

Parental Leave

Women in the labor force are at a disadvantage not only because of continuing discrimination in hiring and promotion, but because of factors extrinsic to the labor market hence adjusting conditions within the labor market will not completely eliminate women's disadvantage. Because, unlike most men, most women do not have spouses to take on the major responsibility of running their homes and caring for their children, the costs of working outside the home, particularly in a professional or managerial capacity, are greater for women than they are for men. Thus, even if ongoing discrimination in the labor market were eliminated, through affirmative action policies or other such remedies, women would still be at a disadvantage relative to men. For women, the costs and benefits of behaving like men are different than they are for their male counterparts. To the extent that the costs and benefits of various policies of action are not the same for women as they are for men, men and women are not equal, therefore, arguably, it is not fair to treat them equally.

Nevertheless, even if we grant that fairness requires that men and women be treated differently, the end to which such different treatment is directed and, hence, the sort of different treatment required in the interests of fairness, is in dispute. In particular, we can distinguish between, what might be called, the assimilationist and non-assimilationist rationales for treating men and women differently.

The purpose of treating men and women differently on the assimilationist account is to bring about a situation in which men and women can be, in important respects, the same. The goal is a state of affairs in which the costs and benefits of undertaking a policy of action are the same for men and women. On this account the problem which affirmative action and other policies characteristic of liberal feminism is that they do not go far enough: to enable women to behave like their male colleagues on the job, adjustments will have to be made in the organization of society outside the labor market. For example, given that *de facto* most men will not undertake the role of primary parent, the availability of childcare providers to play this role is crucial for the realization of assimilationist ends.

By contrast, the goal of treating men and women differently on the non-assimilationist account currently favored by most feminists is a situation in which women are not required to assimilate to the male norm in order to enjoy status and goods comparable to that of their male counterparts. It is a tenet of the non-assimilationist strategy that women should have the option being primary parents, at least temporarily, without compromising their careers. Thus, according to this view, in addition to childcare, generous leaves of absence should be provided for parents (*de facto* mothers) of infants, job sharing and flex-time arrangements should be developed in order that parents may devote more time to their children, and part time work should be upgraded so that parents who choose to work less in order to devote more time to their children shall not lose benefits, prestige or seniority as a consequence. Women, it is suggested, should be able to "have it all": it should be feasible for women to have a satisfying, non-pink collar jobs without, in effect, relinquishing their role as primary parents to childcare providers.

I argue that such non-assimilationist policies are unfair.¹ Even though parenting leaves, part-time working arrangements and the like may be beneficial as stop-gaps in the short run, the fair solution in the long run is not to restructure work in such a way as to accommodate women's supposed parental responsibilities but rather to provide women with

¹I have argued elsewhere that they are also detrimental to women's interests since they will handicap all women in the labor force. Furthermore, might we not question whether being a primary parent, even for a relatively short period of time, is universally desirable? Is this really having it all?

support services which will enable them to minimize the amount of time and effort they devote to childcare. Bluntly, I argue in support of assimilationist policies which would make it feasible for working women to behave like traditional working men.

In Defense of Androgyny

The response to my suggestion usually comes in the form of a rhetorical question: "why should women have to be like men?" Implicit in this question, I suggest, are two quite different objections to my proposal, namely (1) that women, in virtue of innate biological differences, should not have to be the way men have to be and, more seriously, (2) that no one, male or female, should have to be like men currently have to be. I shall consider these objections in turn.

The argument for the first objection might be reconstructed as follows. Women have a greater biological and psychological investment in their parental role than men do. Men may choose to invest a good deal in their children, but women, because it is they who go through the process of pregnancy and childbirth, as a matter of biological necessity, must invest more. Furthermore, women, on the average, are more emotionally involved with children, particularly very young children, than their male counterparts, thus it costs more psychologically for a mother to leave an infant to be cared for by others for the better part of the day, while she works outside the home, than it does for a father.

Women's investment in childcare handicaps them in the world of work relative to men. Like conditions which we normally regard as physical disabilities, it makes it difficult for otherwise qualified and willing workers to participate fully in the labor force and fulfill their legitimate goals. We believe that, in general, handicapped workers ought to be accommodated, both for their benefit and for the benefit of their employers. To this end we provide ramps for wheel chairs, Braille numbers near elevator buttons and other devices to enable handicapped employees to work along side their able-bodied colleagues and make their contribution. Similarly, the Mommy Track, like a wheelchair ramp, is a device which enables women with children to participate in the labor force and make their contribution in spite of their biologically based handicap.

I have argued elsewhere that this handicapped worker model of preferential treatment for working mothers is contrary to women's best interests in the long run. I suggest further that it is unfair, not because motherhood, unlike blindness and paralysis, is a voluntary condition, but because motherhood *per se* is no handicap.

The implicit analogy between preferential treatment for working mothers and the accommodation of physical handicaps in the workplace fails on two counts. First, even if we grant that women have a heavier psychological investment in parenthood than men, no one would seriously suggest that most women are either physically or psychologically incapable of leaving their infants and young children to the care of others for the better part of the day in order to work outside the home. The suggestion is just that most women feel disinclined to do this, or that they pay an emotional price if they do. In this respect women's situation in the labor force is quite different from the situation of handicapped workers. Handicapped workers cannot choose to behave like their able-bodied counterparts. The maternal instinct which women allegedly possess is not a handicap: it is, at most, a package of preferences.

Now, we do not recognize any obligation on the part of employers to accommodate preferences analogous to the maternal instinct. Suppose a male in a high-status, sedentary white collar position were to argue as follows: "In light of my innate, hormonally induced urge to engage in aggressive, large-muscle activity I need a four-month hunting and hiking leave. Because I am not a woman and because sedentary, indoor work thwarts the fulfillment

of my natural instincts in a way that it does not thwart my female counterparts, fairness requires that I be given occasional extended leaves of absence when I am seized by the urge to kill wild animals." Even if we buy the pop sociobiological story about the origin and inevitability of sex roles I doubt that we would be persuaded by this argument: men can, after all, engage in aggressive behavior and kill animals in their spare time if they are so inclined. An employer has no obligation to indulge these interests.

Similarly, it would seem that an employer has no obligation to indulge his female employees' interest in spending more time with their children. Contrary to popular opinion, I doubt that most women really would prefer to spend more time with their children than most men all things being equal.¹ But even if women did prefer to spend more time with their children, this is a preference and not a compulsion. If affordable childcare were available working mothers *could* choose to behave like working fathers.

Secondly, intuitively, the handicaps which employers are obliged to accommodate are just those that do not interfere with a potential employee's performance of tasks which are *essential* to a given job; the handicaps employers accommodate are those which merely interfere with inessential requirements, such as access to the workplace. The ability to walk, for example, is not essential to the activities of an accountant so it seems reasonable to provide ramps so that handicapped accountants can get to their offices where, without any special accommodation, they can get on with the tasks essential to their jobs. Where a person's handicap is detrimental to his performance of tasks that are essential to a job, however, we do not think the employer is required to accommodate it. If, for example, because of a biologically-based "attention span deficit" I find it very difficult to proof-read, do simple arithmetic or any kind of clerical work, I would not expect an to hire me as a proof-reader and to accommodate my slowness and inaccuracy because they were a manifestation of a biologically-based handicap.

Even if we were to grant that women's investment in parenting constituted a genuine handicap, it would be one which many employers would not be obliged to accommodate since it would interfere with employees' meeting requirements which were essential to a number of positions. For many jobs, particularly managerial and professional positions, a high level of labor force attachment and intense, ongoing, uninterrupted commitment to the job are an essential requirement. Workers who wish to restrict their investment in work in order to devote more time to their families fail to meet this requirement and, since the requirement is essential and not merely incidental to workers' performance in these positions, decreased commitment to work is a "handicap" which employers are not obliged to accommodate.

Interestingly many of the jobs where commitment to work is not an essential requirement are precisely those pink-collar jobs which have been regarded as especially appropriate for women in virtue of their alleged parental responsibilities. Thus, even if women's investment in parenting were a genuine handicap, the only employers who would be obliged to accommodate it would be those that employed women to do relatively unskilled, routine work where long absences and minimal commitment were not seriously detrimental to employee performance.

Now I am sceptical as to whether mothers on the average do have an innate and unalterable urge to spend more time with their infants and young children than fathers do. I

¹Of course all things are not equal and most women I suspect would rather be at home with their kids than at the diner flipping hamburgers or in the office typing and filing or in the schoolroom with 30 other people's kids.

have argued however that *even if* the pop sociobiologists are right, it does not follow that employers ought to accommodate women's decreased commitment to the job. It would seem to follow that employers who make special provision for women are being unfair to men, and childless women, of whom more is required.

Now it may be suggested that no one, whether male or female, with or without children, should be required to make the all-consuming commitment to the job traditionally required of males in western industrialized capitalist societies. This however brings us to the second objection to my proposal.

Local Fairness in a Globally Less-Than-Optimal Situation

Arguably, it is not good that anyone, whether male or female, be required to devote the amount of time and energy to labor force participation which is the norm for males in the United States. It would be much better if people, both male and female, had more time to spend with their children--if this is what they want--or, for that matter, to read, do crafts, participate in sports and otherwise enjoy themselves. Ideally, no one should have to behave like men currently do.

Nevertheless, someone who believes this, as I do, should not be arguing for parenting leaves, not even parenting leaves for both males and females. They should be arguing for more flexibility across the board--for spring-cleaning and home repair leaves, for travel leaves, and, most importantly, for bumming around leaves. It is hard to see why parenting leaves should occupy some sort of privileged position.

It may be suggested that in this regard parenting leaves represent, in effect, the thin edge of the wedge and are, therefore desirable. The argument might run as follows. Ideally, *everyone* should have the option of more flexible working arrangements than are currently available. Therefore a situation in which some people, i.e. the parents of young children, have the option of more flexible working arrangements than are currently available is morally preferable to one in which no one has that option.

This is an instance of the following argument form: Ideally everyone should \emptyset . Therefore it is morally preferable that some \emptyset than that no one \emptyset . This argument form is not valid. Some of its instances go through; others do not.

We do sometimes argue in this way. As an opponent of capital punishment, for example, I would argue that we should do all we can to save the lives of people who are to be executed. If we can save even one person by a lame excuse we should do so, even if it is unfair that he get off the hook while someone who has no better excuse be executed. *Ideally, everyone should get off the hook but, arguably, a situation in which someone gets off the hook is morally preferable to one in which no one does.* It is unfair, but the moral hideousness of capital punishment is so great that our interest in avoiding even one instance of it outweighs our interest in fairness.

Nevertheless we should not always argue in this way. Sometimes our interest in what might be called "local fairness" outweighs our interest in approximating a globally ideal situation more closely. For example, someone who opposed the draft might consistently hold that a situation in which both men and women were subject to the draft would be morally preferable to one in which only men were drafted, even though the latter situation is, in a sense, closer to the ideal situation, in which no one is drafted. Here, he might argue, our interest in fairness takes precedence. Again, closer to home, consider the plight of undergraduates compelled to satisfy unwarranted, unjust requirements in order to graduate. Ideally (*entre nous*) students who want to be nursery school teachers or insurance

salesmen should not have to pass logic. Indeed, they should not have to go to college at all. Nevertheless, I suspect that we would regard a situation in which all potential nursery school teachers and insurance salesmen must pass logic as morally preferable to a situation in which some get their jobs by bribery or pull while others grind away at proofs. The requirements may be globally unfair but our interest in local fairness, fairness within the constraints of a globally less than optimal situation, outweighs our interest in approaching the ideal.

We may grant that, ideally, everyone should have the option of more flexible working arrangements than are currently available. It is nevertheless unfair that some workers have this option while others do not. Furthermore, arguably, since our interest in local fairness in this case outweighs our interest in restructuring work, *all other things being equal*, a situation in which all workers, whether male or female, whether parents or not, must work full time without interruption is morally preferable to one in which some workers, pleading their parental responsibilities, get off the hook without sacrificing benefits, prestige or seniority.

Even if the current arrangement is less than optimal, it would be unfair to men and to childless women, who would not be able to take advantage of the Mommy Track, to allow mothers of young children to compromise their investment in their jobs in order to devote more time to their families.

The greatest injustice however is to women who do not want the questionable benefits of the Mommy track. Ideally, opening up more options for people should not close off any other options. *De facto* however it does. If it is the norm for women with children to invest less in work than others, and if, in addition this lesser investment is institutionalized, employers will be very hesitant to invest heavily in women with children. Women who really want to have it all--those who want a family and a full-time career on the fast track will be out of luck and the choice for women will be, as it has traditionally been, between being a childless woman with a career or a mother with a job. Furthermore, women who, quite apart from their career interests, simply do not want to spend much time with their children will also be out of luck. Why assume that the only reason women with careers have tried to approximate the male pattern of labor force participation is the lack of viable alternatives that would allow for greater involvement with their children: mightn't it be that some, perhaps many, mothers would rather be "fathers"?

Currently mothers by and large are forced into assuming the primary responsibility for the care of their children. More importantly discrimination against all women keeps most women locked into jobs where an increased investment of time and energy is not likely to pay off. All things are far from equal for men and women in the labor force, they are not likely to become equal in the foreseeable future, and, because most sexism is covert and even unconscious, it is doubtful that we should ever be in a position to know that all things were equal even if this remarkable state of affairs were to obtain. Nevertheless, *all things being equal*, it is not fair for women who choose to invest less in work than their male counterparts to expect their employers to invest equally in them.

What is the solution then? I suggest that rather than parental leave and other programs intended to enable parents in the labor, *de facto* mothers, to devote more time to their children than traditional work situations have allowed, we should promote the creation of affordable child care facilities for infants and young children so that women, on whom *de facto* the primary burden of child care falls, can minimize their parental involvement and devote more to the job.

It seems to be a widespread assumption that most mothers, and many fathers, would, if they could have that option without severely damaging their career prospects, prefer to spend more time with their children. It may however be that many parents, including women, simply want to minimize the amount of time they spend with their children and work it part in order to buy substitutes to care for their children. I suggest that we recognize that being a casual, secondary, unininvolved part-time parent--a traditional "father"--is a legitimate option for women as well as men and promote support services that would enable women to adopt that role.

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