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Leslie Vlastos
University of Rhode Island

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HUMAN RESOURCE POLICIES AS A RESPONSE TO WORK-LIFE CONFLICT

LESLIE VLASTOS
University of Rhode Island

The economic and landscape and the social pressures of the modern world have dramatically changed how work affects people worldwide. "The clicking and clacking of the mechanical adding machines and typewriters has been silenced by the whir of networked PCs. The faint rumblings of industrial psychology have been eclipsed by today's sophisticated human resources departments. All of this has occurred while the male-dominated world of management has been replaced by a workforce that reflects a growing ethnic, cultural, gender and global diversity."[1]

From women, to "farmers to Generation X urban workers,[2] 'Americans want equity and fairness in their workplaces; they want time to enjoy life outside of work."[3] At present, some employers are implementing ground-breaking work-life programs, however many employers still utilize a management philosophy better suited for the industrial revolution.[4] "In survey after survey, work-life integration issues emerge as key concerns that drive employees to make choices about who they will work for and what type of jobs they will do. An accelerated pace of life, non-traditional family relationships,[5] dual earners working longer hours, globalization and downsizing [are] a few of the reasons the [work-life] focus has skyrocketed over the past few years."[6]

June Kaminski's article, Leadership and Work-Life Relations and Issues, states that the definition of "the term "work-life" refers to any connection between the work and personal departments of the individual," and "can involve structural or psychological aspects of one's work and personal life.[7] Kaminski illustrates the four main interface models that can impact the work and personal life domains: "(1) spillover where activities and emotions from one domain spillover and effect the other domain; (2) segmentation where two domains separate and do not affect each other; (3) compensation where involvement in one domain is due to a deficit in the other domain; and (4) accommodation where demands of one domain requires a reduction of involvement in the other domain."[8]

Various demographic and business trends have prompted initiatives aimed to help employees balance work and family. The first trend, according to Kaminski, is the fact that women are involved in full-time employment,

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[1] June Kaminski, Leadership and Work-Life Relations and Issues, p. 2, at http://www.healingintent.com/worklife_leadership.html., citing S. Greengard, 25 Visionaries Who Shaped Today's Workplace. Workforce, 76 (1). January p. 50.

[2] Id., p. 17 ("Work-life initiatives were initially developed to address the needs of the growing number of working mothers in the workforce, but today they are designed to help all employees enhance their personal and professional lives.")

[3] Id., citing Radcliffe Public Policy Center. (1999). RPPC's New Economic Equation 10-Step Guide to Work, Family, and Community Integration. Cambridge, MA: Radcliffe Institute.

[4] Id., citing Galinsky, E. & Bond, J.T. (1998). The 1998 Business Work-Life Study: A Sourcebook. New York: Families and Work Institute. ("Since the beginning of the last century, the nature of work has changed significantly from production to information, knowledge and service. Yet work is fundamentally still structured based on many of the same assumptions used at the beginning of the industrial revolution when jobs were mostly assembly line manufacturing and workers were less educated and lived in extended family structures. We are living in the technology revolution yet many still work in organizations that continue to use principles, management techniques and work processes created for the industrial revolution.")

[5] Id., citing Bond, J.T., Galinsky, E. & Swanberg, J.E. (1998). The National Study of the Changing Workforce. New York: Families & Work Institute; ("Today only seven percent of the US population live in a traditional family structure with a working father and a stay at home mother, who cares for the children full time. Most people do not live near their retired relatives with the bonus of low cost, loving and convenient day care.")

[6] Id., Galinsky, E. & Swanberg, J.E. (1998). The National Study of the Changing Workforce. New York: Families & Work Institute.

[7] June Kaminski, Leadership and Work-Life Relations and Issues, p. 2, at http://www.healingintent.com/worklife_leadership.html.
[8] Id., citing Galinsky,E., Ask the Children: What America's Children really think about working parents. New York: Morrow.

while still assuming the larger part of dependents' care at home (although some men are doing more at home). Because of this structure, women are forced to arrange their lives to accommodate both job and family, providing for all sorts of contingencies that "might upset this delicate balancing act."[9] The second trend concerns the use of today's workforce. Because of globalization causing extended hours of service, businesses are often run with a continuous response capability.[10]

The main questions that arise from the work-life issue are: What specific HR policies comprise work-life balance programs? Why do companies employ these policies? Are work-life balance programs effective in achieving a competitive advantage in the labor market? Subsequently, do these policies exist to: (1) attract and retain high quality employees; (2) increase productivity; (3) adhere to social consciousness; or (4) provide a competitive advantage to employers?

Part I of this paper examines the history of the American family. The purpose of this section is to illustrate that pre-industrialized Americans could work and properly care for their families, and how the introduction of industrialization (which has led to the current corporate culture in the U.S.) has created child care issues that our forefathers never anticipated. In Part II, the article defines the conflict between a healthy family life and the business goals of a corporation. Part II will include a discussion of the factors that contribute to this conflict. The factors that will be discussed are increased workload, organizational culture, and unwritten rules, norms, and expectancies placed on an employee at work, and individual family and socio-economic circumstances. Part III explores the reasons employers choose to implement work-life programs. This section discusses both the commitment and the control theory, and concludes that the commitment theory is the

better of the two theories because it helps employers attract and retain high quality employees. Lastly, Part III contains two case studies. It examines the state of Connecticut and the Ohio based insurance company, AFLAC. Part IV will explore regulatory structures that both the federal government and state governments have put in force. Specifically, this section considers the current inadequacies of both state and federal laws concerning work-life balance issues and concludes that the dominant inadequacy is that current laws do not require employers to address these critical issues, thus allowing the private sector to police itself in the arena of work-life balance programs. Lastly, Part IV concludes by providing some possible areas for reform, both domestically and globally, through public policy and the law. Part V discusses what other industrialized countries, such as the United Kingdom, are doing to combat the work-life problem. Part VI discusses findings and makes recommendations to fight this growing problem in the U.S. Finally, the conclusion will hold that a successful work-life balance program is a powerful management tool that can be used to meet the ever changing needs of both employers and employees. The basic premise is that "employers with workers facing difficulties at home experience the **high costs of turnover, absenteeism, and lost investments in human resources** as workers seek more accommodating arrangements or even leave the workforce altogether. Ultimately, the economy and society pay the price of this underutilization of human resources in both a lower standard of living and a reduced quality of life."[11], [12]

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[9] Id., p. 2, citing Radcliffe Public Policy Center., RPPC's New Economic Equation 10 step guide to work, family, and community integration. Cambridge, MA: Radclifee Institute, p. i.
[10] Id., citing both Aaron-Corbin, C. (1999). The Multiple-Role Balancing Act. Management Review, October, p. 62; and Gottlieb, B.H. (1999). Flexible Work Arrangements: The Promise and the Practice. CFWW Research News, July/August, p. 5-9.

[11] Bailyn, L., Drago, et al. (2001). Integrating Work and Family Life, A Holistic Approach, A Report of the Sloan Work-Family Policy Network, MIT, Sloan School of Management, p. 6, (emphasis in original).

[12] "Employees who have no support to work flexibly are more likely to feel overworked: 45% of those who say they cannot change their work schedules to work their preferred hours experience high levels of feeling overworked, versus 33% of those who can change their work schedules. **Moreover, almost half of employees experiencing high levels of feeling overworked say that they are somewhat or very likely to seek employment elsewhere in the coming year, versus only 30% who report low levels of feeling overworked."** Sheri Todd, (2004). Improving Work-Life Balance-What Are Other Countries Doing?, Human Resources and Skills Development Canada (Emphasis added.)

THE EVOLUTION OF THE AMERICAN FAMILY

"American society suffers from a severe policy and institutional lag in [the area of integrating work and family life]. While work and family have changed, the public and private policies and practices governing employment remain mired in the past, modeled on the image of an ideal worker as a male breadwinner, with a supportive wife at home."[13] Today, the breadwinner-homemaker model is no longer the rule, it is the exception,[14] and the culture and organization of employment in America must end the disconnect between working families and the economy. This section offers a brief explanation of how the industrialization of America is the genesis of this ongoing problem. The history of the American family is a fascinating subject in and of itself, and the family has been a source of study, comfort, and conflict throughout the generations. Within the past 200 years, America has experienced radical changes with respect to families, and the roles that both immediate and extended family members play within the unit. As a country, each family has been touched by some degree of war, unionization, feminism, and politics, both domestically and globally.

The genesis of this transformation was the introduction of industrialization to this country by Samuel Slater and Moses Brown, one an English inventor and the other a venture capitalist, has forever changed the economic scope within which we do business. When Slater and Brown decided to turn Rhode Island's Blackstone River into their productive dream, they single-handedly changed a peaceful, agricultural society into a culture where women and children worked inside the mill. Gone were the days of individual families acting as their own labor and capital; instead, the families were broken up into individual players who were all subject to the capitalists' control of time. Adults simply were not paid enough to survive on their wages; therefore parents had no choice but to allow their children to accept the cash that these capitalists paid their children to work in the mills.[15] Now, with no one to run the farm, food had to be purchased. A society where a typical family could grow their own wheat, harvest vegetables, and generate their own dairy and meat supplies had been transformed forever. The simple farm life was gone, never to return, and in its place farming became an industry of its own powered by automobiles and chemicals. With Slater and Brown controlling the mill workers' time, there was no time for agricultural independence. Each family member was forced to work increasingly longer hours at the mill for a pittance, although some teenagers welcomed the excitement of the mill. Even after striking in 1824, the workers walked away with a "win"-a clock tower erected by Pawtucket citizens so that the workers could know the time.

Over the next 100 years extended families were still primarily living together, or at least near each other. For the most part, men were the ones working outside the home, and women were working inside the home. For those rare families where both parents worked outside the home,[16] usually an aunt or a grandmother would be available to watch the children. If somebody in the family was sick or very elderly, there was usually someone from the family around to take care of that person. Paying a stranger to watch the children was unheard of, and worrying about the quality of care the children received was uncommon, since the children were being watched by a trusted relative.[17] By World War

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[13] Bailyn, L., Drago, et al. (2001). Integrating Work and Family Life, A Holistic Approach, A Report of the Sloan Work-Family Policy Network, MIT, Sloan School of Management, p. 1.

[14] In 1950, only 13% of America's children were raised in dual-income families. Today, that number has more than tripled to 44% by 1998. (Council of Economic Advisors. Economic Report of the President, 2000. Washington, D.C.: Government Printing Office, p. 166, 168).

Fewer than 25% of married families fit the old "breadwinner" model, with the husband in the labor force and the wife at home, compared to 56% in 1950. Bailyn and Drago, supra, p. 11)

Three-fifths of women age 16 and over are in the paid labor force, as are 75% of mothers with children. The proportion of women in the labor force grew from only 33.9% in 1950, to 60% in 1998. (Council of Economic Advisors, supra, p. 166, 168.)

[15] The main job of small children in the mills was to fix machines that required the smaller hands of children.

[16] A small percentage of unmarried women worked outside the home, the rise of married working mothers did not occur until much later. **See Footnote 12.**

[17] "[I]ncreasingly, the sisters, mothers, grandmothers, friends, and neighbors that working women relied on in the past are themselves now in the labor force and, in the case of relatives, frequently live in another city. The new global economy, with its focus on 24/7 availability and long work hours, only worsens the problems generated by the lag in the organization of paid work, as if workers were without personal interests or domestic care concerns." Bailyn

II, many urban women were working in factories while their male relatives were off fighting the war. These working women returned to tending the home, however, when the men came back from war to reclaim their jobs.[18] Children and family issues were once again delegated to the women.

As the notion of feminism took off in the 1960's, women began pursuing educations and full-time careers outside the home. Women had a challenging time entering the workforce as many men (and traditional women) tried to keep the status quo. Women were still marrying and having children, but a small number of women were beginning to pursue post-secondary educations and some women even cultivated high-level careers. The problem arising from the women's movement was that the United States did not advance its thinking about the notion of family. America is a capitalistic, "dog-eat-dog" country where one person's success literally depends on another person's failure. Women were entering into the male-dominated work-force, having to compete with counterparts (men) who were all still benefiting from the labors of stay-at-home wives. Feminism offered women the opportunity for education and high-level careers, but did not enter family obligations into the equation. As Jane Smiley writes in Mommy Wars edited by Leslie Morgan Steiner, "feminism and America slammed together and changed each other." (Page 204). The women's movement has flourished in many ways, but it is floundering in its application by American government and business. In Mommy Wars, Jane Smiley also writes, "the lesson here is that it was not Sweden where we ended up living in our feminist generation, but conservative America. Issues of the common good are considered suspect and sometimes even un-American." (p. 208). Success in America is defined by surviving adversity or making lots of money, and the social and economic climate for working mothers has never been more controversial.

The following quote illustrates the importance of the changed American family: "The challenges of integrating work and family are part of everyday reality for the majority of American working families. While the particulars may vary depending on income, occupation, or stage in life, these challenges cut across all socioeconomic levels and are felt directly by both women and men. As families contribute more hours to the paid labor force, problems have intensified, bringing broad recognition that steps are needed to adjust to the changed realities of today's families and work."[19] The problems caused by the mismatch of the changed American family and our modern, industrialized economy are here to stay; the idealized image of work and family is simply a vestige of the past.[20]

WORK/FAMILY CONFLICT

"What is work-life conflict? Work-life conflict occurs when the cumulative demands of work and non-work life roles are incompatible in some respect so that participation in one role is made more difficult by participation in the other role."[21] The work-life conflict is a very significant problem; it breaks down the mental and physical well-being of employees, it affects the quality of their personal relationships outside of work, and in the end it will increase the cost of doing business because "[e]mployees experiencing high levels of work-life conflict are likely to miss more work days per year, are less committed to the organization, are less satisfied with their job, and are more likely to intend to leave their job.[22]

Factors Contributing to Work-Life Conflict

Increased Workload. A major factor contributing to the work/family conflict is the increased workload of the average American worker. Historical efforts to decrease the number of hours worked in a week resulted in

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and Drago, supra, p.2, citing Moen, P. (2001). The Career Quandry, Reports on America, Vol. 2, No. 1. Washington, D.C.: Population Reference Bureau.

[18] The movie "Rosie the Riveter" is a good example of the attitudes of the day.

[19] Bailyn and Drago, supra, p. 1

[20] Bailyn and Drago, supra, p. 2.

[21] Todd, supra, p. 9.

[22] Id.

the 1938 passage of the Fair Labor Standards Act (FLSA). In its original form, the FLSA required that all hours beyond 44 per week required employers to pay overtime. Two years later, however, the FLSA was amended to make the 40 hour work-week the standard. To this day, the FLSA still governs a majority of employment policies in the U.S. Because of the long ties to the FLSA, American norms and corporate practices have strong ties to the 40 hour standard.23 "When a nationally representative sample of wage and salary employees was asked how many hours they were regularly scheduled to work, 64% claimed the 40 hour week was the norm. Moreover, 38% of employees claim to prefer the 40 hour week when it provides the choice of hours."24 Even though the 40 hour week is the legal standard and a majority of employees are regularly slated to work those hours, there is recent evidence that the 40 hour work-week is becoming less commonplace in the U.S. For example, statistics show that between 1973 and 1991 the number of hours worked for both men and women in the top 70% of wage earners consistently increased.25 According to Kaminski, the combination of technology, the economy, and business forces have increased workloads by heightening employee responsibilities at all organizational levels. Kaminski notes that "business leaders have gotten so used to their people working harder that they now expect the frenzied work pace as part of 'business as usual.' Consequently, the excessive workloads seen in the past only during crisis times have now become commonplace."26 This overflow of work and the time it requires has greatly contributed to the issue of work-life conflict.

Organizational Culture. A second major factor contributing to the work-life conflict is the organizational culture of a vast majority of American employers. It does not matter what industry or profession, whether the business is a plumbing supply house or a top-flight New York law firm, the "boss" does not only have the power to affect work-life policies and workloads, they also set the tone at the office for how every employee balances work and life.27 It is common for human resource executives to find that the CEO does not support work-life initiatives because the CEO views these programs as "soft issues" of personnel management.28 Human resource executives often find that work-life programs are a tough sell to CEO and other corporate officers because of the psychology of the executive and the sociology or culture of the workplace.29 A good deal of CEOs are just now starting to become versed with the idea of work-family measures and are often very skeptical of the merit of such programs. The old-school CEO mentality is to be comfortable with measurement concepts and they seem to consider abstract concepts, such as work-life programs, as not having substance.30 "Work-life balance isn't the soft option. It's about employers and employees working together to find out how they can both gain from a more imaginative approach to working practices. Employers worldwide are recognizing on their own accord that it makes good business sense to provide opportunities for their workforce to achieve a better balance- with a payback of increased morale, better effectiveness and productivity, and the ability to embrace change. The workplace has been altered dramatically over the last decade and old methods are no longer appropriate as employers accept that their most important asset is their workforce . . . if you as an employer are failing to address these issues, you are placing your business at a distinct disadvantage and keeping one foot firmly in the 20th century while other players in your sector develop their competitive edge for the future."31

Unwritten Rules, Norms, and Expectancies in the Workplace. A third major factor contributing to the work-life conflict is

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23 Bailyn and Drago, supra, p.13.

24 Id., p.14. Note, these figures were calculated from the 1997 National Study of the Changing Workforce.

25 Id.

26 Kaminski, supra, p.2.

27 Maggie Jackson, Finding the Work-Life Balance, The Boston Globe, June 19, 2005, at http://bostonworks.boston.com/globe/balance/archives/061905.shtml.

28 Kaminski, supra, p.19.

29 Id.

30 Id.

31 "The Business Case," Department of Trade and Industry and the Scotland Office. http://164.36.164.20/work-lifebalance/docs/case_report.pdf.

"perceived career consequences," which can be defined as the degree to which employees perceive positive or negative career consequences for utilizing work-life programs that the employer offers.32 Even though corporations have offered work-life programs in increasing amounts in recent years, employee usage of programs is lagging.33 "Arlie Hochschild documented this problem in a corporation in the The Time Bind (1997). In her study, corporate leaders believed that employees should balance their work and family commitments, and had implemented a variety of work-family policies toward that end. What they found instead is that the policies were not being used."34

The proceeding begs the question 'Why are employees not using these programs, which are meant to help employees? The answer is simple: Work-life policies are under used because of employees' fears of negative career consequences.35 A study done by the Women's Bar Association of Boston vividly supports these fears. The study found that while over 90% of the large metro Boston firms allowed associates and partners to work part time, less than 4% have opted to use the program and among those who do, turnover is higher and about 1/3 report their careers have suffered for having taken the firm up on this option.36

REASONS EMPLOYERS UTILIZE WORK-LIFE PROGRAMS

Why do companies employ a work/life balance program? Some businesses find that such programs increase their value to potential employees, thus attracting and retaining high-quality candidates. A 1997 study conducted by Work & Family Connection, Inc. survey 153 U.S. organizations to investigate the depth and the impression of the success of installed work-life programs.37 The answers from employers and employees alike resulted in the conclusion that work-life programs do benefit both, employees and employers, as well as the organizations as a whole.38

The work-life approach has grown in the past few years mainly as a result of changing demographics, growing competition for workers, and the increasing globalization of the U.S. economy. Originally, work-life programs were developed to meet the needs of the increasing number of working mothers. Today, however, these initiatives are designed to assist the personal and professional lives of all employees.39, 40 Employers are creating a wide range of work-life programs and policies and conducting studies to evaluate the impact of these initiatives on employee satisfaction and business performance.41

Commitment versus Control Theory

In Strategic Human Resources Management, author David A. Mello discusses the study of human resources, and how shaping employee behaviors and attitudes at work can be broken down into two approaches. The first approach is known as the control theory, where the goal of management is to improve labor efficiencies and reduce cost by forcing employees to comply with specific rules and procedures. Employee rewards, in the control theory, are based on measurable output. An example of a "work-life" balance being applied to a control-based organization is a private employer (with at least

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32 Andreassi, J and P.D. Thompson, Cynthia (2005). Work-Family Culture: A Sloan Work and Family Encyclopedia, Zicklin School of Business, Baruch College, City University of New York, p. 2.
33 Bailyn and Drago, supra, p.19.
34 Id.
35 Id.
36 Id.
37 Kaminski, supra, p.16.

38 Id.,("Some benefits named included: enhanced employee satisfaction and morale, improved productivity, enhanced commitment, enhanced recruitment, reduced absenteeism, reduced turnover, more new mothers returned to work, improved diversity efforts, decreased health care costs, enhanced manager's skills.)
39 Id., p.17.
40 HR Magazine, October 2005, p. 18. Work/Life Balance for Men ("A recent national survey found that men are just as concerned with life outside of work as their female colleagues. *New Workforce Reality*, a study by the Simmons School of Management in Boston and Bright Horizons Family Solutions Inc. reports that 95% of more than 2,000 adults surveyed across the country say that life outside of work is just as important as – or even more important than their work. **There were no statistical significant differences in priorities between men and women, researchers found. . . . 'This study makes clear that men are looking for the same work-life considerations from their employers as women,'** says David Lissy, CEO of Bright Horizons." (Emphasis Added.)
41 Kaminski, supra, p.17.

50 employees) adhering to federal law (Family Medical Leave Act) and holding a pregnant employee's job during her unpaid maternity leave, as long as she has been employed for at least one year prior to her maternity leave. The employer, in this instance, is using the employee's seniority with the organization, as well as the FMLA statute, as measures in determining whether her maternity leave will terminate her job. The employer is not taking the employee into account when making her decision, and is instead relying on outside forces to save money and to escape social responsibility.

The commitment theory, on the other hand, recruits employees on the basis of career potential and growth. It selects for skills, ability, and future potential, and it trains and develops to foster job promotions, decision making, problem solving, and interpersonal skills. The commitment theory strives to put importance on both the individual's and the company's goals. When a company develops a reputation for working hard for its employees in a work-life program, the number of employee applicants will be higher, selection will be competitive, and employees willing to take on extra-role behaviors, such as mentoring and multi-tasking will be commonplace. The commitment theory seems the most likely theory associated with work-life balance programs, because this theory seeks to motivate behavior in the workplace. An employee who is satisfied with her employer's recognition of her overall goals and needs as a human being rather than only a worker will yield a loyal, earnest, committed employee.

Public and Private Sector Case Studies

The State of Connecticut. Work-life balance has become recognized in both the public and private sectors, as illustrated below. The State of Connecticut has conducted an Employer-of-Choice/Balance Work and Life Survey, and the 2004 results will be discussed. Connecticut's state government has a statute requiring the Commissioner of Administrative Services to create a human resources strategic plan. Martin W. Anderson, Ph.D. and Kathleen Kabara of the Connecticut Department of Administrative Services (DAS) Strategic

Resource Management department have created this plan to address improving the image of state employees as perceived by Connecticut residents. In 1999, the state of Connecticut partnered with other employers in the areas of attaining "employer of choice" (EOC) status, as well as balancing work and life (BWL) strategies. For the purposes of this paper, we will examine only the BWL findings. An internet survey was conducted of both public and private sector employees using numerous lists to distribute survey invitations. DAS used information gathered from human resources literature, such as "Best Places to Work" articles, to create survey items. The DAS conducted this survey three times since 1999, the most recent being in the spring of 2004. The largest difference in the 2004 survey was that nearly 94% of the survey participants were municipal government employers, compared to 42% in 1999. In the remaining 2004 survey, 6% consisted of 3% private for profit and 3% educational institutions, according to Anderson and Kabara. Notably, Connecticut has the highest income per capita in the nation.

According to Anderson and Kabara, Table 1 rank orders the BWL practices "based on the percent of respondents using the practice." Employee assistance programs, flextime, wellness programs, leave programs and compressed workweeks were the most common. Special loans programs, sabbaticals, on-site childcare facilities, and workday/week reduction programs were less prevalent. Anderson and Kabara found that "by far, the main effects of these programs were increasing employee satisfaction. Of course, this was assumed to be the principle reason for having the programs in the first place. However, a number of practices were reported to have resulted in reduced unscheduled leave and lowered costs for the organizations. Further, childcare centers, educational leave, cafeteria plan benefits, and flextime were attributed to be practices that attracted higher quality employees." (p. 4). So, the argument can be made that employing a commitment based, behaviorally-motivating work-life program directly results in employee recruitment and retention.

TABLE 1
PREVALENCE OF PROGRAMS FOR BALANCING WORK AND LIFE (2004)

Program	% Using Program	Percentage of Employers Reporting Increases in These Outcomes						
		Cost Reduction	Employee Satisfaction	Productivity	Attraction of High Quality Employees	Reduced Unscheduled Leave	Profit	Customer Satisfaction
EAP Program	97	17	29	17	12	16	1	7
Flextime	81	5	36	15	20	22	0	2
Wellness Programs	77	21	31	13	13	15	2	5
Purchase Extra Leave	77	67	33	0	0	0	0	0
Compressed Work Week	66	6	37	16	14	20	0	6
Cafeteria Plan Benefits	59	17	45	3	21	0	3	10
Telecommuting	55	6	43	14	6	29	0	3
Bring "Someone" To Work Day	55	4	52	9	17	9	4	4
Job Sharing	47	12	42	8	19	19	0	0
Fitness Center	38	12	31	19	15	15	4	4
Educational Leave	38	0	50	13	25	6	0	6
Work Day/Week Reduction	29	17	33	17	17	17	0	0
On-Site Child Care	22	8	42	0	42	8	0	0
Sabbatical	13	0	50	25	0	25	0	0
Special Loans	13	0	75	0	25	0	0	0

The sizes of the represented organizations were as follows: Less than 100 employees (3%); 101-500 employees (26%); 501-1000 employees (26%); 1001-5000 employees (32%); 5001-15,000 employees (0%); More than 15,000 employees (13%)

AFLAC. Next, we will discuss the work-life program in the private sector, specifically the program implemented by the insurance company, AFLAC. In a 2003 article published by the Atlanta Business Chronicle called Work-Life Balance Is the Key to Employee Loyalty, contributing writer Paige Bowers writes that "work-life balance, not paychecks, is the key to a happy, productive employee." In a tough economy, employers focus more on "telework" than "overwork", according to Bowers, because they don't want employees leaving the company once the economy improves.

Columbus-based insurance company AFLAC, Inc. states that "AFLAC is committed to creating and sustaining a work environment where all employees of our diverse workforce can perform at their very best. We want employees to maintain a healthy work/life balance. Employees are encouraged to schedule personal time off (PTO) to enable them to attend their children's or families' activities or to take care of other personal priorities."[42] In order to achieve this goal, AFLAC provides services such as a 540-capacity daycare facility, which "makes it easier for parents to pick-up their kids and have lunch with them in the company cafeteria," said Laura Kane, AFLAC's Corporate Communications Manager (as quoted by Bowers). The daycare center is open Saturday evenings so that couples can go out without needing to find a babysitter. AFLAC provides services such as laundry, an on-site fitness center, flextime, scholarship programs for employees and their families, and educational

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[42] www.aflac.com

lunches on subjects such as caring for elders or purchasing your first home, according to the article. AFLAC employees can order pre-cooked meals from the company cafeteria to pick up after work and reheat at home. Clearly, this company wants to attract and retain high quality employees, and does so though its work-life balance program. Perhaps the big profits generated by insurance companies such as AFLAC contribute to the foundations of these work-life balance programs.

FEDERAL AND STATE REGULATORY STRUCTURES

American workers, specifically working parents, are having more and more issues attempting to reconcile work and family obligations. As the proceeding section have eluded, this conflict is troublesome for not only for both the individual worker and employer, but for society as a whole. Specifically, work-life conflicts weighs heaviest on primary caregivers, the vast majority of which are women, who wrestle to meet the increasing expectations of both raising their children and succeeding in their careers. Many experts argue that a complete restructuring of the American workplace is needed in order to solve the work-life problem. There is no doubt that no single solution can correct the work-life situation in America, however lawmakers need to take action to support primary caregivers because of its far reaching effects on our society.[43]

In a law article called Employers' Duty to Accommodate Breastfeeding, Working Mothers, authors Donald J. Peterson and Harvey R. Boller describe the Family Medical Leave Act (FMLA) as a federal law which provides for 12 weeks of unpaid leave over a one year period for the birth of a child, serious health conditions, as well as prenatal and childbirth and its duration. The FMLA applies only to private employers that employ 50 or more employees. Thus, smaller employers or government employees are not covered under the Act. Additionally, an employer must have worked for her employer for at least a year before becoming eligible for

FMLA; the employee will usually have to pay her health insurance costs in full to the employer if she wants health coverage for childbirth during FMLA/maternity leave. Breastfeeding/pumping time during the work day, however, is not covered under the 1978 Pregnancy Discrimination Act (PDA). Although some organizations provide private rooms for breastfeeding mothers returning to work, they are not required to by law.[44]

In light of this federal shortcoming, certain states have created laws to accommodate the needs of breastfeeding employees. For example, Washington state law notes that employers benefit when their employees breast-feed because breast-fed infants are sick less often, thus decreasing maternal absences at work. As a result of breastfeeding, employee medical costs are lower and employee productivity is higher. Other states that support breastfeeding are Texas, New York, Florida, New Hampshire, Utah, and Maine. Additional states, such as Minnesota, Connecticut, Hawaii, and California have laws requiring employers to provide unpaid time during the work day to allow mothers to express milk, and prohibit the discrimination of female employees based upon whether they breastfeed. According to the authors, "existing federal laws such as the 1964 Civil Rights Act, Americans with Disabilities Act and the Pregnancy Discrimination Act have failed to provide substantial protection for employed mothers who are breastfeeding."[45]Although the law may accommodate breastfeeding mothers in some instances, most modern-day American children are formula fed according to LaLeche League for Breastfeeding Mothers.[46]

In the Chicago-Kent law review article called The Quest for a Lactating Male: Biology, Gender, and Discrimination, author Maureen E. Eldridge writes that "courts persist in viewing gender discrimination claims through a viewpoint of facial neutrality, refusing to recognize that discrimination can exist in cases when women's biology makes them different

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[43] Alpern, S (2005). Comment: Solving Work/Family Conflict by Engaging Employers: A Legislative Approach, 78 Temple Law Review 429.

[44] Peterson, D.J. and Boller, H.R.(2004). Employers' Duty to Accommodate Breast-Feeding, Working Mothers. 30 Employee Relations Law Journal 80.
[45] Id.
[46] Id.

from men."[47] In General Electric Co. v. Gilbert, the Supreme Court held that Title VII protections did not cover pregnant women because the Act only covered discrimination based on gender. The Court held that failure to find benefits for pregnant women required a distinction between pregnant and non-pregnant women; not a distinction between women and men. Therefore, it was not an issue of discrimination. In reaction to this case, Congress quickly passed the Pregnancy Discrimination Act (PDA) in 1978. Although the PDA does protect pregnant women from discrimination, the PDA is "often interpreted narrowly and many courts still rely on the reasoning behind Gilbert."[48] Subsequently, women still face discrimination based upon their biology.

Under Title XII of the Civil Rights Act of 1964 sex discrimination was prohibited, and two types of discrimination were established. These two types of discrimination are known as disparate treatment and disparate impact cases, but quite often the plaintiff's burden of proof is too big. A "sex-plus" claim is filed when an employer treats women (or men) who have a certain characteristic differently than the opposite sex with the same characteristic. An example of this, according to Eldredge, is if an employer refuses to hire women with small children, but agrees to hire men with small children. In these situations, Eldredge writes that "people of a certain gender, considered in conjunction with other characteristics, can result in a protected group under Title VII."[49] Although the PDA was created as an amendment to Title XII, it mostly exists in theory, not practice. According to Eldredge, "providing protection for pregnancy in the abstract, but limiting protection for any of the biological manifestations of pregnancy (such as breastfeeding, medical needs, time-off), is akin to no protection at all."[50]

Finally, Eldredge concludes with the following, "Failure to recognize the unique biological needs of women will perpetuate a system that can always find some supposedly rational business reason for excluding women from the workforce or excluding coverage for medical needs specific to women. An overly narrow view of the intent and purpose of the PDA and Title VII leads to a continuation of discrimination against women based on their biology alone.[51]

A combination of litigation, legislation, and public pressure is needed to achieve the ultimate goal of Title VII: 'to assure equality of employment opportunities and to eliminate those discriminatory practices and devices which have fostered [sexually] stratified job environments to the disadvantage of [women]'."[52] Once again, there is a long road ahead of America and true gender equality.

Because of the lack of federal support for gender discrimination and the narrow interpretation of Title XII, the plaintiff must prove that a male colleague in a similar situation was treated differently than the plaintiff. This is virtually impossible when comparing a working mother to a single, male colleague, for example. Recently, however, the tide has turned ever so slightly.

In Back v. Hastings on Hudson Union Free Sch. Dist., 365 F.3d 107 (2d Cir. 2004), the court recognized (1) the intense stereotyping associated with work and family; and (2) the court allowed the case to go forward without evidence of a male comparator. This decision, according to Joan Williams, director of the Worklife Program and the Project for Attorney Retention at American University's Washington College of Law in Washington, D.C., is "stunning."[53] According to Sileo's article, Williams states that nearly two-thirds of working American women have jobs traditionally held by women, so it's tough to find a male colleague whose work can be compared to the female. Back, a school

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[47]Eldridge, M.E. (2005). The Louis Jackson National Student Writing Competition: The Quest For a Lactating Male. 80 Chicago-Kent Law Review 875.
[48] Id.
[49] Id.
[50] Id.

[51] Id.
[52] Id.
[53] Sileo, C (2004). Second Circuit Tears Down 'Maternal Walls', Vol. 40, Issue 7 Trial.

psychologist, was threatened by supervisors to choose carefully between work and home loyalties immediately after returning from maternity leave. Back, who always received excellent performance appraisals from her employer, suddenly started received unwarranted, negative performance reviews. Back was able to have the summary judgment revered, and her case was reinstated. This is a classic example of women getting pushed out of the workforce once they become mothers. Williams provided some astonishing research in this article about the perceptions of working mothers; 40% of all similar cases involved comments describing working mothers as "lazy, uncommitted, not promotable, and undependable."[54] In reality, women are doing the best they can in a country that does not provide federally mandated work-life balance legislation.

Legislative action is desperately needed to jump start changes in the workplace culture and attitude that will lessen work-life conflicts. Only with the implementation or a positive working environment can a more accepting attitude towards the needs of primary caregivers, again predominantly women, develop in the workplace. Litigation under Title VII and other regulatory schemes can, to a certain extent, assist a portion of these working mothers. It is unrealistic, however, for the majority of these working mothers to litigate these issues and is more apt to cause resentment and increased hostility to change than to result in greater acceptance of workers' family lives. The negative repercussions of litigation make it a somewhat limited force for advancing this agenda. Therefore, the federal government, along with state and local governments must create and pass favorable legislation that results in innovative, ground-breaking family friendly policies.[55]

WHAT ARE OTHER COUNTRIES DOING?

According to Sheri Todd, in her report Work-Life Balance—What Are Other Countries Doing?, work-life balance is a growing problem in several industrialized countries.[56] Data from the European Union, the United Kingdom, and Australia illustrate that many workers are dissatisfied with their working hours, experience high levels of stress, and suffer physical health problems as a result.[57]

To improve their work-life balance, many workers would prefer to work fewer and more flexible hours. Some countries, such as the U.K., New Zealand and Australia, fully endorse work-life balance as a clear policy goal. They have launched work-life balance programs that focus on promotional activities and the voluntary compliance of employers to develop and implement work-life balance practices in their organizations.[58] According to Todd, these three countries have all developed websites on work-life balance that provide newsletters, case studies, publications and links to other relevant information and legislation.[59] Work-life balance is also promoted through award programs. New Zealand and Australia, for example, both offer award programs to commend organizations that employ best practices.[60] Some governments have introduced laws to support work-life balance. The U.K. legislation to give parents the right to request flexible working arrangements is one example.[61]

These work-life balance initiatives include many resources to support employers. The U.K. and Australia have published guides to assist employers in evaluating whether work-life balance policies are well integrated into the organization's business plans and whether the programs are actually being utilized. These guides are also used to demonstrate the "bottom line" for work-life balance – helping employers to understand that work-life conflict has definite business costs associated with absenteeism and turnover rates.[62] The U.K. has programs to provide funding and counseling services so that employers can develop policies that support work-life balance.[63]

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[54] Id.
[55] Alpern, supra.

[56] Todd, supra, p.37.
[57] Id.
[58] Id., p.17.
[59] Id., p.17-18.
[60] Id., p.23.
[61] Id., p.20-22.
[62] Id.
[63] Id.

Other countries, such as the Netherlands, Denmark and Sweden, focus less on promotional activities and are more involved in developing legal and political measures that support broad social policy goals to help workers balance paid work with unpaid responsibilities. They mainly seek to improve work-life balance by addressing gender inequities in the labor force and in the division of unpaid work, particularly with respect to care giving. Paid parental leave benefits in these countries, especially the parental leave policies in Denmark and Sweden, are designed to *encourage* parents to take an active role in care giving while staying involved in the labor force. Denmark and Sweden both allow parents to work part-time and prolong their leave beyond the usual benefits period. Sweden's leave program includes an information campaign to focus the importance of the father's involvement in care giving.[64]

Efforts to give workers more control over their working hours, such as the Netherlands' *Adjustment of Hours Law* and Denmark's amendments to the *Act on Part-time Work*, also help workers to improve their work-life balance.[65] Other initiatives, such as the Netherlands' "leave savings"[66] and Sweden's sabbatical leave,[67] give employees more time to devote to care giving and to pursue other goals outside of work. Sweden has enforced a plan to cut costs associated with sick leave and to reduce the impact poor health has on work-life balance. Gender inequalities are also considered. Swedish research indicates that women are more likely to be employed in occupations with low-quality working conditions with heavier workloads than men, when considering both paid and unpaid work.[68]

Finally, several countries have adopted individual laws addressing some form of work-life balance. Examples include France's reduction of hours in the statutory work week, Belgium's introduction of time credits, and Ireland's "Work Life Balance Day."

Todd's comprehensive report reveals that governments around the world are reacting to the issue of work-life conflict via a myriad of policies and programs. However, there is no "magic" approach (i.e., one size does not fit all) to improving the work-life problem. Overall, societal values and the strength of a country's commitment to policy initiatives that are developed to improve work-life balance are two of the biggest keys to success.[69]

FINDINGS AND RECOMMENDATIONS FOR CHANGE IN THE U.S.

This paper supports the conclusion that a successful work-life balance program is a powerful management tool that can be used to meet the ever changing needs of both employers and employees. Further, the thesis support the basic premise is that "employers with workers facing difficulties at home experience the **high costs of turnover, absenteeism, and lost investments in human resources** as workers seek more accommodating arrangements or even leave the workforce altogether. Ultimately, the economy and society pay the price of this underutilization of human resources in both a lower standard of living and a reduced quality of life."[70], [71]

New policies, procedures, and legislation that improve attitudes and have a positive impact on work-life balance issues continue to be developed around the globe.[72]

Therefore, research on this issue must constantly evolve. Furthermore, work-life

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[64] Id., p.27-29.
[65] Id., 28-29.
[66] Id.
[67] Id., p.31.
[68] Id.

[69] Id., p.37.
[70] Bailyn, L., Drago, et al. (2001). Integrating Work and Family Life, A Holistic Approach, A Report of the Sloan Work-Family Policy Network, MIT, Sloan School of Management, p. 6, (emphasis in original).

[71] "Employees who have no support to work flexibly are more likely to feel overworked: 45% of those who say they cannot change their work schedules to work their preferred hours experience high levels of feeling overworked, versus 33% of those who can change their work schedules. **Moreover, almost half of employees experiencing high levels of feeling overworked say that they are somewhat or very likely to seek employment elsewhere in the coming year, versus only 30% who report low levels of feeling overworked.**" Sheri Todd, (2004). Improving Work-Life Balance-What Are Other Countries Doing?, Human Resources and Skills Development Canada (Emphasis added.)
[72] Todd, supra, p.38.

balance is a relatively young subject and there is still many relevant areas of inquiry that need to be explored.[73]

For the countries that have a federal system, a study of work-life balance programs should go past the national level.[74] In America, for example, a state's role in labor legislation can extend beyond the minimum unpaid leave requirements of FMLA.[75] Significantly, California is the first U.S. state to pass paid family and medical leave.[76] This is ground breaking legislation and other states should follow suit if the fight to improve work-life balance is to move forward.

A comparative analysis should also be performed to understand to what level, and why, U.S. policies, legislation and programs resemble, or differ from work-life balance programs from around the world.[77] Even more research should include an examination of policies developed by unions and employers. Unions play a major role in the U.S., and it is very likely that there are provisions in many collective bargaining agreements that can be insightful.[78]

"A better balance between work and life is an issue for everyone, not just those with caring responsibilities. Simple changes can make all the difference to all employees trying to balance their personal and working lives more successfully. . . Money is saved through reduced sickness absence, stress, recruitment and training costs and productivity is raised through better morale . . . it makes good business sense. It's a win win situation for all concerned and we would like more organizations to take up this issue in their workplace."—Margaret Hodge, U.K. Minister for Employment and Equal Opportunities.[79]

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[73] Id.
[74] Id.
[75] Id.
[76] Id.
[77] Id., p.39.
[78] Id.
[79] Id., p.17. t

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