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## Child Care Enterprise, Community Development, and Work

Peter R. Pitegoff  
Dean and Professor of Law



# Child Care Enterprise, Community Development, and Work

PETER PITEGOFF\*

Child care enterprise can be a vehicle for community-based economic development. Beyond the critical goal of child care *service*, day care as an *enterprise* can help build capacity for job creation and entrepreneurship in the inner city and in disadvantaged communities. Stable child care institutions with quality jobs can sound a counterpoint to the feminization of poverty.

The demand for child care services is substantial and growing.<sup>1</sup> In single parent families and in households with two working parents, day care is essential to enable parents to work or go to school. Further, high quality early childhood programs can have a positive impact on child development.<sup>2</sup>

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\*Associate Professor, State University of New York at Buffalo School of Law; formerly Legal Counsel to the Industrial Cooperation Association in Boston, Massachusetts, and a community organizer in Oakland, California. I thank Henrietta Keenan, Cynthia Coker, Sherry Cleary, and their child care colleagues for inspiration and direction for this article; Alice Tam, Lara Gurevitch, and Cheryl Gandy for tireless research; Jan Stokley for sharing her experience in child care and community development; and Tom Disare, Lucinda Finley, Steven Dawson, Frank Munger, and Leslie Bender for editorial and substantive advice. Above all, I thank my wife, Ann Casady, and our two sons for their patience and my learning.

1. See MARGARET O'BRIEN STEINFELS, *WHO'S MINDING THE CHILDREN?: THE HISTORY & POLITICS OF DAY CARE IN AMERICA* 87-88 (1973) (explaining how Women's Liberation, a middle class movement, has resulted in more women pursuing professional careers and thus has increased demand for day care from the middle class); see also *infra* notes 38-40 (on the growing need for child care).

2. See JAN STOKLEY, NATIONAL ECONOMIC DEVELOPMENT & LAW CENTER, *THE CHALLENGE OF CHILD CARE FOR COMMUNITY DEVELOPMENT CORPORATIONS* 12 (1990); EILIS HENNESSY ET AL., *CHILDREN AND DAY CARE: LESSONS FROM RESEARCH* 109-13 (1992) (summarizing the results of several studies on the effect of day care attendance on children, concluding very little effect in general but some real benefit in selected circumstances); cf. Jay Belsky, *A Reassessment of Infant Day Care*, in *THE PARENTAL LEAVE CRISIS: TOWARD A NATIONAL POLICY* 100, 112 (Edward Zigler et al. eds., 1988) [hereinafter *THE PARENTAL LEAVE CRISIS*] (raising concerns about the socioemotional effects of day care on infants and noting that the quality of day care is of first importance); Jay Belsky, *Infant-Parent Attachment and Day Care: In Defense of the Strange Situation*, in *CARING FOR CHILDREN: CHALLENGE TO AMERICA* 23, 34-41 (Jeffrey S. Lande et al. eds., 1989) [hereinafter *CARING FOR CHILDREN*] (same); Anders Broberg et al., *Child Care Effects on Socioemotional and Intellectual Competence in Swedish Preschoolers*, in *CARING FOR CHILDREN, supra*, at 49, 69 (after conducting various studies of preschoolers, concluding that the quality of child care received both at home and in day care affected child development); Thomas J. Gamble & Edward Zigler, *Effects of Infant Day Care: Another Look at the Evidence*, in *THE PARENTAL LEAVE CRISIS supra*, at 77, 94-95 (arguing for parental leave policies in light of concerns about negative effects of infant day care unless the quality of care is higher than typically affordable). The federal Head Start program, despite its limitations, has demonstrated the



But child care teachers face the dual obstacle of a public attitude that devalues their work and a harsh economic environment that relegates child care enterprise to the margin.<sup>3</sup> The economic and social reality for day care centers too often means low-wage jobs for women, with few benefits and little opportunity for advancement.

In any child care enterprise, the quality of care for the children substantially depends on the caregivers and on the quality of their work life. The quality of work, in turn, requires respect for the workers and sufficient resources to provide them with decent wages, benefits, and job security. The challenge, then, for a community economic development approach is two-fold. First, particularly in low-income neighborhoods, child care centers need to forge linkages beyond their own enterprises to external institutions with available resources.<sup>4</sup> Second, they need to transform those resources into a corporate culture that values the work force and balances staff interests with the needs of the children and parents.<sup>5</sup>

Part I of this article describes the contours of the child care industry and underlying societal values that keep it at the economic margin. Part II locates child care in a community economic development context, with attention to child care employment and theories about women and work. Part III describes selected enterprise models, all of which involve child care centers strengthened by creative linkage with other institutions and one that empowers the staff through a participatory culture and worker ownership.<sup>6</sup>

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positive potential of day care with respect to child development. See *infra* note 88 and accompanying text (discussing Head Start).

3. A growing number of research and advocacy groups are addressing the child care staffing crisis and the negative impact of low pay and prestige on the quality of care, most notably the Child Care Employee Project and the National Economic Development and Law Center, both in Oakland, California. See *infra* note 202 (listing these and other prominent child advocacy groups addressing child care needs more generally).

4. Typically, these external resources for child care are found in a combination of government subsidies, philanthropic support, corporate initiatives, development finance groups, sponsorship by a religious or educational institution, and market-rate fees paid by middle class clients. See, e.g., *infra* note 11 (describing the combination of resources used to open Precious Jewels Day Care Center).

5. This two-fold challenge—effective linkage and supportive corporate culture—also requires highly skilled management, capable of building both financial stability and employee empowerment. Cf. “Good Jobs” and “Good Service,” STATUS REP. (Cooperative Home Care Associates, Bronx, N.Y.), Dec. 1992, at 2 (listing five factors for the success of a worker cooperative home care enterprise in the South Bronx: careful choice and training of potential workers, highly skilled professional managers, organizational culture of respect and support, worker ownership that reinforces the culture, and effective subsidies and technical assistance).

6. See *infra* Part III.C. (discussing Childspace, a day care system in Philadelphia, where worker ownership is a vehicle to combine quality care with quality work).



The article concludes that community development strategies and child care subsidies should be targeted toward responsible enterprise development that values child care work. Still, sufficient change in social norms or public subsidy is unlikely, in the near term, to elevate the status and stability of the child care industry. Economic development strategies and supportive public policy, however, can recast child care as a sophisticated enterprise and, over time, challenge gender stereotypes. Day care ventures that balance community accountability with worker opportunity can be a lynchpin for attacking poverty and reflect the interface of law, poverty, and economics.

## I. THE CHILD CARE CONTEXT

### A. A JEWEL IN THE ROUGH

Henrietta Keenan had a dream. Standing before a two-story frame house on the east side of Buffalo, New York, she saw a potential child care center. Others saw a house in need of substantial repair, in one of the poorest inner-city neighborhoods in western New York.<sup>7</sup> But Ms. Keenan had grown up in this house, and she knew firsthand the critical need for day care for children in that community. Years ago, affordable child care had eased her struggle to balance work and school while she raised two children. Now, as a foster care counselor at the New York State Division of Youth, her clients—many of them young parents—remind her daily that affordable child care might enable parents to work or attend school.<sup>8</sup>

Precious Jewels Day Care Center, Inc. opened its doors at the start of 1993. Five years earlier Ms. Keenan's mother, no longer able to maintain the house, transferred title to Ms. Keenan. What followed were intensive and persistent efforts to renovate the house; meet licensing standards for a child care center; obtain the adjacent lot for a play area; acquire furniture, equipment, supplies, and toys; hire teachers and staff; contract for needed

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7. This east side neighborhood of Buffalo is within the poorest census tract of the eight-county area of western New York. AFRICAN AMERICANS & THE RISE OF BUFFALO'S POST-INDUSTRIAL CITY, 1940 TO PRESENT 11 (Henry L. Taylor, Jr. ed., 1990) [hereinafter AFRICAN AMERICANS]; Henry Louis Taylor, Jr., *Social Transformation Theory, African Americans and the Rise of Buffalo's Post-Industrial City*, 39 BUFF. L. REV. 569, 573 (1991).

8. See THE RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK, 1991 ANNUAL REPORT 23 (1991) (describing Ms. Keenan's dream and the efforts of faculty and students at the State University of New York at Buffalo School of Law to make this dream a reality); *Reaching Out: UB Law School's Development Clinics, Making A Difference for Those with Least*, U. BUFF. L.F., Spring-Summer 1992, at 24-25 (same). Descriptions of Ms. Keenan's effort to start a child care center are based in large part on direct involvement with the day care center start-up effort by the Community Economic Development Clinic, a component of the Legal Assistance Program at State University of New York at Buffalo School of Law (SUNY-Buffalo Law).



services; obtain financing; negotiate through a maze of legal requirements and transactions; develop an early childhood development program; and, finally, market the center and enroll children. Important to this process was building organization within the new shell of a tax-exempt corporation, with establishment of governance and management policies and informal norms of doing business and relating to one another. In Precious Jewels, one woman's dream was evolving into a community-based institution.

The saga of Precious Jewels Day Care Center is an allegory for issues in child care and community economic development generally, both the constraints and the potential. It reads like a dream come true, of a woman drawing upon a deep spiritual strength to create a desperately needed enterprise in her old neighborhood. A new not-for-profit corporation will employ local residents and enable parents to find work or further their education. Renovated housing stock will be maintained, while the daily activity at the Center will help to revitalize one small part of the distressed inner city. In a city plagued by racism, Precious Jewels demonstrates effective collaboration across racial lines.<sup>9</sup> A host of both public and private institutions, including the Community Economic Development Law Clinic at the State University of New York at Buffalo,<sup>10</sup> came together and

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9. As in many American cities, widespread racism presents a threshold hurdle for attempts at constructive community development in Buffalo. See Peter Pitegoff, *Buffalo Change & Community*, 39 BUFF. L. REV. 313, 332 (1991) (examining the "recent history of community organization and development" and looking ahead to "strategies to change Buffalo"); Taylor, *supra* note 7, at 572. Clearing that hurdle, the core of collaborators in Precious Jewels reflects both racial diversity and working relationships that are close and constructive.

10. In early 1989, Ms. Keenan requested assistance from the Community Economic Development Law Clinic at SUNY-Buffalo Law, signaling the start of almost four years of intensive involvement by the clinic with Precious Jewels. Clinical Instructor Thomas Disare, a former partner in a large Buffalo law firm, has been lead counsel for countless hours of work by clinic students and faculty, including: not-for-profit incorporation, a process that in New York involves unusual rigor and delay; application to the Internal Revenue Service for tax-exempt status; negotiation and documentation of loan funds from the Buffalo Urban Renewal Agency and related negotiations with the federal Department of Housing and Urban Development; preparation of construction and lease agreements; fundraising from a number of public and private sources, with appropriate documentation; licensing by the New York State Department of Social Services; development of a governance system, with attention to corporate formalities; preparation for employment and other start-up issues; and execution of numerous other general counsel matters. For discussions of the Community Economic Development Law Clinic, see generally Peter Pitegoff, *Community Development Clinic in Buffalo*, 1 CONSORTING 6 (1991) (discussing the clinic and its connection with scholarship); Sue Wuetcher, *New Directions in Law School Education*, REPORTER (SUNY-Buffalo), Apr. 19, 1991, at 2 (introducing the Community Economic Development Law Clinic at SUNY-Buffalo); cf. Jeffrey S. Lehman & Rochelle E. Lento, *Law School Support for Community-Based Economic Development in Low-Income Urban Neighborhoods*, 42 J. URB. & CONTEMP. L. 65, 74 (1992) (describing the Program in Legal Assistance for Urban Communities, a parallel effort at the University of Michigan Law School).



brought their resources to bear upon an often-neglected urban agenda.<sup>11</sup> Ms. Keenan and the Law Clinic envision Precious Jewels, potentially, as a model for others and part of a network of child care centers and related enterprises.

Yet, the flip side of this story is the tremendous effort required “simply” to create a day care center for less than two dozen inner-city children. Precious Jewels reached the starting gate only after thousands of hours of volunteer effort by its founder, community leaders, and technical experts, hard work by the initial director and staff, and financial and political support from government officials, local businesses, church organizations, and friends. The economics of operating a child care center in a low-income community will require Precious Jewels continually to supplement basic operating revenue with substantial subsidies from government and charitable sources. Wages and benefits for the staff will be limited, despite ongoing subsidies. The industry norm for wages ranks child care among the poorest paid of the human service professions,<sup>12</sup> and, at least at the outset, Precious Jewels has insufficient resources to escape this norm. As an operating entity, early on, the Center struggles to survive.

The challenges facing Precious Jewels reflect the reality for thousands of child care centers, particularly in inner-city communities. Absent sufficient subsidies, the economics of child care demand impossible trade-offs that undermine the stability and quality of care.<sup>13</sup> With or without adequate funding, societal norms continue to marginalize child care work. The remainder of this article explores the social and economic hurdles for child care enterprise and proposes a community development approach to begin surmounting them.

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11. The creation of Precious Jewels Day Care Center involved a wide array of institutions and individuals providing support, including early donations from a local trucking company and from Catholic Charities of Western New York, a capital grant from the New York State Department of Social Services, a grant and loan of community development block grant funds from the Buffalo Urban Renewal Authority, toys and furniture donated by Fisher-Price Inc., a grant from Kelly for Kids (sponsored by Buffalo Bills quarterback Jim Kelly), support from City Council member James Pitts and former Congresswoman Shirley Chisholm, and active support from the board of directors of Precious Jewels, consisting of community residents, early childhood experts, and other professionals with technical skills. Central to this support have been the persistent efforts of Ms. Keenan and her family, and of the initial director, Donna Forster, and other staff.

12. MARCY WHITEBOOK ET AL., FROM THE FLOOR: RAISING CHILD CARE SALARIES 1-4 (1991) [hereinafter WHITEBOOK ET AL., FROM THE FLOOR]; MARCY WHITEBOOK ET AL., NATIONAL CHILD CARE STAFFING STUDY REVISITED: FOUR YEARS IS THE LIFE OF CENTER-BASED CHILD CARE (1993) [hereinafter WHITEBOOK ET AL., STAFFING REVISITED]; MARCY WHITEBOOK ET AL., NATIONAL CHILD CARE STAFFING STUDY, WHO CARES: CHILD CARE TEACHERS AND THE QUALITY OF CARE IN AMERICA: FINAL REPORT 49 (1989) [hereinafter WHITEBOOK ET AL., WHO CARES].

13. Tim Hargrave, *Child Care: The Trade-Offs Between Social and Financial Goals*, NAT'L ECON. DEV. & L. CTR. REP., Jan. 1993, at 13, 20.



## B. THE CHILD CARE "SYSTEM"

The United States has no comprehensive child care system, but has instead a patchwork of public policies and private initiatives.<sup>14</sup> Licensed day care centers, the focus of this article, include both not-for-profit enterprises such as Precious Jewels, and commercial operations.<sup>15</sup> There is extensive variation within the category of licensed centers, from small proprietary businesses to large for-profit chains or franchise networks, from union-sponsored programs to work-site centers for employees of corporate businesses, and from independent not-for-profit organizations to day care groups based in churches or schools, or sponsored by other community organizations.<sup>16</sup> Relatively few corporate employers provide child care support to employees,<sup>17</sup> although an increasing number of initiatives sponsored by large corporations have received media attention.<sup>18</sup>

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14. See, e.g., Lance Liebman, *Evaluating Child Care Legislation: Program Structures and Political Consequences*, 26 HARV. J. LEGIS. 357, 377-83 (1989) (describing various legislative initiatives and the failure to establish comprehensive child care legislation); Susanne Martinez, *Child Care and Federal Policy*, in CARING FOR CHILDREN, *supra* note 2, at 111, 120 (describing the federal response to the child care crisis as a "patchwork, crazy-quilt pattern, which sometimes makes little sense and in other instances is in conflict with itself"); cf. W. NORTON GRUBB & MARVIN LAZERSON, *BROKEN PROMISES: HOW AMERICANS FAIL THEIR CHILDREN* 185-207 (1982) (criticizing the federal welfare policy as ineffective in eliminating childhood poverty).

15. Lucinda Finley, *Legal Aspects of Child Care: The Policy Debate Over the Appropriate Amount of Public Responsibility*, in PARENTAL LEAVE & CHILD CARE: SETTING A RESEARCH & POLICY AGENDA 128-30 (Janet Hyde & Marilyn J. Essex eds., 1991) [hereinafter PARENTAL LEAVE & CHILD CARE].

16. A national survey in 1990 of families with children under age 13 shows that 13% used center-based care and that use of center-based programs has increased consistently over the past 25 years. SANDRA L. HOFFERTH ET AL., NATIONAL CHILD CARE SURVEY, 1990: A NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN (NAEYC) STUDY 2 (1991). Moreover, disaggregating the data to specifically look at preschool children reveals that 50% of three and four year-olds are enrolled in center-based or family day care options. *Id.* at 30-42; see also ELLEN ELIASON KISKER ET AL., U.S. DEP'T OF EDUC., A PROFILE OF CHILD CARE SETTINGS: EARLY EDUCATION AND CARE IN 1990, at 4 (1990) (presenting comparative data on Head Start, public school programs, religious-sponsored centers, other nonprofit-sponsored or independent centers, for-profit chains, independent for-profit centers, and regulated home-based programs in child care).

17. SANDRA L. BURUD ET AL., EMPLOYER-SUPPORTED CHILD CARE: INVESTING IN HUMAN RESOURCES 5 (1984); BARBARA REISMAN ET AL., CHILD CARE: THE BOTTOM LINE—AN ECONOMIC AND CHILD CARE POLICY PAPER 68 (1988); Barbara Reisman, *The Economics of Child Care: Its Importance in Federal Legislation*, 26 HARV. J. LEGIS. 473, 485-86 (1989); Carol Ann Diktaban, Note, *Employer Supported Child Care As a Mandatory Subject of Collective Bargaining*, 8 HOFSTRA LAB. L.J. 385, 394-401 (1991); see *infra* notes 195-199 and accompanying text (dismissing developments in child care support by corporate employers).

18. See, e.g., Sue Shellenbarger, *Firms Fund Changes in Dependent Care*, WALL ST. J., Dec. 30, 1992, at A9 (reporting that growing number of companies are setting up multimillion dollar development funds to improve child care services for employees); Sue Shellenbarger & Cathy Trost, *Partnership of 109 Companies Aims to Improve Care Nationwide for Children and the Elderly*, WALL ST. J., Sept. 11, 1992, at A20 (reporting that in the largest corporate



Completing the spectrum of regulated child care alternatives are family day care services, ordinarily provided by women in their own homes for a small number of children.<sup>19</sup> These micro-enterprises are popular as a child care alternative for children under six and as a means of self-employment for women.<sup>20</sup> Although they are subject to increasing regulation and licensure, many such operations remain informal and unlicensed and vary in quality.

Much of the child care for preschool children, in fact, is outside of the regulatory spectrum of licensed day care centers and home-based day care. Private and informal arrangements, essentially unregulated by the state, together involve a larger number of preschool children than licensed centers and home-based services.<sup>21</sup> For example, some working parents who can afford private child care hire providers for regular full-time care in their own homes.<sup>22</sup> Networks of friends and extended families make up

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collaboration of its kind, 109 companies formed a partnership aimed at making major improvements in quality and supply of child care services nationwide). Among the hottest issues today at the juncture of corporate and public policy is family leave for infant care or emergency care for family members. *See infra* notes 45-50 and accompanying text (describing enactment of the Family and Medical Leave Act of 1993). *See generally* PARENTAL LEAVE & CHILD CARE, *supra* note 15; THE PARENTAL LEAVE CRISIS, *supra* note 2.

19. STEINFELS, *supra* note 1, at 154; *see also* HOFFERTH ET AL., *supra* note 16, at 29-30 (finding that in 1990, seven percent of families with children under age 13 had relied upon family day care services); EDWARD F. ZIGLER & MARY E. LANG, CHILD CARE CHOICES: BALANCING THE NEEDS OF CHILDREN, FAMILIES, AND SOCIETY 16-20 (1991) (discussing the benefits and difficulties with family day care).

20. As a vehicle for enterprise and job development, family day care homes are somewhat limited and, thus, are not a part of the economic development strategy advocated in this article. *See* Margaret K. Nelson, *Mothering Others' Children: The Experiences of Family Day Care Providers*, in CIRCLES OF CARE: WORK AND IDENTITY IN WOMEN'S LIVES 210, 210-11, 224-27 (Emily K. Abel & Margaret K. Nelson eds., 1990) [hereinafter CIRCLES OF CARE] (analyzing the emergence of family day care as an occupation, but concluding that the context aligns providers with mothering and thus constrains the value and compensation afforded to them); *cf.* STOKLEY, *supra* note 2, at 50 (describing the efforts of Eastside Community Investments, an Indianapolis community development corporation, in organizing a cooperative of family day care providers as a self-employment strategy).

21. *See* Elaine Enarson, *Experts and Caregivers: Perspectives on Underground Day Care*, in CIRCLES OF CARE, *supra* note 20, at 233, 233-34, 241-42 (estimating that 90% of family day care providers were unregulated as of the late 1980s and analyzing the reasons why underground providers resist regulation); Don Oldenburg, *The Zoe Factor: Pitfalls on the Path to Legitimate At-Home Child Care*, WASH. POST, Jan. 25, 1993, at B5 (estimating that 85% of family day care providers in the Washington, D.C. area are not licensed or registered); *cf. infra* note 22 (on the Zoe Baird controversy and in-home care). The illegal day care market, while often providing a lower cost alternative, makes it more difficult for legal providers and workers to compete and gives rise to wide variation in quality of care.

22. *See* HOFFERTH ET AL., *supra* note 16, at 29 (finding that three percent of families with children under age 13 had paid child care providers at home). The so-called "Zoe Baird controversy" in early 1993 brought a burst of national attention to the widespread practice of in-home care, frequently outside the technical bounds of law. Ms. Baird, nominated by President Clinton for Attorney General, withdrew from consideration following a public



another informal child care system that enables many parents to work. Some of these arrangements essentially mirror the regulated centers and home-based day care services, without being subject to government oversight. But within this informal system, a number of young children are simply left to care for themselves or are cared for by an older child.<sup>23</sup> Finally, many parents manage to provide full-time parental care to their preschool children, sometimes by choice—when affordable or with staggered job hours by two working parents—but increasingly due to involuntary unemployment by one or both parents.<sup>24</sup>

The private market alone cannot support the array of day care providers currently operating, or the additional services that are needed. Fee-based child care is supplemented to some degree by charitable funding and by public subsidies for service to low-income families. Governments intervene at the state and local level with some financial support to providers, along with regulatory standards.<sup>25</sup> The system of state support is quite fragmented, however, and there is wide variation among states in both standards and subsidy levels.<sup>26</sup> Dozens of separate federal programs pro-

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outcry about her employment of illegal aliens, in violation of immigration and tax laws, for child care and other household services. Although fueled in part by class resentment, the outrage against Zoe Baird as a highly paid professional also reflects the pervasive bias that only mothers are responsible for child care. See Ruth Rosen, *Perspectives on Political Appointments: Who Did We Think Tended Our Children?*, L.A. TIMES, Feb. 9, 1993, at B7 (reporting on the Zoe Baird experience as a reminder of how exploitation of women by other women is built into our child care system and how women—regardless of class—get blamed for child care problems); cf. Robert Kuttner, . . . *And Double Standards*, WASH. POST, Jan. 22, 1993, at A21 (opining on the class implications of the Zoe Baird controversy); cf. Joanne Lipman, *The Nanny Trap: Dark Side of Child Care Is How Poorly Workers Are Sometimes Treated*, WALL ST. J., Apr. 14, 1993, at 1 (describing the vulnerability of in-home child care providers and selected cases of abuse or exploitation of household employees).

23. ZIGLER & LANG, *supra* note 19, at 13. In early 1993, the “home alone” controversy drew national media attention when David and Sharon Schoo were arrested for allegedly going on a ten day Acapulco vacation while leaving their two daughters, ages nine and four, to fend for themselves at home. Anna Quindlen, *Not a Movie*, N.Y. TIMES, Jan. 10, 1993, § 4, at 23. The incident triggered public discussion of the problem of “latchkey” children, the term derived from observing children going to school with their house keys on a string around their necks so they will not lose the keys. Millions of children, by most estimates, are left home alone before or after school as parents work. ZIGLER & LANG, *supra* note 19, at 121-27.

24. In the 1990 National Child Care Survey, 45% of families relied on parents for their primary child care arrangement, and 14% relied on relatives. HOFFERTH ET AL., *supra* note 16, at 29-30.

25. See, e.g., FERN MARX, NATIONAL LEAGUE OF CITIES, *CARING FOR CHILDREN: CASE STUDIES OF LOCAL GOVERNMENT CHILD CARE INITIATIVES 6-14 (1989)* (describing municipal initiatives on child care); Helen Blank, *Child Care: Issues at the State Level*, in *CARING FOR CHILDREN*, *supra* note 2, at 139, 140-52 (describing state programs for child care).

26. Philip K. Robins, *Child Care Policy and Research: An Economist's Perspective*, in *THE ECONOMICS OF CHILD CARE* 11, 21-27 (David M. Blau ed., 1991) [hereinafter *THE ECONOMICS OF CHILD CARE*].



vide some form of child care assistance, with billions of dollars spent annually.<sup>27</sup> The federal government subsidizes a portion of consumer costs for child care through tax policy and social welfare allowances,<sup>28</sup> and it channels money to providers primarily through block grants to local governments<sup>29</sup> and food subsidies to child care centers via state agencies.<sup>30</sup> The federal government is most directly involved with early childhood in the Head Start program,<sup>31</sup> which is essentially a part-time educational and family development program not a child care program that frees parents for full-time work. Aside from Head Start, most child care subsidies for low-income recipients are aimed at reducing welfare dependency of poor parents, rather than at meeting the developmental needs of children.

The federal government provides limited tax relief for child care to parents through the Child and Dependent Care Tax Credit.<sup>32</sup> This consumer subsidy, largely to the benefit of middle class taxpayers, amounts to the single largest federal expenditure on child care.<sup>33</sup> The primary federal subsidy to low-income consumers of child care is through Aid to Families with Dependent Children (AFDC),<sup>34</sup> a legacy of the Depression-era Aid to Dependent Children. AFDC includes a child care allowance, which remains the most widespread form of child care assistance for low-income families. Employed recipients of AFDC can disregard the costs of child care from their earnings when computing their benefits.<sup>35</sup> Other federal

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27. See, e.g., David Blau, *The Quality of Child Care: An Economic Perspective*, in THE ECONOMICS OF CHILD CARE, *supra* note 26, at 145, 145-47; Reisman, *supra* note 17, at 488 (estimating that \$6.9 billion dollars was spent annually on 22 separate federal programs in the late 1980s).

28. The primary tax expenditure for child care is pursuant to the Dependent Care Tax Credit, 26 U.S.C. § 21 (1988), and the primary social welfare allowance for child care is for recipients of Aid to Families with Dependent Children, 42 U.S.C. §§ 601, 602 (1988), including the At-Risk Child Care Program, 42 U.S.C. § 602 (1988), the Jobs Child Care Program, 42 U.S.C. § 602(g) (1988), and the Transitional Child Care Program, 42 U.S.C. § 602(g) (1988).

29. Social Service Block Grants, tit. XX, 42 U.S.C. § 1397 (1988); Child Care and Development Block Grant, 42 U.S.C. §§ 9858-9858p (1990).

30. Child Care Food Program, 42 U.S.C. § 1766 (1988), 7 C.F.R. § 226 (1992).

31. 42 U.S.C. § 9831 (1988).

32. 26 U.S.C. § 21 (1988).

33. See GRUBB & LAZERSON, *supra* note 14, at 213 (describing the tax credit as a subsidy for one-fifth of child care expenses); Douglas J. Besharov, *Fixing the Child Care Credit: Hidden Policies Lead to Regressive Policies*, 26 HARV. J. LEGIS. 505, 509-10 (1989) (describing the tax credit as the largest federal child care program, with annual cost increases of \$500 million).

34. 42 U.S.C. § 601 (1988); see MIMI ABRAMOVITZ, *REGULATING THE LIVES OF WOMEN: SOCIAL WELFARE POLICY FROM COLONIAL TIMES TO THE PRESENT* 313-48 (1988) (discussing single mothers and the evolution of the Aid to Dependent Children program, from its origin in the 1935 Social Security Act, through the 1960s and 1970s as the Aid to Families with Dependent Children program).

35. 42 U.S.C. § 602(a) ("child care expense disregard"); WENDY KAMINER, *A FEARFUL FREEDOM: WOMEN'S FLIGHT FROM EQUALITY* 142 (1990); Martinez, *supra* note 14, at 117.



child care initiatives from the 1960s and 1970s have been consolidated in Title XX of the Social Security Act.<sup>36</sup> Under Title XX, Social Services Block Grants are channeled to states, and local governments are given discretion for allocation among different needed services including child care.<sup>37</sup>

### C. CHILD CARE NEED AND THE WORKING POOR

While the system, such as it is, cannot meet current demand, the need for affordable child care is steadily growing. Labor force participation by mothers of young children has dramatically increased in recent decades, due to both choice and economic necessity.<sup>38</sup> The U.S. Department of Labor reported in 1988 that fifty-seven percent of all women with children under six years old worked outside the home, compared with twelve percent in 1950.<sup>39</sup> By 1995, an estimated two-thirds of all preschool children will have mothers in the work force, a fifty percent increase from just ten years earlier.<sup>40</sup>

Demand for child care cuts across class lines has dramatically grown among middle class families. The high cost of quality care forces many middle-income families into lower quality care, or even out of the work force.<sup>41</sup> Despite government and philanthropic subsidies, funding for child care efforts in low-income neighborhoods fails to provide families with sufficient affordable day care. In these situations in particular, child care providers are sorely underfunded and, as a consequence, their institutional stability and quality of care suffer. Child care options for the working poor are extremely limited and, with cruel irony, many child care providers count among these working poor.<sup>42</sup>

The 1990 National Child Care Survey<sup>43</sup> highlights the vulnerability of low-income working mothers, whose jobs typically provide little flexibility in work schedules. This lack of flexibility results in a higher incidence of absenteeism among low-income workers due to child sickness or child care problems, such as the unavailability of the regular provider. Only three out of ten working parents reported the availability of part-time work,

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36. 42 U.S.C. § 1397 (1988).

37. *Id.* § 1397a.

38. See REISMAN ET AL., *supra* note 17, at 51 (noting that two-thirds of today's wage-earning mothers are either single or have husbands who earn less than \$15,000 a year and need to work for basic financial survival).

39. SECRETARY'S TASK FORCE, U.S. DEP'T OF LABOR, CHILD CARE, A WORKFORCE ISSUE 143 (1988).

40. STOKLEY, *supra* note 2, at 11.

41. REISMAN ET AL., *supra* note 17, at 30-31.

42. See *infra* Part II.C. (discussing women and child care work).

43. HOFFERTH ET AL., *supra* note 16.



unpaid leave, or flextime.<sup>44</sup> Low-income working parents often have little choice but to lose a day of work and pay in the event of a family emergency. The working poor face a disadvantage because employer benefits for child care are often less available to them, and they have limited disposable income to pay for child care in the absence of targeted benefits.

The Family and Medical Leave Act,<sup>45</sup> enacted in February 1993, provides some limited benefit to the working poor.<sup>46</sup> The Act requires private employers with fifty or more employees, and certain government employers, to provide eligible employees with up to twelve weeks of unpaid leave for birth or adoption of a child; for care of a seriously ill child, spouse, or parent; or for the employee's own serious illness.<sup>47</sup> Employers must guarantee the employee a right to return to his or her previous job or an equivalent position after the leave and must maintain any existing health benefits during the leave.<sup>48</sup>

This Act represents a significant victory for its advocates after eight years of effort in Congress.<sup>49</sup> Many low-income workers, however, cannot afford to take unpaid leave and have few, if any, existing health benefits to extend during a leave. The definition of "eligible employee," moreover, will exclude from coverage many of the working poor, who work part-time or on a temporary basis, or for an employer with less than fifty employees.<sup>50</sup>

For those persons covered by the Act, the right to reinstatement after a leave provides an important element of job security. Half of all mothers surveyed in 1990, before enactment of the 1993 Act, took some leave after the birth of their youngest child, seventy percent without pay.<sup>51</sup> Paid parental leave remains rare, and those who are paid during such leaves ordinarily use a combination of vacation, sick, and disability pay, and their own resources.<sup>52</sup> These options are generally not available to low-income workers. The limitations of family leave policies, by legislation or in

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44. *Id.* at 6.

45. 29 U.S.C.A. §§ 2601-2654.

46. *Cf.* Patricia Shiu, *Work and Family: Policies for the Working Poor*, 26 HARV. J. LEGIS. 349, 351-54 (1989) (defining the "working poor" and illustrating their need for family leave rights).

47. 29 U.S.C.A. §§ 2611-12.

48. *Id.* § 2614.

49. The Family & Medical Leave Act of 1993, DAILY LAB. REP. (BNA) DLR No. 24 at S-3 (Feb. 8, 1993).

50. 29 U.S.C.A. § 2611. To be eligible, an employee must have been employed for at least 12 months by the given employers and must have worked at least 1250 hours during the 12 months preceding the leave. *Id.*

51. HOFFERTH ET AL., *supra* note 16, at 371, 375.

52. *Id.* at 6, 380; *see* Ann Bookman, *Parenting Without Poverty: The Case for Funded Parental Leave*, in PARENTAL LEAVE & CHILD CARE, *supra* note 15, at 66, 85-88 (arguing for public policies that support *paid* parental leave after childbirth).



private enterprise practice, fall hardest upon the working poor, a class of individuals consisting disproportionately of women and racial minorities.<sup>53</sup>

Trends in federal funding during the 1980s illustrate the class-based structure of child care policy. In 1977, Title XX funds, used to subsidize day care for children of low-income families, accounted for forty percent of total federal child care spending.<sup>54</sup> Also in 1977, twenty-five percent of federal spending consisted of the tax cost of the Dependent Care Tax Credit, used by middle and upper middle class taxpayers.<sup>55</sup> By 1986, Title XX comprised only about seven percent of federal child care spending, while the Dependent Care Tax Credit accounted for more than sixty percent of the total.<sup>56</sup> Thus, although total federal spending on child care rose during this period, most of the increase came via tax subsidies, with a disproportionate share of the tax benefits going to middle- and upper middle-income families, rather than to the working poor.<sup>57</sup>

Especially for poor women, the lack of affordable child care is a frequent obstacle to employment.<sup>58</sup> Federal subsidies to poor families for child care—primarily through Head Start,<sup>59</sup> Title XX Social Services Block Grants,<sup>60</sup> Aid to Families with Dependent Children,<sup>61</sup> and the National School Lunch Program<sup>62</sup>—are insufficient to subsidize all eligible families and fail to reach working class families whose income makes them ineligible despite their critical need.<sup>63</sup> A 1987 government estimate showed child care costs consuming up to twenty-six percent of family income among poor families, compared with ten percent among families generally.<sup>64</sup> In that same year, 16.4% of families with children were in poverty, a rise of nearly thirty-five percent in less than a decade.<sup>65</sup> Nearly half of all female

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53. GEORGIA L. McMURRAY & DOLORES P. KAZANJIAN, COMMUNITY SERV. SOC'Y OF N.Y., DAY CARE AND THE WORKING POOR: THE STRUGGLE FOR SELF-SUFFICIENCY 85-92 (1982); Shiu, *supra* note 46, at 351.

54. REISMAN ET AL., *supra* note 17, at 39.

55. *Id.*

56. *Id.*

57. *Id.*; Robins, *supra* note 26, at 16-21.

58. HOUSE SELECT COMM. ON CHILDREN, YOUTH, AND FAMILIES, CHILDREN AND FAMILIES: KEY TRENDS IN THE 1980s, 100th Cong., 2d Sess. 18 (1988) [hereinafter COMM. ON CHILDREN].

59. 42 U.S.C. § 9831 (1988).

60. 42 U.S.C. § 1397 (1988).

61. 42 U.S.C. § 601 (1988).

62. 42 U.S.C. § 1766 (1988).

63. COMM. ON CHILDREN, *supra* note 58, at 17, 19; REISMAN ET AL., *supra* note 17, at 73; Karen Hill-Scott, *No Room at the Inn: The Crisis in Child Care Supply*, in CARING FOR CHILDREN, *supra* note 2, at 197, 206-09.

64. COMM. ON CHILDREN, *supra* note 58, at 4.

65. *Id.* at 11.



headed households with children live in poverty.<sup>66</sup> Inadequate funding limits child care assistance to the population most in need and, even when child care is available, seriously undermines the quality of care.<sup>67</sup>

#### D. UNDERLYING VALUES AND HISTORY

Underlying the lack of cohesion in child care policy and practice are deep disagreements about family values and a crosscurrent of negative stereotyping of working mothers and the working poor. A central dilemma is that child rearing by individuals other than mothers contradicts the dogma of maternal domesticity and in the process encourages mothers to work.<sup>68</sup> Public policy, reflecting dominant public opinion, continues in many respects to insist that mothers should rear children, even as the number of working mothers increases.<sup>69</sup> Public hostility toward working women has led to secondary justifications of child care; that is, the defense of child care programs tends to be based either on a pathology model or developmental model, rather than affirmative support for those parents who work.

The pathology model envisions child care as addressing problems in the home and family, assuming for instance that charitable or government institutions can serve poor children better than their parents can or that the absence of a working parent is a problem. Implicit in this view is a distrust of families that require two working parents, single women who must work to survive, and lower class families suspected of not being able to handle parental responsibilities. The pathology model views child care as a mother substitute rather than a normal part of child rearing.<sup>70</sup>

This model is beginning to broaden and evolve into a more positive custodial care model, particularly as employment among middle class

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66. *Id.*

67. Blau, *supra* note 27, at 145; Ellen Kisker & Rebecca Maynard, *Quality, Cost, and Parental Choice of Child Care*, in *THE ECONOMICS OF CHILD CARE*, *supra* note 26, at 127, 135-41.

68. GRUBB & LAZERSON, *supra* note 14, at 210.

69. The public policy bias against institutional child care was clearly pronounced by President Richard Nixon when he vetoed the Comprehensive Child Development Act, a 1971 amendment to the Economic Opportunity Act of 1965 that would have authorized two billion dollars to fund construction and operation of child care centers. Nixon's veto message stated: "For the Federal Government to plunge headlong financially into supporting child development would commit the vast moral authority of the National Government to the side of communal approaches to child rearing over the family center approach." *Quoted in* Martinez, *supra* note 14, at 115. A telling exception to the public resistance to women working is the growing trend of "workfare" policies, suggesting that poor women ought to work. STOKLEY, *supra* note 2, at 11.

70. Julia Wrigley, *Children's Caregivers and Ideologies of Parental Inadequacy*, in *CIRCLES OF CARE*, *supra* note 20, at 290, 292-99, 305-07.



women becomes more the norm. Thus, without viewing the need for child care as a problem, the public increasingly sees the social setting of peer and adult interaction as an affirmative benefit to young children.<sup>71</sup> This nascent change in perception is accompanied by and related to the growing number of two-earner families. Day care was viewed as a response to something gone wrong, until demand increased among white middle class families.<sup>72</sup>

The developmental model, in contrast, justifies child care explicitly as early childhood education, stressing socio-emotional development and cognitive growth of the child, as well as motor skills and health. More costly than simple custodial care, the developmental model requires planned curricula and appropriately trained child care teachers. Some merging of the two models is apparent in recent years, with educational goals included in federal programs and in many day care centers.<sup>73</sup> A distinction persists, however, between public support for custodial care tied to welfare costs and privately funded developmental care, with the effect, to some degree, of class and racial segregation of child care.<sup>74</sup>

These issues are hardly new. "Day nurseries," as they were called a century ago, became popular in the late nineteenth century after intermittent ventures throughout the 1800s.<sup>75</sup> Rapid growth of day nurseries in the 1880s and 1890s was a partial response to social dislocations and family disruption accompanying industrialization and urbanization. Debates raged then, as now, as to whether day care was good or bad for children and families, and whether institutional day care encouraged or discouraged parental responsibility and family stability. Tension persisted between notions of day care as educational for children or custodial for working mothers, and day care providers and users faced considerable antagonism.<sup>76</sup> The education-based care developed quite separately in tuition-financed

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71. GRUBB & LAZERSON, *supra* note 14, at 214, 218; *see supra* note 2.

72. KAMINER, *supra* note 35, at 142.

73. Buffalo's Precious Jewels Day Care Center, like many other child care centers today, is developing programs that explicitly combine educational and custodial goals. Similarly, a wide range of development goals were central to the vision of Head Start, and to a lesser degree part of Title XX. *See infra* notes 87-89 and accompanying text (discussing Head Start).

74. GRUBB & LAZERSON, *supra* note 14, at 215; *cf.* Martha Minow, *Introduction to Symposium, Legislative Approaches to Work and the Family*, 26 HARV. J. LEGIS. 295, 296 (1989) (noting "backdrop of class-based programs").

75. STEINFELS, *supra* note 1, at 39. Buffalo, N.Y. boasts one of the first such day nurseries according to a radio news broadcast series on the history of Buffalo. "In news briefs from 1881 . . . the first day nursery to care for young children of working women opened on January 6th . . . the first institution of its kind in the nation." FM88/WBFO, NEWS OF THE YEAR: BUFFALO'S 150 YEARS OF HISTORY, YEAR BY YEAR (1982 broadcast transcripts).

76. STEINFELS, *supra* note 1, at 35, 37, 49-50.



nursery schools, aimed at enrichment of middle class children. This “respectable” effort to educate the young stood in contrast to the philanthropic day nurseries that, even in the early twentieth century, suffered the stigma of social welfare for the poor and the burden of inadequate funding.<sup>77</sup>

Early childhood programs, both nursery schools and day nurseries, were privately funded until the 1930s. Since then, public support for child care has surged from time to time in response to national emergencies or widely perceived crises. To mitigate the effects of the Depression, for example, the federal government, as part of the Works Product Administration (WPA), supplied funds starting in 1933 for the expansion of day care, primarily to supply jobs for unemployed teachers, nurses, cooks, and janitors.<sup>78</sup> By 1937, almost 2000 of these “WPA nurseries” were formed, many located in school buildings and identified as educational services,<sup>79</sup> thus beginning to break down the line between educational and custodial programs.

After some decline in numbers following the demise of the WPA programs, the country saw another surge in day care centers with the mobilization for World War II. The patriotic necessity for women to work tended to quiet widespread prejudices about the danger of working mothers and day care. The Lanham Act of 1941,<sup>80</sup> designed to address social service needs of war-impacted areas, led to substantial federal and state funding for day care, and a number of industry-based centers.<sup>81</sup> Concerned primarily with supplying labor for war industries, however, the wartime efforts at child care suffered from the temporary crisis mentality of triage and wide variations in quality, and met only a small portion of estimated need for child care during the war.<sup>82</sup> With the end of the war came the withdrawal of federal funds and the shutdown of almost three thousand centers, resulting in the loss of day care services for over 1.5 million children.

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77. GRUBB & LAZERSON, *supra* note 14, at 212.

78. See STEINFELS, *supra* note 1, at 66 (discussing the Federal Economic Recovery Act and Works Product Administration).

79. *Id.* at 67.

80. Pub. L. No. 77-137, 55 Stat. 361 (1941) (codified and omitted at 42 U.S.C. §§ 1521, 1523).

81. One of the most notable and celebrated industry efforts in child care during World War II was the Kaiser system, a successful but shortlived child care operation associated with the Kaiser Shipyards in Portland, Oregon from 1943 to 1945. See STEINFELS, *supra* note 1, at 67 (discussing the massive government effort to provide day care during World War II, and characterizing the Kaiser system as the most notable day care center funded by an industry); Caroline Zinnser, *The Best Day Care There Ever Was*, WORKING MOTHER, Oct. 1984, at 76-78, 80 (describing in detail the Kaiser system).

82. GRUBB & LAZERSON, *supra* note 14, at 212.



Despite the widely shared assumption that women would return to their "rightful" places at home when the soldiers returned from war, many women did not or could not give up their jobs after the war, and many more continued to enter the labor market.<sup>83</sup>

During the two decades following World War II, day care remained a marginal child welfare service that by most accounts failed to meet the needs of both children and working mothers.<sup>84</sup> The next significant surge in day care was in the 1960s, as part of a federal effort to reduce welfare costs and provide compensatory education. This coincided with a growing feminist movement and ongoing research on early childhood development, both contributing to a more open debate on the utility and benefits of day care for children.<sup>85</sup> The number of day care centers and their acceptance as an institution grew in the 1960s and 1970s, fueled in part by community-based and feminist activism and in part by the federal War on Poverty during the Johnson Administration.<sup>86</sup>

The federal Head Start Program,<sup>87</sup> one legacy of the War on Poverty, survives today as a substantial component of federal welfare policy.<sup>88</sup> Its purpose, then as now, is not to serve as a full-time day care alternative for parents, but instead as a means of improving home life and preparing children in disadvantaged families to begin grade school. Head Start helped to rekindle government involvement in financing preschool education and demonstrated at least some potential for national child welfare policy. It underscored the importance of early childhood education rather than simply custodial care for poor children, linking two historically divergent elements of child care. Despite its limitations, critics, and underfunding, Head Start has maintained sufficiently broad support to survive through the Reagan and Bush Administrations, with substantial funding increases anticipated during the Clinton Administration.<sup>89</sup> Early indications from

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83. STEINFELS, *supra* note 1, at 69.

84. *Id.* at 76.

85. *Id.* at 76, 83.

86. *See id.* at 76-88 (describing changing attitudes toward child care and preschool education, and related surge of activity in the 1960s and early 1970s); ZIGLER & LANG, *supra* note 19, at 41-49 (tracing the evolution of federal child care policy in the 1970s and 1980s).

87. 42 U.S.C. § 9831 (1988).

88. On the success and longevity of Head Start, see Laura Ariane Miller, *Head Start: A Moving Target*, 5 YALE L. & POL'Y REV. 322, 328-41 (1987); Liza Mundy, *The Success Story of the War on Poverty*, WASH. MONTHLY, Dec. 1989, at 26. *But see* Enid Borden & Kate Walsh O'Beirne, *False Start? The Fleeting Gains at Head Start*, 47 POL'Y REV. 48 (1989) (suggesting that Head Start has not provided educationally meaningful results beyond the first year children's participation).

89. President Clinton has proposed a \$10 billion increase in funding for Head Start during the four years of his first term, the single largest requested funding increase for any government program. Michael Kramer, *Getting Smart About Head Start*, TIME, Mar. 8, 1993, at 43.



President Bill Clinton suggest a greater sensitivity, more generally, to child care issues than the federal government has shown in prior years.<sup>90</sup>

## II. COMMUNITY ECONOMIC DEVELOPMENT AND CHILD CARE WORK

### A. OPPORTUNITY

Today's crisis in child care, coupled with a will to act at the federal level, may give rise to opportunity for positive change, just as the Depression, World War II, and the War on Poverty led to public action. A qualitative difference today, however, might be a growing acceptance of day care, due in large part to economic necessity and to related social changes that include a modicum of change in historical attitudes critical of women working. Signs of a more expansive federal role reflect evolving popular values and modest movement in the private sector.<sup>91</sup> Corporate employers, while slow to respond with sponsored centers or financial support to employees for child care, are acknowledging some self-interest in providing greater support.<sup>92</sup> More and more, popular media and politicians are acknowledging a crisis in day care.<sup>93</sup>

Entrepreneurs have entered the fray with for-profit ventures.<sup>94</sup> KinderCare, Inc. is the largest of these day care companies, with over 1200 centers, and at least a dozen other companies operate twenty or more

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90. Robert Pear, *Clean Break: Clinton's Bold Plan Sets Social Policy His Way*, N.Y. TIMES, § 4, at 1. At a town meeting early in his administration, President Clinton discussed child care:

We basically have got to make the economics of this work. . . . The population as a whole needs to be helped by making sure you have a steady stream of trained quality child care workers and then more income from middle class people . . . you shouldn't be put into poverty because of your other expenses, including child care.

*Clinton Holds Town Meeting—Discusses Child Care* (CNN television broadcast, Feb. 10, 1993).

91. Cf. KAMINER, *supra* note 35, at 143 ("Economic changes have normalized the need for day care in a way that feminist ideology never could.").

92. BURUD ET AL., *supra* note 17, at 21-26; REISMAN ET AL., *supra* note 17, at 68; Christine A. Clark, *Corporate Employee Child Care: Encouraging Business to Respond to a Crisis*, 15 FLA. ST. U. L. REV. 839, 844-48 (1987); Glenn Collins, *Day Care Finds Corporate Help*, N.Y. TIMES, Jan. 5, 1987, at B5; Shellenbarger, *supra* note 18; Shellenbarger & Trost, *supra* note 18; see also *infra* Part III.B. (discussing Toytown and Corporate Care).

93. KAMINER, *supra* note 35, at 143. Sources cited therein document media and political acknowledgment of day care crisis, such as Fern Schumer Chapman, *Executive Guilt: Who's Taking Care of the Children?*, FORTUNE, Feb. 16, 1987, at 30; Claudia Wallis, *The Child-Care Dilemma*, TIME, June 22, 1987, at 54; cf. WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 1 (noting the irony of a deteriorating child care system, complete with prominent mention of quality child care as key to any economic revitalization or antipoverty strategy).

94. Lawrence Ingrassia, *Day-Care Business Lures Entrepreneurs*, WALL ST. J., June 3, 1988, § 1, at 21; Stephen D. Solomon, *Head of the Class: Will Parents Pay More for Day Care if the Centers are Positioned as Schools?*, INC., Mar. 1990, at 76, 76.



centers, some as a network of franchises and others as a chain within a unified corporate entity.<sup>95</sup> Thousands more are smaller enterprises, most of them independently owned and operated.<sup>96</sup> In a market economy, these ventures arguably reflect the need for day care among a paying clientele and an apparent opportunity for business development. But, since the start of day care franchising in the 1960s, for-profit child care centers have triggered debate over the conflict between quality care for children and profits for owners.<sup>97</sup>

The distinctions, in fact, between for-profit and not-for-profit operations are often blurred, particularly in smaller operations. Economic pressure for survival requires not-for-profit centers to compete efficiently for clients and capital—an activity usually associated with for-profit enterprises—while proprietary centers substantially rely on publicly funded programs—a characteristic of many not-for-profit operations.<sup>98</sup> The low profit margin in any child care enterprise further narrows the gap between not-for-profit and for-profit approaches.<sup>99</sup> Nonetheless, significant disparities exist between the working conditions of child care employees in not-for-profit enterprises and those in for-profit enterprises. For example, the 1989 Child Care Staffing Survey showed that not-for-profit centers on average provided better pay and benefits to staff than did proprietary centers and also tended to provide better quality care.<sup>100</sup> The difference, to some extent, arises from the allocation of a portion of earnings to the owners or investors in the proprietary ventures.

A community economic development approach to child care would value the quality of both work and care as crucial. Whether for-profit or not-for-profit, the corporate structure and policies ideally would reflect the principle of accountability to both the workers and the client families. With these values and an explicit goal of good working conditions, a child care enterprise would be more inclined to reinvest the margin of net

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95. Ingrassia, *supra* note 94.

96. ANGELA BROWNE MILLER, *THE DAY CARE DILEMMA: CRITICAL CONCERNS FOR AMERICAN FAMILIES* 95 (1990).

97. See, e.g., JUDITH HOLE & ELLEN LEVINE, *REBIRTH OF FEMINISM* 315 (1971) (referring to controversy over the “chicken delight” approach to packaging and selling day care franchises as if they were fast food establishments); Natalie M. Hanlon, *Child Care Linkage: Addressing Child Care Needs Through Land Use Planning*, 26 HARV. J. LEGIS. 591, 647-49 (1989) (discussing the debate over whether profit-oriented child care centers provide the same quality of care as nonprofit providers in the context of linkage laws); Paul Delaney, *Child Care a Growing Business*, N.Y. TIMES, Dec. 27, 1969, at 28.

98. See MILLER, *supra* note 96, at 94-95.

99. STOKLEY, *supra* note 2, at 20.

100. WHITEBOOK ET AL., *FROM THE FLOOR*, *supra* note 12, at 15. Some not-for-profit centers manage to provide better pay and benefits due to their placement within larger social service organizations, allowing for greater economies of scale in employment practices than smaller operations, for-profit or not-for-profit.



earnings, small as it may be, back into the company and its human resources. The opportunity for child care and community development lies in the combination of overwhelming need for affordable day care and potential for expanding public and private subsidies. Both the need and the potential support are driven in part by increases in the number of working women and related changes in attitudes. The remainder of Part II links child care enterprise with community economic development and describes the need for further changes in public attitudes to place greater value on child care work.

#### B. COMMUNITY DEVELOPMENT AND CHILD CARE

Economic development is a term widely and variously used to encompass creation or expansion of business activity, efforts to increase business productivity, employment training, job creation, housing construction or renovation, improvement of public works and industrial infrastructure, and related planning and public policy.<sup>101</sup> It conjures images of multinational corporate initiatives and small business development, of sweeping federal policy and municipal land use, of complex finance mechanisms and atomized income transfer programs for the working poor, of public-private partnerships, and clashes between government and private sector agendas. Local economic development, in traditional terms, stresses overall economic growth measured in numbers of jobs, total income, property values, and tax base. It relies in large part on business profits trickling down to solve local economic and social problems, with government playing a catalyst role by providing needed infrastructure, development subsidies, and financing assistance to the private sector.<sup>102</sup>

*Community* economic development adds the goals of democratic influence over a local economy and equitable allocation of costs and benefits. This community-based approach requires building capacity for economic development in an infrastructure of local institutions, including small businesses, local labor unions, not-for-profit community organizations, religious groups, and collaborative networks linking these institutions together.<sup>103</sup> It applies normative principles of democracy to the economic sphere

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101. See generally Symposium, *Crisis and Opportunity: Economic Development for the '90s*, 15 N.Y.U. REV. L. & SOC. CHANGE 1 (1986-87) (symposium arising from 1985 colloquium at New York University Law School, with a range of perspectives on economic development).

102. Richard Schramm, *Local, Regional and National Strategies*, in BEYOND THE MARKET AND THE STATE: NEW DIRECTIONS IN COMMUNITY DEVELOPMENT 152, 157 (Severyn T. Bruyn & James Meehan eds., 1987) [hereinafter BEYOND THE MARKET].

103. See Jeremy Brecher, "If All People Are Banded Together": *The Naugatuck Valley Project*, in BUILDING BRIDGES: THE EMERGING GRASSROOTS COALITION OF LABOR AND COMMUNITY 93, 104 (Jeremy Brecher & Tim Costello eds., 1990) [hereinafter BUILDING BRIDGES] (attributing success of Naugatuck Valley Project to history of cooperation between



and embodies strategic ideas for local empowerment.<sup>104</sup> Concerned with social goals and not just growth, a community-based approach to economic development directly supports labor and community interests and does not assume that increased business profits necessarily benefit the locale. It attempts to change the way a local economy relates to external market and political forces by mobilizing local resources and reinforcing local control to better capture broader opportunities, rather than passively relying on beneficence of government or private enterprise.<sup>105</sup>

The notion of linkage is critical for effective community economic development.<sup>106</sup> Collaboration among local groups can provide economies of scale in doing business, a regional perspective, and needed political clout. Intermediary institutions that link local groups can serve as a repository of technical expertise and access to resources. In the context of capital mobility in the private sector, and budget pressures in the public sector, self-sufficiency for local enterprises is more feasible if enterprises are linked with global markets and resources.<sup>107</sup> In recent decades, community development corporations (CDCs) have served as one vehicle for linkages.

Since the 1960s, CDCs have provided a key institutional model for community economic development.<sup>108</sup> CDCs are typically not-for-profit corporations governed by selected community leaders, with a goal of stimulating a range of locally controlled development activities. They

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state and local organizations); cf. Dan Swinney & Jack Metzgar, *Expanding the Fight Against Shutdowns*, LAB. RES. REV., Fall 1986, at 99, 100 (arguing that labor must take lead in building diverse local coalitions to create jobs in the community).

104. Pitegoff, *supra* note 9, at 317-18; cf. STEWART E. PERRY, COMMUNITIES ON THE WAY: REBUILDING LOCAL ECONOMIES IN THE UNITED STATES AND CANADA 217-46 (1987) (presenting an overview of local economic development activity and source material); David Ellerman & Peter Pitegoff, *The Democratic Corporation: The New Worker Cooperative Statute in Massachusetts*, 11 N.Y.U. REV. L. & SOC. CHANGE 441, 460-61 (1983) (describing the worker cooperative corporate form as an application of normative principles of democracy to the economic sphere).

105. Schramm, *supra* note 102, at 152, 158.

106. See *infra* Part III (applying the concept of linkage strategically to build bridges between child care centers and institutions with greater resources and political power). The concept of linkage is also used more narrowly in reference to legal or contractual requirements for child care facilities as part of larger development projects. See *infra* notes 200-201 and accompanying text.

107. Dan Swinney et al., *Towards a New Vision of Community Economic Development* 8 (Apr. 15, 1992) (working paper distributed by the Midwest Center for Labor Research in anticipation of a May 1991 conference in Chicago on New Visions of Community Economic Development, on file with *The Georgetown Law Journal*); cf. BENNETT HARRISON & BARRY BLUESTONE, *THE GREAT U-TURN: CORPORATE RESTRUCTURING AND THE POLARIZING OF AMERICA* 26-27, 190-93 (1988) (advocating greater planning and retreat from laissez-faire policies of 1980s to restore U.S. position in the global economy).

108. DAVID OSBORNE, *LABORATORIES OF DEMOCRACY* 303 (1988); Robert Zdenek, *Community Development Corporations*, in *BEYOND THE MARKET*, *supra* note 102, at 112, 115.



engage in various combinations of housing development, commercial revitalization, business financing, social service delivery, cultural activity, technical assistance, job training and development, community education, and advocacy.<sup>109</sup> To maintain and house these activities, CDCs often create separate institutions, such as not-for-profit loan funds, business subsidiaries, and independent not-for-profit or proprietary enterprises, and attempt to link these institutions with one another and with larger and more elite institutions. Since the late 1960s and early 1970s, when "Title VII CDC" was a term of art for about forty federally funded community groups,<sup>110</sup> CDCs have grown to between three and five thousand in number<sup>111</sup> and have taken a variety of forms. Their financial support now extends beyond the federal government to include state and local government funding, philanthropy, private financing, and in some cases the very asset base and finance institutions they helped to create.

As applied here, community economic development suggests participation by and accountability to a wide array of groups and institutions ordinarily excluded from the policy arena. It further suggests meaningful access by poor and working class people to resources and mechanisms that have traditionally enabled more elite populations to build economic security. Notably, community economic development stands in sharp contrast to social services,<sup>112</sup> insofar as development strategies attempt to build organizations with capacity for economic self-sufficiency and productivity rather than focusing on subsidized services to address the immediate needs of individuals.<sup>113</sup> Therein lies a challenge for child care as a component of economic development—to build financially stable institutions as engines for entrepreneurship and creation of quality jobs. Despite the importance of child care as a social service, child care as an economic activity still

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109. Zdenek, *supra* note 108, at 115.

110. The "community development corporation" as a term of art found its origin in the 1960s War on Poverty. In 1966, Senators Jacob Javits and Robert Kennedy sponsored an amendment to the Economic Opportunity Act, adding the Special Impact Program (SIP) to support CDCs as an approach to reducing poverty. 42 U.S.C. § 2701 (repealed 1981). Until terminated by the Reagan Administration, Pub. L. No. 97-35, 95 Stat. 519 (1981), SIP allocated an average of \$42 million annually to CDCs in distressed communities scattered around the nation. See Zdenek, *supra* note 108, at 113-14.

111. STOKLEY, *supra* note 2, at 8 (citing NEAL R. PIERCE & CAROL F. STEINBACH, THE FORD FOUNDATION, CORRECTIVE CAPITALISM: THE RISE OF AMERICA'S COMMUNITY DEVELOPMENT CORPORATIONS 8 (1987), for estimate of 3000 to 5000 CDCs in the United States).

112. See BRAD J. CAFTEL, NATIONAL ECON. DEV. & L. CTR., COUNSELING ORGANIZATIONS IN COMMUNITY ECONOMIC DEVELOPMENT I-21-I-26 (1992) (distinguishing traditional social services from community economic development); cf. PIERCE CLAVEL, THE PROGRESSIVE CITY: PLANNING AND PARTICIPATION, 1969-1984, at 161-83 (1986) (describing the Burlington, Vermont approach to community economic development in the early 1980s, which balanced the interests of the city's working class with the interests of the business community).

113. Schramm, *supra* note 102, at 157-60.



remains marginal and its potential hardly tapped for building enterprise capacity in distressed communities.

In recent years, community development corporations have begun to increase the availability of child care services. In the 1970s and 1980s, many CDCs primarily focused on housing issues and saw their most substantial successes in housing development.<sup>114</sup> But given a lasting slump in the housing market and, more importantly, the growing need for child care, an increasing number of CDCs have sponsored child care programs as an explicit component of their development strategies. The National Economic Development and Law Center has assisted in a number of these enterprises and, with support from the Ford Foundation, has effectively documented some of these CDC efforts.<sup>115</sup> As with Buffalo's Precious Jewels Day Care Center, these efforts evidence the promise and problems of child care enterprise as a community economic development strategy.

Child care development is well suited to the broad social and economic goals of community development corporations. Particularly in low- and moderate-income communities, which are the geographic focus of many CDCs, affordable child care is a *sine qua non* for parental employment.<sup>116</sup> Sponsoring child care services supports labor force participation, one basic goal of community development. If the community-based child care programs combine a quality educational curriculum with the custodial function, their investment in human capital—the children—is likely to strengthen the social and economic infrastructure of the community in the long term.<sup>117</sup>

CDC emphasis on human capital mirrors the emphasis that community organizers place on leadership development. By building organization and opportunities for citizen participation, community organizers have crafted vehicles for the emergence of grass roots leaders.<sup>118</sup> Similarly, CDC child care projects can provide motivation and a means for involvement by parents of young children. Parent participation would most likely begin

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114. Alex Kotlowitz, *Community Groups Quietly Make Strides in Inner-City Housing*, WALL ST. J., Sept. 17, 1991, at A1.

115. STOKLEY, *supra* note 2, at 5-6. See generally National Economic Development & Law Center, *Community Economic Development at Work: Linking Child Care and Development*, 25 CLEARINGHOUSE REV. 1120 (1992).

116. COMM. ON CHILDREN, *supra* note 58, at 18.

117. See STOKLEY, *supra* note 2, at 12-13 (discussing research revealing that quality child care programs result in long-term economic and social benefits for low-income communities).

118. On leadership development in community organizing, see generally HARRY C. BOYTE, *COMMONWEALTH: A RETURN TO CITIZEN POLITICS* (1989); COMMUNITY ORGANIZATION FOR URBAN SOCIAL CHANGE: A HISTORICAL PERSPECTIVE (Robert Fisher & Peter Romanofsky eds., 1981); SANFORD D. HORWITT, *LET THEM CALL ME REBEL: SAUL ALINSKY, HIS LIFE AND LEGACY* (1989).



with the child care project itself, as an interested parent or consumer, as a volunteer in the enterprise, or as part of a governing board, and, over time, would extend to the broader CDC agenda for community development.<sup>119</sup>

Child care also presents CDCs with an opportunity for enterprise development. As in certain other service sector businesses, child care enterprises face growing local markets, are less vulnerable to global competition than the struggling manufacturing sector, and require little start-up capital relative to other industries and trade.<sup>120</sup> Additionally, some government subsidies are available for child care providers that serve low- and moderate-income families.<sup>121</sup> These subsidies, although inadequate to fully fund quality care, can provide start-up funds and a core income stream. With respect to job creation, child care ventures can create jobs at less cost than more capital intensive businesses that require investment in machinery, inventory, or other items not needed by a local service enterprise. Moreover, many of the jobs created are entry level, enabling CDCs to target employment to some of their constituents who have little formal education or work experience.<sup>122</sup>

These very elements of enterprise opportunity, however, also reflect severe problems in child care enterprise as a development strategy. Easy market entry means the potential for significant local competition. Capital expenses may be low, but operating margins are quite narrow and thus increase the vulnerability of child care centers.<sup>123</sup> A large portion of government support is in the form of demand-side subsidies, such as the Dependent Care Tax Credit or the AFDC income disregard,<sup>124</sup> which only indirectly benefit the enterprise by partially subsidizing its clientele. Additionally, subsidies that directly benefit the enterprise may carry their own baggage, such as Title XX reimbursement rates set below the area market level or requiring costly bureaucratic paperwork and delay.<sup>125</sup>

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119. STOKLEY, *supra* note 2, at 15.

120. *Id.* at 18.

121. *E.g.*, Social Service Block Grants, 42 U.S.C. § 1397 (1988); Child Care Food Program, 42 U.S.C. § 1766 (1988); Child Care and Development Block Grant, 42 U.S.C. §§ 9858-9858p (1990); At-Risk Child Care Program, 42 U.S.C. § 602 (1988); Jobs Child Care, 42 U.S.C. § 602(g) (1988); Transitional Child Care, 42 U.S.C. § 602(g) (1988).

122. STOKLEY, *supra* note 2, at 18.

123. *Id.*; Solomon, *supra* note 94, at 80; Hargrave, *supra* note 13.

124. Martinez, *supra* note 14, at 117.

125. Interviews with selected child care providers revealed a frustration with the low level of Title XX reimbursement for service to low-income families, creating pressure to include more private pay clients. Interview with Cynthia Coker, Executive Director, Childspace Day Care Centers, in Phila., Pa. (Nov. 11-12, 1992); Interview with Henrietta Keenan, President, Precious Jewels Day Care Center, in Buffalo, N.Y., (Dec. 3, 1992); *cf.* DONALD VERRY, ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, AN ECONOMIC FRAMEWORK FOR THE EVALUATION OF CHILD CARE POLICY 11 (1990) (noting the increased costs



Most problematic about child care enterprise as a development strategy is that the primary subsidy for child care ordinarily is provided by the employees of the enterprise, in the form of low wages and limited employee benefits. Coupled with low prestige and little opportunity for advancement, this work environment yields high staff turnover and undermines the quality of care provided. It threatens basic tenets of community economic development—the quality of jobs created is as important as the quantity, and a central measure of success is the social impact of the enterprise.<sup>126</sup>

Child care enterprise, nonetheless, retains the potential for a pivotal role in an affirmative development strategy if the strategy acknowledges and addresses the problems of child care work. Such a community economic development approach to child care is apparent in selected CDC efforts and in other ventures, some of which are described below.<sup>127</sup> As a counterpoint to the dominant view that continues to undervalue child care work and workers, the community development efforts can demonstrate the combination of quality care and quality work. But they face a hostile economic and social environment that perpetuates the view of child care enterprise as marginal. In an industry whose work force is predominantly female, and in a society in which gender discrimination persists, the challenge facing community development efforts is even more formidable.

### C. WOMEN AND CHILD CARE WORK

Our society views child care as women's work, and most child care workers are women.<sup>128</sup> Given the low industry wage scale and the limited room for advancement within the day care field, a child care enterprise development strategy faces the hazard of perpetuating the feminization of poverty.

The term "feminization of poverty" is used here in the narrow sense of gender segregation that pushes women toward undervalued employment at the same time that there are increasing numbers of working women. This trend is characterized by the economic vulnerability of an increasing

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resulting from government regulation of child care); Hargrave, *supra* note 13, at 16-18 (quantifying the financial difficulty found by a child care center in attempting to serve children from low-income families).

126. Schramm, *supra* note 102, at 158; cf. STOKLEY, *supra* note 2, at 14 (noting example of a CDC that decided not to pursue child care development as a strategy for women's economic development due in part to the low quality of jobs created); WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 1 (criticizing poverty-level wages of child care providers as "an unseen, unacknowledged subsidy" upon which U.S. child care policy relies).

127. See *infra* Part III.

128. WHITEBOOK ET AL., WHO CARES, *supra* note 12, at 4.



number of female heads of households. A growing proportion of poor families are headed by women alone,<sup>129</sup> many of them in or near poverty despite the fact that these women work.<sup>130</sup> The feminization of poverty also identifies the precarious economic situation of married women who either derive their class status and security from a working spouse or who, increasingly, avert poverty by working in addition to their spouse. In a broader sense, the feminization of poverty implicates a substantial amount of unpaid work by women in the home.<sup>131</sup>

The major source of employment growth for women since World War II has been the expansion of low-wage occupations and industries, from retail trades to business services. In fact, women's labor has substantially contributed to employment growth in the rapidly expanding service sector of the U.S. economy. Yet ironically, despite increased economic dependency on a female work force, the contemporary economy has treated this wage labor as marginal.<sup>132</sup> These secondary market jobs are typically less stable and secure, with little opportunity for advancement, compared to more desirable primary market jobs. Therefore, women's poverty today is substantially due to the very conditions under which women became part of the work force,<sup>133</sup> rather than their exclusion from the paid labor force.

Employment growth "at the bottom of the occupational hierarchy," although encouraging more female workers, has channeled women into

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129. CHILDREN'S DEFENSE FUND, *THE STATE OF AMERICA'S CHILDREN* 1991, at 2 (1991); HILDA SCOTT, *WORKING YOUR WAY TO THE BOTTOM: THE FEMINIZATION OF POVERTY* 3 (1984); Sheila B. Kamerman, *Women, Children, and Poverty: Public Policies and Female-Headed Families in Industrialized Countries*, in *WOMEN & POVERTY* 41, 42 (Barbara C. Gelpi et al. eds., 1986) [hereinafter *WOMEN & POVERTY*].

130. Shiu, *supra* note 46, at 351.

131. See MYRA DINNERSTEIN, *WOMEN BETWEEN TWO WORLDS: MIDLIFE REFLECTIONS ON WORK AND FAMILY* 146-48 (1992) (discussing the "persistence of domesticity" of working women, who continue to carry the larger share of domestic responsibility, from housework to accommodation); SCOTT, *supra* note 129, at 129 ("The source of women's special susceptibility to poverty lies in the fact that much of what is defined as 'women's work' takes place outside the boundary of the world's economy as men see it, and therefore has no value in the economic sense."); Carol A. Brown, *The New Patriarchy*, in *HIDDEN ASPECTS OF WOMEN'S WORK* 137, 155 (Christine Bose et al. eds., 1987) [hereinafter *HIDDEN ASPECTS OF WOMEN'S WORK*] (discussing the precarious economic situation of married women, who derive their class status and security from a working spouse, and whose poverty is thus hidden by their husbands' incomes).

132. Joan Smith, *The Paradox of Women's Poverty: Wage-Earning Women and Economic Transformation*, in *WOMEN & POVERTY*, *supra* note 129, at 122, 130; cf. Karen Brodtkin Sacks, *Does it Pay to Care?*, in *CIRCLES OF CARE*, *supra* note 20, at 188, 188-206 (discussing the big and growing business of health care, with the work force stratified by gender, class, and wide disparities in pay and prestige).

133. Smith, *supra* note 132, at 122; cf. Brown, *supra* note 131, at 140 (arguing that the control of society and social institutions by men tends to encourage public participation by women under conditions of inequality).



jobs deemed unskilled and thus underpaid.<sup>134</sup> Yet, with circular reasoning, the “unskilled” label is often applied to work because of the predominance of women in the field—work that, objectively evaluated, requires skill and demands responsibility.<sup>135</sup> Child care work is a classic example. Early childhood development is highly complex, and the work of child care teachers and administrators demands responsibility for the well-being of large groups of children. But stereotyped as women’s work or a substitute for mothering, the child care profession is held in low esteem and at the economic margin.<sup>136</sup>

This societal treatment fuels a staffing crisis in the child care industry today.<sup>137</sup> At the same time that demand for child care is growing, recruitment and retention of skilled providers is undermined by low pay and benefits. This shortage, coupled with high rates of staff turnover in particular programs, and high rates of workers leaving the child care field altogether, severely compromises the quality of care available.<sup>138</sup>

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134. VICTOR R. FUCHS, *WOMEN’S QUEST FOR ECONOMIC EQUALITY* 25 (1988); Natalie J. Sokoloff, *What’s Happening to Women’s Employment: Issues for Women’s Labor Struggles in the 1980s-1990s*, in *HIDDEN ASPECTS OF WOMEN’S WORK*, *supra* note 131, at 14, 18; *cf.* LINDA M. BLUM, *BETWEEN FEMINISM AND LABOR: THE SIGNIFICANCE OF THE COMPARABLE WORTH MOVEMENT* 183 (1991) (advocating alliance between labor movement and feminist movement using comparable worth as tool to mobilize and politicize low-paid women); ARTHUR B. SHOSTAK, *ROBUST UNIONISM: INNOVATIONS IN THE LABOR MOVEMENT* 86-88 (1991) (discussing union efforts to reduce pay inequities between men and women workers in a growing “comparable worth” movement).

135. *See* Anne Phillips & Barbara Taylor, *Sex & Skill: Notes Towards a Feminist Economics*, 6 *FEMINIST REV.* 79, 79 (1980) (suggesting that classification by skill definition is saturated with sexual bias); Sokoloff, *supra* note 134, at 18 (arguing that assumption that women’s work is unskilled is not supported by objective evaluations); *cf.* AVA BARON, *WORK ENGENDERED: TOWARD A NEW HISTORY OF AMERICAN LABOR* 16-32 (1991) (conceptualizing gender and work in the context of labor history).

136. *See, e.g.*, WHITEBOOK ET AL., *WHO CARES*, *supra* note 12, at 3. As the authors explain:

[O]utdated attitudes about women’s work and the family obscure our view of teachers’ economic needs and the demands of their work. If a job in child care is seen as an extension of women’s familial role of rearing children, professional preparation and adequate compensation seem unnecessary. . . . While such assumptions contradict the economic and educational realities facing those who teach in child care centers, they provide an unspoken rationale for depressing child care wages and containing costs.

*Id.*

137. Marcy Whitebook, *The Teacher Shortage: A Professional Precipice*, *YOUNG CHILDREN*, Mar. 1986, at 10. Compounding the demand for child care workers is an elementary school teacher shortage, as higher-paid grade school teachers draw skilled personnel away from early childhood work.

138. Marcy Whitebook & Robert C. Granger, *Mommy, Who’s Going to be My Teacher Today? Assessing Teacher Turnover*, *YOUNG CHILDREN*, May 1989, at 11, 11-14; *see* WHITEBOOK ET AL., *STAFFING REVISITED*, *supra* note 12, at 3, 10-11 (noting that 70% of child care teachers interviewed in the 1988 Child Care Employee Project national study had left their jobs by 1992).



Over two million people earn their living caring for children full time.<sup>139</sup> An estimated ninety-seven percent of child care workers are female.<sup>140</sup> They are very poorly paid, as documented by a national study, first conducted in 1988 and updated in 1992 by the Child Care Employee Project (CCEP), identifying staffing patterns in a representative sample of 227 child care centers.<sup>141</sup> The 1988 study showed an average hourly wage of \$5.35, which is roughly equivalent to an annual income of \$10,000 for full-time work. If the child care worker is the sole earner in her family, this wage level places her near or below the poverty level, depending on her family size.<sup>142</sup> From 1988 to 1992, real wages for child care teachers rose only slightly and actually declined among the growing segment of assistant teachers. About twenty-five percent of the child care teachers surveyed were responsible for over two-thirds of their household income, and forty-two percent contributed at least half of their household earnings.<sup>143</sup>

On top of low wages, employee benefits are minimal for most child care workers. Only two out of five workers surveyed in the CCEP study received health coverage through their jobs, and only one in five had a retirement plan. Benefits were typically limited to sick leave, paid holidays, and reduced fees for their own child care needs. Only four percent were represented by a union.<sup>144</sup>

Further proof of the low status of child care workers is that they earn substantially less than comparably educated men or women in the work

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139. Thousands more work part time in child care. The estimate of two million full-time workers was derived by industry experts from several surveys over a decade ago. Willa Pettygrove et al., *Beyond Babysitting: Changing the Treatment and Image of Child Caregivers*, YOUNG CHILDREN, July 1984, at 14. The numbers are likely to be even higher today, although estimates vary widely. This variation is due to ambiguity in definitions of child care work, substantial activity in the informal economy, and the expansive category of unpaid work in the home. See generally Deborah Phillips & Marcy Whitebook, *Who Are Child Care Workers?*, YOUNG CHILDREN, May 1986, at 14.

140. WHITEBOOK ET AL., WHO CARES, *supra* note 12, at 4.

141. *Id.* at 6-10 (describing the methodology of the National Child Care Staffing Study conducted in 1988 by the Child Care Employee Project); WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 5 (describing methodology of the 1992 update, which was published in early 1993).

142. WHITEBOOK ET AL., WHO CARES, *supra* note 12, at 49. Wage levels worsened from 1977 to 1988; adjusted for inflation, day care teachers' earnings fell by 27%, and assistant teachers' by 20%. *Id.* at 50. By 1992, real wages for the lowest paid assistant teachers, the fastest growing segment of child care workers, had declined to \$5.08 an hour. Even among the highest paid senior teachers, the smallest segment of the work force, average annual salary in 1992 was \$15,488. WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 2.

143. WHITEBOOK ET AL., WHO CARES, *supra* note 5, at 50.

144. *Id.* at 53. The 1992 update revealed that only 27% of centers provided fully paid health care for their teaching staff and, of these, 32% did not cover assistant teachers. WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 3.



force generally. The 1988 CCEP study showed that child care workers with a college or graduate degree earned an annual average of \$11,603, compared with overall civilian labor force wages of \$26,066 for women and \$42,422 for men with the same education. For those civilian workers with a high school diploma or less, child care staff earned an average of \$8120, versus general work force earnings of \$15,806 for women and \$24,097 for men. More than half of the assistant teachers and almost three-fourths of the teachers surveyed had attended college for at least some period of time, while less than half of the women in the civilian work force have some college background.<sup>145</sup>

Notwithstanding their dissatisfaction with pay and benefits, child care workers surveyed by CCEP tended to be quite satisfied with their day-to-day work. They derived satisfaction primarily from job autonomy, a community of colleagues, and participation in children's development. Many viewed child care as a professional career, not temporary work, particularly those with specialized training in early childhood education. Yet, annual turnover rates were on average a staggering forty-one percent in 1988 and twenty-six percent in 1992, and seventy percent of child care workers interviewed in 1988 had left their jobs by 1992.<sup>146</sup> Newly hired staff accounted for much of the turnover, but the combination of high turnover and career orientation, with minimal opportunity for advancement within single centers, suggests that some employees leave their child care jobs due to economic necessity rather than choice.<sup>147</sup>

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145. WHITEBOOK ET AL., WHO CARES, *supra* note 12, at 53.

146. *Id.* at 70; WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 3, 10-11. These turnover rates compare with 9.6% turnover reported by all U.S. companies in 1992 and 12% reported by nonbusiness enterprises such as government and nonprofit agencies. *Id.*

147. WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 6. Throughout this discussion, I intentionally avoid the term "dead end" job, too often used to describe low status jobs with little opportunity for advancement. In a faculty forum on child care and economic development at SUNY Buffalo (Dec. 1, 1992), Law Professor Jim Atleson noted that the "end" aspect of a job is not the problem, because many workers want to keep their current jobs. And, in the best of circumstances, many strive for the type of "end" job implicit in a long-term employment contract, a job security clause in a collective bargaining agreement, or academic tenure. The problem with a dead end job is the "dead" part—low wages, poor working conditions, no security—rather than the "end" part that suggests a permanent job. This article emphasizes the status and conditions of child care work rather than a career path wholly out of the field. A commitment to child care work in its own right, rather than as a stepping stone to another career, was reflected in my interviews with child care professionals. *E.g.*, Interview with Teresa Mansell, Operations Director, Mt. Airy Childspace Center, in Phila., Pa. (Nov. 11, 1992) (providing explanation of her focus as a child care professional on maintaining and improving the quality of work and care at Childspace and opportunities for advancement within the Childspace system, rather than creating a career ladder out of child care).



Presumably, turnover would decrease if child care wages were higher.<sup>148</sup> In addition, more men might enter the field, drawn by the better pay and pushed by economic necessity. Nursing has shown signs of such a trend, with better wages and benefits accompanied by a significant increase in the number of male nursing students.<sup>149</sup> Both a cause and a product of gender segregation, the low pay for child care workers might rise with an influx of more men. Due in part to the misperception of men's work as more worthy, gender integration might boost the societal status of child care work.<sup>150</sup> Gender integration in child care also would help to break down gender stereotypes and indicate that care giving is not the exclusive domain of women.<sup>151</sup>

#### D. CARE GIVING, FEMINISM, AND EMPOWERMENT

Day care as a community economic development vehicle reflects a tension among feminists about care giving. On the one hand, child care enterprises employ mostly women, are managed by women, and reflect caring values associated with women. On the other hand, child care—like

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148. For example, wages and benefits for staff at the Erie Community College (Buffalo) Child Care Center are comparable to the compensation packages for the college's faculty. After 10 years in operation, 70% of the Center's original staff remains. Interview with Sherry Cleary, former Executive Director, Erie Community College Child Care Center, in Buffalo, N.Y. (Oct. 12, 1992).

149. Peter T. Kilborn, *As Pay for Nurses Increases, So Does the Number of Men Entering the Field*, N.Y. TIMES, Nov. 29, 1992, at A22 (noting that, with increases in pay for nursing, the percentage of male student nurses has jumped from six percent in 1988 to 10% in 1992).

150. "When men agree that child care is the responsibility of both parents and society," muses Ruth Rosen, "child care will be reclassified as skilled work, wages will rise and lo and behold, the government will ensure high quality care for the nation's children." Rosen, *supra* note 22; cf. HESTER EISENSTEIN, *CONTEMPORARY FEMINIST THOUGHT* 84 (1983) (suggesting broad social and political implications of breaking women's monopoly on child-rearing); KAMINER, *supra* note 35, at 143 (arguing that solutions to the child care crisis ought to be gender-neutral and, as a result, encourage eventual change in domestic divisions of labor).

151. See, e.g., HOLE & LEVINE, *supra* note 97, at 306-07 (discussing child care centers set up in the late 1960s with an explicit goal of eliminating sexism and male resistance to work in child care); SUSAN MOLLER OKIN, *JUSTICE, GENDER & THE FAMILY* 175-78 (1989) (advocating a vision of child-rearing that places equal child care responsibility on mother and father, with implications for work and day care); Nancy E. Dowd, *Envisioning Work and Family: A Critical Perspective on International Models*, 26 HARV. J. LEGIS. 311, 339-44 (1989) (discussing the downside of French and Swedish work-family policies that assume traditional gender roles); Mary Frances Berry, *The Mother of All Debates*, N.Y. TIMES, Feb. 10, 1993, at A23 (recounting that, historically, mothers have not always had primary responsibilities for children, and that "mothercare tradition" as an ideal became fully developed only in the twentieth century); cf. Carrie Menkel-Meadow, *Portia in a Different Voice: Speculations on a Women's Lawyering Process*, 1 BERKELEY WOMEN'S L.J. 39 (1985) (examining the impact on the legal profession of the increase in women lawyers); Alan L. Otten, *Father-Only Families Often Break the Mold*, WALL ST. J., Nov. 11, 1992, at B1 (reporting that single father heads-of-family households number 1.4 million and are increasing, with over 18% of father-only families living in poverty and a further 21% with incomes less than twice the poverty level).



other care giving work—is devalued by society, and any significant upward mobility arguably demands that women escape the care giving role.<sup>152</sup>

Nurturing and relational ways of associating, while not determined by gender, are often attributed to women.<sup>153</sup> The centrality of relationships to women traditionally has differentiated women from men, and strong social norms and conditioning have perpetuated such gender distinctions.<sup>154</sup> So-called female values of care taking, nurturing, empathy, and connectedness can be perceived as either weaknesses or strengths depending in part on context. To the extent that these values are bent to the service of others with greater power, they reflect and can further the subordination and manipulation of the less powerful care givers.<sup>155</sup> On the other hand, these values can be recast as strengths in the context of activism, for instance, in the economic sphere.

Collaborative work and participatory management characterize some of the successful enterprises developed by women in a variety of fields in recent years.<sup>156</sup> The growing presence of women in organized labor has given rise to subtle changes in union strategies, in some cases demonstrat-

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152. Emily K. Abel & Margaret K. Nelson, *Circles of Care: An Introductory Essay*, in CIRCLES OF CARE, *supra* note 20, at 4, 4-7.

153. Discussion of nurturing and relational attributes of women stands in sharp contrast to the conservative view of biology as destiny that seeks to preserve a “natural order” of different traits in men and women, and reserves assertiveness and rationality for men, gentleness and intuitiveness for women. See ROSEMARIE TONG, FEMINIST THOUGHT: A COMPREHENSIVE INTRODUCTION 3 (1989) (distinguishing feminist inquiries into the effects of female biology from conservative gender stereotypes); cf. SARA RUDDICK, MATERNAL THINKING: TOWARD A POLITICS OF PEACE 183 (1989) (describing individuals as “centers of care” in the context of relational experiences in motherhood).

154. CAROL GILLIGAN, IN A DIFFERENT VOICE 62 (1982); Suzanne Gordon, *Feminism and Caregiving*, AM. PROSPECT, Summer 1992, at 119, 120.

155. See, e.g., KATHY E. FERGUSON, THE FEMINIST CASE AGAINST BUREAUCRACY 166-67 (1984) (describing the manipulation within a patriarchal order of the intimate links women characteristically experience with others).

156. See *infra* Part III.C. (discussing Childspace); see also KATHLEEN P. IANNELLO, DECISIONS WITHOUT HIERARCHY: FEMINIST INTERVENTIONS IN ORGANIZATION THEORY AND PRACTICE 78-102, 117-23 (1992) (presenting a case study of a women’s health collective in New England as an illustration of effective and efficient use of a modified consensus structure by women to operate a nonhierarchical business enterprise); Mary Kay Blakely, *Quilting New Networks*, Ms., Mar.-Apr. 1992, at 19 (reporting on the fourth annual Ms. Foundation Institute on Women & Economic Development in early 1992); Rona Fried, *Cooperative Home Care Associates: A Healthy Situation*, WORKPLACE DEMOCRACY, Winter 1989, at 7 (describing a successful home care company in Bronx, N.Y., owned and controlled by the workers, mostly women); “Good Jobs” and “Good Service,” *supra* note 5, at 1-2 (describing creation and success of Cooperative Home Care Associates, a home care enterprise in Bronx, N.Y., which has as an explicit goal the empowerment of women); Martha E. Mangelsdorf, *The Hottest Entrepreneurs in America*, INC., Dec. 1992, at 88 (including the employee-owners of Cooperative Home Care Associates in the South Bronx among profiles of promising “entrepreneurs of the year”). See generally RICK SURPIN, COMMUNITY SERV. SOC’Y, COOPERATIVE HOME CARE ASSOCIATES: A STATUS REPORT (on file with *The Georgetown Law Journal*).



ing more effective approaches to workplace organizing.<sup>157</sup> The impact of feminism on organized labor, while relatively modest, suggests the potential for significant change in union activity<sup>158</sup> and perhaps for broader societal change as well.<sup>159</sup>

A greater prominence of caring values associated with political, social, and economic advances of women might lead to wider acceptance of more equitable and collaborative societal norms.<sup>160</sup> The professionalization of child care, then, with higher pay and greater prestige can be both a reflection of changing values and fuel to help bring about such broad shifts in values.<sup>161</sup>

Societal support for care giving would require a wide change in attitudes and an awareness of the centrality and complexity of care giving. Care giving is central because we all give and receive care in an array of relationships—formally, as in schooling or health care, and informally, as in family life. It is also central in enabling us to participate in economic

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157. See, e.g., CHARLES HECKSCHER, *THE NEW UNIONISM: EMPLOYEE INVOLVEMENT IN THE CHANGING CORPORATION* 187 (1988) (noting the effectiveness of decentralized authority and sympathy-gaining tactics employed by unions dominated by female membership); KAREN BRODKIN SACKS, *CARING BY THE HOUR: WOMEN, WORK, AND ORGANIZING AT DUKE MEDICAL CENTER* 117-22 (1988) (positing that women frequently demonstrate leadership in building networks, while men more characteristically lead by mobilizing existing networks); SHOSTAK, *supra* note 134, at 94-100 (reporting a case study of the campaign to organize clerical workers at Harvard University, culminating in NLRB certification of the union in 1988); Ruth Needleman, *Women Workers: A Force for Rebuilding Unionism*, LAB. RES. REV., Spring 1988, at 1, 9-13 (arguing that women's skill in accomplishing tasks through building relationships will have a positive effect by promoting participation through networks) (1988); cf. Megan Sweeney, *Women Change the Face of Organizing*, NEIGHBORHOOD WORKS, Feb.-Mar. 1993, at 23, 23-25 (describing the impact of leadership by women in the field of community organizing).

158. Ruth Milkman, *Feminism and Labor Since the 1960s*, in *WOMEN, WORK & PROTEST: A CENTURY OF U.S. WOMEN'S LABOR HISTORY* 300, 318 (Ruth Milkman ed., 1985). See generally Marion Crain, *Feminism, Labor, and Power*, 65 S. CAL. L. REV. 1819, 1865-86 (1992) (arguing for feminist transformation of labor unions and presenting a vision of women-centered unions).

159. See generally Marion Crain, *Images of Power in Labor Law: A Feminist Deconstruction*, 33 B.C. L. REV. 481 (1992).

160. See generally NEL NODDINGS, *CARING: A FEMININE APPROACH TO ETHICS AND MORAL EDUCATION* (1984).

161. The "professionalization" of child care suggests the replication or reinforcement of traditional hierarchies of work, with the profession of child care running the risk of excluding a less elite class of women in need. Thus, the feminization of the profession must carry more inclusive and nurturing values not typical of professional consciousness. Cf. ALISON M. JAGGAR, *FEMINIST POLITICS AND HUMAN NATURE* 184-86, 199-203 (1983) (noting the limitations of liberal feminist attempts to professionalize gender-segregated service work and of reliance on state instituted reforms to achieve gender equality); Berenice Fisher, *Alice in the Human Services: A Feminist Analysis of Women in the Caring Professions*, in *CIRCLES OF CARE*, *supra* note 20, at 108, 108-10, 120-25 (framing the task of developing a progressive and intelligent perspective on women's human service work, and exploring the intertwining of social movements and women's human service professions).



and public life, as in unpaid work by women at home that supports men's pursuits of careers, or low-paid child care work by women that enables fathers and mothers to pursue careers or work. This complexity of care giving consists of an intelligence and knowledge not highly valued by our culture. Such "skilled intuition" or "relational intelligence" involves empathy, social learning, and intricate emotional and intellectual work.<sup>162</sup> Care giving is harder to quantify or measure than the products of instrumental economic activity or other production more valued by society, such as building a house or selling securities.

Child care as a sophisticated enterprise can further "the feminist project of making visible women's traditional, invisible work."<sup>163</sup> Rather than accepting care giving as marginal, placing child care at the center of economic activity can help recast it as a valued component of public policy and community development. Professionalization and increased esteem for child care work requires substantially greater allocation of resources. But, for these resources to flow from public and private sources, policymakers must understand and value the complexity and importance of child care. Development of day care institutions that demonstrate and document relational intelligence in the economic sphere can help make the case.<sup>164</sup>

This application of relational feminist theory<sup>165</sup> runs the risk of reinforcing exploitation of women—trapping undervalued child care workers in a career with low pay and little prestige. Some feminist scholars are critical of a focus on caring and care giving work by women, warning that consideration of so-called female qualities will boomerang and be used to oppose gender equality.<sup>166</sup> This criticism emphasizes formal gender equality and

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162. Gordon, *supra* note 154, at 121 (referring to "relational intelligence" and attributing the terms "skilled intuition" and "embodied intelligence" to Patricia Benner, a nurse ethicist at the University of California at San Francisco).

163. *Id.* at 127; cf. Sandra Morgen & Ann Bookman, *Rethinking Women and Politics: An Introductory Essay*, in *WOMEN AND THE POLITICS OF EMPOWERMENT* 3, 16-18 (Ann Bookman & Sandra Morgen eds., 1988) (discussing empowerment of women in the context of the political economy and grassroots activism).

164. See Abel & Nelson, *supra* note 152, at 5-7 (analyzing feminist reformulation of the meaning and nature of care giving as a means of fostering autonomy, as a challenge to the division between reason and emotion, and as integrating the public and private spheres).

165. Although the reference to relational feminism helps to locate this discussion among a number of applicable feminist perspectives, it is not meant as a label that narrows or oversimplifies the theory. Postmodern feminists remind us that feminist thoughts are many because women are many and women's experiences differ across class, race, and culture lines. See generally MARY JOE FRUG, *POSTMODERN LEGAL FEMINISM* (1992); TONG, *supra* note 153, at 7.

166. See, e.g., KAMINER, *supra* note 35, at 140-42 (chronicling hostility and attacks against feminists for their support of child care, as well as misguided criticism of equal rights feminists for alleged indifference toward children and working mothers); cf. ALISON M. JAGGER, *FEMINIST POLITICS AND HUMAN NATURE* 159 (1983) (noting that women's entry



the right of women to compete fairly with men. Care giving work arguably validates traditional roles, thus diverting women's energy and deemphasizing their progress.

An enterprise approach to child care needs to counter such a validation of traditional roles and can do so by education and example, further professionalization, and gender integration of the work force. The quality of work in the child care industry will not improve by avoiding care giving occupations, but only through debate and experimentation in development. Despite the stereotype of care giving as a marginal value, an explicit development strategy can serve as a vehicle for raising the quality and status of child care work, without validating the traditional stereotypes or perpetuating the feminization of poverty.

### III. INSTITUTIONAL LINKAGE AND ORGANIZATIONAL CULTURE

#### A. BEYOND THE CDC

Community development corporations acting alone have limited ability to fight poverty and urban decay. The more successful CDCs have built bridges to other institutions that are capable of bringing resources, expertise, and political clout to their locales. Other local institutions also have emerged as key players in community economic development, including worker-owned businesses,<sup>167</sup> labor-community coalitions,<sup>168</sup> progressive local governments,<sup>169</sup> and targeted financial institutions.<sup>170</sup>

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into the capitalist market today reflects a shift from "private to public patriarchy" rather than a shift in "gender domination").

167. On worker ownership and community economic development, see, e.g., Charles Turner, *Worker Cooperatives and Community Development*, in BEYOND THE MARKET, *supra* note 102, at 64, 67-77 (noting eleven major examples of worker cooperatives in the continental U.S. and Puerto Rico); Sherman Kreiner, *Worker Ownership as the Basis for an Integrated, Proactive Development Model*, 15 N.Y.U. REV. L. & SOC. CHANGE 227, 230-31 (1987); cf. Peter Pitegoff, *Organizing Worker Cooperatives*, 7 LAW & POL'Y 45, 45-49 (1985) (describing various worker cooperatives and the role of lawyers in organizing such worker-owned businesses).

168. On labor-community coalitions involved in economic development, see, e.g., Brecher, *supra* note 103, at 93-105; SHOSTAK, *supra* note 134, at 209-65; cf. Lawrence G. Flood, *Union-Community Relations in Buffalo: A Preliminary Assessment*, 39 BUFF. L. REV. 445, 466-71 (1991) (arguing that the building of union-community coalitions can both increase union influence and improve community conditions, and examining the impact of such coalition building in Buffalo).

169. Among progressive local government initiatives are those undertaken by the Community Economic Development Office (CEDO) of the City of Burlington, Vermont. See CLAVEL, *supra* note 112, at 176-83 (noting CEDO efforts to energize local assemblies, stimulate commercial real estate development, provide jobs, provide loans to small businesses, and generate community concern for waterfront developments).

170. Financial institutions targeted toward community development include banks, such as the South Shore Bank (part of the Shorebank Group) based in Chicago; community loan funds, over 40 of which are affiliated through the National Association of Community



But much of this constructive community development activity has taken place within a relatively stable and expanding economy. Community activists have been able to lay claim to some fruits of that economic growth, without challenging the basic structure of the political economy.<sup>171</sup> Today, the context in which CDCs operate is changed—with global pressures on private industry and budget crises in the public sector. Demands for wealth redistribution by labor and community groups are increasingly ignored, and local community development organizations generally lack the resources to undertake large-scale projects that would have a significant impact on poverty.<sup>172</sup>

The experience of Precious Jewels Day Care Center underscores the impact of global economic forces on a local community enterprise and the need for linkages on a broader scale. Precious Jewels sits in a once thriving neighborhood that was decimated by deindustrialization. Poverty today on the east side of Buffalo can be traced back in part to the sharp decline in the area's industrial base in the 1970s and 1980s. Plant closings and layoffs throughout the region led directly to high rates of unemployment on the east side, with a disproportionate impact in the African-American community.<sup>173</sup> This connection between deindustrialization and poverty suggests that strategies to fight poverty should include industrial renewal and other enterprise strategies to strengthen a community's productive base.<sup>174</sup> Such strategies require the economic scale and political clout

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Development Loan Funds; community development credit unions and their National Association of Community Development Credit Unions. See Michael Swak, *Community Finance Institutions*, in BEYOND THE MARKET, *supra* note 102, at 79-96 (discussing efforts by CLF's and Community Development Credit Unions to solve the problems of disinvestment and capital leakage from lower-income communities by providing funds to individuals and associations in those communities); cf. JAYNE E. ZANGLEIN, THE LABOR LAW EXCHANGE, SOLELY IN OUR INTEREST: CREATING MAXIMUM BENEFITS FOR WORKERS THROUGH PRUDENT PENSION INVESTMENTS 111-18 (1992) (discussing recent trends in, and the legal environment of, targeted investment of pension funds).

171. Swinney et al., *supra* note 107, at 4.

172. *Id.* at 5; cf. Timothy Noah & David Wessel, *Urban Solutions: Inner City Remedies Offer Novel Plans—And Hope, Experts Say*, WALL ST. J., May 4, 1992, at A1 (noting that with less public confidence in the economy's ability to serve the middle class has come less willingness to spend money on the problems of the poor).

173. Arthur Butler et al., *Work and Black Neighborhood Life in Buffalo, 1930-1980*, in AFRICAN AMERICANS, *supra* note 7, at 112, 124-29; see also David C. Perry & Beverly McLean, *The Aftermath of Deindustrialization: The Meaning of "Economic Restructuring" in Buffalo*, NEW YORK, 39 BUFF. L. REV. 345, 354-64 (1991) (explaining the effects of deindustrialization and structural economic changes on Buffalo's economy in the 1980s).

174. Local control and accountability are also important elements in rebuilding a productive base because they reduce the likelihood of absentee owners engineering future disinvestment in the locale. Cf. Pitegoff, *supra* note 9, at 322-24 (discussing local control in the context of community economic development in Buffalo, N.Y., and comparing the Greenhouse Compact in Rhode Island and the Naugatuck Valley Project in Connecticut).



of regional alliances with access to resources and the ability to coordinate economic development plans.

An independent day care center such as Precious Jewels has a better chance to escape the economic margin if it is linked with a comprehensive development strategy and network.<sup>175</sup> The child care services are essential and the enterprise creates jobs, but the broader linkages are crucial to its economic viability over time. A CDC sponsoring child care services alone may face many of the same problems of isolation and small scale as an independent enterprise. Some CDCs, though, are well-situated to forge needed links and to be an institutional anchor for child care enterprises.<sup>176</sup>

The Chinatown Planning Council in New York City, for instance, played a key role in forming and staffing the Garment Industry Day Care Center of Chinatown in 1983.<sup>177</sup> Initiative for the project came from the International Ladies Garment Workers Union Local 23-25, in response to a petition from 3000 seamstresses. The union represented 18,000 workers, the majority of whom were women, at approximately 500 factories in the Chinatown neighborhood. Following negotiations, the area trade association (the Greater Blouse, Skirt, and Undergarment Manufacturers Association) and some individual member employers agreed to help fund the start-up, as did the Agency for Child Development of the New York City Human Services Administration.<sup>178</sup>

With ongoing subsidies from the employers, the union, and the city, and a small sliding scale fee paid by the parents, the Chinatown Center still

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175. The Precious Jewels Day Care Center, for example, has considered a number of strategic directions beyond its core activity, including collaboration with developers of low-income housing to assure availability of child care in multiunit housing for low-income families, or with educational institutions to provide training opportunities for prospective teachers and early childhood professionals. Interview with Henrietta Keenan, *supra* note 125.

176. Jan Stokley describes some CDC efforts in child care in which institutional linkages provide critical support and stability. STOKLEY, *supra* note 2, at 44-51. For example, Coastal Enterprises, Inc. (CEI), a statewide CDC in Maine, implemented a project to bring financing and technical assistance to day care providers, to coordinate the array of public and private agencies in the field, and to participate in the policy debate on child care issues. *Id.* at 46. As of 1990, CEI had invested over \$800,000, committed another \$500,000, and leveraged \$3,000,000 from banks and other sources for improvement of 14 existing facilities and creation of 26 new child care enterprises. *Id.* at 47. Of the 238 jobs created or secured, over one-third were targeted to low-income individuals; of the 1294 child care slots created or enhanced, almost one-half were for children in low-income families. *Id.* Another CDC with a smaller geographical focus, the Drew Economic Development Corporation in south central Los Angeles, affiliated with the Drew University of Medicine and Science, has helped sponsor an independent day care enterprise as part of a broader strategy of housing and business development. *Id.* at 48-49. On the other hand, Stokley documents failed attempts in child care by CDCs. *Id.* at 52.

177. Seth Mydans, *Children of Chinatown Get a Day-Care Center*, N.Y. TIMES, Jan. 17, 1984, at B3.

178. *Id.*



operates today. Although the primary goal remains the provision of needed child care for area garment workers,<sup>179</sup> the Chinatown Planning Council also views the Center as an economic development program. The child care jobs are viewed in the community as good opportunities, and the union helps subsidize higher education of the child care workers.<sup>180</sup>

The Chinatown Center also demonstrates the affirmative role that a union can play in child care development in alliance with community groups and, in this case, with linkage to small business owners and municipal government.<sup>181</sup> A small number of child care centers nationwide are directly operated by unions.<sup>182</sup> More frequently, though still small in scope, unions are striving for parental leave and child care benefits in collective bargaining.<sup>183</sup> Such benefits have a direct impact on the working poor in industries such as the needle trades. A 1991 survey of garment workers in New York City showed an average gross wage of \$200 per week among union members, with many members spending well over \$50 per week for child care and the average cost of unsubsidized care at \$130 per week.<sup>184</sup> Labor-management negotiation on child care issues also brings to the table the potential role for business corporations in developing and supporting child care enterprise.

#### B. TOYTOWN AND CORPORATE CARE

The experience of one small town illustrates the potential for collaboration between large corporate businesses and community based child care providers. This account begins with a dark cloud hanging over Toyfest

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179. See H.J. Cummins, *Garment Workers Face a Crisis in Child Care*, *NEWSDAY*, Nov. 13, 1991, at 31 (City Edition) (noting that day care problems among garment workers persist, forcing some workers to keep children in boxes at work, place them in overcrowded private care, or send them to China to be raised by grandparents).

180. Interview by Alice Tam with Karen Liu, Director, Child Care, Chinatown Planning Council, in N.Y., N.Y. (Dec. 2, 1992); cf. *infra* note 212 and accompanying text (on importance of community culture as context for child care enterprise).

181. In the arena of municipal policy, the term "linkage" has been applied in reference to child care and land use planning. See generally Hanlon, *supra* note 97. See also Emily Green Caplan, *Child Care Land Use Ordinances—Providing Working Parents With Needed Daily Care Facilities*, 135 U. PA. L. REV. 1591, 1593, 1604-08 (1987) (citing and analyzing a 1985 San Francisco ordinance linking child care with development).

182. An estimated 50 child care centers nationwide are directly operated by unions, including the Amalgamated Clothing & Textile Workers Union (ACTWU), the United Food & Commercial Workers (UFCW), the International Ladies Garment Workers Union (ILGWU), the Service Employees International Union (SEIU), and the American Federation of State, County, and Municipal Employees (AFSCME). SHOSTAK, *supra* note 134, at 89.

183. See, e.g., *id.* at 88-89; cf. DANIEL M. PAUL ET AL., *CHILD CARE: AN ECONOMIC ISSUE FOR ORGANIZED LABOR* 5-6 (1990) (describing selected union efforts to secure child care through collective bargaining); *supra* Part I.C. (describing enactment of the Family and Medical Leave Act).

184. Cummins, *supra* note 179, at 32.



1991, as residents of East Aurora wondered about the future of Fisher-Price, Inc. This western New York village of 7500—also known as “Toytown, U.S.A.”—had been the home of Fisher-Price since 1930, when it was founded as a small toy making company.<sup>185</sup> Today, Fisher-Price is an international manufacturer and marketer of early childhood products and, as of 1991, had over \$600 million in net revenues and about 5400 employees worldwide.<sup>186</sup> The company was purchased in 1969 by the Chicago-based Quaker Oats Company, which kept the subsidiary’s corporate headquarters in East Aurora. Twenty-two years later, the parent company was spinning off Fisher-Price as a freestanding publicly traded corporation.<sup>187</sup>

East Aurora residents and Fisher-Price employees feared that the company might relocate, as rumors circulated about a possible takeover by another company such as Mattel, Inc., the California toy giant.<sup>188</sup> Or even worse, some worried, a freestanding Fisher-Price might not survive on its own. In fact, the prospect of failure or a takeover was rather remote, but rumors persisted since the local stakes were high. At risk was East Aurora’s identity as Toytown, and with it the toy museum and the annual Toyfest parade with giant Fisher-Price toys. More important was the uncertain future of over a thousand local jobs and a major local taxpayer and benefactor.

The East Aurora Community Nursery, Inc. (EACN) felt this uncertainty with particular sensitivity.<sup>189</sup> Founded as a nursery school in 1948 and operating as a licensed not-for-profit day care center since 1978, EACN looked to Fisher-Price as an important friend and source of support. By 1990, the growing school-age population was pushing EACN out of its leased space in the public primary school. An arrangement of some sort with Fisher-Price was likely to provide the best opportunity for obtaining affordable space and a modicum of stability. But no commitments were feasible until the toymaker’s fate became clear.

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185. FISHER-PRICE, INC., FORM 10-K TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934, at 1 (Securities & Exchange Commission, Commission file number 1-10783) 1992 [hereinafter FISHER-PRICE, FORM 10-K].

186. FISHER-PRICE, INC., 1991 ANNUAL REPORT 15 (1992).

187. FISHER-PRICE, FORM 10-K, *supra* note 185.

188. See M. Sharon Baker, *Fisher-Price is Growing Up*, BUS. FIRST, July 20, 1992, at 1 (detailing the stock price fluctuations that initially attracted corporate suitors and later repelled them as the stock began to trade at higher levels); Tom Campbell & Bill McMeekin, *Layoffs May Loom at Fisher-Price Toys*, BUS. FIRST, July 16, 1990, at 1, 2 (reporting on local fears of lay-offs after announcement of, but prior to the spin-off of, Fisher-Price from its parent company, Quaker Oats, and on speculation about a remote chance of a third party acquisition of Fisher-Price).

189. Accounts in the text about East Aurora and the East Aurora Community Nursery, Inc. (EACN) are based in large part on firsthand experience.



This story has a happy ending, or at least sounds a happy note as of 1993. Fisher-Price successfully spun off as an independent company. It remains in East Aurora and does not appear to be a likely takeover target.<sup>190</sup> To the relief of EACN, Fisher-Price entered a long-term lease agreement to house the day care center next to its corporate offices, providing anchor support that helped leverage additional subsidies from a number of smaller local businesses and foundations.

Along with an impressive turnaround in company performance, Fisher-Price managed to shine its local image, which had been tarnished by the shutdown of two area plants and the resulting layoffs.<sup>191</sup> A large production plant in nearby Holland, New York and an assembly plant at corporate headquarters in East Aurora were closed in 1990.<sup>192</sup> Fisher-Price renovated the closed assembly plant in East Aurora, and transformed it into a beautiful, custom-made child care facility, deftly turning crisis into a symbol of social responsibility.

The manufacturing corporation leases its facility to EACN, which continues to operate in its new location as a not-for-profit child care center. This community-based day care center, serving a range of middle class and working class families, now has a high quality facility at a reasonable cost. Fisher-Price can offer many of its employees on-site child care, and it prominently sports a playground active with children on its corporate grounds—what one might expect of a major toy company in a small town.<sup>193</sup> The skies were clear for Toyfest in 1992, and the giant toys from the parade are proudly displayed from time to time in front of Fisher-Price corporate headquarters and the East Aurora Community Nursery. With its high profile as a public, consumer oriented company, Fisher-Price might set an example for other employers in corporate and community collaboration for child care.

A downside of this story lies in EACN's growing pains as it deals with a sudden expansion to over two hundred children. In addition to its historical client base in the community, EACN now cares for one hundred more

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190. See Baker, *supra* note 188, at 1, 13 (speculating that Mattel lost interest in a Fisher-Price takeover due to substantial appreciation in the share price and antitakeover devices that could be costly to a suitor, as well as Mattel's agreement with Walt Disney Co., which provided an alternative foothold in Fisher-Price's core market).

191. Cf. James Madore, *Fisher-Price Ends an Era in East Aurora*, BUFF. NEWS, June 22, 1990, at B9, B12 (detailing the shutdown of Fisher-Price's East Aurora plant).

192. FISHER-PRICE, FORM 10-K, *supra* note 185, at 11. Some work from the closed plants was shifted to newer Fisher-Price manufacturing facilities outside of the region. or to unaffiliated manufacturers around the world. *Id.* at 2.

193. See Eileen Ogintz, *A Model For Day Care*, PARENTS, Apr. 1993, at 54 (describing the collaborative effort of Fisher-Price, the East Aurora Community Nursery, and other local businesses, foundations, and residents to expand and relocate the day care center in dormant factory space at Fisher-Price).



children than before the expansion, in part to accommodate Fisher-Price employees and to meet community demand for infant and child care. The trade-off for greater security appears to be less autonomy for the day care center and a new dependence upon and deference to its benefactor and lessor.<sup>194</sup> A stronger and larger corporate culture, such as that of Fisher-Price, can dominate and change the organizational culture of a smaller child care center in its midst, despite their separate legal identities. The case of EACN illustrates both the benefit of child care linkage with a large corporation and the simultaneous need to maintain a broader structure for accountability—to the parents, the children, the community, and the staff. The events leading up to the current lease arrangement also are a reminder that even a local child care enterprise can be buffeted by the global movement of capital.

Fisher-Price's arrival to on-site child care appears late, but it is far ahead of the predominant practice among corporate employers. Estimates in the late 1980s of employers that provide their employees with some sort of child care benefits ranged from about 750 to 3000 of the roughly 6 million employers in the United States.<sup>195</sup> Although the advantages of such programs to employers have been documented,<sup>196</sup> most employers apparently have rejected child care benefits in favor of other priorities, or have not considered the question at all.<sup>197</sup>

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194. This concern about undue corporate control or influence parallels a concern that child care sponsored by an employer as an employee benefit can make employee-parents less willing to speak out about company policy or to press for their interests, for fear of jeopardizing their jobs and their child care. HOLE & LEVINE, *supra* note 97, at 314.

195. SHOSTAK, *supra* note 134, at 89; Clark, *supra* note 92, at 839. The wide variation in estimates is due primarily to differences in the definition of child care assistance, which may or may not include flexible personnel policies, such as flextime or parental leave, information, or educational programs, reimbursement of employees' child care costs, corporate contributions to outside programs, and direct on- or near-site services. Regardless of the differences, even the lowest estimate suggests some minimal growth since a 1982 survey by the National Employer Supported Child Care Project suggested that the 415 programs selected for the survey constituted most of the known employer supported programs: 197 in industry, 195 in health organizations, 17 in public agencies, and 6 in labor unions. BURUD ET AL., *supra* note 17, at 21.

196. See BURUD ET AL., *supra* note 17, at 19-65 (identifying benefits of employer supported child care such as increased morale and productivity and decreased absenteeism and turnover rate); Clark, *supra* note 92, at 844-48 (describing a number of employer-sponsored child care programs at IBM, American Express, Polaroid, and other major companies); Hanlon, *supra* note 97, at 616-19 (arguing that on- or near-site care benefits employers by increasing worker loyalty, morale, and productivity).

197. See Sue Shellenbarger, *Help for Family Varies By Industry, Poll Finds*, WALL ST. J., Sept. 2, 1992, at B1 (noting that companies in certain industries were hardly aware of the issues raised by work-family conflicts, while other industries—notably those with skilled-labor shortages or with many women workers—pay closer attention to work-family conflict issues); cf. Lisa Belkin, *With Day Care or Bonus, Hospitals Entice Hard-to-Find Workers*, N.Y.



Media attention persists, especially to child care initiatives by large corporations. In the largest corporate collaboration of its kind, 109 companies formed the American Business Collaboration for Quality Dependent Care in 1992 and committed over \$25 million to the partnership.<sup>198</sup> It will fund projects in forty-four locations nationwide, with programs that include child care centers, school-age day care, services for the elderly, and training of child care workers.<sup>199</sup> The initiative comes at a time when increasing dependent care problems of employees are hurting productivity, and it reflects a growing recognition among business leaders of their self-interest in supporting child care.

Although corporate collaboration projects will do little to address some of the most fundamental child care problems, such as low teacher salaries or affordability, they may lay the groundwork for ongoing linkages and more aggressive strategies for job and enterprise development. Businesses may begin from a point of self-interest, but their involvement may provide a lead for further cooperation with community-based child care as a matter of social responsibility.

With or without voluntary action by businesses, some local laws, most notably land use ordinances, compel certain private investment in child care.<sup>200</sup> Typically, child care linkage laws require commercial developers to provide for on-site child care facilities in new development projects, or to pay an in-lieu fee that supports child care. Limited to just a handful of municipalities, these linkage laws nonetheless evidence a place for child care in economic development planning and policy at the local level,<sup>201</sup> as well as a handle for community organizing.

As an impressive array of child care advocates continue to push for more private sector resources,<sup>202</sup> community development groups and child care

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TIMES, Sept. 21, 1992, at B1 (comparing the relative effectiveness of benefits packages offered by private and municipal hospitals in attracting and retaining health care workers).

198. Shellenbarger & Trost, *supra* note 18, at 20.

199. *Id.*

200. See Caplan, *supra* note 181, at 1591, 1593, 1604-07 (1987) (citing and analyzing a 1986 San Francisco ordinance linking child care with development); Hanlon, *supra* note 97, at 591-98 (citing a number of municipal ordinances linking child care with development and comparing parallel ordinances linking housing needs with commercial development); cf. PARENTAL LEAVE & CHILD CARE, *supra* note 15 (on parental leave policy); THE PARENTAL LEAVE CRISIS, *supra* note 2 (same).

201. See Caplan, *supra* note 181, at 601-16 (showing how the San Francisco linkage law meets anticipated increased demand for child care).

202. Among the most prominent advocacy groups active in the child care policy debate are: Child Care Employment Project (Oakland, Cal.), National Economic Development and Law Center (Oakland, Cal.), Children's Defense Fund (Wash., D.C.), Child Welfare League of America, Inc. (Wash., D.C.), Child Care Action Campaign (N.Y., N.Y.), National Association for the Education of Young Children (Wash., D.C.), Child Care Law Center (S.F., Cal.), and Families and Work Institute (N.Y., N.Y.). A host of other groups are involved in



enterprises can provide a system through which to deploy those resources. The impact of a corporate employer's support for child care thus can reach beyond its work force and strengthen the organizational infrastructure for child care in the community. It is up to the child care enterprises and their organizers to craft progressive models that balance competing interests within the enterprise, effectively using external support while maintaining institutional autonomy and integrity. The next section discusses one such model, which demonstrates an internal corporate culture of self-respect and mutual support, enriched by a broader perspective.

### C. WORKER OWNERSHIP AT CHILDSPACE

Most measures of excellence in child care centers identify quality of care as a paramount goal.<sup>203</sup> Too often, however, excellence in care is undermined by far less than excellent working conditions or career opportunities for the front-line care givers—day care workers. The Childspace Day Care Centers in Philadelphia, Pennsylvania explicitly demonstrate the positive link between quality care and quality jobs.<sup>204</sup>

At Childspace, the corporate culture and structure places the workers in a central role of responsibility and mutual respect.<sup>205</sup> The workers control the design and management of the centers' operations, including responsibility for hiring and firing staff, through the Childspace Management Group, Inc. This for-profit corporation is owned by those staff who, after a one year trial period, choose to become owners and commit themselves to

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child welfare policy more generally, as well as research, education, and technical assistance in the field. See, e.g., MARION L. PETERSON, NATIONAL ORG. SERVING CHILDREN AND YOUTH, NATIONAL DIRECTORY OF CHILDREN, YOUTH & FAMILIES SERVICES, 1992-93 (8th ed. 1992) (an annotated listing of child welfare and family service organizations in the United States); see also Barbara Presley Noble, *Worthy Child Care Pay Scales*, N.Y. TIMES, Apr. 18, 1993, at F25 (reporting on plans for "Worthy Wage Day" on April 22, 1993, a national campaign to improve the wages, benefits, and status of child care workers).

203. See, e.g., ALISON CLARKE-STEWART, DAYCARE 123-36 (1982) (offering guidelines for assessing and maintaining high quality child care); Rosemary Black, *The 10 Best Day Care Centers in America*, CHILD, Nov. 1992, at 154-60, 204, 208-09 (profiling leading day care facilities that share the beneficial qualities of positive staff and child interaction, age-appropriate curriculum, clean physical environments, safety policies, well-balanced meals, and low child-teacher ratios); cf. WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 1 (arguing that the quality of child care service is primarily dependent upon the quality and stability of the child care workforce).

204. See, e.g., Lisa Ellis, *Staff Has Share in Child Care*, PHILA. INQUIRER, July 22, 1990, at 6B (detailing the benefits available to Childspace workers); Lucid Herndon, *Day Care that Nurtures Children—and Budding Teachers*, PHILA. INQUIRER, Aug. 14, 1992, at D3 (describing the expansion of Childspace to Germantown, designed to meet local needs as well as satisfy teachers' needs); *Model Childcare Project Starts Second Philadelphia Company*, ICA BULLETIN (ICA Group, Boston, Mass.), Jan. 1993, at 2-3.

205. The information here on Childspace is based in part on my site visits of November 11 and 12, 1992, including interviews with members and staff, casual conversation with parents and children, and observation.



participate in the management of corporate affairs.<sup>206</sup> From this worker control flows an array of organizational strengths, from a staff that is stable and committed to quality care, to satisfied parents, and engaged children.

The Childspace structure achieves a subtle balance between workers' interests and those of other constituents, despite inherent differences in interest. Parents and community residents influence the enterprise, formally, through a tax-exempt, not-for-profit corporation, the Childspace Day Care Center, Inc.<sup>207</sup> Essentially, the not-for-profit corporation contracts with Childspace Management Group, Inc., the worker group, to run the operation. Thus, by contractual agreement, the not-for-profit corporation provides quality oversight, through approval or veto power in selection of the executive director and cost control through similar authority in decisions for substantial increases in fees or wages. It retains further authority by holding the lease for the physical space in which the centers operate, while the workers manage the day-to-day operation.<sup>208</sup>

Over half of the thirty-six Childspace workers are also co-owners, with democratic control over key decisions that affect their work lives. Some were drawn to the job specifically by the worker cooperative structure. Others were drawn by the decent wages and substantial employee benefits, which, unlike many child care centers, include substantial health insurance, vacation, and sick days. Key for a number of staff members is the ability to bring one or more of their own young children to work.<sup>209</sup> As a matter of policy, Childspace supports the staff in continued schooling toward advanced degrees. There is a commitment as well to skills training and an explicit career ladder. For some staff this has meant moving from poverty and public assistance before working at Childspace, to stable employment, increased responsibility in management, and a say, as co-owners, in corporate decisions. Some employees came to Childspace simply because they needed a job. But the continuing motivation for many of the staff, while including these tangible returns, is a more subtle combi-

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206. Interview with Cynthia Coker, *supra* note 125.

207. This formal relationship of parents to Childspace is in addition to substantial informal contact on a day-to-day basis and the many staff who also are parents of children at Childspace.

208. The nonprofit corporation leases space in a Mt. Airy church for one of the centers and, with telling irony, leases space for the second center in Germantown from the Childspace Management Group, Inc. (CMG), the worker cooperative corporation. CMG purchased a building to house the Germantown center, a process that reinforced the reality of collaborative ownership of the corporation and that also served as practical education for the staff in business and finance. Interview with Cynthia Coker, *supra* note 125.

209. For some Childspace employees, their full-time work is possible only with the on-site child care benefit available. It is no coincidence that the three founding members had young children in need of child care when planning for the start-up of Childspace.



nation of factors that add up to quality of work life and dignity in the workplace.<sup>210</sup> The employee turnover rate is substantially below the industry average.<sup>211</sup>

The staff and clientele of Childspace reflect the racial and class diversity of Mt. Airy and Germantown, the Philadelphia neighborhoods where the first two centers are located.<sup>212</sup> Respect and value for this diversity attracts staff and parents to Childspace. Additionally, by building an organizational culture based upon mutual respect, shared responsibility, and stable employment, Childspace has created its own safe environment for new employees to join in ownership and grow personally.<sup>213</sup>

The organizational culture—the values, attitudes, commitment, and composition of the work force—although necessary, is an insufficient formula for building a participatory and democratic institution such as Childspace. Even when coupled with a system of worker participation in management decisions, a participatory culture without worker control would leave in place a fundamental imbalance in power. With ownership and ultimate control, however, comes the psychological engagement that motivates the staff to become more involved. Their control enables the workers to trust in the corporate structure and decisions, and to count on defined rights rather than just a benevolent boss. The foundation of trust, then, can help

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210. "I'm proud to tell my friends and neighbors that I work at Childspace," explains Victoria Peters, who lives down the street from the first center. A mother of seven grown children, Ms. Peters is an immigrant from the Philippines. While in the Philippines, she had to drop out of high school in order to work and help support her family. In Philadelphia, she started working as an assistant teacher at Childspace. With support from Childspace, she completed her secondary school education, received her Graduate Equivalency Diploma (GED) degree and began college courses. Now, as head teacher in an infant and toddler class, she supervises a half dozen other child care providers. Interview with Victoria Peters, Childspace teacher and supervisor, in Phila., Pa. (Nov. 11, 1992). The Childspace staff, in fact, reflects a wide range in educational background, including some teachers and administrators with significant higher education.

211. CHILDSpace DAY CARE CENTERS, INC., CASE STATEMENT: CHILDSpace DAY CARE CENTERS—QUALITY CHILD CARE AND QUALITY JOBS 1 (1993) [hereinafter CASE STATEMENT] (on file with the author); see *supra* note 146 and accompanying text (analyzing industry rates for turnover among child care employees).

212. In fact, Mt. Airy stands out as a neighborhood with substantial racial integration and, by some accounts, notable racial harmony. The diversity and organizational culture of Childspace depends to some degree on its location in an atypical neighborhood. See, e.g., Jerry Buckley, *Mt. Airy, Philadelphia*, U.S. NEWS & WORLD REP., July 22, 1991, at 22 (illustrating some of the successes and failures of racial integration in a neighborhood notable for its predominantly middle class black and white families); cf. ELLEN RUPPEL SHELL, *A CHILD'S PLACE: A YEAR IN THE LIFE OF A DAY CARE CENTER* (1992) (journalist's account of the Tot Lot, a progressive and culturally diverse child care center in Cambridge, Massachusetts).

213. This culture has something to do with its link to socially conscious Mt. Airy, and with the predominantly female staff and ownership group.



create a safe environment for workers to learn, to understand difficult corporate decisions, and to participate.<sup>214</sup>

Childspace provides a glimpse of how better conditions and opportunities for child care workers contribute to the quality and accountability of day care services. Since opening its first center in 1988, Childspace has rapidly grown, now serving over two hundred children at two sites with plans to open a third center in 1994. Beyond its two initial centers, Childspace has had an impact in raising area industry standards and is a model for efforts in other parts of the nation.<sup>215</sup> It also illustrates the potential of child care enterprise to develop strategies to fight poverty, particularly with respect to child care workers, and provide opportunities for decent employment in the field. The clients reflect a range of class and racial diversity, although a substantial number of the children at the centers are from middle class or professional families.<sup>216</sup> Of greater significance to this model is the creation of quality employment and ownership opportunities for low-income women in a field that has traditionally exploited women, thus countering stereotypes about marginal actors in the economy. Three-fourths of the Childspace staff were unemployed when hired, and over one-third are single mother heads of household.<sup>217</sup> Today, they work at quality jobs in an enterprise that they own and control.

### CONCLUSION

The significance of Childspace is its intentional link between the quality of child care jobs and the excellence of child care service.<sup>218</sup> The organiza-

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214. "The ownership reinforces participation," explains Cynthia Coker, the Executive Director, "especially when the staff members know they can challenge me on certain decisions." Interview with Cynthia Coker, *supra* note 125. "Ownership means owning up and taking responsibility," according to Teresa Mansell, the Operations Director of Mt. Airy Childspace Center. Interview with Teresa Mansell, *supra* note 147.

215. See CASE STATEMENT, *supra* note 211, at 4, 7-8 (describing Childspace as a "yardstick corporation" setting standards that area competitors are trying to match, as a policy advocate for improving subsidies for child care enterprise, and as 1 of 13 major grant recipients chosen from over 200 applicants by the Ms. Foundation for Women).

216. Among the children attending Childspace, about 40% are African American or Hispanic and 23% are from single-parent families. The economic mix of clientele is a conscious policy choice by Childspace, deciding not to serve exclusively low-income families if such service would be at the expense of center stability staff. They also affirmatively view class diversity among clients as an important element of the clients' and workers' experience, not simply a necessity for financial viability. Interview with Cynthia Coker, *supra* note 125.

217. *Id.*

218. Despite extensive research on child care, few research projects have examined and extensively documented the link between the quality of work for child care staff and the quality of services provided. Further research and analysis of this link, which seems so obvious in particular instances such as Childspace, would help to document the benefits of improving the work life of child care workers. WHITEBOOK ET AL., FROM THE FLOOR, *supra* note 12, at 24-25. See WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 4-5



tional culture and democratic legal structure strike a subtle balance among differing interests, combining parent involvement and worker participation. While managing the administrative, financial, and programmatic demands of a day care operation for children, Childspace also has confronted the challenge of overcoming societal attitudes that devalue child care work and workers.

A community economic development approach to child care enterprise, as in Childspace, can help build capacity for entrepreneurship and for creation of quality jobs in disadvantaged communities. This article explores child care enterprise as a means to fight poverty and identifies underlying societal values that keep child care at the economic margin. Creative development strategies, some described here, can help make the case for attributing greater worth to child care work. These examples are only a few of countless day care efforts, many of them heroic but too few hopeful. Child care enterprises face a harsh economic environment and child care teachers face a public attitude that denies their importance. Any significant improvement in the status of child care work will require a sea change in societal attitudes toward working women and care giving work.

Law and public policy, although not a source of fundamental value changes, can create an environment that encourages and allows for change. Law is ever present in child care enterprise—from defining the regulatory framework for quality standards at the policy level, to ensuring legal compliance at the enterprise level; from envisioning and legislating public subsidies for child care, to crafting creative legal structures that enable day care centers to deploy those subsidies effectively.<sup>219</sup> Public policy at the federal level can set a tone that elevates the priority of child care in the national debate and can provide critical financial support. Signals from the Clinton Administration suggest a substantial increase in government support for child welfare in the 1990s.<sup>220</sup>

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(explaining how the Child Care Employee Project addressed a gap in the research base by conducting a longitudinal, multiyear study including data on child care work force stability and conditions, 1988-1992); Hennessy et al., *supra* note 2, at 50-58, 114 (providing an overview of day care research, and calling for needed research on the conditions required to enable day care providers to work effectively).

219. See Finley, *supra* note 15, at 125-31 (demonstrating that “virtually every substantive area of the law touches on child care”); see also *supra* note 10 (recounting the intensive legal assistance provided to the Precious Jewels Day Care Center by the Community Economic Development Law Clinic at the State University of New York at Buffalo).

220. See Pear, *supra* note 90 (reporting that “Mr. Clinton’s budget puts into practice the philosophy of [Marian Wright] Edelman, President of the Children’s Defense Fund,” by proposing increases in the Earned Income Tax Credit for low-income workers with families, Head Start funding, and funding for the Special Supplemental Food Program for Women, Infants and Children, while proposing cuts in Star Wars funds).



With respect to public subsidies for child care, a community development approach suggests that more—but not just more—is needed. Government support should focus substantially on enterprise development, with standards that promote quality care by encouraging the upgrade of child care work and empowerment of child care teachers.<sup>221</sup> Public policy analyses and recommendations abound in the area of child care policy.<sup>222</sup> This article, instead, is about community-based approaches that drive progressive change from the bottom up. Well-managed enterprise models can help to shape broader policy and channel public resources locally into building entrepreneurial capacity.

Beyond social services, a community economic development approach envisions child care as an opportunity to strengthen the organizational infrastructure in low-income communities. To survive, child care centers must build bridges to other institutions with available resources—

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221. See, e.g., WHITEBOOK ET AL., FROM THE FLOOR, *supra* note 12, at 9-13 (detailing legislative strategies to improve the lot of child care workers, including: increasing reimbursement rates for child care programs, targeted specifically to staff salaries; establishing quality improvement funds or salary enhancement grants sponsored by state or local governments as a further subsidy to providers; conducting comparable worth studies; and creating educational scholarship and loan forgiveness programs for early childhood workers). WHITEBOOK ET AL., STAFFING REVISITED, *supra* note 12, at 2 (detailing policy recommendations directed to the Clinton Administration, including inter alia, assurance of health care coverage for child care providers, redirection of a portion of federal funding to improve the stability of day care centers and staff salaries, and creation of a commission on the economics of child care to study and address these issues).

222. Even a brief sampling of the literature analyzing child care policy, in this note and throughout this article, gives a sense of the wide ranging treatment of the issue area. See, e.g., HELEN BLANK, CHILDREN'S DEFENSE FUND, THE CHILD CARE AND DEVELOPMENT BLOCK GRANT AND CHILD CARE GRANTS TO STATES UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT ii (1991) (arguing that states should use new federal funds to think creatively and to put in place a coordinated child care system); CAROL CARSTENSEN, WISCONSIN STATE DEPT' OF INDUSTRY, LABOR AND HUMAN RELATIONS, MADISON, THE APPROPRIATENESS OF ENTREPRENEURIAL TRAINING IN WISCONSIN'S EMPLOYMENT AND TRAINING SYSTEM 14-18 (1986) (discussing day care as an entrepreneurial enterprise); Jean H. Baker, *Child Care: Will Uncle Sam Provide a Comprehensive Solution for American Families?*, 6 J. CONTEMP. HEALTH L. & POL'Y 239, 274-75 (1990) (arguing for a comprehensive federal government approach to child care, emphasizing quality care and the establishment of centers in both the public and private sectors); Jonathan Barry Forman, *Beyond President Bush's Child Tax Credit Proposal: Towards a Comprehensive System of Tax Credits to Help Low-Income Families With Children*, 38 EMORY L. J. 661, 693-95 (1989) (arguing for a comprehensive approach to using the tax system to benefit low-income families and their children, especially through the use of an increased refundable tax credit); Symposium, *Legislative Approaches to Work and the Family*, 26 HARV. J. LEGIS. 295 (1989); Dan Bellm et al., *On the Horizon: New Policy Initiatives to Enhance Child Care Staff Compensation*, YOUNG CHILDREN, July 1992, at 39 (detailing government programs designed to enhance child care staff compensation, including 1990 set-asides for staff training and quality improvements in Head Start, a two year pilot program to increase care giver salaries at military child care centers, requirements for quality improvement spending under Child Care and Development Block grants, and a number of state initiatives and federally funded state programs).



government and charitable sources, as with Precious Jewels, corporate businesses, as with the East Aurora Community Nursery and Fisher-Price, or community links, such as the not-for-profit affiliate of the Childspace Management Group.

Moreover, child care enterprises must connect these resource bridges to an internal corporate culture that values the people who staff the operation and empowers them in collaborative work. Without attention to this human capital at the center of the organization, the service will suffer and the impact of the outside resources will be short-lived. An affirmative development strategy casting child care as a sophisticated discipline must counter negative stereotypes of care giving work. Demanding greater societal respect and support, child care workers can meet a critical community need by growing and nurturing their own capacity in democratic enterprises.



