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Handler, Joel F.

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WOMEN, FAMILIES, WORK, AND POVERTY: A CLOUDY FUTURE

Joel F. Handler*

INTRODUCTION

The dramatic entry of women into the paid labor force is both good news and bad news. Clearly, it is a great sign of progress that women are striving towards economic and social independence. Although impressive gains have been made, there is still a long way to go — in both the Third World and the more industrialized nations as well. But in part, the rise of women in the paid labor force is born of necessity due to changes in marriage, divorce, the rise of the single-mother family, and, I would add, changes in the labor market.

It is the necessity side of the equation that I want to address. Despite the patriarchal norms of a prior age, poor women have always had to work in the paid labor force, and they have been stigmatized for that work.¹ Today, poor women still have to work, but because of deteriorating labor market conditions they are finding it increasingly difficult to escape poverty, let alone

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* © 1996 by Joel F. Handler, Richard C. Maxwell Professor of Law, UCLA School of Law. This paper is part of a larger project with Yeheskel Hasenfeld, under a grant from the Twentieth Century Foundation, tentatively titled *Reform Work, Reform Welfare*. Our approach is to reconceptualize Aid to Families with Dependent Children (AFDC) mothers as part of the working poor, and propose reforms of the low-wage labor market and poverty in contrast to current policy which focuses exclusively on the long-term welfare recipient.

1. JOEL F. HANDLER & YEHESEKEL HASENFELD, *THE MORAL CONSTRUCTION OF POVERTY* 51-57 (1991); ALICE KESSLER-HARRIS, *OUT TO WORK: A HISTORY OF WAGE-EARNING WOMEN IN THE UNITED STATES* (1982).

achieve economic independence, and they are stigmatized for that failure as well.

Within marriage, the role of women is changing. In fact, the most dramatic changes in women's labor force participation have occurred among married women with young children. Increasingly, the "breadwinner-husband" family is not only being replaced by the "wife-contributor" family — since 1980, most wives provide some earned income to the family — but also by the wife as "coprovider," where the wife is providing a significant portion, if not half, of the family's income.² Again, there are positive sides to this development — marriage no longer has to be viewed as subordination for women. Except for the rich, the only subgroup doing better today are probably young married couples, and that is primarily due to the rise in the wife's earned income. Research on trends in delayed marriage, increasing non-marriage, marital instability, and marital formation suggests that "marriage is more likely to occur when *both* men's and women's economic prospects are good."³ Economic viability for working people requires not only two earners, but also there is an increasing trend for three jobs per couple.⁴ Married mothers, who still have the great bulk of child care responsibilities, are working longer hours in a poorly paid, gender-discriminatory labor market. Not surprisingly, these developments have important consequences for family life and child care, which will be discussed *infra* Parts III and V.

Single mothers have special, acute problems which must be addressed — indeed, most of this paper will be devoted to single mothers not only in poverty, but also on welfare.⁵ In part, this is a reflection of the available research — we know more detail about the day-to-day lives of welfare mothers than about working-poor mothers in general. But, as we shall see, the point is that welfare mothers are, for the most part, also working mothers. Contrary to the popular stereotype of the long-term dependent, most welfare mothers are often in and out of the paid labor market and use welfare in much the same manner as unem-

2. Aimée Dechter & Pamela Smock, *The Fading Breadwinner Role and the Economic Implications for Young Couples*, University of Wisconsin-Madison Inst. for Research on Poverty, Discussion Paper 1051-94 (1994).

3. *Id.* at 2.

4. *See infra* part II.

5. By "welfare," I mean the AFDC program.

ployment insurance. Their experiences shed important light on the issues that we are addressing.

I also want to bring men back into the discussion. Men, of course, continue to play the central role in gender discrimination. But men are also a crucial part of the necessity side of the equation. Changing labor market conditions have dramatically eroded the economic position of working men, and this, in turn, has dramatically affected the lives of women.⁶ We are familiar with William Julius Wilson's thesis: one of the important reasons for the extraordinary rise of unmarried African American women is the incredibly small pool of men who can support a family.⁷ The lack of steady, decent employment among African American males is truly staggering.⁸ Not only are most African American women facing parenthood on their own, but there are numerous accounts of how they and their children — as well as other poor families — are victims of crime and abuse from predatory men, reflecting the rage and despair of the inner cities. It is undeniable that women in the paid labor force, especially poor women, have special, unique problems. Nevertheless, while these problems have to be addressed, I argue that long-lasting, effective solutions must apply to women and men — all the working poor.

In this article, I turn first to poverty — its extent and its effects on family life. Here, we learn that, while causality is not well understood, most of the harms that poor families are suffering are related to poverty. We also learn that while many people in poverty are on welfare, most poor people are working. Moreover, they often work long hours but still remain poor. Why is this so? There are no single answers to the questions of why some people work and others do not, and why some get ahead and others remain mired in poverty. Many people suffer from various kinds of personal or individual deficits — physical, mental, human capital. However, in this article, I discuss three

6. LAWRENCE MISHEL & GARY BURTLESS, *RECENT WAGE TRENDS: THE IMPLICATIONS FOR LOW WAGE WORKERS* (1995).

7. WILLIAM WILSON, *THE TRULY DISADVANTAGED* (1987).

8. In 1993, the male unemployment rate for African American high school dropouts was 42.1% and for graduates, 21.3%. For whites, the comparable figures were 18.3% and 10.8%. JARED BERNSTEIN & LAWRENCE MISHEL, *TRENDS IN THE LOW-WAGE LABOR MARKET AND WELFARE REFORM: THE CONSTRAINTS ON MAKING WORK PAY*, tbl. 4 (1994) (Available from Economic Policy Institute, 1660 L. St., NW, Ste. 1200, Wash. DC 20036. Many Economic Policy Institute publications are available on-line at <http://www.lights.com/epi>).

major *structural* barriers that are particularly relevant to single mothers trying to achieve self-sufficiency: the low-wage labor market, the lack of health care, and the lack of adequate child care. These barriers might be less devastating to single mothers if they could count on financial support from fathers of their children. So why don't fathers support their children? A good question. I discuss the issue of child support to counter the argument that increased enforcement will ameliorate the poverty conditions of single mothers. The conclusion of the article is that if we are serious about the issues of family poverty and the healthy development of our children, then we should stop focusing on the largely symbolic issues of welfare reform⁹ and start talking about the politics of redistribution.

I. POVERTY: EXTENT AND EFFECTS

There are many reasons to be concerned about the barriers that women face in trying to become self-sufficient through paid labor — independence, self-worth, citizenship. Here, I am concerned about the ability of women and their children to live a decent life, a life with a reasonable level of material comfort, a life where children can be nurtured and given a decent chance to become successful adults. All of these goals are at risk for families in poverty. First, I discuss the extent of poverty; then, I turn to its effects on families.

Poverty is extensive, and it is growing. In 1993, the official poverty line for a family of four was \$14,763. Using this threshold, there were nearly forty million people — about fifteen percent of the population — in poverty in that year.¹⁰ Of the 40 million people in poverty, 14.5 million of them were children. Approximately twenty-two percent of all children are living in poverty. Moreover, in 1989, fourteen million Americans (thirty-eight percent of the poor) reported incomes of less than *one-half* of the poverty line. The severity of poverty today rivals the figures for the 1950s.¹¹ "Welfare" is often used interchangeably with poverty, but the AFDC welfare population is approximately

9. JOEL F. HANDLER, *THE POVERTY OF WELFARE REFORM* (1995).

10. BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, REPORT NO. 896, *A PROFILE OF THE WORKING POOR* 1 (1993).

11. Sheldon H. Danziger & Daniel H. Weinberg, *The Historical Record: Trends in Family Income Inequality and Poverty*, in *CONFRONTING POVERTY: PRESCRIPTIONS FOR CHANGE* 33 (Sheldon H. Danziger et al. eds., 1994) [hereinafter *CONFRONTING POVERTY*].

13.6 million (1993) — of which about 9 million are children — which is considerably less than the poverty population.¹²

The federal poverty line is considered low by most Americans. There are an additional 30 million Americans at 150% of the poverty line, which is approximately \$21,000 for a family of four. At this income level, families have barely enough to get by — and certainly nothing at all for what many of us take for granted, such as meals out, vacations, and so forth.¹³

There is a serious question as to how accurately the official poverty line reflects reality. The official poverty line, adopted in the 1960s, consisted of the cost of a minimum adequate diet (the Economy Food Plan, the least expensive food plan adopted by the U.S. Department of Agriculture in 1961), multiplied by three. Cash income, before taxes, determined a family's poverty status.¹⁴ The thresholds were updated annually for price inflation.

The Committee on National Statistics of the National Research Council (National Academy of Sciences) has recently proposed a new measure.¹⁵ The panel recommended that the poverty threshold be based on basic needs — food, clothing, and shelter, with a small amount added for additional needs — and that nondiscretionary expenses should be deducted from income, including out-of-pocket medical expenditures and insurance pre-

12. HOUSE COMM. ON WAYS & MEANS, 103D CONG., 1ST SESS., OVERVIEW OF ENTITLEMENT PROGRAMS, 1993 GREEN BOOK, BACKGROUND MATERIALS AND DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMM. 615 [hereinafter 1993 GREEN BOOK].

13. Danziger & Weinberg, *supra* note 11, at 27.

14. *The Poverty Measure: A Brief History*, 17 FOCUS (U. of Wisconsin-Madison Inst. for Res. on Poverty), Summer 1995, at 2.

15. In *Measuring Poverty: A New Approach*, The Institute for Research on Poverty suggests that the present measure is outmoded primarily because it is based on gross income alone; thus, it fails to take account of the fact that tax payments and other nondiscretionary expenses can put families below the poverty line. It also fails to include in-kind assistance which can put families above the poverty line. Some of the more specific reasons for proposing revisions of the official measure were (1) child care costs due to the increasing participation of women in the labor force; (2) differences in medical costs that families incurred because of the differences in health status and insurance; and (3) differences in disposable income because of the increase in the payroll tax and the growth of Food Stamps and the Earned Income Tax Credit. Other reasons included the need for regional variation, family size adjustments in view of the changing demographic and family characteristics, and changing concepts of what constitutes minimum needs — for example, food expenditures are now a lower proportion of a family's budget and housing costs are a higher proportion. *Measuring Poverty, A New Approach*, in FOCUS, *supra* note 14, at 4. See generally MEASURING POVERTY: A NEW APPROACH (Constance F. Citro & Robert T. Michael eds., 1995).

miums, income and payroll taxes, actual child care expenses up to a cap for working parents, an allowance for other work-related expenses, and child support payments to another family. At the same time, in-kind resources, such as food stamps, subsidized housing, school lunches, and home energy assistance would be included. Rather than a specific poverty line, the panel recommended a range. For a family of four (two adults, two children) the range would be from \$13,700 to \$15,900 (1992 dollars).¹⁶

Under the new recommendations, the number of people in poverty would be about the same. However, the composition of the poverty population would change — about twenty percent would be “new.” That is, 7.4 million would be added, and about the same number would move above the poverty line.¹⁷ The most important change, for our purposes, would be the higher proportions of poverty rates for families with one or more workers. The new definition includes *3.6 million more people living in families where the primary worker was a full-time worker*. While the number of poor children would remain the same, there would be more poor children living in two-parent families. The poverty rate of children in single-parent families would remain disproportionately high. The number of poor families without health insurance would increase; in fact, the largest marginal increase in the number of poor (5.3 million) would come from deducting out-of-pocket medical expenses. Conversely, if the 1996 expansion of the Earned Income Tax Credit takes effect, 2.4 million people would cross over the poverty line.¹⁸

Whether or not the official poverty line is revised, there is little doubt that poverty is growing, both in numbers and severity. Many reasons are offered, but the two most important are

16. *Id.* at 6. There were many other recommendations by the panel — variations for differences in family composition, age of children, cost-of-living adjustments, regional variations in housing costs, and so forth. While some of the recommendations of the panel are controversial (calculating health care expenditures), there is general agreement on others — for example, deducting taxes and work expenditures and adding in-kind expenditures that support consumption. *See id.*

17. David M. Betson, *Consequences of the Panel's Recommendations*, 17 *Focus*, *supra* note 14, at 11. The report did not calculate the composition of people receiving assistance that would move above the poverty line. It is hard to believe that many of those to move above the poverty line would be AFDC recipients. Benefits vary by state, but the national average including foodstamps is between seventy percent and eighty percent below the poverty line. In some very high-benefit states — for example, Alaska — there would be some AFDC recipients no longer considered in poverty.

18. *Id.* at 12.

changes in family formation and the rise in income inequality following two decades of slow economic growth, declining real wages, and the spread of low-wage work.¹⁹

While low income is not the exclusive cause of family problems, the fact remains that poverty is the most powerful predictor of the harmful behavioral consequences that are most commonly ascribed to welfare families.²⁰ McLanahan and Sandefur state: "Low income or income loss is the single most important factor in accounting for the lower achievement of children in single-parent families. It accounts for half of the difference in educational achievement, weak labor force attachment, and early childbearing."²¹ Not surprisingly, parents in these families suffer more emotionally and are more anxious about their children's future than more well-off parents. Poor families are more likely to disintegrate and become single-parent households, and single parents, in turn, are less likely to engage in "good" parenting practices. Even allowing for the problems of official reporting, the highest incidence of child neglect and abuse and the most severe injuries to children occur in the poorest families. Economic instability and hardship and social stress among adults is related to marital conflict, harsh and inconsistent punishment, rejection, and noninvolvement. Brain dysfunctions, caused either by exposure to lead, injuries from abuse, or mothers' substance abuse — all highly correlated with poverty — interfere with language and cognition development, resulting in learning and social problems at school. Early school failure, in turn, is one of the strongest predictors of adolescent problems including violent behavior. It is not surprising that children growing up in poor families are more likely to suffer from poor physical and mental health problems, do poorly at school, and compromise successful development by early sex, pregnancy, substance abuse, delinquency, and crime.²²

Education is a crucial determinate of future employment, and low income (incomes less than 150% of the poverty line)

19. *Introduction* to *UNEVEN TIDES: RISING INEQUALITY IN AMERICA* 10-14 (Sheldon H. Danziger & Peter Gottschalk eds., 1993).

20. ROBERT H. HAVEMAN & BARBARA L. WOLFE, *SUCCESSING GENERATIONS: ON THE EFFECTS OF INVESTMENTS IN CHILDREN* 3 (1994).

21. SARA McLANAHAN & GARY SANDEFUR, *GROWING UP WITH A SINGLE PARENT* 154 (1994).

22. NATIONAL RES. COUNCIL, COMM. ON BEHAVIORAL & SOC. SCI. & ED., *LOSING GENERATIONS: ADOLESCENTS IN HIGH-RISK SETTINGS* 2-11 (1993) [hereinafter *LOSING GENERATIONS*].

seriously affects educational achievement. Poor children attend schools of inferior quality. Their parents cannot afford after-school enrichment activities and are less likely to be involved with their schooling. Thus, poor children have lower expectations and are less likely to invest in themselves.²³ Not surprisingly, low income is the strongest predictor of school dropout rates, regardless of race.²⁴ As will be discussed, people without a high school degree or its equivalent are severely disadvantaged in an already difficult job market.

Because there is such a high correlation between poverty and single-parent households, it is hard to separate out the effects. It's a case of double jeopardy for both the parents and the children. As Bronfenbrenner says,

[b]ecause many single-parent families are also poor, parents and their children are in double jeopardy. But even when two parents are present [in] . . . households living under stressful economic and social conditions, processes of parent-child interaction and environmentally oriented child activities are more difficult to initiate and sustain.

To be sure, . . . when the mother, or some other adult committed to the child's well being, does manage to establish and maintain a pattern of progressive reciprocal interaction, the disruptive impact of poverty on development is significantly reduced. But, among the poor, the proportion of parents who, despite their stressful life circumstances, are able to provide quality care is, under present circumstances, not very large. And even for this minority, the parents' buffering power begins to decline sharply by the time children are five or six years old and exposed to impoverished and disruptive settings outside the home.²⁵

The risk of poor outcome is increased when the parent is a teenager. The children of these parents are even more likely to do poorly in school and engage in compromising behaviors. Again, it is hard to separate out the effects of teen parenting from low income.²⁶

23. McLANAHAN & SANDEFUR, *supra* note 21, at 33-34.

24. Controlling for income, approximately the same percentages of White, Black, and Latino students will have neither a high school diploma nor a general equivalency diploma by the time they reach age twenty-four. LOSING GENERATIONS, *supra* note 22, at 102-04.

25. LOSING GENERATIONS, *supra* note 22, at 49-50 (quoting Uri Bronfenbrenner, *What Do Families Do?*, 1 FAMILY AFFAIRS, Issue 2, at 1, 4 (1991)).

26. There are some differences between white and black teenage mothers. While the former are more likely to marry, the latter are more likely to live in an extended household. While black teenage mothers stay longer on welfare, they are also more likely to graduate from high school. Mark F. Testa, *Racial and Ethnic*

A recent synthesis of the research on adolescents at risk by a panel of the National Research Council concluded:

The combination of financial insecurity for an increasing proportion of families, increased work effort by parents seeking to maintain their living standard, and the demographic changes that have so dramatically increased the number of children and adolescents living in single-parent households result in increasing numbers of adolescents who do not receive the nurturance necessary for positive development. The consequences are not inescapably negative. Indeed, the majority of adolescents — even those from poor and single-parent homes — do succeed despite the obstacles. However, the adverse outcomes — the failure rates — are unacceptably and unnecessarily high.²⁷

These are the effects of poverty. Yet, millions of people are in the labor market and are still poor. They are working and struggling to get out of poverty but cannot due to obstacles such as the low-wage labor market, the lack of health care, and the lack of adequate child care. I now turn to a discussion of these structural barriers to single working women.

II. THE LOW-WAGE LABOR MARKET

Of the 40 million people in poverty (1993), 8.2 million were employed at least some time during the year, and 4.7 million usually worked full-time. There were 4.2 million families in poverty even though one or more members worked for at least half the year.²⁸ Among the 30 million near poor (150% of the poverty line), there were 6 million full-time and 5.5 million part-time workers.²⁹

There have been several studies of the growing inequality of earnings, all reaching pretty much the same conclusion, namely, that the real earnings of the less-skilled, less-educated workers have declined substantially since 1973.³⁰ And “these adverse

Variation in the Early Life Course of Adolescent Welfare Mothers, in EARLY PARENTHOOD AND COMING OF AGE IN THE 1990s, at 89, 96 (Margaret K. Rosenheim & Mark F. Testa eds., 1992).

27. LOSING GENERATIONS, *supra* note 22, at 56.

28. See BUREAU OF LABOR STATISTICS, *supra* note 10, at 1.

29. Hugh Hecló, *Poverty Politics, in CONFRONTING POVERTY*, *supra* note 11, at 396, 420.

30. See, e.g., BUREAU OF NAT'L AFFAIRS, DAILY LABOR REPORT 131-60 (1994); MISHEL & BURTLESS, *supra* note 6; LAWRENCE MISHEL & DAVID M. FRANKEL, THE STATE OF WORKING AMERICA: 1990-91 (1991); Annette Bernhardt et al., *Women's Gains or Men's Losses? A Closer Look at the Shrinking Gender Gap in Earnings*, 101 AM. J. OF SOC. 302 (1995); McKinley L. Blackburn et al., *The Declin-*

wage developments are the primary factor behind the equally dramatic recent growth in overall income inequality, high poverty rates, and the expanded number of poor.³¹ Moreover, this decline occurred during a period of economic expansion and aggregate growth in employment.

In 1973, for men with one to three years of high school, the median income was \$24,079 (1989 dollars); in 1989, it was \$14,439. For men with a high school diploma, income dropped from \$30,252 to \$21,650. For women with one to three years of high school, the median earnings were \$7,920 in 1973; by 1989, they dropped to \$6,752. For women with a high school degree, the figures were \$11,087 (1973) and \$10,439 (1989).³² Furthermore, the decline in income was not because of the shift in jobs from manufacturing to service; real wages declined in both sectors.

Overall, less-skilled women's wages have not experienced the same declines in real terms as men's wages. The primary reason is that less-skilled women are in occupations and industries which have not suffered such severe wage declines. However, although men's and women's wages are closer, women still earn substantially less.³³ Moreover, according to Bernhardt and her colleagues, women's relative progress vis-a-vis men will probably slow in the future, primarily because of increasing labor-market segmentation along race and gender lines. Women are concentrated in the lower end of the service jobs, and the growing use of involuntary part-time labor will increasingly block entry-level workers from moving into traditional career-ladder jobs.³⁴ The statistics seem to bear out this prediction. Between 1979 and 1989, the hourly wages declined steeply for all women, but the most severe loss was with African American women without a high school diploma — their hourly wages fell more than twenty

ing *Economic Position of Less Skilled American Men*, in *A FUTURE OF LOUSY JOBS? THE CHANGING STRUCTURE OF U.S. WAGES* 31-33 (Gary Burtless ed., 1990) [hereinafter *A FUTURE OF LOUSY JOBS?*]; Rebecca M. Blank, *The Employment Strategy: Public Policies to Increase Work and Earnings*, in *CONFRONTING POVERTY*, *supra* note 11, at 168, 172; . It has recently been noted that even with the rise in productivity, wages have remained stagnant or declined. Steven Pearlstein, *Recovery's Weak Spot Is Wages: Benefits of Workers' Big Productivity Gains Went Mainly to Investors*, *WASH. POST*, Mar. 9, 1994, at A1.

31. MISHEL & BURTLESS, *supra* note 6, at 1.

32. Robert H. Haveman & John K. Scholz, *Transfers, Taxes, and Welfare Reform*, 47 *NAT'L TAX J.* 417, 421 tbl. 2 (1994).

33. Bernhardt et al., *supra* note 30, at 314, 323; Blank, *supra* note 30, at 173.

34. Bernhardt et al., *supra* note 30, at 325.

percent. Moreover, those who experienced the greatest loss in hourly wages also experienced the highest levels of unemployment. In other words, despite the long period of economic growth in the 1980s and the recovery from the recession, the labor market has deteriorated for the low-wage working woman who is usually of color and usually without a high school diploma.³⁵

With the decline in real wages, the poverty rate of full-time workers is increasing. According to the latest figures, in 1991, 31.2% of full-time workers earned less than the poverty line, which is a 30% increase since 1973, with the largest growth among workers earning very low wages — \$4.48 per hour (1991 dollars), which is about 75% of the poverty line.³⁶ The poverty rate of full-time workers increased for both men and women, but women are more likely to earn poverty level wages than men (37.2% versus 25.8% in 1991). The increase in jobs paying only poverty-level wages was particularly steep for those without a high school degree. For men without a degree, the rate rose from fifteen percent in 1979 to thirty-two percent in 1992 — and this is for full-time workers.³⁷ It is not surprising that over the last two decades there has been a steady decline in work among men in families in the bottom fifth of the income distribution (earning less than \$12,497 in 1989).³⁸

While the expansion of low-wage (below poverty level) jobs affected all workers, minorities felt the greatest effect. Between 1979 and 1991, the proportion of African Americans in low-wage jobs increased from 25.1% to 38.6% (again, with most of the growth occurring in very low-wage jobs), and for Latinos from 26.6% to 43.7%. Minority women are still more likely to earn less than minority men.³⁹

Not only did earnings decline, but so did employment for both high school graduates as well as dropouts. Between 1979 and 1989, the unemployment rate for high school dropouts increased by 17.1% and for high school graduates, by 9.9%.⁴⁰ It is this combination — declining real earnings and rising unemploy-

35. BERNSTEIN & MISHEL, *supra* note 8, at 1.

36. MISHEL & BURTLESS, *supra* note 6, at 2.

37. Jason DeParle, *Sharp Increase Along the Borders of Poverty*, N.Y. TIMES, Mar. 31, 1994, at A18.

38. BUREAU OF NAT'L AFFAIRS, *supra* note 30, at 13.

39. MISHEL & BURTLESS, *supra* note 6, at 2.

40. *Id.* at tbl. 5.

ment — that has resulted in increasing poverty among families. They simply cannot work their way out of poverty. And these adverse labor markets effects are most severe for young workers — whether white, African American, or Latino. The earnings of recent male high school graduates in 1991 were about twenty-six percent less than similar workers in 1979; for women, the decline was less (sixteen percent) but still significant.⁴¹

The low-income employment rates of married women increased over these two decades. It is important to note, however, that higher proportions of single women, even with children, work more than married women, with or without children. Almost half (48.3%) of poor single mothers work, as compared to 29.8% of married women without children, and 39.9% with children. But the most important point is that earnings for all of these groups has fallen because of the decline in real wages.⁴²

The real wages of the less-skilled worker have deteriorated so far that low-wage earners in America have lower earnings than similar workers in all advanced countries.⁴³ Between 1973 and 1990, the median income has declined almost a third for families headed by parents under age thirty. While the problem is most acute for single-parent families, most two-parent families have only been able to maintain their relative position by having both parents working. In fact, there is a growing trend for one of these two earners to now hold two jobs. Seven million Americans, or six percent of the workforce, hold fifteen million jobs. Most multiple jobholders are married and, increasingly, as many are women as are men. No other country approaches these numbers of multiple jobholders. The reason, according to Richard Freeman, is that wages from one job are sufficient in other countries.⁴⁴

Not only is the number of low-wage jobs increasing, but the nature of employment is also shifting from full-time work for a single employer to various forms of “contingent” work.⁴⁵ Many

41. *Id.* at 3.

42. Rebecca M. Blank, *Are Part-Time Jobs Bad Jobs?*, in *A FUTURE OF LOUSY JOBS?*, *supra* note 30, at 123, 129 tbl. 3.

43. Richard B. Freeman, *How Labor Fares in Advanced Economies*, in *WORKING UNDER DIFFERENT RULES* 1, 13 (Richard B. Freeman ed., 1994).

44. Louis Uchitelle, *Moonlighting Plus: 3-Job Families on the Rise*, *N.Y. TIMES*, Aug. 16, 1994, at A1, D18.

45. U.S. Gov't Gen. Acct. Off., *Workers At Risk: Increased Numbers in Contingent Employment Lack Insurance, Other Benefits* (1991); *BUREAU OF NAT'L AFFAIRS*, *supra* note 30, at 28-29.

workers are employed in part-time, temporary, contract, or other types of flexible work arrangements that lack job security. According to the General Accounting Office, it is estimated that as of 1988 there were thirty-two million contingent workers, accounting for almost a quarter of the workforce. The contingent workforce grew rapidly in the 1980s and is expected to increase again since new jobs are expected to be almost entirely in the service sector, where contingent employment is most likely to occur. According to the Bureau of Labor Statistics (BLS), almost two-thirds of the new entrants into the labor force by the year 2000 will be women, and they are more likely than men to hold part-time and temporary jobs.⁴⁶ It is estimated that by the turn of the century forty percent of jobs could be part-time.⁴⁷

With the rapid growth of nontraditional families, many workers are interested in part-time work. There are two views of part-time work. It is good for some workers: it provides additional income, flexible hours, and continued attachment to the labor force for those workers who pursue other activities. At its worst, however, it is a disguised form of unemployment. Voluntary part-time work grew by nineteen percent during the decade. More than three-quarters of the part-time workers say they voluntarily chose this status. It is not clear what "voluntary" means as measured by the BLS. The data do not reveal why part-time workers look only for part-time work — for example, child care, transportation, and health costs may operate as constraints. Further, if female heads of households are more constrained than male heads to working part-time, income inequality (and poverty) will increase as the sex distribution of family heads continues to change.⁴⁸

More than a quarter of women workers work part-time, making them 1.5 times more likely to be so employed than the average worker. "While women are more likely to *choose* part-time work, they are also more likely to be *stuck* in part-time jobs against their will." In the decade of the 1980s, *involuntary* part-time work grew thirteen percent, but grew forty-five percent during the 1980-83 recession.⁴⁹ The female rate of involuntary part-

46. Blank, *supra* note 42.

47. See Professor David Lewin, Director, UCLA Institute of Industrial Relations, quoted in John Greenwald, *The Job Freeze*, TIME, Feb. 1, 1993, at 52, 53.

48. Karen Holden, *Comment on Blank*, *supra* note 42 at 156.

49. U.S. Gov't Acct. Off., *supra* note 45, at 17. Involuntary part-time workers are those who report that they want full-time employment and are working part-time because they can only find part-time work or due to "slack work" or other

time work is forty-four percent greater than that for men.⁵⁰ In any event, the real growth in part-time employment was with involuntary part-time jobs, indicating that employer, not employee, preferences predominate.⁵¹

Part-time jobs are more likely to be dead-end positions for several reasons. Part-time workers keep their jobs for shorter periods than full-time workers.⁵² Not only do part-time workers often lack health and pension benefits, but they also receive a lower hourly wage. Controlling for education, gender, and age, part-time workers receive about forty percent less per hour than full-time workers in the same jobs. Part-time workers are disproportionately in the low-wage distribution. Part-time workers constitute sixty-five percent of all people working at or below minimum wage.⁵³ As a result of the negative effects of part-time employment, families headed by part-time workers are four times more likely to be below the poverty line as compared to families headed by full-time workers. Indeed, one-fifth of families headed by part-time workers are in poverty, and twelve percent also received welfare, as compared to two percent of families headed by full-time workers. Again, single-parent families are worse off — forty percent of these families are poor, and twenty-six percent are on welfare.⁵⁴ The significant portion of employees in part-time work and the expected proportional growth of this form of employment indicate that underemployment is a continuing concern.

Employment in the United States presents something of a paradox. As compared to other industrialized countries, job creation in the United States is outstanding. In the 1980s, over 18 million new jobs were created in the United States, as compared to 6.4 million in Japan and 1.7 million in Germany.⁵⁵ Yet, the poverty rate in the United States is much higher than in these other countries. Part of the reason is that other countries have a

reasons. Voluntary part-time workers are primarily those who say they do not want or are unavailable for full-time work. *Id.* at 17 n.1.

50. *Id.*

51. DAVID LEWIN & DANIEL MITCHELL, *ALTERNATIVE APPROACHES TO WORKPLACE FLEXIBILITY IN THE U.S.A.* 432 (1992); CHRIS TILLY, *SHORT HOURS, SHORT SHRIFT: CAUSES AND CONSEQUENCES OF PART-TIME WORK* 6 (1990).

52. The average job tenure for a part-time worker is 3.4 years as compared to 5.7 for full-time working women and 8.1 years for full-time working men. TILLY, *supra* note 51, at 11.

53. *Id.* at 9; BUREAU OF NAT'L AFFAIRS, *supra* note 30, at 28.

54. U.S. Gov't Gen. Acct. Off., *supra* note 45, at 5-6.

55. MISHEL & FRANKEL, *supra* note 30, at 8.

much more comprehensive and developed social safety net. Another reason for the higher poverty rate is the huge *inequality in wages* in the United States. The United States is creating lots of jobs, but, as we have seen, they are lousy jobs which will leave millions of families in poverty, or near poverty, and millions of children growing up with minimal parental contact and poor child care.

Even with all of these lousy jobs, there is still the question of whether there are enough jobs for those who want them and who will get these jobs. Current domestic economic policy always *assumes* that jobs are there if people are willing to look for them. This assumption is questionable. While there are no systematic national data on job vacancies, local studies consistently show a job shortage — that there are many more applicants seeking work than there are available jobs. Estimates suggest that there are six times more people looking for jobs than there are vacancies.⁵⁶ For example, in a recent study of fast-food restaurants in Harlem, there were fourteen job seekers for each vacancy.⁵⁷

Who is getting these lousy, entry-level jobs? The Harlem study, as well as a Los Angeles study, show that employers favor ethnic networks, primarily immigrants. As a result, African Americans are increasingly displaced. Moreover, these niches remain stable and do not provide routes of upper mobility.⁵⁸ In a recent survey of over three thousand employers in several large metropolitan areas, Harry Holzer reported that the vast majority of jobs require daily interactions with customers, literacy, and numeracy skills; most employers require a high school degree, previous work experience, references, and/or formal job training. Yet, only a small proportion of job seekers in the inner-city meet these qualifications. In the lower-skilled jobs, Holzer found a preference for whites (clerical/sales jobs) or Latinos (blue-collar jobs) over African Americans.⁵⁹

56. Gordon Lafer, *The Politics of Job Training: Urban Poverty and the False Promise of JTPA*, 22 *Pol. & Soc'y* 349, 352 (1994).

57. Sheldon H. Danziger et al., *Overcoming Poverty: What the Research Demonstrates*, Congressional Breakfast Seminar (Mar. 24, 1995) (transcript on file with author).

58. Roger Waldinger has conducted surveys of low-wage employers in the Los Angeles area — restaurants, hotels, furniture manufacturing, printing, department stores, and hospitals. Roger Waldinger, *Black/Immigrant Competition Re-assessed: New Evidence from Los Angeles 1* (1995) (unpublished M.S. thesis draft, UCLA, on file with author).

59. Harry J. Holzer, *Job Availability for Long-Term AFDC Recipients, in STRATEGIES FOR SELF-SUFFICIENCY: JOBS, EARNINGS, CHILD SUPPORT AND THE*

The future does not look good for the less-skilled worker. First, there have been the sectoral shifts in employment, namely the declining manufacturing opportunities for this group. Wages in the service sector are lower but skill levels are higher. Second, while unemployment rates in general have stabilized, the younger, less-educated workers, especially those who are African American, are the last to be hired and the first to be fired. For both men and women, unemployment rates are considerably higher for people of color than for whites. Third, while the impact of immigration varies, there has been a large increase in less-educated immigrants and this has contributed to the decline in the labor market for high school dropouts.⁶⁰ Fourth, there is the continuing uncertain effects of imports of manufacturing goods from third world countries.⁶¹

In addition to the general decline in real wages and the negative factors outlined above, there has been a significant decline in the minimum wage in real terms.⁶² The minimum wage was not raised between 1981 and 1990. Even after being raised to \$4.25 per hour in 1991, the minimum wage was still less than it was in 1967 or 1979 in real terms.⁶³ At \$4.25 per hour (the current rate) for a full-time worker in a family of four, earnings are still only two-thirds of the poverty line. Almost five million workers are stuck in minimum-wage jobs, that is, earning at or below the minimum wage of 1979.⁶⁴

Other factors contributing to the bleak picture for the less-skilled worker include the decline in union membership which has meant a loss of higher-wage jobs,⁶⁵ and what is called the "spacial mismatch" — jobs continue to leave the inner city for the suburbs. However, this explanation seems more doubtful in the 1980s, when the both central city and suburban workers ex-

EARNED INCOME TAX CREDIT, WELFARE REFORM IN THE 104TH CONGRESSIONAL FORUM III, U. WISCONSIN-MADISON INST. FOR RES. ON POVERTY SPEC. REP. NO. 65, at 17 (1995). Waldinger, in a survey of employers of low-income labor in Los Angeles, also found a preference for Hispanics and immigrants (with people skills) rather than African Americans. Waldinger, *supra* note 58, at 8.

60. MISHEL & BURTLESS, *supra* note 6, at 4; LOSING GENERATIONS, *supra* note 22, at 29-30.

61. Richard B. Freeman, *Are Your Wages Set in Beijing?*, J. ECON. PERSP., Winter 1995, at 15-16 (1995); MISHEL & BURTLESS, *supra* note 6, at 6.

62. BUREAU OF NAT'L AFFAIRS, *supra* note 30, at 25.

63. MISHEL & BURTLESS, *supra* note 6, at 6.

64. *Id.*

65. *Id.*

perienced similar declines in earnings.⁶⁶ Additionally, there continues to be discrimination, especially against nonwhite men and women. Indeed, empirical research has shown strong prejudices against African Americans who are associated with inner city culture.⁶⁷

On the supply side, it is often argued that the decline in basic reading and math skills accounts for the decreased earnings of the less-educated. However, earnings for African Americans have fallen while test scores and academic achievement have risen, and earnings of less-educated cohorts fell as they aged. The more likely explanation is that academic skills have not kept pace with job requirements.⁶⁸

Crime, of course, affects employment. It not only provides an attractive alternative for the less educated, especially with drugs, but also a disqualification for legitimate employment. In any event, as we know, the number of young, less educated, especially African American, males who are involved in the criminal justice system is staggering.⁶⁹

Continued levels of unemployment exacerbate the problems of the less educated worker. Though seventy-eight percent of the workers who lost their jobs in 1988 were re-employed by 1990, sixty percent had been jobless for five or more weeks. In addition, almost ten percent were still unemployed and just over twelve percent were no longer in the workforce. Many of the displaced workers experienced earnings losses when rehired. The likelihood of being employed depended on the length of time with the previous employer, number of years in school, age, gender, and the local unemployment rate. High school dropouts, older workers, women, and minorities were less likely to be re-employed.⁷⁰

66. *Id.* at 4.

67. LOSING GENERATIONS, *supra* note 22, at 29-32.

68. *Id.*; BUREAU OF NAT'L AFFAIRS, *supra* note 30, at 14.

69. According to Richard Freeman, at any one time, eighteen percent of all eighteen to twenty-four year-old dropouts and thirty percent of twenty-five to thirty-four year-old dropouts are under the supervision of the criminal justice system. For blacks, the figures are forty-two percent of the eighteen to twenty-four year-old dropouts, and more than three quarters of the twenty-four to thirty-four year-old dropouts. Richard B. Freeman, *Employment and Earnings of Disadvantaged Young Men in a Labor Shortage Economy*, in *THE URBAN UNDERCLASS* 103, 103-21 (Christopher Jencks & Paul E. Peterson eds., 1991).

70. HOUSE COMM. ON WAYS & MEANS, 102D CONG., 2D SESS., OVERVIEW OF ENTITLEMENT PROGRAMS, 1992 GREEN BOOK, BACKGROUND MATERIALS AND

Because of the many factors that contribute in important but uncertain degrees to the growth of the low-wage labor market, it is difficult to predict the future. Nevertheless, it seems likely that several of the important contributing factors — global trade, the low value of the minimum wage, the small number of unions, the expansion of contingent jobs — will persist, at least in the near future, and the earnings of the noncollege-educated worker will continue to be low.⁷¹

This, then, is the labor market for the less-educated, less-skilled worker, the population with which we are concerned: overall declining real wages, increasing education and skills requirements (even beyond a high school education) for the better jobs, and increasing numbers of low-wage, part-time jobs without benefits.

The ideal solution to “make work pay” would be an economy of good jobs, paying decent wages and benefits, for all who wanted them. The more realistic scenario is a world of poor jobs that pay minimum wages and are mostly without benefits. The immediate task, then, is to supplement the returns from paid labor. The Earned Income Tax Credit (EITC), if it survives the current Republican assault, is a major reform.⁷² Enacted in 1975, the EITC supplements earnings either through a tax reduction or, if the family owes no taxes, a refundable tax credit. Today, nearly fourteen million families receive the credit. For individual families, the benefits are substantial. For a family with two or more children, earning \$8,500 per year, the benefit will be \$3,370 (39.7%), which takes them to the poverty line. In 1996, the EITC rate will be 40% of earnings for families with two or more children (a maximum credit of \$3,370), 34% for families with one child (a maximum credit of \$2,040), and will cover low-income childless taxpayers (\$306).⁷³ More than six million working families with incomes below the poverty line will be eligible for EITC benefits, the poverty gap will be decreased by \$6.4 billion, and the incomes of one million taxpayers will be raised above the

DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMM. 555-56 [hereinafter 1992 GREEN BOOK].

71. MISHEL & BURTLESS, *supra* note 6, at 7.

72. Christopher Howard, *Happy Returns: How the Working Poor Got Tax Relief*, 17 AM. PROSPECT, Spring 1994, at 46.

73. John K. Scholz, *Tax Policy and the Working Poor: The Earned Income Tax Credit*, 15 FOCUS (U. of Wisconsin-Madison Inst. for Research on Poverty), Winter 1994, at 1, 2.

poverty line.⁷⁴ But the EITC is not cheap. By fiscal year 1998, the EITC is expected to cost \$24.5 billion (the federal share of AFDC will be \$16 billion). Nevertheless, although not trouble-free,⁷⁵ it has enjoyed bipartisan support until the current Congress.

In addition, the minimum wage should be raised at least modestly⁷⁶ and other reforms are also needed. For example, the Unemployment Insurance system, at present, discriminates against part-time workers and workers who cannot meet job requirements due to family responsibilities. A serious problem arises, for instance, when mothers cannot balance shift work with child care.⁷⁷ Other income-maintenance programs, such as disability, food stamps, and AFDC, also need adjustments to harmonize with the working poor.⁷⁸

III. FAMILY FORMATION

In addition to the low-wage labor market, the second major reason for the growth of family poverty has been the dramatic change in family structure. The future is particularly serious for

74. Haveman & Scholz, *supra* note 32, at 426; see also John K. Scholz, *The Earned Income Tax Credit: Participation, Compliance, and Antipoverty Effectiveness*, 47 NAT. TAX J. 63 (1994).

75. See Ann L. Alstott, *The Earned Income Tax Credit and the Limitations of Tax-Based Welfare Reform*, 108 HARV. L. REV. 533 (1995); Barbara Kirchheimer, *The EITC: Where Policy and Practicality Collide*, TAX NOTES TODAY, Oct. 3, 1994, at 15. For recommendations on how to meet some of the EITC problems, see George K. Yin et al., *Improving Delivery Benefits to the Working Poor: Proposals to Reform the Earned Income Tax Credit Program*, TAX NOTES TODAY, Oct. 29, 1993, at 222.

76. Raising the minimum wage is controversial. Many economists think that it will result in more unemployment. Recent empirical research seems to refute this point but the controversy rages on. It seems clear, however, that a modest increase would not have significant employment effects. See DAVID E. CARD & ALAN B. KRUEGER, MYTH AND MEASUREMENT: THE NEW ECONOMICS OF THE MINIMUM WAGE 395 (1995); David E. Card & Alan B. Krueger, *Time-Series Minimum-Wage Subsidies: A Meta-Analysis*, 85 AM. ECON. ASS'N PAPERS & PROC. 238 (1995); cf. Donald Deere et al., *Reexamining Methods of Estimating Minimum-Wage Effects: Employment and the 1990-1991 Minimum-Wage Hike*, 85 AM. ECON. ASS'N PAPERS AND PROC. 232 (1995).

77. Deborah Maranville, *Changing Economy, Changing Lives: Unemployment Insurance and the Contingent Workforce*, 4 PUB. INTEREST L.J. 291, 294 (1995).

78. ISAAC SHAPIRO & ROBERT GREENSTEIN, MAKING WORK PAY: THE UNFINISHED AGENDA 47 (1993). For example, there are various asset limitations which inhibit the acquisition of a reliable car or the ability to invest in human capital. There are also conflicts between strict disability requirements and the Americans with Disabilities Act. *Id.* at 46.

the single-parent family.⁷⁹ Although most children still live in two-parent families, the number of single-parent households, most of which are female-headed, has increased significantly. About twenty-five percent of all children now live in single-parent, female-headed homes. Earnings opportunities are seriously affected by household composition. In 1960, about a quarter of female-headed families were poor; now the percentage is more than half (fifty-three percent). These families are poor because there is typically only one earner, she is usually female, she usually has child-care expenses, and she earns less than a man would, even when she works the same number of hours.⁸⁰ Thus, while female-headed households represent about ten percent of the population, they account for more than a third of the poverty population and more than half of the increase in poverty since 1990.⁸¹ Almost three-quarters of all children in single-parent households will experience at least some poverty while they are growing up. For African American children, the poverty spell will be extended. Because almost all single parents are women, gender discrimination limits their ability to earn a living. In addition, despite participation in the labor market, the economic circumstances of the family decline after divorce primarily because of the lack of child support. It is thus no surprise that "single parents are twice as likely as married couples to be worried about 'making ends meet' and concerned that their children will 'get beat up,' 'get pregnant,' 'not get a job,' or 'drop out of school.'" ⁸²

Two-parent households do not necessarily escape poverty. In most of the poor households, there is only partial employment or unemployment, but even in families with two wage earners, a fifth remain poor. In these poor households, less than half of the unemployed workers receive unemployment compensation, and jobs found after unemployment usually pay, on average, about a third less than the previous jobs. David Ellwood suggests that because many poor families with two parents working full-time

79. Danziger & Weinberg, *supra* note 11, at 50; MISHEL & BURTLESS, *supra* note 6, at 1.

80. LOSING GENERATIONS, *supra* note 22, at 26, 44.

81. 1993 GREEN BOOK, *supra* note 12, at 1308.

82. LOSING GENERATIONS, *supra* note 22, at 42; *see also* NATIONAL COMM. ON CHILDREN, BEYOND RHETORIC: A NEW AMERICAN AGENDA FOR CHILDREN AND FAMILIES (1991) [hereinafter COMM. ON CHILDREN REPORT].

fail to qualify for benefits, such as Medicaid, they may be actually the poorest of the poor.⁸³

Hugh Heclo sums up the effect of low wages and poverty as follows:

[I]n 1990, of the 2 million married couples with children living below the official poverty line, 63 percent of the adults were working at least some of the year, and over a third had work levels approaching the equivalent of full-time work all year. Likewise, half of the 3.7 million poor single mothers with children worked some of the year, and almost a fifth were in, or close to, full-time, full-year employment. . . . If anything, the adults in such poor families with children were working more in 1990 than in 1975. To define the poverty problem as simply a matter of unmotivated, unfunctional people who need government's tough love to make them seize the opportunities surrounding them is absurd.⁸⁴

We turn now to the experience of welfare mothers to illustrate the problems of poor, working women.

IV. WORKING WELFARE MOTHERS

The common stereotype of the welfare mother is a lazy young woman of color, often a teenager, and herself the daughter of a welfare mother, living in a ghetto, having children to get welfare, and raising children who will most probably repeat the same experience. Contrary to the myth, most welfare recipients are part of the working poor. Although welfare recipients vary, the large majority of recipients are either in the workforce, or have recently left a job and had to return to welfare. Then, they try again and often succeed in leaving welfare. Several studies have now documented that the most common route out of AFDC is through work.⁸⁵ Many AFDC recipients attempt to exit via work, but for a variety of reasons — lack of health care, a break down in child care, low wages, and jobs that do not last — return to welfare. Of those who leave welfare through earned income, about forty percent remain poor after their exit. The

83. MARY JO BANE & DAVID T. ELLWOOD, *WELFARE REALITIES: FROM RHETORIC TO REFORM* 55-59 (1994).

84. Heclo, *supra* note 29, at 428-29.

85. Kathleen Mullan Harris, *Work and Welfare among Single Mothers in Poverty*, 99 AM. J. SOC. 317 (1993); *see also* MARK GREENBERG, *BEYOND STEREOTYPES: WHAT STATE AFDC STUDIES ON LENGTH OF STAY TELL US ABOUT WELFARE AS A "WAY OF LIFE"* (1993); LaDonna A. Pavetti, *Dynamics of Welfare and Work: Exploring the Process by Which Women Work Their Way Off Welfare* 40 T.8 (1993) (unpublished Ph.D. dissertation, John F. Kennedy School of Gov't, Harvard Univ., on file with author).

picture that emerges from studies of welfare spells and exits is that for most recipients, welfare is a safety net rather than a "way of life." A large portion of welfare recipients are relatively short-termers; another significant portion cycle back and forth between welfare and work, but eventually leave after about four years; and a smaller fraction, between fifteen and twenty percent, are long-term dependents. The long-term dependent is usually the young, poorly-educated mother and woman of color: in addition to suffering racial and gender discrimination, she has more child care needs and fewer employment skills. But even here, long-term dependency is the exception.

The problem for most welfare recipients is not a lack of work ethic; rather, it is a lack of jobs that will enable them to become independent. It is a story of low-skilled women who are in and out of jobs that disappear or who have to leave work because of child care, health care, or other family problems. There is no social support for these wage earners. Because of the labor market and the lack of social support, recipients cannot make it on either welfare or work alone. Even if they work full-time, their families remain in poverty.

When we look at the characteristics of AFDC recipients, we readily see how disadvantaged they are in competing even for these low-wage, entry-level jobs — they have very low levels of education (half have not completed high school), have major child care responsibilities, uneven or sparse work experience, and more than sixty percent are of color.⁸⁶ And even if they do manage to find and keep jobs, "the upper-bound estimate of their earnings should they work *full time-year round* . . . is no more than \$12,000-\$14,000; given their family sizes, this level of earnings will not remove them from poverty." Moreover, this estimate assumes full-time work. In fact, most recipients only find temporary jobs paying less than average wages. "Indeed, the typical former recipient earns about one-half of this 'outer limit' earnings level."⁸⁷

The types of jobs that welfare recipients get and the rates of pay, based on a Census Bureau survey,⁸⁸ were as follows: At least

86. Gary Burtless, *Employment Prospects of Welfare Recipients*, in *THE WORK ALTERNATIVE* 71, 77 tbl. 4.2 (Demetra Smith Nightingale & Robert H. Haveman eds., 1995).

87. *Id.* at 34.

88. Roberta Spalter-Roth, *Making Work Pay: The Real Employment Opportunities of Single Mothers Participating in the AFDC Program*, 1 (1994) (available

forty percent of recipients averaged eighteen hundred hours over the two years, *which is about the average number of hours of all working mothers*, either by combining work with welfare or cycling between work and welfare. They held an average of 1.7 jobs over that period, and 44% held two or more jobs, for about 54 weeks. The average hours per week was thirty-four, which suggests that they held "sporadic full-time jobs rather than steady part-time jobs." They averaged about four months either laid off or looking for work.

The jobs held by welfare mothers were cashiers, nursing aids, food service, janitors, maids, and machine operators; the average pay was \$4.40 per hour (1990 dollars). Most held food service jobs, the jobs with the shortest duration (30 weeks) and the lowest wages (\$3.73 per hour). Sales and cleaning services paid \$3.94 and \$4.08, respectively. The jobs in these categories were more likely to be part-time. The blue collar jobs paid between \$4.38 and \$4.65; the white collar jobs paid between \$5.24 and \$6.40. There was no evidence that changing jobs improved the wages, length of employment, or job duration. The picture is one of intermittent, low-wage jobs.⁸⁹

Kathryn Edin and Christopher Jencks examined the economic position of AFDC recipients in Chicago.⁹⁰ They found an extensive number of recipients working for the simple reason that single mothers on welfare cannot afford to pay their bills on welfare alone; they have to obtain additional income, often without telling the welfare department. At that time, a single mother with one child, counting both the welfare grant and food stamps, received \$399 per month, or \$4,800 per year. Benefits rose per additional child, to \$9,300 if she had four, but this still put her and her family at only 60-75% of the poverty line.⁹¹

from Inst. for Women's Policy Research, 1400 20th St. NW, Ste. 104, Wash. DC 20036).

89. *Id.* at 4.

90. Kathryn J. Edin & Christopher Jencks, *Welfare*, in CHRISTOPHER JENCKS, *RETHINKING SOCIAL POLICY: RACE, POVERTY, AND THE UNDERCLASS* 204 (Harper Perennial 1993) (1992). The authors' conclusions are based on a study of the Illinois welfare system between 1988 and 1990. Edin interviewed fifty welfare families in Chicago and the suburbs to see how they got along. *Id.*

91. *Id.* at 205. The sampling technique described by Edin and Jencks basically relied on introductions and recommendations to minimize refusals and evasions. They also had to oversample to get enough whites. The final sample was forty-six percent African American, thirty-eight percent European, ten percent Latin American, and six percent Asian, which are similar to national figures. She also oversam-

Virtually all of the AFDC recipients in the Chicago study obtained additional income, both legal and illegal, to cover their expenses: either through work, money from friends and relatives, or through someone else paying expenses. Recipients had to obtain this income because, unless they lived in subsidized housing, the AFDC check would not even cover rent and utilities. For those in unsubsidized housing, rent and utilities came to \$37 more per month than the welfare check; those in subsidized housing would have \$197 extra — still not enough to get through the month. Food stamps helped, but again, very few were able to feed their family for the entire month on the stamps alone. Taking the sample as a whole, on average \$314 was spent for food, rent, and utilities. This left only ten dollars for everything else — clothing, laundry, cleaning supplies, school supplies, transportation, and so forth. Edin calculated that the sample spent about a third of what the average mother in the midwest spends on these items. Still, it amounted to \$351 in excess of the welfare grant, and almost all of this came from unreported income.

Almost half of the extra money recipients needed to live was earned through work but not reported. Jobs varied. Some held regular jobs under another name and earned five dollars per hour. Others worked off-the-books (bartending, catering, babysitting, sewing) earning an average of three dollars per hour. A small number sold drugs, but earned very little (three dollars to five dollars per hour). The only high earners (forty dollars per hour) were occasional prostitutes (in the sample, five).

The family expenses in the Chicago study were about one thousand dollars per month. The federal poverty line in 1990 was a little less than ten thousand dollars per year. This meant that the recipients consumed two thousand dollars above the poverty line. As previously discussed, the poverty line is low and most Americans think it should be considerably higher. Edin estimates that the public would put the poverty figure for her sample at about sixteen thousand dollars, or four thousand dollars higher than the recipients were presently consuming. Almost ninety percent of the respondents, in varying degrees, lacked basic necessities and material comforts. Edin reports that they lived in bad neighborhoods in run-down apartments, often without heat and hot water. Roofs and windows leaked. The sample had no

pled from subsidized housing so that the rents actually paid would more closely resemble rents paid nationwide. *Id.* at 206.

telephones or money for entertainment. They could not afford fresh fruits or vegetables. There were some small “extravagances,” such as a video, McDonald’s, cigarettes and alcohol, but these amounts were only six percent of the sample’s expenditures. Half of the sample could have cut their expenses if they were willing to move into Chicago’s worst neighborhoods or the large public housing projects, but both forms of housing were considered too dangerous.

The Chicago results have been replicated in Cambridge, Charleston, and San Antonio.⁹² Each of these studies confirms that urban welfare mothers need about one thousand dollars per month to live on, which they get from work, family, male friends, and absent fathers. Working welfare mothers need even more money to pay for transportation, clothing, and child care. These mothers typically spent between twelve thousand and fifteen thousand dollars per year.

If these mothers are so willing to work, why, then, are they also on welfare? The argument of the authors is that “single mothers do not turn to welfare because they are pathologically dependent on handouts or unusually reluctant to work — they do so because they cannot get jobs that pay better than welfare.”⁹³ This conclusion is supported by quantitative research that examined the dynamics of work and welfare.⁹⁴ Duncan and his colleagues examined welfare patterns from 1968 through 1978 and reported: “Families rarely rely exclusively on welfare income; instead, welfare appears to be used to supplement income from labor market earnings and other sources or an alternative source of income when other sources dry up.”⁹⁵

As stated, most recipients leave welfare for work. Moreover, a great many (more than half) leave during the first year. The problem is that many also return and then try again and again to exit through employment. At least one-half work for at least some of the time that they are on welfare. Although there is some variation depending on the survey, significant numbers — as high as two-thirds — of welfare exits occur when the mother finds a job or continuously works until she leaves wel-

92. CHRISTOPHER JENCKS, *THE HOMELESS* 110 (1994).

93. *Id.*

94. See HARRIS, *supra* note 85.

95. GREG J. DUNCAN, *YEARS OF POVERTY, YEARS OF PLENTY* 76 (1984).

fare.⁹⁶ The failure to make a successful exit from welfare is not because of a failure of the work ethic — welfare mothers say they prefer to work *and they validate their attitudes by their behavior*. They simply cannot survive on labor market wages alone. Not surprisingly, those who are the most disadvantaged in terms of employability are the least successful. As Gary Burtless puts it, “Even if welfare recipients had no young children to care for — and almost half have children under six — most face severe problems finding and holding good jobs. Limited schooling and poor academic achievement doom most AFDC mothers to low-wage, dead-end jobs.”⁹⁷ Nevertheless, despite these odds, in the words of Kathleen Harris: “[W]ork is much more common in poor single mothers’ lives than previously thought, in spite of their very low wages, risk of losing medical care provisions, and child-care constraints.”⁹⁸

What happens when women leave welfare? Why do some return and not others? In a recent paper, Kathleen Harris looked more closely at exits from welfare.⁹⁹ Consistent with earlier findings, most welfare recipients exit via work, yet many return and try again. Others leave through a change in family circumstances, such as marriage or cohabitation, but remain off welfare only as long as their partner is working. While the most successful permanent route off of welfare is employment, repeat dependency is quite prevalent. Harris states:

Women are especially vulnerable in the first 12 to 18 months following welfare exit such that 42% of women return to welfare within 2 years of leaving welfare. However, the return transition is only one point in a highly dynamic pattern of welfare recycling as most of the women who return to welfare, exit again quite rapidly. Overall more than three-quarters of those who return exit again, and nearly half do so within 12 months of the return.

The most important factors influencing repeat dependency are those factors that determine a woman’s economic security and earnings potential — age, education, which operates indirectly through wages, marriage to a working husband,

96. Harris, *supra* note 85, at 317; see also BANE & ELLWOOD, *supra* note 83, at 55-59.

97. Gary Burtless, *Paychecks or Welfare Checks: Can AFDC Recipients Support Themselves?*, BROOKINGS REV., Fall 1994, at 35, 35.

98. Harris, *supra* note 85, at 349. See generally BANE & ELLWOOD, *supra* note 83; GREENBERG, *supra* note 85; Pavetti, *supra* note 85.

99. Kathleen Mullan Harris, *Life After Welfare: Women, Work, and Repeat Dependency* (paper presented at the annual meeting of the American Sociological Association, Aug. 5-9, 1994) (forthcoming in AM. SOC. REV., June 1996).

and labor market conditions. Clearly, the economic factors override the importance of the social context¹⁰⁰

What Harris found is that the women who were most successful in remaining off of welfare via work were those who had the most investments in human capital, primarily age (a proxy for work experience) and education, especially if beyond high school. Education, in particular, had strong effects in increasing the likelihood of economic independence. Those women who have human capital investments are able to maintain their wage rates, continue to work, gain additional education and experience, reduce their poverty (although a third still remained poor after three years), and also increase their chances of marriage or cohabitation. Those with less human capital investment are less likely to obtain additional education, more likely to suffer a decline in their wage rates, less likely to marry or cohabit, more likely to return to welfare, and more likely to remain poor.

For the majority of women who manage to remain self-sufficient, life after welfare involves work at some point in time, regardless of the route of exit. . . . [W]ork and the conditions of work among the poor remain the best opportunity for policy to reduce repeat dependency among the women who manage to end welfare receipt. The solution, however, is not as simple as moving women into the labor force. Clearly, they are already there, working primarily at low-wage or part-time jobs. Despite the fact that a majority of women exit welfare through work, more than half return to welfare because of work instability, and work exits appear more likely to lead to a revolving door pattern of welfare dependency. Though many women travel the work route, it is a rocky one. There is qualitative evidence that many women who move off welfare by entering the labor force do not fully understand or anticipate the demands of single parenthood and full-time work, and the loss of medicaid benefits, and quickly return to welfare once they experience the full implications of the work transition Many women, and especially young women, are unprepared for the world of work and are quickly overwhelmed by the hardships and conflicts involved in juggling work and family, especially in the deprived environment with much fewer resources than in middle-class communities. Many do not foresee any hope of job advancement and decide that work is just not worth it While the potential for work to replace welfare dependency among poor women is certainly founded in this research, its promise lies in a policy vision that extends beyond the welfare exit to reinforce and sustain the obvious

100. *Id.* at 35.

efforts of poor women to support themselves and their children through their own earnings.¹⁰¹

Summing up both the qualitative and quantitative research, most welfare mothers are adults, have few children, and are not long-term welfare recipients. Contrary to myth, most either work or try to work while on welfare, and most leave welfare via work. The "problem" of welfare dependency — indeed, the problem of family poverty — does not lie in the individuals. Rather, the problem is the job market and the conditions of work. However, even with improvements in the earnings from paid labor, there still remain the crucial issues of affordable, quality child care and access to health care.

V. CHILD CARE

The state of child care in America, especially for the working poor and the working near poor, not only limits the ability of mothers to work, but also poses a significant danger to millions of infants, children, and adolescents. Children of the working poor are at high risk of being compromised both developmentally and in health status; they will suffer, and so will the rest of society.¹⁰²

A substantial number of women would like to work in the paid labor force but cannot because of the lack of child care options.¹⁰³ In addition, the quality of child care has a significant impact on the work experiences of the parents (primarily mothers). Problematic child care can result in distractions, low morale, low productivity, absenteeism, and high turnover rates. According to the Census Bureau, during a one-month survey, nearly eight percent of mothers with a young child between one or two years of age lost work time because of a breakdown in child care; in a national survey, fifteen percent of mothers lost work time during the previous month because of a child care

101. *Id.* at 36-37.

102. See WILLIAM T. GORMLEY, JR., EVERYBODY'S CHILDREN: CHILD CARE AS A PUBLIC PROBLEM 2 (1995).

103. The General Accounting Office reports that reducing the costs of child care would substantially increase the likelihood that poor, near-poor, and nonpoor mothers would work. U.S. Gov't Gen. Acct. Off., Child Care Subsidies Increase Likelihood That Low-Income Mothers Will Work 2 (1994).

problem.¹⁰⁴ All of the factors stated above add to the stress of families that are, more likely than not, already under stress.¹⁰⁵

The literature on child care is quite extensive and need not be repeated. In this section, I summarize the following points: the risk factors in mediocre child care; the demand for child care; the problems faced by consumers of child care; and the difficulties and costs of providing quality child care.

A. *The Risks of Inadequate Child Care*

Many children experience good quality child care outside the home and do fine. The major policy concern is with *mediocre* child care. While many children and adolescents who experience poor quality child care do grow up to become successful adults, they seem to be more resilient than others. Mediocre child care has potentially harmful effects on school-age children left alone, pre-schoolers, toddlers, and infants. The growing numbers of infants in day care and the evidence of harmful effects is especially disturbing.¹⁰⁶

The daily nurturing and the warm, loving, human interaction that many people experience growing up and provide their own children, from the moment of birth, cannot be assumed in the exploding world of day care for large numbers of families today. It is the extent of mediocre day care that is the issue.

Child care can strengthen or undermine children's cognitive and social development. If child care quality is high, children learn rapidly, develop strong attachments to adults, and behave socially toward other children. If quality is low, children learn more slowly, develop less secure attachments, and demonstrate less sociability and consideration for others. These findings have held up in numerous settings, involving both group day care centers and family day care homes. In short, child care quality affects how children grow up, for better or worse.¹⁰⁷

104. HOUSE COMM. ON WAYS & MEANS, 103D CONG., 2D SESS., OVERVIEW OF ENTITLEMENT PROGRAMS, 1994 GREEN BOOK, BACKGROUND MATERIALS AND DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMM. 543 [hereinafter 1994 GREEN BOOK]; GORMLEY, *supra* note 102, at 19.

105. GORMLEY, *supra* note 102, at 2-3.

106. See generally *id.* at 34; see also Judith S. Musick, *The High-Stakes Challenge of Programs for Adolescent Mothers*, in *ADOLESCENCE AND POVERTY* 111 (Peter Edelman & Joyce Ladner eds., 1991) (discussing the harmful development effects starting with poor and mediocre infant and child care).

107. GORMLEY, *supra* note 102, at 4; see also COMM. ON CHILDREN REPORT, *supra* note 82, at 29.

The National Commission on Children echoes this sentiment: "Children are not inevitably impaired by out-of-home care during the first year. However, when they are in care for more than 20 hours per week, and when the quality of care is not sensitive and responsive to the special developmental needs of infants, the risks of problems are greatly increased."¹⁰⁸ Yet, given the demand, the task of providing decent child care is formidable.

B. *The Demand for Day Care*

The number of children who are actually in day care, or who are potential consumers of day care, is astronomical. In 1991, the National Commission on Children reported that nearly twenty million children are in the care of an adult other than a parent, grandparent, or sibling. Moreover, an estimated 1.3 million school-age children (age five to fourteen) are left alone when not in school, mostly because their mothers are working.¹⁰⁹ In 1994, sixty percent of mothers with preschool-age children and over half of all mothers whose youngest child is under age two were in the paid labor force. The rise of single-parent families and their increased participation in the paid labor force contributes significantly to the demand for child care.¹¹⁰ Child care is even more of an issue for low-income mothers because they are more likely to be single parents.¹¹¹

Given the stagnation of wages and no signs of change in family formation, the rising need for day care is likely to continue for the foreseeable future. Both single and married mothers will have to participate in the paid labor force. Mothers will be working longer hours and doing more shift and weekend work. Parents will be spending less time with their children. Children will be spending more time in day care. Moreover, it seems likely that increasing numbers of very young children and infants (up to twelve months) will be placed in child care. As of 1992, the majority of mothers of *infants* were in the paid labor force.¹¹² In addition, some states are proposing that welfare mothers be re-

108. COMM. ON CHILDREN REPORT, *supra* note 82, at 260.

109. *Id.* at 27.

110. 1994 GREEN BOOK, *supra* note 104, at 532; GORMLEY, *supra* note 102, at 17.

111. Sandra L. Hofferth, *Caring for Children at the Poverty Line*, 17 CHILDREN & YOUTH SERVICES REV. 61, 62 (1995). See generally SANDRA L. HOFFERTH ET AL., NATIONAL CHILD CARE SURVEY 1990 (1991).

112. GORMLEY, *supra* note 102, at 16.

quired to seek work *three months* or *four months* after the birth of their child.¹¹³

The increasing use of child care for infants flies in the face of the words of the National Commission on Children:

The first years of life are a period of great vulnerability and opportunity. Infants and toddlers are wholly dependent on their parents (and other caregivers when parents are unavailable) to meet their basic needs. Without adequate nutrition and nurturing to fuel their rapid development, many children suffer delayed or stunted growth, impaired intellectual development, unresponsiveness, and low resistance to infection. . . .

When parents, especially mothers, must return to work immediately following birth or adoption, the opportunities for establishing loving and trusting parent-child relationships are often compromised.¹¹⁴

Child care issues involve availability, cost, and quality. Group day care centers are increasingly preferred to family day care homes because formal arrangements tend to be far more stable than informal day care. For example, parents report a great amount of lost work time due to informal child care no-shows.¹¹⁵ Yet, formal day care centers are often filled to capacity. A 1990 government study reported centers at almost ninety percent of capacity.¹¹⁶ The problems of availability are more acute for infants and toddlers — almost half of all group day care centers require children to be toilet-trained. Centers also have restrictions against school-age children, children with disabilities, those who cannot speak English, who are ill, or who require evening or weekend care. Families who, for one reason or another, are rejected by centers increasingly have to rely on family day care or kin-provided child care, and many school-age children are left on their own.¹¹⁷ It should be noted that one of the important factors increasing the risk of adolescent deviant behavior is leaving kids alone. Understandably, overloaded single parents

113. Proposed legislation in Wisconsin would require AFDC mothers to participate in work requirements twelve weeks after birth. Report to the Assembly Committee on Welfare Reform of the Legislative Fiscal Bureau of the State of Wisconsin on Assembly Substitute Amendment LRB 0286/1 to Assembly Bill 591: Summary of Wisconsin Works Proposal, Nov. 24, 1995.

114. COMM. ON CHILDREN REPORT, *supra* note 82, at 46, 260.

115. Hofferth, *supra* note 111, at 62.

116. 1994 GREEN BOOK, *supra* note 104, at 542.

117. GORMLEY, *supra*, note 102, at 23. For a detailed treatment of kin-provided child care see Peter D. Brandon, An Economic Analysis of Kin-Provided Child Care, U. Wisc. Inst. for Res. on Poverty Discussion Papers 1076-95 (1995).

are more likely to give their children more autonomy.¹¹⁸ However, such autonomy includes the risk of deviant adolescent behavior, a risk which is increased by leaving children alone.

The cost of child care is a major problem. Costs vary considerably. Estimates range from \$3,300 per year per child (1991)¹¹⁹ to \$4,800 (1994).¹²⁰ Centers often charge more for infant and toddler care. Gormley says that in 1993, the "average undiscounted fee for full-time infant care at a group day care center was \$5,412 per year. In many parts of the country, however, infant care can cost as much as \$200 per week or approximately \$10,000 per year."¹²¹

Not surprisingly, the relatively high costs of child care effectively exclude many poor children and near-poor children from formal child care programs, including Head Start and other public programs. Significant numbers of mothers use kin-provided child care.¹²² Many parents, including middle-class parents, cannot afford to go to work because of child-care costs.¹²³ The higher the cost of child care, the lower the probability of starting work and the higher the probability of leaving work. Additionally, parents with poor quality child care are more likely to leave work than parents with higher quality child care.

In Sandra Hoffreth's study of child care for nonworking and working-class families,¹²⁴ three-quarters of families with a working mother used child care for a pre-schooler. Not only is the

118. It is estimated that the average parent spends eleven fewer hours per week with their children than in 1960; less than five percent of families have another adult living in the house, such as a grandparent, to relieve the burden, and as a result, children are increasingly on their own. Sanford M. Dornbusch et al., *Single Parents, Extended Households, and the Control of Adolescents*, 56 *CHILD DEV.* 326, 332 (1985). The National Commission on Children estimated 1.3 million children age 5 to 14 are on their own after school. *COMM. ON CHILDREN REPORT*, *supra* note 82, at 27.

119. GORMLEY, *supra* note 102, at 24.

120. Barbara R. Bergmann, *The Economic Support of Child-Raising: Curing Child Poverty in the United States*, 84 *AM. ECON. REV.* 76, 79 (1994).

121. GORMLEY, *supra* note 102, at 24.

122. Brandon, *supra* note 117.

123. GORMLEY, *supra* note 102, at 25.

124. This study draws on two large national data sets — *A Profile of Child Care Settings* and the *National Child Care Survey 1990*. The families, with children under age six, were "nonworking poor" (no employed member and incomes below the poverty line); the "working poor" (incomes below the poverty line but at least one working member); the "working class" (incomes above the poverty line but less than \$25,000 per year, which is about seventy-five percent of the median family income in 1989); and "middle-class" families (incomes \$25,000 or higher). Hofferth, *supra* note 111, at 64.

need for child-care greater among the working poor, but because of their low wages, they can only afford low-cost care. Low-income parents are more likely to use relative care as compared to center care.¹²⁵ Most centers do not offer sliding scale fees or accept children whose families receive assistance. In addition, other needs might not be met, such as accommodating flexible or shift hours or the specific needs of certain types of children. Because increasing numbers of mothers with very young children are entering the paid labor market, more infants and toddlers are in child care. Most of the care they receive is in family day care, or sitter or relative care rather than center-based care — an issue which will be discussed again shortly. Hoffreth reports that only about half of centers accept very young children.¹²⁶

There are also scheduling issues. Due to the fact that one-third of the working poor and more than twenty-five percent of working-class mothers work weekends, center and day care supervision is not possible. Furthermore, almost ten percent of mothers work at night and therefore are unlikely to use center care. Finally, the fact that almost half of working-poor parents work on rotating or shifting schedules itself has an impact on the stability of child care. In sum, “working-poor parents are more likely to work odd hours and to have changeable schedules. In contrast, most formal programs operated standard business hours. . . . [Thus] locating a part-time slot might be difficult since it may mean denying someone else a full-time slot.”¹²⁷

Whether families pay for child care varies, of course, with socio-economic class. Whereas only eight percent of nonworking poor pay for child care for their youngest child, twenty-seven percent of the working poor, thirty-two percent of the working class, and forty-three percent of the middle class pay for such child care.¹²⁸ Not surprisingly, in families with a single, employed mother, the percentages increased markedly: forty-four percent of the working poor, sixty-nine percent of the working class, and sixty-two percent of the middle class paid for child care for their youngest child. High percentages of dual-earner families also paid for child care.

Most families receive subsidies for child care (at least through the tax system), but both the form and the amount can

125. 1994 GREEN BOOK, *supra* note 104, at 539-40.

126. Hoffreth, *supra* note 111, at 73 & fig. 5.

127. *Id.* at 75.

128. *Id.* at 76.

make a difference. Direct child care assistance is usually limited to families below the poverty line. Working-poor families are the least likely to receive subsidies. For low-income families, there are four federal direct subsidy programs: AFDC Child Care, AFDC Transitional Child Care, At-Risk Child Care, and the Child Care and Development Block Grant (CCDBG). In the fiscal year 1993, the total federal amount for these programs was \$1.74 billion.¹²⁹

Nevertheless, the largest source of federal support is through the nonrefundable Dependent Care Tax Credit. The credit offsets child care expenses for working parents up to a maximum. This program costs \$2.5 billion (1993), and most of the 6 million families that receive the credit are middle- and upper-income.¹³⁰ Other forms of federal assistance include the Social Services Block Grant, Title XX of the Social Security Act, the Child Care Food program (subsidized meals for children in child care), and Head Start, as well as numerous other programs that provide services, training, and related activities.

It is hard to make reliable estimates as to how well these and other federal programs are used.¹³¹ Approximately eighteen percent of working-poor families and twelve percent of working-class families received financial assistance. Single-parent families, regardless of income group, were more likely to receive child care assistance (about twenty percent). Families with children in center-based programs were more likely to receive financial assistance.¹³² However, many eligible families did not receive assistance. The General Accounting Office estimates that the number of children waiting to receive subsidies ranges from 40,000 children in Texas to 225,000 children in California. Clark and Long report that “[i]n San Francisco, a low-income working mother can wait up to two years to receive a subsidy for a toddler and one year for an infant.”¹³³

129. The first two programs are for AFDC families who are currently working or in job training programs and families who left AFDC via employment — for up to a year. The At-Risk program is for families at risk of going on welfare because of the lack of child care assistance, and CCDBG serves the low-income population.

130. Sandra Clark & Sharon Long, *Child Care Block Grants and Welfare Reform*, in *WELFARE REFORM: AN ANALYSIS OF THE ISSUES 25-28* (Isabel Sawhill ed., 1995) [hereinafter *WELFARE REFORM*].

131. 1994 GREEN BOOK, *supra* note 104, at 550.

132. Hofferth, *supra* note 111, at 77-78 & fig. 7.

133. *WELFARE REFORM*, *supra* note 130, at 26.

How much do families pay for child care? In 1990, the average weekly amount was sixty dollars for a middle-class family, forty-five dollars for a working-class family, and thirty-eight dollars for a working-poor family. *However, the thirty-eight dollars per week represented thirty-three percent of the household income of the working-poor family as compared to six percent of the household income of the middle-class family and thirteen percent of the working-class family.*¹³⁴ How much does thirty-eight dollars a week buy? Even mediocre center-based care averaged ninety-five dollars per week per child.

C. *The Quality of Day Care*

Quality in child care comes down to the nature of the interactions between provider and child. Quality, like most items in this world, usually depends on cost. With child care, however, there is the idea, especially when it comes to subsidizing the poor, that the cheapest care, family care, may be good enough. Family-member day care has an intuitive appeal — the image of the grandmother, rather than a stranger; it is cheaper than licensed care; and it is a way of employing additional poor families. In contrast to Europe, which also relies heavily on family care, almost all family day care in the United States — up to ninety percent — is unregulated. According to Gormley, regulated family day care provides better service because the physical facility, planning, basic care, and language, learning, and social development are often better. Further, the children in licensed homes are more likely to engage in group play.¹³⁵ But licensing is costly, and, as a consequence, the vast majority of family day care providers avoid regulation. Often family care is either exempt from regulation because of the small number of children involved or it is operating illegally.¹³⁶ Not surprisingly, lower-income families are less likely to use regulated family day care than upper- or middle-income families.

Formal or center-based care is not without problems. By 1990, almost a third of the youngest pre-school children of employed mothers were in center-based care, and of those mothers wanting to change their existing child care arrangements, it was mostly from relative care to center-based care.¹³⁷ Today, most

134. Hofferth, *supra* note 111, at 80 & fig. 10.

135. GORMLEY, *supra* note 102, at 81.

136. *Id.* at 80.

137. Hofferth, *supra* note 111, at 83-84.

center-based care (as well as licensed family day care homes) meet minimal state regulations, but not the higher standards of the National Association for the Education of Young Children or those of many experts in the field.¹³⁸ About a third of the centers are for-profit — and a sixth of these are chains. In fact, chains account for about a third of the total number of children in center-based child care. For-profits are cheaper than nonprofits, and chains are cheaper than the individually owned centers. According to Gormley, the lower price is not due to efficiency *but rather to a sacrifice in quality*. Quality of care is related to training and, more significantly, commitments on the part of the child care providers.¹³⁹ Despite the fact that “research shows that children’s cognitive and social development is enhanced by high levels of teacher education, low child/staff ratios, and low turnover,”¹⁴⁰ for-profits pay their staffs less, have higher turnover, have fewer teachers per child, and hire teachers who are less educated. Within the for-profit sector, the chains have worse indicators of poor quality than the independents.¹⁴¹

In most studies, quality of center-based care is usually measured by structural indicators (for example, staff ratios, size, staff turnover, training) and these indicators have been found to be related to the quality of the interactions.¹⁴² The results of a recent study show that center-based child care, whether for-profit or nonprofit, can be quite problematic.¹⁴³ The study, conducted

138. GORMLEY, *supra* note 102, at 67.

139. ELLEN GALINSKY ET AL., THE STUDY OF CHILDREN IN FAMILY CHILD CARE AND RELATIVE CARE: HIGHLIGHTS OF FINDINGS 61-77 (1994).

140. GORMLEY, *supra* note 102, at 70. The National Commission on Children: Research clearly documents that when caregivers are trained in child development, as well as basic health and safety practices, they are more likely to provide care and attention that fosters trusting, affectionate relationships. They are more likely to structure learning activities in ways that appropriately support social and intellectual development. . . . Specialized training is especially important for persons who care for infants, children with disabilities, and children from diverse cultural backgrounds. Yet, according to a recent study, approximately four-fifths of child care teaching staff do not have a college degree, and almost one-third of teachers and over half of assistant teachers have only three years or less of child care experience.

The Commission points out that despite the harmful effects of turnover, “high rates of staff turnover — as much as 40 percent annually — are the often a direct result of low wages and poor benefits.” COMM. ON CHILDREN REPORT, *supra* note 82, at 269.

141. GORMLEY, *supra* note 102, at 69.

142. Hofferth, *supra* note 111, at 82.

143. See UNIVERSITY OF COLO. AT DENVER ET AL., EXECUTIVE SUMMARY OF COST, QUALITY, AND CHILD OUTCOMES IN CHILD CARE CENTERS 2-3 (1995).

by four universities, collected data from 826 children in fifty nonprofit and fifty for-profit randomly chosen centers in California, Colorado, Connecticut, and North Carolina. The basic finding was that “child care at most centers in the United States is poor to mediocre, with almost half of the infants and toddlers in rooms having less than minimal quality.” Minimal quality was defined as meeting “basic health and safety needs.” There was “little warmth and support provided by adults” and “few learning experiences.” Only one in seven centers provided a level of care that “promotes healthy development and learning,” the kind of warm relationships whereby children learn the trust and intellectual development necessary for school. Not surprisingly, the quality of child care was related to resources — staff-to-child ratios, staff education, training, experience, and staff wages. Ninety-seven percent of staff are female, with wages lower than even other female-dominated occupations.¹⁴⁴

The centers provided the basic services that the parents needed. They met health and safety needs, and they were open long hours. On the other hand, the parents overestimated the quality of care their children were receiving. Quite significantly, while ninety percent of parents rated the programs as “very good,” trained observers rated the same programs from “poor to mediocre.”¹⁴⁵

D. *Providing Quality Day Care*

The task of providing quality day care is daunting. The first issue in providing quality child care is to recognize the very large costs involved. Everyone is paying for cheap child care — the children, the parents, our society. What would good child care cost? In estimating the costs, Barbara Bergmann points out that subsidized child care cannot be restricted just to women coming off of welfare, nor to one year per child, nor to half-day programs (such as Head Start), nor to single parent families (which would not only discourage marriage but also ignore the needs of poor children in two-parent families).¹⁴⁶ Bergmann also believes it is important to extend the subsidy, at least partially, to middle-income groups to avoid “notch” problems and increase political support. For example, there could be sliding-scale fees.

144. *Id.* at 4-5.

145. *Id.* at 9.

146. Bergmann, *supra* note 120, at 78-79.

Bergmann estimates the costs of providing care to children of low- and middle-income families. There are nineteen million children under the age of five. Averaging the costs of providing care for infants and for older children, high-quality care for preschoolers costs approximately \$4,800 per child per year. Providing the lowest fifth of income earners with free care and the next two-fifths with partially subsidized care on a sliding scale would cost \$36 billion annually. There are twenty-nine million children between the ages of two and twelve. Providing three-fifths of them care on the same basis before and after school and in the summer, at a cost of \$3,400 each, would cost an additional \$39 billion.¹⁴⁷

There would be other costs as well. As more mothers went to work, the cost of the EITC would rise. Also, Unemployment Insurance would rise as more qualified women workers would experience unemployment. On the other hand, there would be some savings in AFDC and food stamps.¹⁴⁸

Assuming taxpayers would be willing to spend large amounts of money for child care, what kind of structural arrangements should be in place so that parents would get what they are paying for? As more money for child care becomes available, the for-profit market will expand — this certainly was the experience with nursing homes. As a result of this expansion, child care may become more affordable, but unless quality-control mechanisms are improved, child care will also become more mediocre.¹⁴⁹

On the other hand, it seems clear that any effort to extend regulation, at least as traditionally practiced, to this vast, diverse industry would be impractical. Though some regulation would be plausible, for example, standard setting and basic licensing of centers for health and safety, on the whole quality child care will ultimately have to depend on the market. This means, in addi-

147. *Id.* at 79.

148. Under President Clinton's now abandoned welfare reform, Gormley estimates that an additional \$1.8 billion would have to be spent in 1991 for child care and related programs (e.g., an expanded At-Risk program). If an additional one million children of working poor parents were to receive child care subsidies, the cost would be an additional \$1.7 billion (in 1999). GORMLEY, *supra* note 102, at 179-80. On the other hand, the Congressional Budget Office estimates that under the proposed block grant for child care, federal funding would be reduced by \$1 billion over Fiscal Years 1996-2000; furthermore, the states would no longer be required to match the federal funds and previously eligible families would no longer have entitlements. WELFARE REFORM, *supra* note 130, at 27.

149. GORMLEY, *supra* note 102, at 179-80.

tion to having money, parents will have to have information and choice. Gormley thinks that "a serious effort to get good information into the hands of parents could revolutionize the child care system by empowering parents to protect their children through making judicious choices."¹⁵⁰ Information can come from a variety of sources — from government agencies and mediating community-based institutions, such as churches, schools, local nonprofits, local businesses, and from the parents themselves.¹⁵¹ He argues for parent involvement and empowerment. In his vision, parents would help to design programs and policies and participate in the selection of staff. They would serve as volunteers and help in special projects. He cites Harrisburg, Pennsylvania as an example. In Harrisburg, several state-sponsored day care centers are governed primarily by parents. At each center, a contract is issued to a private firm for a fixed time period. When the contract expires, competitive bids are invited; parents collectively choose the winning bidder, and contracts are changed.¹⁵² In short, community-based agencies are needed to provide a variety of child care services for families in the community — information, monitoring, advocacy, and back-up.

But whatever the reforms, it must still be recognized that there will be gaps. Day care will always vary in quality and availability, and parents and children will always have special needs. These inexorable facts lead to two conclusions. First, if for no other reason, the uncertainty of the availability and quality of child care and the potential for harmful effects on children argue strongly in favor of the position that poor women should not be forced to work. Child care decisions should be left to the individual family rather than a welfare department which is under a variety of pressures to get mothers into the paid labor market. The risks of mediocre child care are simply too high. Naturally, parents vary in their nurturing abilities, but if serious questions are raised about particular families, finding solutions should be a matter for child protection services, not welfare.

150. *Id.* at 172-73.

151. *Id.* at 151-54. There are examples of this kind of information dissemination today. IBM, in order to give personalized assistance to employees looking for child care, subsidized a resource and referral agency which worked through a network of 250 community-based resource and referral agencies and consultants. Since 1984, more than 60,000 IBM families have used this resource and referral service. Gormley reports that other companies are following this example. *Id.*

152. *Id.* at 87.

Second, there should be paid parental leave to care for infants.¹⁵³ For instance, the European approach combines paid parental leave and government-funded centers.¹⁵⁴ However, the costs of paid parental leave are high. Gormley estimates that if all mothers stayed home for one year and were paid at the minimum wage, the cost would be \$27 billion per year (in 1999).¹⁵⁵ For some families, employers could pay part of the cost, but this is not true for most, since we are talking about the working poor.

In the end, there is no substitute for substantial additional funding. At present, only a fraction of the children in poor and near-poor families receive child care subsidies — estimates are as low as one-sixth. However, savings could be made by eliminating the Child and Dependent Care Tax Credit for upper-income families (\$2.5 billion, 1993).¹⁵⁶

VI. HEALTH CARE

For the working poor, there are two major problems with the United States health care system: increasing costs and lack of access.¹⁵⁷ By access, I mean not only the lack of health insurance, but also the location of health care providers. Access and cost are related; if access is increased, utilization and costs will also increase. The United States is already spending more per

153. Sheila B. Kamerman argues for parental leave with income replacement for the first year of each child's life. She claims that this system would benefit all children by moderating concerns about the expense and quality of programs and by providing the children with a good start. The Family and Medical Leave Act of 1993 is a step in this direction. Sheila B. Kamerman, *Starting Right: What We Owe to Children Under Three*, AM. PROSPECT, Winter 1991, at 63. The National Commission on Children also recommends family leave. COMM. ON CHILDREN REPORT, *supra* note 82, at 261.

154. GORMLEY, *supra* note 102, at 20, 169-70. In Sweden, mothers may remain at home until their child reaches the age of eighteen months. Mothers receive eighty percent of regular pay (for one year) followed by a minimum sickness benefit (three months), then by unpaid leave (three months). For older children, day care is available at a nominal fee, with parents paying approximately twelve percent of the total cost. All parents may take as many as sixty days per year to take care of a seriously ill child. Germany provides six weeks off at full pay before childbirth, eight weeks at full pay after childbirth. All mothers are entitled to job-protected leave for three years, and approximately eighty percent are eligible for cash-assistance for child-raising for two years. Thereafter, there is a range of affordable arrangements which are substantially subsidized. France has a generous family allowance, and pays twenty percent of the costs of child care, with employers paying five percent. *Id.*

155. *Id.* at 180.

156. *Id.* at 183-85.

157. This section relies extensively on Barbara L. Wolfe, *Reform of Health Care for the Nonelderly Poor*, in CONFRONTING POVERTY, *supra* note 11, at 253.

capita on health care than any other country — in 1990, the total bill was \$666.2 billion — and these costs are rising. Health care costs are expected to be fifteen percent of GNP by the year 2000.

Medicare and Medicaid are the major public programs. Both are costly. In 1993, Medicare cost \$143 billion and Medicaid cost \$132 billion,¹⁵⁸ and the costs are growing. Medicare covers the aged and those who qualify for Social Security benefits because of disability. Medicaid is the program for the poor, covering about ten percent of the population, including about sixty-one percent of all poor children. AFDC recipients are automatically covered by Medicaid. Though a troubled program, to be sure, it is far better than no insurance at all, which is the only alternative for vast numbers of the working poor.

Most Americans (about three-fourths) are covered by private insurance, mostly through their employment. There is a tax subsidy for this — the employer's contribution (5.1% of wages and salaries) is not taxable income to the employee. In 1992, the estimated value of the subsidy was \$270 for taxpayers in the lowest quintile, \$525 for the next quintile, and \$1,560 for the highest.¹⁵⁹ The value of the tax subsidy depends on the marginal tax rate; consequently, it is of no benefit to the poor. Very few poor are covered by employment-based insurance — in 1989, 2.7% of those 50% below the poverty line, 6.2% of those between 50 and 100% of the poverty line, and 13% of the those between 100 and 150% of the poverty line were covered.¹⁶⁰

Those who are covered by their employers nevertheless have cause for concern. Rising health care costs are having a serious impact on business, and firms are increasingly cutting back coverage. Not only are more costs being imposed on workers (*e.g.*, deductibles, coinsurance), but, increasingly, firms are reducing coverage for workers' dependents, as well as for part-time and temporary employees. As a result of incomplete federal programs, gaps and changes in employer-based insurance, fluctuations in employment, and increasing numbers of people working in jobs that do not provide health care insurance:

Between thirty-three million and thirty-seven million U.S. citizens do not have any health insurance coverage at a point in time, including perhaps twenty to twenty-five million who were uninsured throughout the year. Another twenty million

158. 1994 GREEN BOOK, *supra* note 104, at 125, 796.

159. Wolfe, *supra* note 157, at 254.

160. *Id.* at 254-55 & tbl. 10.2.

have too little health insurance to protect them from the financial burdens of a major illness.¹⁶¹

The probability of being uninsured varies by class, race, age, and family composition. About sixty percent of the uninsured are in families with incomes below two hundred percent of the poverty line; about thirty percent are in families with incomes below the poverty line. Those who are poor (or near poor) are more likely to experience longer spells without health insurance. Latinos are more likely to be without insurance than whites, with African Americans in the middle. Single-parent families are more likely to be without insurance than childless couples. Those without insurance are less likely to have a regular source of care, are less likely to use health care, are more likely to delay care, and tend to receive different care.¹⁶²

Not surprisingly, as Barbara Wolfe observes, poverty and ill health go together. Survey data show more reports of physical limitations and poor and fair health among low-income people as compared to those in middle or higher incomes. Poor health impacts both the type of work one can do and the hours that one can work. Moreover, poor health of children also limits the employment ability of mothers.¹⁶³ Low-income people are more likely to suffer from high blood pressure, obesity, cancer, infectious disease, heart disease (twenty-five percent higher than average-income people), and to be victims of violence. Low-income children are more likely to suffer from lead poisoning, AIDS, cancer, heart disease, congenital anomalies, and infectious diseases than children in higher-income families.¹⁶⁴

Because they have poorer health, low-income people tend to use more health care than higher-income people; yet, the poor have greater difficulty obtaining health insurance and health care because, as mentioned, they are increasingly restricted to the low-wage, no-benefit jobs and states are restricting Medicaid. In addition, many physicians refuse to take Medicaid patients because of the low reimbursement rates. Moreover, says Wolfe, access problems for the poor are likely to get worse.

In addition to the above-mentioned trends, there are the AIDS and substance abuse epidemics, the fact that private insur-

161. *Id.* at 255.

162. *Id.* at 256.

163. Barbara L. Wolfe & Steven C. Hill, *The Effect of Health on the Work Effort of Single Mothers*, 30 J. OF HUM. RESOURCES, Winter 1995, at 42, 43.

164. Wolfe, *supra* note 157, at 258.

ance is becoming increasingly resistant to cross-subsidization (that is, charging paying patients an excess to cover the costs of provider deficits), the shortage of physicians in both the inner cities and in rural areas, and the decline in preventive health care for the poor (e.g., the lower rates of immunization in large urban areas).

At the present time, the difficulties in reforming the health care system for the poor seem as daunting as providing quality child care. Some of the health problems of the poor can be addressed, at least in part, through information, education, and community-based programs. These would include information dissemination on substance abuse (including alcohol and smoking), immunization, prenatal care, as well as the location and availability of health care providers. Other problems are more intractable — for example, time and wages lost from work, transportation, child care, and the hassles of negotiating daily living in the inner cities.¹⁶⁵

The major problem with health insurance reform, by far, is the issue of costs and financing. Medicaid is already seriously inadequate. As of 1990, it covered 25.3 million people, including 11.2 million children, but this was less than half of those below the poverty line and less than 20% of those up to 133% of the poverty line. As stated, AFDC recipients are automatically eligible, and they account for about a quarter of the Medicaid enrollees, but the proportion of Medicaid expenditures on AFDC has been declining. The big increases are for the disabled, blind, and the aged — particularly long-term care (which is not covered by Medicare). In addition to these populations, all poor pregnant women and children born after September 30, 1983 are covered. States can also cover the “medically needy” — people whose incomes are above the eligibility line but whose health care expenses bring them below the line.¹⁶⁶

A basic problem with Medicaid is its bright-line eligibility — one dollar above the financial line and the family loses coverage. This, of course, creates a strong disincentive to take a job (at least on the books) and remain on AFDC. Indeed, many recipients who leave work give this reason. This problem is lessened with the Family Support Act provision for continuing Medicaid coverage for one year after leaving welfare and other provisions

165. *Id.* at 262-64.

166. *Id.* at 266.

covering poor pregnant women and children. Other problems with Medicaid include variations in coverage and services by state, lack of coverage for the working poor and adults without dependent children, low reimbursement rates for providers, and the inability to combine Medicaid with private insurance.¹⁶⁷

There are other sources of care for the poor — federal block grants for Maternal and Child Health Services, Community Health Centers (primary care on a sliding fee schedule), Migrant Health Centers, and the Indian Health Service. In addition, hospitals provide over \$3 billion in “uncompensated care” (1988 figures). But most of these programs, especially the hospitals, are under increasing pressures.¹⁶⁸

Given the recent debacle in comprehensive health care reform, it is difficult to recommend what should be done. Most Americans and the leadership in both political parties are reluctant to embrace systemic, costly reform. Yet, there seems no alternative if we are to “make work pay” for the vast majority of low-income workers. Unless health care benefits are made available for this group, to talk about moving substantial numbers of poor single mothers into the paid labor force is both idle and reckless. They simply cannot risk the health of their children.

A number of alternatives have been proposed for health care reform, including: (1) expanding employer coverage through mandates, minimum packages, and subsidies, with an expanded public program as a back-up; (2) expanding Medicare and Medicaid; (3) modifying the current tax incentives (e.g., refundable tax credits for low-income families); (4) national health insurance (e.g., “single payer”); and (5) competition (e.g., managed care). The dilemma, though, still remains: expanding health care coverage will dramatically increase health care costs. For example, under the Clinton Administration’s ill-fated plan, which would have relied considerably on mandated employer coverage, federal subsidies would have amounted to \$82 billion in 1998, \$108 billion in 2000, and \$173 billion in 2004.¹⁶⁹ Some of these expenditures, it was argued, would have been offset by slowing the rate of growth in health care expenditures and in actual cost savings; however, it has proven extremely difficult to develop proposals for major changes that will significantly reduce health care

167. *Id.* at 266-67.

168. *Id.* at 268.

169. *CBO Analysis of the Administration's Health Care Reform Plan: Hearings Before the Senate Comm. on Finance*, 103d Cong., 2d Sess., 103 (1994).

costs. In addition to the extremely powerful interests which favor the status quo (e.g., private insurance companies), most Americans are reasonably satisfied with existing arrangements or not sufficiently dissatisfied that they favor major change. Many Americans also share concerns that health care reform might result in unemployment, higher taxes, rationing, or limits on technology.¹⁷⁰

VII. CHILD SUPPORT

The problem arising from lack of child support by the non-custodial parent (almost always the father) is a long-standing issue and extends through all social classes. Nonetheless, national interest in addressing child support coincided with the rise of single-parent families, the growth of child poverty, and the expansion of welfare. Public dollars (that is, the welfare system) were paying for dead-beat fathers. Part of current welfare reform is strengthening child support enforcement. It is argued that if fathers of welfare children could be made to pay what they ought to pay, then welfare costs, welfare dependency, and poverty would be reduced.¹⁷¹

However, even under an ideal child support system, where realistic amounts would be set, collected, and paid to the custodial parent, poverty and welfare costs would decline only modestly. The reason is that between thirteen and twenty-six percent of non-custodial fathers are themselves poor; for African Americans, the percentages ranged between twenty-three and fifty-six. Virtually all (ninety percent) poor, noncustodial fathers did not work or worked only intermittently during 1990.¹⁷² Under the present AFDC system, families receive the first fifty dollars of child support that is received, with the rest going to the state for AFDC reimbursement payments. In 1989, \$1.5 billion was paid in child support, with most of it going to the government. Under an ideal child support system — that is, where every noncustodial father had a support order, the order was set according to proposed realistic income guidelines (discussed below), and all orders were collected, welfare costs (including AFDC, food stamps, and Medicaid) would decline by five billion dollars,

170. Wolfe, *supra* note 157, at 271-75.

171. Elaine Sorenson, *The Benefits of Increased Child Support Enforcement, in WELFARE REFORM*, *supra* note 130, at 55-58.

172. *Id.* at 55.

AFDC rolls by nine percent, and the poverty rate by five percent.¹⁷³ But, an ideal system is a long way off.

Child support enforcement is an issue that extends far beyond welfare. In 1990, approximately a quarter of all children lived with one parent (usually the mother). Further, it is estimated that nearly half of all children born in the 1980s will live at least part of their childhood time with only one parent.¹⁷⁴ Thus, reform efforts, if successful in enforcing child support orders, will benefit a great many single mothers and their children who are not welfare recipients.

Prior to the current reforms, the existing child support system was one of almost unfettered local judicial discretion. The amount of support the noncustodial parent was ordered to pay was determined on an individualized, case-by-case basis, and the responsibility of enforcement was almost always on the custodial parent (that is, the mother). Few custodial parents obtained awards, the amounts were low, rarely updated, and similarly situated families often received very different treatment. Nationwide, only about sixty percent of mothers who were potentially eligible for an award received one. Of those legally entitled to support, only about half received the full amount, and a quarter did not receive anything.¹⁷⁵

Failure to pay child support is not primarily due to the paying parent's lack of income. As reported by Irwin Garfinkel, in 1983 noncustodial fathers "should have been paying between \$25 billion and \$32 billion in child support, when in fact they owed only \$9 billion and paid only \$7 billion." Garfinkel estimates that if the private system were fully efficient (*e.g.*, full enforcement of up-to-date guidelines), the poverty gap for eligible children and welfare costs would decrease by twenty-five percent.¹⁷⁶

While federal legislation designed to strengthen state enforcement began as early as 1950, the major change came in 1975, when a new part D was added to Title IV of the Social Security Act.¹⁷⁷ Pursuant to part D, a Federal Office of Child Support Enforcement was established and the states were required to es-

173. *Id.* at 56-57.

174. Irwin Garfinkel et al., *Child Support Orders: A Perspective on Reform*, in 4 *THE FUTURE OF CHILDREN*, Spring 1994, at 84, 84.

175. Irwin Garfinkel, *The Child-Support Revolution*, 84 *AM. ECON. REV.*, May 1994, at 81, 82.

176. *Id.* These conclusions are based on estimates of income and two of the most widely used child-support guidelines.

177. 1994 *GREEN BOOK*, *supra* note 104, at 455.

establish comparable offices. The federal government agreed to pay three-quarters of the states' enforcement costs.

The Family Support Act of 1988 imposed additional requirements on the states: minimum standards for the increases in proportion of legally identified fathers, improvements in collection rates, wage withholding for new support orders, adoption of federally approved uniform standards, and mandatory case updating every three years. Some states have responded with computerized parent locator systems, paternity testing, garnishment, and jail for defaulting fathers.¹⁷⁸ There has also been an increase in enforcement. Between 1982 and 1993, the ratio of money collected (nine billion dollars) per administrative expense improved by almost forty percent. In 1993, over 500,000 paternity suits were established, over 4 million absent parents located, over 240,000 families left AFDC as a result of child support collections, and twelve percent of AFDC payments were reduced — all as a result of child support enforcement.¹⁷⁹ Alternatively, the real value of the awards declined twenty-two percent between 1978 and 1985. While there have been increases since then, in 1989 the average award was still ten percent lower than the 1979 awards.¹⁸⁰

Nevertheless, there are limits within the existing system. A recent article in the *New York Times* reported on the experience of Georgia, one of the most aggressive and successful states in child support enforcement.¹⁸¹ In Georgia, about a quarter of the welfare population receives child support, a far better record than in most other states. The average support payment is about one hundred dollars per month. While this amount is not nearly enough to eliminate AFDC, state officials estimate that with the combination of support payments and earned income, about eighteen thousand families left AFDC. Similarly, officials claim that AFDC rolls would have increased even more without aggressive support collections. However, there is only so much the state can do. The problem, says state officials, is usually not in locating the father (most often, he is named, or known, and easily found) but that a great many of the fathers are low-skilled,

178. Kathryn J. Edin, *Single Mothers and Child Support: The Possibilities and Limits of Child Support Policy*, 17 *CHILDREN & YOUTH SERVICES REV.* 203, 204 (1995); Garfinkel et al., *supra* note 174, at 84-86.

179. 1994 *GREENBOOK*, *supra* note 104, at 455.

180. Garfinkel et al., *supra* note 174, at 85-87.

181. Rick Bragg, *Georgia, Pursuing Child-Support, Discovers Its Potential and Limits*, *N.Y. TIMES*, Apr. 14, 1995, at A1.

poorly educated, and have low earnings; in other words, the money is simply not there. Then, as discussed below, some proportion of mothers either prefer "under-the-table" contributions or fear retaliation from absent fathers. Statewide, even under its aggressive approach, only forty percent of fathers under orders to pay actually made payments, and that rate was even lower for welfare recipients.

Kathryn Edin amplifies these results in her study of 214 AFDC recipients in four cities (Chicago, Cambridge, San Antonio, Charleston). Her study is supplemented by focus group interviews of seventy-one noncustodial fathers collected by Manpower Development Research Corporation (MDRC).¹⁸² Edin claims that the child support system is failing, and the reason is that while more than half of the women interviewed cooperate — at least with one of the fathers of their children — an equal proportion engage in what she calls "*covert non-compliance*, meaning that they had given false or misleading information to child support officials in order to protect the identity of one or more or [sic] their children's fathers."¹⁸³ While a majority of mothers (sixty-two percent) cooperated with child support officials (for at least one of the fathers), less than a quarter of these women received any money from the official system. The primary problem with the formal system is bureaucratic — the rules are complex, the lives of the fathers are often unstable, the process is lengthy, and, if the agency cannot find the father on the first attempt, the case simply languishes. Many mothers believe that the child support system is unresponsive and compliance is not worth the energy, especially when they learn that the system keeps most of the money (the mother only gets \$50 per month; the rest is used to reimburse AFDC payments actually made to that family).¹⁸⁴

More than half the mothers Edin interviewed said that they either lied about the identity of the father of one of their children or failed to disclose crucial information, such as a Social Security number, address, or place of current employment. Edin reports

182. Kathryn J. Edin, *The Myths of Dependence and Self-Sufficiency: Women, Welfare, and Low-Wage Work*, Rutgers Univ. Center for Urban Pol'y Res. Working Paper No. 67, summarized in 17 *FOCUS* (U. of Wisconsin-Madison Inst. for Res. on Poverty), Fall 1995, at 1. The father data is reported in FRANK FURSTENBERG, JR. ET AL., *CARING AND PAYING: WHAT FATHERS AND MOTHERS SAY ABOUT CHILD SUPPORT* (1992).

183. Edin, *supra* note 178, at 206.

184. *Id.* at 212-14.

that African Americans were significantly less likely to comply than whites or Latinas, as were those who never married. There were many reasons for covert noncompliance. About half of the women received "covert support," on average one hundred dollars per month, equaling about twice the amount that they would have received under the formal child support system. Higher amounts were paid for younger children and in cases where the father secretly lived with the mother. Some mothers preferred covert support because it paid more or because they knew that the fathers' jobs were unstable and did not want them harassed or jailed (and thereby causing them to get no support) or because they thought that direct payments would be better for father-child relations. The informal system was also more flexible if the child had special needs (*e.g.*, a winter coat) in any particular month. Edin points out that mothers used the formal system for bargaining. Edin's findings were supported by the focus interviews of the fathers. Most were either unemployed or poorly employed. They knew that if they were involved with the formal system, not only would the family only get fifty dollars, but they would be exposed to penalties such as jailtime if they fell behind, which would further diminish their employment prospects.¹⁸⁵

More than a third of the mothers in Edin's study did not pursue either avenue of support. The reasons varied. Some mothers (twenty-five percent) thought that their children's relationship with the father would be jeopardized. Others (thirty-three percent) wanted to protect their control over their children. Others (twenty-four percent) feared abuse. Still others (eighteen percent) felt that there was no substantial relationship with the father.¹⁸⁶

Edin draws the following conclusions. Current policy assumes that the primary reason for the lack of child support is lax enforcement. This may be true, she says, for those steadily employed at average wages, but it does not take into account the vast changes in labor markets for unskilled and semi-skilled men. Nor does the present system take into account the reasons why welfare mothers would prefer an informal system; most are not interested in a system whose "main effects will be to make life miserable for absent fathers." Edin recommends the following: (1) Rather than the current system of set amounts, with no ad-

185. *Id.* at 218-20.

186. *Id.* at 220-25.

justments for fluctuations in income (thus resulting in increasing arrearages), child support awards should automatically adjust like Social Security taxes. Arrearages would apply to voluntary quits. (2) Child support awards should have to be more "progressive"; in Edin's opinion, the amounts imposed on low earners are unrealistic and counterproductive. (3) Because fathers of welfare children are not likely to have sufficient earnings to pay significant amounts, there should be guaranteed child support for families where the father is cooperating. (4) There has to be an improvement in the wages of unskilled and semi-skilled men and women.¹⁸⁷

At the present time, all but four states have moved toward numerical formulas or guidelines for determining award amounts.¹⁸⁸ There are two basic models for awarding child support — *income shares* and a *percentage of income*. The underlying principle of both models is income sharing; that is, a parent who does not reside with a child is required to share income with the child as the parent would were he or she sharing a household with the child.

One of the most serious problems involves updating the awards. The Family Support Act requires awards in all AFDC cases to be reviewed every three years and all non-AFDC IV-D cases where either party requests a review. One study reports that only about twenty percent of AFDC cases were reviewed, less than half that for non-AFDC cases, and the review and modification process took approximately two hundred days. The updating problems argue in favor of support orders expressed as a percentage of income as opposed to a flat amount.¹⁸⁹ Under the latter system, the child support agency notifies the noncustodial parent's employer of the income percentage to be withheld. As the income changes, the amount withheld changes automatically. Under either system, both Garfinkel and Edin argue for lower rates for poor noncustodial parents. Indeed, for a poor person, paying seventeen percent of one's income to child support "can be truly oppressive."¹⁹⁰

187. *Id.* at 226-27.

188. Garfinkel et al., *supra* note 174, at 87.

189. Judi Bartfeld & Irwin Garfinkel, *The Impact of Percentage-Expressed Child Support Orders on Payments*, U. WISCONSIN-MADISON INST. FOR RESEARCH ON POVERTY SPEC. REP. NO. 59, at 25 (1995) (available in full text at Institute for Res. on Poverty Internet Home Page, <http://www.ssc.wisc.edu/irp>).

190. Garfinkel et al., *supra* note 174, at 93.

A more far-reaching proposal, spearheaded by Garfinkel, is Child Support Assurance (CSA), which is used in some European countries. This would be an addition to the Social Security menu of programs — an assured minimum level of child support, as there is with old age and disability. Child support awards would be set according to a nationally legislated formula based on a percentage of the noncustodial parent's income, and payments would be deducted from earnings as Social Security deductions. The government would guarantee a minimum benefit to those children legally entitled to private support. If the noncustodial parent paid less than the guaranteed minimum, the government would make up the difference. Thus, the basic entitlement would depend not on the income of the noncustodial parent, or what was actually paid, but only upon legal entitlement to private support. According to Garfinkel, an assured child support benefit would increase economic security and the establishment of paternity, substantially reduce both welfare and poverty, and mitigate the problem of low and irregularly earned income. The benefit would not be reduced as earnings increase. Administrative costs would exist, but Garfinkel argues that nationwide withholding and disbursement costs would be minimal and certainly far less than the costs of redeterminations under the present system. Garfinkel believes that the benefit costs are not that great even though the benefits are not income-tested. Because most people marry within the same socio-economic background, most benefit expenditures would go to poor or near-poor families, and a large proportion of these families are already receiving welfare. Garfinkel estimates that an assured benefit of two thousand dollars per year for one child would cost between one and two billion dollars.¹⁹¹

CONCLUSION

The experience of working welfare mothers shows the difficulties mothers have surviving in the low-wage labor market. The effects of both poverty and low-wage labor reinforce each other. Children growing up in poverty approach adulthood already overburdened. They face a labor market that offers few rewards. Most of these young adults will work, but a great many will still remain in poverty. Many, especially women and their children, will have to rely on welfare. They, too, will struggle in

191. *Id.* at 95.

the low-wage labor market, but will also most likely remain in poverty. Neither welfare nor work will greatly improve their lives or the lives of the next generation. Self-sufficiency has been defined by policymakers as not being on welfare. It has to be re-defined to mean a decent life.

The principal task for poor working women, whether married or not, is to make work pay. While some of the remedies that have been sketched out specifically help poor mothers, others apply to all working people.