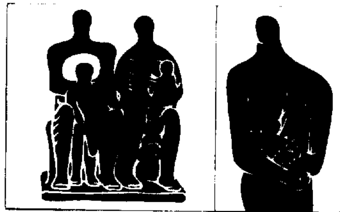

Work and family: the impact of legislation

The past 75 years have seen the enactment of laws protecting women and children, setting workplace standards, and establishing social insurance programs

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Governmental policies have both shaped and responded to radical changes in the work experiences of American families during the 75 years since the *Monthly Labor Review* began publication. Assessing the impact of governmental policies is an elusive endeavor because it is difficult to distinguish governmental actions from the myriad economic and social factors affecting employment decisions. It is even harder to separate the influence of governmental policies on families as opposed to individuals, because almost everyone lives in a family at some time.

Most governmental social programs in this country emerged during three brief periods: the Progressive Era between the turn of the century and World War I, the New Deal in the mid-1930's, and the Great Society in the 1960's. State initiatives dominated the first period, while the Federal Government led the succeeding movements. The Government primarily has sought to assist families beset by crises: unemployment, disability or death, old age, and poverty. (See exhibit 1.) The New Deal initiatives, the foundation of the modern welfare system, largely reflect attitudes formed by the Great Depression. Until that calamity knocked a fourth of the labor force out of work, the prevailing view was that individuals could control their destiny in the workplace and that adult joblessness and poverty among able-bodied persons reflected personal shortcomings.

The government role

Shorter working lives and workweeks for men, the mass entrance of women into the paid work force, and decreased poverty among workers distinguish the work experience of the modern family from its early 20th century counterpart.

Reduced working time. The abolition of child labor, shorter workweeks, postsecondary schooling, and retirement benefits have dramatically reduced the proportion of time men spend working outside the home.[1] Increasing productivity, combined with governmental policies, has significantly influenced these developments.

The growth of child labor laws and of State legislation making school attendance compulsory worked hand in hand to transform children from laborers to students. Massachusetts enacted the first child labor and compulsory school attendance statutes in 1836 and 1852, respectively. Most States followed suit during the late 19th and the early 20th centuries, but these laws were riddled with exceptions, and enforcement was minimal.[2] Reflecting the prevalence of child labor, the decennial census included 10-year-olds in its count of gainfully employed persons until 1940. Some 43 percent of 14- and 15-year-old boys worked at the turn of the century, dropping to 23 percent two decades later. However, these figures may have understated the true extent of child labor be-

cause, before 1930, fewer than half of all teenagers were enrolled in high school.[3]

Congress enacted minimum working age and maximum working hours laws for children in 1916 and 1919, but the U.S. Supreme Court struck down these statutes in 1918 and again in 1922. In 1924, Congress proposed a constitutional amendment allowing the Federal Government to regulate child labor, but by 1932 only 6 States had ratified it, and 35 had rejected it. However, fears that working children would further depress wages during the Great Depression sharply weakened opposition to child labor legislation. The 1938 Fair Labor Standards Act set a minimum age of 16 for most kinds of work, up from 14 years in most State laws. In 1948, 28 percent of 14- and 15-year-old boys were in the labor force, a proportion that declined to 17 percent by 1985.[4] Governmental policies probably played a significant role in reducing child labor, but solid evidence is lacking.

Government led the way in promoting longer schooling, which often is viewed as an alternative to work. The 1944 GI bill made college affordable for millions of veterans. Federal education assistance for the disadvantaged, inaugurated in the 1960's, sought to enhance the achievement of students who lagged behind, a frequent cause of dropping out. Federal loans and grants expanded during the following decade, enabling many low- and moderate-income youth to obtain a postsecondary education. For their part, the States have raised the mandatory school enrollment age to 16 or higher over the years, and nearly all States have established postsecondary educational systems, including universities—one dating back to the 18th century. These State-supported institutions charge only a fraction of the tuition fees of private schools.

Exhibit 1. **Major work-related government programs with implications for families**

Program and year of enactment	1988 expenditure (billions)	Number benefitting (millions)	Family factors considered in—	
			Determining eligibility	Setting benefits
Retirement:				
Old Age and Survivors Insurance (1935)	$197.2	34.6/month	no	yes
Tax exclusion for pensions (1942)	49.3	(1)	(1)	(1)
Old Age Assistance (1935)/Supplemental Security Income (1972)	[2] 5.7	2.0/month	yes	yes
Disability:				
Workers' compensation (first State, 1911)	[3] 27.4	(1)	no	in 11 States
Disability Insurance (1956)	22.4	4.1/month	no	yes
Veterans' compensation	11.3	2.2/year	no	yes
Aid to the Permanently and Totally Disabled (1950)/Supplemental Security Income (1972)	[2] 9.1	2.5/month	yes	no
Vocational rehabilitation (1921)	1.6	.9/year	no	no
Education, employment, and training:				
Postsecondary education	[4] 58.5	10.1 (fall)	for grants and loans	for grants and loans
Job Training Partnership Act (1982)	3.7	2.1/year	yes	no
Employment Service (1933)	.8	18.4/year	no	no
Poverty:				
Aid to Families with Dependent Children (1935)	19.0	10.9/month	yes	yes
Earned Income Tax Credit (1975)	4.9	27.7/year	yes	no
Unemployment:				
Unemployment insurance (1935)	13.2	6.8/year	no	in 10 States
Child care:				
Dependent Care Tax Credit (1976)	3.4	8.2 families/year	yes	yes
Head Start (1965)	1.5	.4/year	yes	no

1 Not applicable or not available.

2 Authors' estimate.

3 Data relate to 1987.

4 Data relate to 1986–87.

SOURCES: U.S. Social Security Administration; U.S. Congress, House Committee on Ways and Means; and U.S. Library of Congress, Congressional Research Service.

Federal Civil War pensions represented the first broad governmental old-age retirement program.

In 1840, President Martin Van Buren issued an Executive Order restricting daily labor in Federal navy yards to 10 hours, marking the first governmental attempt to limit working hours for adults. Seven years later, New Hampshire limited men's labor to 10 hours daily, but most States enacting hours limitations during the late 19th and early 20th centuries regulated women's worktime only. By 1920, 43 States had enacted maximum hours laws, but only 11 States used an 8-hour standard—typically for a 6-day workweek. Simultaneously, most States began to require that employees be given at least 1 day off a week, and time off for meals.[5] The U.S. Supreme Court in 1905 upheld a New York State law mandating a 10-hour workday, but reached the opposite conclusion regarding an Oregon law a dozen years later, without overruling the earlier decision. The 1938 Fair Labor Standards Act, which passed Supreme Court muster in 1941, required the payment of "time and one-half" for hours worked in excess of 40 during any week. Most jobs were covered by this provision.[6]

Because weekly working hours had been gradually dropping even before the Great Depression, the impact of the Fair Labor Standards Act remains uncertain. During the 1930's, worktime declined sharply, as employers cut hours to share the work among employees rather than lay them off. By 1938, the average workweek reached a low point of 36 hours for production workers in manufacturing. Ironically, the workweek lengthened following passage of the Fair Labor Standards Act, as the economy recovered and demand for labor soared during World War II. However, the statutory overtime rate probably discouraged employers from reinstituting longer workweeks after the war.

Federal Civil War pensions represented the first broad governmental old-age retirement program. Due to increasingly liberalized eligibility rules, by the early 20th century, nearly two-thirds of older, white, native-born men in the North received a "veterans" pension.[7] In 1915, Alaska initiated welfare assistance for the aged, and by 1935, 29 States had followed suit.

Two cash assistance programs for the elderly, created by the 1935 Social Security Act, became instrumental in inducing widespread retirement: Old Age Insurance and Old Age Assistance (later substantially federalized under the Supplemental Security Income program in 1972). Congress broadened Old Age Insurance, and transformed it into a family program in 1939 by adding benefits for spouses and dependents, as well as for survivors of deceased workers. Subsequent liberalizations permitted early retirement at age 62, first for women (1956) and then for men (1961), and then reduced the eligibility age to 60 for widows (1965) and widowers (1972). Rising Social Security benefits, outpacing the cost of living, further encouraged retirement. Average benefits as a proportion of the federally established poverty line increased dramatically between 1940 (when monthly benefits were first paid) and 1988:

	Percent of poverty line
1940:	
Retired men	41
Retired couples	50
1988:	
Retired men	114
Retired couples	136

During the 1940's, two governmental decisions spurred the growth of private pensions. In 1942, the Federal Government excluded from taxation contributions that private employers invest in pension funds. Seven years later, the Supreme Court ruled that private-sector pensions are subject to collective bargaining, and unions thereafter vigorously promoted the establishment of pension plans. These governmental actions stimulated widespread retirement. Before the New Deal, more than half of men age 65 and older were in the labor force, but as Old Age Insurance benefits increased and private-sector pensions became more common, the proportion dropped drastically, to 33 percent by 1960 and to 17 percent by 1989.

Society has embraced child labor restrictions, extended schooling, and shorter workweeks, but concerns over the financial solvency of Social Security in recent years have altered attitudes toward retirement. During the past decade, Congress has taken several steps to encourage more of the elderly to continue working. Barring changes in current law, within the next two decades the "normal" Old Age Insurance retirement age will increase from 65 to 67, the credit for delayed retirement will become more generous, early retiree benefits will be reduced, and beneficiaries will lose less of their benefits if they work.

Women at work. Governmental policy probably had little influence on the massive influx of women into the work force over the past half-century. In fact, Federal and State governments have at times actively discouraged women, especially wives and mothers, from working. With strong public approval, governments sought to deny jobs to wives during the 1930's because of concern that women would displace

male breadwinners. Many school districts did not hire wives, and fired women who married. The "marriage penalty" in the Federal income tax during the 1970's also put working couples at a disadvantage, compared with more traditional family arrangements.[8]

Governmental policies that encouraged women to work, including expanded educational opportunity, equal pay laws, and child care assistance, had some influence but were probably not determinative. More women than men have graduated from high school since at least 1870, and the earliest comprehensive data (1940) on educational attainment also indicate that women, on average, were already better educated than men at the beginning of this century. Nevertheless, women were far less likely to work outside the home. During World War II, however, the labor force participation rates of married women rose from 17 to 26 percent and, after a brief postwar drop, began to climb continuously.

Governmental child care assistance and the growing number of preschool facilities probably had more impact on women's labor force participation by making it easier for mothers to work. A limited, temporary child care program was established for working mothers during World War II, but further action did not occur until 1954, when the Federal Government provided a tax deduction for employment-related child care expenses. Congress gradually extended the deduction, and replaced it in 1976 with a more generous tax credit. Other major Federal initiatives supporting child care include Head Start (established in 1965), and the Social Services Block Grant (1974). The 1988 Family Support Act requires States to provide child care to parents receiving Aid to Families with Dependent Children who are enrolled in an educational, training, or work program. State and local governments have provided broader child care assistance to families by enrolling more preschoolers, directly establishing child care centers, and creating various State tax subsidies. In addition, 12 States have enacted maternal or parental leave laws.

However, public facilities and subsidies account for only a minor share of child care, most of which is provided by relatives and paid individuals.[9] Although the proportion of 3- to 5-year-olds in preprimary schools doubled from 27 to 54 percent between 1965 and 1988, the proportion of enrollees who attended public institutions dropped from 71 to 62 percent over the same period, indicating that governments were probably keeping up with, rather than leading, the trend. Moreover, until recent decades, relatively few women whose youngest child was in elementary school worked outside the home, although elementary schools have long assumed custodial responsibilities for pupils.

Work and poverty. Another important work-related development is the remarkable decline in poverty among working families. In 1900, more than half of families were poor by today's standards, compared with 7.2 percent of families with at least one worker in 1988.[10] The paucity of information, of course, makes it difficult to fairly assess the role of government in this trend, but the record seems to be a mixed one.

Minimum wage legislation and the Earned Income Tax Credit (enacted in 1975) seek to boost the earnings of low-income workers. In 1912, Massachusetts enacted the first minimum wage law, and 16 more States had followed by 1923, when the Supreme Court ruled that such provisions violated the alleged constitutional right of employers and workers to enter contracts. The Great Depression prompted some States to reenact minimum wage laws, which the Supreme Court again struck down in 1936 before reversing itself the following year.[11]

In 1938, Congress enacted the first national minimum wage law—the Fair Labor Standards Act—which set a statutory hourly minimum of 25 cents. Since then, Congress has periodically raised the minimum wage, and expanded coverage to more than 90 percent of nonsupervisory workers. The minimum wage, if earned for a 40-hour workweek year round, paid wages equal to at least a poverty level income for a three-person family during most of the 1960's and 1970's. However, by 1989, the minimum wage yielded only an estimated 70.5 percent of a poverty level income—its lowest value since the 1940's—and Congress again increased the statutory minimum wage. The scheduled $4.25 hourly rate in 1991 will yield, for full-time, year-round work, about four-fifths of a poverty line income for a family of three.

The Government has primarily sought to assist families beset by crises.

Congress introduced the Earned Income Tax Credit in 1975 to offset Social Security payroll taxes paid by low earners. If the amount of the credit exceeds tax liability, beneficiaries receive a tax rebate. The credit is restricted to working parents and, since 1987, its value has been automatically adjusted for inflation. The maximum allowable credit in 1989 was $910. The proportions of either eligible families or poor families who actually receive the credit are not known.

Federal and State governments have enacted other laws to expand employment opportunities, protect employees from discrimination in the workplace, and boost the income of single parents. Starting in the 1930's, the Federal Govern-

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ment began to take limited steps to prevent work-related discrimination against certain groups, and during the 1960's and 1970's, Federal and State governments banned discriminatory workplace practices relating to race, ethnic background, gender, age, disability, and religion. Enforcement of these bans expanded significantly until the late 1970's, but was curbed during the 1980's, most significantly by a series of 1989 Supreme Court decisions. Another family-related law, the 1988 Family Support Act, requires States to establish guidelines for child support payments. By 1994, such payments will be automatically deducted from the absent parent's wages, guaranteeing single parents a right to a share of absent parents' earnings.

Finally, the Federal Government has instituted a variety of programs to provide the poor or jobless with job search assistance, education or training, or jobs. The 1933 Wagner-Peyser Act established a network of public employment offices to match jobseekers with job openings. Separate public jobs projects hired some 20 to 30 percent of the unemployed during the New Deal.[12] These programs were dismantled when the Nation achieved full employment during World War II.

The Federal Government created a variety of training programs during the early 1960's. Funding of these programs grew steadily and, a decade later, Congress reintroduced public jobs programs. By 1978, the Federal Government spent $23.4 billion (1989 dollars) for numerous employment and training programs, nearly half of which funded jobs in public and nonprofit organizations. However, Congress almost entirely abolished public service employment in 1981, and by 1989, total employment and training funding had declined by two-thirds, to $8.0 billion.[13]

On the other hand, taxes reduce the income of low earning families, sometimes pushing them below the poverty threshold. Social Security payroll taxes are levied on the very first dollar of earned income, and the taxes paid jointly by employers and workers have increased from 1.0 percent to 15.3 percent of taxable earnings between 1936 and 1990. In the 1950's, Federal income taxes reached down to affect low income families, and by the mid-1980's, a family of four with poverty level earnings paid a combined income and payroll tax of 10.4 percent. The 1986 Tax Reform Act reduced, but did not completely eliminate, the tax burden on such families, which remains higher than the low points attained during the 1970's. Poor working individuals and families remain largely outside the system of governmental social programs, either because their incomes are sufficiently high to render them ineligible or because their work responsibilities preclude their enrollment in educational, training, and other programs.

Promoting or discouraging work?

Some work-related policies and programs, including Old Age Insurance and child labor and overtime laws, discourage work. Governments implemented such policies for humanitarian reasons or in the belief that discouraging some from working would enhance the employment opportunities of others. Of the major governmental initiatives, only income maintenance programs for the elderly and child labor and overtime restrictions deliberately discourage able-bodied individuals from working. However, the extent to which unemployment insurance, various programs designed to aid the disabled, and Aid to Families with Dependent Children unintentionally discourage work has been vigorously debated. These programs clearly have some work disincentive, because assisting those who are jobless or underemployed may encourage some individuals to opt for benefits rather than work. In addition, policies that raise the cost of hiring labor—the minimum wage, and payroll taxes that finance many social insurance programs—may diminish employment opportunities to some extent. In general, work disincentives probably decreased during the 1980's, as governments scaled back many programs.

Unemployment insurance may increase joblessness because workers are more likely to become unemployed and remain so if they have a cushion to fall back upon. Firms may be able to save money by temporarily laying off workers, who will not switch employers because unemployment insurance tides them over until they are recalled to work. The U.S. Congressional Budget Office has estimated that the availability of unemployment benefits increases the unemployment rate by roughly 10 to 15 percent during periods of low unemployment, and by about 5 percent during recessions.[14] Longer unemployment spells may have salutary effects in the long run, however, if the jobless are able to use the time to secure work that increases their satisfaction, productivity, and job tenure.

Whatever work disincentives unemployment insurance entails, they have undoubtedly diminished since the 1970's. Fewer than one-third of the currently unemployed receive benefits, a record low. Adjusted for inflation, the average weekly benefit has declined by 12 percent from its 1971 peak. Moreover, the maximum duration of benefits has been significantly reduced since the 1970's, and benefit payments—tax-

free until 1979—are now fully subject to Federal income taxes.[15]

Some analysts have attributed declining labor force participation rates among preretirement-age men to the expansion of *disability assistance*. Labor force participation rates of men 45 to 54 years old remained steady at around 95 to 96 percent from 1948 to 1969, then dropped to 91 percent by 1977 as disability programs grew dramatically, before stabilizing again.[16] More than half of severely disabled working-age individuals currently receive Disability Insurance, Supplemental Security Income, or both, and an unknown proportion of the remainder obtain assistance from other disability programs.

The expansion of programs aiding the disabled probably contributed to declining labor force participation rates among preretirement-age men, but the connection is far from unequivocal. Due to liberalized benefit rules, Disability Insurance beneficiaries could replace a high proportion of their previous earnings during the 1970's, and even receive more than the pay on their former job with the additional benefits paid to spouses and dependents. However, amendments in 1977 and 1980 significantly lowered these replacement rates.[17]

On the other hand, disability assistance had expanded greatly during the 1960's without a concomitant withdrawal from the labor force. Moreover, even rejected Disability Insurance applicants (who presumably are more healthy than beneficiaries) tend to have very limited subsequent work experience. Half of applicants rejected in 1984 were jobless 3 years later (most had not worked at all during the period), and half of those with jobs earned less—usually at least 25 percent less—than they did prior to becoming disabled. Some 43 percent of Disability Insurance beneficiaries are poor.[18]

The *Aid to Families with Dependent Children* (AFDC) program contains stronger work disincentives than other social programs, because (1) it assists many able-bodied individuals, (2) participants are not required to establish a work history, and (3) benefits may be provided for many years. Illinois and Missouri inaugurated "mothers' pensions" for widows with children in 1911, and local governments in almost all States had such programs by 1935, when Congress augmented their efforts with Aid to Dependent Children.[19] The program probably assisted a third or less of those potentially eligible until the 1960's, but coverage rapidly escalated to nearly 90 percent of potential eligibles by 1976 before dropping to 80 percent or less in the 1980's.[20]

In 1989, AFDC and food stamps (which four-fifths of AFDC beneficiaries receive) yielded a single mother with three children nearly 20 percent higher income, on the average, than she could earn from a full-time, year-round minimum wage job. Although the value of AFDC and food stamp benefits has eroded since 1970, the purchasing power of the minimum wage declined even more until 1990, increasing the gap between welfare benefits and income from low-wage work. The U.S. Congressional Research Service has estimated that in Pennsylvania (where AFDC benefits are about 10 percent higher than the national median), the disposable income of a single mother with two children on AFDC would barely change if she increased her earnings from $2,000 to $8,000 annually, and earnings above $7,000 would eventually result in her losing health insurance through medicaid.[21] In the early 1970's, Congress required certain AFDC recipients to enroll in work programs, but because of limited funding and numerous exemptions, only a minority have done so. The 1988 Family Support Act mandates increased participation in educational, training, or work programs, but the impact of the legislation is still uncertain.

The *minimum wage* encourages work by rewarding it, but may also reduce employment by raising the cost of labor to prospective employers. The positive effect has not been measured, but the negative consequences have been heatedly debated. Attempting to estimate the employment loss associated with a higher minimum wage, the U.S. Minimum Wage Study Commission reported in 1981 that a 10-percent increase in the statutory minimum could reduce teenage employment by as much as 1 to 3 percent. However, because of declines in the teenage population and the value of the minimum wage, a recent estimate (made before the 1989 congressional amendment) using the commission's methodology suggested that the tradeoff would reduce teenage employment by only about 0.5 percent, and have no measurable impact on the employment of older individuals.[22]

The extent to which various social programs unintentionally discourage work has been vigorously debated.

There are no eternal verities to guide governments in devising work- and family-related policies and programs, because working behavior and societal preferences change continually. Policies enacted during the Great Depression to encourage the elderly to retire and discourage poor single mothers from working have been increasingly challenged in recent years. Economic factors play an extremely important, though not exclusive, role in fashioning governmental and family decisions concerning work. Rising productivity permits both additional affluence and leisure time. However, the divergence among different nations' working be-

havior and the social programs they have designed demonstrates the various factors that shape employment decisions and family structure. As in most democracies, U.S. governmental decisions have tended to reflect the preferences of the populace. But just as today's choices would have appeared alien to past generations, what will be "normal" behavior in the next century might be equally disturbing to us. □

Footnotes

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