy set meant to address issues which affect all working individuals. Additionally, the right to receive pay for such parental leave, as spelled out in chapter 14 of Folketrygdloven, is embedded among all covered life cycle risks for which people in Norway are entitled to financial support, rather than being presented in law as a special or singled-out provision, and rather than being tied to medical issues. Accordingly, the title of the law also helps to create this reality; the prefix ‘folke’ can be translated as ‘people’s’ a word which conjures feelings of ownership and solidarity; it is a law which at some point, affects and entitles every Norwegian to financial support (covering such topics as pensions, unemployment, disability/illness, death, in addition to parental leave). The word ‘trygd,’ a noun in Norwegian, can be translated as meaning insurance, support in terms of money received, or welfare. The word ‘trygd’ conjures up positive emotions, as is related to another Norwegian word, ‘trygghet,’ meaning ‘safety.’ The title of this law is meant to convey messages of solidarity through providing safety in terms of economic support and insurance coverage for lifecycle risks which will affect every citizen and worker at some point in their lives. This is reflective of the universalistic principles inherent in Esping-Andersen’s social democratic branch of his three-

part welfare typology, to which Norway is attributed (1990, 27-28). Due to this reality, the welfare state in Norway is a part of every citizen's and worker's life, it is designed to cover every life-cycle risk, not just special circumstances or financial hardship. By embedding the right for leave time, and remuneration for such family leave time, inside larger laws affecting all Norwegians (i.e. working environment and national insurance) family leave is presented as part of the normal working environment and society.

Stated aims

In the findings section of the FMLA, which acts as justification for the enactment of the law, it is stated that “due to the nature of the roles of men and women in our society, the primary responsibility for family care-taking often falls on women,” and that this particular ‘responsibility’ does impact women’s ability to work in the labor market more than it does men (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). By discussing the supposed ‘nature’ of childrearing, the legislation maintains a certain identity for women, that it is only ‘natural’ women carry a heavier burden when it comes to caregiving. This language and the reality it simultaneously reflects and creates within the legislation is shaped by the norm or expectation that it is understood that it is women who carry the heavier burden. Additionally, the sentence conveys that we should not seek to change this type of ‘nature’ by negotiating gender roles with legislation, but rather embrace these roles as a ‘natural occurrence’ within a civilized society. The language of this legislation passively accepts this norm, or created reality, that it is the natural state of affairs that women should come to occupy this role, a biological occurrence, which is ‘natural,’ rather than a socially constructed ideal. By further stating, within the same finding, that this ‘responsibility’ affects the “working lives of women more than it affects the working lives of men,” the legislation does not acknowledge the role of men within the domestic sphere and caregiving rights and responsibilities, therefore reflecting and contributing to the norm that it is women who should be entitled to take this leave, not men. Although both parents may be entitled to take leave under FMLA due to the birth or placement of a child, the lack of remuneration for such leave makes it likely that the family will not be able to afford both parents staying home with the child without pay. In 2010 women employed full-time in the United States earned on average only 77% of what full-time employed men earned (with the median salary for women being \$36, 931 and media salary for men being \$47, 715) (Glynn and Powers 2012). By not legislating pay for the leave

time, the legislation effectively places the role of caregiving back in the sphere of the domestic, and to that of women, which it deems as ‘natural.’ Interestingly, finding six of the FMLA goes on to state that “employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees...who are of that gender” (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)).

In the opening chapter of Folketrygdloven, the second listed purpose of the law is as follows: “[the law] shall contribute to evening out income and living conditions over the individual’s life-span and between groups of persons” ((1997)§ 1-1 (2)). The active language “evening out incomes and living conditions...between groups of persons” is a presentation of the Norwegian government’s recognition that different groups of persons (i.e. - men and women, among other groupings) tend to earn more income and/or work more, and stipulates that regulating this inconsistency for the purposes of economic and social equality is in the best interest of all groups of people.

One of the main ways Folketrygdloven seeks to even out the incomes and experiences of leave-taking/caregiving in the home is by earmarking ‘fedrekvote’ (leave granted to the father), twelve weeks out of the 47 or 57 weeks of paid parental leave to the father only (Folketrygdloven (1997) § 14-12). As previously mentioned, if the father fails to take these twelve weeks of reserved parental leave within three years time, those twelve weeks are subtracted from the couple’s 47 or 57 weeks of paid parental leave. By making the twelve weeks of leave time ‘all or nothing,’ the incentive for fathers to take the leave time increases. The purpose of this ‘fedrekvote’ is to make it more socially acceptable, within society, the workplace, and in the home, for the father to play a larger, or equal role in caregiving for children; it is a provision intended to increase the likelihood that mothers return to their former jobs (with the father at home to care for the child) and to increase the caregiving rights of the father. Additionally, it is thought that a Norwegian employer is less likely to discriminate against men or women in the workplace when it is understood that, with the birth of a child, both parents will be taking paid time away for caregiving. These provisions are representative of the elevated status of the value of equity in Norwegian law, not just equality of opportunity, but equality and fairness of outcome. Due to this common value inherent in

much of Norwegian social policy, a larger (and socially accepted) role is reserved for the state.

The United States also puts a premium on the value of equality, and this value is reflected in the language of the FMLA, however, equality is defined in terms of opportunities, rather than outcomes. In the purposes section of the FMLA, paragraph 4 states that the law is intended to provide leave in such a way that “minimizes the potential for employment discrimination on the basis of sex” and that is “on a gender-neutral basis” (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). Additionally, paragraph 5 of the same section informs that the FMLA seeks to “promote the goal of equal employment opportunity for men and women” (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). The FMLA appears to take a liberal feministic approach, in that the law reflects that legally, women and men should be treated as the same/equal (Huda 2001, 351). This legislation takes the position that, if one sex is singled-out or given ‘special treatment’ it will only encourage workplace discrimination. However, in reality, the FMLA seems to simply reflect a laissez-faire approach, leaving the workplace and home to remain distinctly separate spheres, with their traditional gender differentiated roles left intact. Although the FMLA may seek to treat men and women equally and without bias, it sends the message that in order for women to be considered equal to men in the eyes of employers, they must work like unencumbered men; any leave from the job being viewed as a sabbatical, unworthy of remuneration. Conversely, by institutionalizing the paid twelve weeks of father leave described above, Folketrygdloven targets men and increases their right to take part in caregiving of small children, thereby increasing the opportunity for women (the mothers of small children) to reenter the labor force with confidence. Norwegian parental leave law (Arbeidsmiljøloven) and regulations about compensation for taking such leave (Folketrygdloven) can be interpreted as taking a perspective consistent with tenants of cultural feminism in the sense that they provide wages for care-taking in order to remove stigma, attempting to recognize and equalize the care-taking rights of men and thus attempt to normalize care-taking as the work of both sexes in order to remove stigma (Huda 2001, 359-365).

As with FMLA, Arbeidsmiljøloven also lists a similar purpose in combating discrimination in the workplace associated with leave-taking. In the first chapter of the law, the second listed

purpose of Arbeidsmiljøloven is carefully translated as, “to secure safe employment conditions and equal treatment in the work life” ((2005) § 1-1 (b)). This sentence uses the words “to secure...equal treatment” as opposed to FMLA’s wording of “promote the goal of equal...opportunity” and “minimizing the potential for employment discrimination” (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). When read carefully, FMLA seems to employ a more hands-off and less committed type of language when it comes to the discussion of discrimination by use of the words “minimizing the potential for” and “promoting the goal of,” whereas Arbeidsmiljøloven exemplifies stronger language use like “to secure,” meaning that discrimination should not be possible or tolerated under the law. Additionally, Arbeidsmiljøloven refers to the value of equity by using phrases like “equal treatment” as a goal (an end result) where as FMLA reflects the value of equality, but only in terms of “equal opportunity” (creating a certain situation with the end result unknown, but not necessarily the responsibility of the legislation or government to regulate) and “minimizing the potential for” rather than the goal of eliminating discrimination, which seems to send the message that some forms of discrimination might be justified.

3.3.2 Images of responsibility and power structures

Any time language is used to communicate something in a normative way (as good bad, normal, acceptable, etc), certain ‘social goods’ (such as blame, guilt, legal/social responsibility, motive, etc) are at stake, which are important to groups within society or society in general (Gee 2011, 17-20). A certain perspective is always present regarding these social goods, who embodies them and who has what position in the power relationships which are built and fostered by a piece of language. Under the ‘purposes’ section of the FMLA, the goal of “balancing the demands of the workplace with the needs of the family,” is listed along with the goal to “promote national interests in preserving family integrity” (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). By placing both of these goals in the same sentence the legislation sends the message that both goals are of equal importance as well as infers that, if not carefully orchestrated, entitlements which may help to balance the demands of the workplace with the needs of the family (family leave), may undermine national interests in preserving the family. The word ‘integrity’ evokes images of soundness of structure and strength, it also refers to qualities of honesty, morality and virtue. By not providing a right to

paid family leave, the legislation effectively makes mother and father dependent upon each other's labor for the family's survival and ability to thrive, which encourages the ideal of marriage, which the United States from a policy perspective, considers an important means of economic stability. The mother, who is more likely to take unpaid leave (because on average women earn less than men) is dependent upon the father for financial stability (even though she has a job), and the father is dependent upon the mother for her socially-accepted caregiving labor within the domestic sphere (because this responsibility is relegated solely to the family). Due to the unpaid nature of the leave, coupled with the brevity, it becomes difficult for single people to have and care for a new child on their own, without a partner. The legislation seems to take the position that financial stability of the family is attained through the institution of traditional marriage, and views potential single provider led families as contradictory to national interests and ideals. It is clear that the burden of responsibility for childcare is placed upon the family, but that the ideal family consists of a two-parent household, where the parents are married; 'responsibility' is framed as familial economic resources which are a result of relationships of familial dependence.

The language in the purposes section of Folketrygdloven communicates a decidedly different sentiment regarding dependence and responsibility, "[the law] shall contribute to help of self-help with the aim that the individual shall be able to support [his/her] self and manage best on [his/her] own" (§ 1-1 (3)). The beginning part of the clause, that the government has the responsibility to help the individual through certain lifecycle risks, in order to enable him/her to "support [him/her] self" has the potential to lift the economic burden of balancing family and work obligations off the family as a unit. With the addition of the ending of the clause, which expresses the idea that the individual should be freed from dependence upon any other entity besides the self ("manage best on [his/her] own") can be read to refer to the individual being free from dependence upon government assistance (but not from a rights/responsibilities partnership with the state), but also freed from economic dependence upon the family (i.e. sexual relationships), and all the roles and obligations that may come along with such financial dependence. Accordingly, the right to self-help to support oneself can be interpreted to refer to the relationship between the state and the individual in Norway, where the state shares some responsibility in terms of risk-sharing with the individual, which results in certain rights and duties for both parties. With the partnership of the state and the

individual, regarding risk-sharing, it is thought that the individual maintains independence and is best enabled to make decisions that are in their best interest (and that of their children in this case) and increase their own responsibility. Additionally, it should be noted that all the paid leave time (47 or 57 weeks paid and two years unpaid) granted to parents as a couple (mother and father) is also granted to single provider parents (Arbeidsmiljøloven (2005) § 12-5; Folketrydgløven (1997) § 14-15).

In the purposes section of the FMLA, it is stated that the legislation seeks to give employees the opportunity to take “reasonable leave for medical or family reasons” (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). The word “reasonable” could refer to making sure that employees have access to adequate leave time (which is not too short), however, it also seems to represent the idea that the employer, with FMLA in place, is now guarded against the whims of employees seeking to take advantage of employers by taking ‘unreasonable’ leave time (which is too long). Paragraph three of the same section appears to shed some light on this matter by elaborating that this “reasonable leave” should take place “in a manner that accommodates the legitimate interests of employers” (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). These two paragraphs (purposes two and three) taken together provide a legal foundation which caters to the interests of employers as much as of those taking leave by focusing on the ‘individual contract’ situation between employer and employee, rather than on individual life cases and their place within the larger labor market. However, with “reasonable leave” for employees not including the right to remuneration, being no longer than twelve weeks in duration, and coming with a myriad of eligibility requirements which provides employers a way out of having to comply with it (Family Medical Leave Act, 29 U.S.C. §§ 2611 and 2612 (1993)) seems to tip the power scale in favor of the employer. Conversely, Arbeidsmiljøloven employs more inclusive language demonstrated in a translation of the first paragraph of the purposes section, “to ensure a working environment which gives the foundation for a health-promoting and meaningful work situation which gives full safety from physical and mental damages...with a standard of welfare...in accordance with the technological and social development of society” ((2005) § 1-1(a)). The Norwegian law employs language that goes beyond the employer-employee relationship, as opposed to the FMLA’s juxtaposition of supposedly opposite and conflicting interests of employer and employee.

While language employed in the FMLA places a focus on employer versus employee in terms of interest and powers granted, Arbeidsmiljøloven appears to speak in a more collective/solidaristic fashion. Three out of the five listed purposes for the law (in the purposes section) utilize the concept of ‘arbeidslivet,’ which translates directly to ‘work life’ and refers to all members of the labor market: employers, employees and labor unions as a collective. This concept is used alongside of, and in conjunction with, words like “inclusive” ((2005) § 1-1 (e)), and “cooperation” ((2005) § 1-1 (d)). The listed purpose of the law states that it seeks to provide “a foundation” for members of the ‘arbeidslivet’ to “take care of and develop their work environment in cooperation...and with necessary guidance” ((2005) § 1-1 (d)). The wording in the purposes section of Arbeidsmiljøloven attempts to construct identities of employees (male and female alike) as being equal partners in the ‘work life’ and present the needs of employees to take leave time away from work as not necessarily in conflict with those of employers; that, with the right legislative ‘foundation,’ these parties can work as partners and need not be adversaries. By employing discourse of the collective the legislation reflects and simultaneously contributes to the idea that family life is good for society, and good for the work life, and that the state has a responsibility and a role to provide a legal foundation for society, family, and the labor market to co-exist as beneficial partners.

3.3.3 Summary of discourse analysis findings

By focusing on created and sustained identities embedded in the language of these three pieces of legislation, as well as the political perspectives and social norms regarding social goods, it is possible to draw certain conclusions from this exercise in discourse analysis which support my original hypothesis. FMLA, the federal law governing minimum standards of parental leave in the United States, despite the state of gender neutrality, seems to be operating from the assumption that women are the ‘natural’ choice when it comes to who will provide caregiving labor, and does not seek to alter this norm. Additionally, as presented above, the wording of the legislation presents caregiving as a ‘social good’ which is inherently at odds with the normal functioning of the workplace, is not a valued practice (the lack of compensation coupled with above eligibility requirements which act as barriers to leave), and is the responsibility of the domestic sphere (and the power relationships which

govern it) to undertake, plan for and fund. On the other hand, *Arbeidsmiljøloven* and *Folketrygdloven*, do not shy away from attempting to renegotiate gender relationships and norms within the private sphere and view the avenue to increasing women's opportunities and value in the workplace by means of increasing the rights of men to engage in caregiving work in the home. However, the Norwegian legislation seeks to move away from dichotomies, like women vs men and employer vs employee, but focus rather on the rights of parents as a social investment. *Arbeidsmiljøloven* provides for generous and flexible parental leave within a frame of general provisions regulating the work environment, as a means of providing a foundation for well-being and employment based on equality between and among groups of people (men, women, employers and employees). *Folketrygdloven* awards value to the social good of caregiving outside work by means of remuneration on par with average salary, and uses specific provisions to negotiate new relationship norms between men and women and between employees and employers.

Additionally, within each national leave policy, the conceptions of what encompasses personal responsibility is consistent with the path dependent welfare state policy values which I presented earlier in this thesis. The language of the FMLA, along with the lack of right to remuneration and the relative short duration of leave time, reflects and contributes to the employee vs. employer dichotomy. Additionally, the discourse emphasizes the idea of personal responsibility meaning freedom from government intervention, increased dependency upon familial relationships (for unpaid caregiving), and commodification of the worker. Both national laws which govern family leave in Norway also place an emphasis upon the value of personal responsibility, but with a different meaning. The Norwegian legislation views personal responsibility (for economic support) and gender equality as two goals which can be easily accomplished together, and views female participation in the labor market as the antidote to familial financial crisis and to gender equality on a social and familial level. The Norwegian state plays a large role in the manipulation of social and welfare policy in order to encourage mothers into the workplace, and fathers into caregiving at home. Thus, in comparison with the American FMLA, where the meaning of personal responsibility includes valuing the absence of outside (especially governmental) support, the meaning of the same value in Norwegian family leave law is shifted towards partnership

between the individual and the state, in order to thwart dependencies upon employers and familial relationships.

As previously discussed, and illustrated in Figure 1, cultural traditions/political ideologies and the principles within national leave policy are a two-way street in that both perform reflection and creation of values and norms within the other. The next section of the thesis introduces a third element, that of social citizenship rights, into the relationship illustrated in Figure 1. In addition to the legal framework of national leave policy affecting prominent cultural traditions/political ideologies, it also influences the quality of social citizenship rights enjoyed by women (see Figure 1)

3.4 How parental leave is offered and women's social citizenship rights

T.H. Marshall's definition of social citizenship¹⁶ demands the right to economic welfare and security, in order to have the basic functions and capabilities in order to participate in society according to current standards (Marshall (1949) 2006, 30). Adding a child to one's family is a life cycle-risk, it is not one that all workers face throughout the course of their lives, but it is necessary that a significant portion of the population take on this life-cycle risk in order to produce the next generation of human capital and to maintain sustainable economics and demographics. Having the right to economic welfare and security, when applied to the life cycle risk of a female worker, having a new child in essence means she should have the right to maintain the same standards of living as before she became pregnant. According to Marshall, social citizenship rights also entail having basic functions and capabilities, interpreted for this specific context, having functions and capabilities might refer to having reasonable amounts of freedom to make decisions about one's family situations (whether or not to breastfeed and for how long, when it is appropriate to relegate childcare to an outside source, or whether to begin a family as a single provider, etc.) without the threat of financial ruin. Additionally, this standard of economic welfare/security as well as the functions and capabilities which are supposed to accompany it, are supposed to enable the individual to

¹⁶ It should be noted that T.H. Marshall's original definition of social citizenship (Marshall (1949) 2006, 30) fits well with the values within the Nordic universal welfare regime.

participate fully in society according to the standards of the day.¹⁷ Participating in society according to current standards is a difficult thing to quantify, but in this context might include maintaining independence, being able to maintain labor force attachment, yet also the ability to decommodify oneself for necessary periods, and maintaining a socially acceptable standard of living which gives one the confidence to have a family and work full-time.

In order to address my second research question (*How might these policies and their discursive positions affect social citizenship rights for women?*) and address the third part of Figure 1, how the legal framework and discourse of the national leave policies affects social citizenship rights, I relied on indicators and experiences I collected in six large reports/studies regarding family leave policy and women and children's health.

3.4.1 Health and autonomy regarding parenting decisions/options

As discussed in the previous section, a significant aspect of social citizenship rights is having the “functions and capabilities” to exercise the right to economic welfare, security and participation in society (Marshall (1949) 2006, 30). When applied to the provision of family leave policy, functions and capabilities can be interpreted as maintaining health and exercising autonomy in familial decisions and decisions regarding one's participation in the labor market (sometimes referred to as de-commodification).

Several recent reports/studies regarding family leave illustrate a clear connection between national family leave provision and its affects upon working mothers and children. A 2005 national US study cited in the 2011 Human Rights Watch report, *Failing its Families*, found that taking longer maternity leave was associated with fewer and less frequent depressive symptoms among mothers, and that increasing leave by one week (past twelve weeks offered by FMLA) resulted in a six to seven percent decline in such depressive symptoms (HRW report 2011, 37). Additionally, another study, cited in the same report, found that mothers who

¹⁷ As previously discussed, cultural values for participation within society, the labor force and the family are different in the United States and Norway, respectively. In Norway women (mothers and non-mothers), are encouraged to participate in the workplace to a larger extent than in the United States. In the United States it is much more social acceptable to be a stay-at-home mother who is not engaged in the formal labor market, or to work part-time in the formal labor market and be at home part-time with one's children.

returned to full-time employment within twelve weeks were fourteen percentage points less likely to breastfeed their new babies than those who did not return so soon (HRW report 2011, 37). While the amount of family leave is not the only factor in a mother's decision regarding how to best feed her child, having unpaid leave time which is short in duration presents a significant barrier (Save the Children report 2012, 18) to completing the recommended six months of exclusive breastfeeding which is recommended by both the World Health Organization (WHO) and the American Academy of Paediatrics (AAP 2012, page e832). The fact that the United States ranked last, among industrialized nations on Save the Children's 2012 *Breastfeeding Policy Scorecard* further substantiates the claim that short and unpaid leave time is not beneficial or supportive regarding breastfeeding (Save the Children report 2012, 42). Additionally, it should be noted that on the same *Scorecard*, Norway ranked first (Save the Children report 2012, 42).

Having the right to a maximum of twelve weeks of unpaid family leave was also found to be associated with multiple stressors and a heightened conflict between labor force attachment and one's care responsibilities in the home. In 2011 a report based on interviews with sixty-four parents in the United States detailed experiences with taking FMLA leave time. The general themes of interviewees responses included: cutting short the breastfeeding relationship due to leave inadequacies, post-partum depression due to the stress of finances and short duration of leave, inability to afford taking the full twelve weeks of FMLA leave, financial toll due to unpaid nature of leave time (including bankruptcy, having to take on extra jobs, falling behind on bills, cutting back on food to save money, foreclosure on home, and the necessity of social assistance and food stamps) (HRW report 2011, 11-15).

The connections between the duration of leave time and remuneration with such aspects of social citizenship rights as health maintenance and autonomy (in regards to familial decisions and de-commodification) favor the values within, and provision of, family leave policy in Norway. The duration of the leave, which (between a heterosexual couple) can be stretched to three years (one year paid and two years unpaid) allows the family multiple options for how to best care for their child, as opposed to the right to twelve weeks unpaid provided by the FMLA in the United States. Additionally, the remuneration provided within the Norwegian leave contributes to the family's autonomy to make decisions (at least for the first year of the

child's life), regarding labor force participation and parenting, upon their own preferences and upon health recommendations, rather than on finances or the whims of an employer.

3.4.2 Leave attributes, labor force attachment and perceptions of independence

In addition to contributing to a citizen's functions and capabilities, T.H. Marshall's definition of social citizenship rights includes the right to economic welfare, security and participation in society (Marshall (1949) 2006, 30). In terms of the social risk of pregnancy and parenting while maintaining employment, these rights can be extended to mean maintaining economic independence, a standard of living which is socially acceptable and which allows the mother to participate and engage at home and at the workplace.

In 2012 the Institute for Health and Social Policy (IHSP) at McGill University and the Ford Foundation issued *Work, Family and Equity Index*, a review of data from 177 countries concerning governmental action to meet the needs of working families. The report concluded that paid family leave was associated with labor force attachment (6), higher post-birth wages relative to women who take no leave at all (7), and female and male workers having lower likelihoods of general public assistance and food stamp usage in the year following the child's birth when compared to those workers who returned to work but took no family leave (8). Additionally, a 2011 study cited in the 2012 report *Pay Matters* by the Center for Women and Work (CWW) at Rutgers University found that, after a review of the six-year-old paid family leave program in California for workers who worked low-quality¹⁸ jobs, taking paid family leave was positively associated with employees' perception of their ability to care for their own children, doubled the median breastfeeding duration when compared with non-paid-leave-taking workers, and resulted in increased labor force attachment post-birth (CWW report 2012, 4).

Conversely, family leave which is unpaid (FMLA in this case) has been found to be associated with 8.7 percent of families (in the year 2000) resorting to public assistance due to loss of income during such leave (HRW report 2011, 38). Additional reports have noted higher infant mortality rates where parental leave is unpaid and a strong association between childbirth and

¹⁸ \$20 per hour or less, or those which do not include employer-provided health insurance

families entering into poverty (HRW report 2011, 5). A 2011 report by the Organization for Economic Co-operation and Development (OECD) states that the largest disparity in a family's income occurs when its children are between the ages of infancy until the age of four year old, and that this period is also a critical one for children's development, as well as the career maturation of the parent (OECD report 2011, 56). The report additionally notes that children from families with poorer household economic situations often suffer in terms of their cognitive and behavioral development, and that the deeper the poverty, and the earlier it occurs in the child's life, the larger the likelihood for disturbances in children's development (OECD report 2011, 182, box 2.3). These figures demonstrate that remuneration during family leave can have far-reaching effects upon the economic welfare and security for working parents, and is likely to support the types of functions and capabilities which provide the foundation for meaningful and substantive opportunities for participating in society.

When employers are free to favor workers who are unencumbered by tasks which may take them away from working hard and long hours it is understood that in the U.S. it is men and/or women who are not mothers which fit this description. The ideal of the ultimate employee is reflected and simultaneously created through the language of the FMLA, and this ideal worker is not the mother of young children. This reality is apparent in the findings of a 2011 report by Human Rights Watch: in the U.S. mothers earn sixty cents for every dollar that fathers earn; women hold fifty-nine percent of all low-wage jobs; only twenty percent of senior management positions in private companies are held by women; thirty-five percent of private companies have no women in senior management at all; only 2.6 percent of Fortune 500 companies are headed by women and they hold only fifteen percent of the board seats; according to Standard and Poor's 100 index, just over eight percent of the highest paid positions are held by women; mothers are less likely to be recommended for hire than non-mothers; the starting yearly salary for mothers was on average \$11,000 less than for non-mother women, and the former were judged to be less competent and committed than the latter (HRW report 2011, 15). These facts and figures, along with my discourse analysis of American FMLA language reflect the reality that, in the case of American parental leave legislation, employers are granted an upper-hand when it comes to their relationship vis-a-vis working parents. The unbalanced power relationship it creates may affect, in an especially

negative way, women's social citizenship rights to participate in work and pursue economic welfare and security, as well as attain an outcome equal to that of men.

In addition to Norwegian family leave legislation contributing to a more balanced power structure within the labor market between employers and working parents, it also attempts to negotiate power structures within the family through means of the 'fedrekvote' (leave time for the father) (Folketrygdloven (1997) § 14-12). To combat stigma associated with caregiving, Norwegian legislation not only attaches economic value to the act, but also recognizes the rights of men and the need to equalize men's rights to engage in family caregiving. In order to change perceptions within the labor market, of caregiving of young children being purely a woman's domain, which inevitable affects men's decisions about whether or not it is socially acceptable for them to request leave time from work, Norwegian legislation frames 'fedrekvote' in such a way that it would be illogical for the father to not take twelve weeks of leave from work. Folketrygdloven stipulates that if the father does not take the earmarked twelve weeks of leave time to care for his young children, twelve paid weeks will be subtracted from the couple's total amount of paid leave time (so in this case, from the mother's). In order to avoid being penalized twelve weeks of paid family leave, the father must assume responsibility for care of his young children for those stipulated twelve weeks. As previously mentioned, this part of the law attempts the goal of normalizing paternity leave in the workplace (and thus minimizing sex discrimination as both sexes are expected to take family leave), and equalizing gender relations (and gendered childcare tasks) within the family home. The goal of normalizing paternity leave in the Norwegian labor market has apparently been successful, as only four percent of eligible fathers took parental leave from work in 1993 but over 80 percent did so in 2005 (Cools et al. 2011, 6).

As previously mentioned, gender equality, as an idea, both informs and is one of the resulting aspects of the social democratic regime. Social democratic regimes, and Norway in particular, are world-renowned for their so-called 'woman-friendly' policies, ensuring that women are equally represented in governmental and business bodies, providing extensive benefits to mothers and caregivers so women do not need to opt out of the workforce long-term, but rather take a specified break, and making sure those benefits come with pay so that women are not dependent upon the family, but rather can support themselves. Accordingly, the state,

through providing these generous benefits to women (and men), is able to mold and shape economic and social behavior in order to further the values of gender equality within the workplace and the home, the importance of full-time work for both sexes, and cooperative child-rearing. Thus, the result of the Norwegian state utilizing family leave policy as a means of ‘social engineering’ is increased economic independence, increased ability to participate and maintain labor force attachment, and a more equal role vis-a-vis men at home and in the workplace.

4. Conclusion

The conclusive interpretations from my discourse analysis of the FMLA in the United States and the two laws which govern family leave in Norway, *Arbeidsmiljøloven* and *Folketrygdloven*, revealed that not only are the substance of the legislated benefits vastly different, but also the language within the legislation, and the viewpoints each national law operates from.

My discourse analysis of selected and comparable sections of these pieces of legislation, coupled with a brief review of entitlements and eligibility requirements led to a number of conclusions: that both countries’ legislation sought to simultaneously create and sustain certain identities for leave-takers which affected the spectrum of choices available to new parents, that both countries view caregiving as an important and essential social good, but added value to this social good in different ways, that parental leave legislation has the potential to create different realities regarding power structures in the labor market which further affects the behavior of parents and the value placed on caregiving, and that both pieces of legislation attempt to remedy the same conflict but from distinctly different perspectives resulting in solutions which may limit, or increase, the conciliatory affects of the legislation.

My additional following conclusions will argue that the aspects of social citizenship discussed in the beginning of section 3.4, which are based upon T.H. Marshall’s classic definition, is more reflected within Norwegian family leave policy than in the federal family policy, the FMLA, in the United States.

4.1 Values, policy and social citizenship rights

One of the most striking differences between the The United States' and Norway's national parental leave laws is the the amount of time allocated for such leave from work. The FMLA grants twelve weeks of job-protected leave time which covers about half of the American working population while Norway offers up to three years job-protected leave time in a span of three years (up to one year paid and one year unpaid to each parent) for all working parents. Employees (provided they work for a covered employer and are eligible to take leave time) who wish to take FMLA leave time have two options, either they can afford (considering finances and career track) to take up to three months unpaid leave time, or they cannot. If a woman is taking FMLA leave, approximately half of the leave time (six weeks) is used up physically recovering from a normal, uncomplicated childbirth, leaving only an additional six weeks to re-establish everyday routines. As the reports reviewed above suggest, provided that women in the United States can afford to take the unpaid leave time, the reality of the right to a maximum of twelve weeks in order to establish life with a new baby means that many women are faced with choices of sacrifice. These decisions include whether or not the mother will exclusively breastfeed for the recommended six months, how to support a family that normally survives on two salaries to operate on one salary for three months, and whether it is more financially feasible or emotionally taxing for the mother to abstain from work to be home with the child, or to seek daycare providers or family members who will care for the new baby after leave time expires (cite HRW report 2011, 11-15).

American women having to make these difficult decisions that the above reports discuss, reflects the unequal power balance between employer and employee illuminated in my discourse analysis of the FMLA. This unequal power relationship, as reflected in the language of the FMLA, tips in favor of the employer. When describing one of the goals of the FMLA legislation, the wording "reasonable leave for family or medical reasons... in a manner that accommodates the legitimate interests of employers" (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)) is used, conjuring up images of employees seeking to take advantage of employers or corporations with their family leave from work, and that this is such a common occurrence that legislation needs to be in place to protect the interest of the nation's employers. Additionally, with the strict eligibility requirements for benefits offered by the

legislation, which limit the coverage of the law to about half of all working Americans (HRW report 2011, 52), many employers are saved the trouble of having to comply with the law and are allowed to deny their employees family leave altogether.

The balance of power between employer and employee, as spelled out in legislation is important to social citizenship for two reasons: that many parents at some point in their parenting career find themselves needing to opt out of the labor market for a short time for family reasons, and that women (and especially working mothers) are automatically at a disadvantage when it comes to labor market opportunities and outcomes when compared with men and non-parent women. If employers are favored by legislation and granted a privileged position in the labor market hierarchy, they are more free to pursue profits without many regulations, and many companies find it advantageous to create competition amongst workers for maximum output. This conclusion contributes to the conception that the value of individual independence in the United States is rooted in the individual's dependence upon the good graces of an employer, and upon the idea that the family alone should fund the lifecycle risk of early childhood. These cultural values, which are path dependent, and are simultaneously reflected and emphasized within American society at large (Feldman and Zaller 1992, 273-292; Walker 2008, 120) and within the discourse and provisions of the FMLA, have the capacity to interrupt the autonomy and health of the family, as well as a working mother's right to economic security, thus deteriorating social citizenship (see Figure 1).

Working mothers in Norway are afforded more support to breastfeed for the recommended duration due to the comparatively generous duration and remuneration for family leave from work. Additionally, leave time flexibility is one of the main features of Norwegian family leave policy, as leave can be taken on a part-time basis, and shared among both parents as they see fit, in addition to giving parents the option of being home with their child (job-protected) until the child is past infancy. With the remuneration for ten or twelve months of family leave guaranteed by Folketrygdloven, working parents are able to maintain the same finances as before their new child was born, thus avoiding decisions regarding whether one parent should take on a second job or whether or not the family should apply for social assistance. The choices offered by Norwegian parental leave law are meant to maintain the

welfare of the working parent and provide a set of choices which increases rights. Additionally, this granting of choices to improve welfare of working parents is reflected in the language of the legislation, “gives full safety from physical and mental damages...with a standard of welfare” (Arbeidsmiljøloven (2005) § 1-1 (a)). The remuneration for leave time secured by provisions in Folketrygdloven is meant to free the working parents from dependence on social assistance, other family members, the goodwill of employers and from stressful financial and social decisions, “[the law] shall contribute to help of self-help with the aim that the individual shall be able to support [his/her] self and manage best on [his/her] own” (Folketrygdloven (1997) § 1-1 (3)). Family leave which is long enough in duration and grants women more flexible choices which increase their welfare, rather than creating an environment where women feel compelled to make decisions which may negatively affect their welfare, is more consistent with the right to economic security and functions and capabilities necessary for participation in society called for by T.H. Marshall’s definition of social citizenship (Marshall (1949) 2006, 30).

4.2 The importance of perspective

As previously discussed, within the Nordic welfare tradition, the pursuit of gender equality is not only a value in its own right, but also viewed as a means of pursuing and realizing other social democratic values such as economic equality, social solidarity and universality. The idea that gender equality, as a goal, has a better chance of being realized when legislation recognizes the realistic individual needs and rights for men and for women as separate and different entities, without attempting to ‘over-romanticize’ particular gendered traits, is a tenet of cultural feminism. Additionally, a cultural feminist perspective conceives of society not as a collection of individuals, but rather as a system of interconnected members within society, who depend on each other (Huda 2001, 361). In this perspective, all individuals, including waged workers are tangled in a web of dependencies, and many of these dependencies can cause harm to social citizenship rights if they are not based on reciprocity and social support (Huda 2001, 361-363). Arbeidsmiljøloven and Folketrygdloven were formulated from the perspective that such societal reciprocity (through universal welfare entitlements and paying subsequent taxes) and the sense of social solidarity it is thought to inspire, will have a liberating effect upon the waged worker (in the form of de-commodification opportunities)

and within familial power relations, where often times it is the female/mother who earns less income, works less hours, and may be more likely to be dependent upon intimate sexual bonds (marriage) for economic protections. Universal welfare entitlements provided within these two Norwegian laws are meant to increase de-commodification rights of workers (male and female) and to provide a foundation for renegotiating gendered caregiving tasks and economic independence of women within the family setting. Both goals are intended to increase women's options at home and at work, and thus their social citizenship rights.

As previously discussed, at first glance, it appears that the FMLA takes a liberal feministic approach, as the eligibility requirements and the entitlements offered within the legislation are based on a so-called 'gender-neutral basis.' The law even goes so far as to state (in the sixth and final finding) that "employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender" (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)). However, although the law is gender neutral, the legislation operates from the perspective that it is inevitably women who naturally carry the burden of caregiving of small children, and FMLA entitlements are based upon this perspective. Although the legislation does not explicitly say so, it operates from the standpoint that female employees are married and, therefore, do not need remuneration for the leave-time they take under FMLA because they have husbands who work and can support them financially. The lack of right within FMLA to remuneration for family leave and the cultural perspective/norm that it is more natural for women to stay home and complete caregiving tasks reinforce one another and are intimately bound in a sequence which limits women's social citizenship rights. FMLA legislation reflects certain perspectives at work in society but also seeks to maintain the status quo, "to promote national interests in preserving family integrity" (Family Medical Leave Act, 29 U.S.C. § 2601 (1993)) by means of a laissez-faire approach to gender roles. The goal of preserving family integrity, as previously discussed, could mean a myriad of things, but included is the notion that women (especially mothers) are economically dependent upon their husbands, and this dependence helps to ensure traditional gender roles within the family and is thought to minimize child-rearing out of wedlock. A liberal feministic approach would view this aspect of the FMLA legislation as another welfare policy which champions marriage as a solution to societal poverty, and thus a policy which coerces women (although not explicitly) into sexual

relationships with men (Huda 2001, 351-353). Although the FMLA appears to tout a liberal feminist perspective, seeking to provide an identical legal framework for family leave for both sexes, it incorporates decidedly un-feminist principles which actually limit the choices and options of women, and steer them to engage in behaviors which it views as in the tune with national interests regarding marriage preservation and gender roles within such a bond. The concept of gender neutrality is embedded with underlying bias and inequality.

4.3 Concluding remarks and recommendations toward future research

Previously, I discussed how Norway and the United States, although being quite comparable in many areas, are not so in others. The high rates of remuneration for family leave provided for under *Folketrygdløven* are paid by the Norwegian government, necessitating extensive taxation. Many of the universal benefits enjoyed by Norwegians are redistributive in nature and, as previously discussed, the conception of the roles and responsibilities the welfare state itself is different; it is perceived as a necessary part of every citizen's life and considered essential for solidarity and equality (two highly prized social goods in Norwegian culture). As elucidated in the Esping-Andersen welfare state typology discussion in section 3.1, the concept of welfare is vastly different in the United States, where it is viewed largely as a last resort resource which should be temporary in duration, means-tested, and scant in its benefits. Rather than social goods of solidarity and equality, 'welfare' in the United States spurs conversations regarding dependency, laziness and governmental interference. Although I have demonstrated how Norwegian family leave policy may contribute to higher rates of social citizenship for women (a positive social good in both the United States and Norway), simply copying an identical single-payer system of generous and compensated family leave in the United States would be ignoring significant and valid cultural, economic and political differences between the two countries. As previously discussed (and illustrated in the back and forth relationship between cultural norms and discourse/framework of family leave policy in Figure 1) in order for social policy to be effective it must be reflective of, or be made consistent with, accepted cultural norms and values within society. Due to the reality of cultural and political values and norms being both reflected and created within the legal framework and discourse of social policy, social policy reform appears to take on a path

dependent trajectory. Analyzing this path dependency in all its historical, political and cultural nuance is essential for any social and welfare policy reform. Although it is necessary for social citizenship rights that family leave in the United States be longer than twelve weeks, include remuneration at pay-level, be non-stigmatizing, and contribute to equalizing gender roles at home and the work place, it need not be ‘one-size fits all.’

Admittedly, this thesis calls for family leave which embodies all of the qualities which are thought to contribute to social citizenship (and all the social, economic and health benefits that come with them), without substantive solutions for how the United States can tailor and implement such a policy. The benefits of family leave policy are known, but much scholarly discussion and research is missing for how standing family leave policies can be improved and reflect the changing needs of individuals and families. This research and the solutions which result should be tailored to maximize benefits for all parties and be offered in a way which is socially, economically and politically acceptable. In any case, well-orchestrated and funded family leave policy represents a rare opportunity where, for minimal investment, the potential to provide benefits for all affected is significant, and where the lack of such benefits represents not only a lack of social justice, but a waste of human and economic capital.

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Appendix

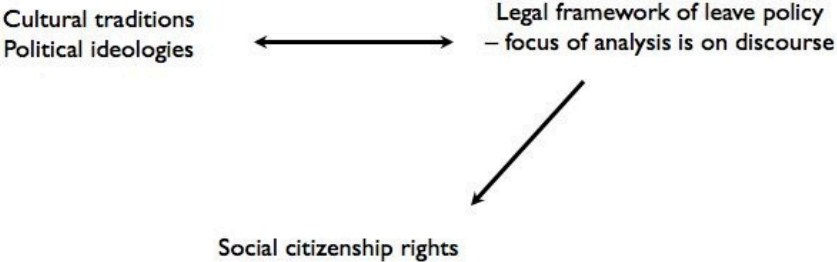


Figure 1.