Meddlesome Mandate



A Briefing Book For Policymakers

Eagle Forum Education and Legal Defense Fund

MEDDLESOME MANDATE

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Rethinking Family Leave

Edited by

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TABLE OF CONTENTS

Foreword
Congressman Dick Armey 1

1. How Mandated Leave Policies Harm Women
   Deborah L. Walker 3
2. Public Attitudes on Parental Leave
   Karlyn H. Keene 19
3. Will Parental Leave Work?
   Brenda Hunter 41
4. Mandated Benefits Versus Spendable Income
   Marvin H. Kosters 51
5. Family Leave Policies in Other Countries
   Bryce J. Christensen 63
6. The Ideology of Federal Mandates
   Doug Bandow 79
7. The Political Economy of Mandated Family Leave
   James T. Bennett 95
8. Are We Facing the Future—or the Past?
   Phyllis Schlafly 109

Index 119

INTRODUCTION

by Congressman Dick Armey

Government social policy is at a crossroads. For more than half a century, the social democratic parties of the United States and Europe have sought to help their constituencies by erecting huge government bureaucracies to redistribute income and benefits among various interest groups. Some good has been achieved, but only at the expense of ever-increasing government control of national income and a reduction of personal freedom. In most Western countries, including the United States, government commands almost forty percent or more of all the goods and services produced.

Today, however, this ideology of Big Government is in crisis. Socialism in all its forms is being discredited around the globe. More immediately, a powerful anti-tax sentiment has arisen in virtually all the industrial countries, leading to three conservative presidential landslides in the United States and the firm ascendancy of conservative parties in Britain, Germany and elsewhere. Even Sweden's confiscatory government is now desperately trying to restrain itself. Public support for expanded government is at an all-time low.

Faced with this growing debacle, those who wish to use governmental power to address perceived social ills are looking for new, less unpopular approaches. In the United States, many Big Government politicians believe that, since Great Society programs have lost their appeal, they must find other ways to achieve their ends—preferably ways that do not further strain the depleted federal treasury.

Their answer is the government mandate. The idea is simple. If the government can no longer provide services to interest groups with the taxpayers' money, perhaps it can force private

individuals to provide the services and pay for them, too. The effect is roughly the same, but under a policy of mandates, the cost is concealed. Rather than being instantly apparent in the form of higher taxes that would fuel public resentment, it takes the hidden form of higher consumer prices, lower productivity and innovation, and higher unemployment.

This, I believe, is the true importance of the Mandated Family Leave proposal. It represents a fundamental policy departure for the government, substituting increased government regulation of private individuals for traditional spending programs.

If Congress and the President choose to step in this direction, other mandates will swiftly follow. Entirely new areas of our society will be open to increased government control. Already, other mandate legislation has been proposed that will impose $100 billion of hidden costs on private individuals as well as drastically change American lifestyles. We are at the point of decision.

Eagle Forum Education and Legal Defense Fund, led by Phyllis Schlafly, has understood the significance of this issue from the beginning. Drawing on years of experience in public policy debate—indeed, it is difficult to think of a single group that has been more influential on social issues since the early 1970s—Eagle Forum has analyzed the arguments on both sides of the issue, and has educated policymakers and opinionmakers as well as the general public.

Now, Eagle Forum has produced this fine volume exploring every major aspect of Mandated Parental Leave. Based on a conference sponsored by Eagle Forum Education and Legal Defense Fund in Washington, D.C. on February 12, 1991, it contains papers on the ideology behind government mandates, the public opinion data, the economic impact, the effect of parental leave on children, and many other key matters. There is no more thorough or enlightened treatment available on this critical issue.

U.S. Representative Dick Armey is in his fourth term representing the 26th District of Texas (part of the Dallas-Fort Worth area). He serves on the House Budget Committee and the Government Operations Committee. He received his Ph.D. in Economics from the University of Oklahoma and, before going to Congress, he chaired the economics department at the University of North Texas.

Chapter 1

HOW MANDATED LEAVE POLICIES HARM WOMEN

by Deborah L. Walker

A nationally recognized economist shows why Mandated Family Leave will inevitably increase discrimination against women, limit their options, and retard their progress in employment. She explains that central economic planning is a failure on a small scale as well as on a large scale.

Deborah L. Walker is Assistant Professor of Economics in the College of Business Administration at Loyola University in New Orleans. She formerly taught at George Mason University in Virginia. Her areas of specialization are Applied Microeconomics, Industrial Organization and Public Policy, Labor Economics and Gender Economics, and Public Choice.

Dr. Walker is the author of many articles in professional journals including The Free Market, Journal of the Southwestern Society of Economists, The Freeman, Pathfinder, *and* Market Process. *Her articles have appeared in anthologies published by the Rockford Institute and the Cato Institute. She has presented papers at academic conferences sponsored by Stanford University, the University of Texas at Arlington, Amherst College, the Southwestern Society of Economists, the Southern Economic Association, the Eastern Economic Association, and the University of Hartford.*

Dr. Walker received her Ph.D. and M.A. from George Mason University, and her B.S. and M.B.A. from Arizona State University, all in Economics. Among her academic awards and honors are the Outstanding Teaching Award from Loyola University, the Teaching Excellence and Campus Leadership Award from the Sears-Roebuck Foundation, the Outstanding Community Service Award from the College of Business Administration at Loyola, and an Earhart Foundation Fellowship.

Before I get into the text of my presentation, I want to speak directly to feminists as an economist and as a career woman. I am going to make the assumption that feminists want Mandated Family Leave because they feel it will help women in the workforce. Speaking directly to that argument, I am here to tell the feminists that I think they are wrong. In other words, Mandatory Family Leave legislation is not the right means to achieve their goal.

There are several end results that policymakers hope to achieve with a Mandatory Family Leave bill. Some may feel that young children need the constant presence of their mothers up to a certain age, and that this legislation will enable mothers to stay at home with their children for a period of time yet still remain in the labor market. Others may feel that making Family Leave mandatory will increase the number of options available to parents with regard to the partitioning of work for the labor market and in the home. In some countries, parental leave may be an important part of a population growth policy.

But Family Leave is also perceived as part of a policy to achieve equality or equity in the workplace. This equity is usually cited as wage-rate equity or equality of opportunity. The idea that Mandatory Leave requirements for employers, for example, will promote equality is based on the premise that real differences between the sexes need to be taken into account in the workplace. Therefore there needs to be a restructuring of the work environment so that women are able to compete on an equal footing with men. If sex differences are "equalized" in the market, it is thought that income equality would follow.

> The persistent difference in income levels between men and women may be attributed in part to the disruption of employment due to inadequate maternity leave policies. Furthermore, to the extent the income difference reflects the occupational segregation of women in low-paying, dead-end jobs, that segregation may reflect a 'choice' dictated in part by the lasting effects of career disruption due to inadequate maternity policies.[1]

In other words, it is thought that the Pregnancy Discrimination Act of 1978 (PDA),[2] which is the legislation now used as a

guide for federal maternity benefits, is not adequate. The PDA only requires that pregnancy be treated like any other disability. When a woman leaves the job to have a baby, she may use the disability policy of her employer.

Mandatory Family Leave legislation is therefore designed to "equalize" women in the workplace by allowing them to leave their job for a period of time (up to 18 weeks), retain their health and medical insurance while on leave, and then return to the same or a comparable job without the loss of seniority or pension rights.[3]

Legislation designed to help women in the workforce is not new. Historically, legislation has restricted women from entering occupations for several different reasons. They couldn't work in mines, for example, or in dark places with men, or at bars. Studies by economists have shown that those laws were passed by men because they were trying to keep women out of the labor force. They were trying to decrease their competition. Nowadays, these same types of policies are recommended *not* always by men but by women, and this is surprising, because these policies are not going to help women at all.

The economic analysis in this study will specify particular groups which may either benefit or lose from a Mandated Family Leave policy. The generalizations I make are necessary to the analysis, but are not meant as precise statements about every member in a generalized group. There will be exceptions to every generalization. Furthermore, the costs and benefits I discuss in this study are subjective to the individuals mentioned, and cannot be measured in any quantitative sense.

The costs that can be measured, however, are the accounting or monetary costs that a business must pay if it provides a Family Leave benefit. These costs cannot be ignored and, more important, will not be ignored by an employer. The economic reality in the marketplace is that long-term survival depends on making a monetary profit, and that profit is the necessary condition for the existence of a business firm.

Therefore, if the marketplace is "restructured" in the hope of making it a more "equitable" place for women to work, those operating in the market will not be passive to this restructuring. They will change their behavior and adjust to the restructuring

in ways that will allow them to continue making a monetary profit. This simple fact cannot be ignored and will not be ignored in this analysis.

Can policymakers restructure the workplace by mandating that all employers with a certain number of employees offer a Family Leave policy, and thereby achieve the desired end result of fostering employment opportunities for women? In other words, will women really benefit from this policy? The answer is yes and no. Some may benefit, but only at the expense of many others.

Studies indicate that women are more likely to use a Family Leave benefit than are men, even though men would have the same option. For example, even in the Scandinavian countries, where very generous parental leave policies have existed for several years (and can be used by either parent), less than a quarter of all fathers make use of it.[4]

Furthermore, in the United States, the Bureau of the Census notes that, of full-time workers, women are more likely than men to have had one or more work interruptions lasting six months or longer. Significantly, over one third of the time, "family reasons" was given as the cause for a woman's work interruption.[5] In this regard, Family Leave legislation would directly affect far more women than men.

Would Women Benefit?

In order to explain the different unintended consequences of Mandatory Family Leave legislation, particularly how it would affect women, I will use a fictional character. I am going to call her Emma Equity, because this legislation is supposedly designed to increase equity in the workplace.

Now let's say that Emma Equity is employed and she is planning to have a child in the near future. At first her employer does not offer parental leave, but then the government comes along and forces her employer to offer it. At the outset Emma Equity may benefit from this. The advocates of Mandated Family Leave will say, obviously she is better off because now her employer must offer it. But is she? Let's see what happens to Emma Equity.

The net effect of this benefit could actually be negative. The first economic effect of Mandated Family Leave legislation is the increase in female labor-force participation rates. Family Leave legislation will increase female participation in the labor market by giving women an added incentive to look for a job. This does not mean, however, that these women will find a job at their desired rate of compensation. It means only that they will enter the workforce looking for a job. If a woman definitely requires a maternity leave policy from her employer, and if most all employers must offer her one, she may feel better able to cope with both employment and motherhood. In fact, a woman may even look for employment because she's planning to have a child.[6] The cost of having a child could be prohibitive without Family Leave insurance, especially if a woman's husband is unemployed or his employer offers fewer benefits.

Evidence that mandatory maternity leave legislation leads to higher labor-force participation rates for women can be found in European countries. Denmark, for example, which offers one of the most generous maternity leave packages—28 weeks of leave with 90 percent of a woman's wage paid—has very high labor market participation rates for women. In 1987 the female labor force participation rate in Denmark was 78.6 percent. Even more pronounced is the fact that, in the same year, the participation rate for females with children under the age of 3 was even higher, at 84 percent. This same pattern also holds true in other European countries with liberal benefits.[7]

Mandated Family Leave legislation, therefore, may increase the number of women willing and able to enter the labor market. The economic consequences of this are twofold: a decrease of the wage rates in female-dominated occupations and an increase in employer discrimination, which could result in higher unemployment rates for women. Let me explain.

First, if a greater number of women enter the labor force, this increase in labor supply will tend to drive down wage rates, especially in female-dominated occupations. The women most affected will be those with little labor market experience or education and with general skills. This is because these women may actually be very productive in the home, but only enter the workforce because of the Family Leave benefit. Therefore,

wage rates in occupations requiring little experience and general skills would decline.[8] Many occupations with these characteristics are dominated by female workers.

You may say, wait a minute, Emma Equity is not one of these women. She's a highly-skilled woman; she's senior management. She has a Ph.D. and she is up there on top. So, Emma Equity has still benefited. But what about all of the rest of the women who are not on top? They will be affected. Indeed, perhaps Emma Equity will find that she will not get the raise she was expecting because of the cost of this legislation.

Second, and probably more important, the greater supply of women in the labor force would enable employers to discriminate at a low cost,[9] since they would not have to spend the resources necessary to search for the kind of employees they want to hire. Employees would be coming to them, not the other way around.[10] The employer might discriminate on the basis of experience, education, or technical training, thereby hiring only the "most employable," or the employer might discriminate on other bases, such as race, religion, or physical appearance.

> Most probably, employers would discriminate on the bases of marital status and age, as the employers would incur many costs by offering family leave. When a woman (or man) leaves a job, the employer must cope with that absence. The employer may hire temporary help to cover the position or require other staff to work longer hours and/or absorb the duties of the absent employee. The organizational position of the woman on leave may affect how the employer deals with her absence. The employer may choose not to replace a woman in a management position while she is on leave, because of her specialized knowledge. In this case, however, the employer would still absorb the cost of lost productivity resulting from her absence. On the other hand, lower-level positions requiring more general knowledge are easier to fill. In replacing women in these positions, the employer could incur the costs of paying temporary employees higher wages during the leave than would have been paid to regular employees, as well as productivity lost while training the temporaries. To avoid these added costs, employers might find it cost-effective to discriminate against married women of childbearing age, since these women could end up costing a firm more than they contribute to its worth.[11]

However, an employer may find that discriminating on the bases of education, skill, experience, age or marital status will not decrease costs, especially in light of the fact that they must offer a Family Leave benefit. The employer's best bet would be to discriminate on the basis of sex. Mandatory Family Leave legislation would increase, not decrease, sex discrimination in the workforce. Men would appear less risky to an employer.

Making Women More "Unequal"

In other words, a Mandated Family Leave policy, which is supposedly designed to "equalize" women in the labor market by compensating for the fact that women give birth and men do not, would actually make women even more "unequal" with respect to men in the sense that women would be less "employable." This may translate into higher unemployment rates for women.

Employers must discriminate in cost-effective ways in order to stay competitive. Employers already have many reasons for discriminating on the basis of sex. For example, turnover rates for women are much higher than for men, women have longer periods of unemployment and therefore less experience than men, and women are more likely than are men to move with their spouse if he is relocated. Mandated Family Leave, therefore, will provide employers with yet another reason to discriminate against women.

This will hurt Emma Equity because she may not get the promotion she was expecting. Her employer will now say, wait a minute, it's between Emma Equity or Joe. Since Joe is less likely to use this benefit, we will promote Joe and not Emma Equity. Emma Equity may even lose her job. Those trying to enter the workforce will not be able to do so because employers will view women as more costly to employ than men, granted that women use Family Leave more than men do.

Employers will discriminate especially on marital status, because married women will more likely have babies than non-married women, and on age. Women of childbearing age will be more discriminated against than women over childbearing age. This naturally follows from the cost of having to offer a benefit which employers did not choose to offer.

Employers will have to bear many other costs—in lost productivity due to people leaving the workforce and coming back, in the provision of additional training, in unemployment insurance for temporary employees, in administrative costs for administering the leave, not to mention the cost of the benefit itself. When these costs fall on employers, how will they react?

Let's take a scenario to show how employers might try to absorb these costs. Let's say that the employer wants to continue paying all employees the same level of compensation that they were being paid before. But compensation is a package: some compensation is in benefits, some in monetary wages. If employers have to offer a leave benefit, then they may have to decrease the monetary wage, but overall, say, the value of the package stays the same.

Now let's say that Emma Equity's husband is a business owner. His profit rate will drop; his take-home pay is going to drop. So, the household income of Emma Equity and her husband will drop. Emma Equity does not live in a vacuum. All kinds of people would be affected by Mandated Family Leave legislation, including perhaps her husband.

Another scenario would be that Emma Equity won't get the promotion she was expecting because her company had planned to expand and open a new plant with its retained earnings. Now it cannot do that because it no longer has the profits available. A lot of jobs aren't going to come into existence simply because Mandated Family Leave legislation was passed. The jobs that *don't* come into being are easy to overlook, but they are very important, and a lot of them would be jobs for women.

Let's say that the employer chooses instead to cut back on the wage rates that he pays employees. He doesn't want to cut back on his profit, so he has to cut back elsewhere. Once again, what we see is a cutback on employees. Emma Equity may get laid off. If not Emma, a lot of other women will be laid off, especially those with general skills.

Let's say the firm decides instead to pass the cost onto the consumer in higher prices. That is another option available to the firm. Emma Equity is also a consumer. She will pay higher prices. Prices will rise in industries that are female-dominated

relative to other industries, which means service industries and other industries such as cosmetology and retail sales.

When prices go up, of course demand comes down. When demand drops in those industries, people get laid off. Who's going to be laid off? Women.

So, all kinds of things happen in a market economy when you mandate something that businesses have to pay. It's not necessarily going to be in the best interest of working women.

In other words, Mandated Family Leave will *not* equalize women in the workforce but make them more *un*equal. It will increase discrimination against them because they will be more costly to businesses, and because that is the only way businesses in the market economy can react.

Some may say, let's just get rid of the market economy. But, all you have to do is look around the world at the economies that are planned and see what is happening to those economies right now. Planning doesn't work on a large scale, or on a small scale either, which is what this is—small-scale economic planning. It just doesn't work.

The International Argument

Proponents of Mandated Family Leave often point to the fact that most other industrialized countries provide some form of family leave legislation, arguing that the United States is "lagging behind" these other countries. I prefer to think of the United States as leading these other countries, not lagging behind them. Hopefully the example of the United States can be used to lead these countries out of the economic stagnation that accompanies policies such as Mandatory Family Leave.

Let's consider the facts. Maternity leave in one form or another is now a basic part of labor legislation in all OECD[12] member countries except the United States. Many countries have some form of parental leave, allowing either parent to take time off from the job. Maternity leave ranges from 13 weeks in Portugal to 52 weeks in Australia. Most countries average 8 to 12 weeks after birth, and 12 to 20 weeks over the whole pre- and post-natal period. In several countries (Austria, Belgium, Germany, Greece, Luxembourg, the Netherlands, Norway, and

Portugal), maternity benefits include full compensation for wages throughout the leave period. For other countries the wage replacement varies between 0 and 90 percent. With regard to parental leave, if parents do receive some compensation it is usually at a flat rate lower than the average wage. Only in the Nordic countries are the benefits as high as 80 to 90 percent of former wages, at least for a specific period of time.[13]

The question is whether these policies have given women a greater number of options and have helped them to fare better in the labor market. The answer appears to be to the contrary.

As in the United States, European women tend to have higher jobless rates than men do, with the exception of British women. But these differentials have always tended to be wider in Europe than in the United States. In Italy, where a woman is able to take 20 weeks of leave with 80 percent of her full wage paid, female joblessness is more than double that for males. French, German, and Dutch women have unemployment rates that are one-and-one-half times those for men.[14] Having benefits available to employed women are useful *only* if these women can find jobs. Could it be that the very reason these European countries are not creating job opportunities is because of the heavy burden policies such as Mandatory Leave legislation places on businesses?

A study conducted by the National Federation of Independent Business compared countries on the basis of proportion of benefits to monetary wages, employment growth, unemployment, and duration of unemployment. The comparison suggested the following:

> Those nations with the lowest proportion of benefits to wages—Australia, USA, and Japan—also have the highest levels of employment growth. These same nations exhibit lower levels of unemployment and duration of unemployment.[15]

Although, as mentioned earlier, those countries with ample benefits have relatively higher levels of female workforce participation rates, this does not necessarily indicate that women therefore have a greater number of options. In fact, in a weak economy many women may enter the workforce by necessity,

rather than by choice. A strong economy, on the other hand, not only allows those women who prefer to enter the workforce to have the option to do so (and also increases their options regarding the type of work they choose), but it also allows those women, who prefer to work at home, to do so.

A strong economy, therefore, is the key to increasing the number of options for all women. It is quite clear that those economies burdened by government mandates are much weaker in terms of employment growth. One study indicates that "since 1970 total employment has stagnated in Western Europe, while it increased 40 percent in the United States."[16]

Another important aspect to consider is whether or not, relative to the United States, women are moving out of the more traditional "female occupations" in those countries with mandatory benefits. The answer is no. In the United States, occupations such as secretary, nurse, or librarian are predominantly female. This is also the case in countries such as Sweden, where 89 percent of all secretaries are female and 95 percent of all professional nurses are female.[17]

A final point that I would like to address regarding the "international argument" is the issue of the differences in the male/female wage gap among countries. Proponents of legislation such as equal pay for "comparable worth" often note that, in those countries which have such legislation, the male/female wage gap is much smaller—indicating that this might be a good policy to follow. For example they point to Sweden, where in 1985 women earned 91 percent of what men earned; or to Denmark, where in 1986 women earned 82.2 percent of what men earned. This is compared to the United States, where the figures indicate that women earned only 65 percent of what men earned in 1987.[18]

Aside from the fact that these "measures" of the wage gap are not entirely comparable (in Sweden the figure is the average monthly earnings in industry, in Denmark it is average hourly earnings, and in the United States it is median annual earnings), a wage gap between two "groups" in an economy can actually be justified on economic grounds. Those countries in which the wage gap is small are also countries in which the labor markets are so cluttered with regulations that the important information

embedded within a wage rate is entirely distorted. What this means is that the necessary market signals which direct resources (including human resources) into those areas in which they are most highly valued cannot be relied upon. Thus we have the final outcome: a stagnant and unhealthy economy, which is not the outcome best suited for increasing the number of options available to women.

The Knowledge Factor

My grandmother's cookie recipe passed away with my grandmother. Although I must have watched her make cookies a hundred times and can put the right ingredients into the bowls and bake them at the right temperature, my cookies never turn out like hers. My grandmother had a very special way of making cookies—a knowledge that was so embedded within her, that she couldn't pass it on to me. This knowledge was tacit or inarticulate, and was very specific to my grandmother's experience and circumstances. If my grandmother had been told that she must use a specific brand of flour, or could only knead the dough ten times, her cookies would not have turned out as they did—because these "mandates" would have forced my grandmother to forgo her knowledge of the right way to make cookies in favor of the universal way of making cookies.

The point here is that knowledge in the marketplace, in the business firm, as well as in the household, is in many ways inarticulate.[19] Knowledge not only changes with time and circumstances, but it is also widely dispersed throughout the economy. What is most important is that this very individualized knowledge can only be utilized if the decisions regarding its utilization are left to the individual decision-makers. As economist Friedrich A. Hayek explains:

> . . . every individual has some advantage over all others because he possesses unique information of which beneficial use might be made, but of which use can be made only if the decisions depending on it are left to him or are made with his active co-operation.[20]

Employers in the workplace possess this type of knowledge regarding not only what they can and cannot afford to offer in

terms of compensation packages, but also regarding the characteristics of the workforce in their region, and their specific needs with regard to employees. Employees also come into the workforce with very individualized knowledge and needs.

What happens in the labor market, therefore, is that individual employers and employees each bring their own knowledge and needs to the bargaining process. If an employer can offer an employee a package that fits his or her needs, and vice versa, a mutually advantageous exchange will take place. If not, then they will both look elsewhere, until a match is found.

By being able to bargain openly and freely in the labor market, both parties are able to express their individuality and utilize their specific knowledge. What happens, therefore, is that more knowledge is gained by both parties (about the other, for example) and this knowledge is then utilized in the next bargaining process.

For example, over time an employer in a certain area might come to the conclusion that, in order to attract and retain competent female employees, it must offer a Family Leave policy as part of its benefit package. This is because enough individual employees desire the benefit as part of their compensation package. The firm may then find that it is cost-effective to offer this benefit, and do so.[21]

On the other hand, another firm may find that it can hire and retain as many competent employees, including women, as it needs without offering this benefit. And, in fact, the employees of this firm prefer to receive almost all of their compensation in the form of money. If the firm decreased its monetary wages in order to pay for a Family Leave policy, the vast majority of its employees would be worse off.

The Alternative: Individualized Contracts

Certainly it would make the job of social and economic planners much easier if people were more like cookies: all made from the same recipe and cut from the same cookie-cutter. But, and fortunately so, that is not the case. People are all unique human beings, with divergent tastes, divergent goals, and divergent plans. This diversity is what poses such a problem for policymakers. For whatever reason, policymakers are constantly

trying to impose some sort of cookie-cutter order upon society, rather than allowing an economic order to evolve on its own.

Aside from the fact that many people may not prefer a cookie-cutter society, the question, of course, remains as to whether policymakers can actually achieve the order they want to impose. Or is our economy entirely too complex, and the individuals within our economy entirely too unique, for any type of planned order to be successful?

The bottom line is that government policymakers simply cannot possess the knowledge necessary to give directives to all employers regarding what is best for all employees. The decisions that firms make are particular to each firm's circumstances, just as the decisions that individual women make are particular to each woman's unique circumstances.

What is also important is the mobility of labor resources. If employers and employees are able to bargain on an individual basis, without the restrictions of government mandates, many more "bargains" can be made. What this means is that it will be much easier for people to move into jobs in which they are more valuable or productive.

Not only is an unhampered bargaining process much better for individual employees and employers, but it is also much better for economic growth. An economic growth translates into more job opportunities and more choices for women.

Mandated Family Leave legislation would lead to the following:

1. Wage rates in female-dominated occupations would decrease as a result of a larger number of women entering the labor force.

2. Sex discrimination in the labor market would increase, not decrease. Because Mandated Family Leave benefits are costly to employers, they would avoid hiring individuals who would most likely use them. These individuals would be women, especially married women of childbearing age.

3. The economy as a whole would suffer, decreasing the number of options available to women.

What all women need is a strong and prosperous economy. This is the only environment that will allow women who prefer to work outside the home, as well as those who prefer to work inside the home, to have the options to do so. By allowing em-

ployers to offer individualized contracts, all individuals can be accommodated in the workforce. A Mandated Family Leave policy would not increase the number of options available to women; it would decrease them.

Notes

1. Dow, Nancy E., "Maternity Leave: Taking Sex Differences Into Account," *Fordham Law Review* 54, no. 5 (April 1986); 706.
2. P.L. 95-555, 92 stat. 2076 (codified as amended at 42 U.S.C. Sec. 2000 e [K] [1982]). There are also many state statutes and regulations that require employers to offer maternity leave. The PDA amended Title VII of the Civil Rights Act of 1964. It also makes it illegal for employers to terminate an employee because of pregnancy.
3. See the Family and Medical Leave Act. This bill was first introduced as H.R. 4300 on March 4, 1986. Similar legislation, S. 2278, was introduced in the Senate in April 1986. It was then introduced again as H.R. 925 and S. 249. The Family and Medical Leave Job Security Act of 1987 was introduced on January 6, 1987. The Family and Medical Leave Act of 1991 was introduced as H.R. 2 on January 3, 1991 and as S. 5 on January 14, 1991.
4. Townson, M., "Paid Parental Leave Policies: An International Comparison with Options for Canada," in *Report of the Task Force on Child Care, Service 4 Child Care: The Employer's Role*, Status of Women Canada, 1985, pp. 1-70.
5. Bureau of the Census, *Male-Female Differences in Work Experience, Occupation, and Earnings: 1984*, Household Economic Studies Series P-70, no. 10 (August 1987), p. 14.
6. In many cases, these benefits contain a provision that the employee plans to return to employment after the leave period. This provision allows employers to offer the benefits more cost-effectively since new employees would not need to be hired or trained. The provision would be especially helpful with respect to positions requiring job-or firm-specific training. Unfortunately, costs of the leave benefits have been greater than expected because women sometimes do not return to the company as promised. Their behavior adversely affects all women by increasing an employer's risk when hiring women of childbearing age.
7. *OECD Employment Outlook*, pp. 1265, 144, 200. For example, participation rates for all females in France and Italy in 1987 were 55.7 percent and 43.4 percent respectively; for females with children less than 3 years old, participation rates were 60 percent and 46 percent respectively.

8. Walker, Deborah, "Mandatory Family Leave Legislation: The Hidden Costs," Cato Institute Policy Analysis, no. 108, June 8, 1988, p. 6.
9. *Ibid.*, p. 6.
10. Sowell, Thomas. *Markets and Minorities* (New York: Basic Books, 1981), p. 42.
11. Walker, *op. cit.*, p. 6.
12. Organization for Economic Co-operation and Development. Members include Australia, Austria, Belgium, Canada, Denmark, Finland, France, the Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.
13. *OECD Employment Outlook*, July 1990. Organization for Economic Co-operation and Development, pp. 142-144.
14. Kutscher, Ronald E. and Constance E. Sorrentino. "Employment and Unemployment Patterns in the U.S. and Europe, 1973-1987, *Journal of Labor Research* 10 (Winter 1989), p. 13.
15. Sloan, John, "Response to Introduction of Parental Leave Legislation," National Federation of Independent Business, February 3, 1987, p. 2. The countries in this study included Italy, Germany, France, Netherlands, Sweden, Australia, the United States, Japan, and the United Kingdom.
16. Ernst, Maurice. "How Not to Create Jobs: Lessons from the West European Experience," *Journal of Labor Research* 10 (Winter 1989) p. 39.
17. National Committee on Pay Equity, "Closing the Wage Gap: An International Perspective," not dated, p. 5.
18. *Ibid.*, pp. 12 and 14. In Sweden the figure is the average monthly earnings in industry. In Denmark the figure is average hourly earnings. In the United States the figure is median annual earnings.
19. Polanyi, Michael. *Personal Knowledge: Towards a Post-Critical Philosophy.* New York: Harper & Row, 1962.
20. Hayek, Friedrich A. "The Use of Knowledge in Society," in *Individualism and Economic Order.* Chicago: University of Chicago Press, 1948, p. 80.
21. In the United States, many companies offer parental leave without being forced to do so by government mandate, but are "forced" to do so by competitive pressures. Examples include the following: Procter & Gamble offers two weeks of paid leave before delivery and six weeks after. Levi Strauss & Co. provides a guaranteed job-protected leave for the birth or adoption of a child. Merck provides six weeks of paid leave for a disability (including pregnancy); unpaid leave is permitted up to 18 months with the employee's previous position guaranteed.

Chapter 2

PUBLIC ATTITUDES ON PARENTAL LEAVE

by Karlyn H. Keene

An analyst of polling data on public opinion about social and political issues identifies survey questions of recent years that relate to workplace and family, with specific reference to parental and family leave.

Karlyn H. Keene is Editor of The American Enterprise *magazine, the flagship publication of the American Enterprise Institute. She joined the Institute in 1979 and became a Resident Fellow in 1983. From 1981 to 1989, she was Managing Editor of* Public Opinion, *the American Enterprise Institute journal which published compilations and comparisons of public opinion surveys taken by various firms.*

Ms. Keene is a graduate of the University of Wisconsin. In 1985 she was selected as one of six Fellows at Harvard University's Institute of Politics. Prior to joining the American Enterprise Institute, she was research director for a public relations firm, and prior to that worked for a U.S. Senator.

An expert on opinion surveys, Ms. Keene has written on many public opinion topics including the gender gap, the political impact of the baby boom generation, the "fairness" issue in American politics, foreign policy attitudes, family issues in Campaign '88, and the Federal Government's role in our society. Her most recent articles appeared in the Baltimore Sun *and the* Wall Street Journal.

Public opinion polls are an important device to understand what makes a complex and heterogenous public tick, but they should not be used to make policy. They rarely provide specific guidance on individual pieces of legislation.

We are fortunate in the area that we are talking about that there is a wealth of good polling data that sheds light on public attitudes toward the family and toward the needs of the family today. There are three essential properties, I would say, of public opinion data relating to the family.

The first is a powerful continuity of certain attitudes in the 50 years we have been collecting public opinion polls. The second is a profound ambivalence that we see in many areas of public opinion. On the one hand, because the United States is a rich and powerful country, we want government to do many things. But on the other, we think that big government is too powerful, too intrusive, too wasteful. The data also show profound ambivalence toward women's roles. On the one hand, we, as a society, applaud efforts to advance women's status and to provide more opportunity for women. But on the other, we think that advancement has produced all sorts of other problems, including those involving the raising of children.

A third powerful property is a kind of poetry when we are giving answers to questions, but they don't mean endorsement of specific policies. Family leave questions may fall into this third category.

As I review the data, it seems clear that there is no indication of a groundswell of support for a Family Leave Act. There is no sense of urgency on the part of the American public that such a bill should be enacted.

Family—Our Most Important Value

One of the areas where we see powerful continuity in public opinion data is on the importance of the family. We see over and over again that family is the most important value that defines us as a people and as individuals. Some relevant questions are shown below.

Question: For each item tell me whether it is very satisfying to you, somewhat satisfying, not too satisfying, or not at all satisfying to you. If it doesn't apply, just say no.

Percentage of women describing each as "very satisfying"

Children	66%
Role as mother	59
Friend	59
Relationship with husband	56
Freedom to choose how to live	54
Job	35
Control over life	34
Future opportunities	30
Income	18

Note: Not all categories shown.

Source: *Survey by the Roper Organization for Virginia Slims, July 22-August 12, 1989.*

Very important elements of success

Being a good parent	95%
Happy marriage	90
Happy relationship with another	86
Being wealthy	12
Being prominent	8

Note: Not all categories shown.

Source: *Survey by the Roper Organization for the* Wall Street Journal, *February 1987.*

Question: Here are some statements about what some people are like. Please tell me whether they describe or do not describe you.

Raising children is a main satisfaction in my life	59%

Source: *Survey by Yankelovich Clancy Shulman for* Time *and Cable News Network, April 15-17, 1986.*

Question: As a society, do you think the United States devotes too much, too little, or about the right amount of effort to the problems of . . .

	Too much	Too little	Right amount
The elderly	2%	72%	24%
Children	**4**	**63**	**30**
Minorities	18	42	35
Women	10	33	53
The poor	6	73	19

Source: *Survey by Louis Harris and Associates for Philip Morris Companies, Inc., December 22, 1988-February 8, 1989.*

Question: Now, please tell me if you agree or disagree with each of the following statements. With both parents working and doing other things, it's a different world, so children should be raised in a different way from the way I was raised.

Agree	46%
Disagree	51

Source: *Louis Harris and Associates for Philip Morris Companies, Inc., February-March, 1987.*

Transition To a New Work Order

While Americans applaud efforts to strengthen women's status in our society, they are uneasy about some of the results of those changes, particularly those relating to families. Women's expectations about work have changed, too (see box below), and so has the nature of their responsibilities. In addition to providing care for children, women will also be assuming greater responsibilities for elderly parents. Census data now show that the average woman will spend 17 years raising a child, and 18 years with some responsibility for an elderly parent. In 1900, 17 years were spent raising a child, 9 caring for an elderly parent.

National Longitudinal Study, 1968

28% of white women aged 14-21 said they expect to be working at age 35. 56% of young black women said they would be working then. In fact, 70% were working at age 35.

Only a decade later,
72% of white women aged 14-21 expected to be working at age 35; 86% of black women did.

Source: *National Longitudinal Survey, Department of Labor.*

Ideal family size

Two children

1936	32%
1987	60%

Source: *Survey by the Gallup Organization, March 14-18, 1987.*

When Gallup first asked, in 1938, whether you approve of a woman earning money in business and industry if she has a husband capable of supporting her, only a quarter of women approved of that idea; 78 percent disapproved. When that question was asked again in 1989 by the *Los Angeles Times*—"It is better for everyone involved that the man is the achiever outside the home and the woman takes care of the home and family?"—still 4 out of 10 Americans agree with the first proposition representing continuity of the idea that keeping home and family together is a major responsibility. This is still a very powerful current in opinion data.

Question: Do you approve of a married woman earning money in business or industry if she has a husband capable of supporting her?

1938

Men's response		Women's response	
Approve	19%	Approve	25%
Disapprove	81	Disapprove	75

Source: *Survey by the Gallup Organization, October 1938.*

It is much better for everyone involved if the man is the achiever outside the home and the woman takes care of the home and family.

1981

Agree	61%

1989

Agree	41

Source: *Survey by the* Los Angeles Times, *March 1989.*

What is even more significant to me, as I review surveys on a continual basis, is the attitudes of high school seniors. Gerald Bachman at the University of Michigan takes a survey that is probably most familiar because it is the standard survey that tells us about drug use of the high school age population. But that survey has a wealth of other data about how young men and women expect their lives to turn out, and what their expectations are for family. In the latest survey for which data are available, 1987, 80 percent of high school seniors (69 percent of young men) said that it was acceptable or desirable for a husband and wife to work full-time when there are not children. But when you present the situation with pre-school children, a majority of neither young men nor young women high school seniors find it acceptable or desirable for both parents to work full-time.

1990

82% of women among high school seniors and 71% of young men said it is acceptable or desirable for husband and wife to work full time when there are no children.

But with preschool children a majority of neither young men nor young women find it acceptable or desirable for both to work full time.

Source: *Survey by the University of Michigan, 1990.*

1987

It is usually better for everyone involved if the man is the achiever outside the home and the woman takes care of the home and family.

High school seniors

Agree	34%
Disagree	51

Source: *Survey by the University of Michigan, 1987.*

Unease About A Transition We Applaud

There is a great deal of ambivalence in survey data about women's roles today. We applaud efforts to increase women's status, but we worry about the effects that those changes have had on young children. The unease in public opinion data about the new family arrangements is profound.

Question: How often would you say you feel torn between the demands of your job and wanting to spend more time with your family?

Women	
Frequently	28%
Sometimes	37
Rarely	28

Source: *CBS News*/New York Times, *June 1989.*

Perhaps even more significant was a major survey done for Peter Hart, a pollster who polls regularly for Democratic candidates. He conducted this poll for *Rolling Stone* magazine. This was a survey of 18-to-44-year-olds; a group that is a little bit larger than the baby-boom cohort. Peter Hart asked these young men and women whether or not a series of things were either a change for the better or a change for the worse since their parents' time. On the last question, a plurality of women as well as men agreed that more employed mothers was a change for the worse.

Question: Following is a list of changes some people say have occurred that are different from the practices of their parent's generation. Do you think each has been a change for the better or a change for the worse?

18 to 44 year olds	Change for the better	Change for the worse
More openness in society	83%	11%
Less involvement in community activities	11	77
Less religious training for children	13	72
More children in day care	33	55
More working mothers	37	49

Note: Not all categories shown.

Source: *Survey by Peter D. Hart Research Associates for* Rolling Stone, *September 11-20, 1987.*

When asked by the Roper Organization for the Virginia Slims Survey whether they had given up too much in the process of getting better opportunities, a plurality of women, 48 percent, said that women have had to give up too much; 45 percent said that women have not.

Question: Many women have better jobs and more opportunities generally than they did 20 years ago, but do you think women have had to give up too much in the process or not?

	All	Women
Gave up too much	41%	48%
Have not	54	45

If answered "gave up too much": What have they had to give up?

Family life cited by 19%

Source: *Survey by the Roper Organization for Virginia Slims.*

We have seen a fascinating change on two major questions in the Virginia Slims/Roper survey, a survey that has been conducted on a regular basis since 1974. The number of women saying that they would prefer to stay home now exceeds the number of women who would prefer to be in the workforce. This is a major change in the survey data. If the Supermom image ever had any relevance for American women, that time has long since passed.

Question: If you could choose marriage and children, and a career, what would you prefer for yourself—to have all three, or to have some combination of all three?

Women	**1974**	**1985**	**1989**
All three	52%	63%	49%
Marriage and children	38	26	34

Source: *Survey by the Roper Organization for Virginia Slims, July 22-August 12, 1989.*

Question: Now, if you were free to do either, would you prefer to have a job outside the home, or would you prefer to stay home and take care of a house and family?

Women	**Prefer to stay at home**	**Prefer to have a job**
1974	60%	35%
1980	51	46
1985	45	51
1989	51	42

Source: *Surveys by the Roper Organization for Virginia Slims, latest that of July 22-August 12, 1989.*

What Do Women Want in the Workplace?

The compilation of these data show a great deal of unease among women about the transition to the world of work. We certainly applaud those efforts to change women's status, but there are reservations.

Surveys generally show that women prefer better pay packages and health benefits to other kinds of benefits employers might provide. They also believe that it is highly desirable for employed parents to take parental leave with a newborn.

What women think needs to change in next decade

Major changes	
Salaries	50%
Day-care options	47
Women's opportunities to move to leadership positions	45
In business	44
Kinds of jobs open to women	42
Kinds of marriages women have	35
Women's roles as mothers	30
Women's roles as homemakers	29

	Women employed full time with children	**All employed women**
What would increase job satisfaction		
Incentive or bonus programs	62%	55%
Better health benefits	58	53
Being under less pressure	53	46
More flexible hours	52	42
More rewarding tasks	47	43
A company-run day-care center	46	31
More feedback	45	42
Better maternity/parental leave	42	28
Having a more understanding boss	41	38
More opportunity to work at home	36	27

Source: *Survey by the Roper Organization for Virginia Slims, July 22-August 12, 1989.*

Question: How necessary and desirable do you feel it is to have working parents take parental leave time off to be with the child, when the parents have a new baby—very necessary and desirable, somewhat, not much, or not necessary and desirable at all?

	Working parents take a parental leave of absence when have new baby
Very necessary and desirable	82%
Somewhat desirable	15
Not much	1
Not very necessary or desirable at all	2

Source: *Survey by Louis Harris and Associates for Philip Morris Companies, Inc., December 22, 1988-February 8, 1989.*

Question: If you were to . . . do you think you would be seen by others at work as being not able to cope, or not?

	Would be seen as not able to cope	**Would not be seen that way**
Take a parental leave of absence	25%	71%
Let it be known you need child care	12	85

Source: *Survey by Louis Harris and Associates for Philip Morris Companies, Inc., December 22, 1988-February 8, 1989.*

Question: Sometimes a parent has to stay home from work to take care of a sick child. When this situation arises in your house, who usually stays home, you or your spouse?

Married women with children

Woman usually takes care of sick child	71%

Generally, when this happens, how understanding is your supervisor at work—very understanding, somewhat understanding, or not understanding?

Women

Very understanding	42%
Somewhat	15
Not understanding	5

Source: *Survey by the* New York Times, *June 20-25, 1989.*

Is There a Problem?

How urgent do Americans feel Family Leave legislation might be? A place to start in thinking about Americans' priorities today is a simple question that has been posed for more than 20 years. Think about it. "What is the most important problem facing the country today?" It is what we in the polling business call an "open-ended question." That means you can give any response you wish, and these responses are tabulated and coded. Since CBS has asked that question in 1981, neither child care nor parental leave has ever been mentioned by any individual as the most important problem facing the country.

In 1989, CBS asked the same question of women—what's the most important problem facing women today? Once again, parental leave did not make the list as the most important problem for women today. Reflecting the emphasis that women put on equal salaries and on advancing their own careers, the largest response in that open-ended question asked by CBS was 12 percent who spontaneously said that equal pay was the most

important issue facing women today. That was followed by 10 percent who said balancing work and family responsibilities.

While Americans like the idea of parental leave, there is very little evidence to suggest that the lack of a federal mandate in this area is seen as a serious problem.

Question: I'm going to read a list of actions that could be taken by leaders in business and government. For each, please tell me if you think that action should be given the highest priority possible by our leaders, high priority, medium priority, low priority or shouldn't that action be taken at all. How about making it easier for parents to take the time off from work without pay after they've had a child? Should that action be given the highest priority, high priority, medium priority, low priority, or shouldn't that action be taken at all?

Making it easier for parents to take time off work without pay after they've had a child

Highest priority	8%
High priority	31
Medium priority	37
Low priority	15
Action shouldn't be taken at all	9

Source: *Survey by ABC News/*Washington Post; *March 30-April 3, 1989.*

When put in a slightly different perspective, something that ABC News and the *Washington Post* did immediately before the debate last summer on the first Mandated Family Leave bill, the question was asked: Which is the most important—taking stronger action to clean up the nation's air and water, increasing the minimum wage, making affordable child-care available to working parents, and making it easier for parents to take time off from work without pay after they have had a child? Parental or family leave was cited by only 3 percent in the poll. That tells us a great deal about the intensity of support for the overall issue.

Question: Of all these things, which is most important?

Taking stronger action to clean up the nation's air and water	63%
Increasing the minimum wage employers must pay workers	19
Making affordable child care available to working parents	15
Making it easier for parents to take time off from work without pay after they've had a child	3

Source: *Survey by ABC News*/Washington Post, *March 30-April 3, 1989.*

When Americans were asked in another survey whether or not they feel that their employer makes adequate provisions for emergency needs of parents, more than 7 in 10 Americans suggested that the employer already makes adequate provisions for both regular and emergency needs of parents. Two-thirds of Americans indicate that their company already has a maternity leave policy.

Question: Do you feel that your employer makes adequate provisions for both the regular and emergency needs of working parents, or not?

Employer makes adequate provision for both regular and emergency needs of working parents	73%
No, does not	24

Source: *Survey by Louis Harris and Associates for Philip Morris Companies, Inc., December 22, 1988-February 8, 1989.*

Question: Which of these programs does your company presently have?

Maternity leave for mothers to care for newborn children	66%
Flexible work schedules for parents	43
Employee leave to care for elderly parents	24
Paternity leave for fathers to care for newborn children	20
Day-care programs for employees' children	10

Source: *Survey by Yankelovich Clancy Shulman for* Time *and Cable News Network, August 28-29, 1989.*

Question: When it comes to giving their workers with children flexible hours or leaves of absence, do you think most employers are equally willing to do this for men and women, are more willing to do this for their female workers, for their male workers, or not willing at all?

Equally	16%
More for women	46
More for men	5
Not at all	26

Source: *Survey by the* New York Times, *June 20-25, 1989.*

Thinking About Parental Leave

Polls help us to understand a complex and heterogeneous public. They rarely provide expert guidance on specific pieces of legislation. While it is clear that Americans want to do more to help families, and that they like the idea of parental leave, responses to poll questions about specific parental policies produce different responses, and thus little clear guidance on legislative initiatives. A Roper question suggests that 31 percent of Americans feel that granting unpaid parental leave is something

companies should be required to do, but 43 percent said it would be nice but should not be required, and 20 percent said this is something companies should not be expected to do.

Question: There is a measure before Congress which, if passed, would require employers to provide unpaid leave to at least one parent of a newborn child or to employees who need to care for a seriously ill family member. The leave would be unpaid, but the job would be protected for up to 18 months. Basically, do you think this measure is a good or a bad idea?

Good idea	77%
Neither good nor bad	5
Bad idea	15

Source: *Survey by Fingerhut/Granados Opinion Research for SEIU Service Sector, May 1987.*

Question: Now let me read you some arguments that have been made both for and against this measure, and for each one would you please tell me whether you agree a lot, agree a little, disagree a little, or disagree a lot?

	Agree a lot/ a little	**Disagree a little/ a lot**
It's unfair for the government to require businesses to provide leave to new parents	62%	35%
Working parents will keep their jobs and work harder if they get time off to care for a new baby or seriously ill family member	77	16
Working parents shouldn't have to choose between losing a job and taking care of a new baby	81	16
Employers would be less likely to hire women if law required them to give new parents time off and job guarantees following birth or adoption	66	29

Note: Not all category responses shown.

Source: *Survey by Fingerhut/Granados Opinion Research for SEIU Service Sector Issues, May 1987.*

Question: Congress is considering a law that would require companies to give employees up to three months of unpaid leave for the birth or adoption of a child, or to care for a seriously ill family member, while guaranteeing their job. Would you favor or oppose this law, even if it means additional costs for business?

	May 1990	July 1990
Favor	69%	71%
Oppose	26	24

Source: *Survey by Hart-Teeter Research Companies for NBC News/* Wall Street Journal, *latest that of July 6-10, 1990.*

Question: Congress is now considering a bill, often called the "parental leave" bill, that would require employers with five or more workers to offer both mothers and fathers an unpaid leave of up to eighteen weeks after a birth or adoption. The legislation would require employers to give parents their former jobs or comparable one when they returned to work. The bill would also allow parents time off to care for a seriously ill child. Do you think requiring employers to provide unpaid parental leave for employees is a good idea or a bad idea?

Requiring employer to provide unpaid parental leave is a good thing	63%
A bad thing	25

Source: *Survey by Mark Clements Research, Inc., for* Glamour, *August 1986.*

Question: I am going to read some statements to you about current issues. Please indicate if you strongly agree, slightly agree, slightly disagree, or strongly disagree. . . . There should be a federal law guaranteeing maternity leave.

Women

Agree that there should be a federal law guaranteeing maternity leave	89%
Disagree	11

Source: *Survey by Mark Clements Research, Inc. for* Glamour, *August 1986.*

Question: What about paid parental leave: Do you think it would be a good idea or a bad idea to enact a law that would require employers to give both mothers and fathers three months of leave at 75 percent pay following birth or an adoption?

Requiring employers to provide parental (75% pay) leave is a good thing	38%
A bad thing	50

Source: *Survey by Cambridge Reports, Inc., July 7-August 8, 1986.*

Question: Congress is considering a bill that would require companies employing more than fifteen people to grant up to eighteen weeks of unpaid leave to employees under certain circumstances and be required to hold the employee's job for him or her. Here are those circumstances. (Card shown respondent) Let's talk about the up-to-eighteen weeks leave first. Do you think granting such leaves is something companies should be required to do, or something that would be nice for them to do but not required, or something that they should not be expected to do?

Granting unpaid parental leave is something companies	
Should be required to do	31%
Nice, but not required	43
Should not be expected to do	20

Source: *Survey by the Roper Organization, December 6-13, 1986.*

We are frequently told that the United States is one of only a few major countries in the world that does not have a parental leave policy. This may or may not be true, but it really does not represent a good understanding of how Americans see themselves and their government. Because we are a rich and powerful country, we think government should do many things; but we also think it is intrusive, overbearing, and very expensive, and we are loathe to see its purview expanded much more. Our attitudes are very different from those of the Europeans about issues like parental leave because our tradition is much different. It is one that places fundamental emphasis on individual responsibility and, in fact, the data show over and over again that European attitudes about major governmental involvement are much more positive than those of the United States. The traditions are different, the attitudes are different, and they should not be compared.

Most women tell surveyors that they work to provide for their families and, clearly, making the best arrangements for

children and newborns is a central part of that concern. The public expresses general support for some assistance. But to confuse or exaggerate this sentiment as support for a particular piece of legislation sheds very little light on the subject.

Chapter 3

WILL PARENTAL LEAVE WORK?

by Brenda Hunter, Ph.D.

A psychologist and specialist in the theory of attachment directs our attention to the needs of the baby, who requires two to three years of mother care in order to fully develop the emotional security necessary for development into a secure and responsible child and adult.

Brenda Hunter is a psychologist and internationally published writer. A specialist in infant attachment, she has presented papers on the effects of infant daycare at child care conferences, national conventions, and meetings of family organizations.

Dr. Hunter is the author of Beyond Divorce *and* Where Have All the Mothers Gone?, *as well as numerous magazine articles focusing on family issues. She is co-founder and president of Home by Choice, a national organization dedicated to supporting and encouraging mothers at home. She has taught at several colleges and universities, including the State University of New York at Buffalo, the University of North Carolina, and, most recently, Georgetown University. She has appeared on various television and radio programs, including NBC News, World Monitor News, and Focus on the Family.*

Dr. Hunter received her Ph.D. from Georgetown University, her B.A. from Wheaton College, and her M.A. from the State University of New York at Buffalo. The mother of two grown daughters, Dr. Hunter lives with her husband Don, an attorney, in Vienna, Virginia.

The very real needs of children and their families is a topic that evokes strong feelings in most adults. I come to you today, not as an authority on government or governmental policies,

but as a psychologist who has spent the better part of the past six years learning about child development, particularly attachment and infant daycare. I have become something of a specialist on the subject of attachment—that is, the close, emotional bond that the baby forges with his parents during the earliest months of life. It is from this perspective, then, that I will address the subject of Mandated Parental Leave.

A just government is responsive to the needs of its people. A just government that envisions itself as the implementer of "a kinder, gentler nation" must be concerned about the needs of its families. The family is—and has been since man's beginning—the basic societal unit. Strong families make for a stronger nation. It is assuredly out of a desire to meet the needs of American families—families that columnist Richard Louv says in *Childhood's Future* are torn and fragmented due to economic insecurities and time-pressured lives—that the 12 weeks of parental leave have been proposed.

Does the proposed parental leave legislation meet the real needs of families with newborns? Granted, it may protect job security and it may give a woman time to recover from the delivery of her baby, but will parental leave aid the mother in establishing that most important attachment relationship with her baby?

Just last week I had the opportunity to ask a panel of top attachment experts how they felt about parental leave. Before they gave their responses, they made the disclaimer that their answers would focus on the baby's attachment relationship with his mother, rather than on corporate dollars or job security. For a few moments I would like us to do the same and attempt to answer the question: From an attachment perspective, does parental leave work?

Attachment Theory

According to the late British psychoanalyst John Bowlby (1969) who created the attachment theory, over the first two to three years of life, but particularly between the first six and twelve months, every baby forges an intimate bond or attachment relationship with his mother first, and then with his father. Although Bowlby states that all babies (even abused babies) at-

tach to their parents, he clearly believes in a hierarchy of relationships with mother at the apex of the pyramid.

In his 1969 book *Attachment*, Bowlby wrote of the centrality of the baby's attachment relationship with the mother, which he believes is "the foundation stone of personality." Bowlby added that "the young child's hunger for his mother's love and presence is as great as his hunger for food," and that her loss or absence "inevitably generates a powerful sense of loss and anger." (p. xii)

Freud would agree with Bowlby on the centrality of the mother or mothering figure in the child's early life. Writing in *Outline of Psychoanalysis* (1940), Freud described the relationship a child has with the mother as "unique, without parallel, established unalterably for a lifetime as the first and strongest love object and as the prototype of all later love relations—for both sexes." (p. 188)

Although Bowlby (1988) has more recently acknowledged the importance of the child's father, he indicates that when the child is tired, ill or distressed, he invariably prefers his mother. Psychologist Michael Lamb (1977), who has written extensively about the role of the father, agrees. Lamb found that until the second year, when a baby is upset, he will usually head for his mother. At such moments, he needs her to comfort him. No one else will do. While Bowlby (1988) suggests that the mother's role is primary, he acknowledges that fathers also play a vital role in child development. Lamb (1977) believes that, in the early years, fathers and mothers play quite different roles in the child's life: fathers become attachment figures through play with their children, while mothers act as nurturers.

Bowlby (1973) states that both parents provide the child with a pattern or a kind of emotional template for other relationships. He believes, and cross-generational research has confirmed, that a child learns valuable lessons about intimacy from his earliest parental attachments which he will carry into later significant relationships, particularly with a spouse and children.

How do a child's earliest attachments affect later significant relationships? According to Bowlby, a young child forms internal working models of himself, his parental attachments and the world out of the raw material of parental interaction. If, for example, a child's parents are warm, nurturing, physically and

emotionally accessible, the child comes to believe that he is lovable and worthy. Basically, he learns to trust and, in the process, he becomes securely attached. As he matures, he will, states Bowlby, possess high self esteem and a cooperative spirit.

But what about the child who feels that his parents are rejecting, neglectful, or unresponsive to his deepest needs? Or if his parents are physically or emotionally unavailable, what then? Bowlby believes that such children suffer from profound feelings of insecurity, and as these children mature, they will have great difficulty believing that they are worthy or that others can be depended on to meet their deepest needs.

Do these internal working models change? That is, will the insecurely attached young child update his expectations as he matures and encounters others who treat him more positively and responsively than his parents? This is cause for some debate among attachment researchers. Bowlby (1973) has argued that, once constructed, internal working models tend to persist because they operate outside of "our conscious awareness, resisting dramatic change." He believes that only the securely attached child will update his expectations about how others can be expected to treat him. The insecurely attached child, says Bowlby, will reject incoming positive information because it does not match his perceptions about himself. While some psychologists contend that it is possible to change these working models, they argue that children get on certain developmental pathways or trajectories and tend to remain there.

Thus, what is important during the first twelve months of life is the mother's emotional accessibility and her responsiveness to her baby's signals. From this primary attachment relationship, the baby develops feelings of security or profound insecurity.

The Strange Situation

At this point you may well say, yes, but this is only theory. How do we know that this process actually occurs in the growing child? In the late 1960s, psychologist Mary Ainsworth created a 24-minute laboratory experiment called the Strange Situation which allows a researcher to assess a baby's attachment relationship with each parent. The Strange Situation, which has become "the instrument of choice" for attachment researchers, has

since its inception spawned a plethora of attachment research. Currently, some consider attachment theory the best-researched theory of child development. (Bowlby, 1988)

In the Strange Situation, the researcher focuses on what happens when a child is reunited with his mother after being left for a few minutes, first with a stranger, then alone. Using the Strange Situation, Ainsworth and her colleagues (1978) identified three different patterns of attachment: secure (pattern B), anxious-resistant (pattern C), and anxious-avoidant (pattern A).

Securely attached Pattern B babies cry less often than their insecurely-attached counterparts. They greet their mothers more positively during the reunion episodes of the Strange Situation, and they respond more cooperatively to their mother's commands. Because their mothers have responded to their needs with sensitivity and consistency, Ainsworth (1985) suggests that the securely attached babies develop an internal working model of a mother who can be trusted. This means that they can effectively use her as a secure base from which to explore their environment.

What about those babies classified as anxious-resistant? Ainsworth (1985) states that the anxious-resistant baby has developed a working model of an inconsistent mother who sometimes ignores his signals and often interferes with his activities. This baby has internalized the message as, "she loves me/she loves me not." His mother's unpredictability generates no little anger in these babies, who are often inconsolable in the Strange Situation.

Finally, Ainsworth and her colleagues (1978) found that the baby classified as anxious-avoidant defensively avoids his mother when he's upset because he has met with rebuffs from his mother on numerous occasions. For whatever reason, these mothers do not like to hug or cuddle their babies and often repulse their baby's bids for comfort and attention. This baby handles his mother's rejection by acting as if he doesn't need her when, in truth, he does. According to Ainsworth (1985), the Pattern A baby has an internal working model of a rejecting mother.

Why are these patterns of attachment so important? The reason these Strange Situation classifications have proved significant is because of their ability to predict later social com-

petence. Researchers have generally classified babies at 12 or 18 months, using the Strange Situation, and then have retested them later as preschoolers or kindergartners using measures of social competence or ego strength. Children who are securely attached as infants demonstrate greater competence in peer relations later on. Moreover, they possess greater ego resiliency than insecurely attached children.

In addition, researchers have used the Strange Situation in infant daycare research, usually testing babies at 12 months of age, and since 1980 they have found a marked increase in the incidence of avoidance. The evidence indicates that, when mothers resume employment for 20 or more hours per week, during the crucial first year of life, about 50 percent of the babies will be insecurely attached to mother and/or father. The majority of these will be classified as anxious-avoidant.

What's going on here? It is possible, according to psychiatrist Peter Barglow and his colleagues (1987), that those babies who enter early nonmaternal care view the repeated, daily separations as rejection. That is, while the mother may not herself be rejecting, when she is consistently unavailable for most of her baby's waking hours, he feels rejected.

Infant Daycare Studies

At this point I would like to say that, for several years in this country, we have had the delusion that, in order to flourish, all that very young children need is limited amounts of "quality time." Yet is this true? What do the data reveal about babies' needs? In *The Gathering Storm*, Winston Churchill said, "Facts are better than dreams." This applies to children as well. Let's look at some factual data from infant daycare research.

First, a 1983 study by Pamela Schwartz using the Strange Situation found that more babies who entered full-time daycare at nine months of age displayed avoidance upon reunion with their mothers than did babies reared at home with their mothers.

A 1987 study by Peter Barglow and his colleagues of middle-class families in the Chicago area who utilized good quality substitute care in the home (even nanny care) found that, when mother returned to full-time employment during the baby's first year, there was a marked increase in avoidance.

In addition, researchers Jay Belsky and Michael Rovine (1985) found that *sons* of mothers who were employed outside their homes 20 or more hours per week tended to be insecurely attached to *both* parents. Similarly, researchers P. Lindsay Chase-Lansdale and Margaret Owen (1987) found that, when mothers were employed full-time during baby's first year, *sons* were insecurely attached to their *fathers*.

What about the long term effects of early nonmaternal care? Studies show that children who experience substitute care during their first twelve months of life are more physically and verbally abusive toward adults, less cooperative with grown-ups, and less tolerant of frustration. One study of kindergartners and first graders, conducted by R. Haskins (1985) at the University of North Carolina, found that those who entered high quality daycare at *12 weeks of age* (the time period allocated by proposed parental leave legislation) were more likely to "hit, kick and push other children" than those reared at home with their mothers. These children, concluded the researchers, had difficulty dealing with their anger.

Another longitudinal study of six-year-olds by Michael Lewis and his colleagues (1984) found that insecurely attached boys showed more psychopathology than securely attached boys. In other words, securely attached one-year-old boys had fewer behavior problems at age six than their insecurely attached counterparts.

Finally, a provocative study by UCLA psychologist Carollee Howes (1990) found that, when babies entered substitute care prior to 12 months of age, by the time they became toddlers their parents had lost their "powers of influence." That is, their caregivers had become the most important agents of socialization for these children.

Ponder this. Howes's research has serious ramifications for those parents who wish to be *the* major influence in their children's lives.

I'd like to share a true story that brings this research out of the statistical realm and into the human arena. It's one thing to talk about psychological studies in the abstract, and it's something else to see their meaning exemplified in real life. I have in my files a parental leave story that illustrates what I am trying to communicate. (Hunter, 1991)

Dana returned to her position with a Fortune 500 company when her baby was 16 weeks old. She wanted to go back to her job and felt her baby could enter family daycare because she had begun to settle nicely into a routine. The baby was sleeping through the nights and seemed a placid little girl. However, when Miriam entered full-time daycare, according to Dana, "she went ballistic." Dana says that her baby seemingly forgot how to sleep, and she cried incessantly, driving her mother to distraction. Later when Miriam became a toddler, she had frequent temper tantrums, hitting, biting, and kicking her parents for long periods of time. After a family move, Dana decided to stay home for a while to establish emotional closeness with her three-year-old daughter. Patiently, this mother worked with her angry child and, in time, the child began to respond affectionately to her mother.

If you ask Dana today whether problems remain, she will tell you that her daughter continues to suffer from separation anxiety. Although Miriam is now seven years old, whenever her mother drops her off at school, she needs much reassurance or "tons of hugs and kisses" before she is willing to leave her mother.

This account of a mother/child relationship highlights a concern that attachment researchers have: namely, that too-early maternal employment may foster insecure attachment. A child whose mother is not present to respond to his signals and create loving bonds during that crucial first year of life may become an angry, aggressive toddler or preschooler. Also, he may be exquisitely sensitive to separations thereafter.

In sum, I believe that parental leave won't work because 12 weeks are simply not long enough for any human baby to forge a secure attachment with his mother. Moreover, the evidence shows that placing babies in substitute care, even good-quality care, during the first year is a risk factor in development.

As I said in the beginning, I believe that parental leave is a sincere attempt to strengthen the American family. There is no question but that 12 weeks at home following birth or adoption would be helpful to a mother in recovering from delivery, and it would begin to integrate the baby into the family. But in terms of the baby's crucial need to forge a secure attachment with his mother, parental leave is clearly a case of "too little, too soon."

A baby does not begin to attach to his mother until about six months of age, and it is during the first year that he forms a mental representation of her and begins to have some idea that she exists even when she is absent. (Ainsworth, 1985) This process continues well into the second and third years of life. This is why several leading attachment experts said recently that parental leave should range from eight months to two-to-three years when attachment is firmly consolidated. In light of this, *the first 12 weeks of mother care are simply not enough to solidify attachment.* This is the time when, according to researcher Jay Belsky of Penn State University, the foundation for later attachment security is laid. It's a "getting to know you" period, a time when mother and baby are beginning to learn to read each other's signals.

But even when attachment is consolidated, the child continues to need closeness to his mother, though at two and three years of age he can tolerate longer periods of maternal absence.

While we don't yet know what the effects of insecure attachment will be on adolescents and adults—the data from the longitudinal research has not been published—we do know that attachment theory predicts future difficulties in intimate relationships.

So I leave you to grapple with the question of what constitutes adequate parental leave, but I ask you to address the baby's need for mothering as you contemplate this issue. Parenting styles may change, but babies' needs remain essentially the same. This we know: that babies need to spend most of their waking hours with their mothers during the first 12 months of life.

Finally this abiding need for close, intimate attachments is recognized in literature as well as in psychology. Echoing Bowlby, French Nobel laureate François Mauriac, has said: "We are molded and remolded by those who have loved us; and though the love may pass, we are nevertheless their work, for good or ill."

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Chapter 4

MANDATED BENEFITS VERSUS SPENDABLE INCOME

by Marvin H. Kosters

An expert on government regulation analyzes the questions of what are the costs of a government mandate, who pays them, and whether employees would rather have cash wages than benefits they might not find personally beneficial.

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Dr. Kosters' career in Economics with the U.S. Government included appointments in the Office of Assistant to the President for Economic Affairs, the U.S. Cost of Living Council, the Manpower Administration in the U.S. Department of Labor, and the President's Council of Economic Advisers. He has served as a member of the Civil Aeronautics Board Advisory Committee on Procedural Reform, the Virginia Governor's Regulatory Reform Advisory Board, and the U.S. Department of Labor Task Force on Economic Adjustment and Worker Dislocation. He has been a consultant to the U.S. Department of the Treasury, the Department of Labor, the Council on Wage and Price Stability, and the Council of Economic Advisers.

Dr. Kosters' articles have appeared in numerous professional journals, including The Public Interest, The American Enterprise, American Economic Review, Challenge: The Magazine of Economic Affairs, Labor Law Journal, *and* Regulation. *His articles have appeared in anthologies published by the National Bureau of Economic Research, the Brookings Institution, the American Enterprise Institute, the University of Pennsylvania Press, and the Rand Corporation.*

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The paycheck is usually thought of as the main reward for work. But most workers receive part of their pay in money and part in benefits. Non-wage benefits often reflect encouragement through government policy, especially tax policy. The opportunity to pay for health plans with pre-tax dollars, for example, has influenced both the prevalence of employer-provided health plans and their character.

Sometimes government goes beyond encouraging non-wage benefits by imposing legal requirements—that is, government often *mandates* benefits. Probably the largest such program proposed but not enacted is mandated health plans. One of the most important that was recently enacted is the Americans with Disabilities Act. Federal parental and medical leave proposals have been on the agenda for some time. Family leave legislation was passed in 1990, but it was vetoed. Family leave legislation was immediately introduced in the new Congress.

Mandated Family Leave proposals spell out circumstances under which employees can take leave to care for new children, or take time off for their own illness or that of their children, their spouse, or their parents. They are mandates because they specify benefits to which workers taking such time are legally entitled. The main benefits are (1) continuation of the employees' health plans during leave, and (2) reinstatement in the same or a similar job when they return to work. Of course, these proposals provide for enforcement procedures and remedies, such as treble damages.

The benefits that are mandated are not free; someone must pay their costs. The costs of continuing health plans are quite obvious and direct. Although the costs of job reinstatement rights are much more difficult to measure, they might be at least as important. My remarks will be focused mainly on how these costs are paid, and on who bears the costs and receives the benefits.

Paying the Costs of Mandated Benefits

Before turning to Family Leave requirements as such, I want to discuss the simple economics of legally mandated benefits more generally. Considering a single type of benefit in isolation can give a misleading impression of the effects on the labor market and on the particular workers affected by benefit mandates. Looking at benefit mandates more generally can help to provide perspective.

It might seem at first glance that the main direct effect of a mandate to provide some type of non-wage benefit would be to make jobs more attractive to employees. The employer, after all, would be legally required to pay the cost of providing the benefit. But this view would be seriously incomplete. Employers can be expected to react to the new benefit requirement.

The most obvious way for employers to adjust to a benefit mandate is to reduce cash wages. If employers reduced wages on a dollar-for-dollar basis to cover the costs of providing a benefit, total compensation costs would be unchanged. The employee would essentially be paying for the benefit by receiving less cash wages. There is strong evidence that this is essentially what happens. Differences in the costs of workers' compensation among states, for example, are accompanied by offsetting differences in wages.

Whether the typical worker is better off depends on whether the new benefit is worth more or less to the worker than the cash wages that are given up to pay for it. Different workers could be expected to place different values on the benefit—some might be better off, others not. The important point, however, is that by receiving lower wages, the worker would be paying the cost of providing the benefit that is mandated. The main effect of a benefit mandate is not on how much the worker is paid for the job, but on how part of total pay is used. Mandating a benefit influences mainly the *uses* of pay or income, not its total amount.

A second point is that the costs of providing benefits are not negligible or small. Benefits account for a major share of total employment costs, and their cost share has been increasing over the years.

According to annual, nation-wide survey data assembled by the Chamber of Commerce, benefits accounted for about 30

percent of total compensation in 1989. The fraction is even higher compared to wages and salaries, or payroll costs: about 38 percent. Payroll costs include payment for time spent at work as well as for time that is not worked—mainly vacation time, but also sick leave, for example. Consequently, when pay for vacation time and other time not spent at work is counted as a benefit, benefits account for 43 percent of payments for time actually spent at work. Taking Social Security taxes withheld into account, in addition, raises the total to about 50 percent. In other words, for every dollar's worth of working time, total benefits cost about another 50 cents.

The cost of benefits has also risen very substantially over the years. The main reasons have been rising costs of health plans, higher payments for pensions, and increased Social Security (FICA) taxes. As a percent of payroll, benefits costs have increased from 17 percent in 1955, to 22 percent in 1965, 30 percent in 1975, and 38 percent in 1989. Growth in benefits has apparently flattened out some during the 1980s. But non-wage benefits account for a large and growing share of the average worker's pay, leaving less in cash wages to be spent at the worker's discretion.

There has been a good deal of discussion about what has happened to workers' real wages in recent years. Some have argued, in fact, that real wages have been declining throughout most of the 1970s and 1980s. This has surely not been the experience of the average worker. But one reason why real wages have increased relatively slowly in recent years is that a large fraction of the growth in productivity and total pay has been spent on benefits. As a result, there has been less room for growth in real wages.

From 1980 to 1989, real compensation increased by 4.7 percent for the average worker. Benefits increased more rapidly than cash wages, however, so the average worker's real wages went up only about one percent. For some groups of workers, real wages actually fell. Blue collar workers, for example, had only a very small increase in total compensation during the 1980s, and their real wages declined by about 4.5 percent. White collar workers, in contrast, had an 8 percent increase in total compensation and a 5 percent increase in real cash wages.

What these data illustrate is that benefits take a very substantial and growing wedge out of total pay. That means less money has been available for cash wages. Some workers—especially blue collar workers and workers with lower levels of schooling—have been left with lower real cash wages during the 1980s, even though their benefits have increased. If more benefits were mandated, the purchasing power of their cash wages would be even lower. Would the typical worker prefer a richer menu of benefits if that means still lower real cash wages? This is the first question that needs to be asked to assess the case for a new benefit mandate such as Family Leave.

Taking Hidden Costs into Account

Even if the average worker were willing to pay for Mandated Family Leave by accepting lower cash wages, further questions should be asked about the costs and who pays for them. What has been discussed so far is only the simplest and most direct effect of benefit mandates. Indirect effects are often important, and they are usually more important for some workers than others.

For most workers, the main effect of more benefit requirements may be lower cash wages. But for some—especially workers near minimum wage levels—cash wages cannot readily be reduced and total labor costs will be increased. One effect under these circumstances is that consumers will need to pay higher prices to cover the higher labor costs involved. Another even more troublesome effect is that job creation will be discouraged—it will be more difficult for workers with low skills and low wages to obtain jobs. More of these workers will be unemployed.

For some kinds of mandated benefits, such as retirement programs, for example, most workers would expect to share in the benefits, and the effects are consequently likely to be quite neutral among classes of workers. But Family Leave requirements are, in practice, likely to be applicable primarily to women in their childbearing years. To avoid the additional costs that may be entailed, employers may be more selective in their hiring policy. If so, the result would be fewer jobs and somewhat lower wages for many women.

Such selectivity on the part of employers would operate contrary to the interest of the employees who would presumably place the most value on the particular type of benefit that is mandated. This is a common feature of benefit mandates that affect workers unevenly; they often work against the interests of those who would value the benefits the most.

The full costs of Family Leave mandates are not easily estimated. How many workers would take such leave, and how many would return to work after taking it, is uncertain. The most apparent direct cost is that for continuation of health benefit plans for those on leave. The relatively low cost estimates that have usually been cited have taken only these health-plan costs into account.

The costs in terms of productivity lost because of absences from work that would be longer and less predictable have generally been neglected. Disruption of production, training of temporary replacement workers, helping temporary workers find new jobs, and coping with delays before permanent replacement workers can be hired are among the costs involved. It is hard to estimate how large these costs, and the costs of administering the system and resolving disputes, might be. But in contrast to the benefits that would actually be received by workers on leave whose health plans are continued, many of these costs would not be accompanied by benefits to anyone. Costs without corresponding benefits produce more serious real losses than when someone, at least, benefits.

The potential for conflicts between work and family responsibilities is surely heightened by the growing market employment of wives and mothers. Mandating parental leave would do little to relieve this potential conflict. The main effect instead would be to shift some of the costs of resolving these conflicts onto employers, and through them to the workforce as a whole. Those who choose to make care of children or other family members their primary commitment would be forced to pay part of the costs of providing this benefit to those mainly committed to their jobs and careers. Mandating Family Leave would spread the cost of maintaining job attachment that would otherwise be concentrated mainly on higher-income families; it would be a transfer from lower-income families to those who are better off.

The families that would benefit most from Mandated Family Leave are those with two parents employed, and the benefits would be most valuable when both work as full-time professionals. To get some clues about the income of families who would benefit most, we can look at the incomes of husband-wife families with children, and compare the income of families with one parent employed with the income of families with both parents employed. In 1987, "traditional" families, with only the husband employed, had an average income of $32,000; families with both the husband and wife employed had incomes averaging $41,000. Almost as many children below school age lived in families with only the husband employed as those who lived in families with both parents employed.

Rationales for Mandating Family Leave

Even if we recognize that a price needs to be paid for benefits that are mandated, it is of course possible to make a case for them. What are the main arguments in favor of mandating benefits? And how do these arguments apply to Family Leave?

One type of argument is based on the idea that individual workers place too little value on particular benefits. Imposing a requirement would, therefore, be better for them than the choices they would otherwise make for themselves. Workers might be viewed as having too little foresight, for example, and they might therefore really be better off if they were required to provide for a basic retirement benefit through Social Security taxes.

Another class of argument involves externalities. That is, the full value to society may be greater than its value to the person making the choice. Immunization against a communicable disease is an example, where benefits accrue to others in addition to the person immunized. Sometimes the externality might involve the feasibility of collecting payment for a benefit; it may be impossible or undesirable to deny a benefit to someone who hasn't contributed to paying for it.

I have not seen either of these arguments used to make a case for Mandated Family Leave. It seems to me about as plausible to argue that people might place too much value on parental leave as too little. This is in part because circumstances

of both the employers and the workers who are affected are extremely varied. What might be very costly for one employer may entail very little cost to another. What might be very valuable to one employee might not be valuable to another. Quite often a new mother decides to withdraw from the labor force for a time, even though this might not be her plan before her children are born. In such circumstances, parental leave might turn out to be less valuable than anticipated.

With regard to externalities, it might be argued that the "bonding" or other benefits of parental leave are so valuable to children that costs of delinquency or other ills to society will later be reduced. But it seems difficult to have any confidence that parental attention at infancy is necessarily more valuable than, for example, time and supervisory attention given to toddlers, latch-key children, or teenagers. Some parents apparently believe that at least temporary, partial or complete withdrawal from the workforce by a parent is preferable from the point of view of child development. In their view, higher priority should be placed on adapting working patterns to accommodate child development requirements than on trying to assure that childbearing and child rearing interfere as little as possible with job and career goals.

What are the main arguments usually made for family leave mandates? I will note some of them and comment on them briefly:

1. The United States has no uniform national policy on parental leave, while most other industrial countries have nationwide policies.
2. Many states already have some sort of parental leave legislation.
3. Many employers have parental leave arrangements.
4. Parental leave mandates are pro-family.

The argument that we need a national Mandated Family Leave policy simply because other countries have one would be much stronger if it were accompanied by evidence of its beneficial effects and low costs. Such evidence is not readily available, but we can look at broad indicators of labor market performance. During the 1980s, job creation in Western European

countries was very weak compared with the United States. Their unemployment was also higher than in the United States. This poor performance led many analysts to question whether the extensive protections and requirements in European labor markets left them with too little flexibility for labor market adjustment and new job creation.

Family Leave requirements, to be sure, are only a small part of the picture. But the European experience should at least remind us to ask whether the cumulative effects of requirements on employers might produce poorer overall labor market performance. On the basis of their experience, I think we should be skeptical about the view that whatever requirements are imposed by Western European countries should be imitated by us.

According to a recent report by the Women's Bureau of the Department of Labor, thirty U.S. states have some sort of maternity or parental leave law. These state laws vary a great deal, however. Some provide only short leaves, some cover only state employees, and some provide no assurance of reinstatement into the same or similar jobs. The existence of these state laws does not mean that no additional costs would be imposed by federal legislation.

Nor should we suppose that taking mandates imposed by some states and applying them at the federal level is always a good idea. Some of the most widely criticized state mandates are those applied to health plans, requiring coverage of services in a wider range of professional specialties than most beneficiaries would choose. The result of these state mandates has been a trend toward self-insurance to escape these mandates by many employers in a position to self-insure, and fewer costly health plans offered by other employers. Many workers affected by state mandates would be better off with the less costly health plans that would be available in the absence of the mandates.

Many employers have also developed parental leave plans. According to a recent Bureau of Labor Statistics benefits survey, 37 percent of employees have maternity leave available and 18 percent have paternity leave. These arrangements are in addition to other arrangements for flexible usage of disability, sickness, or vacation time that could be devoted to such use. The fact that a particular benefit is widely offered, however,

does not mean that making specific plans mandatory for all firms is desirable. In fact, a federal mandate would tend to remove the flexibility for firms to offer flexible arrangements such as "cafeteria" plans so workers can choose benefits that best suit their needs and interests. If workers can choose the benefits they value most, they can obtain the benefit package they prefer while giving up as little as possible in cash wages.

Finally, what about the argument that Mandated Family Leave is "pro-family"? Certainly, combining work and having a family has become increasingly common. In 1960 about 20 percent of married women with children below school age were employed compared to almost 60 percent now. Mandated Family Leave benefits mainly two-worker families, however, instead of families as a whole or all families with children.

Families should be free to choose how best to combine work and careers with child rearing. I don't see any reason why we should pursue policies that differentially favor particular arrangements. Those who prefer to interrupt work and career for full-time child care should not be disadvantaged in relation to those who do not. Benefits such as flexible working hours or shorter work weeks may be preferable to parental leave for many parents who prefer to combine work and child care. Flexibility to work out arrangements to best accommodate diversity in their needs will generally serve the interests of families better than mandating any particular benefit.

Concluding Comments

Requirements for employees to provide particular non-wage employment benefits are essentially equivalent to telling workers how a portion of their pay must be spent. When a larger share of total compensation is devoted to paying the costs of any particular mandated benefit, either other non-wage benefits or cash wages must be reduced. A large and growing share of total compensation is already accounted for by non-wage benefits, and adding additional benefit requirements further reduces cash wages that can be spent at the worker's discretion.

For the typical worker, non-wage benefits account for at least a third of total pay. Some are required by federal or state governments, but workers have considerable discretion to

choose a combination of work, cash wages, and benefits that is best suited to their circumstances and interests. The diversity that prevails in work arrangements mirrors a corresponding diversity in workers' interests and differences in costs to employers of providing particular non-wage benefits.

Growing participation in the workforce by women has meant that more families need to coordinate child care and other family responsibilities with their labor force activities and their career goals. The resulting increase in diversity in the workforce strengthens the case for flexibility to design wage and benefit packages to accommodate differences in the values these workers place on particular benefits. A federal mandate to provide Family Leave would be a step away from the flexibility that is more valuable in a more diverse work force.

Mandating Family Leave would force all workers affected to accept less cash wages or fewer other benefits in return for a particular benefit that would be of little value to many of them. The main beneficiaries of Mandated Family Leave would be families that are already better off in economic terms. That is, families who place higher priority on maintaining a particular job when combining work and child care would benefit disproportionately compared with those who place the highest priority on family and child care responsibilities.

Mandating Family Leave would be inefficient because workers who place little value on this particular benefit would nevertheless be required to contribute to paying for it and employers would need to provide it even if their costs were high. It would also be inequitable because the costs of the mandate would be spread over a much broader group than the higher-income, two-career families who would be the main beneficiaries.

Chapter 5

FAMILY LEAVE POLICIES IN OTHER COUNTRIES

by Bryce J. Christensen

A scholar who has studied social and governmental influences on the family in America and abroad concludes that the supposedly generous family leave policies in Western Europe have not strengthened family life and should be a model for avoidance, not imitation, by the United States.

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Should the Federal Government require employers to give employees (especially women) time off for the birth of a child or for family emergencies? Advocates of Federally Mandated Parental Leave have been pressing hard in recent years. They currently call their proposal "family leave" partly because it includes provisions for family responsibilities other than infant care, but mostly because of the political appeal of the word *family*. The demands of parenthood still define the key issue, so the debate is chiefly over parental leave.

In 1990 activists persuaded Congress to pass a bill that would have required all firms with 50 or more employees to give three months' unpaid leave upon the birth of a child, but President Bush vetoed the measure. Now supporters of parental leave are back, more insistent than ever.

One argument repeatedly made on behalf of parental leave—which usually means maternity leave—is not really an argument at all, but merely a call for America to fall in line with other industrial nations. In both the scholarly and popular press, activists point out again and again that "the United States stands alone among all industrialized nations in its lack of a statutory maternity leave policy."[1] (On rare occasions, the list of countries surveyed will include South Africa, lengthening the list of countries without maternity or parental leave to two,[2] but usually the United States alone is called into question for its isolation on the issue.) "The United States stands alone" is this insistent refrain.[3]

In this debate, standing alone is judged as inherently bad. Before succumbing to global group-think, we ought to pause to investigate the effects of parental leave abroad. Such an investigation is fair enough, since advocates of parental leave loudly insist on the relevance of foreign examples. At first blush, America's isolation on the question of mandated parental leave does appear suspect. But we need not look long or hard before serious doubts begin to arise about this policy.

Does It Support Family Life?

First, it should be noted that advocates of mandated parental leave almost invariably stress its supposed value as a support to childbearing and family life. Prominent pediatrician T. Berry Brazelton counts Federally Mandated Parental Leave as a critical first step in "strengthening the family system."[4] Edward Zigler and his colleagues at Yale say they have "family well-being" in mind when they advocate Federally Mandated Parental Leave.[5] Similarly, Sally Orr of the Association of Junior Leagues believes that the United States must adopt parental leave if we want to "have strong, healthy families."[6] Family scholar and activist Urie Bronfenbrenner argues that the policy is essential to "family integrity."[7] Congresswoman Patricia Schroeder claims that the typical American couple needs parental leave to safeguard "their family's stability."[8] John Sweeney of the AFL-CIO declares that "nothing short of the survival of the American family is at stake" in the debate over parental leave.[9] A writer for *The Christian Century* feels federal parental-leave legislation would reflect "a willingness to take an honest look" at "the needs of families."[10]

But an honest look abroad does not foster confidence in parental leave as a support to childbearing and family life. Indeed, it is hard to find a single instance of a country in which parental leave has demonstrably and significantly strengthened family life. American advocates of parental leave typically laud the virtues of policies found in Western Europe and Scandinavia, lands with long-established and generous provisions.

It is more than a little strange that parental leave advocates, who profess such strong concern for the family, rarely acknowledge that women in the countries they would have America imitate have stopped having babies—or at least have stopped having even enough babies to replace themselves. According to the latest available statistics, Ireland is currently the only Western European country with a replacement fertility level. And it is not Catholic Ireland that advocates of parental leave typically hold up as a model for America to imitate. Rather more often they laud the virtues of Austria (with a fertility rate 30 percent below replacement level), of France (with a fertility rate 15 percent below replacement), Germany (with a fertility rate 30 per-

cent below replacement), Great Britain (with a fertility rate 15 percent below replacement), Sweden (with a fertility rate 10 percent below replacement), or Denmark (with a fertility rate 30 percent below replacement).[11]

Below-replacement fertility is a troubling development seen in the United States as well as Europe since the early 1970s. At 1.9 births per average American woman during her lifetime,[12] our national fertility is roughly the same as that of Sweden, Great Britain, or France, and is significantly higher than that found in Denmark, Austria or Germany. But what then of the claims made on behalf of parental leave if women in European countries are no more, often less, likely to bear children than women in America? Why are women bearing just as many or more children in the one industrialized country *without* parental leave as in the many with such a policy? More particularly, how has parental leave supported family life in Austria, Denmark or Germany, countries with phenomenally *low* fertility rates? The silence of parental leave advocates on these questions raises suspicions, not confidence.

It is hard to hide the real issues from demographers who track fertility trends. Paul Demeny remarks that "by all indirect evidence" European policymakers have achieved "meager or nonexistent" success in efforts to encourage childbearing through the granting of parental leaves and other benefits. Understandably, Demeny calls for "a search for an alternative policy approach."[13] In the same vein, Dutch demographer Dirk van de Kaa finds that provision of paid maternal leave and other benefits has had "no long-term effects on fertility in Western Europe," except in France—where the effects are still relatively small and insufficient to raise fertility to replacement level.[14] Though he holds out hope for more ambitious and costly initiatives, policy analyst Ben Wattenberg concedes that maternity leaves—together with other government initiatives to help parents of young children—have failed to foster fertility in Western Europe.[15]

Curiously, American advocates of parental leave fail to note the *only* "spontaneous" rise in births in recent years. This rise occurred in Poland during the early 1980s at the very time that the government cracked down on Solidarity and imposed martial law. Significantly, observers report that this rise in fertility oc-

curred at a time of plummeting "confidence in the stability of government policy on matters such as maternity leave and child support."[16] This Polish experience hardly means that the United States must impose martial law to raise fertility, but it does reinforce doubts about parental leave as a support to childbearing.

Nor is it reassuring that T. Berry Brazelton, Sheila Kamerman, and other prominent supporters of parental leave show a particular fondness for Sweden and Denmark as foreign models.[17] In these two Scandinavian countries, family life is in general disarray. As already noted, fertility has languished below replacement level for more than 20 years in both countries, especially in Denmark. In both countries, marriage rates have plummeted in recent decades while divorce rates have soared. According to former Fulbright scholar David Popenoe, the Swedish marriage rate is now "the lowest in the industrialized world," while the rates for nonmarital cohabitation and family dissolution are "probably the highest in the industrialized world." Popenoe reports that "in Sweden the family as an institution has declined more, and become weaker than in any other advanced society."[18]

Falling rates for marriage and rising rates for divorce and cohabitation have created a similar picture in Denmark. Between 1971 and 1984, Danish divorces outnumbered new first-time marriages by ten percent. Approximately half of all births are out of wedlock in Sweden, over 40 percent in Denmark.[19] Is *this* the kind of family life advocates of parental leave want to foster in America? If not, why their enthusiasm for Danish and Swedish family policy?

While it can hardly be argued that parental leave *caused* family life to disintegrate in Scandinavia, it is clear that generous and long-standing parental leave policies have not *prevented* such disintegration. While family life in other countries does not appear as weak as in Sweden and Denmark, almost all Western European countries have seen remarkable drops in their marriage rates and sharp rises in their divorce and illegitimacy rates since the late 1960s.[20] Again, if parental leave did not cause these developments, it certainly did not prevent them. As a means of strengthening family life, parental leave has failed in Europe. In view of the European experience, it may even be

argued that the adoption of mandated parental leave is symptomatic of a retreat from home and family life.

Why then, among prominent Americans who claim they are defending the family do we find so many comparing America unfavorably to European countries that have enacted parental leave? Perhaps a few could plead ignorance: they simply do not know how family life has unraveled in Europe despite parental leave. But many of the most visible advocates of parental leave boast distinguished credentials and well-funded research staffs. Surely, members of the National Academy of Sciences and the Yale Bush Center Advisory Committee on Infant Care Leave—two prestigious groups that have officially endorsed Federally Mandated Parental Leave—know quite well what has happened to family life in Europe before and since adoption of parental leave policies.

In his discussion of mandated parental leave, Professor Zigler acknowledges that many European nations adopted their policies partly as a "pronatalist tool." Yet he then fails to inform his readers that parental leave has had little or no discernible effect in reversing the retreat from childbearing.[21] In *The Parental Leave Crisis*, Zigler is so brazen as to assert that in other countries parental leave policies "have proven viable through the test of time."[22] Is it the sub-replacement fertility found in European nations which proves the "viability" of parental leave, or is it the high rates for divorce and cohabitation? Professor Zigler does not say.

Social scientist Joseph P. Allen is guilty of similar evasion in his discussion of European parental leave. In Sweden, Germany, and France, Allen asserts, parental leaves were responsible for "significantly improving family life." Astoundingly, Allen even claims that "all of the evidence about social effects of infant care leaves [in other countries] . . . suggests that leaves could work in the United States."[23] Imagine that! We, too, could safeguard family life characterized by low fertility, low marriage rates, and high rates for cohabitation, divorce, and illegitimacy if we will only imitate Europe's enlightened parental leave policy.

If advocates *know* that parental leave has not strengthened European family life, perhaps they advocate it out of despair. Perhaps they regard the retreat from childbearing and marriage

evident in Western Europe and America as inevitable and irreversible, but they at least hope that parental leave will make life a bit easier for women who do have children while we all wait for the social extinction caused by our failure to reproduce. Will the last one here please turn out the lights?

It appears doubtful that most advocates of parental leave have succumbed to such despair. Most speak and write in tones of ebullient confidence. Congresswoman Patricia Schroeder veritably bubbles over with confidence in how parental leave will help Americans develop "a vibrant, dynamic model" of the family.[24] With slightly more restraint, Eleanor Smeal of the National Organization for Women endorses parental leave as a sensible way of "adapting" to "our modern living experiences."[25] If advocates of parental leave have been driven to their position by despair, they hide it well.

Rather, the conclusion appears inescapable that, for most of those advocating parental leave, family life counts as merely a secondary or tertiary consideration, superseded by other cultural, political, or ideological objectives. Professed concern for the family melts away whenever these objectives are threatened.

Attachment to the Labor Force

For instance, it is evident that the employment of women out of the home takes precedence over childbearing and childrearing in the minds of many advocates of parental leave. Professor Zigler's definitive 1988 volume on *The Parental Leave Crisis* contains an essay arguing that, "although the particular leaves in effect in France, Germany, and Sweden have proved beneficial to women, substantially longer leaves or leaves not based on attachment to the labor force might actually discourage women from working" and would therefore be undesirable.[26]

A popular book to help women manage their maternity leave carries this revealing subtitle: *How to Leave Work, Have a Baby and Go Back to Work Without Getting Lost, Trapped, or Sandbagged Along the Way.*[27] Such a subtitle clearly implies that a child can be a threat or a snare that working women must guard against. Who would want to have more than one or at most two such snares around the house? Although this self-help book gives readers permission to drop out of paid employment in or-

der to be fulltime mothers if they really want to, it offers no encouragement for such a decision. Rather it offers a rationale for women to return to work, and it outlines strategies for resisting the "guilt feelings" that "cruel" people might try to induce by urging them to stay longer with their babies. The reader is urged to remember that "work is precious to many women. It is . . . as important to them as their children." "If your work is part of your identity," the reader is instructed, "giving it up won't make you a better mother; it will make you less of the person you are; and that will make you less of a mother. Reassure yourself. . . . Your child is lucky to have a mother who values her work."[28]

This is hardly the path to maternal devotion. Rather, mothers who think this way should not be surprised if their children come to feel that they are less important than office clients and colleagues.

The fundamentally nonmaternal character of parental leave is further apparent in another popular book entitled *Managing Your Maternity Leave*, which coaches employed women who take maternity leave how to "convince people that in spite of new motherhood, you're still committed to work and career."[29] Yet another book of the same sort makes these suggestions to the reader: "Use your maternity leave to think about your job situation. . . . You might want to think about other job possibilities during your leave. Try to hire a baby-sitter or a baby nurse for a few hours a day, and schedule some lunches with friends or with discreet business associates to help you explore other areas of employment."[30] Is this how parental leave strengthens family life? No wonder that feminist psychologist Sandra Scarr wants a parental leave policy that would permit employed mothers "to be able to take the paid parental leave in cash, if they wish to continue working."[31]

In a popular joke, a pig and a chicken plan breakfast. The chicken suggests ham and eggs. The pig protests: "For you, that only requires a contribution. For me, it means total commitment!" Parental leave is an ideal policy for women who regard motherhood as a temporary contribution of their time, not a life-shaping commitment. The very phrase "parental leave" suggests that it is paid employment outside the home which is the fixed and abiding reality of a mother's life. Parenthood is merely

a short excursion away from that enduring identity. The type of thinking which underlies parental leave was articulated by Nena O'Neill and George O'Neill in their book *Open Marriage*: "When a child is born, time should be taken off from work [by the mother] for the infant's first months or years, but that should only be a temporary detour from active productivity."[32]

If parental leave reduces motherhood to "a temporary detour," then it is quite natural that its supporters include groups such as the Women's Legal Defense Fund and the National Organization for Women, opponents of every imaginable restriction on abortion.[33] Before or after birth, children must not get in the way of feminist ambitions.

In their discussion of parental leave in Europe, Meryl Frank and Robyn Lipner emphasize "the influence of left-wing parties and labor unions" in winning passage of the policy.[34] My Rockford Institute colleague Allan Carlson identifies parental leave as one part of the strategy adopted in Sweden—a pioneer in progressive family policy—to reshape society in accordance with feminist and socialist doctrines.[35] Since feminist and left-wing groups are highly visible in the current campaign for parental leave in the United States, no one should really expect them to be satisfied with the Federally Mandated Family Leave now proposed. Many advocates of parental leave candidly admit that they regard unpaid parental leave as merely a first step in expanding the state's powers to redefine the relationship between work and family along European lines.

A Small First Step

Unpaid parental leave turns out to be only a stepping stone leading first to paid parental leave, and then to expanded government daycare programs such as those found in Sweden, Denmark, or France. Aides to Congresswoman Schroeder have acknowledged that paid parental leave is their true objective.[36] Berkeley psychologists Sheldon Zeduck and Kathleen Mosier call unpaid parental leave "only a first step toward resolving problems related to balancing roles in employment and family organizations." Parents need more help with daycare, too, they assert.[37] Dr. Brazelton urges the Federal Government to establish paid parental leave and to expand the system of government daycare.[38]

The Women's Legal Defense Fund (WLDF) views unpaid parental leave as "a small first step" toward meeting "the needs and realities of American families today" and therefore considers it "sorely deficient by itself." The WLDF urges consideration of paid leaves as a next step.[39] Writing in *The Nation*, law professor Nadine Taub endorses unpaid parental leave as "a vital step" but insists that it is "not enough." "The time has come," Taub writes, ". . . to move beyond a single-minded focus on the role of women as mothers of small children, to a broader discussion of the way society can meet all the caring needs traditionally assigned to women," including caring for the elderly as well as caring for children. "European countries provide helpful models," for Taub, who cites particularly Austria, Norway, France, and Sweden.[40]

Unpaid parental leave suspiciously resembles the nose of a Swedish camel.

Government policies are probably not the only reason for weak family life in Sweden and elsewhere. But since advocates of parental leave defend this policy as a way to strengthen the family, its manifest failure to achieve that end in Sweden, Denmark, Germany, or elsewhere ought to give Americans pause before importing this particular European product. The Swedish package of family policies succeeds wonderfully in multiplying jobs and power for government bureaucrats. But advocates of parental leave will not soon admit that is their real goal in America.

Swedenizing the United States would not only mean adoption of a failed formula, it would also preclude or discourage possibilities for successful initiatives in American life. Advocates of parental leave minimize its costs, but President Bush pointed out in his veto message last year that mandated benefits were one reason that, "between 1980 and 1989, all of Europe generated only 6 million new jobs," while during the same period, "the United States created more than 18 million new jobs."[41] Making the same point in 1986, economist Gary Becker of the University of Chicago cited Europe's mandatory paid leaves and subsidized daycare as reasons that "unemployment rates in Britain, Germany, France, and many other European countries rose during the [previous] decade from much below unemploy-

ment rates in the U.S. to well above them."[42] Since economic pressures already hurt many American families, it is hard to see how home life can be strengthened by throwing more Americans out of work.

Foreclosing Other Options

Besides the risk of increased unemployment, Federally Mandated Family Leave could only curtail the development of innovative benefit packages through "cafeteria" and other plans adopted by many American corporations.[43] When Congress takes on the task of prescribing personnel policies, it also eliminates chances for policy experiments by individual states.[44]

Mandated Parental Leave would also discourage individual American families from seeking new ways to reconcile work and home. Some professional women have postponed or suspended their careers for five or ten years or more to devote themselves to motherhood;[45] others might consider their example. Other American families have found that flexible hours or part-time employment makes parental leave unnecessary.

Still other American families are discovering the possibilities of at-home employment, through telecommuting, piecework, and other arrangements.[46] More than two million Americans—aside from farmers—had fulltime, home-based jobs in 1985, with another six million reporting at least eight hours of paid work at home during the previous week. About 600,000 married mothers with children under age 6 reported part-time or full-time home-based work in 1985.[47] The number of homeworkers has surely grown since then, and will continue to grow if federal policymakers do not unwisely intervene.

Before pressing ahead with Mandated Parental Leave, policymakers ought also to consider the financial sacrifices made by millions of households in which mothers choose to devote themselves fully to homemaking and child-rearing, thereby forgoing a second income. On the average, that forgone second income means about $16,000 that the family chooses to do without.[48] Though advocates of parental leave typically claim women *have* to work outside the home, researchers at Pennsylvania State University found in a study published in 1990 that "the rising proportion of married mothers entering the

labor force since 1960" is primarily due to "standard-of-living" preferences and not because a second income is needed for "basic necessities."[49]

Is it wise for the Federal Government to formulate national policies to accommodate "standard-of-living" preferences of some Americans, while slighting the family sacrifices of others? Even unpaid parental leave would create hidden subsidies, paid in part by one-income families who usually have lower household incomes. These are the hard issues that policymakers must not gloss over in a rush to imitate European models.

The United States is the only industrialized Western country without Mandated Family Leave. So what? American policymakers need feel no compulsion to make the consensus of failure complete. Americans still have the time and spirit to explore other more promising ways to combine work and family life. The United States need not regard itself as a rogue or pariah simply because our Federal Government does not mandate parental leave. Rather, on questions of family life and work, America may yet become a shining example and singular inspiration to other nations.

Notes

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4. T. Berry Brazelton, "Issues for Working Parents," in *The Parental Leave Crisis, op. cit.*, 47.
5. Edward F. Zigler, Meryl Frank, and Barbara Emmel, Intro. to *The Parental Leave Crisis, op. cit.*, xix.
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7. Urie Bronfenbrenner, "Strengthening Family Systems," in *The Parental Leave Crisis, op. cit.*, 152.
8. Patricia Schroeder, "Parental Leave: The Need for a Federal Policy," in *The Parental Leave Crisis, op. cit.*, 332.
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10. Kathy Palen, "Family Leave: A Needed Guarantee," *The Christian Century*, 22 April 1987, p. 372.
11. Based on statistics from United Nations, Department of International Economic and Social Affairs, *Demographic Yearbook: 1988*, 40th ed. (New York: United Nations, 1990), 180-183.
12. U.S. Bureau of the Census, *Statistical Abstract of the United States: 1990*, 110th ed. (Washington: U.S. Government Printing Office, 1990), Table 84.
13. Paul Demeny, "Re-Linking Fertility Behavior and Economic Security in Old Age: A Pronatalist Reform," *Population and Development Review* 13 (1987): 129, 130.
14. Dirk J. van de Kaa, "Europe's Second Demographic Transition," *Population Bulletin* 42, No. 1 (March 1987), 52.
15. Ben Wattenberg, *The Birth Dearth* (New York: Pharos, 1987), 139, 140.
16. van de Kaa, *op. cit.*, 53.
17. See, for instance, the enthusiasm for Sweden and Denmark in T. Berry Brazelton, *Working and Caring* (Reading, MA: Addison-Wesley, 1985), 16; and in Cadden and Kamerman, *op. cit.*, 64.
18. David Popenoe, *Disturbing the Nest: Family Change and Decline in Modern Societies* (New York: Aldine de Gruyter, 1988), 167-171, 181.
19. Paul C. Matthiessen, "Changing Fertility and Family Formation in Denmark," *World Health Statistics Quarterly* 40 (1987): 63-73; Popenoe, *op. cit.*, 171.
20. van de Kaa, *op. cit.*, 15-25.
21. Zigler and Muenchow, *op. cit.*, 92.
22. Zigler and Frank, *op. cit.*, "Conclusion," 349.
23. Joseph P. Allen, "European Infant Care Leaves: Foreign Perspectives on the Integration of Work and Family Roles," in *The Parental Leave Crisis, op. cit.*, 273-274.
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26. Allen, *op. cit.*, 265.
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32. Nena O'Neill and George O'Neill, *Open Marriage: A New Life Style for Couples* (New York: M. Evans, 1972), 196.
33. See Donna Lenhoff et al., "Should the Proposed 'Family and Medical Leave Act' Be Approved?" *Congressional Digest*, May 1988, 144-148, 152-154.
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45. For a discussion of women physicians who have delayed or suspended their practices for five or ten years or longer for motherhood, see "Medicine and Motherhood," *American Medical News*, 3 March 1989, pp. 25-28.

46. Allan C. Carlson, *Family Questions: Reflections on the American Social Crisis* (New Brunswick: Transaction, 1988), 39-154.
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Chapter 6

THE IDEOLOGY OF FEDERAL MANDATES

by Doug Bandow

A writer and commentator on government's interaction with other institutions examines the ideology of federal mandates and the unintended consequences.

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There is little doubt that the American family is in trouble. Half of new marriages today are likely to end in divorce, a process that new research confirms is usually highly damaging to children. In the inner cities, many traditional families no longer even form, with more than half of children born out of wedlock. The number of female-headed households grew by 82 percent in the 1970s and another 35 percent in the 1980s.[1] All told, the traditional family—a married couple with children under 18—accounts for just 26 percent of American households, down from 31 percent ten years ago and 40 percent in 1970.[2]

Even within stable, two-parent families, children receive less parental attention. More mothers are employed and "latch-key" children have become increasingly common. Dramatic evidence of the decline of true family life is provided by a study by University of Maryland sociologist John Robinson, which found that the average amount of parent-child interaction fell from 30 hours a week in 1965 to 17 hours a week in 1985.[3]

The problem begins shortly after birth. Career-minded mothers are more likely to return to work sooner, reducing their time with the newborn. While some mothers want to resume their jobs quickly, others complain that they must do so in order to maintain their jobs. This image of business "forcing" new mothers back to work has helped to fuel calls for Mandated Parental Leave. "A business community concerned about the future must support and nurture the nation's most valuable resource—its children," argue Edward Zigler and Rita Watson of the Yale University Bush Center in Child Development and Social Policy.[4]

Although President George Bush vetoed Federally Mandated Family Leave legislation last year, he appointed as his new Labor Secretary former Representative Lynn Martin, who voted to override that veto. Moreover, the President's reversal on other critical domestic issues, most obviously his decision to back the largest tax hike in history along with hefty spending increases, raises serious questions about his commitment on this issue.[5]

There is no doubt that supporters of federal legislation, which one Congressional staffer has called "the No. 1 family issue," will be back.[6] Some supporters of the law are motivated by a genuine concern for the health of the family as the bedrock

social institution in America. But the most important goal of much of the family-care lobby is ideological: to extend still further the government's reach into private and family affairs. After all, says David Blankenhorn of the Institute for American Values, "Raising children is not merely a series of private concerns but also a social imperative that should be supported by policies such as parental leave."[7]

Little more than half a century ago, family life was largely a private affair. Extended families lived and worked together, and cared for one another as generations were born and aged. Schools imparted values to children and were controlled locally by parents. Welfare was provided by private groups and local communities, rather than through the state and federal governments, and focused on the non-ablebodied. Religious values permeated society, providing a shared moral consensus including even nonbelievers.

It would be hard to imagine how the changes since then could have been more dramatic. Federal welfare policies have subsidized both the destruction of the family and work incentives.[8] The extended family has broken down at both ends, with a growing federal role: Social Security for the elderly and newly-passed daycare subsidies for kids. (That real needs existed—and still exist—cannot hide the fact that the federal programs created in response have had powerful, and adverse, social effects.) The quality of education has fallen dramatically despite increased federal support; school has increasingly become a value-free experience, even in such value-laden areas as sex. Yet parents' control over classes and curriculum has fallen, while their ability to turn to private schools has been circumscribed.

The costly results of these dramatic changes in American society may not have been intended, but the shift in power from families to government, and most particularly to the Federal Government, was always the proponents' goal. Indeed, socializing the family, in effect making private life public, has long been the objective of many advocates of everything from subsidized daycare to public education—and now Mandated Family Leave.

Too Good To Be True?

The case for Federally Mandated Parental Leave is simple: it is good for parents to bond with new babies, so they should be allowed to take time off to do so. Legislative proposals generally break down into three types.[9] The first type provides for unpaid maternity leave; the second type mandates leave time for fathers as well as mothers; the third type stipulates that firms must offer *paid* leave for the mother or both parents.

The legislation that passed Congress but was vetoed by President Bush would have required employers (though not Congress!) to allow employees to take up to ten weeks of unpaid leave after the birth or adoption of a child, or to care for a seriously ill child. It would have initially applied to companies with more than 50 employees (only five percent of the nation's companies but employing 44 percent of the workers), but would eventually have extended to any firm with more than 35 employees. This legislation is merely representative of the many different proposals, with varying lengths of leave times and small-firm exemptions, now floating around Washington.

The idea of encouraging parents to spend time with their children is good, and it is hard—especially for politicians—to say no to legislation that purports to aid the family. Indeed, opponents open themselves to the charge made by Representative Patricia Schroeder that, "If you look at American families, they are in as much trouble as the stock market. . . . All we have given them is rhetoric."[10] But even such a good end cannot justify any means. Indeed, as economists have long said, "there ain't no such thing as a free lunch." Mandated Family Leave will obviously hurt firms and the economy; it will also end up hurting employed mothers and other women.

A Matter of Principle

What is wrong with having the Federal Government set a requirement for maternal or parental leave? "Working women who want to bear children are merely asking that they be able to do so without being penalized on the job," explains one advocate of federal legislation.[11] But the issue has nothing to do with "being penalized." Most employment contracts state that you must work to be an employee; and if you don't work, you're not

an employee. Workers and companies are, however, free to negotiate about special circumstances, such as pregnancy. People who want the government to mandate leave are trying to penalize the employers by forcing firms to subsidize individual decisions to have children. This isn't the sort of issue warranting government intervention.

Indeed, one aspect of American economic life that most certainly should remain private is the negotiation between employers and employees about the terms under which they will cooperate. Through this process, firms have offered an increasing array of valuable fringe benefits to attract workers, and workers have been able to decide which benefits they want the most. It is not the proper role of government to insist on *its own* priorities, overriding the choices of workers and companies.

This question—when should government act?—goes to the heart of the American experiment. The Constitution conceived of Congress acting to promote the "general welfare," not to advantage any one group, such as new parents, while disadvantaging another, such as employers. Of course, Congress has long acted on behalf of influential "factions," and what was once a genuine republic now often looks like a special-interest circus. But the Mandated Family Leave proposal would break new ground, creating what Representative Dick Armey calls a "dangerous precedent" because "the government will be entering an entirely new area of regulation."[12] Although the government now sets a minimum wage, it does not yet decide what benefits must be paid to workers. The Mandated Family Leave bill would move Congress into the position of telling private employers what they have to offer—a one-size-fits-all approach.

Fueling the Entitlement Ethic

A Family Leave Mandate would likely have an even broader effect than simply interfering with the employee-employer relationship. Intervening so brazenly, in what is normally considered to be a private matter, to aid one side in a labor negotiation would fuel the entitlement ethic which characterizes the entire political sphere today.[13] Indeed, some Mandated Family Leave advocates even use the language of entitlements. Complained one, the "widely held belief that a working

woman is entitled to a six-week, paid maternity leave" is unfulfilled because "there is no coherent national policy."[14]

But why should someone be "entitled" to six weeks off *at someone else's expense*? Parental leave is one of many different fringe benefits, such as health insurance and child care facilities, that employees may desire. Are employees "entitled" to these others as well?

To the contrary, it needs to be said unashamedly: the proposals for Mandated Family Leave and other benefits infringe on the *moral rights* of employers. It is not the government's place to set the terms employers will offer.

Moreover, even if government needs to act, why should it be the Federal Government? Employment law is an area historically of greater interest to states and localities. Yet officials in Washington today seem to think that only *they* know what is good for 250 million Americans. Stephen Markman, former assistant attorney general in charge of the Office of Legal Policy, testified before Congress: "It is this attitude that in recent decades has been responsible for the mushrooming growth of a national government that not only has undertaken unmanageable responsibilities but also has usurped the decision-making authority of private citizens and of the levels of government closest to those citizens—the states and their localities."[15]

Federal mandates would not only infringe the rights of employers, they would also cost individual firms and the economy financially. The cost of paid leave is obvious: firms must pay for work that is not performed, perhaps even as they hire a substitute to handle the absentee's workload. The costs of unpaid leave are less obvious but equally real. First, firms would have to maintain fringe benefits, such as health insurance, for someone who is not working.

Second, companies would have to find some way to cover for the missing employee—perhaps paying overtime to other workers, perhaps hiring temporaries. Whenever you have to replace an employee "there is a productivity loss," explains Thomas Smith, president of Tom's Superthrift, a small supermarket in Maryland. "You don't save anything, you end up paying overtime to people trying to take up the slack. A lot of people don't like to work the overtime. Then what do you do?"[16]

Businesses may also be liable for unemployment insurance on temporary employees, forcing firms to pay even more money for a less productive substitute.[17] All told, the Chamber of Commerce figures that to replace a word processor with a temporary employee for 18 weeks of leave (the length of time proposed in one particular piece of legislation in the 1980s) would be $5,200.[18] The American Society for Personnel Administration says the replacement cost for even a lower-skilled position may run as much as $11,200.[19]

These costs would fall most heavily on firms that tend to hire women (cashiers, cosmetologists, and secretaries are positions predominantly filled by women, for instance), since women are more likely to take such leave, and on smaller enterprises, which are less able to spread work among many employees. In fact, the regulation could act as a competitive barrier to smaller firms in two ways: larger firms would find it easier to absorb the increased costs than would relatively small companies covered by the standards, and small, exempted firms would be reluctant to expand since doing so would bring them under the costly new federal regulations.

Although Congress might always keep the tiniest companies (along with itself) exempt, over time it probably would gradually tighten the standards, covering ever more companies. Indeed, some legislators have advocated regulating firms with as few as 15 employees.

The issue is not simply one of cost; after all, health care is expensive, but people are willing to pay for it. And Family Leave would be a valuable benefit. As one newspaper editorialized: "Workers have families, and families are more and more needing to have both parents in the workforce. Business must accept that."[20] Which they do—after all, it is business that is hiring the men and women who are entering the workforce. The question, however, is who pays? Since it is the families that benefit, why should the costs be forcibly imposed on the employers?

Costs are not irrelevant. A regulation affecting millions of people and thousands of companies across the country obviously would have a sizeable economic impact. Exactly how much is hard to say. The General Accounting Office figured that ten weeks for employees of firms with more than 50 em-

ployers would cost about $188 million annually, and that leave for enterprises with more than 35 employees would run $212 million; 18 weeks of leave for companies with more than 15 employees would cost $500 million.[21] Robert R. Nathan Associates, a Washington consulting firm, estimates that the cost of added health insurance alone would run $200 million to $600 million.[22]

The Chamber of Commerce estimated costs of $2.6 billion and $16.2 billion, depending on the exact assumptions used.[23] The best estimate probably lies close to the Chamber's lower figure—the National Federation of Independent Business criticizes the GAO for not considering hiring and training costs and lost productivity, among other things, while the Chamber's top number assumes that all fathers would take the leave.

While a few billion dollars might seem like small change for a five trillion dollar economy, the small change adds up, especially when the minimum wage was recently increased, and many legislators want to force employers to provide health care insurance, a measure that alone would cost tens of billions of dollars.[24]

Indeed, even the advocates of mandated benefits realize that they are not free. "There's no way the Federal Government can pick up the cost," said Representative Patricia Schroeder in early 1988. "We can't afford to do it."[25] So why does she assume that private business can do so?

Jobs, Wages and Benefits

Although the United States has proved to be a dramatic job-producing machine, creating 89 percent of all the new jobs in the Western world between 1980 and 1988 (and at twice the rate of even Japan), the current recession proves that growth is not inevitable. Wages remain higher in the United States than in other Western countries, and if Congress further reduces America's competitiveness by enacting an expensive series of mandated benefits, America will lose rather than gain jobs in the future.[26]

The loss of a job would obviously be a very high price for an employee to pay for an added "benefit." Although relatively few workers would likely end up unemployed from Mandated Family Leave, employers who are struggling at the margin are going

to cut employees as their costs rise. Moreover, a Family Leave Mandate, by raising the cost of creating new jobs, would prevent some number of jobs from arising. Even more serious would be the impact of the legislation on employees' overall benefit packages. For, as Alice Rivlin of the Brookings Institution has observed, "shifting costs to business may sound like a free lunch, but someone will pay."[27]

That someone is likely to be the consumer, to the extent that firms can hike their prices, and the employee, who will find his other benefits reduced or not increased.[28] Indeed, nearly 40 percent of employee compensation today is in the form of fringe benefits—health insurance, paid vacation time, pension benefits, and, at many firms, maternity and even paternity leave. (In fact, roughly three-fourths of companies with more than 20 employees, and 90 percent of big corporations, have some form of family benefits.) Although Congress may not be aware of the fact, most firms are not in business to lose money.

Thus, enterprises which are increasingly moving toward a "cafeteria style" offering of benefits, allowing employees to choose different mixes, will cut down the choice offered if some are mandated by the Federal Government. Or, constrained by existing contracts, they will absorb the cost as best they can today, but will refuse to grant as large a pay or other benefit increase in future negotiations, to counteract the federal mandate.

In this way the government would be taking power away from labor unions as well as corporations. The more benefits that are set by law, the fewer will be the issues that employers will be able and willing to negotiate over. Thus, when unions support mandated benefits under the guise of expanding their members' benefits, they are actually working to reduce their members' incomes and benefit options.

For Yuppies, Not For Women

Oddly enough, the Mandated Family Leave bill is largely a yuppie welfare bill for two reasons. First, members of high-earning couples would be most able to take an extended period of unpaid leave. While they would not be the only ones to take advantage of the provision, the law's beneficiaries would disproportionately be the well-off. Second, the guarantee of job and

seniority is relatively more important to white-collar professionals than to many in clerical and staff support positions. In short, while most blue-collar workers might welcome the opportunity to take parental leave, they likely would prefer to augment their pay or other benefits even more. But the Federal Government would be *making* them take the benefits package that higher-earners prefer.

Probably the most ironic impact of the law is that, while directed primarily at helping women (mothers are ten times as likely to use leave as part of the private programs that now exist), Mandated Family Leave would hurt them economically by making them less competitive in the job marketplace. Proponents of the legislation dismiss such concerns out of hand: "Refusing to hire qualified women is against the law. Second, today's economy depends on women working," says one.[29] But the number of jobs is not fixed, the law doesn't guarantee any woman any particular job or salary, and would-be employees are not interchangeable. While women would continue to get hired despite such legislation, they wouldn't necessarily gain as high positions, be promoted as quickly, or earn as much as they otherwise would.

Why not? Again, businessmen are not altruists out to lose money. Observes economics professor Deborah Walker:

> A special characteristic of the labor market is that each labor input is unique. No two people are exactly alike; no two people would do a particular job in exactly the same way. Every worker brings a different skill level, educational background, and experience record to the job. But also important is that each person's lifestyle affects the different desires and expectations regarding the job he chooses. Indeed, it will affect the job choice itself. This individuality can make labor-market negotiations very complicated, since the bargaining process between employers and employees becomes very personal.[30]

Thus, employers looking for career employees will take into account the fact that women are more likely than men to take a break from work or even drop their career for their family. According to the Bureau of the Census, 42 percent of fulltime employed women have had a work interruption of at least six

months compared to just 12 percent of men. Of the women, 85 percent cited "family reasons" for the hiatus.[31]

Mandated Family Leave will exacerbate the resulting bias against women in two ways. Providing maternity leave time makes it easier for a woman to ease out of the job market; indeed, spending ten weeks at home may cause her to reevaluate her career. Moreover, the provision of leave by the employer presumably makes it at least somewhat more likely that female employees will choose to have children, which raises the cost of those employees even if they do come back to work.

Since married women are more likely to take the leave than married men, they will be viewed as higher-cost employees than either men or single women. (Single men would have a corresponding advantage over married men, though the number of the latter using family leave is so small as to leave the competitive difference between them fairly small.) Indeed, federal Family Leave legislation would encourage discrimination against all women, and especially married women, discrimination that frankly is rational rather than invidious. Quite simply, if a female employee is more likely to interrupt her career, she is more costly and less productive for an employer, who will therefore tend to prefer men and will offer her less money for the same job.

The experience of Europe gives credence to these fears. Between 1975 and 1984, female labor participation rates increased in Sweden, the United States, and West Germany. But only in America did the ratio of unemployment to the employment-age female population fall; the number and share of unemployed women rose in the other two countries.[32]

Mandated leave would also have another negative impact on women now in the workforce. By making it somewhat easier to manage a career and family, federal legislation might induce additional women into the marketplace.[33] The result? Reports Walker: "The greater supply of females in the market will tend to drive down wage rates, especially in female-dominated occupations. The women most affected would be those with general skills and little experience or education, since these women would enter the workforce feeling better able to take on unemployment with family-leave benefits assured. Thus, wage rates

in occupations requiring little experience and general skills would decline."[34] However good the intentions of proponents of Mandated Family Leave, they cannot escape the inevitable economic consequences of their proposals.

An Alternative Policy

Some advocates of federal legislation have argued that Congress needs to act because the United States and South Africa are the only two industrialized countries without a national family leave policy. But the question is not what other nations—most of which gained no net new jobs during the entire decade of the 1980s—are doing. Instead, the question is what policy will protect Americans' economic liberty while promoting their economic prosperity?

The right strategy should be to make it possible for parents to choose to have children and for one parent to stay home if he or she desires. But mandatory parental leave won't do this. Warns Walker: "Parents need an economic environment that fosters economic growth and creates opportunities for financial stability, an environment that gives parents the choice of working inside or outside the home. A national family-leave policy would foster economic stagnation and destroy opportunities for financial stability."[35]

Instead, federal and state governments should move to reduce taxes and lift regulations that make it harder for people to find renumerative work and to keep enough of their incomes to raise a family. Yet, last fall Congress passed the largest tax increase ever, a nearly $187 billion tax hike. During 1991 to 1995 federal taxes alone will average 19.4 percent of GNP, the highest level in 40 years.[36] This will make it harder rather than easier for parents to take time off to raise their children.

Much regulation, such as the recently passed Clean Air Act, imposes high costs for little gain. Lifting unnecessary rules and reforming others would leave business with the resources to offer more benefits, including family leave, to their employees. Equally important would be reform of regulations that make it harder for mothers to work for pay at home. For decades the Federal Government prohibited people from working in certain occupations at home, a perfect arrangement for a new mother.

Meanwhile, local zoning regulations still stand in the way of some home businesses. Moreover, child care regulation, though advanced on the grounds of protecting children, has unnecessarily stifled the availability of inexpensive, family-style, private child care.[37]

As for specific benefits, employees and employers should be left to decide on the best package for everyone concerned. Would-be parents who hope to spend time with their babies could choose family leave benefits; those not expecting to give birth or adopt could select other benefits instead. Some might negotiate to work flex-time, part-time, or at home. All will be better off relying on the decentralized operation of the market rather than on federal mandates for specific benefits, essentially an "obsolete technology" that will grow less relevant as the economy further expands and employment options grow more diverse.

"It's high time we stopped talking about family issues and started doing something about them," said Representative Marge Roukema, a co-sponsor of one major family leave bill.[38] She's right, but the best thing that the Federal Government could do for families would be to stop interfering with their creation and stop destroying those that do form. The fact that Europe has followed a statist economic course is no reason for the United States to follow.

The American model has always been unique. By relying on voluntary decisions in the marketplace, rather than arbitrary dictates from Washington, we can build a freer and more productive society, one that will benefit parents, children, and everyone else.

Notes

1. "Basic Family Unit Still Fading, But at Slower Pace," *The Washington Times*, January 31, 1991, p. A3.
2. *Ibid.*
3. William Mattox, "Demise of the Family," *The Orange County Register*, January 24, 1991, p. B11.
4. Edward Zigler and Rita Watson, "Business Myopia About Children," *The New York Times*, November 19, 1987, p. A31.
5. In fact, the annual increase in real, after inflation, *domestic* spending so far under Bush is larger than that of any president since Franklin Roosevelt, including John Kennedy, Lyndon Johnson, and Jimmy

Carter. Stephen Moore, "The Profligate President: A Midterm Review of Bush's Fiscal Policy," Cato Policy Analysis No. 147, February 4, 1991.

6. Pam McClintock, "Committee Approves Parental Leave Bill," *The Washington Times*, November 18, 1987, p. C5.
7. David Blankenhorn, "Why Paid Parental Leave Makes Sense," *The New York Times*, April 7, 1987, P. A35.
8. Perhaps the most influential study making this point is Charles Murray, *Losing Ground: American Social Policy 1950-1980* (New York: Basic Books, 1984).
9. The Pregnancy Discrimination Act of 1978 already requires that health conditions related to pregnancy be treated like other health conditions and that pregnancy be treated like a disability, so that a pregnant woman can use disability leave when she gives birth. Several states, such as California, require that states offer maternity leave.
10. Sandra Evans, "Compromise on Parental Leave Bill Endorsed," *The Washington Post*, November 11, 1987, p.C9.
11. Janice Bellace, "Fair Maternity Leave Is Not Too Much to Ask," *The Los Angeles Times*, February 28, 1988, p. V5.
12. "House Panel Clears Bill on Family Leave Policy," *The New York Times*, November 19, 1987, p. C13.
13. See, *e.g.*, Doug Bandow, *The Politics of Plunder: Misgovernment in Washington* (New Brunswick, N.J.: Transaction, 1990).
14. Bellace, *op cit.*
15. Quoted in James Kilpatrick, "Mandating Togetherness," *The Washington Post*, November 7, 1987, p. A23.
16. "Taking Leave of Economic Sense," *The Washington Times*, November 30, 1987, p. D2.
17. See Deborah Walker, "Mandatory Family-Leave Legislation: The Hidden Costs," Cato Institute Policy Analysis No. 108, June 8, 1988, p. 6. Ironically, over the long term, firms may rely more on temporary and part-time help, who likely would not be entitled to parental leave.
18. Daniel Mitchell, "'Women's Movement' Spawns Another Counterproductive Bill," *The Orange County Register*, September 23, 1986, p. B7.
19. American Society for Personnel Administration, "Replacement Costs and Operational Difficulty of Implementing Family/Parental and Medical Leave Legislation," 1988.
20. "The Cost of Taking Leave," *The Christian Science Monitor*, November 3, 1987, p. 15.
21. McClintock, *op cit.*; "Taking Leave of Economic Sense," *op. cit.*
22. Robert R. Nathan and Associates, "The Private and Public Sector Costs of Proposed Family and Medical Leave Legislation," 1988.

23. Sandra Evans, "White House Opposes Bill Requiring Parental Leave," *The Washington Post*, November 1, 1987, p. A13.
24. See, *e.g.*, Stephen Moore and Dana Joel, "Mandated Benefits: The Hidden Tax Hike That Destroys Jobs," The Heritage Foundation, Backgrounder no. 675, October 6, 1988; Warren Brookes, "'Compassionate' Job Killer," *The Washington Times*, March 28, 1988, pp. C1, C4; Willis Witter and Karen Riley, "New Social Strategy: Make Business Pay," *The Washington Times*, March 9, 1988, pp. C1, C4.
25. Witter and Riley, *op cit.*, p. C1.
26. In 1988 the Heritage Foundation warned that as many as two million jobs might be at risk from a half-dozen regulatory initiatives, including family leave, aimed at business. Moore and Joel, *op cit.*, p. 9.
27. Quoted in "Stop Kidding Us," *Fortune*, August 15, 1984, p. 33.
28. The exact adjustment process is a complicated one and would vary firm by firm. See, *e.g.*, Walker, *op cit.*, pp. 8-10.
29. Judith Lichtman, "Bridging a Gap for Employees," *The Washington Times*, October 28, 1987, p. F4.
30. Walker, *op cit.*, pp. 3-4.
31. U.S. Bureau of the Census, *Male-Female Differences in Work Experience, Occupation, and Earnings: 1984*, Household Economics Studies Series P-70, no. 10 (August 1987), p. 14.
32. Patrick McMahon, "An International Comparison of Labor Force Participation, 1977-1984," *Monthly Labor Review* 109, no. 5 (May 1986), pp. 6-7.
33. Given the problems that exist with families today, this could be one of the most powerful arguments against Mandated Family Leave. It is not obvious that, on social grounds, the government should encourage more women to enter the workforce. In a sense, Mandated Family Leave may socialize the problem of neglected kids by forcing employers to subsidize mothers to take a job out of the home.
34. Walker, *op cit.*, p. 6.
35. *Ibid.*, pp. 11-12.
36. Dan Mitchell, "OMB and Taxes," in *Failing Marks: A Mid-Term Report on the Office of Management and Budget* (Washington, D.C.: Citizens Against Government Waste, January 1991), p. 12.
37. See, *e.g.*, Karen Lehrman and Jana Pace, "Day-Care Regulation: Serving Children or Bureaucrats?", Cato Institute Policy Analysis, no. 59, September 25, 1985, p. 1.
38. Albert Karr, "Measure Requiring Unpaid Work Leaves For New Parents, Seriously Ill Advances," *The Wall Street Journal*, November 18, 1987, p. 12.

Chapter 7

THE POLITICAL ECONOMY OF MANDATED FAMILY LEAVE

by James T. Bennett

An economist examines how labor markets function and concludes that Mandated Family Leave would make labor markets more rigid, resulting in economic consequences harmful to employees, employers, and the ability of firms to continue to employ American workers.

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The "new wave" of social policy in the United States is centered on Congressionally mandated, employer-provided benefits for employees. Congress has decided that the terms and condi-

tions of employment should not be determined solely by economic forces in the marketplace and mutual consent of employers and employees, but by political considerations. A long list of federal interventions in the employer-employee relationship has been proposed, including mandated health insurance, the use of "comparable worth" to determine pay rates, the prohibition of polygraph tests by employers, and Mandated Family Leave, which would give employees a "right" to partially-paid, extended leave for medical and parental purposes.

Some mandated benefits have long existed, such as the minimum wage and the Davis-Bacon Act which requires an artificially high minimum wage on all federally funded construction work. More recently, Congress enacted "plant closing" legislation that requires employers to give employees advance notice of plant closings and extended layoffs.

A study by the Employee Benefit Research Institute observed that "[There is] an intense interest in mandated benefits issues. . . . Most of the current inspiration consists of extending to the noncovered population valuable, extensive, and socially desirable benefits policies that many companies provide on their own or through collective bargaining."[1]

There is no doubt that mandated benefits are desirable to the employees who receive them in their compensation packages, but no benefit is obtained without cost. Government cannot under any circumstances create wealth by passing legislation; at the very best, it can redistribute wealth and, when redistribution occurs, there are inevitably winners and losers. The issue is then: do the losses exceed the benefits, and who wins and who loses? Often, the individuals who lose the most are the people who are the intended beneficiaries of public policy. Good intentions do not necessarily produce good public policy.

This paper examines the economic and social consequences of Federally Mandated Family Leave and shows that the long-term effects of this policy produce undesirable outcomes for the intended beneficiaries and for society.

The Political Imperatives of Mandated Benefits

Since the New Deal era of the 1930s, politicians have pursued a "tax and spend" policy which offers taxpayer-funded benefits to selected interest groups while dispersing the costs of

these programs widely among the general population. In this way, members of Congress have been able to reward their political supporters with public funds. The economic realities of the 1990s make this strategy increasingly difficult—a large budget deficit and growing public resistance to additional taxes reduce the ability of politicians to initiate new expenditure programs or to expand existing ones.

Mandated benefits offer politicians an attractive way of avoiding budget constraints while still offering benefits to constituents. In many ways, mandated benefits are like public programs financed by taxation, except that the expenditures do not appear in the federal budget and politicians do not have to incur the wrath of the general public arising from increased taxes. Employers are far less numerous than voters.

The major special-interest group advocating mandated benefits is organized labor. Unions are attempting to obtain through the legislative process economic gains which have eluded them at the bargaining table. Although this strategy may appear to make sense in the short run, it is fraught with peril in the long run. Employees will have much less incentive to join labor unions if the Federal Government determines the benefits package. Put another way, every time the Federal Government reduces the scope of collective bargaining by regulating the terms and conditions of employment, the role of labor unions in the workplace is diminished and so is their appeal to current and prospective members.

Another reason that labor unions actively seek to increase the involvement of government in the employment relationship is to reduce the competitive edge now enjoyed by nonunion firms. Unionized establishments tend to be larger and to have more generous benefit packages than nonunion establishments. Thus, some of the benefits which unions are seeking to impose on all firms are already enjoyed by many unionized workers. These benefits are costly, so nonunion establishments with less liberal benefit packages typically have lower labor costs. Federal regulations that require smaller firms to offer specific benefits to employees would reduce the labor cost differential between union and nonunion establishments.

To reduce political opposition to mandated benefits by the numerous owners of small firms that are much less able to afford the increases in costs of the mandated benefits than their larger counterparts, proposed legislation always contains an exemption for firms with a small number (typically less than 50) of employees. There is no question, however, that the ultimate goal of proponents is to make the mandated benefits universal. Once the precedent is established, the political pressure to expand the coverage is inevitable. Evidence of this phenomenon is amply given by the minimum wage law which, since its inception in 1938, has often been amended to bring additional workers under its jurisdiction.[2]

As long as budget constraints persist at the federal level of government, there will be continuing political pressure for Congress to become actively involved in setting the terms of employment. It is generally difficult to quantify the costs associated with governmental regulations, for many costs are subtle and the full adjustment to a new regulatory environment does not occur instantaneously, but over an extended period of time. In general, however, studies of the cost effectiveness of federal regulations have led to very disquieting results. A University of Chicago economist, Ronald Coase, after surveying the literature reported that

> there have been more serious studies made of government regulation of industry in the last fifteen years or so, particularly in the United States, than in the whole preceding period. These studies have been both quantitative and nonquantitative. . . . The main lesson to be drawn from these studies is clear: they all tend to suggest that the regulation is either ineffective or that, when it has a noticeable impact, on balance the effect is bad, so that consumers obtain a worse product or a higher-priced product or both as a result of the regulation. Indeed, this result is found so uniformly as to create a puzzle: one would expect to find, in all these studies, at least some government programs that do more good than harm.[3]

The issue at hand is whether Federally Mandated Family Leave, like other regulatory efforts of the Federal Government, will do more harm than good.

The Economic Consequences of Mandated Family Leave[4]

Legislative proposals incorporating family leave provisions are remarkably similar and differ only in their details, not in their substance. Each allows employees (male or female) to take a leave from work for a specified period of time (usually up to 16 or 18 weeks) over a two-year period whenever there is a birth, adoption, or illness of a child (and, in some cases, when other family members are in need of assistance because of serious illness). Although the employee would not be paid a salary while on leave, the employer would be required to continue to provide certain fringe benefits (health and medical insurance), and the employee's right to return to the same job would be guaranteed, as would seniority and pension rights.

There is no question that labor costs would be raised by the imposition of Mandated Family Leave and that those costs must be borne by the employer, the employee, the consumer, or some combination of the three.

In a competitive world, especially when the competition is global in scope and labor costs are far lower in some countries than in the United States, minimization of costs, including labor costs, is imperative for the employer. If it is possible to pass these additional costs on to consumers through higher prices, the employer will do so. Higher prices exacerbate inflation and reduce the quantity demanded by consumers, so that less output will be produced and sold.

Thus, even if the employer can pass all the additional costs onto consumers, profits will be lower because less will be sold. Employment will be lower because less will be produced. There will be less incentive to expand operations so that economic growth will be slowed. Slower economic growth will reduce the number of job opportunities. Since profits provide the resources for research and development, innovation will be slowed.

More typically, some of the labor cost increases will have to be absorbed by the employer, which lowers profits. In such cases, the employer will have to decide whether it is profitable to continue to operate the business at all—or to escape the unfriendly regulatory environment by closing domestic operations and moving abroad. During the 1980s, many high-labor-cost jobs, particularly in manufacturing, were lost by Americans as

employers turned to workers abroad in nations such as Mexico, the Pacific Rim countries, and countries in the Caribbean. Federally Mandated Family Leave would accelerate this process: jobs would be lost; the balance of payments problem would become more severe; and economic growth would be slowed. Again, lower profits also would lead to less innovation, for there would be fewer financial resources to support research on and development of new products and processes.

Current technological trends are making foreign labor markets increasingly attractive, even for the service industries which so far have been largely immune to job losses. For example, rapid improvements in telecommunications, which have improved the quality of voice and data transmissions and markedly lowered the costs of international communication, now make it possible for low-wage workers in countries such as Ireland to process insurance claims, do word processing, and accomplish many other tasks now done by "homeworkers" in the United States. Satellite dishes, high-capacity fiber optic cables, and computers will soon make homework of service tasks a global phenomenon.

Whenever you start imposing costs, people are going to move or take other actions to avoid those costs. There is no way of escaping it. Let me mention something that is very scary. The world is going capitalist, and China and India alone are the equivalent of 150 Taiwans in terms of population. The Soviet Union, if it can find its way out of its present problems, would like to move toward capitalism. There are plenty of people around the world who are willing to work cheaply for Americans, and I think that American employers won't blink a minute in terms of moving those jobs abroad, both service and manufacturing, if the costs become uncompetitive here. It's just a simple economic fact of life—we have seen it happen time and time again.

Based on the Free Trade Act between the United States and Canada, the Bush Administration is now talking about free trade for the entire Western Hemisphere. This would end all quotas and all tariffs. We used to talk about firms moving south from the northeast, say, from Massachusetts to Alabama. Now, we are going to be talking about moving south from Massachusetts to Mexico, or even from Alabama to Argentina.

Moving operations abroad is a drastic step for any employer. The first reaction would be to attempt to minimize the impact of the mandated leave policy in other ways. The most direct approach would be to hire selectively in order to minimize the likelihood that an employee would request leave. Both statistical evidence and common sense indicate that women are far more likely to take advantage of a family leave plan than are men. The Bureau of the Census has reported that 42 percent of full-time employed women have had a work interruption lasting six months or longer, while only 12.1 percent of males working full time had a work interruption of similar length. Moreover, nearly 36 percent of the women who had a work interruption of six months or longer gave "family reasons" as the cause of the interruption.[5] In addition, married women were more likely to take extended leaves than single women.

The implications are clear: family leave policies would directly benefit women far more than men, and married women more than single women. Thus, employers will have a strong incentive to discriminate against married and younger women, especially those in their childbearing years, as a way to reduce labor costs. Older women will benefit at the expense of younger women, but men have the most to gain relative to women.

Workers with chronic health problems, particularly with progressively worsening disabilities, will feel the effects of discrimination far more than others, for employers will view them as "high risk" employees who are likely to take advantage of the leave policy. A history of illness will become a major stumbling block to employment.

In sum, a mandated policy would therefore harm the workers it purports to help—married women of childbearing age and the chronically ill—while at the same time exacerbating inflation and balance of payments problems and reducing economic growth, job opportunities, living standards, and the rate of innovation. If anything, the Mandated Family Leave proposals are a formula for economic stagnation and increased discrimination in the workplace.

A Mandated Leave policy actually facilitates discrimination by employers, for Mandated Family Leave would likely increase the number of women who would seek jobs. Mandated

Family Leave makes it easier for a woman to cope with employment and parenthood. Indeed, when planning to have a child, many women will be encouraged to go into the job market in order to take advantage of the benefits offered, especially if the husband is unemployed or his employer offers less generous benefits. When the number of women entering the workforce increases and competition for available positions becomes more intense, downward pressure will be exerted on the wage rates for women. This effect will be most severe in the economic sectors which employ large numbers of women, *e.g.*, retail and service industries.

The wages of women workers would then become even less comparable to those of males, and the workers themselves would bear some of the cost of the leave program through lower take-home pay. This result is not surprising, for increases in the minimum wage have been shown to reduce the other forms of compensation available to workers who receive the minimum.[6]

When discrimination is practiced, women who are well-educated and who have job experience and skills will fare much better in the job market than uneducated, inexperienced, and unskilled workers. Economic adversity always affects most severely those who are the bottom of the economic ladder. Mandated Family Leave would hurt most those who are most in need of a job and most in need of the benefits. Entry-level workers will find it more difficult to enter the labor force and to climb the economic ladder. Mandated benefits do absolutely nothing for those who are unable to find employment.

The root problem with any mandated benefit of any type is its one-size-fits-all orientation which ignores totally the unique circumstances of both individual firms and individual employees. Technology and the demographic composition of the workforce have been changing rapidly and these changes have brought new problems in the world of work, especially the conflicts between work and family. However, to respond effectively to change, there must be flexibility, not rigidity. Mandates represent rigidity and inflexibility. Employers do not benefit from workers with low morale and high turnover; they have no alternative but to be sensitive to changing conditions and to adapt to them.

The trend in recent years has been toward "cafeteria" fringe benefit plans which permit individual employees to choose for themselves the combination of fringe benefits which best satisfy their needs and circumstances. Each employee is given a specific sum which may be allocated as desired among a wide choice of fringe benefit alternatives. Under cafeteria plans, the costs to the employer are known in advance and controlled while the benefit package is tailored by the individual employee to suit his or her needs. Both the employer and the employee are better off under a program that emphasizes choice. No one could possibly be better informed about the unique circumstances and needs of each employee than the employee himself or herself. Mandated benefits are the antithesis of cafeteria plans and allow politicians and bureaucrats to impose *their* ideas about what is best for employees through regulations.

The Effects of Mandated Benefits: The Evidence

Proponents of mandated benefits use an "international argument" to support their advocacy: The United States, it is claimed, lags behind other industrialized nations in requiring employers to provide benefits to employees. In the case of family leave, for example, Sweden offers nine months and Germany offers 26 weeks of paid parental leave. Throughout Western Europe, a wide range of benefits is mandated by law. Proponents claim that the lack of a "national family policy" in the United States is direct evidence of "how strangely unaccommodating American attitudes and commitments have been" toward employed women.[7]

This argument in favor of Mandated Family Leave deserves close examination, for it is equivalent to the teenager who attempts to obtain parental consent for some questionable activity by claiming that "everyone is doing it." The crucial issue is how well highly-regulated labor markets like those in Western Europe perform in comparison with the less-regulated labor market in the United States.

There is abundant evidence that the U.S. labor market far outperforms the labor markets of Western Europe by a wide margin. Between 1975 and 1985, 26 million *net* new jobs were created in the United States; during the same period, only 2 million *net* new jobs were created in Western Europe. "One ines-

capable fact that remains after all the demographic and industrial analyses are finished: There are many millions more Americans holding jobs today than there were fifteen years ago, but only a few million more Europeans have jobs."[8] Not only did the American economy expand to accommodate millions of new "baby boom" workers, but it also provided employment for tens of millions of female workers who chose to participate in the labor force.[9]

Moreover, these new jobs were better than those lost, for "the low-earnings category has declined over time; there has been no proliferation of workers with low earnings. And the share with high earnings has gone up."[10] The reason that the U.S. labor market has been so dramatically superior to those in Western Europe is that adjustment to economic changes is facilitated in America by market flexibility but is retarded in Europe by market rigidities.

There is consensus that labor rigidity is at least partly responsible for the lack of growth in European employment. Even those sympathetic to labor and labor unions concede that labor flexibility is related in one way or another to employment levels. The OECD's (Organization for Economic Cooperation and Development) Dahrendorf Commission—which included Douglas Fraser, former president of the United Auto Workers—acknowledged the relationship. In addition, the May 1987 communiqué from the ministerial meeting of the Council of the OECD cited the need for "more flexible labor markets" to "facilitate access to the new jobs emerging as structural and technical change accelerates." The 1987 *OECD Employment Outlook* summarized: "High unemployment presents many challenges. Perhaps the most important is the achievement of the rate of job creation necessary to move toward fuller employment and a more active society."[11]

The rigidities in European labor markets which have inhibited job creation are not accidental; rather they were caused by government interference in the employment relationship through mandating fringe benefits.[12] Most of the net new jobs in the American economy were created by small firms, not by industrial giants. Mandated benefits discourage the formation of new firms and, thus, the creation of new jobs. "About 1.3 mil-

lion new enterprises start up each year in the United States . . . [and] the rapid growth in business starts has an effect on where jobs are created. . . . About two-thirds of net new jobs were created by very small companies, those with 20 or fewer employees; about 80 percent [of all net new jobs] were created by firms with 100 or fewer employees."[13]

Mandated benefits which have contributed to rigid labor markets in Europe have resulted in economic stagnation. Rather than supporting the claims of proponents, the evidence from Europe provides compelling reasons to avoid mandated benefits and the problems associated with them.

Conclusions

Although federal intervention in the labor market to require employers to provide various fringe benefits to employees has, on the surface, a certain intuitive appeal, the long-run effects of such action are likely to have severe economic consequences. The analysis here has focused on the economic problems engendered by Federally Mandated Family Leave, but other mandated benefits will cause the same sorts of difficulties.

By raising the costs of labor of employers, U.S. firms will be less competitive in world markets. Because small firms will be more severely affected than large ones, job creation and job opportunities will be reduced. The output of goods and services and the nation's standard of living will be lower with mandated benefits than without them. Lower profits will retard research and development activity. Higher prices for goods and services will exacerbate inflation. The wages of women will fall relative to those of men. Employers will have powerful incentives to discriminate against workers who are most likely to use the family leave benefit: women in their childbearing years and workers with chronic illness. Women at the bottom of the economic ladder—the uneducated, untrained, and unskilled—will bear a disproportionate share of the burden of the policy.

In effect, the employees who are the purported beneficiaries of Federally Mandated Federal Leave are those who will be most harmed. In a nutshell, mandated benefits are a surefire formula for economic stagnation, as the European experience clearly illustrates.

Rather than intervene in labor markets to limit the freedom of choice of employees and thereby make labor markets more rigid, Congress should take steps to promote flexibility with regard to the fringe benefit options available. No one is better informed about the combination of benefits most needed by each worker than the worker himself or herself. Cafeteria plans which let employees select the benefits most appropriate to their unique circumstances offer much better protection to individual employees and still permit employers to contain labor costs. The negative economic consequences associated with mandated benefits are largely avoided by cafeteria plans. Thus, cafeteria plans would be far more beneficial to employers, employees, families, and society.

Notes

1. Frank B. McArdle, "The Pressure for New Legislated Mandates," in *Government Mandating of Employee Benefits* (Washington, DC: Employee Benefit Research Institute, 1987), pp. xxxiv-xxxv.
2. See James T. Bennett, Dan C. Heldman, and Manuel H. Johnson, *Deregulating Labor Relations* (Dallas, TX: Fisher Institute, 1981), pp. 86-98.
3. Ronald Coase, "Economists and Public Policy," in J. Fred Weston, ed., *Large Corporations in a Changing Society* (New York: New York University Press, 1975): p. 182.
4. The analysis in this section is based on Deborah Walker, "Mandatory Family-Leave Legislation: The Hidden Costs," Policy Analysis no. 108 (Washington, DC: Cato Institute, June 8, 1988).
5. U.S., Bureau of the Census, *Male-Female Differences in Work Experience, Occupation, and Earnings: 1984*, Household Economic Series P-70, no. 10 (August 1987), p. 14.
6. See Richard B. McKenzie, "The Labor Market Effects of Minimum Wage Laws: A New Perspective," *Journal of Labor Research* 1 (Fall 1980): 255-264.
7. Shelia B. Kamerman, Alfred J. Kahn, and Paul Kingston, *Maternity Policies and Working Women* (New York: Columbia University Press, 1983), p. 24.
8. Ronald E. Kutscher and Constance E. Sorrentino, "Employment and Unemployment Patterns in the U.S. and Europe, 1973-1987," *Journal of Labor Research* 10 (Winter 1989), p. 22.
9. See David L. Birch, "Change, Innovation, and Job Generation," *Journal of Labor Research* 10 (Winter 1989): 33-38.

10. Marvin Kosters, "The Changing Quality of American Jobs," *Journal of Labor Research* 10 (Winter 1989), p. 30.
11. See David R. Jones, "Europeanizing American Employment Issues," *Journal of Labor Research* 10 (Winter 1989), p. 2.
12. Melvyn Krauss, "The European Model Is Not for US," *Journal of Labor Research* 10 (Winter 1989): p. 61-65.
13. Birch, *op. cit.*, p. 35.

Chapter 8

ARE WE FACING THE FUTURE— OR THE PAST?

by Phyllis Schlafly

A writer and commentator on social, legal, cultural, and political trends summarizes the arguments about Mandated Family Leave and explains that its one-size-fits-all approach cannot meet the needs of American families today or tomorrow.

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One of the characters in ancient Greek mythology, Procrustes, invented the "one size fits all" mentality. He captured travelers and put them on an iron bed. If their legs were too long, he am-

putated them to fit; if they were too short, he would stretch them out.

Procrustes would have liked Federally Mandated Family Leave. It is an authentic "one size fits all" approach. It pretends to be pro-family by mandating that employers give all employees a guaranteed return to their jobs after a 12-week leave of absence. But dozens of family situations and work requirements simply do not fit this model.

This legislation is designed to return an employee to the workforce as soon as possible after a baby is born. That is not what most families want. Why should Congress mandate a benefit to assist *only* women who want to return to the labor force after 12 weeks, but totally ignore the woman who wants to stay with her newborn for six months, or a year, or five years, or have a couple of children close together and then return to her job? Is Congress now to take on the task of mandating the quality of motherhood and the time parents spend with their children by giving preferential treatment to one option but not to any others?

In order to bring this topic into focus, I will pose some questions that are often asked and present some answers.

Mandated Family Leave is an idea whose time has come. It's been debated long enough and it should be enacted now.

On the contrary, Mandated Family Leave is an idea whose time is past, if indeed it ever had a time. Societal changes, Americans' expectations, and technological innovations have all made Mandated Family Leave an outdated notion that cannot serve the demands of the present or the future.

Many observers believe that our economic future is in direct sales. People want their own businesses run out of their own homes. Some predict that 65 percent of all goods and services will be marketed this way by the year 2000. The *Wall Street Journal* reports that an increasingly popular approach with women with young children is operating a franchise from home. Bell Atlantic Corporation in Arlington, Virginia recently allowed 51 managers to exchange a long commute to the office for work at home called "remote control." They will be part of a new plan to test alternative work schedules and telecommuting technology, such as electronic mail, voice messaging, conference calling,

call forwarding, and special phone lines that allow voice and data to come into the home over one line.

Then there are other mothers who choose entirely different options. They want to be fulltime homemakers, or have sequential or "mommy track" careers. Many metropolitan newspapers have begun to run features on the theme that, whereas the 1970s were the era of the feminists and the 1980s were dominated by the myth of the Superwoman, the woman of the 1990s is the Sequencer or the Entrepreneur with a home-based business.

The United States has no national family policy, and we need one.

On the contrary, the United States has always had an effective national policy on parental leave. We let employers and workers work out their own arrangements. The less interference with the bargaining process the better, and the more prosperous our economy.

Our successful pro-family policy is based on private property, freedom from government regulation, freedom of contract, and individual responsibility. Our private enterprise system has made America the most prosperous nation in the world, where the average couple can aspire to own a home and send children to college. In countries that direct businesses what to pay in wages and benefits, workers simply don't earn enough money to do those things.

The tremendous array of employee benefits that workers receive in the American economy has grown up voluntarily in the private sector, from either employers' decisions or collective bargaining. These include paid holidays and vacations, health and medical plans, and pension plans. There is no evidence that the job benefits available in America would be as high as they are today if government had straitjacketed business by mandating the benefits chosen by the posturing politicians. Most big companies with generous benefits started out as small companies with no benefits.

There isn't any evidence that unpaid family leave is the specific benefit that most employed mothers would choose. Employed mothers of small children usually prefer other benefits, such as higher pay, a shorter work day, a four-day work

week, flexible time schedules, part-time work, job sharing, child care vouchers, a better health and medical plan, a pension plan, more paid vacation, more holidays, or the option to pursue employment at home.

A survey by Gallup and Employee Benefit Research Institute showed that, when employees ranked benefits, only one percent said that family leave was the most important; 99 percent picked other benefits, none of which was mandated.

Our nation should be more compassionate about maternity.

The proposed federal Family and Medical Leave bill is not a maternity bill at all; it has nothing to do with the disability that a woman incurs when she is pregnant or gives birth. Maternity benefits for most employed women are already covered by federal and state laws and are not currently controversial.

There is nothing compassionate about discrimination, and a Federally Mandated Family Leave bill would require discrimination. It would force employers to skew their employees' benefit package in favor of one narrow group of workers at the expense of others. The principal beneficiaries would be the highly-paid, two-earner yuppie couples who can easily afford to have one spouse take off several months without pay. The proposed bill is highly discriminatory against the great majority of employees who could never take a 12-week unpaid leave of absence from work or would prefer other benefits.

Among the specific types of employees who would be discriminated against are men whose wives are fulltime homemakers and mothers, single parents and all low-income workers who could not afford to take off unpaid time, most singles, self-employed persons, women who work at home, and all temporary workers including the one who replaces the one who takes the family leave.

The proposed bill is also highly discriminatory in the burden it would place on some types of employers. Its mandate would fall more heavily on businesses that employ a majority of women, and on all except very big businesses because most companies have only one employee in a given job category rather than a pool of workers who can be easily transferred.

This is not a plan to expand the benefits "pie" but a plan to rearrange the pieces on the plate as demanded by politicians rather than by employees. As Governor James Thompson wrote in vetoing a Mandated Family Leave bill in Illinois in 1990, "Mandating family leave will have the effect of reducing other benefits available to all employees."

Job security is what people need most today, and that's what Federally Mandated Family Leave would provide. No one should have to choose between job and family.

The proposed bill is a foolish and self-defeating approach to the problem of job security. In today's world, competitiveness is the name of the game. A business that is not competitive cannot provide jobs for anyone. The most important benefit anyone can have is a job that pays a wage. There is nothing pro-family about making it harder for companies to stay in business, be productive, and offer good jobs. There is nothing progressive about requiring single-income families to subsidize a benefit that would be enjoyed mostly by upper-income two-income households.

Surveys show that Federally Mandated Family Leave would impose little or no costs on employers.

This is false. The bill provides that the employer must continue health and medical benefits for the employee taking the leave. That means double costs: benefits for both the employee on leave and for the substitute who replaces her. It is common knowledge that providing health and medical benefits to employees is very costly, and the costs are rising faster than any other business expense. Even an employee who has no intention of returning to her job—or who simply doesn't want to make up her mind until the end of the 12-week period—would have to be given this costly benefit. The employer will bear the cost of those who come back to work after 12 weeks—and also the cost of those who do not.

In our current economic situation, corporations are already cutting back on their benefit packages. Many have reduced or put heavy restrictions on their health and medical plan. Several years ago when Congress imposed numerous regulations on

pension plans, thousands of firms simply cancelled their pension plans altogether.

All the cost estimates on Federally Mandated Family Leave take into account *only* the cost of the health and medical benefits because those are the only costs that can be precisely estimated. However, there are many other costs to such a mandate.

The temporary worker hired to substitute for the employee on leave, and then let go when the original worker returns, will increase the employer's liability for unemployment compensation insurance.

The cost of training the substitute worker and the consequent loss of productivity is bound to be substantial. For many jobs, it is difficult or impossible to train a temporary substitute. At a recent Senate committee hearing, one company testified that its cost of recruiting and training a non-professional worker is $4,237. The corresponding figure for professionals and managers is $23,211. Of course, these costs are not included in any estimates of the costs of the bill to private employers because there is no way to predict them with any accuracy.

Another costly aspect of Federally Mandated Family Leave is the provision to allow employees the right to bring civil suit in federal court with consequential damages up to three times actual damages.

For two reasons, the proposed Federally Mandated Family Leave would be the wrong way to go even if it didn't cost anything. First, it's *not* the benefit that women want. Women want benefits that give them more time with their families, *not* more time on the job. Second, the industry trend is toward a "cafeteria" system of benefits which enables employees to choose which benefits they want, rather than assuming that one size fits all. While less than a majority of firms have "cafeteria" benefits today, this is clearly the wave of the future.

Since employee benefits add an additional 33 to 40 percent of "goodies" over and above wages, it makes a real difference to workers which benefits they get. People's lifestyles and needs differ. The cafeteria approach allows employees to choose the benefits that best suit their needs. To mandate a particular benefit desired by only one small group is unfair to others.

Family Leave for employees is good for business and will promote business efficiency.

It is patently ridiculous to say that programs devised by bureaucrats will save business money.

If Mandated Family Leave were really good for business, we wouldn't need a mandate. One witness testified before a Senate committee that Aetna Life and Casualty Company found its family leave policy cost effective because it reduced employee turnover. If it is really true that family leave is good for Aetna's business, then Aetna will do it without any orders from some bureaucrat. But there is no evidence that what is good for Aetna is good for all other businesses.

Most "good" employers give Family Leave anyway, so why shouldn't we mandate the "bad" employers to do likewise?

Most employers already give time off to efficient employees because it is good business to do so. They should not be forced to give a benefit to employees regardless of whether or not they are productive. Suppose the replacement employee turns out to be a more efficient employee, and just as much in need of a job? There is no social justice in laying her off to restore the original employee who may be less valuable. These are the kinds of decisions that the Federal Government cannot foresee and should not mandate—especially by giving the inefficient employee the right to sue the employer and collect triple damages.

There are so many imponderables and variations of family situations that cannot be foreseen in federal legislation. Consider the following avenues for harassing litigation: How long does the employee have to work before being eligible for the leave? What kind of rights does the substitute or temporary employee acquire? Does the man claiming leave for a child have to be married to the mother of the child? Does "serious health condition" mean *any*thing involving supervision by a "health care provider" —including mental, emotional and drug-related conditions?

Federally Mandated Family Leave would impact so differently on different family situations that injustice would be the inevitable result. Most two-earner couples are employed by different companies, so they could double their benefits by claiming the leave from both companies, simultaneously or con-

secutively. This would be a real fringe benefit to the highly-paid yuppie couple who could use mandated leave for vacationing instead of parenting.

An unpaid leave of absence is tailored primarily to the needs of upper-income professionals or executives who can afford time off without income. The working poor and families at the lower end of the income scale could not afford this "benefit," but it would nevertheless be cut out of their benefit package and cause them to lose other benefits which employers might have offered. The farther down the economic scale, the less benefit there is in returning to a specific job.

The sponsors of this policy disdain to conceal their goals. Their aim is to force employers to pay full wages to employees when they are not working, to expand coverage to all small businesses, to extend the time of the mandated leave, and to work toward these goals by means of a tax-funded commission. In fact, the purpose of the tax-funded commission is precisely to achieve these goals.

Furthermore, since the proposed legislation would (temporarily) exempt firms with fewer than 50 employees, in fact, 60 percent of American employees and 95 percent of U.S. firms would *not* be covered at all. A federal mandate to provide a benefit to *only a small fraction of only 40 percent* of American workers *(who work in only 5 percent of U.S. firms)* would be so patently discriminatory and unjust that it would self-generate a demand for universal coverage.

Every industrialized country in the world has a family leave policy except the United States and South Africa.

The other countries that have mandated costly employee benefits have mandated their workers right out of jobs. Europe has had a net loss of jobs and higher unemployment during the same period that the United States has experienced a great expansion of the private sector and a reduction of unemployment.

The 18 million new jobs that were created in the private sector during the 1980s were created by *small* businesses, most of which are struggling at the margin to stay in business. Any newly-mandated cost will have to come at the expense of something else.

It should be noted that Mandated Family Leave in foreign countries is largely financed by the taxpayers rather than by the employer, and the higher taxes in foreign countries reflect these social expenditures. Are the advocates of Federally Mandated Family Leave ready to finance their proposal through increased U.S. taxes?

Sweden is the Western country with the most progressive (some would say intrusive) welfare state policies. But according to David Popenoe in a recent article in *The Public Interest*, what has happened to the family in Sweden over the past few decades shows that, as the welfare state advances, the family declines. The welfare state depends on heavy taxes paid by families that can take care of their own and don't make demands on the public purse; but once the welfare state is fully established, such families become increasingly scarce. The social policies adopted in Sweden are a proven failure and are a good model for what America should avoid.

Don't you believe that the Federal Government should show concern about the financial stress Americans are in today when it comes to the costs of having and raising children?

We certainly do. Congress has an obligation, first of all, to eliminate the current discrimination that exists against some kinds of children and their mothers and in favor of other kinds of children and their mothers. Legal discrimination against various groups (race, religion, color, sex, handicap, etc.) has been pretty well eliminated from our laws. However, one class of Americans is still openly and massively discriminated against: fulltime homemakers.

The income tax law discriminates against mothers who take care of their own children, and in favor of mothers who pay someone else to take care of their children, through the Child and Dependent Care Credit. If you pay someone else to take care of your children, you get a credit off your income taxes; but if you raise your children yourself, you don't get any credit. One way to remedy this discrimination would be to "universalize" the child care credit, that is, to make it universally available to all children regardless of the lifestyle of their mothers.

Federally Mandated Family Leave would compound this discrimination against the fulltime homemaker by forcing the traditional family, which provides its own family care on a lower average income, to subsidize the two-earner couples who have a higher average income.

In 1990, Congress took a wee step toward fairness when it passed the "Wee Tots" credit, which gives a small (up to $355 a year) credit for a child under age one, regardless of the lifestyle of the mother, to low-income parents. One excellent proposal would be to have a three-dimensional expansion of the Wee Tots credit: three times as large ($1,000 per year), to children under age 3 (instead of age 1), and up to an income level three times as high.

An even better proposal would be to increase the dependent child's exemption in the income tax law from its current $2,150 to $7,500, which is what it would be if it had been indexed for inflation and changes in the tax rates since the 1950s. This proposal was first made by Eagle Forum in 1982, and it has since been seriously recommended by such widely different groups as Ronald Reagan's White House Working Group on the Family and the liberal Progressive Policy Institute.

Nearly half of mothers with children under age three are *not* in the labor force. About half of women in the labor force do not return to their jobs after their first child's birth, and a majority of mothers do not return to work after the birth of their second child. These mothers perform the socially useful task of nurturing their own children on a fulltime basis, and they do this at great personal financial sacrifice. The "opportunity cost" of forgone income is, on the average, nearly $16,000 per year.

If we decide that society owes an obligation to parents of young children, then this cost should be borne by our society as a whole through the income tax code, not by the employer trying to make ends meet and who may have the misfortune to have an essential employee demand a leave at an inconvenient time.

INDEX

Ainsworth, Mary, 44-45, 49
Allen, Joseph P., 68
Armey, Dick, 1-2, 83
Attachment, 41 ff.
Bachman, Gerald, 25
Bandow, Doug, 79 ff.
Barglow, Peter, 46
Becker, Gary, 72
Belsky, Jay, 47, 49
Benefits, costs, 53-54
Bennett, James T., 95 ff.
Blankenhorn, David, 81
Bowlby, John, 42-45, 49
Brazelton, T. Berry, 65, 67, 71
Bronfenbrenner, Urie, 65
Bush, George, 72, 80, 82
Cafeteria plans, 60, 73, 87, 103, 106
Carlson, Allan, 71
Chase-Lansdale, P. Lindsay, 47
Christensen, Bryce J., 63 ff.
Churchill, Winston, 46
Coase, Ronald, 98
Costs, 51 ff., 84 ff., 99 ff.
Costs, hidden, 2, 5 ff., 10 ff., 55 ff.
Demeny, Paul, 66
Discrimination against families, 56-57, 73-74, 117-118
Discrimination against women, 8 ff.
Economic planning, 11
Employer plans, 59-60
Equity in the workplace, 4 ff.
Female labor-force participation, 7
Foreign countries, 11 ff., 58 ff., 63 ff.
Frank, Meryl, 71
Fraser, Douglas, 104
Freud, Sigmund, 43
Hart, Peter, 26
Haskins, R., 47
Hayek, Friedrich A., 14
Howes, Carolee, 47
Hunter, Brenda, 41 ff.
Ideology of mandates, 79 ff.
Kamerman, Sheila, 67
Keene, Karlyn H., 19 ff.
Knowledge factor, 14 ff.
Kosters, Marvin H., 51 ff.
Lamb, Michael, 43
Lewis, Michael, 47
Lipner, Robyn, 71
Louv, Richard, 42
Markman, Stephen, 84
Mauriac, François, 49
Mosier, Kathleen, 71
Nathan, Robert R., 86
O'Neill, Nena and George, 71
Option for women, 13 ff., 16, 61, 73
Orr, Sally, 65
Owen, Margaret, 47
Popenoe, David, 67, 117
Pregnancy Discrimination Act, 4
Public opinion polls, 19 ff.
Rivlin, Alice, 87
Robinson, John, 80
Roukema, Marge, 91
Rovine, Michael, 47
Scarr, Sandra, 70
Schlafly, Phyllis, 109 ff.
Schroeder, Patricia, 65, 69, 71, 82, 86
Schwartz, Pamela, 46

Smeal, Eleanor, 69
Smith, Thomas, 84
Socialism, failure, 1
State family leave plans, 59
Strange Situation, 44-46
Sweden, 67, 117
Sweeney, John, 65
Taub, Nadine, 72
Thompson, James, 113
van de Kaa, Dirk, 66
Wage gap, 13 ff.
Walker, Deborah L., 3 ff., 88-90
Watson, Rita, 80
Wattenberg, Ben, 66
Women, harm to, 7 ff., 88-89, 101
Zeduck, Sheldon, 71
Zigler, Edward, 65, 68, 80

Eagle Forum Education & Legal Defense Fund is a nonprofit educational organization which conducts research, studies, seminars and surveys on the civic, legal, economic, moral and social rights of traditional families. It seeks to promote fair treatment for traditional family values in the economy, the media, the schools and universities. Its major projects are:

Constitution Programs. Eagle Forum had an outstanding program honoring the Bicentennial of the United States Constitution. It includes a Constitution Slide Program called "We the People" which was shown by nearly 500 local Bicentennial chairmen to local groups reaching a half million Americans and is now also available on video and audio cassettes; a 40-minute video called "American Inventors," which describes how American prosperity is the result of the economic freedom established by the U.S. Constitution; and a one-minute musical radio spot called "Standing Proud for the Constitution," which aired on 700 radio stations during 1987. All three projects were officially "recognized" by the Commission on the Bicentennial of the United States Constitution as having "exceptional merit with national significance, and substantial educational and historical value."

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