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Journal of Scholarly Perspectives

Title

Supporting Workers by Accounting for Care

Permalink

<https://escholarship.org/uc/item/8mp9320c>

Journal

Journal of Scholarly Perspectives, 8(01)

Author

Zatz, Noah D.

Publication Date

2012

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Noah D. Zatz
Professor of Law

Noah Zatz focuses on employment and labor law, welfare law and antipoverty policy, work/family issues, feminist legal and social theory, and liberal political theory. His teaching and writing address how work structures both inequality and social citizenship in the modern welfare state.

He is particularly committed to training public interest lawyers and to engaging students with law's possibilities both as an instrument of injustice and as a contributor to emancipatory social change. He is an active participant in UCLA's Epstein Public Interest Law & Policy and Critical Race Studies programs.

Before entering legal education, Professor Zatz was awarded a Skadden Fellowship to work at the National Employment Law Project (NELP) in New York City. After graduation from Yale Law School, he clerked for Judge Kimba M. Wood of the U.S. District Court for the Southern District of New York and for Judge Guido Calabresi of the U.S. Court of Appeals for the Second Circuit. He also has been a fellow at Princeton University's Program in Law and Public Affairs, a visiting fellow at the University of New Mexico School of Law and a visiting professor at the University of Chicago Law School.

SUPPORTING WORKERS BY ACCOUNTING FOR CARE*

Noah D. Zatz**

In this article, I argue that two pathologies in contemporary antipoverty policy— inadequate childcare assistance and failure to value parental caregiving as work—are flip sides of one coin. That coin is “childcare invisibility.” Childcare invisibility is a ubiquitous feature of “means testing,” a basic technique that targets assistance to low-income households in programs like Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP, formerly known as Food Stamps), and the Earned Income Tax Credit (EITC). Means testing identifies who is poor, in the sense of lacking the “means” to meet basic needs, and who therefore requires assistance. Unlike food, clothing, shelter, and so on, childcare makes no appearance in the basket of goods and services that these policies use to determine what a household needs to maintain a minimally decent standard of living.¹ Childcare again goes unseen when the government determines whether those needs are being met or, instead, whether the household requires assistance to make ends meet. This absence from the two sides of means-testing— needs and resources—is childcare invisibility.

INTRODUCTION

Childcare’s invisibility within means testing also implicates childcare’s status as work. This connection arises from two legacies of 1990s welfare reform that made anti-poverty policy into “work” policy as well. First, work requirements became central to benefits for low-income families with children, most notably when TANF replaced the New Deal-era Aid to Families with Dependent Children (AFDC). AFDC initially had not included work requirements, and eventually it became the primary target of efforts to “end welfare as we know it.” Now, poverty relief depends on laying claim to “worker” status. Second, massive new benefits have been directed to low-income families with children and a working adult. Programs like the EITC and the Child Care and Development Fund (CCDF) provide “work supports” to the “working poor.” No longer does policy assume that “workers” can be left to live off market earnings alone. Whether old benefits are withdrawn from those who do not work or new benefits are granted to those who do, access to poverty relief now requires passing a work test in addition to a means test. That is why it matters so much that these policies do not see family caretaking as a form of work.

To end childcare invisibility, I propose that we begin accounting for care. First, we should fully incorporate childcare into the needs and resources prongs of means testing. Like food or shelter, childcare should count among the basic needs that any household with children ought to have the resources to meet. When these childcare needs are met through nonmarket care, we should count as a resource the household's savings from not having to spend income to hire third-party care, which in turn lowers its need for government assistance.

Second, accounting for care also transforms the work-testing component of antipov-erty policy. Nonmarket caretaking should satisfy work requirements when it meets childcare needs that otherwise would be met through government transfers. This conclusion follows directly from applying a standard theory of work requirements that treats work as a form of self-support that limits the need for government assistance. This theory has been thought to privilege market employment and exclude nonmarket care as nonwork, but that result no longer follows once childcare is made visible within means testing. Thus, while I build on longstanding feminist arguments for recognizing caretaking as valuable work,² my approach breaks new ground by relying on a theory of work tailored to means-tested benefits.

I. ACCOUNTING FOR CARE WHEN ASSESSING FINANCIAL NEED

This part analyzes how childcare invisibility functions within means testing. This aspect of childcare invisibility disadvantages employed single parents relative to those who care for their own children. Among two-parent households, it disadvantages dual-earner couples relative to those with a breadwinner/caretaker division of labor; within the latter, it disadvantages the caretaker. These problems arise because means-testing systems were built on a “family wage” model of social policy, one that assumes a breadwinner/caretaker division of labor and focuses exclusively on cash transactions. Truly fixing these problems requires recognizing that childcare is needed, and provided, regardless of whether all parents are employed or whether there is an at-home caregiver; the differences concern only shifts between nonmarket and market forms of care.

A. How Childcare Invisibility Works, and Who Gets Hurt

A means test compares what a household needs with its resources available to meet those needs—its “means.” A “standard of need” represents the minimum income on which a household can be expected to live, and from this one subtracts available income. A cash transfer makes up any difference. A longstanding concern about means-tested benefits is that they reduce the financial incentive to increase earnings. The standard economic model treats means testing as an implicit tax because when earnings rise, transfers decline. The additional earnings essentially get split between reducing government transfers and going into the earner's pockets.

If, however, increasing employment also means losing the ability to provide childcare oneself, then not only do transfers decline, but the parent also must make alternate childcare arrangements. If those arrangements cost money, then wage-earning parents can easily end up financially worse off than non-earners, despite a significantly higher cash income. This problem is especially acute for low-wage workers, because childcare costs can easily approach or exceed earnings from even full-time work. Research in the early 1990s showed that these and other “costs of working” meant that single mothers receiving public assistance could not break even financially unless they got full-time jobs paying one-and-a-half to two times the minimum wage.³

This counterintuitive result of earning more but having less arises from two related ways in which childcare is structurally invisible within conventional means-tested transfer programs. First, childcare is not included when setting the standard of need. Consequently, regardless of whether households contain only employed parents or instead include an at-home caregiver, existing policies treat them all as having the same financial needs, which do not include childcare. Second, employed parents are treated as necessarily having higher incomes available to meet these fixed needs, not accounting for how a household with an at-home caregiver obtains valuable childcare without having to pay for it in cash.

In combination, these two aspects of conventional means testing lead to overstating economic well-being and therefore understating the need for transfers. This dynamic disadvantages families that have to pay for childcare relative to those with a family caretaker. Among single-parent households, the result is a clear disadvantage for employed parents.

Similarly, among two-parent households, childcare invisibility disadvantages dual-earner couples relative to those with breadwinner/caretaker divisions of labor. The former have a higher cash income, but their higher childcare expenses remain invisible. More subtly, this result may be bad individually for caretakers in two-parent households, notwithstanding the benefit at the household level.⁴ Holding the couple (and the breadwinner’s employment) constant, the means test conditions transfers on the caretaker remaining out of the labor market, as with a single caretaker. Additionally, holding caretaking constant, the work test conditions her access to transfers on remaining coupled to the wage-earner, for reasons described below.⁵

Childcare’s invisibility is no accident. To the contrary, it reflects the integration of poverty measurement and poverty relief into a broader social policy regime constructed in the early 20th century to support a family wage system.⁶ This regime

**B. Childcare
Invisibility as a
Legacy of the
Family Wage**

rests on an idealization in which citizens dwell in families headed by a married cross-sex couple, one of whom (guess which) is (at least primarily) a market wage-earner while the other (guess which) is (at least primarily) their children's caretaker.⁷ The "breadwinner" is the "American Worker" whose market production brings resources into the household where they are consumed by his "dependents."⁸

The influence of family wage norms dovetails with a conception of household economic well-being grounded in cash purchases in consumer markets. Households are poor when they lack the money to buy things. This understanding of poverty reflects broader tendencies to identify economic activity with markets and to identify social citizenship with participation in a "consumer's republic."⁹ If childcare is assumed to be provided by the mother, then childcare is excluded from household needs measured in cash. And because caretaking (and housework generally) produces no cash for use in consumer markets, it adds nothing to a cash measure of resources available to meet household needs.

Fingerprints of this consumerist family wage model lie all over the origins of current poverty measurement. When the first federal poverty thresholds were developed in the early 1960s, officials based them on surveys of actual expenditure patterns.¹⁰ Childcare was virtually absent from these family budgets because employment was a relative rarity among mothers, especially married ones with young children,¹¹ and even then care almost always was provided without charge by a relative.¹² Since then, official poverty measures have been adjusted only for inflation, not for changes in the composition of household spending.

In this way, the work/family patterns of the 1950s literally remain built into contemporary poverty measurement. As a result, a household of three adults has the same poverty line as a household of one adult and two children, and the latter has the same poverty line regardless of whether the adult is available as a caretaker. Variations in childcare costs among these three-person households are invisible to official determinations of economic need.¹³

Childcare's invisibility in poverty measurement carries over into assessments of financial need that determine eligibility for antipoverty programs. For instance, TANF financial eligibility standards typically aim to establish whether a household has "sufficient income to meet their most basic needs" or the like.¹⁴ Yet childcare never appears in any state's explanation of what those basic needs include,¹⁵ even when they provide detailed lists including not only housing, clothing, food, utilities, and health care but also "recreation"¹⁶ or even "scout uniforms."¹⁷

Fresh approaches to policy redesign open up once we trace means testing's pathological treatment of childcare to its grounding in a family wage model. The solutions lie in rejecting the assumptions both that childcare is provided outside the market and that markets are the exclusive determinant of a household's economic well-being. This section argues for taking the first of these two steps by treating childcare as a basic need of all households with children.

C. Childcare as a Basic Need

Imagine if poverty measurement and antipoverty policy began with a household in which all adults are employed full-time. Childcare would seem indistinguishable from other necessities like food, clothing, and shelter. That is precisely my proposal: simply treat childcare as something that all households with children need.

1. Basic Needs Budgeting for All Families

Others have taken a step in this direction with "basic needs budgets" or "self-sufficiency standards."¹⁸ These incorporate *employed* parents' childcare expenses into calculations of how much income a household needs to meet its basic needs. Of course, these expenses vary by the number, age, and health status of the household's children, and so the amount added varies accordingly. These proposals fall short, however, because they remain anchored in the cash economy of market earnings and market spending.¹⁹ Childcare becomes visible only when all adults are in the labor market or otherwise systematically unavailable to provide care. With a nonmarket caretaker present, childcare again disappears from the analysis.

This market-centered approach to childcare mirrors an early poverty measurement approach to subsistence food production by farm families. Because farm families purchased less food, they were deemed to have lower household needs, reflected in lower poverty thresholds that persisted until 1981.²⁰ By analogy to childcare, one might treat food purchases as a "work expense." After all, only when farmers stop farming and enter the labor market do they need to buy groceries for dinner, and so only then is food included in the tally of household needs. By this logic, families that farm do not need to eat, just like families that include a nonmarket caretaker do not need to ensure their kids are cared for. This is silly. What varies in these cases is not a household's economic needs, but only whether those needs are met through nonmarket production or market consumption.²¹ Accordingly, I would extend the basic needs budgeting approach by incorporating childcare into the standard of need for all households, not only those that lack a nonmarket caretaker. Whether or not you grow your own, we all need to eat.

Alongside work-based welfare reform, a consensus emerged that lack of childcare could justify a transfer recipient's failure to work and that, to avoid this situation, public resources should be devoted to providing access to childcare. The precise contours of these principles remain controversial,²² but even the Heritage

2. Against the "Work Expense" Model

Foundation concedes that “if low-skilled single mothers are moved into the labor force, childcare assistance must be provided.”²³ Funding for childcare assistance to low-income households has expanded massively in tandem with the growing emphasis on work.²⁴

This work-expense framework yields two kinds of institutional responses. The first deducts some or all childcare expenses from gross earnings; the resulting net income becomes the measure of household resources for the purpose of poverty measurement or means testing.²⁵ The second, now dominant, approach leaves means-tested cash transfers untouched but creates a separate childcare benefit tied to employment. Rather than providing additional cash to cover childcare expenses, direct childcare assistance relieves parents of out-of-pocket expenses.

Both approaches shift childcare costs from employed parents to the state. But if not to meet basic needs, then why? The usual rationale is some variant on “supporting work” or enabling transfer recipients to comply with work requirements. These rationales lose track of *why* work is promoted within a means-tested transfer system. Instead, antipoverty policy slides toward making employment an end in itself.²⁶

The simple problem is that childcare assistance is enormously expensive. For a household with a toddler and a school-age child, a typical state CCDF program would authorize childcare subsidies totaling about \$11,500 per year.²⁷ This roughly equals the median maximum household benefit that a household of three without any income would get from TANF and SNAP combined.²⁸ It also roughly equals full-time, full-year earnings at the minimum wage, net of federal payroll taxes.²⁹

Linking childcare assistance to employment collides with the theory that employment reduces reliance on transfers. What is the point of these childcare expenses? To support work. And why is work important? Because it reduces transfers in favor of self-support.³⁰ Except that work may not reduce transfers once childcare becomes visible and work triggers new transfers. This contradiction is masked by keeping a separate set of books for cash assistance (which employment reduces) and childcare assistance (which it increases).³¹

D. How Means-Testing Can Account for Care

Treating childcare as a basic need alters both components of means testing: setting a standard of need and measuring the resources available to meet those needs. This section sketches how both components can account for care.

1. Setting the Standard of Need

Treating childcare as a basic need is straightforward with regard to the household needs side of means testing. Instead of one cash assistance program that ignores

childcare and a separate childcare assistance program for some employed parents, there should be a single program with a comprehensive standard of need, childcare included. In practical terms, this means integrating what are now separate systems for providing income support through TANF and childcare assistance through CCDF.

Integrating cash and childcare assistance can be accomplished by taking existing standards of need and adding to them the reimbursement rates already authorized for childcare assistance. Schematically, if existing cash assistance programs assume that a household needs \$10,000 per year, exclusive of childcare, and existing childcare assistance programs authorize government expenditures of \$6,000 per year to provide care for a low-income worker's child, then the two can be combined to yield a \$16,000 standard of need. Existing reimbursement rates vary with children's age, special needs, and types of care, and so too would the new standards of need. They would also reflect how needs vary with the number of children. In the example above, a second child would raise the standard of need to \$22,000. Of course, there's nothing magical about existing standards of need and reimbursement rates. They could be too high or too low, but those concerns are distinct from the question of integration.

The next step addresses the household resources side of means testing. Here, the challenge arises from implementing the proposition that childcare does not vanish as a basic need when a family caretaker is present. Instead, that need is met by the caretaker directly, not through purchasing care as a consumer service. Correspondingly, the means-testing calculus must widen its net beyond market transactions in order to capture the household's nonmarket resources for meeting its needs.

2. Measuring Available Resources

Failing to account for this nonmarket resource would generate a windfall in transfers to households that include a nonmarket caretaker. For those households, measuring resources in cash alone would generate a transfer large enough to pay for childcare *and* other needs. However, with a caretaker present who spends her time, but not her money, on childcare, the portion of the transfer designated for childcare ends up left over, even after all other basic needs are paid for. Such windfalls arise whenever resources that the household can use to satisfy its needs are not counted in the means test's measurement of income.

That windfalls result from unmeasured income provides a clue toward preventing them. Consider the more familiar example of food. Like \$200 in cash, a \$200 gift certificate to a grocery store should count as "income" because it substitutes for \$200 in transfers otherwise needed to purchase food.³² Moving further from cash

toward in-kind resources, the same analysis applies to a gifted shopping cart full of \$200 in essential groceries. Not counting any of these as income would create a \$200 windfall relative to what the transfer is designed to provide.

Windfalls to nonmarket caretakers can be avoided using the same basic techniques that capture in-kind income. Like a full shopping cart and food expenses, nonmarket caretaking allows the household to avoid childcare expenses. Therefore, the solution is to credit the household with “imputed income,” an accounting device that treats avoided expenses as equivalent to income used to pay the expense.³³ In this case, the amount of imputed income from caretaking would equal the amount designated for childcare in the standard of need.

By anchoring imputed income in the standard of need, my approach aims to capture realistically the trade-off between devoting time (but not money) to childcare versus devoting time to employment and its earnings to childcare. For a household with one sixteen-year-old who has no special needs, caretaking would yield no imputed income because existing childcare programs would not fund any care at all (thirteen is the usual age cutoff)—reflecting the judgment that adult supervision outside school hours is not necessary, even if it may be desirable. In contrast, the imputed income from caring for three pre-schoolers might well *exceed* the parent’s opportunity costs in the labor market. It all depends on the number, age, and health status of the children, and the price and quality of acceptable childcare. Generally speaking, for low-wage workers, wage income will be roughly equivalent to imputed income from caring for two preschool-age children without special needs.

II. ACCOUNTING FOR CARE WHEN ASSESSING WORK

Just as traditional means testing focuses on spending cash in consumer markets, traditional work requirements focus on earning cash in labor markets. Likewise, incorporating nonmarket income and consumption into means testing provides the foundation for incorporating nonmarket production into work requirements.

A. The Invisible Work of Family Caretakers

Exactly what activities satisfy current work requirements in TANF and related programs is quite a bit messier than often assumed.³⁴ Nonetheless, paid employment clearly provides the paradigm. It is equally clear that policymakers have invoked “work” to justify denying transfers to family caretakers. With only the narrowest and most tenuous of exceptions, caring for a member of one’s own household never counts as work in contemporary welfare policy.

In its raw form, the charge against caretakers is that they are sitting at home doing “nothing.” Thus, the family caretaker is no different than the proverbial Malibu

surfer who looms large in philosophical debates over linking redistribution to work.³⁵ This “nothing” charge dovetails with childcare’s economic invisibility in the machinery of means testing and poverty measurement. A cash accounting system attributes zero income to the family caretaker, in contrast to the thousands that market employment would generate.

Assessing the “doing nothing” charge requires a theory of work requirements.³⁶ Many virtues are attributed to employment, but which provide the “something” that makes it work and not “nothing”? This section offers an answer distilled from leading arguments for work requirements and structural features of actual policies.

**B. Defining Work
As Meeting Basic
Needs**

I begin with a simple, familiar rationale for means-tested transfers: society owes support to people who otherwise could not meet their basic needs through no fault of their own. Faultlessness includes having made reasonable efforts at self-support through one’s own work, where possible.³⁷

An expectation of reasonable self-support integrates means testing and work testing at both theoretical and practical levels. A means test identifies those in need by comparing resources to some threshold. Work requirements capture the idea that individuals also can “spend” their time on activities that help meet their economic needs. Someone who could work but does not is someone who has the means to satisfy his basic needs, notwithstanding low income.

This connection between work and need operates automatically within a system of cash accounting. When need is reduced to cash purchasing, work can be reduced to generating cash income.

As noted above, however, means tests have always sought to capture at least some noncash resources. And when in-kind receipts should count as income, the activity producing them should count as work. If an employee gets paid in free rent rather than cash, she still has earnings and still works,³⁸ though the issue rarely arises because minimum wage law generally mandates cash payment. This analysis applies with equal strength when a household member produces goods or services that are consumed within the household. There is no functional difference between employment paid with a \$200 grocery store gift certificate and subsistence farming that produces \$200 worth of food.

This approach to identifying nonmarket work draws on, but is narrower than, techniques for identifying nonmarket work based on its substitution for market production. In the means-testing context, what counts is not all economic production but only production of resources that the worker’s household can use to meet its

basic needs. A volunteer firefighter substitutes for a paid firefighter, but this does not put food on her table. Similarly, walking one's own dog substitutes for hiring a dog walker, but these economic benefits to the household do not concern basic household needs. Accordingly, unlike the farmer, neither the volunteer nor the dog walker would satisfy work requirements on means-tested transfers, even though all three are in some sense engaged in nonmarket work that substitutes for market production.³⁹

C. How Work Requirements Can Account for Care as Self-Support

Tying work status to self-support offers an important variation on more familiar feminist theories of nonmarket care work as a basis for transfer receipt. These theories generally rely on the point that nonmarket care is *socially* valuable, even though the caretaker does not get paid.⁴⁰ Producing a social contribution triggers a claim to share in the fruits of this labor (or to relief from the burdens of producing them).⁴¹ On that analysis, the resulting transfer is analogous to a worker's *wage*, a share of what she produced. For this reason, social contribution theories typically point toward economic claims by all caretakers, regardless of their poverty status.⁴²

In contrast, my argument is that low-income caretakers are members of the working poor: they lack the resources to meet basic needs despite reasonable efforts at self-support. The caretaker covers childcare directly but then needs cash transfers with which to buy other necessities. The low-wage worker generates cash to purchase those same necessities, but at the cost of needing yet more cash to obtain childcare. Either way, "work alone is not enough,"⁴³ and the government steps in to make up the difference with transfers. Such transfers to a low-wage employee do not compensate her for the value of her work, nor do they do so for the low-income caretaker.

Self-support distinguishes childcare from other unpaid but productive work that contributes to society but does not substitute for transfers to the worker,⁴⁴ and it avoids the need to interrogate either the magnitude of these contributions or the sufficiency of any compensating private gains.⁴⁵ In a delightful twist on gender stereotypes, the caretaker is best compared not to the selfless volunteer but to the yeoman farmer.

How Much Work?

Programs that support the working poor provide transfers when work falls short of satisfying all household needs. Current policies accept full-time, minimum wage employment as a sufficient effort at self-support. They do not insist on sixty-hour weeks or obtaining a \$12 hourly wage. For instance, TANF states work requirements in weekly hours, typically in the thirty- to forty-hour range.

Nonmarket caretaking presents obvious challenges to this temporal accounting system, but the methods to tackle them have been developed to address similar difficulties with self-employment. Like caretaking, self-employment lacks the hierarchically imposed time discipline and separation of “working time” from “personal time” characteristic of employment.⁴⁶ To overcome these challenges, TANF rules permit imputation of time from income. These rules attribute to the self-employed individual hours of work equal to their net business income divided by the minimum wage.⁴⁷ This method makes it unnecessary to disentangle various uses of time, so long as the transfer recipient gets the job done, that is, earns the money that offsets transfers.

Applying these methods, nonmarket caretaking can be integrated into hours-based work requirements. Hours worked would equal imputed income divided by the minimum wage. If caretaking substitutes for \$12,000 in annual transfers to cover childcare expenses, it is equivalent to full-time work. But if it substitutes for only \$6,000, the caretaker would receive credit only for half-time work. In this way, the techniques for quantifying income carry over to attributing hours of work. As a result, caretaking satisfies work requirements to the same extent as a minimum wage job with an equal contribution to self-support.

Accounting for care within work requirements has some counterintuitive effects when applied to two-parent families. In the simple case where both parents are required to work, the effects track those for single-parent households. Nonmarket caretaking shifts from being a basis for disqualification by work requirements to one acceptable method of satisfying them.

*Two-Parent
Couples*

What complicates matters is that currently work requirements generally do not apply to both parents. Instead, both TANF and the EITC primarily utilize what I have labeled elsewhere a “breadwinner priority” structure.⁴⁸ They require only one adult per household to work. Contrary to the widespread interpretation that welfare reform required low-income mothers to substitute employment for caretaking, instead it has required them to be part of “working families” and permitted a breadwinner/caretaker division of labor. My approach continues to permit caretaking within a two-parent family, but it treats caretakers as satisfying work requirements rather than exempt from them.⁴⁹

Treating caretaking as work provides a basis for reconciling aspects of the existing breadwinner priority policy with a self-support theory of work requirements. Allowing a married parent to be a caretaker and receive need-based transfers is difficult to justify if caretaking is not work when single parents do it. A self-support

analysis also implies that sometimes both parents should be expected to enter the labor market, something the current breadwinner priority model never does. If a family's only child is sixteen, the state will not provide childcare assistance even if both parents have jobs; therefore, staying home as a caretaker does not further self-support. Allowing it nonetheless suggests an inappropriate thumb on the scale in favor of a (likely gendered) breadwinner/caretaker division of labor.

**CONCLUSION:
WHAT'S LEFT
OF WORK
REQUIREMENTS?**

My proposal obviously calls for a substantial change in the way work requirements currently are structured in major programs designed to assist low-income parents. Given the political and academic popularity of those work policies,⁵⁰ skepticism, even scorn, is predictable and understandable. That granted, my approach has three features that differentiate it from a simple recycling of old debates about work and care, features that could create some space for new thinking. First, it integrates caretaking into work requirements; it does not reject work requirements or propose exemptions from them.⁵¹ Second, it treats caretaking as work for reasons that are theoretically and practically intertwined with supporting childcare assistance for employed parents.⁵² Third, it integrates the treatment of work and care across single- and two-parent households, creating the potential to leverage policies and politics that already support caretaking in the latter.⁵³

My approach is grounded in the deep support for childcare assistance, an area where costly *expansions* in need-based transfers have remained politically popular.⁵⁴ So, too, is the idea that parents should get to control basic child-rearing decisions. Combining the two creates an opening for allowing low-income parents to choose between getting childcare assistance while they earn money and getting money while they provide childcare.⁵⁵

Progressives too often have ceded the discourse of work, responsibility, and self-reliance to the right. The arguments offered here may hold out some hope that we can embrace the cause of the working poor yet fend off its evil twin, abandonment of those who work outside conventional labor markets.

- * This essay is an abridged version of Noah D. Zatz's article, *Supporting Workers By Accounting for Care*, 5 HARVARD LAW & POLICY REVIEW 45 (2011).
- ** This paper derives from one written and presented while I was a fellow at the Program in Law and Public Affairs at Princeton University, and I gratefully acknowledge the material and intellectual support LAPA and its community provided. I also have benefitted greatly from comments on related work from Robin Lenhardt and Viviana Zelizer and from workshop participants at UCLA School of Law; the Washington University, St. Louis, workshop on Work, Family, and Public Policy; and the 2009 Emerging Family Law Scholars & Teachers Conference, as well as from the editors of the Harvard Law & Policy Review. Invaluable research assistance was provided by Elizabeth Adams, Kelly Hoehn, and Melissa Rose.
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12. SONYA MICHEL, CHILDREN'S INTERESTS/MOTHERS' RIGHTS: THE SHAPING OF AMERICA'S CHILD CARE POLICY 64 (1999).
13. See FOLBRE, *supra* note 1, at 45, 52.
14. ME. REV. STAT. ANN. tit. 22, § 3769-C (2004 & Supp. 2011). For the formulation "reasonable subsistence compatible with decency and health," see ALA. CODE § 38-4-1 (Lexis-Nexis 1992); KAN. STAT. ANN. § 39-709 (2000 & Supp. 2010); MISS. CODE ANN. § 43-17-5 (Supp. 2011); TEX. HUM. RESOURCES CODE ANN. § 31.003 (West 2001); WYO. STAT. ANN. § 42-2-103 (2011).
15. This statement is based on my review of the statutes and regulations governing the TANF programs in all states and the District of Columbia, as they stood on Aug. 1, 2008.
16. CAL. WELF. & INST. CODE § 11452 (West 2001).
17. CONN. DEP'T OF SOC. SERVS., UNIFORM POLICY MANUAL § 4510.05, available at <http://www.sharinglaw.net/elder/UPM.htm> (last updated Oct. 26, 2004).
18. See, e.g., Diana M. Pearce, *The Self-Sufficiency Standard: A New Tool for Evaluating Anti-Poverty Policy*, 10 POVERTY & RACE, no. 2, Apr. 30, 2001 at 3; Trudi J. Renwick & Barbara R. Bergmann, *A Budget-Based Definition of Poverty With an Application to Single-Parent Families*, 28 J. HUM. RESOURCES 1 (1993).
19. FOLBRE, *supra* note 1, at 57-59.
20. THOMAS A. CARLIN ET AL., U.S. DEP'T OF AGRIC., THE FARM DIFFERENTIATION IN THE POVERTY THRESHOLD: SHOULD IT BE CHANGED?, in ASPECTS OF WELFARE AND POVERTY IN RURAL AMERICA: TWO ISSUE BRIEFS 11 (1979), available at <http://eric.ed.gov/ERICWebPortal/contentdelivery/servlet/ERICServlet?accno=ED187510>.
21. Noah D. Zatz, *What Welfare Requires From Work*, 54 UCLA L. REV. 373, 398-400 (2006).
22. LAWRENCE M. MEAD, THE NEW POLITICS OF POVERTY: THE NONWORKING POOR IN AMERICA 121-22 (1992).
23. Brian Riedl, *The Myth of a Child Care Crisis*, THE HERITAGE FOUND. (May 2, 2003), <http://www.heritage.org/Research/Reports/2003/05/The-Myth-of-a-Child-Care-Crisis> (on file with the Harvard law School Library).
24. STAFF OF H. COMM. ON WAYS & MEANS, 110TH CONG., 2008 GREEN BOOK: BACKGROUND MATERIAL AND DATA ON THE PROGRAMS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS, at 9-2 to 9-3, 9-11 (Comm. Print 2008), available at <http://democrats.waysandmeans.house.gov/singlepages.aspx?NewsID=10490>.
25. MEASURING POVERTY: A NEW APPROACH 207-10 (Constantine F. Citro & Robert T. Michael eds., 1995); Jonathan Zasloff, *Children, Families, and Bureaucrats: A Prehistory of Welfare Reform*, 14 J.L. & POL. 225, 235-36 (1998) (describing "child care disregard").
26. Zatz, *supra* note 21, at 404-05, 424-25.
27. Author's calculation of population-weighted average maximum state CCDF reimbursement rates for family day care, based on CHILD CARE BUREAU, U.S. DEP'T OF HEALTH

& HUM. SERVS., CHILD CARE AND DEVELOPMENT FUND: REPORT OF STATE AND TERRITORY PLANS, FY 2010–2011, at 15, tbl. 6 (2010), *available at* <http://www.acf.hhs.gov/programs/occ/ccdf/plans/sp2010-2011.pdf>. For an infant and a toddler, the figure would be almost \$14,000.

28. This benefit would total \$11,350 per year. Author's calculation, based on LIZ SCHOTT & IFE FINCH, CTR. ON BUDGET & POL'Y PRIORITIES, TANF BENEFITS ARE LOW AND HAVE NOT KEPT PACE WITH INFLATION app.4 (2010), *available at* <http://www.cbpp.org/files/10-14-totanf.pdf>. Note that a full-time, full-year minimum wage worker would still receive some of these benefits, though at a much reduced level, but would also be eligible for the maximum EITC in the vicinity of \$5,000. Integration with the EITC is theoretically attractive but raises additional issues. *Cf.* Nancy C. Staudt, *Taxing Housework*, 84 GEO. L.J. 1571 (1996) (arguing for inclusion of imputed income from household labor within the income tax base and considering interactions with the EITC).
29. The full year earnings would be calculated as follows: (50 weeks/year * 35 hours/week * \$7.25/hour) * (100% - 7.65% FICA) = \$11,700.
30. See discussion *infra* Part II.C.
31. Extending the time frame could resolve the contradiction in conjunction with rapid earnings growth, but the available evidence is discouraging. See Zatz, *supra* note 21, at 405–18.
32. Zatz, *supra* note 21, at 395–400; see also James Tobin et al., *Is a Negative Income Tax Practical?*, 77 YALE L.J. 1, 12 (1967). In some contexts certain in-kind receipts are excluded from income calculations because of administrative difficulties in valuation, see, for example, *Maisonet v. N.J. Dep't of Hum. Servs.*, 643 A.2d 1038 (N.J. Super. Ct. App. Div. 1994), but these administrative exceptions illustrate the underlying rule.
33. See Staudt, *supra* note 28, at 1576 n.18; KATHARINE G. ABRAHAM & CHRISTOPHER D. MACKIE, BEYOND THE MARKET: DESIGNING NONMARKET ACCOUNTS FOR THE UNITED STATES 56 (2005); FOLBRE, *supra* note 1, at 122–24.
34. See Noah Zatz, *Welfare to What?*, 57 HASTINGS L.J. 1131, 1184 (2006); Zatz, *supra* note 21, at 384.
35. See PHILIPPE VAN PARIJS, REAL FREEDOM FOR ALL 89 (1995); Kirk J. Stark, *Enslaving the Beachcomber: Some Thoughts on the Liberty Objections to Endowment Taxation*, 18 CAN. J.L. & JURIS. 47 (2005).
36. See generally Zatz, *supra* note 21.
37. See Amy L. Wax, *Disability, Reciprocity, and "Real Efficiency": A Unified Approach*, 44 WM. & MARY L. REV. 1421, 1446 (2003).
38. Indeed, in 1973, Congress amended the Food Stamps statute specifically to count employer-provided housing as income, thereby "equalizing the food stamp benefits of a person who receives his earnings entirely in the form of wages and a person who actually has the same income but receives part of it in kind rather than in cash." *Anderson v. Butz*, 428 F. Supp. 245, 253 (E.D. Cal. 1975).
39. The same basic point applies to delimiting the relevant sources of imputed income

for the purpose of measuring resources in the means test. A standard objection to imputed income techniques is that, once one begins with specific cases like childcare, there is no principled basis not to attribute “income” to every practice valued by the person doing it: if walking the dog substitutes for hiring a pet sitter or playing solitaire substitutes for buying theater tickets, why not impute income to each at the value of their market substitutes? See Thomas Chancellor, *Imputed Income and the Ideal Income Tax*, 67 OR. L. REV. 561, 561–62 (1988). The means-testing context provides an answer: childcare is included in the basic needs budget but pet sitting and theater tickets are not.

40. See, e.g., FINEMAN, *supra* note 2, at 9; Nancy Folbre, *Children as Public Goods*, 84 AM. ECON. REV. 86, 87–88 (1994). My argument is more akin to Staudt’s argument for taxing housework based on its contribution to household consumption, see Staudt, *supra* note 28, at 1618–22, 1627–29, though she shies away from fully equalizing nonmarket and wage income for the purpose of access to redistributive transfers like the EITC, see *id.* 1637–38.
41. See, e.g., ANNE L. ALSTOTT, NO EXIT: WHAT PARENTS OWE THEIR CHILDREN AND WHAT SOCIETY OWES PARENTS 58–61 (2004); FOLBRE, *supra* note 1, at 178–83.
42. See ALSTOTT, *supra* note 41, at 75–76; EVA FEDER KITTAY, LOVE’S LABOR: ESSAYS ON WOMEN, EQUALITY, AND DEPENDENCY 142–43 (1999); GWENDOLYN MINK, WELFARE’S END 135 (1998).
43. Robert Haveman, *When Work Alone Is Not Enough*, in ONE PERCENT FOR THE KIDS 40 (Isabel V. Sawhill ed., 2003).
44. For arguments equating nonmarket care and volunteering, see Stuart White, *Fair Reciprocity and Basic Income*, in REAL LIBERTARIANISM ASSESSED: POLITICAL THEORY AFTER VAN PARIJS 136 (Andrew Reeve & Andrew Williams eds., 2003); Iris Marion Young, *Autonomy, Welfare Reform, and Meaningful Work*, in THE SUBJECT OF CARE: FEMINIST PERSPECTIVES ON DEPENDENCY 40 (Eva Feder Kittay & Ellen K. Feder eds., 2003). Different lines of argument may justify volunteering as a form of job training or a demonstration of willingness to work.
45. See, e.g., Mary Anne Case, *How High the Apple Pie? A Few Troubling Questions About Where, Why, and How the Burden of Care for Children Should Be Shifted*, 76 CHI.-KENT L. REV. 1753, 1775 (2001); Katherine M. Franke, *Theorizing Yes: An Essay on Feminism, Law, and Desire*, 101 COLUM. L. REV. 181, 191–92 (2001).
46. Zatz, *supra* note 21, at 431.
47. 45 C.F.R. § 261.60(d) (2011). Similarly, the EITC uses earnings as a proxy for work effort by maximizing transfers at earnings levels approximating those from full-time, minimum wage employment.
48. Zatz, *supra* note 4, at 321. This predominates in state TANF rules, too, but some states require both adults to work.
49. The two-parent context raises difficulties in attributing carework to individual parents. ALSTOTT, *supra* note 41, at 181–84; Staudt, *supra* note 28, at 1623–24. However, because means-tested programs generally calculate and pay benefits on a household

basis, one could require eighty hours of work in the aggregate, not necessarily forty by each parent. Similarly, we could attribute hours of care (and its imputed income) based on eighty hours minus the greater of forty hours or both parents' aggregate time in waged work.

50. See, e.g., Ron Haskins, *Liberal and Conservative Influences on the Welfare Reform Legislation of 1996*, in *FOR BETTER AND FOR WORSE: WELFARE REFORM AND THE WELL-BEING OF CHILDREN AND FAMILIES* 9 (Greg J. Duncan & P. Lindsay Chase-Lansdale eds., 2001); Hugh Heclo, *The Politics of Welfare Reform*, in *THE NEW WORLD OF WELFARE* 169 (Rebecca M. Blank & Ron Haskins eds., 2001).
51. For two examples of arguments against work requirements, based in part on their exclusion of caretaking, see Carole Pateman, *The Patriarchal Welfare State*, in *DEMOCRACY AND THE WELFARE STATE* 231 (Amy Gutmann ed., 1988); Anne L. Alstott, *Work vs. Freedom: A Liberal Challenge to Employment Subsidies*, 108 *YALE L.J.* 967 (1999).
52. Cf. ALSTOTT, *supra* note 41 (proposing caretaker resource accounts that would benefit both employed parents and family caretakers).
53. See Zatz, *supra* note 4, at 321.
54. Sandra K. Danziger, *The Decline of Cash Welfare and Implications for Social Policy and Poverty*, 36 *ANN. REV. SOC.* 523, 524, 537–38 (2010).
55. Cf. Press Release, Hillary Clinton for President, *Hillary Clinton's Agenda for Working Families: Helping Parents Balance Work & Family* (Oct. 16, 2007) (proposing “to allow qualifying, low-income parents who want to stay at home rather than place their children in child care to receive child care subsidies through the Child Care Development Block Grant”); NAT'L P'SHIP FOR WOMEN & FAMILIES, *AT-HOME INFANT CARE (AHIC): A SIDE-BY-SIDE COMPARISON OF FEDERAL AND STATE INITIATIVES* (2005), available at <http://www.nationalpartnership.org/site/DocServer/AHICchartOct05.pdf?docID=1048>; Caregivers and Veterans Omnibus Health Services Act of 2010 (“Act”), 38 U.S.C. §§1720G(a)(3)(C)(ii) (Supp. IV 2010) (making family caregivers of injured veterans eligible to receive a cash stipend “not less than the monthly amount a commercial home health care entity would pay an individual . . . to provide equivalent personal care services to the eligible veteran”).