

TOWARD A FAMILY-FRIENDLY, GENDER-EQUITABLE WORK WEEK

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The current framework for the regulation of work hours dates from the Fair Labor Standards Act of 1938.¹ Since 1938, however, important changes in American society warrant a reevaluation of the way work hours are regulated. Some of the most important changes include: the growth of the professional and managerial workforce, a group not protected by current legislation; the rise in the cost of employment benefits such as health insurance as a percentage of total compensation costs for employers, inducing employers to prefer work weeks that are either longer or shorter than the standard forty-hour work week; and the increasing prevalence of dual-earner and single parent families, raising fundamental questions about the appropriateness of the forty-hour standard.

This essay briefly summarizes the principal trends in work hours over the last thirty years and provides an overview of the social and demographic forces contributing to these trends. The essay then considers a number of policy proposals intended to reconcile the length of the work week with the needs of American families.

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1. See Fair Labor Standards Act of 1938 ("FLSA"), 29 U.S.C. §§ 201-19 (1994).

I. THE OVERWORKED AMERICAN? TRENDS IN THE WORK WEEK SINCE 1970

The issue of work hours has received considerable attention since the publication of Juliet Schor's book, *The Overworked American*,² which proposes that the century-long decline in work hours has recently reversed, producing increased toil and decreased leisure.³ The topic of work hours received further attention with the release of Arlie Hochschild's book, *The Time Bind*, which stresses the challenges faced by dual-earner couples in meeting the demands of work and family.⁴

A significant "time bind" clearly exists for many working couples, but it is not as clear-cut as Schor and Hochschild suggest. The length of the average work week has not increased significantly over the past thirty years.⁵ In fact, the average American works about the same number of hours per week as his or her counterpart did thirty years ago, with men working about forty-three hours per week and women working about thirty-seven hours per week.⁶ Yet the apparent stability of the length of the average work week masks some interesting and important shifts. Although the forty-hour work week remains the norm, with nearly forty percent of Americans working this standard time, far fewer Americans work forty hours per week today than they did thirty years ago.⁷ Since 1970, the percentage of men and women working either long or short work weeks has increased. Approximately one in four men (25.2%) and one in ten women (10.8%) work at least fifty hours per week.⁸ Additionally, one in ten men and one in five women work thirty hours per week or less.⁹

The United States has among the highest proportions of individuals working long work weeks. While the average work week for American men is comparable to that of men in other countries, the long work week is not. More American men work long hours than do men in most other countries.¹⁰ By contrast, American women work more hours per week than do women in most countries, and the percentage of women working fifty

2. See JULIET B. SCHOR, *THE OVERWORKED AMERICAN* (1991).

3. See *id.*

4. See ARLIE RUSSELL HOCHSCHILD, *THE TIME BIND* (1997).

5. For a detailed review of the competing perspectives on work hours, as well as empirical support for the data set forth in this section, see Jerry A. Jacobs & Kathleen Gerson, *Who Are the Overworked Americans?*, 55 REV. SOC. ECON. (forthcoming 1998) [hereinafter Jacobs & Gerson, *Who Are the Overworked*]; Jerry A. Jacobs & Kathleen Gerson, *The Time Bind: An Empirical Assessment* (1998) (unpublished manuscript, on file with authors) [hereinafter Jacobs & Gerson, *The Time Bind*].

6. See *id.*

7. See *id.*

8. See *id.*

9. See *id.*

10. See *id.*

hours per week or more is higher in America than in any other country in the world.¹¹

The increase in long and short work weeks has been compounded by a second trend—the changing demographics of the labor force. In 1970, most families were supported by a male sole-breadwinner. Although working women represented a growing percentage of the labor market, dual-earner couples were still the minority. However, the percentage of married couples with male sole-breadwinners has declined from a bare majority of married couples in 1970 (51.4%) to just over one quarter of married couples in 1997 (25.9%).¹² At the same time, the percentage of dual-earner couples has risen sharply, from just over one-third of married couples (35.9% in 1970) to nearly three in five married couples (59.5% in 1997).¹³ Today, dual-earner couples are more common than male sole-breadwinner couples were in 1970. Additionally, the percentage of married couples with a female sole-breadwinner increased from 4.6% in 1970 to 7.2% in 1997.¹⁴

As a result of these shifts in the labor force, the joint work week (the combined number of hours husbands and wives spend in the labor market) has increased. Thus, although the length of the average work week has remained constant since 1970, Americans feel more pressed for time because they are far less likely to have someone at home full-time.

While the average American worker works about the same number of hours as his or her counterpart did thirty years ago, the average American *couple* now works ten more hours per week than in 1970 (an increase from 52.5 hours in 1970 to 62.8 hours in 1997).¹⁵ This change is largely due to a shift from single-earner to dual-earner couples. Indeed, male and female sole-breadwinners work approximately the same number of hours as they did thirty years ago. Similarly, the work week of dual-earner couples has increased only modestly (from 78.0 to 81.3 hours per week).¹⁶ The rise in

11. Recent figures from the Organisation for Economic Co-operation and Development ("OECD") show that among the twenty countries analyzed, the United States has the fifth largest proportion of workers working long hours, trailing Australia, Japan, Portugal, and the United Kingdom. According to the OECD results, men in the United Kingdom work more long hours than do men in the United States; however, our results show the opposite. See ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, EMPLOYMENT OUTLOOK: JUNE 1998 158-59 (1998) [hereinafter OECD]. This difference in results may be due to differing definitions of long hours (forty-five hours for the OECD report versus fifty hours for our analysis) and to differences in data sources. See *id.*

12. See Jacobs & Gerson, *Who Are the Overworked*, *supra* note 5; Jacobs & Gerson, *The Time Bind*, *supra* note 5.

13. See *id.*

14. See *id.*

15. See *id.*

16. In a more detailed analysis of these data, we found that about half of this increase was due to the fact that compared to couples in 1970, couples in 1997 were slightly older,

the number of dual-earner couples and the decline of couples with a male sole-breadwinner are thus the principal causes of the ten hour increase in the joint work week for most couples.

In 1977, Rosabeth Kanter described executive positions that were so demanding that a working husband needed a wife who could support his career full-time.¹⁷ Increasingly, that wife no longer stays at home but has her own challenging job. The changing position of women in the workplace and the family raises serious questions about the consequences to careers, families, relationships, and parenting when both parents are deeply engaged in their careers and have little time or energy for the rest of life.

Dual-earner couples are terribly pressed for time. Among this group are highly educated workers who work in demanding professional or managerial occupations where long work weeks are especially common. Nearly two in five college-educated American men and one in five college-educated American women work fifty hours per week or more.¹⁸ But while this group is important, it represents only a portion of American workers and households. All dual-income and single parent families face a time bind.

II. THE BIFURCATION OF THE LABOR MARKET

The term "greedy institutions" was coined by the sociologist Louis Coser to describe how both work and family life can have no clear boundaries and thus can expand without limit.¹⁹ Firms may employ a variety of strategies to enhance profits. They may be "time greedy" and force their workers to work excessive hours, or they may prefer shorter hours, relying on part-time workers and subcontracted labor.

Employers may encourage their salaried employees to work long work weeks. Since these workers do not receive extra wages for every extra hour worked, the employer bears little or no marginal cost in persuading (or requiring) these workers to work extra hours.²⁰

had completed more years of schooling, and had fewer children. Taking these factors into account, dual-earner couples in 1997 worked about an hour and a half more than their counterparts did in 1970. See Jacobs & Gerson, *Who Are the Overworked*, *supra* note 5; Jacobs & Gerson, *The Time Bind*, *supra* note 5.

17. See ROSABETH MOSS KANTER, *MEN AND WOMEN OF THE CORPORATION* 104-25 (1977).

18. See Jacobs & Gerson, *Who Are the Overworked*, *supra* note 5; Jacobs & Gerson, *The Time Bind*, *supra* note 5.

19. See LOUIS A. COSER, *GREEDY INSTITUTIONS* (1974).

20. See, e.g., Landers et al., *Rat Race Redux: Adverse Selection in the Determination of Work Hours in Law Firms*, 86 AM. ECON. REV. 329 (1996).

When the Fair Labor Standards Act was passed in 1938,²¹ about one in seven workers (14.8%) was a professional or a manager.²² In 1995, that proportion doubled to nearly two in seven (28.3%).²³ Not only has this segment of the labor force grown, it is also most at risk of working very long hours. Salaried workers do not earn extra pay for every additional hour that they work. Thus, employers encourage them to work long hours by using the number of hours they work as a basis for promotions and raises.

The increasing cost of employment benefits may also encourage employers to encourage longer work weeks. The costs of many of the most expensive fringe benefits, such as health care, are fixed for a full-time worker no matter how many hours he or she works. Consequently, the hourly cost of such benefits declines as the worker devotes more hours to the job. As the cost of benefits rises as a fraction of total compensation, employers may be inclined to seek even longer hours from their employees.

The situation is likely to be quite different for employees who are paid by the hour. Employers may discourage these employees from working overtime. In some situations, employers may prefer to pay a smaller number of workers time-and-a-half or double-time for overtime. In cyclical industries, expected downturns mean periodic layoffs. Union contracts requiring employers to assist during layoffs may drive firms to prefer smaller work forces. Although these firms will have to pay overtime to the smaller workforces, they will also have to pay benefits to fewer employees. Despite these potential situations, employees eligible for overtime pay generally work fewer hours than those who are not.²⁴

The rising cost of employment benefits also contributes to a growth in part-time work. Since employers are not required to offer benefits to part-time workers, and typically do not do so, they can substantially reduce their compensation costs by encouraging part-time employment. The high cost of benefits makes both long and short work weeks more attractive to the employer than the standard forty-hour work week.

Since the early 1980s, American businesses have been downsizing and restructuring to cut operating costs.²⁵ In some sectors of the economy,

21. See Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201-19 (1994).

22. See U.S. BUREAU OF THE CENSUS, HISTORICAL STATISTICS OF THE UNITED STATES, COLONIAL TIMES TO 1957, at 75 (1960).

23. See U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1996, at 405 (1996).

24. See Jerry A. Jacobs & Kathleen Gerson, *The Endless Day or the Flexible Office? Working Time, Work-Family Conflict, and Gender Equity in the Modern Workplace* 10 (1997) (unpublished manuscript, on file with the Alfred P. Sloan Foundation and the authors).

25. See DAVID M. GORDON, *FAT AND MEAN: THE CORPORATE SQUEEZE OF WORKING AMERICANS AND THE MYTH OF MANAGERIAL "DOWNSIZING"* (1996); Jeffrey Pfeffer & James

these activities have resulted from the pressures of international competition, while in other industries they have been intended as a quick way to cut costs and increase profitability.

Downsizing has had a different impact on work hours at different levels of the occupational ladder. When professional and managerial workers, who are viewed as key to a firm's success, are discharged, the remaining workers are often expected to work more hours. However, at lower levels, the strategy has focused on reducing employment and outsourcing.

The persistence of the long work week is not simply a product of economic maximization, but also a reflection of societal norms. These norms assume that the amount of time an employee devotes to his job reflects his commitment to his employer.²⁶ Long hours persist not only because they appear to provide an efficient way of organizing work but also because working less is stigmatized. Refusing to work long hours can brand a professional employee as a "deviant" who is not worthy of serious consideration for advancement.

Economic and social factors thus encourage employers to offer and expect both long *and* short work weeks. These opportunities are not distributed equally across the labor force. While well-educated and highly trained employees who are paid on a salaried basis (such as managers and professionals) may be facing increased pressure to put in long hours at the office, those with less secure jobs (such as hourly workers, part-time employees, and contingent workers) may have a difficult time getting the amount of work they desire. In this context, the supply of available jobs may not correspond to workers' preferences. Rather, a gap will likely widen between those workers who prefer to work less and those who prefer to work more. The increasing bifurcation of work hours, a bifurcation that neither reflects nor supports workers' desires for a balance between work and family time, mandates reform. This reform should create a level playing field in which employers have no incentive to encourage long or short work weeks for reasons other than economic efficiency.

III. THE SOCIAL CONSEQUENCES OF LONG WORK WEEKS

The trend toward longer work weeks, especially for highly rewarded managerial and professional jobs, undermines workers' abilities to balance work and family. A fifty-hour work week translates into ten-hour workdays, five days a week. With a half-hour for lunch and a forty-five

N. Baron, *Taking the Workers Back Out: Recent Trends in the Structuring of Employment*, in 10 RESEARCH IN ORGANIZATIONAL BEHAVIOR 257 (Barry M. Staw & L.L. Cummings eds., 1988).

26. See CYNTHIA FUCHS EPSTEIN ET AL., THE PART-TIME PARADOX (1998).

minute round-trip commute (the national average),²⁷ the workday stretches beyond eleven hours.

Under this schedule, being home to send a child to school in the morning is challenging and being home when a child returns from school is impossible. Few after-school programs extend to 6 p.m., and while many daycare centers are open from 7 a.m. until 6 p.m., few parents wish to leave their young children for eleven hours. Live-in caretakers give working parents more flexibility, but they are expensive even for professional couples. Thus, the schedules of even school-aged children are difficult to reconcile with the long work weeks faced by many working parents.

Long work weeks also undermine gender equality in the labor market. Women work an average of six fewer hours per week than men,²⁸ and they are also significantly less likely to work very long hours.²⁹ Because many earnings statistics adjust for these differences, they capture only a portion of the gender gap in annual earnings. Pressures on professionals to work very long hours restrict women's mobility and limit their abilities to reach the highest echelons of the professional world.

Many men and women would prefer to work between thirty and forty hours per week and also be able to maintain their careers.³⁰ However, in occupations that require fifty or sixty hours of work per week, part-time employees are unlikely to ascend to the top of their professions. The current system allows choices, but they are forced choices between unpalatable alternatives. As more families depend on the earnings and career choices of women, gender equity becomes increasingly important not only to women, but also to their families. Thus, reforms addressing issues of work-family conflict must consider the consequences of equal opportunities at work not only to women, but also to their families.

Finally, jobs that demand long hours also threaten the civic culture and the quality of public life. Political scientist Robert Putnam has observed a declining participation in volunteer groups, civic associations, and other forms of public life.³¹ Participation in community clubs and activities is no doubt undermined by fifty or sixty hour per week jobs. Achieving an equitable balance between work and the rest of life is thus not simply a private issue between employers and employees, but also a matter of great public interest. The public good, as well as the welfare of families,

27. See Jacobs & Gerson, *Who Are the Overworked*, *supra* note 5; Jacobs & Gerson, *The Time Bind*, *supra* note 5.

28. See *supra* text accompanying note 6.

29. See *supra* text accompanying note 8.

30. See Jacobs & Gerson, *Who Are the Overworked*, *supra* note 5; Jacobs & Gerson, *The Time Bind*, *supra* note 5.

31. See Robert D. Putnam, *The Strange Disappearance of Civic America*, 24 AM. PROSPECT, Winter 1996, at 34.

depends on the creation of policies that reduce work-family conflict and discourage employers from unduly shortening or lengthening the work week.

IV. POLICY PROPOSALS

Jobs that require very long hours are neither family supportive nor gender neutral. Such jobs make it difficult for parents to spend time with their children and for women to compete on an equal basis with men. They require parents, typically women, to choose between work and family.

Arlie Hochschild, Juliet Schor, and numerous others have asserted that a discussion of policies regarding work hours and family commitments is long overdue.³² To be productive, this discussion must move beyond workers' and parents' behaviors to reconsider work structure. Our economy produces too much work for some and too little work for others, leaving workers at both ends of the spectrum facing real and severe constraints. Debates about reform must consider not only worker preferences but also parental needs. In addition to considering the place of work and family in our national culture, discussions should specifically address restructuring the workplace and affirming the responsibilities of employers to accommodate employees who have priorities that require more time away from work.

Policy proposals can be categorized into three types: 1) work-facilitating reforms, 2) flexibility reforms, and 3) reforms of the structure of work hours. Although each type of reform is important, this essay focuses on the reorganization of work hours because this area of policy has received less attention, and because changes in this area would affect the entire gamut of choices regarding work-family decision making.

A. *Work-Facilitating Reforms*

Many proposals to reduce work-family conflict are work-facilitating. Their principal purpose is to reduce impediments to working, especially for dual-earning parents and employed mothers. On-site daycare, for example, makes it easier for women (and involved fathers) to combine work and family, allowing them to attend to family demands while still carrying a full workload. Certainly, other reforms such as longer school days and better after-school programs can help reduce potential impediments to work. Lengthening the school year would reduce the disparity between children's vacations, which are typically more than two months long, and parents' vacations, which are often two or three weeks long, the lowest

32. See HOCHSCHILD, *supra* note 4; SCHOR, *supra* note 2.

among the advanced industrial countries.³³ Yet, none of these reforms, with the exception of on-site daycare, requires company investment, and some of these reforms would create new dilemmas in place of the ones they address. The government and employers must make greater efforts to help parents to combine work and child rearing.

B. Flexibility Reforms

A second set of reforms promotes individual choice and flexibility. The Family and Medical Leave Act provides for this type of reform.³⁴ These reforms allow more private time for those with children, those with dependent elderly relatives, and others with heavy responsibilities to dependents. The goal of these reforms is to increase flexibility in the workplace and to encourage companies to provide such flexibility. These reforms are clearly necessary; however, they are not sufficient to meet the changed circumstances workers face. Many proposals that are intended to promote individual flexibility leave basic job structures intact. Until long work weeks and uninterrupted work patterns are no longer required for career development and higher earnings, individual parents choosing to cut back on their work schedule, even temporarily, will continue to pay a considerable price.

Moreover, gender inequities will be exacerbated as women disproportionately pay this price. Compared to men, women often feel a greater obligation to spend time with their young children. Furthermore, because on average women earn less than men, having the mother, rather than the father, spend more time with the children is the economically rational choice. The long-term result is a cumulative cycle of lower wages and increased career interruptions that inhibits job mobility for women.

Although an individual choice approach is a necessary ingredient in any integrated effort to reduce work-family conflicts, it can exact significant costs if not considered in tandem with more structurally-oriented reforms. The individual choice approach puts the onus on workers to seek family conducive policies, even when doing so can endanger their jobs, careers, or financial security. However, as long as workplace culture and implicit workplace policies encourage employees to work full-time and overtime, many workers will avoid taking advantage of family oriented options. Indeed, the current structure of job incentives leads many employees to work more hours on the job than they would if offered realistic choices concerning work hours. Advocates of the individual

33. See Jacobs & Gerson, *Who Are the Overworked*, *supra* note 5; Jacobs & Gerson, *The Time Bind*, *supra* note 5.

34. See Family and Medical Leave Act, 2 U.S.C. §§ 60m-60n, 5 U.S.C. §§ 2105, 6381-87, 29 U.S.C. §§ 2601, 2631-36, 2651-54 (1994).

choice approach appropriately argue that workers who take advantage of family-friendly options should not be penalized. Indeed, one objective of greater workplace flexibility is to reduce the costs to individuals who choose non-standard work arrangements. The costs of interrupting careers or shifting to part-time work are not necessary but rather socially constructed and potentially subject to redefinition. Although the economic human capital approach argues that the social significance of career interruptions is mainly a matter of deteriorating skills and knowledge, the social significance is actually much greater. Just as young men who served in the military during World War II were not penalized for the time spent serving their country, the time women and men take out to care for their children should not be unduly penalized. However, those who interrupt their careers to care for children must work less than a full schedule and thus endanger career opportunities.

The problem is not that people make irrational choices, but that the set of choices available to them provides few satisfying alternatives. Expanding choice without changing the structure of available options leaves people facing decisions in which all available options are problematic and none provides a genuinely satisfactory solution. Working fifty or sixty hours a week and rarely seeing one's family is not an attractive option, yet many high status, high paying positions require such schedules. The alternative may be part-time work in a less desirable job or profession, with significantly lower pay, far fewer benefits, and shrinking advancement opportunities. Taken alone, a society that stresses choice without changing options risks penalizing parents who choose to be involved with their children, while undermining gender equity in the workplace. The structure of available options must be expanded so that people are not facing a devil's dilemma. People will then be able to make meaningful choices between attractive and feasible alternatives.

C. Reforms to the Structure of Work Hours

Necessary to the discussion of ways to better balance work and family is a third approach that focuses on changing the structure of choices about work hours. The current structure forces some people to either accept longer hours than they would prefer or pay a substantial penalty in terms of career mobility. It compels others to accept part-time jobs with fewer hours than they would prefer and lower benefits, job security, and economic resources than they need. The goal of this third approach is thus to level the playing field, to remove the perverse incentives built into the present system, and to make family-friendly jobs the standard rather than the exception. It is designed to make choices more feasible and realistic.

Three specific reforms to the structure of work hours can promote

more family-friendly and gender-equitable working arrangements. These reforms include: 1) extending the Fair Labor Standards Act to professional and managerial employees; 2) providing mandatory proportional benefits to all workers; and 3) shortening the standard work week.

Shifts in the structure of the workplace make it timely and appropriate to extend the Fair Labor Standards Act ("FLSA") to professional and managerial employees. Now that nearly one in three workers falls into the ranks of professional and managerial employees, these workers should be entitled to the protections of existing wage and hours legislation. Not only has this segment of the labor force grown but, since its members are salaried and thus do not earn overtime pay, it is also the one most at risk of working very long hours. Instituting FLSA protection would require employers to pay overtime for salaried as well as hourly workers. Consequently, this protection would reduce employers' incentives to push their salaried employees to work excessively long hours.

A second policy reform would provide for all workers mandatory benefits that accrue in proportion to the number of hours worked. Currently, full-time workers receive no additional increment in benefits if they work fifty hours instead of forty hours. Additionally, even though part-time workers are equally in need, they may not receive any benefits at all. A proportional benefits plan would entitle workers who work very long hours to receive additional benefits and would also protect workers who cannot or do not wish to work full-time. If a standard package based on a forty-hour work week covered the basic benefits—life insurance, health insurance, disability, and the like—then employees who work more hours could receive additional flexible benefit dollars. Those employees could apportion the additional benefit dollars to additional retirement contributions, additional life insurance, or cash benefits in the form of additional salary. Similarly, those who work less than the standard work week would no longer be denied all benefits but instead would receive a specified fraction of the standard benefits package proportional to the hours they work. Part-time employees could use flexible benefits packages in the ways they deem most useful, including cashing in the benefits they choose not to use.

Extending benefit coverage to all workers would remove one incentive for employers to bifurcate the work week and divide workers into overworked and underemployed categories. Work arrangements would better reflect the underlying logic of the tasks at hand rather than the costs of employing workers in artificially divided ways. When a small number of employees is more efficient, firms could hire fewer workers who are willing to work longer hours. With benefits extended to all employees, part-time jobs would be more expensive to the employer and the number of part-time jobs might decrease. Nevertheless, with benefits, part-time jobs

would provide greater security to employees and would thus become more attractive choices for employees. Most importantly, this reform would remove many of the extraneous incentives for employers to promote long or short work weeks.

Proportional benefits would also make long work weeks more costly to employers. The costs of benefits would encourage employers to offer jobs with unduly long and short work weeks only when these jobs constituted the most efficient solution to the problems of production or service delivery and not simply when they reduced the cost of employment.

These proposals alter the incentives to employers and employees and would promote the reduction of jobs with long and short work weeks. Yet they do not represent a direct or fundamental shift in policy toward the length of the work week itself. The time has also come to reconsider our basic assumptions about the length of the work week and even to consider proposals to shorten it.

Very long work weeks are a mixed blessing. The praise we give to hard-working men and women should be balanced by a recognition that long hours have costs to individuals, families, and communities. The forty-hour work week was created for the male sole-breadwinner family and was based on the assumption that one income was sufficient for two adults and their children. Clearly this is no longer the case. Since employers routinely fail to subsidize an unpaid partner at home, it is time to reexamine a standard that emerged at a different time to fill different social and personal needs.

In a world where dual-earners and single parents are the clear majority of workers, there is much to be said for a thirty-five-hour work week. Even this slight reduction in the standard work week would ease the time crunch on working parents, would provide more time for parents to nurture their children, would allow more gender equity in parenting, and would permit workers in all types of families to participate more fully in their communities. Just as the forty-hour work week has never been mandatory for everyone, the thirty-five-hour work week would not be required of all. It would, however, become an expected standard to help articulate the ideals, values, and norms of our society. It would set expectations for both employers and employees, promote coordination and efficiency within and among firms, and foster greater cooperation among workplaces, families, and communities.

The thirty-five-hour work week may appear to be a radical step, but the forty-hour week seemed equally radical before collective social action made it the standard. More importantly, the alternatives are far less attractive. The most obvious alternative is to take no collective action and to leave conditions as they are, with the onus of responsibility on individual workers to cope as best they can. This scenario would mean leaving

parents to face continuing and mounting time pressures and allowing firms to presume fifty- to sixty-hour work weeks until workers burn out, retire early, or simply abandon the hope of having a full life outside of work. The next alternative is to emphasize individual flexibility and choice, but to ignore the structure of work in which such choices are made. Such an approach may help some workers find a better balance between work and family, but only at the expense of equal opportunity and gender equity. Our approach, which focuses on changing the structure of incentives for employers and creating a new work standard that takes into account the new realities of family life, has several advantages for workers, employers, and communities. It creates a level playing field where employers who genuinely support families are not penalized for their efforts; it helps all workers, regardless of gender, create a better balance between home and work without having to sacrifice either financial security or their children's well-being; and it reduces at least some of the forces that lead to gender inequality in jobs and careers.

How can such a seemingly radical approach be achieved? As history has shown, strong collective support from citizens, workers, and the government can bring about fundamental changes in how we organize and think about work. More specifically, tax incentives could encourage firms to adopt a shorter work week voluntarily. Employers who offer thirty-five hour schedules, for example, could make reduced payments to social security, workers compensation, unemployment insurance rates, and other mandatory employer contribution systems. Employers would thus have an economic incentive to allow employees to work fewer hours. Employers might even forgo their expectations that employees will work long hours or overtime.

V. IMPLICATIONS FOR ECONOMIC PRODUCTIVITY

The concern that reducing the length of the standard work week will diminish economic output and lower the standard of living for all Americans is reasonable. Yet, the economic costs are likely to be modest and, in the final analysis, the social benefits may outweigh the economic costs.

Our standard of living could indeed be sustained with a shorter work week. Some countries with shorter average work weeks, such as the Netherlands, are able to maintain a high standard of living.³⁵ Employers in European countries routinely offer workers significantly longer vacations than do American employers, and they also have relatively few people working more than fifty hours per week. Moreover, many European

35. See OECD, *supra* note 11, at 158-59.

workers, especially women, work shorter work weeks.³⁶

In recent years, Europe has experienced high levels of unemployment, which has led some to question whether European labor regulations and social policies are undermining economic viability in an era of global competition. Yet Europe's problems during the early 1990s may have reflected tight fiscal policies rather than inefficient labor practices. Evidence on economic productivity indicate steady gains in most European countries,³⁷ and the recent surge in European stock prices suggests that prospects for European economies are bright.³⁸

In considering the economic effects of a shortened work week, it is important to distinguish between total output and efficiency per hour. Would the total supply of labor decline? While the average work week would be shorter, some women might work more because their husbands would be more available to help at home. Additionally, reduced hours might cause a decline in older men's participation in the labor force, a participation that has been decreasing slowly but steadily since the 1960s.³⁹ Thus, a reduction in the length of the work week might not create much reduction in the overall labor supply. It could help to equalize the hours of individual workers without substantially reducing the total for all workers.

Having risen gradually since the end of World War II, the percentage of the American population currently employed is at an all time high. Two-thirds (66.6%) of persons age sixteen and older were in the labor force in 1995, an increase from 59.4% in 1960.⁴⁰ Even after shifting to a thirty-five hour work week, the total annual hours worked in the United States would continue to be higher than Europe's because American workers tend to take shorter vacations. A higher percentage of women participating in the labor force in the United States, combined with the longer hours worked by American women compared to their European counterparts, would result in higher per capita work hours in the United States over Europe, even after the adoption of a thirty-five-hour work week.

There are reasons to believe that working fewer hours per week may impinge on workplace efficiency. The biggest problem is coordination; fewer work hours means that a worker is less likely to be available immediately for a client or coworker. Yet a policy of reducing working

36. *See id.*

37. *See id.* at 1-7.

38. *See* Yahoo!, *Major World Indices* (visited Nov. 19, 1998) <<http://quote.yahoo.com/m2?u>>.

39. The labor force participation of men aged 55-64 declined from 83.0% in 1970, *see* U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1988, at 366 (1988), to 66.0% in 1995, *see* U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1996, at 393 (1996).

40. *See* U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1996, at 394 (1996).

hours across the board may be better for coordination than a policy that emphasizes individual flexibility.

A shorter work week may also produce some inefficient results because workers generally require "recuperation time" after being away from the job for extended periods of time. By contrast, continuous immersion in a project can lead to greater productivity because less time is spent in the transition between beginning and returning to a project.

A midpoint between these two extremes may lead to the greatest productivity. Shorter work shifts enable workers to come back to work refreshed and reinvigorated. Studies of job performance and workplace accidents show that long hours on the job can produce fatigue and can result in declining performance and in an increased number of accidents.⁴¹ There is, therefore, potential for achieving greater productivity in a more limited time span, but without the adverse effects that may accompany a shorter work week.

A final concern is that reducing the work week would make labor more scarce and consequently more expensive. However, such scarcity might simply encourage employers to use existing workers more efficiently. Employers have little incentive to maximize efficiency unless they place a premium value on their workers' time.

On balance, a shorter work week would likely reduce overall economic output only slightly. In terms of aggregate lifetime working hours, a ten percent reduction in the work week would likely reduce lifetime participation by less than ten percent because mothers of young children, as well as older workers (especially men), would be more likely to remain in the labor force. The effects on worker efficiency are likely to be minor because coordination and attention costs would be offset by the benefits of a more refreshed, committed, and attentive workforce and by the long-run benefits of productivity-enhancing technology. Most importantly, economic losses would be more than repaid by the benefits to families and communities. In the final analysis, economic productivity must be weighed against other social goals. While it is possible to increase total output by increasing the standard work week from forty to fifty hours, such a policy would result in unacceptably high social costs. By contrast, a shorter work week would provide parents with more time to spend with their children and citizens with more time to contribute to their communities. In the long run, the payoffs to society would be enormous. Employers, who will eventually depend on the current generation of children as workers, also have a stake in creating a society in which work and family life are not at odds.

41. See Roger R. Rosa, *Extended Workshifts and Excessive Fatigue*, 4 J. SLEEP RES. 51, 52-4 (1995).

VI. CONCLUSION

These policies represent a sample of a number of possible approaches to the problems of work and family change. They provide the legislative means to expand workers' rights and benefits. Effective policy initiatives must extend beyond a reliance on cultural explanations and parental blame to confront workplace organization as well as specific challenges faced by parents and families.

The number of hours worked clearly affects the balance between family life and work, yet the problem is not simply one of being overworked. For those "overworked Americans" concentrated in the professional and managerial sector, job flexibility and genuine formal and informal support for family life may matter more than actual hours worked. For the "underworked" (those who are concentrated in less demanding and less financially rewarding jobs), security and opportunity are paramount for their own welfare and for that of their children.

One facet of change, however, affects both the occupational and class structure—the emergence of women as a large and committed group of workers. Women need, and have a right to expect, the same opportunities afforded to men, and their families depend financially on their ability to gain these opportunities.

In fact, significant points of convergence exist between women and men in their commitment to work and their desire for family support. However, our research indicates that women workers, especially those working long hours at professional jobs, do not enjoy the same level of support as their male counterparts. Principles of justice, as well as the new realities of modern family life, require that gender equity be integral to any policy initiative aimed at easing the conflicts between family and work.

At the broadest level, these findings imply that reform efforts should target two important goals: equality of opportunity for women and men and penalty-free support for all involved parents, regardless of their sex. We should no longer build work-family policies on outmoded stereotypes that view women as less committed to work than men. However, we should be wary of substituting old stereotypes for new ones in which working mothers, and fathers to a lesser extent, are seen as avoiding their families and neglecting their children.

These stereotypes are unfair to all workers because they equate work commitment with family neglect, and family involvement with a lack of work commitment. Under our findings, American workers today most need flexible work schedules and supportive work environments in order to balance the conflicting demands of work and family.