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Bringing the Margin to the Center: Comprehensive Strategies for Work/Family Policies

Nancy E. Dowd

University of Florida Levin College of Law, dowd@law.ufl.edu

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COMPREHENSIVE STRATEGIES FOR
WORK/FAMILY POLICIES

Nancy E. Dowd

I. INTRODUCTION

The ultimate goal of work/family policy has always seemed deceptively clear: to provide institutional and cultural support to permit a healthy balance between family and work.1 An implicit assumption of that goal is that it would be achieved without undermining principles of equality. Indeed, the assumed result of work/family balance is that it would help achieve equality: families would be treated equally, caregivers would be supported equally, and children and family members would receive necessary and important care equally.2 In addition, this equality would not be bought at the price of the dignity and well being of paid caregivers, who are often required to provide care in order that family caregivers can engage in wage work.3

It has long been recognized that work/family balance is especially critical to gender equality.4 Mothers and other primary caregivers continue to be significantly hampered in the workplace by structural

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barriers as well as discriminatory attitudes. Fathers are blocked from redefining their roles by economic imperatives and social denial.

Equality principles require that work/family policy and strategies also pay close attention to race and class inequalities as well as the more common attention to gender inequality. It is our challenge to devise strategies and build coalitions to unite rather than divide along gender, race, and class lines. We need to pay attention to who is and who is not present, literally and figuratively. We need to bring the margin to the center.

We need to question the focus of our policies or strategies, particularly our categories and assumptions. In order to bring the margin to the center, we must first identify those with the greatest needs. We must seek out those most marginalized under existing structures and assumptions of work and family. Second, we must use the perspective of those at the margin to construct policies and advocacy that address those with the greatest needs as a means of encompassing all families. By bringing the margin to the center of policy, we insure equality. In this essay I hope to suggest ways to cross race, class, and gender lines to develop work/family policies and strategies that insure equality by applying the principle of bringing the margin to the center.

To see how this might operate, I will focus on several examples of those at the margin, and explore how bringing those at the margin to the center would dramatically affect the construction of public policy. First, I focus on two groups of caregivers at the margins: fathers and single parents. Looking at fathers crosses the gender line by thinking in gender-specific terms rather than constructing gender-neutral policies. It also crosses race and class lines if we remain conscious of the differences among fathers. Looking at single parents similarly crosses race and class lines in existing work/family policy. Second, I focus on a group of children that rarely are the focus of work/family policy analysis: teenagers. Work/family policy needs to be responsive to the range of children’s needs over the course of their development, and also needs to be part of a coordinated policy to insure children’s equality. Such policy would include education and wealth opportunity as well as work/family policies. Focusing on teenagers crosses race, class, and gender lines in the quest to achieve equal care and support.

Finally, I will look at policies frequently marginalized in work/family discourse: affirmative family support policies. Family support policies frequently are relegated to the margin of policy options as idealistic or politically impracticable. Economic support, however, is critical to insuring that work/family policy does not exacerbate existing inequalities. I argue that it is inevitable and unavoidable that families must have significant, universal economic support in order to insure work/family balance for all families. Otherwise, we may have policies universal in
name, but practically available only to families privileged by class and race, and likely to be used only according to familiar gender patterns.

Bringing the margin to the center does not mean rejecting other strategies; rather it is a call for productive collaboration among activists. What I suggest here does not require "either/or" choices. Instead, I mean to enrich the discrimination strategy articulated by Joan Williams and the accommodation strategy articulated by Peggie Smith. I do not address the particular concerns of paid caregivers that Peggie Smith presents in this symposium, but that important issue is consistent with the project of bringing marginalized workers to the center of policy discussions.

II. BRINGING THE MARGIN TO THE CENTER: THE PRINCIPLE

What it means to theorize work/family policy by bringing the margin to the center is to apply principles of intersectionality. The core insight of intersectionality and antiessentialist feminist legal theory is that gender does not operate in isolation, but rather is significantly differentiated based on its intersections with other important social identifiers that translate into individual and group privileges and inequalities. Most significantly, gender interacts with race and class. Women's social position and issues across those intersections are different: the work/family issues of middle-class white women are not the same as middle-class women of color; the challenges for working-class women of color are not the same as those of working-class white women. Intersectionality also points to the interaction of privilege and markers for discrimination and inequality.

For example, gender analysis alone tends to presume male privilege. Intersectionality exposes the trumping of male privilege in some respects for men of color, and the presence of privilege among upper-class white women. In work/family terms, race and gender intersections translate into economic pressure for men of color even for dual-income, two-parent families, and a high incidence of

5. Joan Williams has called for productive collaboration, and I take that call to heart here.
8. Smith, supra note 3, at 400-01.
single parenthood for women of color. Class and gender intersections mean economic success does not transcend all race disadvantages. Avoiding the essentialist error of seeing "woman" and "man" as unitary categories is critical, therefore, to avoid constructing policies that purport to address gender problems, but in fact do so only at the expense of ignoring other differences and inequalities within gender. There is no benefit, and to the contrary, there is much harm, in implementing policies that trade gender gains for race and class losses.

Beyond urging attention to intersectional differences, I would go a step further and argue that of all the intersections with gender, race is the most critical. Race is the core inequality—although not the only one—that we should keep in mind in addressing work/family issues from a feminist, hence gendered, lens. By this I mean that not only should race be included in our methodological perspective, but that race must be included in our substantive goals. Methodologically this means that we must always "ask the other question" with respect to race. When we identify the familiar gender patterns of work and distribution of family responsibilities and the needs of children for family care, we need to ask: "Where is the racism in this? Where are the racial patterns and inequalities in this?" That would lead us, I believe, to understanding not only the critical importance of economic support to work/family policy, but also that economic support must be attentive to existing race as well as gender patterns. This analysis would also lead us to identify the raced pattern of care (or lack of quality care) of children.

But asking the other question, or questions, is not enough. It is a corrective to conscious analysis that proceeds from unacknowledged race and class perspectives when considering gender issues. It may change substantive analysis because of its inclusion in methodology. In addition, however, I would argue that race should be a substantive focus of feminist analysis. Imagining a world of racial equality should be a

11. This is evident in poverty figures for married families, who are expected to be the most economically successful families. Of the married families in the United States, 8% live in poverty. Married families who live in poverty include a disproportionate number of families of color. By race, they are 4.7% of whites, 11.4% of African Americans, 19.5% of Hispanics, 11.3% Asians, 18.5% American Indian/Alaskan Native, 15.5% Hawaiian/Pacific Islander, and 10.6% two or more races. Hispanic married households are four times more likely to be in poverty than white married households. African American married households are two and one-half times more likely to be in poverty than white married households. TERRY LUGALIA & JULIA OVERTURF, U.S. CENSUS 2000, CHILDREN AND THE HOUSEHOLDS THEY LIVE IN: 2000 (Feb. 2004), available at http://www.census.gov/prod/2004pubs/censr-14.pdf.

12. See Dowd, supra note 2 at 4-8; see also Nancy E. Dowd, Race as a Feminist Issue (work in progress, on file with author).


core feminist goal because of the interaction of race and gender and the use of race as a primary tool for separating and subordinating women and some men. Cheryl Harris has described racial patriarchy as:

that social, political, economic, legal, and conceptual system that entrenched the ideology of white supremacy and white male control over women's reproduction and sexuality. This system operated by subordinating all Black people along lines that were articulated within and through gender, and all women along lines that were articulated within and through race. The result is that racial domination is structured and experienced differently through gender while women's subordination is expressed and experienced differently through race.\(^5\)

The critical goal of race equality cannot be ignored in achieving gender equality. Work/family analysis should have as its goal the construction of policy that would achieve race and gender equality. Work/family should not be seen as a "gender" issue, where gender becomes code for "white" and "middle or upper class." Gender equality should not signal avoiding or ignoring race equality. To the contrary, "gender" issues, or "women's" issues, must be viewed as a commitment to "lift as we climb"\(^6\)—that one equality will not succeed at the expense of

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15. Cheryl I. Harris, *Finding Sojourner's Truth: Race, Gender and the Institution of Property*, 18 CARDOZO L. REV. 309, 312-13 (1996). Founded in slavery, Professor Harris documents the perpetuation of this hierarchy:

The constructions of race and gender that emerged from slavery then were not wholly separate either as lived realities or as analytic categories. The articulation of racial and sexual oppression within the context of slavery spawned ideologies of womanhood that created oppositional images of Black and white women and configured the concept of womanhood along racial lines. The archetypes of the slave and the mistress were ideologies of womanhood that functioned not to simply describe reality, but to represent social relations in a way that legitimated and normalized racial and sexual domination. Thus, in contrast to the image of white womanhood formulated by nineteenth-century ideology—the "delicate, sexually pure, [Lady] . . . [d]ependent and deferential to men"—Black women were portrayed (and continue to be portrayed) as dominant, aggressive, and, except for the matriarchal figure, Mammy, sexually promiscuous. Both Mammy and Jezebel—the lascivious slavewoman—are images of deviance: Mammy as a figure of matriarchal authority inverts the norm of male control as an attribute of patriarchy, while as sexual aggressors slavewomen violated the norm of chastity as an essential value of womanhood. Black women were constructed as inherently transgressive of prevailing standards of womanhood defined by dominant society. In this way Black women functioned as important regulatory symbols: by representing everything that "woman" was not, the parameters and content of womanhood were defined. Indeed, through the rigid construction of the virgin/whore dichotomy along racial lines, the conception of womanhood was deeply wedded to slavery and patriarchy and the conduct of all women was policed in accordance with patriarchal norms and in furtherance of white male power.

\(^{16}\) This phrase was the motto of the black women's clubs originating in the nineteenth century. See Monica Evans, *Stealing Away: Black Women, Outlaw Culture and the Rhetoric of Rights*, 28 HARV. CR.-C.L. L.
another. This is particularly important in work/family policy since historically and presently, privileged, predominantly white women have advanced while being complicit in the ongoing subordination of women of color.\footnote{17} Also, this premise is essential to recognize the challenges of men disadvantaged by the existing work/family structure and the opportunity for coalition with men. Finally, anything less would mean that the goal of better supporting families in order to better support children accepts inequality among children as a given. Focusing work/family policy on the racial equality gap among children insures that the goal of that policy does not reinforce or exacerbate inequality, but rather vigorously insures equal opportunity.

As a means of accomplishing the substantive goal of bringing race to the core of feminist analysis, what I suggest here is employing the principle of bringing the margin to the center. Imagine, if you will, identifying work/family issues by asking those most marginalized to step to the middle of the room. As representatives of the marginalized move to the center, we reframe issues, we begin to focus differently, and we see intersections and opportunities for coalition. Who is at the margin? What needs are unaddressed? What individuals or families face the most significant challenges with the least support from the existing structure of work and family? What consequences does that have for individuals, families, and communities? In this process, we need to pay attention to who is speaking, and who is silent. Those with the strongest voices, who more typically are at the center of the room, often tend to be those who can count on privilege to remove some barriers and problems, as well as insure that their voices are heard.\footnote{18} Bringing the

\footnote{17. \textit{See, e.g.}, ELIZABETH CLARK-LEWIS, \textsc{Living In, Living Out: African American Domestics in Washington, D.C., 1910-1940} (1994) (examining the experiences of Black household workers who migrated from the South to work in Washington, D.C., during the 1910s and 1920s); BONNIE THORNTON DILL, \textsc{Across the Boundaries of Race and Class: An Exploration of Work and Family Among Black Female Domestic Servants} (1994) (documenting the experiences of Black women who worked as paid household workers during the 1940s and 1950s); EVELYN NAKANO GLENN, \textsc{Issei, Nisei, War Bride: Three Generations of Japanese American Women in Domestic Service} (1986) (studying the twentieth century history of Japanese immigrant and Japanese-American household workers in the San Francisco Bay Area); Donna E. Young, supra note 3 (discussing current international trends and the use of immigrant women to perform child care).

\footnote{18. For example, there is an extensive literature on women lawyers, and their work/family issues, along with other equality issues. Given the distribution of women workers and their average incomes, women lawyers are among the most privileged of women workers. \textit{See, e.g.}, CYNTHIA FUCHS ESPSTEIN \textit{et al.}, \textsc{The Part-Time Paradox: Time Norms, Professional Lives, Family and Gender} (1999); CYNTHIA FUCHS ESPSTEIN, \textsc{Women in Law} (2d. ed. Univ. of Illinois Press 1993) (1981); BOSTON BAR ASS'N TASK FORCE ON PROF'L CHALLENGES AND FAMILY NEEDS, \textsc{Facing the Graid: Confronting the Cost of Work-Family Imbalance} (1999); DEBORAH L. RHOADE, \textsc{ABA Comm'n on Women in the Profession, Balanced Lives: Changing the Culture of Legal Practice} (2001), \textit{available at}}}
margin to the center requires that those most marginalized be identified and not spoken for, but listened to and empowered. Figuratively, it would bring the representative of the most marginalized to the center of the room, so that their needs, their voice, can be heard and that those needs be made the center of policy and strategy, the first priorities to be achieved. It requires that the process of coalition building be one of giving up power and privilege in order to achieve equality.

This does not mean that the issues and problems of the middle class should be ignored, but rather that they should not be the presumed families around which policy is constructed and prioritized. Moreover, to the extent they are the focus, great care must be exercised not to play into class interests or to ignore underlying race and gender issues. An example of this need for careful analysis is Elizabeth Warren's *The Two-Income Trap*, written with her daughter Amelia Tyagi, in which she argues that the movement from single breadwinner to dual income families among the middle class has appeared to increase resources, but instead has strained them. Noticing that the middle class is now facing


19. Some of the historic examples of successful coalition building across race, class, and gender lines suggest ways this might be done and what could be achieved. For example, in 1840, when female delegates were excluded from speaking at an antislavery convention held in London, American abolitionists Wendell Phillips and William Lloyd Garrison sat with the women in protest. The women returned to the States, determined to fight for women's rights. "Later Frederick Douglass, former slave and abolitionist, expressed gratitude for women's 'devotion and efficiency in pleading the cause of the slave,' and welcomed his designation as a 'woman's rights man.'" Women & Social Movements, *The Women's Rights Movement* (Kathryn Kish Sklar & Thomas Dublin eds.), at http://womhist.binghamton.edu/teacher/malesupp.htm (last visited Nov. 20, 2004). During the post-World War II era, the United Packinghouse Workers of America (UPWA) brought together black and white meatpackers at a time when hostility between these two groups was encouraged by their employers. Instead of focusing on race, the trade union brought the groups together on the basis of class, showing the black and white meatpackers that a commonality existed. By focusing on class first, the UPWA was able to create a bond between the workers that transcended racial differences. Thomas J. Sugrue, *The Power of Unlikely Coalitions*, 2 U. PA. J. LAB. & EMP. L. 737, 740-42 (2000). Although the building trade unions in Massachusetts were dominated by white males in the late 1980s, they forged an alliance with, and created jobs for, African Americans and Hispanics. A statewide referendum that would have repealed the state wage law triggered the alliance. The unions realized they could not defeat the referendum alone, so they turned to minority groups for help. These groups were extremely distrustful of the intentions of the union, but also wanted the referendum defeated. The minority groups used the situation as a way to open discussion with the unions regarding the admittance of minorities to apprentice programs and to increase the hiring of minority construction workers. The union agreed, an alliance was forged, and together, the minority groups and trade unions beat the state referendum by an overwhelming margin. See id. at 742-44.

economic issues from which they were assumed to be immune may be cause for middle-class self interest or solidarity that crosses class lines. The widening gap between rich and poor and the increasing pool of those with less income compared to the increasing concentration among the small proportion of very rich might lead to recognition among the middle class of the issues and dilemmas faced by the working poor. On the other hand, evaluating economic issues solely in middle-class terms might lead to distancing the middle class from the working poor by continuing to define middle-class identity and public policy in terms that divides policies by class. Welfare policies, for example, remain stingy and punitive, reflecting an assumption that the poor are responsible for their poverty, while efforts to help the middle class are cast as essential supports to the bedrock families on which our country depends.21

Gearing policy toward the interests of the middle class orients policy toward the concerns of whites. Concerns about education and housing, the main focus of Warren’s work, require questioning the underlying racial dynamics of the identified problems and solutions. Housing and education, along with jobs, have been the bulwark of persistent racial inequality.22 Housing segregation has remained constant, and has even increased in some areas, significantly contributing to ongoing educational inequality.23 Educational resegregation has brought even sharper


23. See supra note 22. Similarly, a focus on middle-class issues can hide issues of gender inequality as well. Warren’s work is more explicit in its assumptions here, since she talks about women’s entry into the workforce and the economic decisions made since that entry as a major factor in creating the two-income trap. Clearly this touches on complex assumptions about why women entered the workforce, family consumption patterns and family decision-making. It may raise issues about the gendered structure of work and tax policy, for example, that so strongly skew the decisions of mothers and fathers. Beyond these obvious gender issues raised by Warren’s analysis, however, are some less obvious ones. First, fathers are rendered virtually invisible, cast in a traditional breadwinner role that seems to preclude significant caregiving. If policy is cast to support the sufficiency of single breadwinner, the old “family wage,” that will reinforce traditional gender roles because of the continued gendered allocation of wage work and family work. There are gender-specific consequences to this, but the consequences for fathers are more hidden than those for mothers. This requires, then, bringing men into the analysis. Second, focusing on the two-income family tends to obscure single-parent families, who are disproportionately single mother families.
separation of whites and blacks fifty years after *Brown v. Board of Education*, with no significant closing of the racial educational achievement gap.24

The question of cross-class solidarity or intra-class self interest is particularly acute in the area of work/family policy. If policy continues to be class defined (e.g., unpaid family leave, minimal support for quality childcare or universal preschool, lack of universal healthcare, lack of universal, quality, affordable after-school care), then work/family conflict will persist or even increase for low-income families, while it may be eased for middle-class families. The burden of that class-defined

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Women's poverty is linked to their carework as well as to their continued unequal position in the workforce. But when women's economic disadvantage is examined by asking race and class questions as well, women of color and women at the lowest income levels expose policy issues not exclusively tied to gender.


Recent data documents the lack of progress and even regression since *Brown* was decided. Researchers from the Civil Rights Project at Harvard University studied data from the U.S. Department of Education from 239 school districts with an enrollment of more than 25,000 students. The data was used to determine whether resegregation was occurring post-*Brown*, and if so, in what locales and at what rate. The study found that since *Brown* was decided in 1954, segregation for African Americans declined greatly, especially in the 1980s. However, since the 1980s, segregation has rebounded. Additionally, because Hispanics were not part of the desegregation plans that resulted from the *Brown* decision, Latino segregation has been on the rise since the 1960s. Although the South had the greatest amount of desegregation in the country in the 1970s and 1980s, the areas with the greatest increases in resegregation today are in the South. But across the nation, nearly all school districts are exhibiting more racially-polarized schools, indicating that resegregation is occurring everywhere. White students attend schools with an African American population of less than 12% in the nations 20 most-segregated school districts. Half of these districts are located in the South, and all but two are located in Texas or Florida. Five of them are among the 40 largest districts in the nation. See *Erica Frankenberg & Chung-Mei Lee, Civil Rights Project Harvard University, Race in American Public Schools: Rapidly Resegregating School Districts* (Aug. 2002); *see also George Archibald, 50 Years Later, Brown Disappointments*, WASH. TIMES, May 17, 2004, at A1, available at http://www.washingtontimes.com/national/20040517-124748-6802r.htm; Derrick Bell, *50 Years After Brown v. Board of Education*, BOSTON GLOBE, May 16, 2004, at E1; Eleanor Chute, *Walking in Circles: 50 Years Later, Many Children Still Go to Schools that are Nearly All White or All Black*, PITTSBURGH POST-GAZETTE, May 16, 2004, at A1; Ron French et al., *Metro Classrooms Remain Separate, Often Unequal*, DETROIT NEWS, May 16, 2004, at A1, available at http://www.detnews.com/2004/specialreport/0405/17/a01-153972.htm; Jason Spencer, *An Unequal Past, a Separate Present*, HOUS. CHRON., May 16, 2004, at A1, available at http://www.chron.com/cs/CDA/sisstory.mpl/special/deseg/2572609; Kathy Steele, *Hispanics Becoming Segregated Minority*, TAMPA TRIB., May 19, 2004, at A1; Greg Winter, *50 Years After Brown, the Issue Is Often Money*, N.Y. TIMES, May 17, 2004, at A1. Judge Robert Carter, U.S. District Court for the Southern District of New York, who served as the lead counsel for the plaintiffs in *Brown*, stated in an interview that he believes the school system for African American children today is very similar to how it was 50 years ago. He faulted the Supreme Court for not providing a solution or plan to end segregation in its opinion. He stated, "If I could pick any case to argue today, I'd argue *Brown* did not work. I'd be arguing *Brown*" Kristina Dell, *What Brown Means Today: How Brown v. Board of Education Helped Change America—and How it Didn't*, TIME (Online Ed.), May 17, 2004, at http://www.time.com/time/nation/article/0,8599,639014,00.html.
policy falls directly on children, and disproportionately on children of color.

Work/family policy must be constructed by bringing the margin to the center. If those who are most marginalized under the current structure of work and family are the focus of our policy-making, then this means, among other things, that children in poverty must be brought to the center; fathers who would be caregivers must be brought to the center; single-parent families must be brought to the center; children at all ages, including teenagers, must be brought to the center; and paid caregivers who labor under low wages and poor working conditions, must be brought to the center. Policy must be informed by the goal of equality, and in order to do that, those at the margin must be served, or otherwise solutions will only reinforce class differences, as well as race and gender inequalities.

III. BRINGING THE MARGIN TO THE CENTER: APPLICATIONS OF THE THEORY

How, then, do we bring the margin to the center? In this section, I want to focus on how the strategy of bringing the margin to the center might actually work to orient policy, by looking at several specific examples: fathers, single parents, and teenagers, all of whom are currently marginalized by work/family policy.

A. Gender-Specific Strategies: Work/Family Policy for Fathers

Much of the discourse about work/family policy is explicitly about women or is facially gender neutral, but presumed to refer to women. Because women do most of the caretaking of children or other family members, whether paid or unpaid, this woman-focused policy makes sense. At the same time, it is the position of many academic commentators, and much of the broader society, that men should play an equal part in caregiving. Indeed, many would argue that men's involvement in carework is essential to women's equality. Even conservatives would argue that men's involvement in families is essential to children's well-being.


26. See, e.g., DAVID BLANKENHORN, FATHERLESS AMERICA: CONFRONTING OUR MOST URGENT SOCIAL PROBLEM (1995); DAVID POPENOE, LIFE WITHOUT FATHER: COMPPELLING NEW EVIDENCE
This cannot be achieved without gender-specific strategies. Engaging men in carework, as opposed to economic breadwinning, requires a radical reorientation of masculinity as well as a reorientation of heterosexual partnership. The barriers for fathers are economic and cultural. The economic barrier is the disproportionate reliance on men to provide income for the support of children. The link between discrimination against women in wage work and this economic barrier for men in carework is part of the reason for that disproportionate burden. An additional strong factor is the declining real wages of men, which increases the importance of their contribution, even as lowered income makes a meaningful contribution more difficult to achieve. In order for wage earning heterosexual couples to maintain family income, therefore, fathers are forced to continue to perform the traditional breadwinner role. The solutions here are not simply to redistribute lucrative work to women, but obviously also to require a structure of affirmative family support to permit carework as opposed to full-time wage work.

Focusing on men at the margin, therefore, brings the issue of economic support of families to support caregiving to the center of work/family policy. That focus simultaneously raises the issue of workplace inequality for women as well as the paternal wall (to borrow from Joan Williams) to engaging in more carework. A further level of analysis would require bringing the most marginalized of fathers to the center of

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27. This is the core thesis explored in detail in NANCY E. DOWD, REDEFINING FATHERHOOD (2000).
28. Since 1979, earnings for women with college degrees increased by 33.7% on an inflation-adjusted basis, but the earnings of male college graduates have only risen by 19.9%. BUREAU OF LABOR STATISTICS, U.S. DEPT. OF LABOR, LEAFLET NO. 972, HIGHLIGHTS OF WOMEN'S EARNINGS IN 2002, 2 (Sept. 2003). Inflation-adjusted earnings for both women and men with less than a high school diploma have declined 19%. Id. at 30. However, women's earnings have dropped only 7.2% compared with a decline of 27.2% for men. Id. at 2, 30-31; see also Bernhardt et al., Women's Gains or Men's Losses? A Closer Look at the Shrinking Gender Gap in Earnings, 101 AM. J. SOC. 302 (1995). In 2003, men's weekly wages decreased by 3.1% for fulltime men, ages 25 and older. In 2003, women's weekly wages increased by 1% for fulltime women, ages 25 and older. JARED BERNSTEIN & LAWRENCE MISHEL, WEAK RECOVERY CLAIMS NEW VICTIM: WORKER'S WAGES (Eco. Pol'y Inst., Issue Brief No. 196, Feb. 2004), available at http://www.epinet.org/issuebriefs/196/ib196.pdf. The gender wage gap has reached its narrowest margin since such wage data started being collected in 1979 to determine the difference. The 81.3% ratio of women's wages to men's is due to the falling of men's median wages, not the increase in women's median wages. JARED BERNSTEIN & LAWRENCE MISHEL, LABOR MARKET LEFT BEHIND: EVIDENCE SHOWS THAT POST-RECESSION ECONOMY HAS NOT TURNED INTO A RECOVERY FOR WORKERS (Eco. Pol'y Inst., Briefing Paper No. 142, Sept. 2003), http://www.epinet.org/content.cfm/briefingpapers_bp142. According to a recent report by the Economic Policy Institute, the decreases in the median male wage are responsible for one-third of the measured decline in the gender pay gap since 1989. Deirdre Griswold, Employment Policy Foundation, Economic Bytes: Does A Fall in Men's Earnings Explain the Narrowing of the Gender Pay Gap? Entitlement, at http://www.epif.org/pubs/newsletters/1999/eb991014.asp (Oct. 14, 1999).
29. For Williams's concept of the maternal wall, see Williams & Segal, supra note 6.
all fathers. That would expose the differences among men, particularly between the economically privileged and the economically marginalized.

European models of family support make clear that economic support alone will not insure men’s increased participation in carework.\(^\text{30}\) European policies provide significant economic support universally to all families, in addition to supplementation for single-parent families. In addition, European countries provide universal childcare once the family leave period expires, removing a major expense item for families. Thus, economic factors are not a strong disincentive operating to deter fathers from taking leave or working less than full time. Furthermore, single-parent families are supported at a level that avoids poverty. Even with this economic support for families, European examples show that policies must address more than financial needs if they are to encourage paternal participation in carework.

The Swedish model embraces the principle of gender equality and has attempted to achieve that principle by engaging in public education about the ability of fathers to care for their children. The preferred model of shared parenting, reinforced by the availability of economic support, would be a model of rotating father and mother care or shared care by both parents. In addition, fathers are entitled to some gender-specific benefits, the so-called “daddy days,” at birth in order to encourage male bonding with their children. Policies of capitation, whereby parental leave benefits are allocated and cannot be transferred, in conjunction with limited child care during the period of presumed parental care, also supports (coerces?) men to engage in parenting.

In contrast, an alternative model is a gender-specific one within a formally gender-neutral framework, typified by France’s policy. The same economic support is present, as well as an extensive childcare system. Under French policy, however, the system is constructed and understood as a gender-specific policy. There is no specific support for fathers. Mothers are the presumed caregivers. France’s policy is more

typical of European Union countries, as a mother-focused policy based upon social patterns of care.

The European models remind us that while the economic support of families is critical to encourage men's carework, even where it is present, more must be addressed than money issues. The Swedish example suggests that even when equality is a norm, gender paradigms remain strong and require active policies to be overcome. Thus, a second barrier for men is cultural. The culture of work and the culture of masculinity both devalue carework and those who do carework. This cultural barrier is so strong that available benefits will be avoided or ignored. This is a far more difficult and complex barrier to carework than the economic barrier. It suggests that a public education model is essential to reorient thinking about fatherhood from genes and dollars to nurture and care. It reminds us of the known undervaluing of women's work, whether unpaid or paid. It challenges policy to be proactive and educative.

Bringing fathers, and especially the most marginalized fathers, to the center of work/family policy suggests cross-gender coalitions rather than gender conflicts. It reminds us of what gender-neutral policies hide as well as how they can simply reinscribe inequality. The challenge of redefining fatherhood crosses race and class lines. It also acts as a challenge to do so without sacrificing gender equality. The temptation to resolve work/family issues by simply insuring equal access to patriarchal privilege is evident when one looks at fatherhood issues from a race perspective. The federal campaign to support marriage among low-income families is a flawed example of this kind of approach.

31. DOWD, supra note 27, at 173-80.
33. See H.R. 4, 108th Cong. (2003). Under this proposed legislation, the federal government would spend $1.5 billion on promoting marriage through counseling and premarital training. The Personal Responsibility, Work, and Family Promotion Act of 2003 passed in the House on February 13, 2003, by a vote of 230-192. The latest major action was taken by the Senate on April 1, 2004, when a cloture motion on the committee substitute amendment was not invoked by a Yea-Nay Vote of 51-47. President Bush introduced the pro-marriage policy with this statement of its assumptions:

[T]he most effective, direct way to improve the lives of children is to encourage the stability of American families. . . .

Statistics tell us that children from two parent families are less likely to end up in poverty, drop out of school, become addicted to drugs, have a child out of wedlock, suffer abuse or become a violent criminal and end up in prison. . . .

So my administration will give unprecedented support to strengthening marriages. Many good programs help couples who want to get married and stay married. . . . Premarital education programs can increase happiness in marriage and reduce divorce by teaching couples how to resolve conflict, how to improve communication and, most importantly, how to treat each other with respect.
federal pro-marriage policy touts the message that the single greatest improvement in many children's lives is having a father who is present in the home. Increased father presence is linked to marriage, and therefore marriage is the answer to children's poverty and social well being. Women then presumptively would benefit from the economic resources men can command, and children would benefit from the presumed unique contributions that fathers make to children, as compared to mothers. Rather than promoting egalitarian norms, this kind of policy promotes patriarchy in the guise of the best interests of children and low-income families. Insuring that men have access to male privilege, which would require at a minimum insuring equal economic opportunities for men of color and low-income white men, becomes the goal of policy. Bringing the margin to the center, on the other hand, exposes the gender, race, and class characteristics of men's marginalized role in work/family policy, and exposes the necessity of conceiving

... [S]trong marriages and stable families are incredibly good for children. And stable families should be the central goal of American welfare policy.


The defense and support of marriage as a means to make fathers responsible is limited to the heterosexual model of marriage. The same administration that vigorously supports marriage as the basis for family stability equally vigorously limits marriage to heterosexuals:

Today, I call upon the Congress to promptly pass and to send to the states for ratification an amendment to our Constitution defining and protecting marriage as a union of a man and woman as husband and wife. The amendment should fully protect marriage, while leaving the state legislatures free to make their own choices in defining legal arrangements other than marriage.


policy to achieve a deracialized, degendered, egalitarian structure to benefit all families and children.

B. Single Parents: Policy for All Families

Just as mothers have been at the core of the work/family dialogue, so too have two-parent marital families been the presumed family around which policy has been constructed. Nearly a third of all families with children under 18 are single-parent families, and 70 percent of children are likely to live with a single parent before age 18, at least for some period of time.³⁴ Policy that is inadequate for two-parent families is catastrophic for single-parent families.

Single parents generally face more severe work/family issues because their conflicts are less easily resolved by redistribution or sharing.³⁵ However, not all single-parent families operate without another adult in the household. A significant proportion of single-parent families include a cohabitant that functions akin to a stepparent. Yet that function is one that is neither recognized nor supported. In addition, stepparents do not appear to function in the same way as biological or adoptive parents. Some cohabitants, moreover, do not function like a second parent at all. Irrespective of the presence of another adult, stigma continues to attach to single-parent families, particularly never married single parents. The opportunity that exists, if single parents are brought to the center of policy, is to create coalition across class and race lines.

Under existing American policy, the issues of single parents are constructed as welfare issues rather than as work/family issues. This class division divides families with the stigma of poverty, and disproportionately does so by race. Because of the higher incidence of single-parent families among communities of color, the implications of work/family policy with respect to single-parent families means a majority of African American families are underserved. Bringing single parents to the center and linking nonmarital and divorced parents, resists dividing single parents in a way that subordinates welfare families, and instead enables coalition across class and race lines. If brought to the center of work/family policy, focusing on the needs of single parents would require coalitions across the lines of women's advocates and advocates for the poor, as well as civil rights and race advocacy groups.

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³⁵. DOWD, supra note 34, at 33-34, 57-58.
Like fathers, the primary work/family barrier for single-parent families is economic, and like fathers, the solutions lie not solely in redistribution of more lucrative jobs to single parents, but instead require additional consideration of special needs for housing and other supports when only one parent is present in the household. Here, European policies are helpful in insuring that the full range of needs are addressed and that they are universally available, not just on a needs basis. Two models emerge from existing European policies: a separate, additional single-parent policy that adds benefits to a universal norm, or an integral approach that includes sufficient benefits to provide economic support (income, housing, and child care) geared to a floor that enables single parents, as well as two-parent families, to escape poverty.

The single-parent focus, and its intersection with the distribution of family work in two-parent families, points to the importance of articulating the underlying model or models of work and family that are the premise of public policy. It can be argued that all parents who do significant carework are single parents. Some exist within a two-parent framework while others do not. Support for single parents might tempt us to consider whether work/family policy ought to presume a single or primary caregiver and construct policy around that presumption. To do so would conform with current carework norms as well as destigmatize single-parent families by recognizing them as the norm, which would have affirmative results for racial inequality.

Using a single-parent norm would also identify economic issues as the lack of sufficient income from a second parent, and, therefore, the need for subsidiary state support. It would focus on the expectations that we have of caregivers to do wage work, and the way in which we should think about valuing carework. In Martha Fineman's terms, it would require us to value the work of caring for dependents, and support those who are derivatively dependent. It would require us to acknowledge that the rhetoric of gender equality has not yet managed to articulate a clear model of gender equality in the family.

Bringing single parents from the margin to the center, therefore, would cross race and class lines in gender coalition. It would also remind us of the gendered skew of work/family issues and responsibilities, and require us to think again about gender-specific solutions.

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Most significantly, it would not permit writing off outcomes for nearly one-third of our children, and over half of our children of color.

C. Teenagers: Care for All Children

Thus far I have focused on adults in the work/family area. But it is equally important to focus on children and especially be mindful of developmental needs that change as children age. There are many children who are at the margin. One group in particular that remains hidden, as do fathers and single parents, is teenagers. We must think about whether we have kept in mind all those who are part of the care picture, all those who are in need of care. Several scholars continue to remind us that care of elders and partners must be kept in mind, in addition to care of children. But even with respect to children, we have tended to talk about young children, especially infants and toddlers. The children that we have focused on the least, or perhaps presumed need care least, are teenagers.

When we talk about child care, for example, many analyses only include children up to age 12. \(^{37}\) We ignore the patterns of the care needs of teenagers. We have documented the increase in self-care or "latchkey" children beginning at age ten, with an estimated one-third of school-aged children taking care of themselves for some period after school. \(^{38}\) Older children, however, frequently are not included in evaluating the care needs of children. We assume, perhaps, that they are able to take care of themselves.

Data on teenagers suggests, however, that rather than being mature enough to care for themselves, teenagers need adult supervision and

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37. For example, in a recent U.S. Census Bureau study on child care, the focus is on preschool and school age children up to age 14. *Who's Minding the Kids? Child Care Arrangements: Spring 1999* (U.S. Census Bureau, Population Division, Washington, D.C.), available at http://www.census.gov/population/www/socdemo/child/ppl-168.html (last modified Oct. 29, 2003). In addition, child care data is framed in relation to the work and caring patterns of mothers, that is, who is minding the children while mothers, their usual caregivers, are working. Id.

38. Data from the National Child Care Survey 1990 suggests that while less than 5% of children under the age of eight are regularly in self-care, 35% of twelve-year-olds are regularly in self-care at any time during the week. *School's Out Alliance, Facts on School-Age Children's Out-of-School Time*, at http://www.siu.edu/~aftersch/scho_morefacts.html (last visited Nov. 20, 2004).

parental involvement. A recent report based on the largest survey of adolescents in the United States concluded that how teenagers spend their free time and their relationships with friends and family, were the most important determinants of their involvement in risky behaviors like smoking, drinking, sexual intercourse, violence, and suicide. Although demographic factors of race, income, and whether the teenager was in a one- or two-parent family were relevant to risks, the relationship factors and how time was spent out of school were more significant. The clear finding of the study was the need for more structure and activities related to help with academic work and spending time engaged in positive activities. A second recent study on the impact of after-school time on teenagers had similar findings. That study showed that teenagers who participated in after-school and evening programs, instead of self-monitored time or unsupervised time with other teenagers, benefited from the experience. The structured time impacted academic achievement, juvenile crime, completion of high school, being subject to or participation in violence, and participation in risky behaviors like the use of drugs and engaging in sex.

The presence of most parents in the workforce, whether full time or part time, has fundamentally changed the context in which teenagers (and younger children) function. The lack of parents at home after the school day leaves teenagers without direct or neighborhood supervision. If it takes a village to raise a child, the village must be present. For teenagers, the elders have left; teenagers are on their own. Teenage behaviors tell us that they are not ready, and that they need adults in their lives in order to succeed as they move through this critical developmental passage in a culture that increasingly exposes them to high risks of violence, sex, and drugs. Social science data makes clear that adolescence is a developmentally challenging time when neurological and psychological development is incomplete. In other words, adolescence is not simply socially constructed, it is biologically and developmentally distinguishable from adulthood and childhood.


41. Recent studies suggest that the brain of a teenager does not become fully developed until late adolescence, and that the connections between neurons that affect the emotional, physical, and mental abilities are incomplete. The results of this research could explain why the emotions, impulses, and judgments of some teens seem inconsistent. Angela Huebner, Virginia Cooperative Extension, Adolescent Growth and Development (2000), available at http://www.ext.vt.edu/pubs/family/350-850/350-850.html.
[The status of childhood is more than a chronological fact. Scientific research confirms that children are developmentally different than their adult counterparts in several crucial areas including cognitive skills, moral framework, identity and social development, and biological and physical changes. In addition, youth's mastery of skills and level of competence are in a constant state of flux and growth. These differences occur at a time when, because of their physiological development, youth are most susceptible and highly vulnerable to peer and other influences.]

The consequences are evident in teenage behaviors: "[A]dolescent immaturity...manifests itself in diminished ability to assess risks, make good decisions and control impulses...[T]he varied characteristics of adolescent behavior...often include risk-taking behavior, egocentrism, perceived invulnerability and an irrational decision-making process."

The end results of teenage behaviors can be serious, even deadly. The leading cause of death for teenagers is motor vehicle deaths, and frequently those deaths involve the conjunction of inexperienced drivers with inexperienced drinkers. Deaths from guns are the second most frequent cause of death for teenagers, either from homicide or suicide. While young men are particularly vulnerable to gun violence, young women are exclusively vulnerable to teen pregnancy. The highest

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42. E-mail from Barbara Woodhouse, Director, Center on Children and the Law, to Nancy Dowd, Chesterfield Smith Professor, University of Florida Fredric G. Levin College of Law (June 23, 2004, 11:01 A.M. E.S.T.) (on file with author) (summarizing Brief for Amici Curiae Juvenile Law Center et al., Roper v. Simmons, 124 S. Ct. 2198 (2004) (No. 03-633)).

43. Id.

44. Id.

45. Drinking and driving statistics are gathered at Denise Witmer, Impaired Driving and Teenagers, at http://parentingteens.about.com/cs/teendriving/a/impaireddriving.htm (last visited Nov. 2, 2004). Teenagers 15-20 are 6.7% of the driving population by 14% of fatal crashes. Two of three who are killed are male. Alcohol is a frequent factor in these fatalities, but another contributing factor is the failure to wear seat belts. The highest rate of fatalities is in the evening, after 9:00 P.M. Id. Driving is the first cause of death for children age 10 to 19. Id.


rates are among Black and Hispanic young women.\textsuperscript{47} Teen pregnancy remains significantly higher in the United States than in other developed countries.

One of the remarkable facets of teen behavior is the tendency of media to generate negative images of teens that perpetuate myths that deny and deflect social and communal responsibility for the welfare of teenagers, and instead blame teens themselves or their families.\textsuperscript{48} These negative cultural scripts are strongly race correlated.\textsuperscript{49} Teenagers, however, exist in the context of family, and family support can be critical to their success. If teenagers were brought to the center of work/family policy, their needs would be quite different, in many respects, from children of other ages. If the most marginalized teenagers were most central to policy, there would be additional concerns not experienced by more privileged teenagers.

If work/family policy were being devised to ensure the presence of parents when teenagers need them, one of the primary concerns would be the length of the workday. The critical period for parents to be available would be the time frame after school and until the end of the current presumed workday, so the hours from 2:00 or 3:00 until 6:00 or 7:00 P.M. Flexible schedules would be helpful although not sufficient. Working from home would provide the presence, but not the attention, of an adult. Although that is preferable to no presence, a decreased work commitment would be even more desirable. The notion that work and family can be combined by work from home and telecommuting puts a premium, once again, on work rather than on care. One alternative is a shorter work day.\textsuperscript{50}


\textsuperscript{49} Gray, supra note 48.

\textsuperscript{50} Men's total hours at all jobs have increased from 47.1 hours to 49.9 hours, but women's total hours have increased from 39 hours to 44 hours—an increase of 5 hours per week. FAMILIES AND WORK INSTITUTE, 1997 EXECUTIVE SUMMARY (1997), available at http://www.familiesandwork.org/summary/ ascw.pdf. Joan Williams has discussed the implications of the increase in the average worker's daily and weekly work time. See generally Joan C. Williams, Restructuring Work and Family Entitlements Around Family Values, 19 HARV. J.L. & PUB. POL'Y 753 (1996). In her analysis of American working time from 1969 to 1987, Juliet B. Schor concluded that the average employed American works an additional 163 hours, or an extra month each year. Schor also found that although men's working time increased by ninety-eight hours, women's hours increased by 305 hours, which translates to nearly two extra months of work per year. See Belinda M. Smith, Time Norms in the Workplace: Their Exclusionary Effect and Potential for Change, 11 COLUM. J. GENDER & L. 271, 275-76 (2002) (citing JULIET B. SCHOR, THE OVERWORKED AMERICAN 29 (1991)).
Another alternative might be to devise after-school programs for younger teenagers. The developmental needs of teenagers, however, may be subordinated under a model that keeps teenagers under adult supervision rather than supporting their increasing need for independence and self-sufficiency. After-school programs geared to fostering teenage development, rather than treating them as "problems," are essential to their success as adults.

These concerns about time and relationships will seem secondary, however, for the teenagers most subject to violence in the home or on the streets. Black male teenagers, for example, are at substantially more risk for murder from gun violence than teenage boys of any other race. They are also at greater peril than other teenagers of being perceived as criminals and being the subject of racial profiling, and they are disproportionately represented in the criminal justice system. Their very survival is at stake, overriding work/family conflict. The proportion of children living in severely distressed neighborhoods has been increasing, and those raised in this context full of challenges are disproportionately children of color. Bringing the most marginalized of teenagers to the

Some have argued that thirty-five-hour work weeks would lead to greater worker productivity and more emphasis on community and family in the lives on American workers. Also, the shortened week would lead to an even greater participation in the workforce by women, since they would not have to work as many hours. Generally, Europeans take longer vacations and work shorter weeks than Americans.


Reich et al., supra note 45, at 8 ("Adolescent African American males are at highest risk for youth gun homicide; in 1998, some 63 out of every 100,000 African American males ages 15 to 19 died in a firearm homicide, compared with a rate of 29 per 100,000 for their Hispanic counterparts and 3 per 100,000 for white male teenagers.").


Between 1990 and 2000 the number of children in "severely distressed" neighborhoods increased from 4.7 million to 5.6 million, from 7.5% of children under 18 to 7.7%. Of that group, 55% are Black and 29% are Hispanic. One quarter of African American children live in this context; one in ten Hispanic children; but only 1% of white children. "Severely distressed" is defined by the presence and concentration of certain demographic factors that correlate with negative outcomes for children: level of poverty, proportion of female-headed households, high school dropout rate, and high male unemployment.

center of the focus on teenagers returns us to the pervasiveness of race as a barrier to equality; the seriousness of the economic issues that dependent children face and cannot remedy; and the gender-differentiated challenges facing young men as compared to young women.

Teenage needs cannot be seen in isolation. Work/family policy must be part of a comprehensive policy of equality for children that provides the opportunity for economic self-sufficiency and success through education and wage work opportunities, while taking a broader view of economic opportunity than mere access to wage work. Bringing the issues of teenagers to the center exposes the more general need for work/family policy to be flexible and nuanced in accord with children's developmental stages. The plight of teenagers, and particularly minority teenagers, exposes the costs of earlier failures to invest in children as well as the cultural, social, and economic contexts in which they must function as a result of our unequal treatment of families. Those issues cannot be separated from complex challenges of racism.54

IV. CONCLUSION: AFFIRMATIVE SUPPORT

Implicit in these prior analyses is the critical role of affirmative supports for families. Under such a model, work/family policy might include the following policies: income support, generated by wage work and/or family benefits; decent housing; high-quality education, including after-school and summer school programs; high quality child care with well-paid child care workers, including emergency and sick child care; comprehensive health care, including pregnancy and maternity care; paid parental leave for birth, adoption, and illness (whether ordinary illness or severe illness), for a sufficient period of time to support family care; short-term leave to care for sick children, attend school meetings or functions, or engage in other parenting tasks; maternity leave for pregnancy-related disability and childbirth; wage work accommodation, including part-time work options and other flexibility where possible; and support for single-parent families (whether under separate policies or folded in a unitary model). The first item in this list, income

of Commerce, Census Brief CENBR/97-2, America's Children at Risk (1997). Of children under 18, 21% are below the poverty line, 15% are in families that are welfare dependent, 4% have absent parents, 25% are in a single-parent family, 9% live with unwed parents, and 19% live with parents who did not graduate from high school. Id. The high school dropout rate was 5% of 16 to 17 year olds, but 6% for Blacks and 9% for Hispanics. Id. For teen pregnancy, the rate was 3% of 16 to 17 year olds, but 9% for Blacks and 6% for Hispanics. Id.

supports, is, in my view, absolutely critical, and determinative of much that follows.

By bringing those most marginalized by existing work/family structures to the center of our analysis, the critical nature of economic support policies is evident. If we maintain that focus, our construction of policy will be geared toward achieving equality for children. If we fail to do so, we will perpetuate a hierarchy of work/family support that reinforces fault lines of race and class, even if we address some gender inequities.