LIMITING WORKING TIME AND SUPPORTING FLEXIBILITY FOR EMPLOYEES
Public Policy Lessons from Europe

Janet C. Gornick

Two facts vividly capture the situation of American employees compared to their counterparts in a number of other Western countries. The first fact is that American employees, on average, spend many more hours per year at their workplaces (see figure 11.1). In 2002, workers in the United States—men and women combined—averaged over 1,800 hours per year spent in paid work, compared to, for example, just over 1,700 in the United Kingdom, fewer than 1,600 in Belgium and Sweden, and fewer than 1,500 in France, Germany, and the Netherlands (Mishel, Bernstein, and Allegretto 2005).

The second fact is that American workplaces are much less regulated than workplaces in most European countries. As a result, employees in the United States lack multiple legal rights that are in place elsewhere, including the right to be subject to a maximum number of hours worked per week, the right to a minimum number of paid days off, the right to be protected from pay discrimination if they work part-time, the right to formally request a change in their work hours, and the right to take paid family leave to temporarily care for dependents.

This chapter provides an overview of selected public policies that shape working time as of approximately 2002 in six European countries: Belgium, France, Germany, the Netherlands, Sweden, and the United Kingdom, compared to those in place in the United States. The six comparison countries were selected to ensure a degree of cross-national diversity. Although these countries have much in common—they are all high-income countries and all members of the European Union—they also represent diverse welfare state models. Comparative social policy scholars have long classified the Belgian, French, and German systems as exemplars of the conservative model, in which public provisions generally replicate market outcomes (see, e.g., Esping-Andersen 1990). The Swedish system is viewed
arguing for working time cuts adopted the slogan "travailler moins pour vivre mieux" (work less, live better). In several countries, the stated rationale for reducing work hours includes supporting a more gender-equalitarian distribution of paid and unpaid work (see Fagnani and Letablier 2004).

In many European countries, policy reforms aimed at reducing working time appear to have had an effect. In the last twenty years, average annual hours decreased in most EU countries, and, in several, some portion of that decrease is attributed to declining full-timers’ hours. In some countries, average hours also declined due to a rising percentage of workers (mostly women) working part-time (Lehndorff 2000).

The United States could hardly be more different. Average annual work hours in the United States actually increased during the last two decades (ibid.). Why have work hours in the United States not decreased, as they have in Europe? Some portion of the explanation is clearly the American legal context. Remarkably, the normal workweek in the United States, set by national legislation enacted in 1938, has not been reduced in nearly seventy years. Perhaps even more remarkably, efforts to reduce working time are virtually absent from contemporary American policy agendas. Working time scholar Jon Messenger (2004) recently noted that "from an American perspective, until very recently working time never seemed to be more than an afterthought in discussions of labor issues and labor market policies. Even now, with changes to United States overtime in the news, the focus is not on the number of hours people work, but rather how much they will be paid for working those hours" (xvii). As Messenger observes, Americans typically view long hours in a positive light—as evidence of American industriousness and the cause of America’s comparatively high per capita GDP.

This chapter looks abroad to consider some crucial policy mechanisms that shape employees’ working time, in particular by limiting both weekly and annual work hours and by supporting some forms of flexibility—which, in this chapter, refers to flexibility from the workers’ perspective. A growing literature on workplace flexibility emphasizes that workers can be granted "flexibility" in multiple ways. Feldblum (2005) offers a typology of workplace flexibility with regard to the scheduling of hours (e.g., flextime and compressed workweeks); the number of hours worked (e.g., reduced hour and part-time work); the opportunity to take career breaks and to return (e.g., sabbaticals, "on and off rampy") and the ability to take short-term breaks (e.g., an afternoon off to take a child to a medical appointment).

This chapter focuses, in particular, on three types of working time measures. It begins by covering two mechanisms that limit working time for employees: the setting of the standard workweek and the establishment of entitlements to paid days off. Together, these exert a strong effect on total hours actually worked per year. The chapter then focuses on policies intended to improve the quality of part-time work and/or to raise the availability of part-time or flexible schedules. This is followed by an analysis of policies that grant workers the right to take temporary paid leave from

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**Figure 11.1.** Workers’ average annual hours in paid work, 2002 (Michel Bernstain, and Allegretto 2005)

As typifying the social democratic, or social rights, model in conjunction with a sustained emphasis on gender equality. The Dutch social protection system blends conservative and social democratic elements, while the British system, with some marked similarities to the United States, represents the residual (minimally regulated) social protection model. It is useful to assess diverse countries with varying degrees of similarity to the American case, as it serves as a reminder that protective working time regulations are not "one size fits all." They vary, as do the national economic and political systems in which they are embedded.

Throughout the European Union (EU) countries, the regulation of working time has been prominent on policy agendas for decades, at both the supranational and national level. The EU enacted two working-time directives in the 1990s, the 1993 Directive on Working Time and the 1997 Directive on Part-Time Work. These were binding for EU member countries, requiring national-level policy implementation by 1996 and 2000, respectively. The former addresses both maximum weekly hours and entitlements to annual paid days off; the latter addresses compensation parity for part-time workers.

In recent years, one of the core emphases of European policy reforms has been the reduction of employees’ work hours. Working time reductions in Europe have been advocated for reasons that have varied both across countries and over time. In the 1980s, the emphasis was most often on combating unemployment by spreading available work; later the rationale shifted to health and safety concerns. But, more recently, public discourse in a number of countries has evoked the need for "work-family"—or “work-life”—balance (Organisation for Economic Cooperation and Development [OECD] 1998, 2004). In a telling example, politicians in France...
employment—focusing, in particular, on leaves that enable working parents to care for young children. In each of these three sections, institutional arrangements operating in the six European countries are compared with those in the United States, and the role of the European Union itself in setting working time conditions is addressed. The chapter argues that, in the United States, these protections and benefits are largely left to the market, and the result is that lower-skilled, lower-paid workers have much less access to workplace supports (e.g., paid vacation days, paid family leaves, and flexible schedules) than do their more advantaged counterparts.

The final section of this chapter briefly reviews recent literature on the advantageous effects linked to these policies, and then addresses three important concerns sparked by ongoing efforts to reshape working time. Each raises the possibility that policy efforts aimed at reducing work hours, granting workers flexible scheduling options, and/or offering benefits such as paid leave may have some problematic consequences. One concern is that the reduction in work hours, particularly in Europe, is being achieved at the cost of more nonstandard, and, paradoxically, less controllable or predictable work scheduling. A second is that strengthening reduced-hour work may exacerbate, rather than alleviate, gender inequalities in paid and unpaid work. A third concern, often voiced in the United States, is that labor protections (such as those aimed at reducing work hours or requiring that employers honor scheduling requests) and strong generous social policies (such as paid family leave) are harmful to the macroeconomy. Clearly, these are all potentially worrisome concerns and they deserve consideration. The chapter concludes by exploring the question of why public workplace supports are so lacking in the United States.

**Limiting Work Hours**

In these six European countries, the shaping of work hours and efforts to reduce them operate in diverse institutional contexts. In all of these countries, labor law plays a key role and, to varying degrees, collective bargaining does as well; the two frameworks generally operate in an integrated fashion. In these six countries, union coverage rates tend to be high—about 70 to 80 percent in Germany and the Netherlands, and 90 percent or higher in Belgium, France, and Sweden. The United Kingdom is distinct, set apart by the limited reach of collective bargaining: the coverage rate is only about 30 percent. In the EU, diversity in policy-setting mechanisms is supported at the supranational level. The EU directives relating to working conditions allow member countries to implement required practices through legislation, formalized agreements among the social partners (groups representing employers and workers), or some combination of the two.

In the United States, in contrast, only about one worker in seven is covered by a collective agreement, and, not surprisingly, the working time conditions that are in place are largely determined by labor law. Although unions influence the working conditions of those American workers who are organized, their reach is limited.

**Hours Worked per Week: Regulating the Normal Workweek**

On both continents, one of the most direct mechanisms for shaping working time is the establishment of a normal, or standard, full-time workweek. "Normal weekly hours" generally refers to the threshold above which overtime becomes payable. Some EU countries establish normal weekly hours, through various combinations of legislation and collective agreement, while others regulate maximum hours, but leave the setting of normal hours exclusively to the bargaining table. Currently, in all six of these EU countries, the normal full-time workweek, for at least a substantial majority of workers, is set at below forty hours—thirty-five hours in France, and between thirty-seven and thirty-nine hours in the other countries (see figure 11.2). In the United Kingdom, an outlier among EU countries, there is no statutory normal workweek and, while collective agreements on average set the week at about thirty-seven hours, only a third of the British labor force is covered.

The United States sets normal weekly hours, via legislation, at forty hours, which is above the standard typical in most EU countries—and a full five hours per week above the French standard. In the United States, any effects associated with the comparatively long standard week are compounded by the limited reach of the Fair Labor Standards Act (FLSA). The FLSA excludes many workers, including managers and supervisors and those over specified earnings limits, from its requirement that
Days Worked per Year: Granting Paid Days Off

In addition to setting weekly hours, many countries effectively set the normal number of days worked per year, meaning that working time policies define the meaning of not just full-time work, but full-year work as well. The full year is defined in practice, by the establishment of entitlements to annual paid days off. As with normal hours, paid days off (often referred to as vacation entitlements) are embedded in diverse institutional frameworks. In these six European countries, a statutory minimum exists and collective agreements typically raise that minimum for many covered workers. In Europe, some homogeneity is again imposed by the 1993 EU Working Time Directive, which requires "that every worker is entitled to paid annual leave of at least four weeks in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice" (European Union, 1999). As reported in Figure 12.2, in practice, workers in these six EU countries are typically entitled to between twenty and twenty-five days per year of paid vacation (or about four or five weeks). That means that full-year work corresponds to approximately forty-seven or forty-eight weeks a year.

Again, workers in the United States work under substantially different rules. In the United States, national legislation is silent with respect to paid days off, and collective bargaining reaches only a small share of workers; vacation benefits are granted voluntarily by employers. Recent research, drawing on the National Compensation Survey, found that American workers with five years of service in enterprises with one hundred workers or more were entitled to, on average, about fifteen vacation days per year; workers with shorter tenures and in smaller enterprises receive substantially fewer (U.S. Department of Labor, 2006); many hourly workers have no paid days off.

Raising the Quality and Availability of Part-Time/Flexible Work Schedules

Parity for Part-Time Workers

In these six European countries, other working time measures complement those that directly influence work hours and days. In all six countries, part-time workers are legally granted pay and benefit parity vis-à-vis comparable full-time workers. In addition, in all of these countries employees have some sort of legal right to shift to, or to request to shift to, a part-time and/or "flexible" work schedule.

Policies aimed at improving the quality of part-time work are widespread throughout Europe. A crucial force behind these measures is the 1999 EU Directive on Part-Time Work, which specifically extends the framework of antidiscrimination protections to part-time workers, both women and men. The official purpose of this directive was "to eliminate discrimination against part-time workers and to improve the quality of part-time work" (European Union, 2004). Specifically, according to the directive, "in respect of employment conditions, part-time workers shall not be treated in a less favorable manner than comparable full-time workers solely because they work part-time unless different treatment is justified on objective grounds," and "where appropriate, the principle of pro rata temporis shall apply," meaning that compensation for part-time workers should be prorated.

By the early 2000s, all six of the EU countries in this study implemented the directive via some mix of legislation and collective agreements (see Table 11.1, first column). The national measures address—for part-time workers—various combinations of pay equity, occupational benefits, training and promotion opportunities, and bargaining rights.

In contrast, with the exception of coverage under the national minimum wage law, the U.S. Fair Labor Standards Act is silent on part-time workers' remuneration, and other elements of American policy that affect part-time workers offer fewer protections. Although not generally viewed as "working time policy," regulations that govern employer benefits have important consequences for the relative quality of part-time work in the United States. Both the Employee Retirement Income Security Act (ERISA) of 1974 and the federal Internal Revenue Code set rules that give employers the right to offer different benefits to part-time and full-time workers.

In the United States, this is especially consequential with regard to health insurance. Because the United States has no national health insurance program, the overwhelming majority of working-age Americans rely on employers for coverage. Importantly, a disproportionate share of part-time employees works for employers who offer no health insurance at all. One reason is that part-time workers are over-represented among small employers, who are the least likely to offer health plans (U.S. General Accounting Office, 2001a).

Many part-time workers who work for employers that do provide coverage are excluded due to their part-time status, in accordance with federal regulations that govern employer benefits. The Internal Revenue Code regulates "self-insured" health plans, referring to plans where employers and employers pay into a fund that reimburses health claims. The tax code permits self-insured employers to exclude part-time workers from health coverage, with part-time defined as thirty-five hours per week. Furthermore, self-insured employers are not permitted to discriminate on the basis of compensation levels, but they are permitted to exclude categories of workers—such as hourly workers or workers in selected job classifications—that, in practice, contain large numbers of part-time workers. Under the national tax code, employers with "fully insured" health plans (their carriers are external insurance companies) have even more leeway to treat part-time and full-time workers differently, as they face no nondiscrimination requirements at all. In practice,
### Table 11.1. Measures that Improve the Quality of Part-Time Work and/or Raise the Availability of Part-Time or Flexible Schedules (approximately 2001–2005)

<table>
<thead>
<tr>
<th>Country</th>
<th>Measure</th>
<th>Example of Measure that Grant Parents or All Workers the Right to Work Part-Time or Flexible Schedules</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>EU Directive on Part-Time Work implemented in 2000.</td>
<td>Since 2002, private sector workers have the right to a time credit (with financial allowances available), to be used at any time throughout their entire working career. They may take time off as career interruptions or convert to halftime work – for up to a total of 1 year – without losing their employment contract or social security rights. This credit may be extended to a maximum of 5 years, by agreement. Employees also have the right for a maximum of 5 years to reduce their working hours by weekends in practice, most accept a 4-day week. A specific system exists for companies with fewer than 10 workers (which includes a requirement for the employer’s consent).</td>
</tr>
<tr>
<td>France</td>
<td>EU Directive on Part-Time Work implemented in 2000.</td>
<td>Since 2000, an employee may seek reduced hours in the form of one or more periods of leave of at least one week in order to meet family needs (e.g., school holidays). This is organized by annualizing the employee’s working hours. The employer may refuse this for objective reasons associated with running the enterprise.</td>
</tr>
<tr>
<td>Germany</td>
<td>EU Directive on Part-Time Work implemented in 2001.</td>
<td>Since 2001, employers with 15+ employees must allow employees to reduce their hours (after 6 months employment), unless there are “justifiable business reasons,” as determined by the courts; employees must give three months’ notice. Part-time workers may request increase to full-time and should generally be given preference over other applicants unless there are competing business reasons otherwise.</td>
</tr>
<tr>
<td>Netherlands</td>
<td>EU Directive on Part-Time Work implemented in 2000.</td>
<td>Since 2000, employers with 10+ employees must allow employees to reduce their hours (after 1 year employment), unless there are “serious business grounds” for refusing. They must have 1 year’s tenure, may apply to change hours only once every 2 years, and must give 4 months’ notice. Part-time workers should be allowed to increase their hours, unless the change would create serious problems of a financial or organizational nature for the employee.</td>
</tr>
<tr>
<td>Sweden</td>
<td>EU Directive on Part-Time Work implemented in 2002.</td>
<td>Since 1978, employed parents have had the right to work reduced hours initially as a 6-hour day, but currently the up to 25% reduction may also be worked by reducing the number of days per week worked, until their child is 8 years old or has completed first grade, whichever is later. There is a limited employer right to refuse the proposed distribution of hours.</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>EU Directive on Part-Time Work implemented in 2000.</td>
<td>Since 2003, employees (in enterprises of any size) have a legal right to request flexible working time, including part-time work. They must have a child under age 6 or a disabled child under age 18, 26 weeks’ service, and not have made an application within the previous 2 years. The purpose of changes must be to care for the child. The employer has seven different grounds on which to refuse an application and must give reasons for such a refusal. Minimal compensation is available for a refusal but only if the employer has failed to consider the request properly.</td>
</tr>
<tr>
<td>United States</td>
<td>The RFLA guarantees part-time workers the minimum wage, but it offers no legal protections with regard to pay equity, benefits, or job conditions.</td>
<td>Some unions have won the right to reduced working time on a temporary basis so that workers can take care of family needs. For example, SEIU Local 715 (service employees) won a policy under which members may reduce working time by 1%, 2%, 4%, 10% or 20%.</td>
</tr>
</tbody>
</table>

Sources: Sni Gennick and Meyers (2003); Gennick and Ivers (2005); and Hegewisch (2005).

Notes: The 1997 EU Directive on Part-Time Work calls for (a) eliminating discrimination against part-time workers and improving the quality of part-time work and (b) facilitating the development of part-time work on a voluntary basis. Several countries (e.g., France, Sweden) also allow parents to work part-time while on parental leave.
these latter plans include two-thirds of all American workers with employer-based insurance (Employee Benefits Research Institute [EBRI] 1998).

A parallel situation exists with respect to the regulation of private pensions. ERISA, in combination with the Internal Revenue Code, allows employers to exclude from pension plans those workers who work fewer than one thousand hours annually—which translates to about half-time work. As with health insurance, employers are also permitted to exclude entire job classifications from pension coverage, albeit subject to IRS sanctions if they are found to be unfairly sorting workers into categories. To the extent that excluded job classifications are filled by part-time workers, substantial numbers will be de facto ineligible for pension coverage.

Rights to Work Part-Time and/or Flexible Schedules

The EU Part-Time Directive also urged, but did not require, member states to eliminate obstacles that limit opportunities for part-time work and it instructed employers to "give consideration to workers who request transfers between part-time and full-time work as their personal and family needs evolve." Long before the Part-Time Directive, Sweden had already set the gold standard on the right to part-time work. Since 1978 Swedish parents have had the right to work six hours a day (at prorated pay) until their children turn age eight. After the directive, other European countries added new directions. Some are focused on rights to part-time work in particular, while others address the process of working, or requesting to work, flexible hours more generally.

Within the last decade, each of these six countries has enacted some sort of measure aimed at workers who wish to work part-time or flexible work hours. To cite some examples, Germany now grants the right to work part-time to employees in enterprises with more than fifteen workers; the Netherlands enacted a similar right in enterprises of ten or more workers. A recent United Kingdom law grants employees, in enterprises of any size, the legal right to request flexible working time—including part-time work—in order to care for a child under age six or a disabled child under age eighteen. The employer has seven grounds on which to refuse an application and must give reasons for such a refusal. In addition, Belgium grants employees a number of flexible work-time rights, including the option to work 80 percent time for five years. In most cases, employers have a safety valve; they can refuse a request for another grounds, but those grounds are often subject to official review. (In contrast, U.S. federal law offers no protections aimed at employees who wish to change their work schedules. As noted in table 11.1, there is some union activity along these lines underway in the United States. Of course, the reach of unions remains limited regarding flexible scheduling, as it does with all working time measures.)

Hegewisch (2005) analyzed the British, German, and Dutch "flexible working rights" law in detail. She drew a number of policy lessons based on these three so-called light touch laws. Among them, she concluded that despite worries to the contrary, "the floodgates did not open" (meaning, the volume of requests has been manageable); that most employers received at least one request for a schedule change but few received more than five; that the large majority of requests were acceptable to employers; that the implementation costs were minimal; and that few requests have ended up in court. Hegewisch closes with a strong recommendation for measures along these lines, concluding that "a legislative framework which recognizes both the individual and the business case can make an important contribution to creating a new organization of work which is both more balanced and more productive" (4).

However, a later review of these laws by Hegewisch and her colleagues highlighted some of the weaknesses of these measures, especially in the United Kingdom. In their 2006 assessment, Fagan, Hegewisch, and Pillinger (2006) are particularly critical of the British approach. First, they fault the United Kingdom law for restricting access to workers with caregiving responsibilities, because that restriction fails to support workers seeking either phased retirement or lifelong learning; the Dutch and German laws cover a broader cross-section of workers. Furthermore, Fagan, Hegewisch, and Pillinger conclude that, in practice, workers in the Netherlands and in Germany have more options for securing flexible working time arrangements, in part because workers in the United Kingdom lack sufficient rights to challenge employers' business reasons for refusing their requests. Clearly, these new "flexible working rights" laws remain works in progress, and future evaluations will be invaluable for identifying their full impact.

Finally, in addition to the laws reported in table 11.1, which apply to either all workers or to caregivers, some European countries have enacted measures specifically for older workers. These measures are part of a larger effort in Europe that aims to encourage older persons to remain in the labor force later in life. This policy shift, an explicit reversal of previous early-retirement policies, has been motivated largely by the looming demographic crisis and its anticipated effect on social insurance financing. To that end, a number of countries have enacted laws that encourage older workers' access to part-time work and/or flexible scheduling. Some have implemented explicit rights allowing older workers to reduce their hours (or to request to do so) so that they can retire in phases; partial-pension policies generally accompany these rights to work part-time. McCann (2004) reviews these policies, offering Austria, Finland, and Spain as examples, and reports that eligible older workers typically receive an income that consists of wages for the hours they work, in combination with some pension income. Permissible hours reductions usually fall in the range of 25 to 75 percent. McCann (2004) also reflects on this "worker choice legislation" more generally, and concludes that "although the outcomes of the enactment of this kind of legislation are not yet clear, it may have the potential to advance gender equality by allowing for shorter hours to become more widely available" (23). She observes that, in
the past, women who wished to work part-time have typically been forced to change jobs, often incurring substantial penalties with respect to their wages and career opportunities. These laws, if successful, will enable more women to shift their hours while remaining in their current jobs, thereby making part-time work available across a wider range of jobs and occupations and, in general, reducing the penalties associated with working part-time. Extending these measures to men, she argues, challenges traditional assumptions about gender differences in working patterns: as such, these measures raise the likelihood that men will engage in various forms of reduced-hour or flexible scheduling.

Providing Paid Family Leave

Although limited work hours, part-time parity, and the laws that govern requests for work-hour changes could clearly benefit many workers—including workers at various ages and with diverse caregiving needs—some employees need to take temporary but sustained breaks from employment. This is often the case following the birth or the adoption of a child. The opportunity to take a temporary leave, with both job protection and at least some wage replacement, is a key element in the landscape of working-time-related policies in Europe. Although there are other types of paid family leave in place in various countries (e.g., to care for older sick children or for elderly dependents), this section focuses on leaves designed specifically for new parents.

Paid family leave schemes are complicated, as there is enormous variation in eligibility and benefit structures—even the boundaries of what constitutes paid family leave are contested—and thus it is a challenge to compare them meaningfully. In order to maximize comparability across countries, the generosity of paid family leave is measured here in a particular way: as the maximum number of "fully paid" weeks of leave available to new mothers, should they choose to take all of the leave that is available to them. That includes maternity leave as well as portions of parental leave that they can draw. Across these six countries, the generosity of family leave policies varies markedly.

As reported in figure 11.3, there is substantial variation in the total number of weeks of full-time wage replacement available to new mothers. The most generous paid family leave policies are found in Sweden, where mothers have access to about forty-two weeks of full-time wage replacement. The continental countries included here (the Netherlands, France, Germany, and Belgium) provide twelve to sixteen weeks of fully paid leave.6 Provisions in the United Kingdom are less generous, and the United States stands out as the exceptional case, as it is alone among these seven countries (and one of only five countries in the world) with no national policy of paid maternity leave.

It is important to note that, in addition to benefit generosity, there is much cross-national diversity in the extent to which paid leave policy features are gender egalitarian. Countries vary vis-à-vis the generosity of provisions extended to fathers and the extent to which policy designs encourage fathers to take the leave to which they are entitled. In figure 11.3 (see the triangles), these seven systems are compared on this second dimension. Note that each country is scored on a six-point "gender equality scale." The logic of this scale derives from empirical research findings that indicate that male take-up is encouraged by nontransferable rights (meaning rights that cannot be transferred to female partners), combined with high wage replacement. Countries are assigned one point on this gender-equality scale if they offer any paid paternity leave, two points if fathers have parental leave rights that are nontransferable, and up to three additional points capturing the level of wage replacement (three points if benefits are wage-related and at 80 percent or higher, two points if benefits are wage-related but at less than 80 percent, and one point if benefits are paid but at a flat rate).

Figure 11.3 reveals that these are, indeed, two distinct dimensions. That said, Sweden clearly stands out as having both the most generous and the most gender-egalitarian design. The four continental European countries, with less extensive benefits, offer incentives for fathers that are comparatively weak. Belgium and the Netherlands are partial exceptions, in that they alone (at the time point of this comparison) offer fathers a short period of paid paternity leave, as well some leave rights that cannot be transferred to their partners. In the United States, in addition to the absence of national-level paid family leave benefits, gender-egalitarian provisions in the laws are also weak. Fathers in the United States have some incentives to use the unpaid leave granted to them through national law (the Family and Medical Leave Act), in that their entitlements, if not
used, are lost to their families. At the same time, the absence of wage replacement constitutes a serious disincentive to male take-up.

"Double Whammy": The Regressive Distribution of Employer Provisions

As reported in the previous sections, a number of worker supports that are publicly provided in Europe are, for the most, absent from the law in the United States. U.S. federal law provides workers with no minimum number of paid vacation days each year, no paid family leave, and no right to change (or to request to change) their work schedules.

Many of these provisions, of course, are granted to American workers through their employers. They may be offered as part of a standard employee benefit package, and/or they may be negotiated on a case-by-case basis. Leaving these provisions to the marketplace means that, on average, fewer American workers have access to paid leave. But there is another crucial repercussion of leaving these benefits to the marketplace: their distribution is highly regressive, in that higher-skilled, higher-income workers are much more likely to have access to these kinds of benefits and protections than are less advantaged workers. There are multiple reasons underlying that distributional result. One is that more highly skilled workers are more expensive to replace, so employers offer various types of leave and flexibility in order to retain them. In general, more highly skilled workers also have more bargaining power vis-à-vis their employers.

Several recent studies have revealed the extremely regressive distribution of workplace benefits. For starters, after a one-year length of service, private sector workers earning less than $15 an hour are granted, on average, 7.7 paid vacation days per year, compared to 10.3 for higher earners. Similarly, workers in blue-collar occupations are entitled to 7.1 days per year on average, compared to 10.2 days for those in white-collar occupations (U.S. Department of Labor 2006).

Paid leave is also unevenly available. The share of working parents with access to any paid leave is less than 46 percent for those with poverty-level income but over 83 percent for those with incomes at or above 200 percent of the poverty threshold (Ross Phillips 2004). Similarly, Waldifogel (2006) reports that only 36 percent of service workers have any paid sick leave, compared to three-quarters of white-collar workers. Low-income workers are also much less likely than their higher-earning counterparts to have access to flexible job schedules, and/or to have control over their starting and quitting times (Williams 2006; see Levin-Epstein 2006 for a review of recent research).

Clearly, the absence of government provision of these crucial supports for working families leads to lower levels of support for workers, on average. But perhaps the more worrying outcome is not the lower level, on average, but the regressive nature of the distribution of these benefits. Lack of access to annual paid days off and, even more so, to periods of paid leave and to scheduling flexibility leaves many low-income workers in a time crunch. It also renders them unable to respond to family emergencies and other unexpected needs; the inevitable conflicts that arise make low-income workers especially vulnerable to loss of job quality and to job loss altogether.

Intended and Unintended Consequences

Many of the advantageous effects that these policies could offer workers, their families, and their employers, have been well documented. This package of supportive policies would be likely to reduce actual work hours, narrow the compensation gap between part-time and full-time workers, raise the likelihood that workers would apply for schedule changes that better match their needs, reduce employee turnover, raise women’s employment rates, and increase the amount of time that parents have to spend with their young children.

Several empirical studies assess the effects of normal-hour thresholds, and find evidence that lowering institutionally established thresholds reduces actual working time among employees (see Gornick and Meyers 2005; OECD 1998 for reviews). A number of studies have estimated the magnitude of the effect of reducing regulated standard hours on actual hours worked. Estimates of the magnitude of this effect range from about 75 percent to nearly 100 percent of the change in standard work hours. Researchers have reported the effect on actual hours to be about 77 percent in the United Kingdom; 85 to 100 percent in Germany; and close to 100 percent in France (see Gornick and Meyers 2005 for a review of this research). Although maximum hours have received less attention in empirical research, they too seem to have a strong effect on actual hours worked. Grubb and Wells (1993), for example, assessed the effects of restrictions on overtime hours. They found that, across Europe, maximum limits on annual overtime hours, which ranged from under one hundred to over five hundred hours per year, were a strong negative predictor of the observed frequency of overtime work. For an overview of the effects of working time regulations, see Rubery, Smith, and Fagan (1998). Drawing on variation in statutory and bargained normal hours across Europe, they concluded that “national working time regulations can be seen to have a major impact on usual working time” (75).

In addition, the limited evidence that exists also indicates that the generosity of vacation entitlements has a strong effect on the days per year actually worked. Like European workers, American workers take up their rights at relatively high levels; one study found that about 70 percent of employed Americans take all of their allocated vacation days (Expedia 2004). A recent cross-national study (Altonji and Oldham 2003) found that one additional week of legislated paid vacation translates to about thirty-five fewer hours worked per year.
The effects of part-time legislation on part-time work rates and/or part-time workers' remuneration are not well known, in part because the EU Part-Time Directive and the national measures that followed were implemented only recently; several outcome evaluations are underway. There are correlational findings that link regulation to the availability or quality of part-time work; for example, more protective regulations are seen in countries with larger part-time labor markets and smaller pay penalties. One recent study finds that part-time/full-time wage differentials in Germany, the United Kingdom, and especially in Sweden are substantially smaller than those reported in the United States, where part-time workers' compensation is not protected by law (Bardasi and Gornick 2003).

Like the new part-time parity laws, most of the European "flexible working rights" laws have been enacted too recently for comprehensive evaluation. However, a growing body of empirical research has evaluated the effects of flexible work arrangements more generally. Studies have found that having access to flexible work options can increase workers' well-being, by increasing their job satisfaction, reducing stress, and decreasing commuting time (Casey 2006; Levin-Epstein 2006).\footnote{Increasing evidence points to benefits for employers, in the form of employee retention and reduced turnover costs (Levin-Epstein 2006); increased employee satisfaction, engagement, and commitment; and expanded opportunities for recruitment (Corporate Voices 2005). Finally, a large body of empirical research assesses the impact of family leave policy, primarily on mothers' employment patterns. The evidence indicates that access to leave has the potential to reduce labor market inequalities between men and women by facilitating continuous employment and reducing wage penalties associated with motherhood (Glass and Riley 1998; Hofferth 1996; Joesh 1997; OECD 2001; Smith, Dows, and O'Connell 2001). Other research suggests that access to family leave may have health benefits for children, especially in the form of reduced infant mortality (Rahn 2000; Winograd and Brady 1995). Evidence that very young children do better on other dimensions when a parent is at home is less consistent, although the most recent research suggests that high levels of parental employment during the first year of life are associated with worse outcomes for at least some groups of children, and that these effects persist well into grade school (see, e.g., Meyers et al. 2004).}

**What about Unintended Consequences?**

At the same time, a number of concerns have been raised, in academic literatures and in the popular media, about the possibility of unintended consequences. One concern is that the reduction in work hours is being achieved at the cost of more nonstandard and less controllable and/or predictable work scheduling. Second, some argue that efforts to strengthen reduced-hour work inevitably create new forms of gender inequality, because it is women, overwhelmingly, who will choose shorter-hour work. A third concern, frequently voiced in the United States, is that labor protections (regarding working hours) and strong generous social policies (such as paid family leave) may damage the macroeconomy.\footnote{Increasing Nonstandard Schedules Many scholars of working time policies have raised the possibility that efforts to reduce work hours may have some problematic consequences, especially for workers and their families. In recent years, while several European countries have implemented reductions in total work hours, a number of these countries have ushered in new practices that increase employers' options to schedule workers "flexibly"—which, in practice, often means during nonstandard hours. These new practices are on the rise largely because an increasing number of European employers are operating under various "annualized hours" (AH) schemes. AH schemes allow employers to average workers' hours over periods of time ("reference periods") longer than a week—and, in some cases, up to a year (hence the terminology). AH schemes, of course, enable employers to fit workers' schedules to production or commercial needs, and the result is that more workers are scheduled during nonstandard hours (including during evenings, nights, and weekends) and/or assigned hours that rise and fall weekly, monthly, or seasonally. AH schemes also allow employers to pay less (or no) overtime, as overtime thresholds may not be set weekly, but for the reference period as a whole. Some of the momentum underlying AH schemes, which expanded in the 1990s, came from the EU itself. The 1993 Working Time Directive explicitly allows working hours up to the forty-eight-hour weekly maximum to be calculated over a four-month period, which can be extended up to twelve months by collective agreement. Furthermore, the directive implicitly allows member countries to establish reference periods of longer than a week for normal and/or overtime hours as well. In most countries, AH schemes are mainly designed at the bargaining table, and they vary widely across and within countries. Although AH arrangements are usually favored by employers, employees' representatives typically agree to them—on the condition that the result of some compensatory benefit, most often, a reduction in total work hours (Kouzis and Krestos 2003). Thus, in practice, legions of European workers may have gained shorter hours at the cost of more nonstandard work scheduling and, in many cases, reduced control and predictability.\footnote{For workers with family care responsibilities, even with reduced total hours, having a nonstandard, uncontrollable, and/or unpredictable schedule can make reconciling work and family responsibilities difficult. In a groundbreaking study, Fagnani and Letatbi (2004) report findings from a survey that queried French parents with young children about the impact of the thirty-five-hour law on their ability to balance work and family. The French case is a significant one—with implications for other countries—because annualization schemes, set at the sectoral or company level, are widespread and reference periods of twelve months are not uncommon.}
Fully 58 percent of French parents report that the thirty-five-hour law has made family care easier for them, finding that it underscores the importance of working time reductions for employed parents. However, that figure is substantially lower among workers who have non-standard-hour schedules (i.e., evenings, nights, week-ends), those whose hours are imposed on them (rather than chosen by the worker or negotiated with the employer), and those whose employers do not respect notification periods in relation to working patterns (Fagnani and Letablier 2004). A recent OECD study concurs. OECD researchers used data from the Third European Working Conditions Survey, pooled across nineteen countries, to assess factors that affect workers’ ratings of their “degree of conflict between working life and family life.” Not surprisingly, work-family conflict is higher among those with longer total work hours. However, controlling for total hours worked, conflict is also significantly higher when daily hours vary, workdays per week vary, starting and finishing times vary, schedules change with no notice or with only a day of notice, or when workers have little control over their working hours (OECD 2004). Fagnani and Letablier (2004) sum up: “Taking into account the extreme heterogeneity of workplaces, it is not sufficient to mechanically reduce working time for there to be an improvement in the daily lives of working parents” (568). The scheduling of hours, as well as the processes governing that scheduling, matter a great deal.

Annualization schemes are widespread in several European countries and further extensions are proposed at the EU level and in a number of member countries as well. If annualization schemes gain strength in Europe and elsewhere, the potential gains for workers of winning shorter hours are likely to be seriously compromised. Protective mechanisms for workers (such as enforceable minimum notification periods and/or time-bank agreements that divide control over scheduling between employers and workers) will be crucial, or the advantages of shorter work hours may be more than offset by increasingly problematic scheduling practices. Where consumers’ or employers’ demand for “24/7” operation is especially strong, it may be impossible to control the growth of non-standard-hour work, in which case other policy responses may be needed to help workers cope. The “flexible working rights” laws themselves may be one important ingredient in a protective policy package.

GENDER INEQUALITY

Strengthening reduced-hour work also raises thorny questions about gender equality. If shorter full-time hours and more available part-time hours are taken up disproportionately by women, more parental caregiving time may become available, but gender equality in time spent in paid work will worsen. It remains an open question, with respect to shorter-hour work (and parental leave as well), as to whether men will eventually take advantage of these options as often as women.

Part of the logic of improving the quality of part-time work, of course, is to draw more men into it. And, in fact, men’s engagement in part-time work increased in the 1990s in a number of European countries, including Belgium, France, Germany, and the Netherlands (European Foundation 2004). Recent survey results indicate that the substantial majority of male part-time workers, like their female counterparts, are voluntarily working part-time, which suggests that the new rights to part-time work may be a factor underlying this increase. Nevertheless, part-time work remains overwhelmingly feminized in most industrialized countries. A countervailing view argues that even if part-time work remains feminized, it still has some gender-equalizing potential, in that establishing viable part-time work options also draws some women into paid work who would otherwise refrain from employment altogether (Bardasi and Gornick 2003). It is possible that improving the availability of quality part-time work may, in general, have the effect of reducing gender gaps in employment rates, while increasing gender gaps in hours worked among the employed. In the end, this is an empirical question and one that calls for continuing study.

From a gender equality perspective, some working time scholars have concluded that reducing full-time weekly hours may be a more promising strategy than shortening part-time work; see, for example, Jacobs and Gerson (2004). Mutari and Figart (2001) make this argument persuasively: “The alternative to policies that accommodate work hours to the gendered division of labor are policies that change the male model of full-time employment. Reductions in the standard workweek are a long-term solution for achieving gender equity in the labor market and the redistribution of domestic labor. A shorter work can enable both men and women to participate in the labor market on an equal basis” (40-41). In fact, this view—that shortening the full-time week is a gender parity strategy—seems to be gaining ground in a number of European countries. Fagnani and Letablier (2004) observe that in France, where part-time work has always been viewed with skepticism, the French thirty-five-hour law “had the [explicit] objective...of improving equality between men and women.” The effects of reducing normal weekly hours on gendered distributions of labor also call for further study.

EFFECTS ON MACROECONOMIC OUTCOMES

It is also widely argued, especially in the United States, that generous social policies are harmful to the macroeconomy. Is that a reasonable worry? Is there a larger price to be paid for the benefits that families are likely to reap? Throughout the 1980s and much of the 1990s, unemployment rates across Europe were much higher than those in the United States; some European countries experienced persistent double-digit unemployment rates. Many American scholars, political actors, and journalists make the argument that policy ideas should not be imported from Europe because these social policies and labor market regulations have actually caused Europe’s unemployment woes. As the argument goes, high social insurance taxes raise labor costs, which lower the demand for labor; demand is further depressed by labor market regulations that, for example, restrict employers’ options with regard to employee schedules.

The claim that generous social welfare provisions weaken the economy has been aimed broadly at everything from old-age pensions to unemployment insurance to
work-family programs. A sober read of the evidence provides little support, how-
over, for the conclusion that Europe’s unemployment problems are explained by
social policy. In a Journal of Economic Perspectives literature review, Nickell (1997)
concluded that some welfare state features do seem to drive up unemployment
rates—in particular, unemployment benefits with extremely long durations, cou-
pled with weak active labor market policies. But other welfare state and labor mar-
ket features—such as high payroll taxes, high overall taxes, high wage replacement
rates, high unionization, and strict employment protection legislation—have been
no less common in high-employment than in low-employment countries.

More concretely, the argument that European-style social policies and labor mar-
ket regulations are incompatible with strong economic performance has been dra-
matically weakened by recent recoveries in most of the European economies. This
conclusion is underscored by evidence from these six countries. In 2002, the end
of the period to which these policy data pertains, all six of these comparison countries
reported single-digit unemployment rates. While the rates in France and Belgium
were clearly at worrisome levels (7–9%), the unemployment rate in Sweden was
4 percent (below the U.S. rate at that time). The case for a tight link between labor
market regulations (in particular, protections for workers) and high unemployment
is simply not persuasive.

It is also crucial to note that the recent economic recoveries in Europe have been
achieved without major reversals in public spending on social policy. Labor market
deregulation and welfare state restructuring have been prominent issues on political
agendas across Europe in recent decades. Several European countries have substan-
tially loosened labor market regulations, and some social programs have been scaled
back in some countries. Restructuring has been most common in old-age pensions,
due to worries about rapidly rising dependency ratios, and in programs that econo-
mists identified as harmful to (male) labor supply, including long-term unemploy-
ment compensation and disability benefits. Although important, these adjustments
were relatively modest and did little to weaken the basic structures of social provision
(Gornick 2007; Gornick and Meyers 2001). Restructuring of the European welfare
states has been, contrary to many popular accounts, quite modest in general. And in
the midst of these changes, one of the key policies focused on here—paid family leave
for both women and men—was singled out for protection and expansion in nearly
every European country. Since the mid-1980s, average public spending on cash trans-
fers to families (per child) have increased sharply in nearly every European country.

And what about the macroeconomic consequences of reducing working hours?
A parallel line of criticism has focused on the shorter work hours that are now stan-
dard in these six comparison countries and elsewhere in Europe. Some critics on

both sides of the Atlantic, in fact, point to the United States as the superior model.
As the argument goes, Americans’ long work hours may produce strains for many
workers and their families, but Americans, largely as a result of their work hours,
enjoy a higher standard of living. Indeed, the United States ranks third among the
three OECD countries in per capita income (after Luxembourg and Norway), using
purchasing-power-adjusted exchange rates. There is no question that all six of these
comparison countries lag behind the United States in per capita income.

Does that mean that, on average, Americans, with their longer hours, enjoy a
relatively higher standard of living? Some scholars argue that it is misleading to
measure “standard of living” solely in monetary terms, without taking into account
time investments. As Osberg (2002), a Canadian economist, has argued persua-
sively: “Quality of life or ‘economic well-being’ may be hard to define precisely, but
most would agree that they depend on both an individual’s income level and the
discretionary time they have in which to enjoy it” (22).

So, American workers, on average, do take home high incomes compared to
workers elsewhere, but for many American workers and their families, that eco-
nomic payoff is compromised by the family time-poverty that enables it. It is also
the case that Americans work such long hours that they may be on the diminish-
ishing-returns portion of the productivity curve. Although the United States leads
the world in gross domestic product per worker, it is ranked eighth among the OECD
countries in GDP per worker hour. And, in fact, per-hour output in the United
States is only average, relative to these and other comparison countries with shorter
work hours. It may be that American workers could shift some hours from work to
family and see a rise in hourly output.

Reflections on the American Context

Americans today are working longer hours, with many fewer institutionalized work-
ing time protections, than are their counterparts in a number of European coun-
tries. Workers in the United States have access to fewer measures that limit their
working time and they work with virtually no protections related to the compensa-
tion of part-time work, the right to formally request a change to their work hours,
or the right to take temporary paid family leave to care for their family members.

Why is the policy landscape in the United States so different relative to many
European countries? The lack of public policy in this area is, of course, consistent
with lower levels of social protection in the United States more generally. A large
and longstanding academic literature has explored the causes of so-called American
social policy exceptionalism. Some scholars locate its roots in institutional factors
that have limited the development of labor parties that sustain collective bargain-
ing, others stress the unique aspects of American political culture that have long
privileged reliance on the market, rather than the state, to distribute resources—and many scholars have identified
interactions between the two. Recent lines of scholarship explain the durability of existing social policy configurations through policy feedbacks: that is, policies are understood to shape political outcomes, which in turn can make policy change all the more unlikely.

At the same time, while American social policy overall is relatively more limited, arguably something more specific is operating here. Across some policy arenas, such as retirement, disability, and unemployment benefits, American social policies actually resemble policy provisions in other rich countries. But in the area of work-family reconciliation policies—paid family leave, childcare, the regulation of working time—the United States is extremely exceptional (Gornick and Meyers 2003).

Why is work-family policy so remarkably limited in the United States? Although a full analysis of the causes is outside the scope of this chapter, several factors merit mentioning. First, the so-called mommy wars (the public debates about the consequences of maternal employment) are especially intense and polarized in the United States, fueled further by American religious conservatives who believe that (middle-class and affluent) mothers should largely refrain from employment when their children are young. Divisions on these issues pervade even progressive policy advocacy communities, creating barriers for successful policy movements. Second, it is often observed that American political culture valorizes hard work and devalues leisure, relative to many European societies; policies aimed at shortening paid work hours are often viewed with ambivalence in the United States. Third, in many European countries, concerns about low aggregate fertility have led to work-family policy expansions, both in earlier decades and in the contemporary period; low fertility, overall, has not yet become a prominent issue in the United States, eliminating one powerful contextual factor. Fourth, although business associations in many European countries often protest protections for workers that are required by law, the power of business in policymaking is somewhat blunted, relative to the United States, in part due to limits on the flow of private monies into the political process. And, finally, it has been widely documented that, unfortunately, Americans lack awareness about the successful operation of diverse work-family policies in so many other high-income countries.

Before American policy actors will move toward implementing substantial working time protections—and other work-family reconciliation supports—Americans will need to build a new social consensus on the need for governmental support for workers. What would enable such a consensus? For starters, many Americans would have to adopt a dramatically altered discourse about the role of government more generally in shaping social and economic outcomes. Second, Americans would need a new interpretation of “family values,” one that recognizes the damaging consequences for American workers and their families of time poverty and inflexible employment. Finally, policy advocates would have to alert more Americans to the extreme exceptionalism of current policy offerings in the United States relative to the other high-income countries of the world.

It is widely acknowledged that parents need flexibility to manage work and family boundaries. However, the impact of flexible working arrangements on employees with family responsibilities depends on many layers of context. Nevertheless, much of the research on flexible work arrangements either focuses on organizational policies and support and relatively neglects wider societal and economic context (S. Lewis 1997; Swidy and Powell 2007; Van Dyne, Kosek, and Lobel 2007), or focuses on social policies to support working parents and neglects the workplace context (e.g., den Dulk, Peper, and Van Doorne-Huiskes 2005; Gornick and Meyers 2003).

This chapter will discuss some findings from a cross-national European study that explored the ways in which employed parents with young children experience flexible working arrangements, in a range of national and workplace contexts. The project, Gender, Parenthood and the Changing European Workplace (short name Transitions), set out to examine how young European men and women negotiate motherhood and fatherhood and work-family boundaries in workplaces that are undergoing substantial changes in the context of different national welfare state regimes and employer supports. The countries included were Norway, Sweden, Portugal, France, the Netherlands, the United Kingdom, and two postcommunist countries, Bulgaria and Slovenia. This wider study examines the ways in which pressures associated with the global economy were played out in diverse contexts. Would certain national policies and workplace policies and practices support and protect working parents more than others? Or would the effects of globalization on working practices override the impact of diverse contexts leading to more homogeneity of experiences? This chapter focuses more specifically on the ways in which flexible work...