

Inadequate employment

The Social Costs of Underemployment: Inadequate Employment as Disguised Unemployment. By David Dooley and Joann Prause. New York, Cambridge University Press, 2004, 274 pp., \$85/hardback.

Psychology and social behavior experts David Dooley and JoAnn Prause set out to determine the emotional and physical consequences of inadequate employment. In the authors' words, "Is inadequate employment really harmful and a health threat, or merely unpleasant, something necessary for the greater good provided by economic efficiency?" The book is carefully laid out, compelling, and well-organized. Readers will find themselves drawn into their highly-complex but well-researched analyses.

In building a model, Dooley and Prause carefully sculpt the scope and definition of their research. Using a modified version of the Labor Utilization Framework, they define inadequate employment using both the official Bureau of Labor Statistics (BLS) form of discouraged workers and unemployment as well as additional categories, such as involuntary part-time work, and poverty-level pay. The framework for their model is the National Longitudinal Survey of Youth, a long-term panel design study sponsored by the BLS.

While this book is highly technical in nature, the authors are kind enough to brief the reader on both economics and psychology concepts. Integral to their research is a firm foundation on the causal process. Dooley and Prause explore three mechanisms that create statistical association. The authors are careful in each of their investigations to control for confounding variables. They then proceed to explain the results, bifurcating between social causation and selection, where possible.

Throughout *The Social Costs of Un-*

deremployment: Inadequate Employment as Disguised Unemployment, readers will find surprising results. For instance, by large majorities, people in all types of economically inadequate employment report liking their jobs. Job satisfaction, they report however, does not prevent the adverse effects of economic underemployment. The authors dissect the results, identifying the specific effects of inadequate employment on groups of individuals. As part of the worker detail, they include gender, marital status, and education levels.

In researching effects, the authors explore the role inadequate employment has on self-esteem, alcoholism, depression, welfare transitions, and in women, the birth weight of their child. Each chapter is set up as a separate experiment, and the results all hold their own surprises. For instance, on the chapter on depression, the authors write, "the beneficial effect on having employment (either adequate employment or inadequate employment) was greater for those who lost a spouse than for others."

At the conclusion of the book, Dooley and Prause are circumspect, weighing the realities of politics, budgets, and perhaps most importantly, a lack of interest in broader measures of employment classifications. In an objective appeal, the authors write, "The social costs of job loss have helped to sensitize employers and governments to the human and political problems of unemployment." "The present findings argue for expanding the usual paradigm of research on unemployment that contrasts people with and without jobs."

While it would be a stretch to call it an easy cover-to-cover reading, considering the calculations and detail involved, this book is engaging, balanced, and refreshingly free of stump oratory.

—Charlotte Yee

Bureau of Labor Statistics,
San Francisco region

A "common-sense" guide

The FMLA: Understanding the Family and Medical Leave Act. By Will Aitchison. Portland, OR, LRIS Publications, 2003, 320 pp., \$39.95/softcover.

The Family and Medical Leave Act (FMLA) is illustrative of the difficulties inherent in political compromise. Designed to meet the needs of families with working parents, the FMLA underwent 8 years of political wrangling and a presidential veto before a compromise version of the bill was signed into law in 1993. As passed, the FMLA guarantees employees who work for firms that employ at least 50 people the right to take 12 weeks of unpaid leave in the event of either a personal illness or the need to care for an ill family member. The Department of Labor (DOL) is responsible for interpreting the Act and ensuring compliance. Advocates for family leave have criticized the FMLA as too limited, in that it covers only about 55 percent of the American workforce and that it ensures only unpaid leave. Advocates for employer groups, however, feel the benefits provided under the Act are too costly to companies and result in job losses. Nearly everyone, however, agrees that the FMLA is too confusing. The ambiguities within the law itself and the way it has been implemented have resulted in thousands of lawsuits and tens of millions awarded in damages.

In an effort to demystify the FMLA, Will Aitchison has published a useful "common-sense" guide entitled *The FMLA: Understanding the Family and Medical Leave Act*. Aitchison organized the book around central questions regarding the law, with chapters devoted to which employees and illnesses are covered. Aitchison's guide draws on the text of the law, DOL regulations, and court rulings to provide his readers with a clear and practical reference.

Aitchison not only describes the basic aspects of the law, but delves into the unsettled issues as well. He explores instances where DOL regulations and enforcement have been unreliable and overturned by the courts. For example, the right to take leave provided by the FMLA applies only to employees who have worked at least 1,250 hours in a given year. The law is unclear in situations in which an employee takes leave after being told, incorrectly, that he or she has enough hours to qualify under the FMLA. Regulations by the Department of Labor prohibit employers from firing such employees if they are unable to return to work immediately after the mistake is discovered. Some courts, however, have ruled that because the employee is not guaranteed leave, the employer has the right to demand a return to work immediately—and can fire the employee if they fail to do so. Similarly, the Supreme Court in 2002 invalidated a Department of Labor regulation entitling employees to the full 12 weeks of leave if their employer failed to inform them in advance that a previous, qualifying period of leave was being counted against their FMLA entitlement.

Aitchison's guide also explores instances where the court system produced seemingly contradictory rulings. For example, if an employer who violated the FMLA cannot prove that they acted reasonably and in good faith, he or she is liable for "liquidated damages" equivalent to back wages, lost benefits, monetary losses, and interest. Many cases

have dealt with the issue of what constitutes good faith with regard to other labor laws, such as the Fair Labor Standards Act (FLSA). The precedents set there are likely to apply to FMLA cases as well. Unfortunately, these precedents are not always clear. In *Cross v. Arkansas Forestry Commission*, the courts found that relying on the Department of Labor's interpretation of a statute was an adequate demonstration of good faith. However, in *Adams vs. Pittsburg State University*, the court decided that relying on the DOL's interpretation was not sufficient to prove reasonableness and good faith. Thus, all three branches of government have contributed to the uncertainty surrounding this law.

While the book does an excellent job covering the majority of issues regarding the law, I would have preferred a more extensive discussion of the exemption given to employers regarding the job restoration of key employees. The FMLA states that "An employer may deny restoration...if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer." The DOL explains in its regulations that this harm must result not from the employee's absence, but from his or her restoration. It further seeks to define "grievous economic injury," explaining that it must be "substantial" and "long-term," and that "minor inconveniences and costs" are not sufficient. This exemption applies to only a limited set of employees, and it has not been the subject of many legal battles. Con-

sequently, Aitchison covers it briefly, writing little more than a summary of the exemption and its DOL interpretation. Though this exemption does not seem to be used regularly, it is important in defining the spirit of the FMLA. Because of its importance and the fact that it is poorly understood, it deserved more discussion in Aitchison's analysis.

Neither the purpose of the book nor its format lends itself to a discussion of the successes of the FMLA. Yet while I certainly understand the omission, I believe that the lack of a positive counterpoint to the detailed discussion of the law's shortfalls prevents readers from fully appreciating the Act. According to a Department of Labor survey in 2000, more than 70 percent of the people who have taken leave under the FMLA report that the ability to take time off had a positive effect on either their own or a family member's well-being. At the same time, the survey discovered that two-thirds of employers found complying with the FMLA to be very or somewhat easy—and more than 80 percent report that it did not lower their businesses' productivity, profitability, or growth. The Family and Medical Leave Act, while in no ways perfect, has managed to navigate the conflicting needs of American workers and American industry, and on the whole, it has been successful.

—Danny Shoag
formerly with the
Bureau of Labor Statistics