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**Welfare Reform and Economic Freedom:  
Low-Income Mothers' Decisions About Work at Home  
and in the Market**

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**DRAFT**

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## **Abstract**

While many working professional mothers have the opportunity to “opt out” of the workforce, poor women do not. The primary goal of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) is to move mothers from welfare to the paid workforce. Welfare reform eliminated the federal guarantee of a basic income support for all families and replaced it with Temporary Assistance to Needy Families (TANF), a state-run program combining work requirements and sanctions for nonconforming behavior. This article examines the impact of welfare reform on low-income women’s ability to make decisions about caregiving and paid employment, which the author calls “economic freedom.” Roberts provides a historical context by exploring both welfare policy and feminist theorizing on mothers’ work at home and in the market. She suggests as an alternative approach the welfare rights movement’s rejection of the care/work dichotomy and its advocacy of poor mothers’ freedom to choose between the two. Roberts demonstrates how welfare reform denies economic freedom to low-income women, and how welfare reform’s incentives are lopsided: They devalue and penalize poor mothers’ care work. She concludes that poor mothers require a guaranteed income, education, and subsidized child care to achieve their economic freedom.

Welfare Reform and Economic Freedom:  
Low-Income Mothers' Decisions About Work at Home and in the Market

Dorothy E. Roberts<sup>1</sup>

I. INTRODUCTION

In October 2003, the *New York Times Magazine* featured an article about high-powered women who have opted out of the workplace to become full-time moms. The cover showed a woman and toddler sitting on the ground together in front of a ladder reaching beyond the cover's frame. The caption read, "Q: Why Don't More Women Get to the Top? A: They Choose Not To – Abandoning the Climb and Heading Home."<sup>2</sup> Author Lisa Belkin reported that a growing number of professional women with advanced degrees are choosing to leave prestigious jobs to care for their children at home. Despite voluminous literature on the obstacles to career advancement that mothers face,<sup>3</sup> Belkin argued that "It's not just the workplace that has failed women. It is also that women are rejecting the workplace."<sup>4</sup>

If there is an "opt-out revolution" fomenting among professional women, it is not one to which poor mothers have been invited. The primary goal of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) is to move mothers from welfare to the paid workforce.<sup>5</sup> Welfare reform eliminated the federal

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<sup>2</sup> Lisa Belkin, *The Opt-Out Revolution*, N.Y. TIMES, Oct. 26, 2003, section 6 (magazine), at 42.

<sup>3</sup> See, e.g., JOAN C. WILLIAMS, UNBENDING GENDER; SYLVIA ANN HEWLETT, CREATING A LIFE; ANN CRITTENDEN, THE PRICE OF MOTHERHOOD: WHY THE MOST IMPORTANT JOB IN THE WORLD IS STILL THE LEAST VALUED (2001).

<sup>4</sup> Belkin, *supra* note 2, at 44.

<sup>5</sup> See Personal Responsibility and Work Opportunity Reconciliation Act § 402(a)(2) (codified at 42 U.S.C. § 601) (stating that one purpose of the Act is to "end the dependence of needy parents on government

guarantee of a basic income support for all families and replaced it with Temporary Assistance to Needy Families (TANF), a state-run program combining work requirements and sanctions for nonconforming behavior.<sup>6</sup> The central message of welfare reform is that recipient mothers are deviant for staying home and would better serve their children by finding jobs.<sup>7</sup> PRWORA does not give mothers a choice; the law mandates that recipients find paid employment or risk sanctions<sup>8</sup> and imposes a twenty-four month limit, and five-year lifetime maximum, on receipt of benefits.<sup>9</sup>

Nor have feminists always advocated for poor mothers' freedom to choose between home and market. Welfare reform has been framed in popular discourse and feminist scholarship as a debate over whether it is better for government to support women's caregiving or women's participation in the labor market. Most attempts to resolve this tension address difficulties working mothers face in balancing the demands of full-time employment and caring for children. Although the work-family conflict experienced by mothers of all socio-economic levels is well-documented, less attention has been paid to the freedom of mothers to decide whether or not to work full time.

This article examines the impact of welfare reform on low-income women's ability to make decisions about caregiving and paid employment. I will call this ability women's "economic freedom," recognizing that both caregiving and paid employment have economic value and affect women's economic welfare. Part II provides a historical

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benefits by promoting job preparation, work, and marriage"). *See also* Ladonna Pavetti & Nancy Wemmerus, *From a Welfare Check to a Paycheck: Creating a New Social Contract*, 20 J. LAB. RES. 517 (1999) (discussing ways in which PRWORA ensures that state TANF programs emphasize employment, including requiring states to meet increasing work participation rates).

<sup>6</sup> *See* Personal Responsibility and Work Opportunity Reconciliation Act §§ 101-116 (codified as amended at 42 U.S.C. §§ 601-617, 619).

<sup>7</sup> *See infra* notes \_\_\_ - \_\_\_ and accompanying text.

<sup>8</sup> 42 U.S.C. § 607 (e); *see also* Pavetti & Wemmerus, *supra* note 5, at 520-21 (discussing sanctions for noncompliance with welfare rules).

<sup>9</sup> 42 U.S.C. §§ 602 (a)(1)(A)(ii), 608 (a)(7).

context by exploring both welfare policy and feminist theorizing on mothers' work at home and in the market. I discuss how the welfare system has shifted since its inception from supporting single mothers' care for their children to pushing mothers into the workforce. I also discuss the parallel tension between feminist approaches to women's economic equality that emphasize increasing mothers' workforce participation versus those that advocate state support for caregiving. I suggest as an alternative approach the welfare rights movement's rejection of the care/work dichotomy and its advocacy of poor mothers' freedom to choose between the two.

Part III demonstrates how welfare reform denies economic freedom to low-income women. Although the PRWORA facilitated recipients' entry into the paid workforce, it fails to provide the resources mothers need to care properly for their children and to earn a livable income at the same time.<sup>10</sup> Moreover, welfare reform's incentives are lopsided: they devalue and penalize poor mothers' care work. Finally, Part IV considers the resources low-income mothers need to make decisions about working at home or in the market. A guaranteed income, education, and subsidized child care are critical means for mothers to have economic freedom.

## II. THE HISTORICAL AND THEORETICAL BACKGROUND

Welfare reform's treatment of recipients' care for their children and participation in the paid workforce developed against the backdrop of a century of social policy and feminist debates addressing women's relationship to the home and the market. Both welfare programs and feminist theorizing have tended to frame these aspects of women's

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<sup>10</sup> See Karen Syma Czapanskiy, *Parents, Children, and Work-First Welfare Reform: Where is the C in TANF?*, 61 MD. L. REV. 308, 335 (2002); notes \_\_\_ - \_\_\_ *infra* and accompanying text.

economic welfare in dichotomous terms, pitting mothers' role as unpaid caregivers against their role as paid workers.

#### A. Welfare Policy

The goal of welfare policy has shifted radically between encouraging most poor mothers to stay home and pushing them into paid employment. Maternalist legislation enacted during the Progressive Era laid the groundwork for the modern federal welfare system and shaped the terms of the debate about state support for mothering that still resonate in welfare policy discussions today.<sup>11</sup> A network of elite women reformers successfully exploited the ideology of motherhood to win public support for unmarried and widowed mothers living in poverty. The logic that propelled welfare legislation then was precisely the opposite of today's welfare reform philosophy: widowed and single mothers needed government aid so that they would not have to relinquish their maternal duties in the home to join the workforce.

A defining aspect of this welfare vision, however, was the social control of poor immigrant families and the neglect of Black women.<sup>12</sup> Worried about urban immigrants' threat to the social order, the elite women reformers treated welfare as a means of supervising and disciplining recipients as much as a means of providing charity. They feared that welfare that was too generous might provide an incentive for state dependency, moral degeneracy, and family breakdown. The first maternalist welfare programs, moreover, were intended for white mothers only; administrators either failed to

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<sup>11</sup> See LINDA GORDON, *PITIED BUT NOT ENTITLED: SINGLE MOTHER AND THE HISTORY OF WELFARE* (1994).

<sup>12</sup> *Id.* at 304; GWENDOLYN MINK, *THE WAGES OF MOTHERHOOD: INEQUALITY IN THE WELFARE STATE, 1917-1942*, at 3-120 (1995).

establish programs in location with large Black populations or distributed benefits according to standards, such as suitable home tests, that disqualified Black mothers.<sup>13</sup>

The New Deal's establishment of a federal welfare system preserved discrimination against Black mothers. In the 1960s, the welfare rights movement secured federal entitlements to welfare benefits, dramatically changing the demographics of the welfare rolls. But as welfare became increasingly associated with Black mothers, it became increasingly burdened with behavior modification rules, work requirements, and reduced effective benefits levels.<sup>14</sup> By the mid-1990s, the American public equated welfare with Black female degeneracy and supported the elimination of the federal entitlement along with the mandate that recipients find paid employment.

The original conception of welfare did not promote mothers' economic freedom. From the outset, these programs were grossly inadequate to meet the needs of female-headed families.<sup>15</sup> Historian Linda Gordon traces the programs' stinginess to women reformers' adherence to a patriarchal family norm that relied on husbands to be the breadwinner. The crusaders who created welfare for single mothers were guided by a faith in the "family wage" and in mothers' economic dependence on men.<sup>16</sup> They believed in the prevailing sexual division of labor that "prescribes earnings as the sole responsibility of husbands and unpaid domestic labor as the only proper long-term occupation for women."<sup>17</sup> They therefore advocated a living wage for each family that

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<sup>13</sup> GORDON, *supra* note 11, at 48; MIMI ABRAMOVITZ, REGULATING THE LIVES OF WWOMEN: SOCIAL WELFARE POLICY FROM COLONIAL TIMES TO THE PRESENT 201 (1988).

<sup>14</sup> MINK, *supra* note 12, at \_\_\_\_.

<sup>15</sup> GORDON, *supra* note 11, at 61-62.

<sup>16</sup> *Id.* at 51-54.

<sup>17</sup> *Id.* at 53.

enabled the husband to support a dependent, service-providing wife, rather than programs that would facilitate female independence.<sup>18</sup>

The New Deal reinforced this gender norm by instituting a stratified and unequal structure for public assistance that provided support for caregiving women and for working men through separate programs.<sup>19</sup> Social insurance (Social Security and unemployment insurance) provided a dignified entitlement to primarily white, male wage earners and their wives; Aid to Dependent Children (ADC) doled out humiliating relief to poor single mothers. ADC's inferiority was enhanced by its provision of aid exclusively to the child, defeating the position that mothers' aid compensated women's work in the home and service to society as a principle of entitlement.<sup>20</sup> While rejecting this potentially radical construction of women's caregiving as work, the New Deal welfare system incorporated the most restrictive aspects of the earlier reformers' view—the reliance on male wages to meet the needs of families and the moral supervision of recipients of poor relief.

Whereas the federal government has imposed mandatory work programs on single welfare recipients for decades,<sup>21</sup> it has expected affluent, married mothers to stay home to care for their children. In her textual analysis of child care policy debates in the late 1980s, Katherine Teghtsoonian found that conservative opponents of the Act for Better Child Care Services (the ABC bill), which extended public support for out-of-home child care, “articulated a strongly held belief that full-time care by mothers is the best

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<sup>18</sup> *Id.* at 51-54.

<sup>19</sup> *Id.* at 253-85.

<sup>20</sup> *Id.* at 282.

<sup>21</sup> See NANCY E. ROSE, *WORKFARE OR FAIR WORK: WOMEN, WELFARE, AND GOVERNMENT WORK PROGRAMS* (1995).



arrangement for children and that government policy ought to be facilitating it.”<sup>22</sup> These congressmen, however, excluded mothers receiving AFDC benefits from their support of full-time caregiving, prescribing instead “mandatory labor force participation, with their children placed in out-of-home care contexts while they work.”<sup>23</sup> Because child care is viewed as a service for needy mothers rather than a universal social program, it has failed to attract adequate state support.<sup>24</sup>

Welfare policy at the turn of the twenty-first century has come full circle. Contemporary welfare reform rhetoric and law resurrects the early twentieth-century anxiety about single motherhood as well as the promotion of mothers’ economic dependence on husbands. A primary mission of welfare reform is to promote marriage as a means of reducing poverty and providing stable homes for poor children. The PRWORA declares that “marriage is the foundation of a successful society” and “an essential social institution which promotes the interests of children and society at large.”<sup>25</sup> A list of “the negative consequences of an out-of-wedlock birth on a child, the mother, and society,” as well as measures designed to penalize unwed mothers and their children, follows.<sup>26</sup>

The thesis that marriage will reduce poverty puts the cart before the horse. Research shows that economic security produces stable marriages, not that marriage itself secures women’s economic welfare. There is a positive association between earning

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<sup>22</sup> Katherine Teghtsoonian, *The Work of Caring for Children: Contradictory Themes in American Child Care Policy Debates*, 17 *WOMEN & POLITICS* 77, \_\_\_ (1997).

<sup>23</sup> *Id.* at \_\_\_.

<sup>24</sup> *Id.* at \_\_\_; SONYA MICHEL, *CHILDREN’S INTERESTS/MOTHERS’ RIGHTS: THE SHAPING OF AMERICA’S CHILD CARE POLICY* (1999).

<sup>25</sup> 42 U.S.C. § 601.

<sup>26</sup> 42 U.S.C. § 601.

power and marriage: increasing people's income increases their chances of marrying.<sup>27</sup>

State and federal marriage promotion programs are unlikely to have much effect without providing better-paying jobs for recipients and their potential marriage partners.

### B. Feminist Theorizing on Caregiving and Paid Work

The question whether welfare should aid mothers' caregiving or encourage mothers to transition to paid employment arises in a larger debate within feminist thinking about women's economic welfare. Is the path to gender equality to be found in supporting women's work at home or work in the market? The most popular feminist approach has emphasized the importance of women's labor market equality, while a growing feminist discourse advocates greater state support for women's caregiving at home.<sup>28</sup> In the context of welfare reform, this conflict centers on which kind of support is most beneficial for mothers who cannot rely on a husband's income.

The dominant feminist approach has advocated women's economic liberation by escaping their confinement to the domestic sphere and participating in the paid labor market on equal terms with men. The early women's movement abandoned claims to joint rights in marital property based on the value of wives' work in the home to campaign for earnings statutes that recognized wives' rights to wages.<sup>29</sup> "In the years after the Civil War," writes legal historian Reva Siegel, "feminists began to disparage the

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<sup>27</sup> See Theodora Ooms, Center for Law and Social Policy, Marriage-Plus (2002), available at [www.clasp.org/DMS/Documents/1023290035.07/marriage-plus.pdf](http://www.clasp.org/DMS/Documents/1023290035.07/marriage-plus.pdf).

<sup>28</sup> This debate parallels "the clash between two social ideals: the ideal-worker norm on the job, and the norm of parental care at home." Joan Williams, *Our Economy of Mothers and Others: Women and Economics Revisited*, 5 J. GENDER, RACE & JUSTICE 411, 417 (2002). For a fascinating discussion of the impact of ideologies regarding the value given to women's paid and unpaid work on welfare policy in England and France, see Joya Misra, *Mothers or Workers? The Value of Women's Labor: Women and the Emergence of Family Allowance Policy*, 12 GENDER & SOC. 376 (1998). Misra argues that the interaction between women's movements and these gender ideologies determines the "woman-friendliness" of the resulting policy. *Id.* at 380.

<sup>29</sup> Reva B. Siegel, *Home as Work: The First Women's Rights Claims Concerning Wives' Household Labor, 1850-1880*, 103 YALE L.J. 1073 (1994).

household labor they originally sought to emancipate and to argue that women could achieve economic equality with men only by working outside the home for a market wage like men.”<sup>30</sup>

Feminist legal scholar Joan Williams traces this focus on labor market participation from Charlotte Perkins Gilman’s *Women and Economics* to Betty Friedan’s *The Feminine Mystique*.<sup>31</sup> Professor Williams observes, “[f]eminism today is still associated with an insistence on employment for women with day care centers as the solution for the conflict between work and family demands.”<sup>32</sup> The key to economic equality, in other words, is for women to achieve the same workforce participation as men while delegating household chores and child care to professional workers.

Williams argues that this “full-commodification” model is flawed by accepting three basic elements of the housewife/breadwinner dichotomy: the model accepts “the ideal of a worker who starts to work in early adulthood and works for forty years straight, taking no time off for child-bearing or child rearing;” the notion that household labor is not “work;” and “the privatized theory that reproductive work is a private responsibility and not a public necessity.”<sup>33</sup> All of these assumptions negate experiences of women who continue to perform the bulk of child care and devalue their caregiving work.

Advocacy of waged work as the principal means for women’s emancipation also disregards the experiences of most women of color. First, the notion that employment is inherently liberating contradicts slave women’s experience of forced labor and the discriminatory working conditions that minority women have historically faced. The

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<sup>30</sup> *Id.* at 1079.

<sup>31</sup> *Id.* at 412-13; *see also* JOAN WILLIAMS, UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT (2000).

<sup>32</sup> Williams, *supra* note 28, at 413.

<sup>33</sup> *Id.*

market-centered approach tends to focus on a romanticized middle-class quest for entrance into elite professions, rather than on the women who are exploited as a source of cheap labor.<sup>34</sup> Black women historically experienced work outside the home primarily as an aspect of racial subordination and the home primarily as a site of solace and resistance to white oppression.<sup>35</sup>

Moreover, the flawed components of the feminist model Williams identified were supported by exploiting race and class hierarchies among women. Privileged women have resolved the tension between raising children and paid employment without changing the sexual status quo by relying on the low-paid domestic work of less privileged women, especially women of color.<sup>36</sup> The racial division of domestic service grounded in the institution of slavery persisted in the face of women's expanded participation in the paid workforce and the increased commodification of household chores in the second half of the twentieth century.<sup>37</sup> Thus, women's increased participation in the market alone will not eliminate the racial division of women's work.

In contrast to the market-centered approach, a growing feminist jurisprudence centers on theorizing care work and advocates greater recognition and support for women's caregiving.<sup>38</sup> An earlier feminist account of care characterized it as a

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<sup>34</sup> BELL HOOKS, *AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM* 146 (1981).

<sup>35</sup> PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* (1990); ELIZABETH V. SPELMAN, *INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT* 123, 132 (1988). See generally JACQUELINE JONES, *LABOR OF LOVE, LABOR OF SORROW: BLACK WOMEN, WORK AND THE FAMILY FROM SLAVERY TO THE PRESENT* (1985).

<sup>36</sup> See WILLIAMS, *supra* note 31, at 145-76; Dorothy E. Roberts, *Spiritual and Menial Housework*, *YALE J.L. & FEMINISM* 51 (1997); Mary Romero, *Unraveling Privilege: Workers' Children and the Hidden Costs of Paid Childcare*, 76 *CHI.-KENT L. REV.* 1651 (2001).

<sup>37</sup> See Evelyn Nakano Glen, *Cleaning Up/Kept Down: A Historical Perspective on Racial Inequality in "Women's Work"*, 43 *STAN. L. REV.* 1333 (1991).

<sup>38</sup> See, e.g., WILLIAMS, *supra* note 31; JOAN C. TRONTO, *MORAL BOUNDARIES: A POLITICAL ARGUMENT FOR AN ETHIC OF CARE* (1994); MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY, AND OTHER TWENTIETH-CENTURY TRAGEDIES* (1995); EVA FEDER KITTAY, *LOVE'S LABOR: ESSAYS ON WOMEN, EQUALITY, AND DEPENDENCY* (1999); MONA HARRINGTON, *CARE AND EQUALITY:*

manifestation of women's sex-specific nature.<sup>39</sup> The more recent approach does not see care as essential "emanation" from women, but as a socially constructed and political practice that provides tremendous social value and whose lack of social support seriously disadvantages women.<sup>40</sup>

The pathbreaking work of feminist legal theorist Martha Albertson Fineman powerfully contests the premise that women's caregiving is a private duty rather than a public good.<sup>41</sup> Fineman critiques the nuclear-family norm for leaving women with the burden of caregiving while denying them adequate government support. Assigning the care of children to the traditional private family, Fineman argues, merely obscures the inevitability and costs of children's dependency.<sup>42</sup>

While Fineman stresses society's responsibility to aid individuals in their care of dependents, Williams highlights the need to eliminate the ideal worker norm in market work and family entitlements that discriminates against mothers. Although most mothers now engage in wage labor, they continue to do the bulk of household work. Williams shows that this gender system forces mothers to marginalize themselves economically by failing to perform as ideal workers so that they can facilitate their husbands' performance of that role and care for their children.<sup>43</sup>

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INVENTING A NEW FAMILY POLITICS (1999); NANCY FOLBRE, *THE INVISIBLE HEART: ECONOMICS AND FAMILY VALUES* (2001). See generally *Symposium on The Structures of Care Work* 76 CHI.-KENT L. REV. 1389 (2001).

<sup>39</sup> Kathryn Abrams, *The Second Coming of Care*, 76 CHI.-KENT L. REV. 1605, 1607 (2001). See, e.g., CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982).

<sup>40</sup> Abrams, *supra* note 39, at 1612.

<sup>41</sup> MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* (1995); Martha Fineman, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, 8 AM. U. J. GENDER SOC. POL'Y & L. 13 (2000).

<sup>42</sup> *Id.* at 163. Joan Williams notes that fathers can perform as ideal workers only by depending on child care and other family work performed by their female partners. Williams, *supra* note 28, at 418. Recognizing mothers' contribution to male wages "flips the traditional understanding of who is dependent on whom." *Id.* at 419.

<sup>43</sup> WILLIAMS, *supra* note 31.

A clash has recently emerged between feminist legal scholars who emphasize the importance of women's equal participation in the paid workforce and those who emphasize the importance of state support for women's caregiving.<sup>44</sup> Critics of the caregiving scholarship worry that directing public support to mothers' caregiving reifies the gendered division of labor and women's traditional role in the home,<sup>45</sup> reinforces a maternalist norm that stifles a positive concept of female sexuality,<sup>46</sup> subjects family arrangements to state regulation,<sup>47</sup> and unfairly shifts the costs of child raising to workers without children.<sup>48</sup> As a practical matter, some critics argue that facilitating women's caregiving is less effective at achieving gender equality than challenging barriers in the

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<sup>44</sup> See Williams, *supra* note 28, at 430 (noting that “[t]here seems to be a controversy brewing within feminist jurisprudence over which of these approaches [to domesticity and market work] is best”). Joan Williams characterizes this controversy as a recycling of the sameness/difference debate: “Feminists committed to making traditionally masculine gender performances available to women [the ‘tomboy strategy’] are pitted against feminists committed to decreasing the costs of conventionally feminine gender performances [the ‘femme strategy’].” Joan Williams, “*It’s Snowing Down South*”: *How To Help Mothers and Avoid Recycling the Sameness/Difference Debate*, 102 COLUM. L. REV. 812, 815 (2002). An illustration is the exchange in Columbia Law Review between Vickie Shultz, who advocates basing women’s identity primarily on paid work, and Joan Williams, who advocates changing workplace conditions and norms to reflect women’s identity as mothers. See Vicki Schultz, *Life’s Work*, 100 COLUM. L. REV. 1881 (2000); Williams, “*It’s Snowing Down South*,” *supra*; see also Michael Selmi, *Care, Work, and the Road to Equality: A Commentary on Fineman and Williams*, 76 CHI.-KENT L. REV. 1557 (2001) (disagreeing with the claim by Martha Fineman and Joan Williams that “facilitating women’s work in the home with children and other dependents [is] a way of furthering women’s interests”).

<sup>45</sup> See Schultz, *supra* note 44, at 1905-06; Michael Selmi & Naomi Cahn, *Caretaking and the Contradictions of Contemporary Policy*, 55 ME. L. REV. 289, 290 (2003) (arguing that proposals facilitating women’s caregiving “would likely have a serious negative effect on the quest for greater equality for women, particularly in the workplace, and they are likely to produce a replay of the debate over ‘difference’ feminism from the 1980s by identifying women as caretakers and by appearing to accept gendered differences”).

<sup>46</sup> See Katherine M. Franke, *Theorizing Yes: An Essay on Feminism, Law, and Desire*, 101 COLUM. L. REV. 181, 183-198 (2001).

<sup>47</sup> See Katherine M. Franke, *Taking Care*, 76 CHI.-KENT L. REV. 1541 (2001); Martha M. Ertman, *Changing the Meaning of Motherhood*, 76 CHI.-KENT L. REV. 1733 (2001).

<sup>48</sup> Mary Anne Case, *How High the Apple Pie? A Few Troubling Questions about Where, Why, and How the Burden of Care for Children Should Be Shifted*, 76 CHI.-KENT L. REV. 1733 (2001). For a comprehensive response to Katherine Franke and Mary Ann Case, see Mary Becker, *Care and Feminists*, 17 WIS. WOMEN’S L.J. 57 (2002).

workplace “so that women can make greater economic inroads on a level that will provide them with greater real choices than currently exist.”<sup>49</sup>

One response to this controversy is to recognize that feminists can do both.<sup>50</sup> There is room for feminists of both persuasions to work simultaneously on compensating mothers’ caregiving while removing barriers to women’s equal participation in the market. Poor single mothers, especially nonwhite women, are disadvantaged by both the stigma attached to their caregiving and by barriers to finding employment that can support their families. They benefit from efforts that address both forms of disadvantage.

Reconciling the two positions is more difficult, however, when scholars see public support for caregiving as necessarily opposed to women’s increased labor market participation. Michael Selmi and Naomi Cahn, for example, contend that “emphasizing the importance of care work to women, and its status as a public good, suggests that women do, and should, privilege care work over their paid market work.”<sup>51</sup> Proposals to place greater social value on caregiving, they conclude, “would likely have a serious negative effect on the quest for greater equality for women, particularly in the workplace.”<sup>52</sup> Pitting public support for caregiving against women’s increased equality discounts the extra devaluation of poor and

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<sup>49</sup> Selmi, *supra* note 44, at 1558; *see also* Selmi & Cahn, *supra* note 45, at 297-306.

<sup>50</sup> *See* Williams, *supra* note 28, at 430-31; Selmi & Cahn, *supra* note 45, at 291 (“[W]e argue that in addition to stressing the importance of caretaking, the left should focus on other issues that affect women’s equality, such as education, the timing and length of the school calendar, and continued workplace discrimination.”); *see also* Williams, “*It’s Snowing Down South*,” *supra* note 44, at 816-817 (noting that “[f]eminism is a loose coalition of many women who are dissatisfied with traditional gender constraints for a variety of reasons”). *Cf.* Deborah Rhode, *Balanced Lives*, 102 COLUM. L. REV. 834 (2002) (arguing for “a reconstruction of public policies, workplace structures, and cultural values to promote balanced lives for both men and women”). Deborah Rhode argues that the goal of feminists should be “a fuller integration of employment, family, and civic commitments than is now possible in most workplaces.” *Id.* at 835.

<sup>51</sup> Selmi & Cahn, *supra* note 45, at 306.

<sup>52</sup> *Id.* at 290.

minority women's work in the home and the importance of public recognition of its economic value to challenge their disadvantaged status.

Another way of rejecting the dichotomous thinking that characterizes work/caregiving debates is to enable low-income mothers to make their own decisions about whether and when to work inside and outside the home. In other words, feminists should be concerned with increasing low-income women's economic freedom. The goal of economic freedom corresponds with the aims of the welfare rights movement, comprised mainly of poor Black mothers receiving AFDC, that fought to expand access to welfare in the 1960s and 1970s.<sup>53</sup> These mothers advocated a right to public assistance both as compensation for their labor in the home and as a means to allow them to make the same choices about caregiving and paid employment that middle-class women made.<sup>54</sup> In short, "[r]ather than prescribing that women either enter the workforce or stay home with children, choose to marry or reject marriage, welfare activists demanded that women have the power to define their own lives."<sup>55</sup>

Far from reinforcing women's traditional role in the home, advocating women's economic freedom promotes women's autonomy to make decisions about what is best for themselves and their children. Thus, I do not think that the charge made by Selmi and Cahn, that proposals to support care work "appear to be targeted more at benefiting dependents rather than women," applies to the economic freedom approach.<sup>56</sup>

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<sup>53</sup> See Premilla Nadasen, *Expanding the Boundaries of the Women's Movement: Black Feminism and the Struggle for Welfare Rights*, 28 FEMINIST STUDIES 271 (2002); Felicia Kornbluh, *The Goals of the National Welfare Rights Movement: Why We Need Them Thirty Years Later*, 24 FEMINIST STUDIES 65 (1998).

<sup>54</sup> Nadasen, *supra* note 53, at 279.

<sup>55</sup> Nadasen, *supra* note 53, at 273.

<sup>56</sup> Selmi & Cahn, *supra* note 45, at 306; see also Gwendolyn Mink, *The Lady and the Tramp (II): Feminist Welfare Politics, Poor Single Mothers, and the Challenge of Welfare Justice*, 24 FEMINIST STUDIES 55, 59 (1998) ("We should not think of welfare as a subsidy for dependence but as insurance for the rights that comprise independence.").



### III. THE IMPACT OF WELFARE REFORM ON ECONOMIC FREEDOM

In a sense, welfare reform increased the resources needed for poor mothers to enter the workforce. Some scholars criticized Aid to Families with Dependent Children for making it financially foolhardy for poor mothers to leave the welfare rolls because they lost needed services for their children which they could not afford on low-wage jobs. Welfare reform attempts to reverse the incentive structure to make it more economically feasible for poor mothers to go to work. As Sarah Ramsey points out, “the PRWORA did substantially reduce work disincentives that were present in AFDC, including providing more generous access to Medicaid and childcare subsidies.”<sup>57</sup> States have implemented programs that allow families to keep varying amounts of their earned income without reducing their TANF grant, making their wages more valuable.<sup>58</sup> The PRWORA also provides for training programs, job counseling, and other services to improve welfare recipients’ employment skills. “Overall,” Professor Ramsey concludes, “TANF recipients benefit more from employment than did AFDC recipients.”<sup>59</sup>

Moreover, many welfare-recipient mothers have responded enthusiastically to new programs that facilitate their entry into the paid workforce.<sup>60</sup> Every respondent in my own qualitative study of Illinois parents receiving TANF expressed a preference for earning an income.<sup>61</sup> The mothers who were not employed at the time of the interview

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<sup>57</sup> Sarah H. Ramsey, *Children in Poverty: Reconciling Children’s Interests with Child Protective and Welfare Policies: A Response to Ward Doran and Roberts*, 61 MD. L. REV. 437, 447 (2002).

<sup>58</sup> See NORMA B. COE ET AL., THE URBAN INSTITUTE, DOES WORK PAY? A SUMMARY OF THE WORK INCENTIVES UNDER TANF 3 (1998).

<sup>59</sup> Ramsey, *supra* note 57, at 448.

<sup>60</sup> Czapanskiy, *supra* note 10, at 332.

<sup>61</sup> See Morgan B. Ward Doran & Dorothy E. Roberts, *Welfare Reform and Families in the Child Welfare System*, 61 MD. L. REV. 386, 426 (2002), discussing findings from Morgan B. Ward Doran & Dorothy E. Roberts, *The Impact of Welfare Reform on Families Involved in Child Protective Services: Parents’*

wanted education and training to get a job.<sup>62</sup> Those who were already working wanted a better job with higher pay.<sup>63</sup> The interviewed parents preferred paid employment not only for its financial benefits but also as a means to transition into the legitimate world.<sup>64</sup> Respondents equated paid work with normalcy. “And then I would see other people working and, you know, doing stuff like *normal* people do,” Angela, a thirty-four-year-old African American single mother explained. “And I wanted to be a normal, productive member of society just like them.”<sup>65</sup>

The reduction in work disincentives should not be interpreted as an increase in mothers’ freedom to transition between home and the market. Indeed, the philosophy underlying welfare reform and the key features of welfare-to-work programs create tensions between caregiving and paid employment. Welfare reform does not create the conditions necessary to enable poor single mothers to transition successfully from full-time caregiving at home to paid work. There is a difference between removing disincentives to paid employment and making paid employment a viable means of supporting a family. Welfare reform fails to offer a realistic opportunity to earn a livable income both because it does too little to improve single mothers’ earning capacity and, more fundamentally, because its goal is not single mothers’ economic independence. In

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Perceptions and Experiences (2001). The purpose of this study, conducted with Northwestern University law student Morgan Ward Doran, was to investigate the experiences of families who both received welfare and experienced involvement with the child welfare system – so-called “dual system families.” We conducted in-depth, face-to-face interviews with a subset of sixteen dual-system parents drawn from the larger pool of families participating in the Illinois Families Study (IFS), a longitudinal panel study that tracks a random sample of 1400 Illinois families who received welfare benefits in 1998 for a six-year period. See DAN LEWIS ET AL., UNIVERSITY CONSORTIUM ON WELFARE REFORM, WORK, WELFARE, AND WELL-BEING: AN INDEPENDENT LOOK AT WELFARE REFORM IN ILLINOIS (2000). Our goal was to examine the impact of welfare reform on the experiences of families in the IFS who are also involved with the Illinois Department of Children and Family Services.

<sup>62</sup> *Id.* at 426-27.

<sup>63</sup> *Id.* at 426.

<sup>64</sup> *Id.* at 427.

<sup>65</sup> *Id.*

addition, welfare reform denies poor mothers' economic freedom because it devalues and penalizes their care work.

A. Increasing the Tension Between Caregiving and Low-Wage Work

i. *Earning a Liveable Wage*

Sociologists Kathryn Edin and Laura Lein demonstrated in their 1997 book *Making Ends Meet: How Single Mothers Survive on Welfare and Low-Wage Work* that before the passage of the 1996 law, it was impossible for mothers to provide adequately for their children on a welfare check.<sup>66</sup> They reported that poor mothers use welfare benefits to supplement low wages and other sources of income and to tide them over during bouts of unemployment. "Neither welfare nor work provided enough income for families to live on," Edin and Lein concluded.<sup>67</sup> Research conducted after welfare reform shows that the type of work attainable by many welfare recipients cannot raise their families above the poverty line.<sup>68</sup> Although eighty percent of the women who voluntarily leave welfare find employment,<sup>69</sup> these jobs tend to be in the same types of industries, and with the same level of pay, as poor and low-income mothers.<sup>70</sup> Involuntary welfare "leavers"—those who reach time-limits or are sanctioned—are even more likely to face

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<sup>66</sup> KATHRYN EDIN & LAURA LEIN, *MAKING ENDS MEET: HOW SINGLE MOTHERS SURVIVE ON WELFARE AND LOW-WAGE WORK* (1997).

<sup>67</sup> *Id.* at 6.

<sup>68</sup> Sandra Danziger et al., *Work, Income, and Material Hardship After Welfare Reform*, 34 J. CONSUMER AFF. 6, 7 (2000); Mary Corcoran et al., *How Welfare Reform in Affecting Women's Work*, ANNUAL REV. OF SOCIOLOGY 241 (2000); Randy Albelda, *Fallacies of Welfare-to-Work Policies* in LOST GROUND: WELFARE REFORM, POVERTY, AND BEYOND \_\_\_ (Randy Albelda & Ann Withorn eds. 2002) ("Average income levels of the families leaving welfare are still at or near poverty levels."); Nancy K. Cauthen & Hsien-Hen Lu, National Center for Children in Poverty, *Employment Alone is Not Enough for America's Low-Income Families* 7 (2003), available at [http://www.nccp.org/pub\\_lat03a.html](http://www.nccp.org/pub_lat03a.html) ("[L]ow wage work, by itself, is generally insufficient to move families to an income level that brings economic self-sufficiency.").

<sup>69</sup> SARAH BRAUNER & PAMELA LOPREST, THE URBAN INSTITUTE, *WHERE ARE THEY NOW? WHAT STATES' STUDIES OF PEOPLE WHO LEFT WELFARE TELL US* 8 (1999).

<sup>70</sup> PAMELA LOPREST, THE URBAN INSTITUTE, *FAMILIES WHO LEFT WELFARE: WHO ARE THEY AND HOW ARE THEY DOING* 10-13 (1999).

financial disaster. Only about fifty percent of the women forced to exit welfare find a job.<sup>71</sup>

Moreover, low-income families lose eligibility for key public benefits as their incomes grow.<sup>72</sup> Families often lose eligibility for child care subsidies and Medicaid before they earn enough to pay for these services. The denial of benefits depletes the family's income that must now stretch to cover the lost services and makes it more difficult for mothers to care for their children while keeping a job. Thus, although the parents in my study viewed paid employment as desirable, they also worried that earning income would affect their cash benefits, Food Stamps, and medical coverage.<sup>73</sup> Despite its benefits, joining the labor force had serious costs that made it difficult to provide food and medical care to their children.

In addition, the benefits that accrue to employment, such as Social Security, unemployment insurance, and workers compensation, are best for workers at the opposite end of the labor market.<sup>74</sup> As Mary O'Connell notes, "[t]he greatest security belongs to those whose attachment to paid work is lengthy, uninterrupted, and highly remunerative."<sup>75</sup> Most mothers, especially those transitioning from welfare to low-wage jobs, cannot meet the work pattern requirements for the most generous social entitlements. Most states, for example, have limited or no protections for workers who

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<sup>71</sup> BRAUNER & LOPREST, *supra* note 69, at 5, tbl. 5 (showing employment rates for people who were forced off welfare in Iowa, Tennessee, and Michigan); *id.* at 8.

<sup>72</sup> Cauthen & Lu, *supra* note 68, at 7.

<sup>73</sup> Ward Doran & Roberts, *supra* note 61, at 427.

<sup>74</sup> Mary E. O'Connell, *On the Fringe: Rethinking the Link Between Wages and Benefits*, 67 TUL. L. REV. 1421, 1423 (1993); Lucy A. Williams, *Unemployment Insurance and Low Wage Work*, in HARD LABOR 158 (Joel F. Handler & Lucie White eds. 1999).

<sup>75</sup> O'Connell, *supra* note 74, at 1423.

leave their jobs for compelling family reasons or because of employers' family-hostile policies.<sup>76</sup>

The work-family conflict that low-wage workers experience is more acute than the commonly reported trade-offs that professional women make in juggling the demands of their busy careers with raising children. The jobs available to low-skilled women, with few benefits, irregular hours, and little time off, are the least compatible with mothering.<sup>77</sup> Low-skilled jobs at the bottom end of the labor market offer little flexibility in scheduling work hours and often require non-standard or irregular hours. They give workers no power to negotiate time away from the workplace to attend important family events or take care of family emergencies. "As currently implemented, the welfare-to-work solution is a match made in hell," economist Randy Albelda observes.<sup>78</sup>

It joins together poor mothers with few resources whose family responsibilities require employment flexibility with jobs in the low-wage labor market that often are the most inflexible, have the least family-necessary benefits (vacation time, health care, sick days) and provide levels of pay that often are insufficient to support a single person, let alone a family.<sup>79</sup>

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<sup>76</sup> See Karen Syma Czapanskiy, \_\_\_\_\_, 44 SANTA CLARA L. REV. \_\_\_\_, \_\_\_\_ (2004).

<sup>77</sup> *Id.* at \_\_\_\_\_. For a history and economic analysis of unemployment insurance, as well as critique of proposals to liberalize eligibility as a means for progressive wealth distribution, see Gillian Lester, *Unemployment Insurance and Wealth Distribution*, 49 UCLA L. REV. 335 (2001).

<sup>78</sup> Albelda, *supra* note 68, at \_\_\_\_\_. The proposed TANF reauthorization bill, moreover, increases the number of hours recipients are required to work outside the home. Parents of school-aged children are currently required to work outside the home 30 hours per week and those with children under the age of six for 20 hours per week. The bill passed by the House of Representatives in February 2003 increases the work requirement for all recipients to 40 hours. H.R. 4, The Personal Responsibility, Work, and Family Promotion Act of 2003 (2003).

<sup>79</sup> *Id.* at \_\_\_\_\_.

Meanwhile most of the progress in workplace accommodations for caregiving has occurred in professional, white collar offices for the benefit of middle-class and affluent women with vastly greater child care resources than welfare recipients.<sup>80</sup>

These rigid working conditions are especially onerous for welfare recipients because they are much more likely than others to have children with chronic health problems.<sup>81</sup> Working, moreover, can interfere with keeping their children out of danger—“off the streets, off drugs, out of gangs, not pregnant, and in school.”<sup>82</sup> “Because virtually all the women we interviewed were at least as concerned with parenting as with providing,” Kathryn Edin and Laura Lein explain, “many chose not to work for a time.” Thus, while favoring paid employment, poor and low-income mothers may make the well-considered decision to stay home for the benefit of their children.

#### ii. *Subsidized Child Care*

Lack of access to high-quality, affordable child care is one of the chief barriers to transitioning from welfare to work.<sup>83</sup> Numerous studies have documented the association between the availability of child care and single mothers’ employment.<sup>84</sup> Although mothers with low child care costs are more likely to be employed, unreliable child care interferes with steady employment.<sup>85</sup>

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<sup>80</sup> See Czapanskiy, *supra* note 10, at 316 n.30 (noting that “most of the movement toward reducing work-family conflict has focused on relatively higher-income parents”).

<sup>81</sup> S. Jody Heymann & Alison Earle, *The Impact of Welfare Reform on Parents’ Ability to Care for Their Children’s Health*, 89 AM. J. PUB. HEALTH 502, 503 (1999).

<sup>82</sup> EDIN & LEIN, *supra* note 66, at 7.

<sup>83</sup> Barbara Gault et al., *Prospects for Low-Income Mothers’ Economic Survival Under Welfare Reform*, PUBLIUS, Summer 1998, at 175, 187-90.

<sup>84</sup> See Sandra K. Danziger, Elizabeth Oltmans Anant, & Kimberly G. Browning, *Childcare Subsidies and the Transition from Welfare to Work*, National Poverty Center Working Paper #03-11 (Nov. 2003), at 3, available at [http://www.npc.umich.edu/publications/working\\_papers/paper\\_11/03-11.pdf](http://www.npc.umich.edu/publications/working_papers/paper_11/03-11.pdf).

<sup>85</sup> *Id.* (noting that “problems with child care can lead single mothers to leave jobs and also can adversely affect attendance, work hours, and career advancement”).

In implementing welfare reform, Congress recognized the necessity of providing subsidized child care to enable mothers to leave welfare for low-wage jobs and to help low-income families stay off welfare.<sup>86</sup> The Child Care and Development Fund (CCDF) provides states with federal funds to increase the “availability, affordability, and quality of child care services” to TANF recipients participating in work-related activities, families transitioning off TANF, and other low-income working families.<sup>87</sup> Congress gives states discretion to set child care policies and to allocate federal funds among these groups of families. The block grant for child care allocated \$20 billion for the period 1997 to 2002, a \$4 billion increase over prior allocations.<sup>88</sup> States may supplement the federal child care grant by shifting federal funds from their TANF block grants. In addition, the Child and Dependent Care Tax Credit gives working parents tax reductions for child care expenses.<sup>89</sup> As a result of increased federal and state spending on child care, the number of children served more than doubled between 1996 and 2001.<sup>90</sup>

Despite these programs, welfare reform contributed to a shortfall in child care funds by requiring thousands of single mothers who used to care for their children to enter the workforce. The number of families in need of subsidized care far exceeds the supply provided by federal reimbursement programs.<sup>91</sup> A recent federal examination of state child care policy discovered that “half of the states do not provide child care

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<sup>86</sup> See U.S. GENERAL ACCOUNTING OFFICE, CHILD CARE: RECENT STATE POLICY CHANGES AFFECTING THE AVAILABILITY OF ASSISTANCE FOR LOW-INCOME FAMILIES 1 (2003) [hereinafter “GAO Child Care Report”].

<sup>87</sup> Child Care and Development Fund, 45 C.F.R. § 98.1(6) (2000).

<sup>88</sup> GAO Child Care Report, *supra* note 86, at 15.

<sup>89</sup> I.R.C. § 21 (a)(1) (1994).

<sup>90</sup> Jennifer Mezey, *Threatened Progress: U.S. in Danger of Losing Ground on Child Care for Low-Income Working Families* 1 (2003) [hereinafter “*Threatened Progress*”].

<sup>91</sup> Gault et al., *supra* note 83, at 187; Jennifer Mezey, et al. *Unfinished Agenda: Child Care for Low-Income Families since 1996, Implications for Federal and State Policy* (2002) (reporting that 1.8 million children receiving child care subsidies represent only 12 to 18 percent of income-eligible children).

assistance to all the families who apply and are eligible for such assistance under the states' eligibility policies."<sup>92</sup> In 1999, sixty-one percent of low-income families received no state assistance with child care,<sup>93</sup> and in 2000, only one in seven eligible children received child care aid.<sup>94</sup> In October 2003, almost 50,000 children from working poor families in New York City were on a waiting list for spots in city-subsidized day care and after-school programs.<sup>95</sup> The inadequacy of funding for child care means that many welfare recipients have difficulty transitioning to the market, either forgoing job opportunities or finding it infeasible to keep a job for extended periods.<sup>96</sup>

Indeed, for many low-income single mothers, "child care is a perpetual emergency."<sup>97</sup> The constant struggle to deal with child care makes it extremely difficult, if not impossible, to meet the demands of a full-time job, especially one with non-standard or inflexible hours. When mothers cannot afford reliable child care, they must often decide between the two evils of leaving children unsupervised or in hazardous care and losing their jobs.<sup>98</sup> A spate of tragic cases in New York City revealed the "desperate measures" some parents feel forced to take while "juggling keeping their children safe with keeping their bosses happy."<sup>99</sup> Two Brooklyn children perished in an arson fire when their mother left them home alone to work a late shift at McDonald's after their

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<sup>92</sup> GAO Child Care Report, *supra* note 86, at 2.

<sup>93</sup> Linda Giannarelli et al., *Getting Help with Child Care Expenses*, Urban Institute Occasional Paper 62, Feb. 2003, at 9.

<sup>94</sup> Mezey, *Threatened Progress*, *supra* note 90, at 3.

<sup>95</sup> Joanne Wasserman, *A Crisis of Kids Left All Alone*, N.Y. DAILY NEWS, Oct. 27, 2003, at \_\_\_\_.

<sup>96</sup> Gault, *supra* note 83, at 187.

<sup>97</sup> Linda C. McClain, *Care as a Public Value: Linking Responsibility, Resources, and Republicanism*, 76 CHI.-KENT L. REV. 1673, 1693 (2001).

<sup>98</sup> Nina Bernstein, *Daily Choice Turned Deadly: Children Left on Their Own*, N.Y. TIMES, Oct. 19, 2003, at A1.

<sup>99</sup> Wasserman, *supra* note 95, at \_\_\_\_.



baby-sitter and father failed to arrive in time.<sup>100</sup> Earlier that month, another low-income mother was arrested after she left her twenty-three-month-old son in the care of a teenager she did not know well who absconded with the child for a day.<sup>101</sup>

Parents who cannot find affordable child care often rely on older siblings to care for young children or send children away to live with relatives, sometimes located overseas.<sup>102</sup> Older children increasingly go to public libraries and shopping malls in the afternoons when there is no subsidized after-school program.<sup>103</sup>

The study I conducted with Morgan Ward Doran confirmed that TANF's expectation that parents find and keep jobs without adequate child care made it difficult for parents to care for their children.<sup>104</sup> As we reported,

[Parents] must secure satisfactory child care or risk sanctions for missing work and possible involvement with the child welfare system. Indeed, the parents we interviewed indicated that a lack of child care was the main reason they were unable to exit the welfare rolls.<sup>105</sup>

The parents we interviewed discussed an assortment of problems with their access to child care services. An initial obstacle was locating a trustworthy, competent provider.<sup>106</sup> Many parents rejected the child care workers provided by the public aid office and insisted on finding someone they trusted to care for their children. "I'm really not trusting in the Department of Public Aid's babysitters so I have to find one," Angela, a thirty-four-year-old African American single mother explained, "I

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<sup>100</sup> Wasserman, *supra* note 95, at \_\_\_\_; Bernstein, *supra* note \_\_\_\_.

<sup>101</sup> Wasserman, *supra* note 95, at \_\_\_\_.

<sup>102</sup> *Id.* at \_\_\_\_; Rob Geen et al., *Welfare Reform's Effect on Child Welfare Caseloads*, Urban Institute Discussion Paper, Feb. 2001, at 23; McClain, *supra* note 97, at 1712.

<sup>103</sup> Wasserman, *supra* note 95, at \_\_\_\_.

<sup>104</sup> See Ward Doran & Roberts, *supra* note 61, at 422-424.

<sup>105</sup> *Id.* at 422.

<sup>106</sup> *Id.*

just don't trust the people that they pick. They have a list of people that they, like, want [you] to pick from, but I want to find my own sitter."<sup>107</sup> Angela stated that she planned to wait until her oldest daughter was able to care for the younger children before she transitioned to full-time employment.<sup>108</sup>

Parents we interviewed also reported that problems with housing and transportation interfered with their ability to arrange adequate child care, and therefore, to stay employed.<sup>109</sup> Families that must relocate on a daily basis because they lack adequate housing cannot secure a regular child care arrangement. Similarly, parents observed that lacking a means to transport caregivers to their home, or their children to the caregiver, resulted in erratic child care, causing them to miss work.<sup>110</sup>

Finally, the welfare bureaucracy's inefficient provision of subsidies posed barriers to accessing child care services. Several parents we interviewed complained that the state's delay in paying child care providers made it difficult to keep good care providers. According to Kelly, a twenty-nine-year-old African-American mother who is separated from her husband, the public assistance child care program "takes so long to get [the babysitters] their money – like 2 or 3 months. They want their money right then and there."<sup>111</sup> Mothers sometimes have to pay caregivers out of their own pockets until the public assistance program kicks in. The extensive application process and other bureaucratic requirements also discourage many

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<sup>107</sup> *Id.* at 423.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* at 423-24.

<sup>110</sup> *Id.* at 424.

<sup>111</sup> *Id.* at 423.

providers from signing up with the public assistance program.<sup>112</sup> Another problem with child care subsidies that deters potential providers is that they are typically set below market rates for care.

Our finding of problems with child care despite assistance programs is supported by a recent Michigan study comparing poor families who received child care subsidies and those without subsidies.<sup>113</sup> The study confirmed prior findings that receipt of a child care subsidy predicts increased work participation and earnings.<sup>114</sup> The researchers also found, however, that respondents who received subsidies experienced equal levels of work disruptions, work-related child care problems, and parental stress as those without subsidies. “[T]he lack of difference of these measures,” they observed, “suggests that care-related problems persisted regardless of subsidy receipt.”<sup>115</sup> The researchers could not determine, however, “whether the subsidy was insufficient to secure more stable care, or whether, when child care was disrupted, it was difficult to maintain the subsidy.”<sup>116</sup>

Recent debates over TANF re-authorization and state budget shortfalls indicate that child care funding is likely to remain stagnant or even to be cut.<sup>117</sup> At the federal level, the Bush Administration proposed flat funding for the TANF and child care block grants in its FY 2004 budget, which would result in a tremendous

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<sup>112</sup> *Id.* at 423-24.

<sup>113</sup> *See* Danziger, Oltmans Ananat & Browning, *supra* note 84.

<sup>114</sup> *Id.* at 21-24.

<sup>115</sup> *Id.* at 17.

<sup>116</sup> *Id.* at 17-18.

<sup>117</sup> GAO Child Care Report, *supra* note 86 (reporting changes in state child care policies since January 2001 in response to budget problems and competing demands for TANF and state funds); S. Parrot & Jennifer Mesey, *New Child Care Resources Are Needed To Prevent the Loss of Child Care Assistance for Hundreds of Thousands of Children in Working Families* (2003), available at <http://www.clasp.org/DMS/Documents/1058295869.52/7-15-03tanf.pdf>.

loss of subsidies owing to inflation alone.<sup>118</sup> Moreover, proposed increases in the number of hours recipients are required to work will escalate child care costs by an estimated \$6.1 billion.<sup>119</sup>

At the state level, TANF reserves previously used for child care subsidies are dwindling while states are experiencing TANF caseload increases and unprecedented fiscal crises.<sup>120</sup> The General Accounting Office discovered that since January 2001, two-thirds of states made key policy changes that affect the availability of government aid for child care.<sup>121</sup> Of these states, twenty-three made changes tending to decrease access to child care assistance, while only nine made changes tending to increase access.<sup>122</sup> According to Jennifer Mezey, Senior Staff Attorney at the Center for Law and Social Policy, “[t]he period of growth essentially stopped in 2001.”<sup>123</sup> Policies employed by states to reduce child care spending include changing income eligibility thresholds, starting waiting lists, freezing enrollment of new families, and increasing the amount of copayments parents must make.<sup>124</sup> Some states have also cut spending for initiatives to improve the quality of child care services.<sup>125</sup> Improving the quality of child care for poor children is essential because most subsidized child care centers at the time welfare reform was enacted “provide[d] care

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<sup>118</sup> Mezey, *Threatened Progress*, *supra* note 90, at 5.

<sup>119</sup> *Id.* at 5-6.

<sup>120</sup> *Id.* at 1, 4.

<sup>121</sup> GAO Child Care Report, *supra* note 86, at 2.

<sup>122</sup> *Id.* Three additional states made a combination of changes increasing and decreasing availability of child care assistance. *Id.*

<sup>123</sup> Mezey, *Threatened Progress*, *supra* note 90, at 1.

<sup>124</sup> GAO Child Care Report, *supra* note 86, at 26.

<sup>125</sup> Children’s Defense Fund, *State Budget Cuts Create a Growing Child Care Crisis for Low-Income Working Families* (2003).

that could compromise a child's future learning abilities" and many were dangerous.<sup>126</sup>

#### B. State Opposition to Single Mothers' Economic Security

More fundamentally, the PRWORA and the Bush Administration oppose single mothers' economic security. Although a primary goal of welfare reform is to push poor single mothers into the wage workforce, it is not to make single mothers economically independent. As noted above, a twin goal of the PRWORA is the promotion of marriage. While eschewing the early welfare system's support of single mothers' domestic service, contemporary welfare policy resurrects the norm of mothers' dependence on a husband's earnings. Welfare reform's support for marriage, moreover, goes beyond giving single mothers' inadequate aid to provide for their children to setting goals for states to increase the number of two-parent families and reduce out-of-wedlock births. Some states have pursued this goal by penalizing unmarried recipients and rewarding recipients who marry.<sup>127</sup>

Debates surrounding the reauthorization of TANF have directed even more attention to the state's role in encouraging marriage among welfare recipients and low-income parents.<sup>128</sup> The TANF reauthorization bill passed by the House of Representatives in February 2003, the Personal Responsibility, Work, and Family Promotion Act of 2003, includes three programs to promote marriage—Healthy Marriage

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<sup>126</sup> Clare Huntington, *Welfare Reform and Child Care: A Proposal for State Legislation*, 6 CORNELL J.L. & PUB. POL'Y 99, 101-02 (1996).

<sup>127</sup> See, e.g., N.J. STAT. ANN. 44: 10-3.4 – 3.7 (West 1993). But see Robert E. Rector, Melissa G. Pursue, & Lauren R. Noyes, "Marriage Plus": Sabotaging the President's Efforts to Promote Healthy Marriage, BACKGROUNDERS, No. 1677, Aug. 22, 2003, at 3-4 (arguing that all means-tested programs, such as TANF, food stamps, and Medicaid, reward single motherhood and discourage marriage among low-income couples).

<sup>128</sup> Mary Parke, *Marriage-Related Provisions in Recent Welfare Reauthorization Proposals: A Summary* 2-3 (2003).

Promotion Grants for a specified list of marriage-related activities, including public advertising campaigns, education in high schools, and marriage skills training; Research, Demonstration, and Technical Assistance Projects; and a fatherhood program.<sup>129</sup> In January 2004, President George W. Bush announced an initiative to reinforce welfare reform's marriage goals by spending \$1.5 billion on training programs to strengthen marriages among low-income parents.<sup>130</sup>

Wade Horn, Assistant Secretary for the Administration of Children and Families, has focused federal welfare policy on marriage promotion. In a recent report, Dr. Horn advocates "preferences for marriage in every aspect of public policy," including "requir[ing] that participants be married, not just cohabitating, in order to qualify for two-parent family [welfare] benefits."<sup>131</sup> But Dr. Horn's pro-marriage philosophy goes beyond supporting marriage to *preferring* mothers' economic reliance on husbands over mothers' own economic self-sufficiency. Dr. Horn expressed concern that "help[ing] single mothers achieve self-sufficiency through work" is "to some extent in conflict" with the Bush Administration's "strategies for promoting fatherhood and marriage" because economic independence may "enable unmarried women to rear children without the presence of the father."<sup>132</sup> "An increase in the earnings of single mothers," Horn worried, may "decrease the probability that they will marry."<sup>133</sup>

In fact, recent research shows that the Bush Administration grossly misjudges the relationship between women's economic security and marriage. Far from decreasing the

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<sup>129</sup> *Id.* at 5.

<sup>130</sup> Robert Pear & David D. Kirkpatrick, *Bush Plans \$1.5 Billion Drive for Promotion of Marriage*, N.Y. TIMES, Jan. 14, 2004, at A1. The President's marriage initiative is included in the House of Representatives' TANF reauthorization bill.

<sup>131</sup> Gwendolyn Mink, *Violating Women: Rights Abuses in the Welfare Policy State*, 577 ANNALS 79, 88-89 (2001).

<sup>132</sup> *Id.* at \_\_\_\_.

<sup>133</sup> *Id.* at \_\_\_\_.

chances of marrying, improving poor women's financial foundation appears key to their decision to get married. In *Promises I Can Keep: Why Poor Women Put Motherhood before Marriage*, Kathryn Edin and Maria Kefalas explain why the 165 low-income single mothers they interviewed "have children they can't afford, and why they don't marry."<sup>134</sup> They found that these women were interested in marriage, but believe that marriage should be reserved for couples who are economically stable. According to the interviewed women, the ability to purchase the material ingredients of a respectable lifestyle -- a house, furniture, car, and a decent wedding -- is a crucial prerequisite for marriage.<sup>135</sup>

A critical aspect of financial stability for these women is securing their *own* income and assets to guarantee economic independence from their husbands. They see economic independence before marriage as necessary to provide insurance against marital failure and loss of power in the relationship.<sup>136</sup> The women want to ensure that they will retain assets in the event of a divorce. They also fear that marriage will give their partners license to enforce traditional gender roles in the household.<sup>137</sup> Financial independence affords women some leverage to counter their husbands' controlling behavior. As a Puerto Rican mother explained, "I think you should get married after you finish school and you have a good degree, making good money where you have your own place, and you don't have a man that's always behind you telling you what to do and how

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<sup>134</sup> KATHRYN EDIN & MARIA KEFALAS, PROMISES I CAN KEEP: WHY POOR WOMEN PUT MOTHERHOOD BEFORE MARRIAGE 11 (unpublished manuscript).

<sup>135</sup> Id. at 136-146.

<sup>136</sup> Id. at 137-138.

<sup>137</sup> Id. at 143-146.

to do it.”<sup>138</sup> Thus, poor single mothers have rejected the male breadwinner ideal and hinge their decisions to marry on their own economic security.

### C. Devaluing Caregiving

Finally, welfare reform denies poor mothers’ economic freedom because its economic incentives are lopsided. While facilitating work in the low-wage market, the PRWORA penalizes care work at home.<sup>139</sup>

Underlying TANF’s work requirements and time limits is the assumption that paid work, as opposed to welfare receipt, provides financial and cognitive benefits to poor mothers and their children. This position considers welfare receipt in and of itself—independent of economic and sociodemographic factors—as a harmful force on family functioning and child development.<sup>140</sup> According to this theory, welfare undermines recipients’ motivation and self-esteem by discouraging work and deprives children of a positive role model.<sup>141</sup> Welfare reform advocates claim that by encouraging mothers to work, TANF improves recipients’ self-perception, conferring cognitive and social benefits to their children.

Forcing low-skilled mothers into the workforce regardless of the type or conditions of employment available to them assumes that *any* job is more beneficial to

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<sup>138</sup> Id. at 138. For a discussion of the relationship between welfare reform and women’s freedom to leave abusive relationships, see Shelby A.D. Moore, *Understanding the Connection Between Domestic Violence, Crime, and Poverty: How Welfare Reform May Keep Battered Women from Leaving Abusive Relationships*, 12 TEXAS J. WOMEN & LAW 451 (2003).

<sup>139</sup> My criticism of welfare reform is the opposite of some scholars criticism of the caregiving approach. See, e.g., Selmi & Cahn, *supra* note 45, at 306 (arguing that proposals to recognize caregiving “reveal a preference for care work, all of which are designed to facilitate, or accommodate, care work outside of the labor market rather than to lighten the burden of care work so as to enable women to devote more time to paid wage work”).

<sup>140</sup> See Tonya L. Brito, *The Welfarization of Family Law*, 48 U. KAN. L. REV. 229, 247 (2000).

<sup>141</sup> See CHARLES MURRAY, *LOSING GROUND* 147-66 (1984).



their families than the care they provide at home.<sup>142</sup> “The Personal Responsibility Act does not make work pay, or even make work available,” observes welfare historian Gwendolyn Mink. “Yet it insists that single mothers are worth more outside their homes than inside them.”<sup>143</sup> This work ethic is reinforced by setting welfare benefits below the amount earned at a minimum wage job, both to avoid disturbing low-wage markets and to give recipients a financial incentive to leave the welfare rolls for paid employment.<sup>144</sup>

TANF’s emphasis on paid employment often conflicts with recipients’ own sense of being a mother. Stephanie Limoncelli, a sociology graduate student at UCLA, discovered this competing conception of good parenting when she observed a Southern California welfare-to-work program.<sup>145</sup> Limoncelli noted the tension between the importance the program’s staff placed on work outside the home and the importance participants placed on caring for their children.<sup>146</sup> The trainers stressed that maternal responsibilities were secondary to paid work and that the mothers should not let their children interfere with their efforts to find and keep a job.<sup>147</sup> For example, they instructed participants never to admit to leaving a job as a result of pregnancy and not to interrupt their job search to care for sick children.<sup>148</sup> One trainer suggested that

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<sup>142</sup> See Czapanskiy, *supra* note 10, at 372 (noting that under work-first welfare reform programs “turning down a job is usually cause for termination of welfare benefits” and that “[r]ecipients are expected to take any job that is offered, regardless of whether the work conditions are family friendly.”)

<sup>143</sup> GWENDOLYN MINK, WELFARE’S END 113 (1998).

<sup>144</sup> ROSE, *supra* note 21, at 10; Abramovitz, *supra* note 13, at \_\_\_; FRANCES FOX PIVEN & RICHARD A. CLOWARD, REGULATING THE POOR 371 (2d ed. 1993).

<sup>145</sup> See Stephanie A. Limoncelli, The Politics of Motherhood and Paid Work: Gender, Class, Race, and the Construction of Need in a Welfare-to-Work Program (2000) (unpublished paper on file with author). [Ed: This paper may be same as Stephanie Limoncelli, *Some of Us are Excellent at Babies: Struggles in the Construction of Need in a Welfare-to-Work Program* in WORK, WELFARE, AND POLITICS: CONFRONTING POVERTY IN THE WAKE OF REFORM (Frances Fox Piven et al., eds. 2002).]

<sup>146</sup> *Id.* at \_\_\_.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.* at \_\_\_.

participants impress potential employers by boasting, “I’m a workaholic. I often stay so late that I neglect my family!”<sup>149</sup>

The staff also tried to persuade the mothers that taking care of children meant providing financial support rather than spending time with them.<sup>150</sup> Participants “countered the program’s ‘workfirst’ focus by articulating a ‘childfirst’ philosophy,” writes Limoncelli.<sup>151</sup> Whereas the program materials assumed that that employment was the only source of maternal self-esteem and worth, the participants insisted that motherhood was the most positive and fulfilling part of their lives.

Welfare reform’s very philosophy—that paid employment is the test for good parenting and should take precedence over nurturing children—denies any value in recipients’ caregiving and supports efforts to foreclose recipients’ decision to care for their children at home. Thus, the PRWORA denies poor single mothers the financial support they need either to raise their children as full-time caregivers or as wage laborers.

#### IV. PROMOTING ECONOMIC FREEDOM

Many of the mothers Lisa Belkin interviewed for her *New York Times Magazine* article had not opted out of the market forever. Rather, they made the decision to stay at home to care for children temporarily, with the hope of returning to their careers after several years. After describing several women’s movements in and out of the workforce, Belkin writes:

All the coming and going, they say, is the entire point. “This is not permanent,” Kresse says. “It’s not black and white; it’s gray. You’re working.

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<sup>149</sup> *Id.* at \_\_\_\_.

<sup>150</sup> *Id.*

<sup>151</sup> *Id.* at \_\_\_\_.

Then you're not working. Then maybe you're working part time or consulting.

Then you go back. This is a chapter, not the whole book."<sup>152</sup>

The mothers' decision to temporarily put their careers on hold in exchange for full-time caregiving reflects a typical pattern for working women. Most mothers adjust the amount of time they spend at home and in the workforce to accommodate various changes in their family life, such as the birth of a child, illness of a family member, and competing demands or benefits of employment.<sup>153</sup>

To be sure, even these privileged women encounter obstacles to resuming their careers and pay a steep cost for raising children that their husbands do not incur.<sup>154</sup> Some might question whether they freely chose to leave their jobs or were forced out by their career's hostility to children and their husbands' superior economic prospects.

Moreover, their privileged status affords them the ability to leave work without challenging the race, class, gender structures that limit welfare recipients' options. They have the freedom to move because they can rely on their husbands' income to support the family and can afford supports for their caregiving, such as child care and the option of part-time employment, when they return to the job. These well-educated, affluent women have done nothing to revolutionize the gendered division of labor, abolish the male worker ideal, or increase state and private support for working parents. "Not only must they worry about re-entering

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<sup>152</sup> Belkin, *supra* note 2, at 58.

<sup>153</sup> Czapanskiy, *supra* note 10, at 315-16. *See also id.* at 370-72 (describing children's need for time and flexibility); STEWART D. FRIEDMAN & JEFFREY H. GREENHAUS, *WORK AND FAMILY – ALLIES OF ENEMIES?* 19-40 (2000) (describing how professional women balance work and family responsibilities).

<sup>154</sup> *See* CRITTENDEN, *supra* note 3, at \_\_\_ - \_\_\_; HEWLETT, *supra* note 3, at \_\_\_ - \_\_\_; WILLIAMS, *supra* note 3, at \_\_\_ - \_\_\_.

the job market,” Barbara Stark wrote in a letter to the editor, “they should be worrying about keeping their present jobs – as wives.”<sup>155</sup>

Yet the celebration in some quarters of these mothers’ decision to “opt out” highlights a fundamental unfairness in welfare reform. What would it take to give low-income mothers more freedom to move between caregiving and paid work? What resources are needed to compensate their care work in the home *and* help them to support their families by earning an income? It is important to recognize that increasing mothers’ economic freedom generally would require transforming the workplace to abolish the male worker ideal and other sex inequities in the labor market, as well as transforming the gendered division of caregiving either by allocating the responsibility more equally between mothers and fathers or by compensating women adequately.<sup>156</sup> It would require eliminating discrimination against women in the job market on the basis of sex and race and creating jobs that pay a liveable wage.<sup>157</sup>

My focus in this article, however, is on welfare reform and its implications for the economic freedom of poor and low-income mothers. These women are the most disadvantaged by unjust social policies and structures and have the least resources to care for their children. Moreover, although welfare directly affects women’s relationship to only “a small fraction of our economy,”<sup>158</sup> its impact is

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<sup>155</sup> Barbara Stark, Letters, N.Y. TIMES, Nov. 2, (2003), section 6 (magazine), at 14.

<sup>156</sup> See generally WILLIAMS, *supra* note 3; EILEEN APPELBAUM, ET AL., SHARED WORK-VALUED CARE: NEW NORMS FOR ORGANIZING MARKET WORK AND UNPAID CARE WORK (2002) (examining practices in Japan, Australia, Sweden, Germany, the Netherlands, and Italy to propose ways in which work and care responsibilities might be reorganized, including enacting hours-of-work legislation, protecting part-time workers, sharing the cost of care, and updating income security protections and benefits).

<sup>157</sup> See Selmi & Cahn, *supra* note 45, at 310-12.

<sup>158</sup> Williams, *supra* note 28, at 414 (noting that public assistance programs constitute only 3 to 4 percent of the federal budget and arguing entitlement programs, such as social security, unemployment insurance, and

more widespread because it reinforces gender, race, and class norms and stratifications. Welfare policy helps to maintain even the affluent mother's precarious reliance on her husband's salary by stigmatizing mothering outside of marriage along with any government aid that supports it. We should advocate for changes in welfare law along with changes in other economic and family policies to promote women's economic freedom by valuing nonmarket work and increasing women's economic security.

#### A. Guaranteed Income

TANF imposes a lopsided preference for paid employment and accords no economic recognition for the work of raising children. It is part of a broader welfare system that stigmatizes the household labor of poor, single, and minority women in particular. Moreover, eliminating the federal entitlement to welfare helps to keep wages low, by compelling recipients to accept low-paying jobs without benefits. Thus, the absence of a guaranteed income restricts women's freedom in terms of both care and market work.

Increasing economic freedom would require reinstating the entitlement to public assistance, increasing cash and other benefits to guarantee a family-sustaining income, and abolishing all time limits on welfare receipt. According to Premilla Nadasen, the welfare rights movement demanded a guaranteed income for these multiple reasons:

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tax and other social expenditures, are more important to the analysis of women's relationship to the public distribution of wealth). I support Professor Williams' call for a wider analysis of women's economic security to include a broad range of government wealth-distribution programs as well as entitlements based on family relationships. *See id.* at 414-15. I also believe it is critical to analyze the relationship between welfare programs for poor single mothers, who are disproportionately women of color, and the gendered allocation of public and private entitlements. These are interlocking and mutually reinforcing subsystems that create gendered arrangements of caregiving and labor market participation. I am grateful to Ann Orloff for suggesting this analysis.

It forced the state to recognize housework and childcare as legitimate work, freed women from dependence on men, debunked the racial characterizations of Black women as lazy by acknowledging the work they did as mothers, and gave women a viable option to degrading labor market conditions.<sup>159</sup>

Of course, abolishing a guaranteed income—even one that keeps recipients below the poverty line—was precisely the aim of the 1996 welfare reform law. It would be concededly difficult to reinstate the federal guarantee of benefits and to increase those benefits substantially. The proposals that follow, which could be implemented at the state and local level, may be more realistic. Nevertheless, a guaranteed income is critical to increasing low-income mothers' freedom to decide to remain home when they determine it is in their families' best interests. A guaranteed income should be supplemented with other measures that make paid labor more lucrative and flexible, such as expanded eligibility for the EITC, paid family leaves, and removal of penalties for part-time work.

#### B. Education

Low-income mothers' economic freedom is hindered tremendously by limited options they have for employment. As noted above, most welfare recipients enter the bottom of the low-wage sector because they lack the education and skills needed for a better job. A college education increases both women's labor force participation rate and their incomes.<sup>160</sup> "Without question, education remains the strongest vehicle for increasing women's life choices," Selmi and Cahn observe, "as education provides the best means out of poverty and the greatest market

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<sup>159</sup> Nadasen, *supra* note 53, at 279.

<sup>160</sup> Selmi & Cahn, *supra* note 45, at 307.

opportunities.”<sup>161</sup> Welfare policy, therefore, should facilitate women’s pursuit of higher education. Instead, the PRWORA gives states wide latitude to determine how to treat participation in postsecondary programs. In most states, work mandates prevent many welfare recipients from getting a college degree because attending college does not count or counts only partially toward meeting TANF work requirements.<sup>162</sup>

Even programs that promote postsecondary education are too limited. For example, Senators Olympia Snowe (R-Maine) and Max Baucus (D-Mont.) introduced legislation in the U.S. Senate that would increase the opportunity for some recipients to pursue postsecondary education.<sup>163</sup> Modeled on Maine’s Parents as Scholars program, the Pathways to Self-Sufficiency Act of 2002 permits states to use TANF funds to give the same benefits to recipients attending vocational school or college that they would receive if working.<sup>164</sup> The cap on caseload participation in education, however, limits the program’s reach and gives welfare agencies discretion to discriminate among TANF recipients in determining who may take advantage of the program.<sup>165</sup> Moreover, the work requirement attached to the program hinders students’ chances of completing their course of study.<sup>166</sup> To increase low-income women’s economic freedom, states must

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<sup>161</sup> *Id.*

<sup>162</sup> See Andrew S. Gruber, Comment, *Promoting Long-Term Self-Sufficiency for Welfare Recipients: Post-Secondary Education and the Welfare Work Requirement*, 93 NW. U. L. REV. 247 (1998); Christopher Mazzeo et al., *Community Colleges: New Environments, New Directions: Work-First of Work-Only: Welfare Reform, State Policy, and Access to Postsecondary Education*, 586 ANNALS 144 (2003); Jerry Jacobs & Sara Winslow, *Community Colleges: New Environments, New Directions: Welfare Reform and Enrollment in Post-Secondary Education*, 586 ANNALS 194 (2003).

<sup>163</sup> Olympia Snowe, *The Welfare to Work Partnership, Education Essential to Welfare Reform that Works*, available at [http://www.welfaretowork.org/gov\\_affairs/viewpoints/osnowe.htm](http://www.welfaretowork.org/gov_affairs/viewpoints/osnowe.htm). For a description of Maine’s Parents as Scholars Program, see Sandra S. Butler, et al., *The Miseducation of Welfare Reform: Denying the Promise of Postsecondary Education*, 55 ME. L. REV. 211 (2003).

<sup>164</sup> *Id.*

<sup>165</sup> See Butler, *supra* note 158, at \_\_\_\_.

<sup>166</sup> See *id.*

detach postsecondary education from work requirements and provide needed tuition assistance.

### C. Subsidized Child Care

Subsidized child care is another critical means for enhancing economic freedom. The federal government must increase spending on child care to make it universally available to all parents who need it. As important as the amount that the government allocates for child care is its purpose in providing this service. The PRWORA treats child care as a tool for facilitating mandated maternal employment. The government views child care subsidies as a policy strategy to promote work, not as a means for enhancing women's economic freedom and children's well being.<sup>167</sup>

Legal scholar Karen Czapanskiy observes that “[u]nder the parlance of welfare reform, the presence of children in need of child care is a ‘barrier’ to work. Once the system identifies a child care provider, the barrier has been removed, and the parent can go to work.”<sup>168</sup> Rather than generously providing child care as a resource for women to make decisions about caregiving and wage work, the state attaches minimal child care subsidies to the fulfillment of work requirements. Child care problems can exempt parents from work requirements only in limited circumstances.<sup>169</sup> States need not provide child care assistance to mothers who wish to pursue a college education or

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<sup>167</sup> See GAO Child Care Report, *supra* note 86, at 1 (stating that under TANF, “child care assistance became a significant strategy for helping welfare recipients move into the workplace and for helping other low-income families stay off welfare”).

<sup>168</sup> Czapanskiy, *supra* note 10, at 366.

<sup>169</sup> To claim an exemption under TANF, recipients must show 1) that there is no “appropriate” child care provider within a “reasonable” distance from the recipient’s home or workplace; 2) that there is no “suitable” informal child care available; or 3) that there is no “appropriate and affordable” formal child care available. *Id.* at 367, citing 42 U.S.C. § 607(e)(2).



simply need a break from their children.<sup>170</sup> Welfare reform compels many low-income women to accept poor quality childcare because it provides low subsidies while penalizing women who do not work. This approach provides little incentive for fostering high quality child care services geared toward the needs of children and their mothers.

#### CONCLUSION

Should feminists advocate policies that support mothers' caregiving at home or policies that increase mothers' participation in the paid workforce? The experience of low-income women, whose care work is vilified and market work is underpaid, shows that feminists must take action in both arenas. Enhancing low-income women's ability to make decisions about work at home and in the market—increasing their economic freedom—recognizes this dual discrimination. Although welfare reform facilitates recipients' entry into the paid workforce, it denies recipients' economic freedom in the way it treats recipients' domestic and market labor. The PRWORA pushes most recipients into low-wage jobs without the resources they need to care for their children, while devaluing and penalizing their work in the home. Welfare policy that promotes women's economic freedom should include a guaranteed income, support for postsecondary education, and expanded subsidized child care.

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<sup>170</sup> State rules on providing child care subsidies to students vary. New York, for example, gives its counties the option of making four-year college education an activity eligible for child care assistance. GAO Child Care Report, *supra* note 86, at 33. Some states do not count participation in postsecondary programs as work activity. See Mazzeo, et al., *supra* note 157, at 146.