

Two Models of Preferential Treatment for Working Mothers

There are two ways in which working parents reconcile the conflicting demands of job and family: (1) they may use their earnings to pay others to care for their children or (2) they may organize their work situations in ways designed to render them more compatible with the duties of childcare. Men have traditionally adopted the first strategy providing financial support for their wives in exchange for childcare and other services. Women, by and large, have adopted the second approach, sometimes in combination with the first, thus women with young children have gone free-lance or entered into other arrangements to enable them to work from their homes, they have entered into job-sharing arrangements or otherwise curtailed their hours on the job and, most importantly, they have taken extended leave from the job in order to devote themselves exclusively to childcare, often under the rubric of "maternity leave."

In recent years, feminists have become disillusioned with what might be called the Assimilationist Strategy--the project of making it more feasible for women to hire others as primary childcare providers in order to maintain the pattern of labor force participation traditionally expected of males. It is suggested rather that we aim to reorganize work in such a way as to make it possible for workers to devote more time and energy to "parenting". I argue that this Non-Assimilationist Strategy is fundamentally contrary to the interests of women in the long run as well as unfair. In particular, I shall argue that extended leaves for childcare are unfair and undesirable: employers are under no obligation to provide them and women, in the interests of promoting equality, ought not to take them.

"Why Can't a Woman Be More Like a Man?"

Even if childcare leaves are *de jure* available to male workers, it seems likely that, at least initially, the beneficiaries of the policy would be overwhelmingly female, largely because of the different expectations employers and co-workers have of men and women and because of the different positions that most men and women occupy in the work force. Similarly, the chief beneficiaries of sex neutral childcare policies would be women since male workers, overwhelmingly, can count on their spouses to take responsibility for providing childcare, either themselves or in the person of substitutes. *de facto*, the burden of caring for children or finding someone else to do it falls to women and so the provision of childcare facilities *de facto* benefits women.

Intuitively, any policy which benefits one group primarily requires justification. I suggest that there are two models to which we can appeal to justify childcare policies which benefit women primarily which I shall call the Discriminated-Against Worker Model and the Handicapped Worker Model respectively.¹ I suggest that the

¹There is a third model which, I suspect, is invoked to justify childcare policies in Sweden and other Western European countries that provide substantial childcare benefits. This might be called the Veteran's Preference Model. On this account, benefits are justified in order to reward citizens for socially beneficial

Discriminated-Against Worker model justifies childcare facilities, subsidies and the like but not childcare leaves whereas the Handicapped Worker model is what is implicitly invoked to provide justification for childcare leaves.

The Discriminated-Against Worker model is well-known and frequently discussed. The story is familiar: people who belong to certain social groups or exhibit certain traits are treated unfairly because of deeply rooted social prejudice. To eliminate this unfair treatment in the workplace remedies such as affirmative action in hiring and promotion are instituted. The purpose of such policies is two-fold: (1) to compensate disadvantaged groups (or individuals who are disadvantaged in virtue of membership in such groups) for unfair treatment and (2) to bring about a better, fairer state of affairs in the future.

Perhaps the most important consequence that it is hoped such policies will have is the in breaking the vicious circle of discrimination generated by what has been called the "feedback effect." The feedback effect occurs when individuals' accommodation to discriminatory treatment encourages (and may even be thought to justify) further discriminatory treatment. The feedback effect is clearly operative in perpetuating the discriminatory treatment of women in the workforce. Arguably the feedback effect has been the major factor in maintaining the dual labor market: men and women are treated differently and as a consequence behave differently which results in their continuing to be treated differently.

For a particularly poignant account of how the feedback effect has worked to women's disadvantage consider Margaret W. Rossiter's discussion of the plight of women chemists in private industry. Rossiter suggests that such women were trapped in "a highly circular, no-win situation": (p.225)

'experience' showed that women did not work well with others, would just get married and leave, and could not be promoted in any case (whatever their personality), because neither women nor men liked to work for a women boss . . . [management] continued to give the same arguments about women's poor showing in industry right into the 1960's, oblivious to contradictory studies and evidence . . . Industry's only solution to the marriage 'problem' remained the rather draconian one of keeping the women (regardless of their personalities and ability) at the bottom levels until the 'marriage age' (whatever that was) was safely passed--only then would promotion be considered. By then of course management's negative descriptions and pessimistic predictions would have come true--the years of

behavior and to encourage others to do likewise. Thus, veterans are rewarded (with a 5 point preference on Civil Service tests, free educational opportunities, etc.) for serving their country and in hopes that others will do likewise. Similarly, in Western European countries with declining populations, parenthood is seen as a social benefit and one which the state has an interest in encouraging. I do not consider this model however because few of us would buy the counterfactuals it supports, namely that if the population were not declining or threatening to do so, support for childcare should not be provided. Furthermore, and more practically, the going assumption in the US, at least amongst the educated middle class, is that having children, far from being socially beneficial, is self-indulgent and should be, at best, tolerated. Certainly, it is not a practice most educated middle-class Americans believe should be encouraged.

routine work without a promotion or even a hope of one would have taken their toll, and most of the women would have left. . .

Since the young woman was expected to get married and leave (or leave anyway) she was assigned to an essentially temporary position that offered little incentive to stay. If, however, she did stay, she still could not be promoted since there was no provision for advancement or career line for her to follow. If she grew angry at not being promoted (when less-qualified males were automatically), she was labeled as 'difficult' or 'hard to work with' and was probably laid off or assigned to a remote corner of the plant. By contrast, one of the advantages of the 'chemical secretary's' position was that she was expected to stay with the company and rise up through the ranks with her boss. By the time he reached the executive suite, she had grown from a young typist into the mature and cultivated executive secretary that he now needed . . . Thus there was a realistic role and career line laid out for her--she was expected not only to stay with the company as she grew older (whether married or not, apparently) but also to add managerial skills and grow in her job, two key expectations that were withheld from women chemists.¹

Arguably, the current interest in Non-Assimilationist policies has been motivated in part by a failure to understand the feedback effect. In particular, it has not been understood that women who are caught in the feedback loop are behaving rationally, according to the dictates of cool self-interest: they are not acting as they do because they have a poor self-image and will not be dissuaded from their policies by any amount of therapy or "consciousness raising." Many women with degrees in chemistry who chose to be "chemical secretaries" presumably did so not because they underestimated their own abilities or had assimilated sexist notions about the proper role for women but rather because they recognized that, given prevailing practices, this was their optimal career option.

Similarly, it seems a not unreasonable conjecture that many women who organize their work in such a way as to allow them to invest more in their families than traditional male workers are making a rational, if not fully articulated, decision to hedge their bets in circumstances where the fast track is risky for anyone and women continue to face special obstacles to success in business and the professions.

If women by and large choose to invest more in family concerns than their male counterparts it does not follow that this represents a relatively unchangeable biological proclivity: indeed, I suggest that before we invoke relatively controversial socio-biological explanations for this phenomenon we might consider some commonsensical economic and sociological ones. Men and women are offered different carrots and different sticks. For women in the labor force the carrots are fewer and harder to come by than they are for their male counterparts. Less obviously, there are fewer sticks. A woman who recognizes

¹Margaret W. Rossiter. *Women Scientists in America: Struggles and Strategies to 1940*. pp. 254-5.

that, like most workers, she will not climb to the top of the heap, can drop out with much less shame or guilt than a similarly situated male: it is a fairly honorable defeat. A woman who doesn't like the rat race, wants a vacation or is simply bored with her work can leave her job, having persuaded herself and others, that she wants to devote herself to her family on a fulltime basis, and be congratulated.¹ Such behavior would scarcely be tolerated from a man in her position: even in the most enlightened quarters it would seem peculiar.

According to the Discriminated-Against Worker model the purpose of policies which benefit women workers primarily should be to break the feedback loop. In particular, the purpose of childcare benefits should be to eliminate the circumstances which induce women to invest more time and effort in childcare than their male counterparts and which, as a consequence, result in employer's investing less in women workers. The purpose should be to enable women to behave more like men in apportioning time to work and family. Provisions for childcare make this feasible.

It is currently fashionable to reject this ideal. Women, it is suggested, should not have to be "like men" and employers who lament "why can't a woman be more like a man" are simply being unfair. I however question this. An employer has a right to require a certain degree of commitment to the job, even to the exclusion of a greater commitment to family concerns and, if some workers choose to devote more time and energy to childcare than others all things being equal it would seem that the employer is well within his rights to prefer more committed workers to them.

The problem is that all things haven't been equal and this this is something that employers haven't recognized. First, most men with families, unlike most women with families, have been able to count on their spouses to provide childcare. Secondly, there is the notorious phenomenon of the "two person career." Most men can count on their wives, whether employed or not, to act as hostesses and otherwise support their careers. Most women cannot. Thus, if one of my male colleagues is asked to put on a little get-together for a visiting speaker, his wife will dutifully take on the major responsibilities of organizing and catering the affair, whereas if I am asked at least half of the donkey work falls to me. The list could be continued, and employers have not generally taken Shaw's answer to the question to heart: a women can't be like a man because she is not treated like a man, because for her there are different carrots and different sticks.

Nevertheless, I suggest, the goal of childcare policies should be to make things more nearly equal, to enable women, like men, to shift the burden of childcare to others in order to give the degree of commitment to work that has traditionally been expected of men. And the availability of cheap, adequate childcare would facilitate this. In general, if

¹Baby Talk magazine article "Look Who's Choosing Motherhood as a Career" carries heartwarming stories of a number of high-powered Yuppies, chiefly lawyers, who quit to be fulltime mommys. Instead of inferring that Fulltime Mommyhood is really great maybe we should conclude that being a young lawyer on the make isn't all it's been cracked up to be.

we justify childcare benefits by reference to the Discriminated-Against Worker model we shall favor policies which would make it easier for working mothers to behave more like traditional working fathers.

If, however, this seems harsh, consider the alternative:

Motherhood as a Social Disease

When we think of preferential treatment, we usually think of the treatment according to members of socially disadvantaged groups according to the Discriminated-Against Worker model. But there is another group of people who are currently beneficiaries of preferential treatment, namely the physically and mentally handicapped. Employers are encouraged to hire the handicapped and to provide them with various benefits, to make their workplaces wheelchair accessible, and so on. The rationale for providing special treatment for the handicapped is quite different from the reasons generally given for preferential treatment for victims of social injustice. According to the Handicapped Worker model preferential treatment is required in order to enable individuals who, though no fault of their own or anyone else's, are at a disadvantage when it comes to seeking employment. The aim of preferential treatment, according to the Handicapped Worker model, is to remove some of the barriers to them which are fundamentally accidental to adequate performance on the job. For example, being able to climb a flight of stairs is not an essential skill for, e.g. an accountant, but if a worker must climb a flight of stairs to get to the office then it becomes, quite accidentally, a requirement. The goal of preferential treatment schemes for the handicapped is to eliminate these accidental requirements which bar otherwise qualified candidates for various jobs. According to the Handicapped Worker model, the goal of preferential treatment for the handicapped is not to eliminate the worker's handicap--the handicap is taken as a biological given, rather than a socially generated disability resulting from phenomena such as the feedback effect--but rather to adjust the work situation in such a way that it is possible for him to function adequately on the job in spite of his handicap.

Now, odd as it may seem at first blush, it appears that current interest in Non-Assimilationist policies geared to enabling working women to devote more time to their families than traditional males, assumes the Handicapped Worker model in place of the Discriminated-Against Worker model: motherhood is regarded as a handicap. Consider, for example, the all but universal practice of styling childcare leave as "maternity leave" Maternity leave strictly speaking has been understood as sick leave of a special sort. The suggestion was that leave from work was medically required for childbirth and the short-term disability incurred as a consequence. While there may be some pragmatic justification for construing leave for the care of young infants as extended maternity leave, the suggestion is still clearly that caring for one's own children in the first weeks or even months of life is virtually a medical necessity--a biological given which, like other handicaps that cannot be changed by social policy, ought to be accommodated. Again, consider the centrality which campaigns for "reproductive rights" have come to occupy amongst some feminists. The suggestion is that women cannot achieve equality unless

they can control fertility. The assumption, again, seems to be that motherhood, as a matter of immutable biological necessity, is a disability.

Finally, consider the Non-Assimilationist policies that have been proposed to enable women to reconcile work and family obligations: extended childcare leaves, flexible hours, improved benefits for part-time work, job-sharing arrangements and provisions for working at home. While all of these policies are beneficial to individual women in the short run, commitment to such policies on an ongoing basis, as something more than a pragmatically motivated, stop-gap, assumes that women's commitment to acting as primary childcare providers, at least for infants, is a biological given which employers ought to accommodate rather than a socially generated disability which ought to be eliminated in the interests of short-circuiting the feedback effect.

Is the Handicapped Worker model an appropriate one? Arguably not, and for the following reasons. First, it seems highly unlikely that commitment to being the primary caretaker of young babies is an immutable biological given. Many mothers and their infants do very well in alternative arrangements. And invoking biological needs is pernicious insofar as it tends to obscure the social arrangements that push women into the role of primary caretakers, arrangements which are detrimental to the position of women and limit choice. Secondly, there is an important disanalogy between the disabilities generated by motherhood and the handicaps that employers attempt to accommodate according to the Handicapped Worker model. The latter handicaps concern workers inability to perform in ways that are not essential to the job, e.g. an inability to gain access to the workplace. The disabilities that are allegedly generated by motherhood, e.g. a decreased commitment to work, are essentially disabling rather than mere accidentally disabling. Lack of commitment is detrimental to all work, except to the sort of unskilled, routine, marginal work where following through on long term projects is not important and where the worker can be readily replaced--in short to the very sort of work that has been thought especially appropriate for women.

We ought not to create disabilities where none exist. Arguably by mandating policies to accommodate the supposed disabilities under which working mothers labor, genuine disabilities will be generated where none have existed. If, for example, an employer knows that he must provide extended maternity leave then he has good reason to be leary of hiring women who are likely to have children and demand this benefit--and all women of childbearing age will be to that extent disabled. Of course, to neutralize this disability, we should then mandate and enforce further policies to prevent discrimination.

Wouldn't it be easier and more economical to promote policies which go towards removing the socially generated disabilities which working mothers confront rather than perpetuating these disabilities and imposing the further burden of accommodating them on employers?

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