

The Parental Body in Law: An Examination of how the Working Parent is Conceptualized in UK Labour Law

Michelle Weldon (University of Strathclyde)

Male and female bodies have been conceptualized in various different ways and contexts. The male body is often perceived to be strong, powerful and productive, while the female body as weak, nurturing and reproductive. Despite these different conceptualizations, in particular in relation to childbearing and rearing, the ‘ideal’ legal person is often presented as an apparently neutral and objective individual. In the UK family-friendly labour law context, the body of the working parent is also generally presented in a gender-neutral way with some obvious exceptions, most notably legislation relating to pregnancy and maternity.¹ This apparently gender-neutral body of the working parent in family-friendly legislation will be the subject of analysis here.

The subject of law, or the ‘ideal’ legal person more generally, has been the focus of examination, mainly in feminist critiques (for an overview see Naffine, 1990, pp. 3-23). Naffine (1990) in her attempt to uncover the ‘ideal’ legal person analyses these previous examinations. Her approach is useful because she identifies that ideal legal person: ideal in the sense that it does not represent a real person with real flaws, but rather a model perfect person (1990, p.119). This legal person is also considered to be ideal because the characteristics that it displays are themselves considered to be ideal in the eyes of the law and of legal actors (1990, pp.119-120). However, while this represents the archetypal legal person Naffine also notes that the ideal legal person might be different in other areas of law (1990, p.102; Naffine and Owens, 1997, p.7).

In the labour law context the subject of family-friendly legislation is the gender-neutral working parent. However, in examining the legislation

¹ References to family-friendly legislation equally relate and refer to work-life balance legislation.

more closely it is apparent that not all working parents utilize the legislation in the same way; in particular, more mothers than fathers in the UK exercise their rights (Matheson and Summerfield, 2001, Table 3.21, p. 44).² This raises important questions as to who is in fact the subject of the legislation. Some have suggested that certain areas of employment law relate directly to women such as discrimination law and maternity rights (Morris and O'Donnell, 1999, p.1); consequently, women could be identified as the subject of these laws. Others perceive family-friendly legislation as addressing 'women's issues' (Camp, 2004, p.9). However, this is largely a consequence of the fact that the conflict between work and family commitments and the introduction of early family-friendly legislation was a response to the increased participation of women in the labour market (Weisberg, 1996, p.534). Furthermore, Collier notes that some campaigners believe that the law has swung too far in favour of women and children (1995, p.177). These understandings and interpretations of the legislation, and its subject, can have potentially negative consequences for working parents and our conceptualization of the subject of the legislation.

This examination of the 'ideal' working parent will consequently analyse Naffine's conceptualization of the ideal legal person in order to determine if this same, or similar, ideal type is found in the family-friendly context. In addition, it will attempt to determine if the legislation is in fact female-centred, or merely perceived to be so (Collier, 1995, p.177; Burghes, Clarke and Cronin, 1997, p.84). In order to do so, this paper will in the first instance identify the relevant gender-neutral family-friendly provisions. It will then present Naffine's ideal legal person, highlighting the various characteristics that it displays. The paper will subsequently analyse Naffine's conceptualization of the ideal legal person with reference to the gender-neutral family-friendly legislation. At the end of this examination it should be possible to present a conceptualization of the ideal working parent

² 12% of men as compared to 18% of women took time off to care for dependent children in 2000.

in the labour law context.

The Gender-Neutral Working Parent

Recent family-friendly legislation has predominately purported to enact gender-neutral rights for the benefit of working parents. As noted above, despite this conceptualization of the legal subject, work-life balance concerns have initially been presented as ‘women’s issues’. This understanding or interpretation raises concerns about whether or not the legislation is either female-centred, with women being the subject of law, or alternatively, if it is merely perceived to be so. The legislation that will be examined here has been adopted explicitly on the principle of gender-neutrality. In the Government White Paper, ‘Fairness at Work’ (DTI, 1998), one of the three foundations of the ‘Framework for the Future’ was:

1policies that enhance family life while making it easier for people - both men and women - to go to work with less conflict between their responsibilities at home and at work. (DTI, 1998, p. 9, para.1.9)

This clearly stresses the government’s commitment to the adoption of gender-neutral legislation with the aim of enabling all working persons, not just working mothers, to achieve a balance between their work and family commitments. In addition, this also represents recognition of the role that both parents play in caring for and rearing children. The legislation that will be identified and outlined below is apparently based on this approach to childcare. The relevant gender-neutral family-friendly rights that will be discussed here are parental leave, the right to request flexible working, and additional paternity leave.

Parental Leave

The right to parental leave was introduced in the UK in 1999 in order to comply with the Parental Leave Directive 96/34/EC and the rights are

contained in the Employment Rights Act 1996 (Chapter II) as amended,³ and the Maternity and Parental Leave etc. Regulations 1999 (Part III). The employee has the right to receive a total of thirteen weeks unpaid leave per child until the child's fifth birthday, or eighteen weeks leave until the child is eighteen, but only if that child is disabled. In order for parents to be entitled to the leave they must have completed one year's continuous service with their current employer; have, or expect to have, the responsibility for the child; and be using the time to care for the child. The issue of whether or not they have responsibility for the child for the purposes of this act is determined by examining whether or not they have parental responsibility, or responsibilities,⁴ for the child; or alternatively, if they are registered as the child's father. The right in itself is presented in an entirely gender-neutral way. As McColgan notes:

the agreement on parental leave provides 'minimum requirements on parental leave and time off from work on grounds of force *majeure*, as an important means of reconciling work and family life and promoting equal opportunities and treatment between men and women'. (McColgan, 2000, p.135)

It would appear at first glance that the legislation has a gender-neutral working parent in mind as it introduces an independent right, available to all working parents, to take time off work to care for their children.

The Right to Request Flexible Working

The right to request flexible working came into force in the UK in 2003, again amending the ERA 1996 (ss80F-I).⁵ It has also clearly been adopted on a gender-neutral basis, with the right being equally available to both working parents. The legislation provides employees with the right, for the

³ Hereinafter 'ERA 1996'.

⁴ In Scotland.

⁵ See also The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002 SI 2002 No. 3236 and Flexible Working (Procedural Requirements) Regulations 2002 SI 2002 No. 3207.

first time, to request a change in their hours, times and places of work, in order to care for their child. The right is available only to those employees who satisfy certain conditions. Firstly they must have twenty-six weeks continuity in their current employment prior to the request being made; and have a child under the age of six (eighteen if the child is disabled) who they are, or expect to be, responsible for. In addition, the employee must not have made a similar request in the last twelve months to that same employer. Finally, the employee must have a particular relationship with the child such as: mother, father, adopter, guardian, foster parent, or is married to, or is the partner of, any of those.

Additional Paternity Leave

The final relevant right is contained in the Work and Families Act 2006. This is an enabling act that allows regulations to be made in the future which will have the effect of eventually enabling working parents to share the last twenty-six weeks of, for want of a better phrase, maternity leave. The act has in the first instance increased the amount of ordinary maternity leave from twenty-nine to thirty-nine weeks and with the intention of eventually increasing this to fifty-two weeks. The regulations will then detail the way in which the leave can, in effect, be shared between the parents. Essentially the proposals suggest that the new right to additional paternity leave will enable working fathers to utilize any leave and pay that a mother has remaining on her return to work following childbirth up to a maximum of twenty-six weeks. In order for the father to be able to claim additional paternity leave certain conditions will have to be satisfied. These will relate to, among other things, his relationship with the child's mother; the mother's entitlement to maternity leave; and the return to work of the mother at some point to be determined between the date of childbirth and the child's first birthday. The intention is that the remaining length of maternity leave period that would have been available to the mother is now equal to the length of leave that the father can use as additional paternity

leave.

This new method of arranging leave between the parents, although not gender-neutral per se, is based upon a gender-neutral approach to childcare, with both parents being given the opportunity to be involved in caring for and rearing their child during the first year of its life. This is also perceived as a means by which to allow parents to make their own choices about childcare. However, the leave is very much dependent on the status of the mother as a worker and also on her own decisions and choices as to when or whether to return to work.

The ‘Ideal’ Legal Person and Working Parent

The foregoing has highlighted that these pieces of family-friendly legislation have all been adopted on the principle of a gender-neutral approach to childcare. Consequently, the ideal working parent is an apparently gender-neutral person. The same is equally true of the ideal legal person, or the subject of law, who is supposed to represent a completely neutral and objective individual who embodies any given person. Naffine, (1990) in her examination of the justice systems of England, the US and Australia, challenges this assumption and presents the ideal legal person that emerges. Her examination uncovers an ‘ideal’ legal person that is described as possessing:

at least three essential qualities which match those of the socially powerful. One pertains to sex, a second to class, a third to gender. The legal model of the person [...] is a man; he is a middle-class man; and he evinces the style of masculinity of the middle classes. (Naffine, 1990, pp.100-101)

Naffine’s examination of various aspects of law and its actors highlights three important and central characteristics of the ideal legal person. The next section will detail her examination and analyse it with reference to the gender-neutral family-friendly legislation in order to determine if this

concept of the ideal legal person accords with, or is appropriate, in the labour law context. In addition, it will also assess whether or not the legislation is female-centred, or if it is merely perceived to be so.

As a Man

The first characteristic that Naffine identifies about her ideal legal person is that it is male. In support of this Naffine suggests that law, its institutions and principles, all reflect those who administer and interpret the law, namely the judiciary and the highest echelons of the legal profession (1990, p.100). At the time of Naffine's examination this group was predominately white, middle- or upper-class, educated and male. The demographics of the profession have not changed substantially since then, with white men still dominating the profession (DCA, 2005, pp. 33-34, Tables 2.1 and 2.2; Kay, 2000, p. 54, Chapter 7, Table 7.2).⁶ In this sense, the ideal person of law could still be conceptualized as a man.

Naffine finds further support for this contention in the way in which the theorists of the social contract treated men and women drawing on Okin's work in this area (1979, pp.179-202; Naffine, 1990, pp.102-103). These theorists, according to Okin, while arguing and advocating that the sexes were equal and should be treated likewise, still placed the husband/father as the head of the household and, consequently, in the dominant position. This therefore resulted in the husband/father being the public representative of the family, acquiring rights on their behalf, and consequently being the subject of law. The wife/mother's role was to support the husband/father to enter the labour market, by maintaining the home and raising and caring for the family. This highlighted the sexual division of the public and private spheres, which has been examined by many writers over the years (for more recent discussions see O'Donovan,

⁶ The DCA report found that in 2003/4 59.4% of solicitors on the Law Society roll were male as compared to 40.6% who were female. In addition, only 8.8% of the solicitors on the roll were of an ethnic origin. Kay noted that in Scotland in 1999 64% of practicing solicitors were men, as compared to 36% who were women.

1985, pp.2-20; Naffine, 1990, pp.103-111; Reskin and Padavic, 1994, pp.6-8 and pp.15-30).

Many consequences and hurdles arose with this sexual division of spheres, not least of which the stereotypical assumptions about the appropriate roles of men and women that it represents and reproduces (Reskin and Padavic, 1994, p.23). These assume that the woman's natural and appropriate role is within the home, organising the domestic side of life, and caring, both physically and emotionally, for the family (Smart, 1984, pp.10-11 and pp.21-22; O'Donovan 1985, pp.11-12; Naffine 1990, pp.108-109). The father's appropriate role is thus viewed as located in the public sphere, providing economically for his family. Such a perception of the role of fathers as primary breadwinners remains an important part of their identity today (Hatten, Vinter and Williams, 2002, pp.6-8; O'Brien and Shemilt, 2003, p.19), with fathers being more likely to be employed and work longer hours than men without children (O'Brien and Shemilt, 2003, Table 2.1; O'Brien, 2005, p.21). In addition, this view of the division of family and work commitments, especially childcare, persists today with both mothers and fathers considering this arrangement as appropriate (Hatten *et al.*, 2002, pp.6-8 and p.10).

In the labour law context the subject of labour law has also been conceptualized based on similar distinctions between the sexes. Owens, in her consideration of the subject of labour law in general, identifies the subject as also being male as opposed to female, focusing on the conceptualization of the female body as reproductive and sexual as opposed to productive like that of the male body (1997, p.119). This, she argues, is reproduced through legislation such as protective legislation which seeks to preserve their reproductive capacities and even sex discrimination legislation which compares women against a male standard (1997, pp.132-5). Again we are presented with a male legal subject. However, this examination was completed prior to the introduction of the gender-neutral family-friendly legislation detailed above. When such legislation is

considered in detail it is arguable that these same beliefs are embedded in the family-friendly context, for instance in relation to parental leave where there has been much debate surrounding the fact that the leave is unpaid. This has led in particular to questions and concerns about who will actually use the leave, especially whether fathers will utilize their rights (McColgan, 2000, pp.138-142).

Evidence from a recent Eurobarometer survey conducted throughout the EU of men, about 50% of which had children (2004, p.5), highlighted that fathers either have or would utilize this right in fairly low numbers. Only 16% of those surveyed stated that they either had or would undertake parental leave, with just 4% stating that they had or would take in it in respect of all or a number of their children. The percentage for the UK alone was just above the average at 20% however, this compares noticeably with Sweden where the majority of men surveyed (67%) gave this response, and where parental leave is accompanied by a form of income replacement (Eurobarometer, 2004, pp.9-15). The importance of income replacement to the decision to undertake leave is further strengthened by their responses when asked what the main reason was for not taking or thinking of taking leave. The response that they could not afford to was surpassed only by the response that it was unavailable to them at the time (18% and 31% respectively, Eurobarometer, 2004, p.16). Finally, the main factor that would encourage those surveyed to utilize leave was to increase the financial compensation provided during leave (38%, Eurobarometer, 2004, p.18). This highlights the importance of the father's breadwinning role, and consequently suggests that there is a correlation between leave being paid and fathers' utilization. However, this should not be overstated. Evidence from the Swedish parental leave experience highlights that just because leave is paid, does not necessarily mean that fathers will utilize it in equal numbers to mothers. In Sweden in 2003, for instance, only 17% of the parental allowance days claimed was drawn by men (SCB, 2004, p.38).

The concern that unpaid leave would be unattractive to fathers is

further emphasized by the fact that the government estimated that only 10,000 persons would utilize the leave per year, and that only 2% of fathers and 35% of mothers would use it over five years (McColgan, 2000, p.139). In addition, the Social Security Select Committee, 'The Social Security Implications of Parental Leave', highlighted that it was evident to them 'that if parental leave is unpaid take-up among fathers will be particularly low' (1998/9, p. viii, para.14). The fact that parental leave was implemented, and remains, on an unpaid basis could suggest that the government viewed the leave as primarily of importance to working mothers.

The experience of parental leave could suggest that the legislation has a working mother, as opposed to a gender-neutral working parent as its subject. However, equally evident is that other factors contribute to whether or not fathers utilize leave. In a recent DTI survey 20% of fathers agreed that economic pressures were the reason why they limited the length of their leave (Smeaton and Marsh, 2005, pp.85-86). This accords with the assumption, noted above, that the role of the 'good' father is still very much tied to his role as provider. Furthermore, the issue of economic pressures again highlights the fact that fathers remain primary or majority breadwinners (Lewis, 2000, p.3). The fact that the father's role as primary breadwinner is still stressed sits uncomfortably with the 'new' father identity and gender-neutral approach to childcare that encourages fathers to spend more time caring for their children (Collier, 1995, p.195 and 2001, p.531).

The DTI study also noted that 16% of fathers agreed that the reason they limited the length of their leave was work pressures (Smeaton and Marsh, 2005, pp.85-86). This issue has been noted in other studies as one of the barriers to fathers' greater participation in family life (Caracciolo di Torella, 2000, p.458; Hatten *et al.*, 2002, p.22; Dex, 2003, p.24 and pp.26-7). Additionally, fathers' expectations of whether or not work-life balance policies are available to them within their workplaces are fairly low (O'Brien and Shemilt, 2003, p. 48, Figure 4.1). The potential problem of workplace attitudes towards family-friendly legislation is evident in the

experiences of two fathers who requested the right to work flexibly.

The unreported cases of *Robert Jones v Gan Insurance* and *Walkingshaw v the John Martin Group* (EOC, 2005) both involved fathers who requested a change in their working hours in order to care for their children. Both requests were initially declined, in circumstances where female colleagues had been granted similar requests. While Jones' complaint was resolved amicably out of court, Walkingshaw continued to raise a direct sex discrimination claim against his employer. Despite the fact that there were no women doing the same job as he, the employer had always agreed to the requests for flexible working from other female employees. The tribunal subsequently held that Walkingshaw could compare himself to a female employee who had had her request to work part-time accepted, and deemed that his circumstances were the same or not materially different, although they worked in different departments. The tribunal further judged that the employer would have granted the request from a hypothetical female comparator, and consequently Walkingshaw's claim of direct sex discrimination was successful.

These cases highlight that the attitude of some employers has been that these rights are predominantly for the benefit of working mothers and not working parents in general. This perception of the right to request flexible working was also evident in a recent report by Working Families, in which the majority of respondents viewed the right as a 'mother's right', but not also a 'father's right' (Camp, 2004, p.9). This is further strengthened by the lower utilization rates of fathers than mothers of this right. In a report by Grainger and Holt (2005, Figure 3, p.299) only about 11% of men with dependent children, as compared to approximately 28% of similarly situated women, requested flexible working. This suggests that one of the reasons for fathers' low uptake is not solely that the legislation is female-centred, but that it is perceived to be so.

The right of additional paternity leave also raises questions about the sex of the working parent. Although the right is based upon a gender-neutral

approach to childcare, it is not an independent right for fathers/partners to take additional paternity leave since the conditions noted above must be satisfied first. The fact that it is dependent on the status of the mother as a worker and on her return to work in the prescribed period raises some problems for fathers' utilization. In the first instance, it has the direct consequence of the father not being entitled to leave if the mother was not in the labour market in the first place. The rationale is evidently that because the mother is not participating in the labour market there is someone at home to care for and raise the child, therefore the father need not also exit the labour market to do so. The concern that this raises is that if the scenario were reversed, and the father was not participating in the labour market, there would be no question of the mother not being entitled to the leave, or having to return to work after six months. Naturally one aspect of maternity leave is to ensure that the mother recovers physically from pregnancy and childbirth, which she should unquestionably be entitled to, however, if the latter period of potentially transferable leave is for the purpose of childcare then one may question why a similarly situated father should not be equally entitled to participate in this important task (Morris, 1999, pp.193-194). This approach to the right to additional paternity leave appears to endorse the stereotypical view of parental roles within the family, with the mother presented as primary caregiver, and the father as secondary caregiver and primary breadwinner. This is strengthened further by the fact that the mother has the option not to 'transfer' any of her leave to her partner, and the father has no guaranteed non-transferable period of leave assigned to him unlike in Sweden (Government Offices of Sweden, 1995).

All of these pieces of legislation highlight an ideal working parent that is slightly different from the conceptualization presented by Naffine, although it appears to be based on similar divisions and assumptions about parental roles. The legislation here appears to suggest that the ideal working parent is in fact the working mother. This conclusion can be drawn from the fact that parental leave was introduced without any form of income

replacement despite warnings that it could impact adversely on fathers' utilization rates. The same could be said to be true of the right to additional paternity leave, if it is implemented as currently suggested, therefore not providing fathers with any genuine rights. However, it should be borne in mind that the perception of the legislation is very different from the reality of its aims. It is also clear from the above examination that certain assumptions and perceptions of the legislation have been made to suggest that it is female-centred. This, while useful in assessing utilization rates, does not necessarily enable conclusions to be drawn on who the subject of the legislation is. Nevertheless, these pieces of legislation tend to suggest that the ideal working parent in the family-friendly context is most likely a working mother.

As a Middle-Class Man

As regards the emphasis on a middle-class man Naffine highlights law's 'preoccupation with the rights of property-owners' (1990, p.111). In support of this she notes Blackstone's discussion of the natural rights of persons, who are men 'of rank or property' (1829, pp.138-145 in particular p.144; Naffine, 1990, p.112). This clearly accords a specific type of class to the male subject of law. Despite the age of this previous reference, this contention is further supported more recently by Cotterrell's identification of the main type of work carried out by lawyers as conveyancing, which focuses directly on the interests of property owners (1992, pp.191-192). In addition, the expense, time, culture and so availability of law to those without property, or in the lower classes further suggests that law reflects the position of the middle- or upper-classes (Naffine, 1990, p.112). This argument is strengthened by recent empirical work that highlights factors such as the cost of legal advice, and the perceived power imbalance between the client and the solicitor as barriers to accessing the law (Genn and Paterson, 2001, pp.85-120, especially pp.91-93 and pp.97-101). Thus again the conceptualization of the 'ideal' legal person appears to accord with

Naffine's classification.

In terms of whether or not the ideal working parent is also middle-class we can again consider the right to unpaid parental leave. Arguments advanced in the Social Security Select Committee (1998/9, pp. vii-viii, paras.11-13) highlighted that if the leave is unpaid it could prevent poorer people from utilizing it:

[T]he government's current plans will discriminate against the poor. They will only allow the well-off to take advantage of unpaid parental leave. (NSPCC, cited in SSSC 1998/9, pp. vii-viii, para.12)

This type of argument strengthens the case for arguing that the right to parental leave envisages a middle-class person. Additional support for the concerns about low income workers' utilization was provided in the example of the American experience where low income families were often unable to afford to utilize the right to unpaid leave (SSSC, 1998/9, p. viii, para.13). As a consequence the committee recommended that there be an element of payment to parental leave. However, parental leave was introduced without a corollary right to some form of income replacement, although income support is available during the parental leave period (DTI, 2006). Nevertheless, this could suggest that the 'ideal' working parent envisaged here is a middle-class person.

The reverse could be said to be true of the right to additional paternity leave. In a recent DTI survey (2005) there was a clear correlation between income levels and potential utilization rates. Women were more likely to say that they would share leave with partners who earned less than £1100 per month (2005, chart 7.3). This appears to reflect the role of the father as primary breadwinner, as well as suggesting that the working classes are more likely to share leave.

The class of the ideal working parent is consequently more difficult to discern. In relation to some rights, like parental leave, the ideal working

parent appears to be a middle-class person. However, preliminary conclusions relating to additional paternity leave tend to suggest otherwise.

With a Middle-Class Masculinity

Drawing from feminist examinations that argue that law represents a male perspective of life, Naffine identifies the final characteristic of the ideal legal person as displaying a middle-class masculinity (1990, pp.114-9). This is a particular form of masculinity that is developed from society's conception of the 'superior male' who is competitive, adversarial, individualistic, materialistic, and strong, but he is also reasoned, intelligent, and rational; in short, he displays the characteristics of middle-class men.⁷ Naffine, however, highlights that this type of masculinity excludes not only women, but also many men. It is an ideal type of masculinity, displaying characteristics that middle-class men aspire to achieve, as opposed to those that they actually have, so not only does it not represent all men, but also not even all middle-class men (1990, pp.118-119; see also Connell, 1987, pp.63-64; Segal, 1990, pp.x-xi on multiple masculinities).

If we consider these features of middle-class masculinity they do not appear to accord with a recognition and appreciation of a worker's family commitments, which is evident in the greater emphasis on childcare and relationships in the legislation as opposed to independence and separation from family life. This suggests that the 'ideal' working parent does not display the characteristics of middle-class masculinity, and therefore does not accord with this aspect of Naffine's conceptualization of the 'ideal' legal person.

Conclusion

This examination of the 'ideal' working parent and the 'ideal' legal person has highlighted the fact that while the ideal legal person can probably still be

⁷ Sachs and Wilson, 1978, p.10; Naffine, 1990, pp.115-6; Segal, 1990, p.94; see also, O'Donovan, 1985, pp.11-12.

conceptualized using Naffine's analysis, the same is not true of the 'ideal' working parent. In the first instance, the ideal working parent appears more likely to be a working mother than a gender-neutral person. Furthermore, while the class of the working parent is more difficult to discern, the parental leave experience suggests that only those parents who can afford to take unpaid time off work will actually utilize the leave. Finally, although the underlying principle of family-friendly legislation is gender-neutral childcare, it would appear that the legislation is based on a female-gendered approach to work and family life. This therefore, identifies the ideal working parent as: (predominantly) a woman; who is or whose partner is middle-class; and who displays a female-gendered approach to work and family life.

To conclude, the 'ideal' working parent cannot be usefully classified using Naffine's conceptualization of the 'ideal' legal person. Additionally, the subject of family-friendly legislation can be argued to be a woman as opposed to the gender-neutral working parent. Finally, it is also clear that the perception of the legislation as female-centred occurs irrespective of the reality of its aims.

Bibliography

- Blackstone, W., 1829. *Commentaries on the Laws of England*, 18th Ed, Vol. 1, London: Sweet, Maxwell and Milliken and Son.
- Burghes, L., Clarke, L., and Cronin, N., 1997. *Fathers and Fatherhood in Britain*, London: Family Policy Studies Centre.
- Camp, C., 2004. *Right to Request Flexible Working: Review of impact in first year of legislation*, Working Families.
- Caracciolo di Torella, E., 2000. 'A critical assessment of the EC legislation aimed at reconciling work and family life: Lessons from the Scandinavian model?', in Collins, H., Davies, P., and Rideout, R., (eds) 2000. *Legal Regulation of the Employment Relation*, Kluwer Law International, pp.441-458.
- Collier, R., 1995. *Masculinity, Law and the Family*, London: Routledge.
- Collier, R., 2001. 'A Hard Time to Be a Father?: Reassessing the Relationship Between Law, Policy, and Family (Practices)', *Journal of Law and Society*, 28(4), pp.520-545.
- Connell, R.W., 1987. *Gender and Power: Society, the Person and Sexual Politics*, Cambridge: Polity Press.
- Cotterrell, R., 1992. *The Sociology of Law: An Introduction*, 2nd Ed, London, Dublin and Edinburgh: Butterworths.
- DCA (Department for Constitutional Affairs), 2005. *Increasing Diversity in the Legal Profession: A Report on Government Proposals*. http://www.dca.gov.uk/legalsys/diversity_in_legal_2col.pdf (November 2005).
- DTI (Department of Trade and Industry), 1998. *Fairness at Work*, Cm 3968, London: The Stationery Office (May 1998).
- DTI, 2006. *Parental leave: A guide for employers and employees*, URN No: 06/567/A1. <http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/page18934.html#s7> (November 2006).

- Dex, S., 2003. *Families and Work in the Twenty-First Century*, York: Joseph Rowntree Foundation.
- EOC (Equal Opportunities Commission), 2005. *30 Key Cases*, <http://www.eoc.org.uk/Default.aspx?page=18060> (1 December 2005).
- Eurobarometer, 2004. *Europeans' Attitudes to Parental Leave*, European Commission, Special Eurobarometer 189/Wave 59.1 - European Opinion Research Group EEIG.
- Genn, H., and Paterson, A., 2001. *Paths to justice Scotland: what people in Scotland do and think about going to law*, Oxford: Hart.
- Government Offices of Sweden, *Parental Leave Act*, SFS 1995:584. <http://www.sweden.gov.se/content/1/c6/01/99/53/88351e06.pdf> (Last updated 27 October 2005, accessed 1 November 2006).
- Grainger, H., and Holt, H., 2005. 'Results of the Second Flexible Working Survey', *Labour Market Trends*, (Office for National Statistics), 113 (7), pp. 297-302.
- Hatten, W., Vinter, L., and Williams, R., 2002. *Dads on Dads: Needs and Expectations at Home and at Work*, Equal Opportunities Commission.
- Kay, H., 2000. *Women and Men in the Profession in Scotland*, Edinburgh: The Scottish Executive Central Research Unit.
- Lewis, C., 2000, *A Man's Place in the Home: Fathers and Families in the UK*, Joseph Rowntree Foundation.
- Matheson, J., and Summerfield, C., (eds) 2001. *Social Focus on Men*, National Statistics, London: The Stationery Office.
- McColgan, A., 2000. 'Family Friendly Frolics? The Maternity and Parental Leave etc. Regulations 1999', *Industrial Law Journal*, 29(2), pp.125-143.
- Morris, A., 1999. 'Workers First, Women Second? Trade Unions and the Equality Agenda', in Morris, A., and O'Donnell, T., (eds) 1999. *Feminist Perspectives on Employment Law*, London: Cavendish

- Publishing Limited, pp. 183-201.
- Morris, A., and O'Donnell, T., (eds) 1999. *Feminist Perspectives on Employment Law*, London: Cavendish Publishing Limited.
- Naffine, N., 1990. *Law and the Sexes: Explorations in Feminist Jurisprudence*, Sydney, N.S.W; Boston, Mass: Allen & Unwin.
- Naffine, N., and Owens, R.J., (eds) 1997. *Sexing the Subject of Law*, Sydney: Sweet & Maxwell.
- O'Brien, M., and Shemilt, I., 2003. *Working Fathers: Earning and Caring*, Equal Opportunities Commission.
- O'Brien, M., 2005. *Shared Caring: Bringing Fathers into the Frame*, Working Paper Series No. 18, Equal Opportunities Commission.
- O'Donovan, K., 1985. *Sexual Divisions in Law*, London: Weidenfeld and Nicolson.
- Okin, S.M., 1979. *Women in Western Political Thought*, Princeton New Jersey: Princeton University Press.
- Owens, R.J., 1997. 'Working in the sex market', in Naffine, N., and Owens, R.J., (eds) 1997. *Sexing the Subject of Law*, Sydney: Sweet & Maxwell, pp. 119-146.
- Reskin, B., and Padavic, I., 1994. *Women and Men at Work*, Thousand Oaks, California, Pine Forge Press.
- Sachs, A., and Wilson, J.H., 1987. *Sexism and the Law: A Study of Male Beliefs and Legal Bias in Britain and the United States*, Oxford, Martin Robertson & Company Ltd.
- SCB, 2004. *Women and Men in Sweden. Facts and Figures 2004*, ISSN 1650-0202, Official Statistics of Sweden, Statistics Sweden.
- Segal, L., 1990. *Slow Motion: Changing Masculinities, Changing Men*, London: Virago Press Limited.
- Smart, C., 1984. *The Ties that Bind: Law, Marriage and the Reproduction of Patriarchy*, London: Routledge and Kegan Paul.
- Smeaton, D., and Marsh, A., 2005. *Maternity and Paternity Rights and Benefits: Survey of Parents 2005*, Employment Relations Research

Series No. 50, Department of Trade and Industry.

Social Security Select Committee (SSSC), 1998/9. *Social Security Implications of Parental Leave*, HC 543 (ISBN 0 10 556431 1), London: The Stationery Office.

Weisberg, D.K., (ed.) 1996. *Feminist legal theory: Applications of feminist legal theory to women's lives: sex, violence, work, and reproduction*, Philadelphia: Temple University Press.