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Child-Centered Child Care: An Argument for a Class Integrated Approach

Thomas R. Marton†

While we may continue to debate the reasons for the change in the profile of the American family over the past three decades, no one disputes the magnitude of that change, and few can fail to recognize its pervasive and profound impact on the mechanics of our society. There are many ways to describe this change, each importing its own particular focus of concern or bias. The focus of this paper is on child care. More specifically, the aim is to articulate a confluence of demographic factors and social policy concerns which make the present both ripe for and strongly in need of the implementation of a federally mandated universal system of daycare.¹

Our current approach to child care is a hodgepodge affair, driven by no clear vision of overarching purpose or aim. Existing governmental provisions are either tacked onto welfare and workfare schemes or bound up in individual tax profiles. Families not adequately covered by such programs are left to a catch-as-catch-can kaleidoscope of unregulated private arrangements, both legal and illegal. And all of these approaches run aground on the same lack of adequate facilities and trained caregivers. Yet inefficiency and ineffectiveness are not the greatest failings of our current approach; far worse are the costly social ramifications.

First, there is the cost to work and family. Recent decades have witnessed a sweeping integration of women into the work force, a phenomenon plainly implicating the need for greater child care availability.² Although more and more women work

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² In this paper, I use “daycare” and “child care” synonymously to mean “less than 24-hour care of children for the purpose of providing positive supervision while their parents work.” See Kathleen A. Murray, Child Care and the Law, 25 Santa Clara L Rev 261, 261 n 2 (1985).

² For a high-profile illustration of the salience of this concern, one need only recall
outside of the home, they nonetheless continue to be our primary family caregivers. Not surprisingly, this creates conflict. Without a competent family support system built around universally available child care, women, work, and family all suffer. As one commentator recently noted, daycare has thus become a matter of adequate infrastructure: We can no more send women off to work without provision for adequate childcare than we can send them off to work without adequate roads.\(^3\)

Second, there is the cost engendered by the increasing stratification of our society along race and economic class lines. Child care could be a central means of addressing this problem. Children brought together at a young age to play and grow together have the best shot at learning to live together. Yet our current approach to child care not only squanders this homeopathic opportunity for healing, it exacerbates and ingrains our divisions. We treat child care now largely as an afterthought, in fractured fashion serving the poor as poor through programs tied to welfare and workfare, while serving the rich as rich, i.e., those with enough money to pay for child care services up front, through tax breaks. This system may help the wealthy to help themselves, but without an infrastructure ensuring availability, the poor are left with insubstantial options. And unless we build such an infrastructure to serve the children of the wealthy as well as the poor, doubtless it will be poorly built. Consequently, I will argue that child care provision should be framed to serve a universal concern: children. As such, it should be an end in itself, administered separately from welfare concerns and available for all children, with access based principally on age and, only where necessary, on need. So structured, child care may provide vital passage toward transforming our too-riven society into one where perhaps we are no longer such strangers to one another.

The third cost of our current approach falls directly upon our children. To the extent that families today are unable to fully accommodate the demands of both work and family; to the extent that poor children are left further in the breach when their parents seek work; to the extent that any children, in their most formative years, receive insufficient care and training—or, if

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\(^3\) Karen Nussbaum, Director of Nine-to-Five, National Public Radio interview (Feb 9, 1993). The concomitant gender inequities the lack of adequate daycare implicates—glass ceilings and the feminization of poverty—are explored below.
privileged, receive it only under exclusive, segregated arrangements; to that same extent we squander our most precious resource and impoverish our future. Accordingly, I will argue that adequate child care, by definition, must include an explicit educative component beyond mere guardianship, so that children are not simply minded, but actively nurtured and engaged.

In sum, I contend that an infrastructural approach to universal child care provision is not only functionally mandated by the dramatic changes in our society's profile, but might also prove a powerful agent in healing race and class divisions as well as a means of enriching our children. To effectively implement such a system, we must reframe current notions of day care as a tacked-on response to particular economic or employment circumstances. Instead, our approach to child care should be child-centered; that is, first and foremost a response to children, with their care and advantaged upbringing its primary concern. Such a system must be universally available and, while carefully tailored to embrace the needs of the poor, must be as structurally independent of welfare delivery systems as is administratively possible.

With this project on the table, I will begin by describing three broad and well-documented aspects of modern social and economic transformation: the feminization of poverty, the growing number of single mother families, and the increasing participation of women in the workplace. While all three of these phenomena interrelate, the first two are particularly inextricable, and for that reason they are presented under one heading. I will then briefly canvass the impact of these trends on the growing need for child care, a need which cuts across the entire economic spectrum of society. Beginning with a historical survey, the next section will sketch out our current approach to daycare provision, evincing the fragmented and stratified nature of that approach and the confusion and waste of resources it generates. This sketch will also show that our most recent efforts to address the growing need for daycare tend increasingly to segregate daycare provision along economic class—and, consequently, race—lines while needlessly burdening general welfare programs. I will argue that this is wrongheaded and serves only to increase unwarranted fragmentation and cost, both social and otherwise. At this juncture, in order to illuminate context and gain perspective, I will examine the approaches to daycare taken in Sweden and France, countries with especially well-developed family support systems. In closing, I will contend that the concurrence and broad scope of the social transformations described in the
first section of the paper present an opportunity for a dramatic
change in our approach to child care, an opportunity that both
necessitates and is ripe for the implementation of the type of
universal daycare system alluded to above. I will also highlight
those aspects of family support offered in France and Sweden
that might prove useful as models here, while rating the particu-
lar demographic and social concerns of this country that suggest
a different approach may be warranted.

I. ASPECTS OF CHANGE: THE INCREASING NEED FOR DAYCARE

A. The Feminization of Poverty and The Growing Number of
Single Mother Families

Although women have made great advances on any number
of fronts over the past 30 years, glass ceilings and a stubborn
gender gap in earning power continue to delimit these advances.4
And, as if to mock even the halting progress of this struggle,
women increasingly bear the burdens of poverty. Despite gains
made in the workplace, women remain marginalized, holding
down supporting roles or servicing transitional stopgaps. Thus
occupying the outer rim of the economic sphere, they are among
the first cast off as the economy shrinks.5

To explicate the reasons for the sustained economic vulnera-
bility of women is beyond the scope of this paper.6 Such vulnera-
bility, however, is not of recent vintage. Women have always
comprised the majority of adult public assistance recipients.7
From the state and local mothers' aid and mothers' pension laws
of the early 1900s through the Aid to Families with Dependent
Children ("AFDC") programs, women “went on welfare” as a

4 The median earnings for women improved from 60% of the earning of men in 1980
(Sep 1990). However, the average female college graduate still earns less than the average
white male with a high school diploma, while the average black female college graduate in
a full time position receives less than 90% of her white counterpart's salary. Id citing Sara
5 The metaphor is taken from Professor Evelyn Brodkin's class on “Perspectives on
Social Welfare” taught at the University of Chicago School of Social Service Administra-

6 For a powerful introductory survey of contemporary analyses on this theme and its
broader implications, see Mary Frank Fox, Women in the Labor Force: Position, Plight,
Prospect in Josefina Figueira-McDonough and Rosemary C. Sarri, eds, The Trapped
Woman: Catch 22 in Deviance and Control 197, 199-208 (Sage, 1987).
consequence of either having to stay at home to support their young families (with or without spousal support), or, when able to work, having only low-wage jobs available to them. In their role as caretakers, women have traditionally been counted among the "deserving poor." While such a label might mitigate the stigmatization, it has also served as a rationale for their continued dependence on the public sphere.

The stage had thus long been set for what social scientists came to recognize in the 1980s, after a prolonged and marked downturn in the U.S. economy and consequent slew of cutbacks in welfare provision, as the "feminization of poverty." The rapid increase during the 1970s and 1980s in the number of female-headed households greatly exacerbated this condition. Among the many causal stories offered to account for this phenomenon, the most prominent, in capsule form, are as follows:

A consequence of societal change: This view focuses primarily on emerging social trends which run counter to the traditional family. These range from the expanding career opportunities and economic independence of women (and concomitant delays in motherhood) to the emotional and economic dislocation of men due to a growing "matrifocal" society. Subset explanations herein would include divorce, teenage pregnancies, and other modern lifestyle disruptions of nuclear family patterns.

8 Although not directly implicating daycare concerns, it is also of note that elderly women are among the poorest of the U.S. population. Among people age 65 and older living alone, 26% of white women, 48% of Hispanic women, and 60% of Black women live below the poverty level. Lundy, The Status of Women at 1-2 (cited in note 4) citing Nancy Felipe Russo, ed, A Women's Mental Health Agenda (American Psychological Association, 1990). Currently, there are nearly twice as many female Supplemental Security Income (SSI) recipients as male. The main causes for this are twofold: women are longer-lived than men and their retirement benefits are likely less than men's. DiNitto, Social Welfare at 234 (cited in note 7). See generally Daniel Patrick Moynihan, The Politics of a Guaranteed Income 43 (Vintage, 1973).

9 See Michael B. Katz, The Undeserving Poor: From the War on Poverty to the War on Welfare 67 (Pantheon, 1989) for more on this theme.

10 Id at 66.

11 From 1960 to 1980, the United States' share of the world's economic output fell from 35% to 22%; in that same period, exports dropped from 22% to 11% of the world's total. Barbara Reisman, The Economics of Child Care: Its Importance in Federal Legislation, 26 Harv J Leg 473, 477 (1989). In 1987, the U.S. federal budget deficit was estimated at $169 billion for fiscal year 1988. Id citing Economic and Budget Outlook Fiscal Years 1988-1992 (Congressional Budget Office, 1987).

12 See Kenneth L. Karst, Citizenship, Race, and Marginality 30 Wm & Mary L Rev 1, 12 (1988) for a definition of this term.
A consequence of misguided welfare policies: This view propounds that state assistance "enables" (or, in the extreme, "bribes") women—poor women particularly—to have children out of wedlock. A universal and publicly supported system of daycare by these lights is likely to be seen more as an exacerbation of the "problem" than as a solution (or, more neutrally, as an appropriate response to a need).

A problem of the ghetto underclass: This view espouses "culture of poverty" themes and, stressing lines of race and class, cites the calamities of joblessness, drug use, and imprisonment besetting black males and the consequent erosion of the work ethic and traditional family structure.\(^{13}\)

Whichever factors one adopts by way of explanation, the statistical litany unambiguously expresses the dimensions of the transformation: from 1940 to 1970, single-parent families constituted approximately 10% of all families with children; by 1986, the component of single mothers alone had jumped to 26% of all families with children, more than doubling the 1970 figure of 3.8 million to 8.9 million.\(^{14}\) The number of children living in such families has increased proportionately: as of 1988, 16% of white children, 27% of Hispanic children and more than 50% of black children were living in single mother families.\(^{15}\)

These twin trends, the feminization of poverty and the growth of single mother households, intimately interconnect and serve to reinforce one another; their combined impact hits hardest below the poverty line. While the number of poor families in the country by the government's count may have dropped 13% between 1959 and 1985—from 8.3 million to 7.2 million—the number of poor families maintained by women nearly doubled—from 1.9 million to 3.5 million.\(^{16}\) Persons in female-headed families are now four times more likely to be poor than those in other families.\(^{17}\) Singling out those families with children under


\(^{16}\) Id at 6 citing US Bureau of the Census, Oct 1987.

\(^{17}\) Id at 9 citing Rix, *The American Woman* (cited in note 4). To put the same statistic
eighteen, the poverty rate was an astonishing 46% in 1984, while the median annual household income of a single mother with children under six came to only $6,400.18

B. The Increasing Participation of Women in the Workplace

The dramatic movement of women into the workplace has been termed "the single most outstanding phenomenon of the twentieth century."19 As with the increase in single mothers, numerous explanations have been offered to account for this tide: sociologists look to falling birth rates, rising divorce rates, and changing gender-role attitudes; economists cite expanded opportunities, higher standards of living or inflation incentives; historians point to the transition from a high-wage manufacturing/blue-collar economy to a lower paying services or white-collar orientation. Whatever the forces behind it, the trend seems unlikely to reverse. Indeed, the enormous scope of the transformation has all but mooted lingering normative arguments over the "propriety" of women participating in the workplace, and policy debates concerning the ramifications for the traditional family are increasingly beside the point in the face of economic and social trends that simply do not allow for a "stay at home" option.

Historically, women are no strangers to the workplace. At the turn of the century, nearly 20% of all women over the age of sixteen worked, and the percentage has been generally rising ever since.20 Still, in 1980, for the first time, more than 50% of American women participated in the paid labor force.21 By 1988, that figure had swelled to 55.9%, or 53.9 million women,22 mak-
ing the rate of female labor force participation in the United States second only to Sweden among Western industrial countries.\textsuperscript{23} Even more striking is the change in the rate of workforce participation among working mothers. In 1950, only 12% of women with children under six worked. By 1970 that figure had more than doubled to 30%, and by 1988 it was close to doubling again, at 57%.\textsuperscript{24} In 1985, 70% of mothers whose youngest child was between six and thirteen were at work.\textsuperscript{25} In 1988, 51% of married women with children under one year old worked.\textsuperscript{26} At this rate, demographers project that by 1995 two-thirds of all preschool children (approximately 15 million, up from 9.6 million in 1986) and more than three-quarters of all school-age children (approximately 34.4 million) will have working mothers.\textsuperscript{27} Undoubtedly, some arrangement of care during working hours is going to be needed for an increasing number of children.

C. The Impact on the Availability and Accessibility of Daycare

Whereas at one time women who worked came primarily from poor, minority or immigrant classes, or were women without young children, it is clear that this is no longer the case: not only are women across the economic spectrum joining the workforce, but mothers with young children constitute the greatest rate of influx. Indeed, notwithstanding the large increase in labor force participation among low-income and unmarried women, the most dramatic rise has been among middle-class married mothers.\textsuperscript{28} Nevertheless, a growing percentage of working or would-be working mothers are single and near the poverty line—that is, they have a clear and pressing need for some type of daycare but little or no means to pay for it. As of 1987, single parent families had a median income of $14,620, while the average cost for child care ranged from $3,000 to $5,000 a year per child.\textsuperscript{29} Thus, while the


\textsuperscript{24} Sheila B. Kamerman and Alfred J. Kahn, \textit{Child Care, Parental Leave, and the Under 3s: Policy Innovation in Europe} 13 (Auburn House, 1991) (Table 1.3).

\textsuperscript{25} Reisman, 26 Harv J Leg at 478 (cited in note 11); Fox, \textit{Women in the Labor Force} at 201 (cited in note 6).

\textsuperscript{26} Fox, \textit{Women in the Labor Force} at 198 (cited in note 6).

\textsuperscript{27} Id.


\textsuperscript{29} Comment, 6 J Contemp Health L & Policy at 245, 247 (cited in note 19). The
average family may spend approximately 10% of its yearly income on child care, a recent Census Bureau study found that women in poverty pay a disproportionate 22% of their family income on child care—$32 a week—compared to only 4% of income, or $58 a week, paid by the wealthiest families (i.e., those earning more than $45,000 a year). Furthermore, given that single parent families on average have been found to have more dependent children, lower educational attainment and lower earnings than other labor force groups, not only does establishing viable access to some type of quality daycare for such families present a pressing logistical concern, it is also a vital step in advancing them toward any prospect of economic independence, family stability, or further education. As one writer recently put it:

Child care may not be the agent that transforms the poor, especially single mothers, from economic wallflowers into belles of the job market ball, but it is a necessary support. In the short run, it helps poor, single mothers to be both workers and mothers. In the long run, it gives their children, the future labor force, the necessary care and early education [to avoid condemnation] to the same debilitating cycle of poverty.

It follows that some systematic support ensuring daycare availability for such families is both necessary and advisable.

The demographic changes described above not only exacerbate the need for and relative unaffordability of daycare, they also impact the kind of care that families seek, particularly families with preschool children. In 1958, when single mothers were less numerous, when extended family networks or non-working (female) neighbors were perhaps more readily available, and when the capacity of one parent’s income to meet a family’s economic needs was greater, care in the child’s home was the predominant mode of child care, even for children of mothers work-

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32 Reisman, 26 Harv J Leg at 493 (cited in note 11) (emphasis in original).
ing full-time.\textsuperscript{33} By 1985, however, this type of care had declined from 57\% to 24\%.\textsuperscript{34} Meanwhile, the use of child care centers by mothers working full-time grew almost proportionately, from 5\% in 1958 to 28\% in 1985.\textsuperscript{35} Measuring patterns of daycare use, however, can at best yield only a descriptive picture. It is extremely difficult to distinguish \textit{a priori} preferences from "preferences" which merely reflect a necessary response to limited options. Nevertheless, with the inability of an increasing number of potential clients to pay for the needed service, the daycare industry has been slow to meet demand; the number of openings available in regulated daycare facilities lags well behind the growing number of children with working parents.\textsuperscript{36} This inevitably impacts labor participation rates, particularly among economically vulnerable mothers: a 1982 survey by the Census Bureau found that 26\% of all mothers with children under age five would enter the labor force if "satisfactory" child care at reasonable cost were available; in 1988, 45\% of single mothers said they would work if child care were available.\textsuperscript{37}

With so many women having entered or seeking to enter the work force, one might expect that the business sector would respond to meet the evident daycare need. Indeed, not only working parents would stand to gain: absenteeism due to lack of ade-

\textsuperscript{33} Irwin Garfinkel, Daniel Meyer and Patrick Wong, \textit{The Potential of Child Care to Reduce Poverty and Welfare Dependence} 3 (Child Care Action Campaign, 1988).

\textsuperscript{34} Id.


\textsuperscript{36} Problems such as parental preference, distribution, price variation, start-up lag times, etc., make empirical measurement of the current supply-demand picture in the child care market problematic. Consequently, considerable debate surrounds the issue. For an argument debunking the notion of any shortage of child care facilities, see, for example, Robert Rector, \textit{Fourteen Myths about Families and Child Care} 26 \textit{Harv J Leg} 517, 523-25 (1989). A recent study found that 68\% of pre-school children are being cared for outside of any formal daycare system. Garfinkel, Meyer, and Wong, \textit{The Potential of Child Care} at 3 (cited in note 33). Such a measurement, however, be\textsuperscript{s} the question of preferences and raises concerns of quality. If purchase of services is the major supply mechanism, ability to pay is likely a major factor "dampening" demand. Testimony in 1988 before the House Committee on Education and Labor documented large waiting lists in many states for low income families. The Children's Defense Fund, sampling Seattle, Wash, and Des Moines, Iowa, found nearly three to four times as many children needing care as there were spaces available in child care facilities. Comment, 6 \textit{J Contemp Health L & Policy} at 246 n 31 (cited in note 19). In 1990, the Illinois Department of Children and Family Services (DCFS) estimated that for every 1000 children under the age of six in Illinois, there were only 158 licensed child care slots. Id.

\textsuperscript{37} Reisman, 26 \textit{Harv J Leg} at 484 (cited in note 11). Note that this latter survey leaves unclear the cost or standard of daycare that would be acceptable.
quate child care costs the nation's employers $3 billion a year.\textsuperscript{38} However, job competition in an extended economic downturn permits employers to offer no more family support benefits than are strictly necessary to maintain those employees most able to adapt. Such conditions exacerbate a familiar public goods problem wherein—to oversimplify—the marginal cost of providing a good exceeds the marginal benefit to be derived therefrom. Consequently, the private sector fails to answer a societal need despite the big-picture inefficiency of such market failure. Unless otherwise induced, therefore, individual businesses simply lack sufficient incentive to supply family support services.\textsuperscript{39} A recent survey thus found only 11\% of establishments with ten or more employees offering any kind of daycare-related services or benefits.\textsuperscript{40} Moreover, many of the new jobs being created are in service-oriented small firms. Such firms, while more likely to hire women, are considerably less likely to offer employee family support benefits than are larger firms.\textsuperscript{41} Thus, the private business sector alone is unlikely to yield sufficient daycare services anytime soon. American families are not without other support, however; government currently plays a large role in a range of daycare schemes. This is the focus of the next section.

II. GOVERNMENT IN DAYCARE: STRATIFICATION AND FRAGMENTATION

Whatever else it may be, American governmental involvement in the provision of daycare is hardly the product of a uniform vision. Government has, by turns, been muddled with am-

\textsuperscript{38} Edward M. Kennedy, A Legislative Approach to Work and Family: Time for a Smart Start, 26 Harv J Leg 391, 392 (1989). It is worthwhile to note that while women are clearly becoming a more dominant force in the labor market, parents actually represented a smaller percentage of the work force in 1985 than in 1968. Philip K. Robins, Child Care Policy: An Economist's Perspective in David M. Blau, ed, The Economics of Child Care 13 (Russell Sage Foundation, 1991). At first glance, this might help to explain the sluggishness of business to respond to parental daycare needs. Yet with both mothers and women working in ever greater numbers, employees' daycare needs could well be greater even if "parents"—i.e. fathers with wives (or sitters) at home—currently represent a somewhat smaller component of the work force than before.


\textsuperscript{40} Nancy E. Dowd, Work and Family: Restructuring the Workplace, 32 Ariz L Rev 431, 446 n 91 (1990). Two percent sponsor daycare centers; the remainder offer financial assistance or other services.

\textsuperscript{41} In 1989, 22\% of large and medium-sized firms offered some type of child care benefit; of these, approximately 22\% provided on-site child care. Id.
bivalence, burdened by antipathy, and propelled by earnest concern. As with welfare, it has been pushed and pulled by conflicting policy goals. Some policy makers focus on the issue of women in the work force, pitting gender equity concerns against traditional family values; others focus on the child's welfare, begetting arguments over the value of parent-child attachment versus "institutionalized" arrangements. Some argue the pragmatics, debating the best or most efficient means of providing for the care of children in the face of undeniable changing socio-economic trends; for others the issue is one of incentives or remedial measures—how to bring poor, minority, or otherwise disadvantaged families into the workforce and ameliorate the environmental deprivations of their children. Given that the issue of child care engages such closely held, even intimate value systems, this lack of accord is not surprising. Yet it fails to explain why the United States "lags behind almost every other industrial nation, and indeed much of the world in offering an adequate child-care system. More than one hundred other countries have extensive networks of centers... subsidized and regulated by the government."\(^4\)

To try to account fully for this dubious distinction would go beyond the project of this paper; yet a cursory examination of our history of governmental involvement with daycare will provide some helpful illumination.

A. Past Approaches to Daycare

As befits a tradition of free market individualism, the care and rearing of children in this country has long been considered neither a public concern nor a public responsibility, but rather a private family affair wherein parents maintain a fundamental right to raise their children as they see fit. Only when parents abandon this right and prove either unable or unwilling to fulfill their essential responsibilities has governmental intervention been seen as necessary and appropriate. Child protection, not child care, was thus a primary rationale behind the first federal child support programs.\(^4\) This engendered an early, if implicit, structural alliance between such programs and more generalized welfare provision.

Early childhood education represents another traditional

\(^4\) Children of the World, Time 60 (Jun 22, 1987).
\(^4\) Hayes, Palmer and Zaslow, Who Cares For America's Children? at 7 (cited in note 28).
rationale for state involvement in child care. In contrast to the protective and custodial services of programs that are a part of the social welfare system, this premise emphasizes the cognitive development—both academic and social—of pre-schoolers. In further contrast to the welfare branch of child care provision, many educative programs, in the form of nursery schools and kindergartens, were developed at the urging of the middle and upper-middle classes. As a result, these programs were less dependent on government financial support, particularly federal support. The 1960s saw the federal government draw from this approach and begin to implement programs such as Head Start to extend pre-school cognitive gains to low-income children. Still, these two traditional rationales for governmental involvement in child care remain largely unintegrated and unreconciled and continue to develop under separate rubrics, expressed in a multiplicity of delivery systems. Such dichotomy, it is argued, "at best, hampers effective program planning, coordination, and advocacy, and at worst, creates a two-tiered system that segregates poor children from their middle- and upper middle-income peers." This theme will be examined further below.

Although federal involvement in the educative strand of child care did not take appreciable shape until well into this century, the first federal welfare-oriented child support program began considerably earlier. Established in 1912, the United States Children's Bureau helped develop daycare centers to allow poor women to work without losing custody of their children. With assistance from the Bureau, many states developed standards of care for various agencies and organizations during the 1920s. The 1930s saw some expansion in services for children as a part of the government's New Deal efforts to combat the Depression, but the largest federal support for child care came during World War II when Congress, in order to facilitate the participation of women in the work force, passed the Lanham Act. This Act provided daycare matching funds for women working in wartime production industries and so was discontinued at the end of the war.

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44 Id at 8.
45 Comment, 6 J Contemp Health L & Policy at 248 (cited in note 19).
46 For example, the Works Product Administration employed out-of-work teachers and subsidized nurseries until the Depression ended. Also, the Security Act of 1935, Pub L No 74-271, title IV & V, 49 Stat 627 (1935), provided child welfare services funded through the states. Id at 248 n 41.
47 Id at 249.
Federal involvement in daycare in the 1940s and 1950s was minimal. Then, in 1968, after trying to establish a set of standards applicable to all federal agencies receiving money for childcare services, the Department of Health, Education and Welfare (HEW) formulated the Federal Interagency Day Care Requirements (FIDCR). These rules proposed uniform quality standards of health, nutrition, safety and group size limits. However, due to poor drafting and inadequate enforcement provisions, so much confusion ensued that, in 1982, Congress repealed the standards. With this elimination of the FIDCR, “the states became the sole authority for establishing quality and safety standards or regulations and enforcing them.”

Another notable, if failed, legislative effort to provide daycare took place in the early 1970s when Congress, seeking to fulfill the “Great Society” vision of publicly supported child care for all parents, passed the Comprehensive Preschool Education and Child Day Care Act. The stated purpose of the bill was to “provide every child a full and fair opportunity to reach his full potential,” in part through a federal child care system. Although the Nixon Administration’s Secretary of Health, Education and Welfare, Elliot Richardson, had initially helped draft the bill, President Nixon vetoed it, saying the Act went “far beyond what this administration envisioned when it made a national commitment to providing all children an opportunity for a healthful and stimulating development during the first five years of life,” and that it would constitute “a long leap into the dark for the United States Government and the American people.” Accusing the bill of “family weakening implications,” Mr. Nixon further characterized it as “the most radical piece of legislation to emerge from the Ninety-second Congress,” and called for programs “consciously designed to cement the family in its rightful position as the keystone of our civilization” instead of committing “the vast moral authority of the National Government to the side of communal approaches to child rearing. . . .” A host of other child care

48 Id at 249-50.
50 Id at 250 n 48 quoting S 2007, 92nd Cong, 1st Sess (returned without approval by President Nixon, 7 Weekly Comp Pres Doc 1634-36 (Dec 9, 1971)).
52 Nixon, 7 Weekly Comp Pres Doc at 1635 (cited in note 50). One writer suggests
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bills have since come and gone in the halls of Congress, but no other bill with so comprehensive and sweeping a vision for a federally mandated system of child care has come so close to enactment. For the remainder of the 1970s and into the early 1980s, legislative initiatives aimed at boosting federal child care subsidies simply lacked the support which had briefly coalesced toward the end of the 1960s. In the 1980s there was a significant shift in the methodology of federal child care assistance, one that considerably downsized the direct subsidy approach and emphasized tax relief provisions instead. The impact of this shift, as well as the implications of the most recent legislative efforts, are explored below.

B. Current Legislative Approaches to Daycare

A recent study found that, as of 1990, approximately $16 billion per year was being spent on child care in the United States by governments, parents and other private sources combined. In fiscal year 1988, federal spending on child care exceeded $6.8 billion. While this might be considered a sizable investment, it constitutes but a tiny percentage of the federal budget. Nonetheless, the government is significantly involved in child care on several fronts. Toward the end of the 1980s, this involvement picked up considerable pace in reaction to the demographic trends detailed earlier. Child care was a prominent issue during the 1988 Presidential campaign. In his first budget address to Congress, President Bush described child care as "one of the most important issues facing the Nation." Since the one

that by the time the bill had reached the President's desk, the political environment was dominated by conservative reaction to the Nixon-Kissinger overtures to China and that Nixon therefore vetoed the bill as a gestural "sacrifice" to appease the right. See Liebman, 26 Harv J Leg at 377 (cited in note 51).

Some proposals, such as the Child and Family Services Act of 1975, were so swamped by concerted conservative resistance they never even got off the ground. See Linda Bird Francke, Child-Care Scare, Newsweek 77 (Apr 5, 1976) (describing Senator Mondale, a co-sponsor of the bill, as receiving 2000-6000 letters a day, which "conjure[d] up images of government agents breaking into American homes and wrenching the children from their mothers' breasts").

Comment, 6 J Contemp Health L & Policy at 243 n 16 (cited in note 19) citing NRC, Expert Panel Decries Lack of Affordable, Quality Child Care at 2.

Id at 243 n 16. Total federal spending in fiscal year 1988 was $1.056 trillion. Mark Crain and James C. Miller III, Item-Reduction Veto's Wallop, Wall St J Sec 1, 24 (Jun 8, 1988).

President's Budget Address to Congress, 25 Weekly Comp Pres Doc 177 (Feb 13, 1989).
The University of Chicago Law School Roundtable

In the 1990s there have been over one hundred and seventy bills proposing various solutions to the “child care crisis.” Talk being cheaper than even the most modest action, however, it remains to be seen whether all the fuss and verbiage surrounding the issue in the late 1980s will generate substantive child care reform in the 1990s. Meanwhile, certain measures recently put into effect are worth examining, for they reflect both the fractured approach to and fragmenting effects of current governmental child care provisions.

In 1989, the General Accounting Office (GAO) identified forty-six separate federal programs that provide some form of child care-related service. Of these, forty-one are expenditure-based—that is, programs encompassing direct spending on child care related activities; the remaining five are tax-based—i.e., those in which the “spending” takes the form of reductions in consumer tax liability. However, only a few of these programs provide any solid measure of assistance. In fact, 89% of all federal spending in 1988 went to just four programs: the Child and Dependent Care Tax Credit, the Social Services Block Grant (Title XX), Head Start, and the Child Care Food Program. The largest of these, the Dependent Care Tax Credit, accounts for nearly 60% of all federal spending on child care assistance.

In essence, this program permits taxpayers to set off a percentage of employment-related expenses for the care of a child (or other dependent incapable of self-care) against federal income tax liability. The amount of the credit allowed is then a function of the taxpayer’s expenses and adjusted gross income.

In 1977, a year after Congress enacted the Tax Credit, approximately three-fourths of all federal spending on child care was expenditure-based, with nearly 40% of the total going to Title XX. By 1988, however, more than three-fifths of federal spending on child care had become tax-based, with Title XX re-

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57 Comment, 6 J Contemp Health L & Policy at 239 (cited in note 19).
58 Blau, ed, The Economics of Child Care at 16 (cited in note 38).
59 Id.
60 Id at 17.
61 Id at 16.
62 26 CFR § 1.44A-1. See also Blau, ed, The Economics of Child Care at 16 (cited in note 38).
63 Id.
64 Id at 16, 19. Title XX is a chapter of the Social Security Act providing grants to the states for social services for persons of low and moderate income. Id at 6, 16.
duced to only about 10% of the total. The reason for this shift was twofold: fueled by the Reagan Administration’s desire to cut direct federal subsidies and increase state autonomy, the 1981 Omnibus Budget Reconciliation Act cut Title XX funds by 20%, and states were given greater flexibility in allocating program expenditures. This “greater flexibility” included abolishing a former requirement that at least part of the grant received be spent on child care. At the same time, the Child Care Tax Credit was expanded from 1977 to 1988 by a factor of more than 7.5. The Bush Administration sought to maintain this tax-based emphasis in order to enhance parental choice in child care and “help families without trying to run their lives.”

While the tax credit approach may be politically attractive—not being tied to federal grants it need not go through an appropriations battle each year and there is no limit on the number of families who can use it—it has several disturbing failings: First, it does nothing for low-income families who, incurring no tax liability, derive no benefit from a tax credit. This defect was somewhat amended by 1990 legislation allotting $7 billion in refundable tax credits; however, the refund is not tied to child care expenses and is restricted to families with children under the age of one. Second, because it does nothing to expand the number of care providers or to regulate quality, its principle rationale of enhancing parental choice is, for those who might otherwise receive some benefit from it, illusory. More-

68 Blau, ed, *The Economics of Child Care* at 18 (cited in note 38).
71 Robins, *Child Care Policy* at 27 n 8, 29 (cited in note 38).
72 The notion that a tax credit will “enhance parental choice” by increasing consumer purchasing power blithely assumes that supply will answer demand. Yet if there is a current lack of daycare options of sufficient quality, without government regulation a less-than-adequate refund may ‘force’ the purchase (and thus the supply) of poor quality providers. Further, there remains a large population who either cannot afford to pay for any service or, able to pay, are yet unable to locate accessible quality providers. These failings undermine the central rationale for the tax credit approach.
over, because the child care opted for under the plan need not be licensed, it tends to undercut efforts at state supply and regulation.73 Finally, because it is only a credit for money already spent, it does little to help lower-income families pay for child care up-front. Tax credits thus benefit primarily middle- and upper-income families. Indeed, without refundability, less than 1% of all tax-related child care benefits accrue to low-income families.74 And because low-income families were the chief beneficiaries of the curtailed expenditure-based programs, "there has been a decided shift in the distribution of child care benefits. Hence, although federal spending for child care has risen by almost 65% in constant dollar terms since 1977, virtually all the increased benefits have gone to middle- and upper-income families.75

The inequity of this growing discrepancy has not gone entirely unanswered by Congress. Head Start, the only federal program that directly supplies child care, remains popular and continues to receive support.76 In 1987 Congress amended Title XX to authorize an increase of $50 million for the program.77 An even more significant piece of legislation was the $3.3 billion Family Support Act of 1988 (FSA).78 This is a workfare package which amended the fifth major program in the federal government's potpourri of approaches to child care, Aid to Families with Dependent Children (AFDC), to include a Child Care Disregard measure. Under this legislation, welfare recipients are required to enroll in work or training programs—the JOBS program—as a condition of receiving benefits; once having so enrolled, the Act stipulates that child care services must be provided.79 The measure also provides up to twelve months of Transitional Child

74 Blau, ed, The Economics of Child Care at 18, n 3 (cited in note 38).
75 Id at 18.
76 In 1986, Head Start served approximately 430,000 children at a cost of $1 billion. However, 85% of its daycare services are only part-time and most are only half-day, an inconvenient arrangement for working parents. Moreover, it has never been able to serve more than 16-17% of eligible children and is not available to children under three at all. Reisman, 26 Harv J Leg at 490 (cited in note 11).
77 Comment, 6 J Contemp Health L & Policy at 255 (cited in note 19). This was in hopes of boosting the 14% quotient of the 3.4 million children under age six living in poverty then being reached. Id.
78 Pub L No 100-485, 102 State 2343 (1988).
79 AFDC legislation is promulgated at Social Security Act, 42 USC §§ 601 et seq.; JOBS legislation at 42 USC § 602(a)(19) and § 681 et seq. (Supp 1990); FSA child care guarantee legislation at 42 USC § 602(g)(1)(A)(i)(II) (Supp 1990). See also Robins, Child Care Policy at 27 (cited in note 38).
Child Care aid (TCC) to welfare recipients who leave AFDC as a consequence of finding employment.

Putting aside normative concerns over the general propriety of workfare schemes and arguable systemic problems within the overall AFDC program—such as perverse incentives against two-parent families and work—the Family Support Act appears promising in theory. In practice, however, it suffers from significant drawbacks: Many states have discovered that they must spend a great deal more than anticipated to provide the necessary child care to families enrolled in the JOBS program. As a consequence, states have actually sought to discourage or delay the entry of parents with young children into the JOBS program in order to cut child care costs. Consequently, instead of being preferred, teenage mothers, single parents and others most in need of an education/job training program are being further marginalized. Such unintended ramifications are prototypical of the pitfalls encountered when trying to build child care provision on the back of more generalized welfare or workfare programs—pitfalls which the invigoration of an independent child care system infrastructure could help to avoid.

The Transitional Child Care aspect of the program has also run into problems. Due to inadequate dissemination of information concerning its availability, the program has been grossly underutilized. The Congressional Budget Office had originally estimated that 280,000 children, or 36% of the population be-

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80 The amount of money committed to FSA was from the outset only enough to involve 10% of AFDC families. Michael Greenberg, Center for Law & Social Policy, at a seminar on welfare and child care at the University of Chicago (May 13, 1992) ("Greenberg Seminar").

81 Critical Issues: Family Support Act, Child Care April 1992, Child Care Action Campaign Newsletter 4 (Apr 1992). In the face of such efforts to curtail enrollment into JOBS programs, a California court held that under FSA a state must still provide child care to AFDC recipients not officially enrolled in JOBS yet otherwise eligible for child care due to their school or training status. Miller v Carlson, 768 F Supp 1331, 1336 (N D Cal 1991) (child care for all eligible individuals a requirement, not an option). More recently, the Illinois Department of Public Aid was successfully sued on the same grounds. See DuBose v Bradley, 1993 WL 50896 (N D Ill).

82 It is of note that, under FSA, states can require AFDC recipients with children older than one (or, at state option, three) to enroll in JOBS. Critical Issues: Family Support Act at 4 n 2 (cited in note 81). Given the shortage of funds for daycare and lack of any federal quality standards, such a requirement could foster the propagation of inadequate or minimally supported daycare facilities to which AFDC recipients of this class might then be required to send their children. Note also the particular bind single parents might then be placed in: to get AFDC benefits, they may have to enroll in JOBS, yet the daycare essential to such enrollment is not readily available. Thus, for the lack of sufficient daycare, their AFDC benefits could be put in jeopardy.
lieved eligible, would receive TCC each month beginning in 1991. However, no more than 46,000 children actually received the benefit in any month of that year. Indeed, not getting the word out on child care availability is a frequent failing of many “welfare-plus” programs and an inevitable by-product of so fragmented a delivery system. Eligible families may simply not know that certain programs entitle them to daycare, while those who do know often get little or no support in locating quality care.

A final noteworthy piece of legislation is the Omnibus Budget Reconciliation Act of 1990. Including the above noted $700 million dollars allocated to refundable tax credits, this legislation authorizes $22 billion in child care funds to be spent over a five year period: $2.5 billion distributed through a child care block grant, $5.2 billion for a child health tax credit, $1.5 billion in child care assistance to mothers on welfare, and $12.4 billion to an expansion of the Earned Income Tax Credit. While this Act does nothing to change the tax-based emphasis and fails to address the problem of fragmented delivery systems, it nonetheless represents a considerable outlay during a period in which the overall federal budget was to be trimmed by $492 billion. Yet, as one observer recently suggested, it is still but a patchwork, and such partial measures give rise to the fear that Congress, believing itself to have “addressed the issue,” will now be less moved to come to any substantive terms with child care in the near future.

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83 Id at 2.

84 A 1991 interview with one hundred women enrolled in New York’s BEGIN program found that not one of them had been informed about child care by her caseworker. Id. In Illinois, the likely experience of a participant in Project Chance was described as follows: “In Nancy’s case, in which everyone followed the procedures correctly, she still had to ask three different workers in two different agencies four different times for child care assistance. She had to fill out different forms certifying her provider’s legality three times, and she had to master four different monthly reporting mechanisms.” Day Care Action Council of Illinois, Exploring the Labyrinth II: Child Care and the Department of Public Aid 9 (Aug 1991). Services such as Illinois’ Child Care Resource and Referral system can be of significant help in combatting this lack of coordination. Id.

85 This Act was based in part upon the considerably more comprehensive, but never passed Act for Better Child Care Services. (ABC). Robins, Child Care Policy at 27 (cited in note 38).

86 Id. A problem associated with the block grants is the requirement of a voucher system attached to it. While purportedly a “choice enhancing” measure, it is undercutting state efforts to regulate daycare provision. Greenberg seminar (cited in note 80).

87 Robins, Child Care Policy at 27 (cited in note 38).

88 Greenberg seminar (cited in note 80).
C. A Critique

The foregoing highlights the piecemeal nature of the federal government’s current approach to child care assistance. Each program is administered by separate agencies, each developed under different rationales for different policy goals. Apart from the readily apparent coordination and efficiency problems inherent in such a fragmented scheme, there is also a sustained and disturbing tendency in the design of these delivery systems to segregate the lower-income classes from the middle- and upper-income classes. Far from mitigating these problems, the legislative changes of the past decade seem rather to have aggravated and compounded them, particularly the problem of segregation. The child care needs of the wealthier classes are being met in a reflexive fashion that both insulates and caters to their wealth; for these classes, daycare options may indeed multiply, with competition controlling costs and improving service. Meanwhile, the child care needs of the poorer classes are also being met reflexively—when responded to at all—by tacking on yet another service to an already overburdened and underfunded complex of welfare programs, thereby aggravating problems of both access and availability. The poor thus continue to be served as “the poor,” the wealthy as the wealthy, with never the twain—nor their children—to meet. The blatant racial component of such economic segregation need hardly be spelled out, and should be of urgent concern to policy makers.

Notwithstanding the segregative nature of current child care provisions, the growing need for child care is an integrated need, cutting across the economic spectrum. It would seem prudent therefore to answer this need in kind; that is, with an independently administered universal system of child care divorced from welfare programs aimed at the poor and operating under federally mandated standards of quality. This would have several important results: a) the problems of delivery fragmentation would be alleviated, b) the weight on an overburdened welfare system would be lessened, and c) the supply and demand shortfall might be remedied by standardizing quality and by bridging the inability of some to pay with the capacity of others to pay in full or at a premium (i.e., a sliding scale). In addition, a path to greater class and race integration would stand open.

Inevitably, the successful implementation of such a system will require a certain change in perspective. Instead of looking to child care as a means to either a work-enabling, gender-equalizing, or poverty-combatting end, we must come to view child care
as an end in itself. That is, our focus must be *child-centered*, with child care seen first and foremost as an essential investment in our children. In order to better understand what such a change in focus might look like, it will be useful at this juncture to briefly examine two other countries in which variations on this theme of universal child care have been implemented.

### III. Child Care Approaches in France and Sweden

Given that the social and demographic profile of each country is the unique product of its history, it is neither feasible nor advisable to seek direct application of one country’s child care experience to another. This is especially true given the tremendous size and heterogeneity of our own country which, with its endemic problems of race and class, make it unique among first-order industrialized nations. Nonetheless, comparative analysis can provide valuable perspective on our own child care quandaries and suggest resolutions otherwise unseen or thought unworkable. France and Sweden were selected for this exercise because their work-family policies are particularly well-developed and offer a comparatively impressive range of benefits. While their particular goals and premises may not translate directly to our needs, an examination of their respective approaches should help illustrate the importance of having both a well-articulated goal and a systematic policy designed to achieve that end.

#### A. Child Care and Family Support in France

The overall posture of France’s approach to accommodating the often conflicting demands of work and family has been effectively described as “woman-centered.” While issues of gender difference and dominance do not go unquestioned, this posture implies perhaps a more comfortable positive association with difference and a correspondingly less ready concern with discrimination. To become too deeply involved in restating gender roles or reforming the fundamental organization of work and family is not seen as a legitimate role for the state. As a result, French policy presumes and supports a unique caregiving role for

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90 Id at 328.

91 Id at 328, 329 n 69.
women as childbearers and mothers. The French approach to family support is largely a response to population losses wrought by war and, more recently, falling birth rates. Other social welfare concerns such as ensuring children of all classes a certain level of security or bringing women into the workplace play a secondary role to this central demographic concern. These origins may impose certain restraints on any reexamination of what is essentially a paternalistic, patriarchal vision (despite more recent gender-neutral terminology); nonetheless, current policy provides a comprehensive system of economic supports and child care which, while not driven by labor participation concerns, has proven admirably suited to meeting contemporary work-family needs wherein the participation of women in the labor market is popularly supported.

Key elements in the French family support system, in addition to child care provision, include liberal maternity benefits, parental leave, and a generous family allowance program. Maternal leave law (congé de maternité) provides all working mothers paid leave with job security during the last six weeks of pregnancy and up to ten weeks after childbirth; consistent with a "woman-centered" approach, fathers get only four days of paid leave. Derived from French society's perceived interest in facilitating the nurturance of new infants by their parents, leave under this program is financed through a payroll tax on all employers and is universally taken. More recent law also provides for "parent-education leave" (congé parentale d'éducation), which permits parents, upon request, an unpaid leave of absence (or, alternatively, an option of part-time employment) for up to two years after a child's birth or adoption. Employers with less than one hundred employees can be exempted from extending this benefit which so far has been taken by relatively few—principally mothers with children of special needs and wom-

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92 Id.
93 Id at 330.
94 Id at 331.
95 Gail Richardson and Elisabeth Marx, A Welcome for Every Child - How France Achieves Quality in Child Care: Practical Ideas for the United States 32 (The French-American Foundation, 1989). See also Dowd, 26 Harv J Leg at 333 (cited in note 89).
96 Richardson and Marx, A Welcome for Every Child at 32 (cited in note 95). Indeed, if a pregnant woman works during her 16 week leave period, her employer is subject to a penalty. Dowd, 26 Harv J Leg at 333 (cited in note 89).
97 Richardson and Marx, A Welcome for Every Child at 32 (cited in note 95).
en in lower-paying jobs.98

The family allowance program, established in the 1940s, was originally designed to enable women to stay at home and raise children.99 This salaire unique, along with certain tax relief indexed to family size, provided a base of economic support for all families in which one parent was employed.100 By the 1970s, the salaire unique had been replaced by a policy focused on low-income families, wherein the government allocated benefits regardless of whether the mother worked outside the home.101 These allowances reach approximately 25% of all families and are provided from five months prior to three months following the birth of each child.102 Special benefits for single parents have recently been made available to enable such parents to remain at home and care for their children.103 Reflecting France’s general pronatalist posture, a significant allowance is also paid to families with more than two children, one that doubles postnatal benefits and increases the tax break.104 An allowance is also provided for all children from birth to age two (or, on a needs basis, to age three) designed to help defray the cost of out-of-home or in-home care.105 This is provided whether one or both parents are employed and regardless of income.106 From age two, a formal child care system becomes available, and further allowance is less necessary.107

The French variably call the institutionalized out-of-home care of young children “programs of welcoming” (programmes d’accueil) and “programs of awakening” (programmes d’éveil).108 These terms reveal the inculcative and educative aspirations that

98 Id.
100 Id.
101 Id.
102 Dowd, 26 Harv J Leg at 333 (cited in note 89). A 32-month extension is available on a needs basis. These benefits may be used for any expense. Virtually all medical expenses related to childbirth are covered by national health insurance. Id.
103 David and Starzec, France at 84 (cited in note 99).
104 Id. Cheaper transport, access to museums, and other privileges are included. The third child is thus referred to as “le petit prince” in the allowance system. Dowd, 26 Harv J Leg at 332 (cited in note 89).
105 Dowd, 26 Harv J Leg at 333 n 90 (cited in note 89).
106 Id.
107 Id.
108 Richardson and Marx, A Welcome for Every Child at 12 (cited in note 95).
inform contemporary child care in France, distinguishing it from the simple guardianship role fulfilled by shelters for children of the working poor in the last century. The public policy mission of child care in France today embraces child health, development and preschool educational concerns, and government assistance is expected to make up for any shortfall in parents' private means. To further assure quality of care, the teachers and professional staff for these programs are systematically recruited, well-trained, assisted by general staff in physical care tasks, and recompensed at professional salary levels comparable to those for other jobs requiring similar credentials.

The French child care system has two basic components: daycare for infant-toddlers under age 3 (crèches) and preschool through age 7 (école maternelle). Écoles maternelles are universally available, serving nearly ninety percent of all children ages three to five. Dating from the late nineteenth century, they are centrally funded and administered, and provided at no direct cost to parents. Children may be enrolled on a full or part-time basis. Many preschools also offer "wrap-around" programs (services périscolaires), which provide add-on extensions to the normal day's schedule in order to accommodate parents' different working schedules with earlier drop-off or later pick-up times. The annual cost per preschool pupil is $2,100, of which nearly $1,890 is publicly funded. Parents pay the remaining $210 for "wrap-around" programs if needed.

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109 Id.
110 Id at 12, 23. In addition to the prospect of competitive salaries, training schools are subsidized and graduate students in early childhood and elementary education receive stipends. For training, all preschool teachers (institutrices) have the equivalent of a master's degree in childhood and elementary education; infant-toddler educators (éducatrices) have a degree approximately equivalent to two years of college in the United States plus a two-year professional course in early childhood education and child development. Infant nurses, having somewhat less pre-job training, care for no more than five infants and are trained and supervised on-site. Regarding staff-assistance in physical care tasks, preschool teachers have the half-time assistance of an aide who helps with dressing and cleaning. The preschool teachers also receive a two-hour midday break for lunch and class preparation while a special staff supervises the feeding and nap times of the children.

111 Dowd, 26 Harv J Leg at 334 (cited in note 89).
112 Richardson and Marx, A Welcome for Every Child at 12 (cited in note 95). Publicly subsidized private schools serve the remainder.
113 Dowd, 26 Harv J Leg at 334 (cited in note 89).
114 Id. Full-time is an 8-hour day with a 2-hour lunch break.
115 Richardson and Marx, A Welcome for Every Child at 18 (cited in note 95).
116 Id.
117 Id. These may extend from 7:30 A.M. to 6:00 P.M. They may also cover vacation or other free-time periods.
Unlike the centrally orchestrated preschools, crèches are administered and partially funded by local municipalities. There are two primary types of crèches: care centers (crèches collectives) and family day care networks (crèches familiales). The centers are housed at a single location, while the networks consist of a number of licensed home-based caregivers, all recruited, trained and supervised from a central hub. The cost per child annually runs $9,880 at the centers and $7,020 in the networks. Parents pay on a means-based sliding scale, with public agencies covering the remainder. Being more costly than preschool, crèches are often in short supply. Due to recent serious shortages, an innovative investment scheme co-financed primarily by family allowance funds and municipalities, but including also businesses, voluntary organizations and other local groups, was developed in the mid-1980s called contrats-enfance. This new contract arrangement, lasting from three to five years and covering both full-time care for children under age three as well as temporary care up to age six, yielded an increase in crèche places from fewer than 35,000 in 1970 to 150,000 in 1988. In that approximately 770,000 out of a total of 2,205,000 children under age 3 in 1986 were receiving some form of non-parental child care, a shortage remains despite the frequent practice of limiting enrollment to children of working mothers. The gap is made up primarily through independent licensed family day care providers (assistantes maternelles), part-time care (haltes garderies), parental participation care (crèches parentales), unauthorized family day care, and grandparents.

As indicated above, France apportions the administration of its extensive child care array among national, regional and municipal agencies. The Ministry of Solidarity, Health, and Social

118 Id at 14-15. Dowd, 26 Harv J Leg at 334 (cited in note 89). Although crèches are locally run, national standards govern the child-adult ratios therein. Richardson and Marx, A Welcome for Every Child at 18 (cited in note 95).
119 Richardson and Marx, A Welcome for Every Child at 18 (cited in note 95).
120 Id.
121 Id at 19.
122 Id. Typically, the annual fee for one child is set around 14% of the parents' yearly income. The poorest families thus pay $195 while the wealthiest pay up to $4,725 a year for one child. (Fees for additional children at centers are lower.)
123 Dowd, 26 Harv J Leg at 334 (cited in note 89).
124 David and Sarzec, France at 99 (cited in note 99).
125 Id at 99-100.
126 Id at 97-98.
127 Id at 98.
Protection (Ministère de la Solidarité, de la Santé et de la Protection Sociale), through its Children's Bureau, sponsors public education and promotes legislation designed to further child care aims. The preschools, considered an integral part of the public educational system, are overseen by the Ministry of National Education (Ministère de l'Education Nationale). Also at the national level, the National Family Allowance Fund (Caisse Nationale des Allocations Familiales) subsidizes the various forms of crèche child care by supporting municipalities with care centers and parents who use licensed family daycare networks. In addition to initiating and administering all publicly sponsored crèches, municipal governments (municipalités) also administer the "wrap-around" programs at given preschools. Lastly, the Maternal and Infant Protection Service (Protection Maternelle et Infantile) operates from ninety-six administratively autonomous regional centers—one for each département—offering a range of preventative health care services to child care programs and individual children alike.

Altogether, France spends $7.12 billion annually on publicly sponsored child care and education—approximately $130 per capita. Of this sum, national agencies cover 39% ($2.78 billion) raised mainly through value-added sales taxes, and 5% ($0.37 billion) raised through payroll taxes on employers. Municipalities cover 36% ($2.56 billion) raised mostly from local land taxes. Parental spending out of family incomes makes up the remaining 20% ($1.4 billion). By comparison, the United States, with more than four times as many children under six years old (20.9 million versus 5.1 million) and nearly 10% more mothers in the workforce (55% versus 46%), allocates approximately $16 billion per year to child care, more than 26% of which is in the form of federal tax credits. Thus, to approach

128 Richardson and Marx, A Welcome for Every Child at 15 (cited in note 95).
129 Id.
130 Id.
131 Id.
132 Id.
133 Id. This includes the $5 per capita spent on preventative maternal and infant health care services associated with child care programs but does not include the cost of parental leave.
134 Id.
135 Id.
136 Id.
137 Id at 13, 16. See also text accompanying notes 54-88 discussing Section II, B on current U.S. spending on child care.
France's commitment to child care and associated health services, we would have to nearly triple present public expenditures.\textsuperscript{138}

B. Child Care and Family Support in Sweden

In contrast to France's woman-centered pronatalist approach, Sweden's work-family policy is marked by gender neutral aspirations and designed primarily to promote the participation of women in the workforce.\textsuperscript{139} Stemming from labor shortages in the 1960s, the impetus for a shift in gender roles no doubt followed from a need to bring women into the labor market.\textsuperscript{140} Yet Sweden's strong socialist tradition of class equality had also readied the ground for gender equality.\textsuperscript{141} Again in contrast to France, this same socialist tradition looked naturally to Government to lead the way in reshaping public preconceptions and encouraging fathers to become more involved in child care.\textsuperscript{142} Women now participate in the labor market at basically the same rate as men (80%), although nearly half work only part-time and job segregation by sex remains more entrenched than in the U.S., both between and within occupations.\textsuperscript{143}

Like France, Sweden has an impressive range of family-support benefits which, in addition to an extensive child care system, includes family allowances, pregnancy benefits, parental leave, caring allowances, parental insurance, and tax credits.\textsuperscript{144} The tax system is distinctive and is seen as a critical factor in family earning and labor participation patterns.\textsuperscript{145} In line with a gender-neutral vision in which each adult should be non-dependant, the Swedish tax has shifted from a family-based to an individual-based system.\textsuperscript{146} By taxing individuals separately rather than

\textsuperscript{138} Id at 15. Population figures are from 1985. Also of note here is a comparison between per capita incomes—U.S. $16,494 (1985), France $9,251 (1985), and per capita taxes—U.S. $5130 (1985), France $4,487 (1985). Id.

\textsuperscript{139} Dowd, 26 Harv J Leg at 316-18 (cited in note 89).

\textsuperscript{140} Id at 318.

\textsuperscript{141} Id at 318-19.

\textsuperscript{142} Id.

\textsuperscript{143} Id at 319. With women already participating in the labor market at such a high rate, there was some concern regarding Sweden's ability to meet its future labor market demands. In such event, employing more women full-time would be a likely response, thereby perhaps further eroding occupational sex segregation. More recently, however, Sweden's economy has experienced a considerable slow-down, quieting fears of impending labor shortage.

\textsuperscript{144} Id at 319-20.

\textsuperscript{145} Id at 322.

\textsuperscript{146} Id.
"stacking" family income, families reap full benefit from each additional income, thereby further encouraging women to work. Sweden's treatment of single parents reflects not only the vision of each adult as non-dependant, but also a general governmental commitment to provide all children with adequate support, regardless of family form. In addition to the usual benefit package, single parents receive a special tax break, a larger family allowance, and are preferred for child care and housing.

The parental insurance system, another significant component, compensates parents who stay at home to care for a child for any consequent loss of income. The core benefit covers a 450-day period: for the first 360 days, parents can receive up to 90% of their normal income; for the last ninety days, they are entitled to a stipend of approximately $10 per day (SEK 60). The parental benefit also covers fathers for a ten day leave of absence upon the birth of a child, even if the mother is simultaneously receiving her own parental benefit for the same child. Should a woman have a second child before the first is 2 1/2 years old, the system provides her the same benefit she received based upon her full-time income prior to the birth of the first baby, even if she had only worked part-time between the two births. The parental insurance system also compensates for loss of income when parents stay at home to care for a sick child for up to sixty days per year per child age twelve and under. For each child between the ages of four and twelve, parents are entitled to an additional two days off per year to participate in various child education related programs.

Child care services in Sweden take a number of forms, each administered by municipal authority under central standards. Preschool (förskola) is the umbrella term for day care centers,

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147 Id at 322-23.
148 Id at 323.
149 Revealing perhaps a general bias toward two-parent families, this economic package is limited so as not to make single-parenthood too economically desirable, and, unlike in France, every effort is made in Sweden to ensure that the single parent can go to work. Id at 323.
150 Child Care in Sweden, Fact Sheets on Sweden 1 (The Swedish Institute, May 1992). Payment of the benefit may be deferred until the child's eighth birthday. SEK 1 (Swedish krona) here equals approximately USD 0.17.
151 Id.
152 Id.
153 Id.
154 Id.
part-time groups and open preschools. Day care centers (daghem) take children ages one through six whose parents are working or studying as well as children in need of extra developmental support. The average center handles a total of sixty to seventy children divided into four sections. The sections usually contain mixed-age groups, it being considered desirable for a child to develop among children of different ages. The centers are open weekdays year-round, typically from 6:30 A.M. to 6:00 P.M. Part-time groups (deltidsgrupper) serve children ages four to six, are generally smaller (twenty children on average), track the school year schedule, and meet usually for three hours, either in the morning or afternoon. Open preschools (open förskola) are available for preschool children unable to obtain regular preschool placement; children may attend several times a week, in the company of a parent or other family care giver.

Another major system is called family day care (familjedaghem), wherein the municipality employs childminders (dagbarnevårdare) to care for children ages one through twelve in the caregiver’s own home. Standards and guidelines for this care, such as the recommended number of children to be registered per childminder (typically no more than four, in addition to the minder’s own children), are promulgated by the National Board of Health and Welfare (Socialstyrelsen). Additionally, leisure time centers (fritidshem) are available before or after school hours and during school holidays for older children aged seven through twelve whose parents work.

The Ministry of Health and Social Affairs (Socialdepartementet) formulates child care law and other proposals at the national level for consideration by the Swedish Parliament (Riksdagen). The National Board of Health and Welfare, in conjunction with county administrations, supervises preschools.
and other child care provision throughout the country. As indicated above, primary responsibility for the daily operation of each public child care unit rests with the respective municipalities. In 1987, pedagogic programs were developed for preschools, followed by the introduction of similar such programs in 1988 for leisure time centers. Thus, like the French approach to child care, institutionalized Swedish child care now seeks to incorporate both an educative and a culturally inculcative mission beyond simple child minding. To this end, preschool and leisure time center instructors must have at least two-and-a-half years of university training. By contrast, child minders in the family day care system need take only a one hundred hour introductory course. Responsibility for any further training lies with each municipality and can vary considerably.

Public child care in Sweden is funded by the state, the municipalities, and parental fees. Parental fees cover an average of 10% to 15% of the costs of the major forms of care, indexed to family size, income, and single-parent status. Using funds from general taxes, the state and municipalities contribute nearly equally for day care centers; for family day care, the state subsidizes only 23%, the municipalities 62%; for leisure time centers, the breakdown is 31% and 59%, respectively; for part-time groups, for which parents do not pay, the state picks up 17%, municipalities pay the remainder.

The Social Democrats, in power for fifty-three of the last fifty-nine years until their ouster in September 1991, had made the provision of public child care a high priority since the late 1960s. With the aid of large government subsidies, the child care facilities provided by the 286 Swedish municipalities quadrupled in the 1970s and, by 1988, could thus accommodate 48% of all children from birth to age six and 33% of children from ages seven to ten. Given the extended parental leave ar-

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166 Id.
167 Id at 3.
168 Id.
169 Id.
170 Id.
171 Id at 2.
172 Id.
173 Id.
rangements described above, however, only 2% of children under age one used these facilities in 1987. Consequently, a full 69% of children aged one to six had access to public child care. (Compulsory education begins at age seven.) In 1989 there was an estimated shortage of 50,000 places in daycare centers and 5,000 places in family day care—approximately 8% of the 1988 birth-to-six population (750,000). Single and special needs parents are preferred; otherwise the waiting list is prioritized according to date of birth. To date, parents remain the largest single source of child care in Sweden: As of 1991, 36% of the birth-to-six population were in the care of their parents, including working couples taking turns and mothers providing care for other people’s children as well as their own. Other forms of private child care—relatives, au pairs, or private daycare centers—make up the gap.

In 1991, responding to stubborn inflation and a stagnant economy, Sweden (still under the Social Democrats) exchanged one of the world’s highest rate tax systems for an approach not unlike that taken under the Tax Reform Act of 1986 in the United States, that is, lowering tax rates and expanding the tax base. What impact these changes, along with the recent election of a new non-socialist coalition government (which won on a platform of pared-down public sector spending and further tax reduction) will have on Swedish child care is a story only now unfolding. The basic family policy of the new government aims to

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any Western country, the percentage of Swedish children aged 3 months to 6 years in public child care remained 48%—with 71% of these in day care. Childcare in Sweden at 1, 2 (cited in note 150).

175 Sundstrom, Sweden at 183. (cited in note 174).

176 Id.

177 Id. Although children are currently required to begin school at age seven, Parliament recently passed a resolution requiring all municipalities by 1997 to offer parents the option of enrolling their children at age six. This may further expand the availability of public child care openings. Child Care in Sweden at 1 (cited in note 150).

178 Sundstrom, Sweden at 184 (cited in note 174).

179 Id at 184-185. In 1985, Parliament resolved to expand public daycare to make space available by 1992 to all children over 18 months with working or in-school parents. The recent baby boom has made this an elusive goal.

180 Child Care in Sweden at 2 (cited in note 150).

181 Sundstrom, Sweden at 184 (cited in note 174). Use of private daycare centers, often run as parent cooperatives, declined from 20% in 1980 to 10% in 1988.

182 Hans Zahlander, Sweden Reduces Taxes While Nearly Doubling Its Tax Base, 3 J Intl Taxation 2 (Jul/Aug 1992). While the top marginal tax on individuals dropped from 75% to 51% and corporate tax rates were also adjusted downward (in rough, from 52% to 30%), the tax base was broadened and the value added tax increased from 19% to 20% in an effort to maintain revenue.
give parents of infant children more freedom to make child care arrangements of their own choosing. To this end, impediments to private forms of child care may be relaxed and future child care grants tied more closely to parental preference—including perhaps giving direct financial support to parents. Among the more prominent proposals in this regard is for an individual child allowance of $3,000 to $6,000 per year designed to enable mothers to stay at home or choose private childminders. These allowances would be a break from past approaches in which no financial support or tax-break was given to one-income families who opted for private child care arrangements. Such new allowances would likely be financed in part by cuts in public daycare subsidies, which currently cost approximately $10,000 per child per year.

IV. THE SEARCH FOR A UNIFIED CHILD CARE THEOREM

A. Policy Objectives and Investment Rationales

The need for some form of government involvement in child care provision is no longer the hotly debated issue it once was. Even such a one-time opponent as Senator Orrin Hatch (R-Utah) recently noted that unless child care is addressed, we risk putting “a developmental, intellectual and emotional mortgage on the next generation of Americans.” Still, this recent consensus of recognition of the problem faces several substantial obstacles to action. First, as detailed earlier, there is the persistent muddy confusion of policy objectives, ranging from those who see child care only as a necessary welfare issue, a stop-gap measure for working poor or single parents, to those who see it simply as a necessary part of the answer to gender-equity concerns. In looking abroad for inspiration, France’s pro-natalist/women-centered posture, while instructive, appears inapposite to our needs. Between the baby-boom and immigration, we do not want for children in this country; moreover, an explicit woman-centered approach may run counter to many of our current gender-equalizing

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153 Child Care in Sweden at 2 (cited in note 150).
156 Id.
aspirations. And while Swedish child care provision may offer more pertinent underpinnings in this latter regard, to the extent it is driven by labor shortage concerns, it too fails to address our immediate needs. Yet there are core policy objectives for child care at work in both France and Sweden which are directly applicable to this country and which argue in favor of the broad, systematic approaches taken there. Simply put, these objectives are: to promote the health, education, and well-being of children, to enhance the employability and economic security of parents—mothers particularly—and, concomitantly, to bolster the economic health and productivity of our nation. In addition to these ends, there is the objective described earlier which is of particular concern to our more pluralistic society: the use of child care provision as a means to bridge racial and economic social stratification. This last not only mandates a universal approach to daycare, it is by definition entirely incompatible with the fragmented approach under which we are currently floundering.

To best achieve all of these aims, we must adopt a pronounced child-centered vision of our child care policy. Recognizing children as a prevailing common interest will help both prioritize and meet competing concerns. By adequately caring for children, not only might we ensure greater employability of parents, we will also raise a better trained and integrated new generation of workers leading to a strengthened nation on both accounts. Further, by drawing on a more positive picture of this type of social welfare as "inevitable, sustainable, and essential to the development of a free democratic society," we would highlight the investment nature of its cost, and so deflect more negative characterizations of child care as yet another "curative" ex-

Note however that with the aging of the baby-boom population, projections suggest that by the year 2000 the United States will experience the lowest labor force growth rate since the 1930s. See Kennedy, 26 Harv J Leg at 392 (cited in note 38). Furthermore, sheer numbers are not the only concern: the more our economy turns to high-technology, the more education will become a factor in measuring the available workforce. Regarding this concern, see text accompanying notes 195-96 discussing education in child care.

See Hayes, Palmer, and Zaslow, eds, Who Cares for America's Children? at 12-13 (cited in note 28). Of course, so simplistic a breakdown imports certain normative assumptions, and doesn't begin to address any of the particulars that will inform policy, such as: what the appropriate level of care might be, what are the costs/benefits, who decides, who pays/subsidizes, and so on. Such questions cannot be answered absent detailed empirical research beyond the scope of this paper.

This view was propounded by Professor Evelyn Brodkin in a 1992 class on "Perspectives on Social Welfare" taught at the University of Chicago in the Social Service Administration Department, and especially warranted in light of the overwhelming demographics which compel such a response.
pense such as are associated with “failed” welfare programs of the past. Additionally, this vision immediately deemphasizes any economic or employment considerations and thus, conceptually at least, begins to bridge the class divisions upon which our current approaches are built—not least by diffusing any stigmatization associated with child care.\footnote{This would also avoid the pitfall of some current welfare-related schemes which create perverse incentives against family participation by a potential breadwinning (male) partner, lest the benefits be cut.}

In this regard, the French conceptions of child care as “programs of welcoming” or “programs of awakening” are especially worthy of emulation. Given that preschool years are so key to a child’s development, a successful child-centered approach to child care would naturally incorporate an explicit pedagogic component beyond mere babysitting.\footnote{Notwithstanding the considerable policy conflict over child care in this country, we have presumably come a considerable way from \textit{Los Angeles County v Kirk}, 148 Cal 385, 388, 83 P 250, 251 (1905), in which the California Supreme Court held that “the work contemplated by such a system [of kindergarten classes for four- and five-year-olds] is purely preliminary to, and entirely different in character from the ordinary work of the common school.” See Liebman, 26 Harv J Leg at 362 n 15 (cited in note 51) suggesting the court thus viewed children at that age as only playing, not learning. In any event, contemporary research leaves little doubt that children benefit significantly from early education and family support. See, for example, Kennedy, 26 Harv J Leg at 393-96 (cited in note 38).}

Furthermore, child care framed in this way as part of the education system might offer an institutional advantage beyond the obvious developmental benefits for children. A more programmatic role for childminders would call for more specialized training, which in turn should command better compensation in line with other professionals having similar credentials, through comparable worth legislation, if necessary. By thus raising the value placed upon such work, we might perhaps help resolve the current acute shortage and turnover in trained caregivers.\footnote{American child care centers, themselves in short supply, turn over 40% of their staff each year, while family daycare has a turnover rate of nearly 60%. Richardson and Marx, \textit{A Welcome for Every Child} at 11 (cited in note 95).}

At the same time, we should consider adopting some of the recruitment and training support methods described earlier as used in France.

As has been seen, Sweden has recently made significant strides in developing the educative aspect of its child care; nor is this country wholly a stranger to such efforts. Indeed, the failed 1971 Comprehensive Preschool and Education and Child Day Care Act offered a blueprint for such an approach.\footnote{For more recent incarnations of the 1971 Act, see, for example, the Act for Better}
cently, Senator Kennedy's 1989 Smart Start proposal sought a nationwide commitment to adopting an educational program for preschoolers, while Head Start offers in part a contemporary working micro-model for such a program. Of course, to add a pedagogic component to universal child care, whether through a program like Smart Start or an adequately expanded Head Start (i.e., extending it to children under age three and adapting it to better accommodate the schedule of working parents) would require considerable funding. In order to ensure and maintain the requisite broad base of economic support, therefore, it is essential that the program be designed for all children—not simply a bare-boned, means-tested escape hatch for the poor who have no other options, but of sufficient quality to attract the middle and upper classes as well.

Under the current staggering deficit, doubtless such legislation will be difficult to pass. Still, the Clinton administration was elected on a platform of infrastructural investment and change, and it is precisely the investment nature of the program that this child-centered view, with its explicit educational component, emphasizes. And, as great as the cost of such a project will be, we must weigh it against the price of waiting while working parents struggle to meet irreconcilable demands and our children languish. A social policy such as ours that tolerates so little investment and so much deprivation during these crucial years of a child's development, if not morally bankrupt, is certainly economically so: Each year's dropouts cost society an estimated $240 billion in lost earnings and lost taxes over their lifetimes; research indicates that preschool education can cut current dropout rates by a third, and save taxpayers $33,800 in later welfare

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197 It is also worth noting that the wealth needed to pay for child care will be better generated where more women are able to work.

198 It is, after all, the perceived return on investment that helps keep Head Start so popular.
costs for every $4800 invested in a child's early education. The French experience, at triple our own investment in child care, provides further evidence on this score: National census data show a direct correlation across all socio-economic backgrounds between pre-school attendance and the rates at which children pass the first grade, a good indicator of later school success. Additionally, the disparity in rates of passage between children of parents in white-collar professional occupations and those of unskilled laborers or the unemployed narrows considerably given three years of preschool. This last statistic should be of particular interest in this country where, as indicated earlier, children are the largest and fastest growing age segment of the poor—especially those under six in female-headed households.

B. Infrastructural Roles For Business and Government

Notwithstanding nascent consensus regarding the need for some government involvement in daycare, there persists in this country a wide-spread and deep mistrust of the type of “social engineering” so readily used in Sweden to resolve what are here perceived as private family issues. This ranges from Nixonian fears of "communal institutionalization," to administrative nightmares of federally sponsored child care echoing failed patterns of the postal or public school systems, to basic concerns for preserving a way of life wherein "government policies should not induce parents into the work force and away from the care of their own children." Yet between the word "induce" and words like "enable," there is a world-view of difference, and the scope of the demographic trends described earlier argue overwhelmingly for the currency of the latter. Like it or not, the need for in-

199 See Kennedy, 26 Harv J Leg at 401 (cited in note 38).
200 Richardson and Marx, A Welcome for Every Child at 22 (cited in note 95).
201 Id. The first-grade-repeat rate for children of executives/professionals drops from 11.6% after one year of preschool to 8.0% after three years; for children of unskilled workers, farmers, and the unemployed, the rate drops from 41.4% to 32.6%, thus narrowing the gap after three years of preschool by approximately 25%. As virtually all French children attend preschool, no comparison to children without any preschool is available.
202 See text accompanying notes 17-18. See also Dowd, 32 Ariz L Rev at 431 n 162 (cited in note 40).
203 Thomas J. Tauke, Choice—The Essential Component of Family Legislation, 26 Harv J Leg 465, 468 (1989). One can identify herein a deeper unwillingness to let go of traditional male-dominated nuclear family patterns in which child care remains a wifely preserve.
204 In this vein, it has been effectively argued that our society makes an overly rigid
creased child care provision is upon us. As former Secretary of Labor William Brock observed, "it is incredible that we have seen the feminization of the work force with no more adaption than we have had. . . . [Child care] is a problem of sufficient magnitude that everybody is going to have to play a role: families, individuals, businesses and the government."205

What role then might businesses play? As detailed earlier, we are well past the time when most families had one full-time wage-earner and one full-time homemaker. The erstwhile homemaker is today an inextricable part of the out-of-home workforce. Nevertheless, businesses continue to operate largely as though workers had no familial responsibilities beyond purely economic ones, and so offer minimal support to working caregivers.206 This puts work and family at odds, and, as noted, families are not the only losers: absenteeism due to lack of adequate child care is costing the nation's employers $3 billion a year.207 Yet, as we have also seen, in a soft economy business has insufficient incentive to address the broad public need for daycare through private action.208

To address this, we might adapt from the French contrats enfance arrangement and require larger businesses to cooperate with local government in the provision of child care facilities—either on-site or on a commuter route—or, alternatively, impose a payroll tax to the same end. Given the greater size, het-

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205 Comment, 6 J Contemp Health L & Policy at 257 (cited in note 19).
206 The usual package of work-related benefits offers little aid to employees with family care responsibilities. Unemployment, social security, worker's compensation and other mandatory benefits cover only those work interruptions due to age, injury or job unavailability. Thus, while women suffer from higher unemployment rates than men, they receive fewer compensating benefits. See Dowd, 32 Ariz L Rev at 474 (cited in note 40). The recent Family Leave Act does little to rectify this situation, for unlike its French and Swedish counterparts, it secures only unpaid leave. This offers little benefit to those with marginal incomes for whom it remains imperative that time away from work be minimized and yet can ill-afford to hire any other assistance. Id.
207 Kennedy, 26 Harv J Leg at 392 (cited in note 38).
208 See text accompanying notes 38-40, noting the public goods aspect of the problem wherein, short of government intervention, the private market fails to supply a societal need despite inefficiency of such market failure.
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erogeneity, and problems of segregation in this country, it would particularly behoove us to encourage businesses to provide on-site care as against, for example, contributing financially to the maintenance of neighborhood centers. Such a strategy would not only help combat the otherwise inevitable disparities in care one would expect to develop in our largely segregated communities, it would also enable more effective integration among the children of the different classes of employees at each business. Additionally, such an arrangement would conserve on the time necessary for parents to deliver and pick up their children, as well as perhaps make feasible some parent-child contact during the working day (e.g., during lunch break). By thus physically integrating child care provision with the workplace, on-site child care might also a) facilitate reframing our notion of a full-time worker to better reflect the whole person, that is, one with perceptible non-work related responsibilities, b) underscore the reality that work and family are interconnected and, ideally, non-competitive concerns, and c) facilitate redefining caregiving work as a proper component of economic productivity, one therefore that should be properly recompensed. In any event, unlike the fruits of social security taxes already weighing on businesses, adequate child care provision would immediately inure to business' benefit through greater worker productivity. At the same time, it would serve both to create and attract a wider and thus more competitive pool of workers, including the approximately two hundred thousand mothers of young children each month currently unable to accept work due to lack of satisfactory child care. By way of a more long-term return, it would also help to ensure a better-trained future generation of workers.

Beyond requiring this of businesses, what role should the government play? We noted earlier the illusory component in the “choice-enhancing” tax-credit emphasis of the government’s current approach. While such tax measures may succeed in Sweden, they translate poorly to American child care not only because of the more pronounced class/race inequities present here, but also because Sweden already has in place an extensive, government supported and regulated child care system to which the taxpayer's “choices” may be applied. Moreover, if one accepts that government implemented and regulated daycare is likely to yield

209 For further discussion of the general desirability of these ends, see Dowd, 32 Ariz L Rev at 491-93 (cited in note 40).
210 Kennedy, 26 Harv J Leg at 392 (cited in note 38).
more accessible options to lower-income groups than would an unregulated market-fostered approach, the former should result in greater use of daycare than would direct consumer subsidies that cost the same amount. Government therefore should discontinue the indirect subsidy approach and begin to oversee and coordinate the establishment of a universal child care infrastructure. And, given the earlier noted ill-effects inherent in attempts to "piggyback" daycare provision on the back of already overstrained welfare systems, such an infrastructure should be administered independently of welfare concerns. Accordingly, packages like the Family Support Act of 1988 wherein the child's care is tied to the parent fulfilling certain AFDC work or training requirements should be discarded as unwarrantedly punishing children for the perceived sins of the parent. Basic eligibility should be determined principally according to the child's age; parents might then pay a component of the cost on a sliding scale, with a certain portion of government funds targeted for the poor to ensure that they are served at least in proportion to their number.211

In addition to on-site daycare provision by private business, our child care infrastructure could include independent facilities akin to French and Swedish preschools, or family day care networks. What is key is that government be engaged in the promulgation of minimum standards and licensing to ensure that basic pedagogic goals are met, and in the coordination of funding from across the economic spectrum to ensure both adequacy of provision and effective class integration. To this end, federal funding—matched to required state and local spending—might be conditioned on compliance with federal standards, but used to encourage investment at the state and local level. This scheme would allow both for the incorporation of already extant child care programs and for a system better-tailored to diverse local

211 See Liebman, 26 Hary J Leg at 384 (cited in note 51) noting a similar approach taken under the Older Americans Act.
CONCLUSION

The foregoing is intended not as a detailed design for implementation, but as an articulation of a pressing need, a focus on the appropriate policy response, and an argument for present investment therein. Modern economic and social trends have created an increasing and generalized need for daycare. At the same time, the feminization of poverty with its burgeoning element of single mother households has tended to make the most recent approaches to daycare a segregative exercise, allowing the "free market" to answer the needs of the wealthier classes, while linking daycare provision for the poor to encumbered welfare systems. Instead, the universality of the need should be emphasized to support implementation of a universal, administratively independent system of child care. This will a) help focus an investment oriented child-centered vision of daycare; b) head off the fragmentation and inefficiency of current delivery systems; c) support availability and uniform licensed levels of care by spreading the economic burden across the economic spectrum; and d) help defeat the stigmatization and segregation of the poor. Such an approach to child care would not only incorporate some of the more desirable policy aims of the European models such as gender equality, labor participation, availability and quality, it would also help to diffuse the especial American problems of class and race by deemphasizing their relevance to the structural provision of daycare. Child care may thus serve not only its prima facie functions of alleviating the increasing burdens on working women or would-be working women, poor and non-poor alike, and of delivering high-quality care and education to our children, but perhaps also function as a bridge, softening and integrating the extremes of the social, racial, and economic stratification that so beset our society.

212 See, generally, Kennedy, 26 Harv J Leg 391 (cited in note 38). For a useful survey offering further detail and variations on possible legislative approaches, see the discussion of the ABC and CDEA bills in Comment, 6 J Contemp Health L & Pol at 258-75 (cited in note 19).