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A Purpose for Every Time: The Timing and Length of the Work Week and Implications for Worker Well-Being Symposium: Redefining Work: Implications of the Four-Day Work Week - Reduced/Compressed Work Weeks: Who Wins: Who Loses

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A Purpose for Every Time? The Timing and Length of the Work Week and Implications for Worker Well-Being

LONNIE GOLDEN

Would replacing the conventional work week with a four-day option benefit economic performance and well-being? In the framework of economics, the question is whether work week reform can make some individuals better off without making other individuals worse off in ways that do not hamper other goals such as efficiency, economic growth, and equity. Social and individual welfare outcomes would depend on whether reforming the work week involves shortening the length of the work day versus rearranging the timing of work. The “public good” case for a policy that induces shorter hours of work per employee is a logical extension from evidence of the adverse effects stemming from excessively long hours of work on workers’ stress, work/life balance, and productivity per hour. A shorter work week may improve workers’ well-being if it creates more total employment opportunities; allows more free time to be used at employees’ discretion and gives them greater control over work; is accompanied by partial income replacement under certain states’ “work-sharing” programs; and is well targeted toward workers who prefer shorter hours than they are currently working. Given the heterogeneity of work hour preferences by stage of life-cycle, the most promising Fair Labor Standards Act reform proposals, from an individualistic standpoint, would be those ensuring that employers consider individual employee requests for flexibility in the number of hours or the times when the employee is required to work per day or per week.

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A Purpose for Every Time? The Timing and Length of the Work Week and Implications for Worker Well-Being

LONNIE GOLDEN*

I. INTRODUCTION

Would a four-day work week improve the performance of the economy and benefit society any more than the conventional five-day work week? To answer this, this Article addresses the following questions: Why is the work week fixed so tightly at five days?; What are the potential repercussions of flexibility that would allow a shorter work week versus a rearranged work week?; If the work week was shortened either by fewer days or shorter work days, what is the potential for more jobs to be created or preserved?; What improvements in employee well-being could be expected?; and finally, What would currently pending legislative proposals that involve regulation of work time do for the well-being of working families?

II. SHOULD THE WORK WEEK BE REARRANGED?

The answer depends largely on what criteria we adopt to evaluate the status quo versus a policy-induced change. In the field of economics, any market or policy outcome can be evaluated using four criteria: the effects on social or individual welfare, economic efficiency, social equity, and economic growth. Of course, the weight attached to each of these is entirely subjective and will be the determining factor regarding the evaluation of the policy in question. For the issue at hand, we must

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distinguish the compressed work week from the shortened work week because each criterion may be affected differently. The shortened work week may take two, perhaps quite different, forms: (1) a temporary adjustment downward during economic downturns; or (2) a more permanent or indefinite change. The desirability of any policy will hinge on whether it improves overall social welfare, not just the well-being of a few. It is common in the field of economics to judge a policy-induced reallocation of resources and its associated income as desirable as long as those who benefit from the change gain more than the losers lose. Better yet, it would enhance welfare if the induced change is "Pareto-improving," making at least one individual better off without making any other individual worse off. In theory, market forces are presumed to adjust so that no one can be made better off without making someone else equally worse off. But in practice, real world impediments such as limited knowledge and information, negative externalities, and the relative immobility of labor and its relatively lower bargaining power vis-à-vis employers, may make it possible to improve social welfare with a carefully designed policy intervention. The welfare case also derives from the nonmonetary benefits of shorter or rearranged work time, such as more time off and potentially lower stress and fatigue incurred from work.

The *efficiency* (static or instrumental, labor used to full potential capacity) case for adopting a shorter work week hinges on the extent to which it minimizes layoffs and spells of unemployment. In addition, the efficiency case for a rearranged work week in terms of its timing depends on the extent that fewer, but longer, work days will help firms minimize their costs in the long run, including those associated with running capital, such as utility expenses. Thus, there may be both a macroeconomic and microeconomic case for such policies. Similarly, to the extent that the rearranged work week shortens the duration and depth of an economic contraction, it contributes to the longer term rate of economic *growth* (long-run labor productivity improvement). Finally, the *equity* (justice/fairness in the workplace, household, and economy) case for shorter hours is built on the presumption that it more evenly distributes the potential pain from economic downturns and gains from economic expansions.

The social welfare case for a public policy that induces shorter hours of work per employee is at least somewhat a logical extension from the economic case for attempting to restrain excessively long hours of work scheduled per employee:

- (1) Excessive work hours are a cause of symptoms of "overwork"—a high risk of detrimental effects to mental or

physical health.¹ The perceived value of sacrificed time may be underestimated; both workers and managers discount the long-term risk (or benefits) to well-being and/or sustainable productivity when contemplating excessive hours.² At the individual level, with short time compensation (“STC”), the welfare loss due to income loss may be offset almost entirely by the time gained, depending on how such extra time is used.

(2) Excessive work hours have negative externalities, such as public health risks, and crowding out of time that has a beneficial social and economic purpose as human and social capital development, such as time for parenting, civic activity, and studying.³ For example, the leading reason students identify that leads them to drop out of college is the time pressure, stress, and student performance reduction due to having to work (sometimes full-time hours).⁴

(3) There is imperfect functioning in labor markets, with overemployment and underemployment existing simultaneously in the same industry or occupation, if not often in the same enterprise or organization.⁵ Unfortunately,

¹ See ELLEN GALINSKY ET AL., *FAMILIES & WORK INST., OVERWORK IN AMERICA: WHEN THE WAY WE WORK BECOMES TOO MUCH, EXECUTIVE SUMMARY 3* (2005) (finding that workers who were overworked were more likely to experience higher levels of stress and more apt to suffer from clinical depression and overall poor health); Francis Green, *It's Been a Hard Day's Night: The Concentration and Intensification of Work in Late Twentieth-Century Britain*, 39 *BRIT. J. INDUS. REL.* 53, 53–55 (2001) (discussing the effect of longer work hours and work pressure on mental and physical health).

² See Lonnie Golden, *Flexible Daily Work Schedules in U.S. Jobs: Formal Introductions Needed?* 48 *INDUS. REL.* 27, 29–30 (2009) (noting positive results for both the employer and the employee when employees are offered more flexible schedules); Chung-Ping A. Loh, *Physical Inactivity and Working Hour Inflexibility: Evidence from a U.S. Sample of Older Men*, 7 *REV. ECON. HOUSEHOLD* 257, 258 (2009) (stating that lack of time due to working hour restrictions is one of the major reasons behind the lack of exercise by many individuals); see also generally Edward Shepard & Thomas Clifton, *Are Longer Hours Reducing Productivity in Manufacturing?*, 21 *INT'L J. MANPOWER* 540 (2000).

³ See Claire C. Caruso, *Possible Broad Impacts of Long Work Hours*, 44 *INDUS. HEALTH* 531, 533–34 (2006) (summarizing research finding that long work hours may lead to public health concerns if fatigued workers make errors, and that long hours may lead to “reduced participation in civic organizations, voting, and church attendance”); see also generally *THE LONG WORK HOURS CULTURE: CAUSES, CONSEQUENCES AND CHOICES* (Ronald J. Burke & Cary L. Cooper eds., 2008) (exploring the various motives for working long hours and the varied consequences of work hours on individual, family, and organizational health); *WORK, FAMILY, HEALTH, AND WELL-BEING* (Suzanne M. Bianchi et al. eds., 2005) (surveying the effects of long work hours and scheduling mismatches on the quality of family life, child development, communities, and workplaces).

⁴ *PUBLIC AGENDA, WITH THEIR WHOLE LIVES AHEAD OF THEM: MYTHS AND REALITIES ABOUT WHY SO MANY STUDENTS FAIL TO FINISH COLLEGE 5–7* (2009).

⁵ See Patricia E. van Echtelt et al., *The New Lumpiness of Work: Explaining the Mismatch Between Actual and Preferred Working Hours*, 20 *WORK, EMP. & SOC'Y* 493, 502 (2006) (showing that overemployment is increasingly the product of “post-Fordist” job design, which combines high

such mismatches by preferences do not tend to resolve themselves in the labor market over time.⁶ Rather, workers tend to quit their jobs to find a better match regarding hours, leading to extensive costs involved with mobility and loss of specific human capital for workers and employers.⁷ When preferences regarding the duration of working time are disparate in a labor market, the equilibrium will produce too few jobs with relatively short hours to match workers' preferences.⁸

(4) There is malfunctioning at the macroeconomic level resulting in unemployment (e.g., the current recession), some of which could be curbed by institutional innovations that forestall or prevent layoffs from occurring in the first place (e.g., STC).⁹

The establishment of an overtime pay premium in the United States in 1938 was grounded in the supposition that this would curb the quantity of employers' hours of extra labor demanded per week, per employee.¹⁰ The

production expectations with job autonomy, and is less due to supervisor imposition of longer hours than worker-preferred hours).

⁶ See, e.g., Dominique Anxo et al., *Introduction: Working Time in Industrialized Countries*, in WORKING TIME AND WORKERS' PREFERENCES IN INDUSTRIALIZED COUNTRIES: FINDING THE BALANCE, at 1, 5–6 (Jon C. Messenger ed., 2004) (describing the need to obtain more data about "workers' needs and preferences"); Lucie Davoine & Dominique Méda, *Work More To Earn More? The Mixed Feelings of Europeans*, 148 INT'L LAB. REV. 15, 31–34, 42 (2009) (analyzing possible factors that may affect an employee's working hours preferences); Steffen Otterbach, *Mismatches Between Actual and Preferred Work Time: Empirical Evidence of Hours Constraints in 21 Countries*, J. CONSUMER POL'Y 1–2 (2009) (discussing various work hours constraints); van Echtelt et al., *supra* note 5, at 494–95 (discussing restrictions on employees in their choice of working hours).

⁷ See Kerwin Kofi Charles & Philip Decicca, *Hours Flexibility and Retirement*, 45 ECON. INQUIRY 251, 267 (2007) (stating that hours constraints may force workers to partially or fully retire); Sarah Senesky, *Testing the Intertemporal Labor Supply Model: Are Jobs Important?*, 12 LAB. ECON. 749, 751–53, 770–71 (2005) (finding that "lifetime utility" considerations fall behind an employee's decision to transition to a new employer to find a better match for his or her preferred number of hours).

⁸ James B. Rebitzer & Lowell J. Taylor, *Do Labor Markets Provide Enough Short-Hour Jobs? An Analysis of Work Hours and Work Incentives*, 33 ECON. INQUIRY 257, 258 (1995).

⁹ See WAYNE VROMAN & VERA BRUSENTSEV, URBAN INST., SHORT-TIME COMPENSATION AS A POLICY TO STABILIZE EMPLOYMENT 1 (2009), available at http://www.urban.org/uploadedpdf/411983_stabilize_employment.pdf (advocating for short-time compensation, in which "labor hours are reduced in line with the change in output, but the decrease in hours worked is spread among a larger pool of employees than under layoffs," which may help preserve existing jobs and reduce further losses); Michael Huberman & Chris Minns, *The Times They Are Not Changin': Days and Hours of Work in Old and New Worlds, 1870–2000*, 44 EXPLORATIONS IN ECON. HIST. 538, 563 (2007) (noting the difficulty in determining the effect of various institutions, such as tax codes and welfare policies, across national workforces).

¹⁰ See MARC LINDER, THE AUTOCRATICALLY FLEXIBLE WORKPLACE: A HISTORY OF OVERTIME REGULATION IN THE UNITED STATES 134 (2002) (discussing how the FLSA overtime provisions developed out of state laws that were passed to restrain the work week and spread employment, eventually settling on the use of a financial disincentive over criminal sanction to achieve the intended result); see also Stephen J. Trejo, *Does the Statutory Overtime Premium Discourage Long*

social welfare case for the overtime law rests on the assumption that additional income, which the regulation denied those workers who were already working at least forty hours per week, would create less net welfare loss than the welfare gain if the same hours and income went to those whose hours were short or zero. That is, instead of scheduling ten hours of overtime per week for four employees, employers would create a new job or move two employees from twenty hours per week to forty if they preferred a full-time position. Indeed, those who worked precisely forty hours were no more likely to feel underemployed than those working fewer than forty hours. This argument is supported by the fact that workers with long hours, even those paid by the hour and likely to qualify for premium overtime pay, were more likely to feel “overemployed”—that is, a greater willingness than those with fewer hours to forego income in order to shorten their hours of work.¹¹ The overtime pay premium in the United States apparently is not much of a “binding constraint” that is unfairly denying workers the opportunity to work more hours to earn more income.

To establish standards across all United Nations member countries, the International Labor Organization developed a subset of policy suggestions that promote “decent working time,” as part of its “Decent Work” initiative.¹² Its five separate, but potentially overlapping, items can be categorized as arrangements that would: (1) preserve worker health and workplace safety; (2) enhance labor productivity; (3) be “family-friendly”; (4) facilitate workers’ choice and influence over their own working hours; and (5) promote gender equality.¹³ These are broad goals, often reinforcing but not necessarily compatible (e.g., more productive, but more family-friendly).

III. IS THERE AN IDEAL WORK WEEK DURATION AND/OR ARRANGEMENT?

At the individual and household level, there may in fact be an ideal work week; however, this is not necessarily the case across all workers at the national level, nor even for some individuals as they progress through different stages of the life cycle. Every country in the world has faced this question and tackled it somewhat differently. When the Fair Labor

Workweeks?, INDUS. LAB. REL. REV., Apr. 2003, at 530 (providing evidence that expanded coverage of the overtime pay premium does not actually suppress use of overtime hours in the long run, presumably because employers eventually adjust straight time wage rates downward).

¹¹ Lonnie Golden & Tesfayi Gebreselassie, *Overemployment Mismatches: The Preference for Fewer Work Hours*, MONTHLY LAB. REV., Apr. 2007, at 18, 32.

¹² See International Labor Organization, Decent Work for All, http://www.ilo.org/global/About_the_ILO/Mainpillars/WhatIsDecentWork/lang--en/index.htm (last visited Apr. 19, 2010); see also Jean-Yves Boulin et al., *Decent Working Time in Industrialized Countries: Issues, Scopes and Paradoxes*, in DECENT WORKING TIME: NEW TRENDS, NEW ISSUES, at 13, 13–40 (Jean-Yves Boulin et al. eds., 2006).

¹³ See Jon C. Messenger, *Towards Decent Working Time*, in DECENT WORKING TIME, *supra* note 12, at 419, 419–44.

Standards Act (“FLSA”) was passed over sixty years ago, most jobs were full-time and held by the household’s primary “breadwinner,” making it easy to establish a standard schedule that was based on a five-day work week with a predictable, regular eight-hour work day and fixed daily start and end times. By 2004, only twenty-three percent of households fit the traditional breadwinner/homemaker married couple household model,¹⁴ barely half of the workforce was on a traditional 8:00/9:00 a.m. to 5:00 p.m. daily schedule, while as many as sixteen percent of the workers could not, when asked, specify the typical end time of their work day.¹⁵

In sum, if there is evidence that a four-day work week would heighten individual well-being, increase job opportunities, or increase productivity, then it is a laudable goal. Thus, this Article examines whether temporary work sharing, a reduction in the standard work week, and/or more control over the timing of work hours creates more employment opportunities, greater labor productivity per hour, and the potential for gains in worker well-being. While there is not necessarily an “ideal” or “optimal” one-size-fits-all work week for everybody at every point in time, there may be a “goldilocks” work week—one that is not too long, not too short, and that satisfies both the employer’s interest in maximizing and improving productivity and the employee’s interest in maximizing well-being. It must be recognized that employers have a long-term interest in their employees’ well-being, too, to attend to the long-run cost savings involved with improved retention and recruiting when their employees experience less stress or life satisfaction (i.e., happiness).

Individuals have a keen interest in time, of which there are at least four facets.¹⁶ One facet of time is how it is textured, which may be a cultural perception (e.g., linear versus cyclical or seasonal). Most pertinent here is the clearly limited quantity of time. Within a given quantity of time, individuals try to coordinate time, to create rhythms, patterns, or regularities. For those employed, particularly those with parenting responsibilities, there is an increased perception of a chronic shortage of non-work time.¹⁷ Another facet of time is intensification or pace. One example is the experience of “speed up,” which may occur in both work

¹⁴ TOM W. SMITH, NAT’L OPINION RESEARCH CTR., UNIV. CHI., CHANGES IN FAMILY STRUCTURE, FAMILY VALUES, AND POLITICS, 1972–2006, at 29 tbl.9 (2007), available at <http://publicdata.norc.org:41000/gss/documents/SCRT/SC53%20Changes%20in%20Family%20Structure,%20Family%20Values,%20and%20Politics,%201972-2006.pdf>.

¹⁵ News Release, Bureau of Labor Statistics, U.S. Dep’t of Labor, Workers on Flexible and Shift Schedules in May 2004, tbl.7 (July 1, 2005), available at <http://www.bls.gov/news.release/pdf/flex.pdf>. This figure is about triple the proportion that reported this when it was first measured in 1985. See generally Earl F. Mellor, *Shift Work and Flexitime: How Prevalent Are They?*, MONTHLY LAB. REV., Nov. 1986, at 14.

¹⁶ TODD D. RAKOFF, A TIME FOR EVERY PURPOSE: LAW AND THE BALANCE OF LIFE 2–9 (2002).

¹⁷ JERRY A. JACOBS & KATHLEEN GERSON, THE TIME DIVIDE: WORK, FAMILY, AND GENDER INEQUALITY 28–29 (2004).

and non-work spheres. This includes “harried leisure” time for consumers who are fortunate enough to enjoy growing affluence but with limited time.¹⁸ A final facet is the experience of time deepening, such as attempting ever more tasks or activities within a given unit of time.¹⁹

In order to more explicitly consider the importance of timing and coordination issues regarding working hours, the conventional economic model of optimal labor supply must be augmented. Workers have an interest in the timing of work. Increased flexibility—i.e., any rearrangement that provides individuals more decisional latitude, discretion, or autonomy in scheduling work across a day or week—gained in a given job allows workers to better coordinate the timing of their work and non-work activities.

Even mainstream economic models recognize that the “marginal utility of income” depends on an individual’s health or injury status, just as it does on the health and human capital development of their own children.²⁰ Thus, having the flexibility to alter the timing of a given number of work hours, such as compressing it into four rather than five days, may produce a higher level of well-being for a worker who prefers or adapts positively to such a rearrangement.²¹ Thus, the worker’s well-being is higher than if his or her job produced the same level of income and non-work, free or leisure time—the traditional two items in the standard “utility function” in the economic approach. From the perspective of labor supply, whether well-being increases following a policy-induced shorter (or rearranged) work week or work day depends on what happens to the components of utility—the associated changes in income, leisure time, and ability to control the timing of both work and leisure time.

The above discussion neglects the labor demand perspective and focuses solely on labor suppliers. That is why flexible work arrangements are not available to all employees who might benefit from arrangements such as compressed work weeks, flexible start and end times, and work-at-home opportunities. Shift lengths that are long and/or fixed may serve to minimize average labor costs.²² High and/or growing “fixed costs” of employment, such as hiring and training costs, insurance costs fixed per employee, paid leave times, and payroll tax contributions, create an incentive for employers to extend hours of work per employee rather than

¹⁸ STAFFAN BURENSTAM LINDER, *THE HARRIED LEISURE CLASS 10–12* (1970).

¹⁹ See LOTTE BAILYN ET AL., SLOAN WORK-FAMILY POLICY NETWORK, *INTEGRATING WORK AND FAMILY LIFE: A HOLISTIC APPROACH 5–6* (2001), available at <http://web.mit.edu/workplacecenter/docs/WorkFamily.pdf>.

²⁰ E.g., Arleen A. Leibowitz, *An Economic Perspective on Work, Family, and Well-Being*, in *WORK, FAMILY, HEALTH, AND WELL-BEING*, *supra* note 3, at 187, 188–91.

²¹ See Harry J. Holzer, *Work and Family Life: The Perspective of Employers*, in *WORK, FAMILY, HEALTH, AND WELL-BEING*, *supra* note 3, at 83, 83 (noting that many individuals and families prefer the family-related benefits enabled by flexible work schedules).

²² See *id.* at 84–85.

hiring new employees during expansion times, and use layoffs rather than work-sharing practices during downturns.²³ In theory, employers may need to implement compensating wage differentials for workers who receive flexibility in scheduling, or any family- or worker-friendly benefits; however, the evidence is mixed as to whether the labor market produces them. There may be up to a twenty percent wage reduction,²⁴ or even a positive association with wages to the extent there are positive effects on worker productivity.²⁵

Compressed work weeks and, to some extent, reduced work week options, are both employee benefits (i.e., “job amenities” or perks) that reduce “fixed costs of working,” or time-based stresses balancing work and family life.²⁶ This potentially enhances workers’ welfare and serves as a productivity-enhancing tool for management of human resources. Thus, they involve for employers a comparison of the costs of adopting versus the costs of not adopting them. The optimal level of such work time flexibility provided by employers will depend on the cost estimates of firms regarding the managerial or administrative implementation or transition, monitoring, and potential abuse costs associated with such practices.²⁷ It also depends on an employer’s time horizon, since most of the costs may occur up front or in the short run, while most of the cost savings accrue over the long run (e.g., reductions in turnover, absenteeism, tardiness, unauthorized sick time) and any sustainable gains are uncertain.²⁸ Indeed, flexible work practices such as compressed or temporarily reduced work weeks might boost employee productivity indirectly *because* of their welfare-enhancing effects: these practices allow employees to better coordinate their work activity with other activities to avoid productivity-impeding time conflicts (e.g., school, daycare, traffic congestion, natural circadian rhythms), as well as fostering higher job satisfaction among employees in the long run. Moreover, employers may choose not to implement such practices if: (1) they overestimate the true costs of the above; (2) they underestimate the true costs savings or the potential wage rate reductions they would eventually receive by offering

²³ See *id.* at 86–87.

²⁴ John S. Heywood et al., *The Implicit Wage Costs of Family Friendly Work Practices*, 59 OXFORD ECON. PAPERS 275, 291 (2007).

²⁵ Kim A. Weeden, *Is There a Flexiglass Ceiling? Flexible Work Arrangements and Wages in the United States*, 34 SOC. SCI. RES. 454, 461 (2005) (identifying popular reasoning that flexible work schedules enhance employee productivity and wages).

²⁶ See *id.* at 476 (concluding that “employees who do some or all of their work at home are neither better nor worse off than their fixed-location counterparts, but employees who work flexible schedules enjoy wage premiums relative to their fixed-schedule employees”).

²⁷ Morris Altman & Lonnie Golden, *The Economics of Flexible Work Scheduling: Theoretical Advances and Contemporary Paradoxes*, in WORKPLACE TEMPORALITIES, at 313, 321–22 (Beth A. Rubin ed., 2007).

²⁸ See *id.* at 320 (noting the heterogeneous nature of costs and benefits for the employer as compared to the employee).

flexible work options as a valued non-wage benefit to employees; (3) they consider their own “utility” more strongly than that of their employees in maintaining the managerial discretion to selectively allocate flexibility; or (4) they withhold such benefits when their bargaining leverage is relatively greater than their employees’ leverage. For these reasons, and the properties of flexibility as an underprovided but necessary “public good”—having spillover benefits beyond just the firm and worker, on to the health of families, communities, and economic and ecological sustainability—there is a compelling case to be made that their adoption must be pressed by the public sector or government and not just private employers based even on long-term self-interest alone. Indeed, the conditions conducive to work week flexibility are ripe for adoption in some occupations more than others. Generally, exempt jobs (often salaried) feature far more work day flexibility than nonexempt jobs.²⁹ For example, lawyers and judges are more than twice as likely as the average employee to be allowed to change their daily start and end times for work.³⁰

In the latest International Social Survey Programme module on “Work Orientations,” those employed were asked to describe how their start and finish times of working hours were decided. In 2005, in the United States, almost half of all employees (45%) had no say in the decision, and only 15% felt they were free to decide their own work schedules.³¹ The General Social Survey in 2006, “Quality of Working Life” module, found that only 20% of the workforce felt that flexible hours in a job is *not* an important feature.³² Moreover, the survey found that about 47% of men and 37% of women who received salaries were able to “often” change their daily work schedule. This is in contrast to only about 20% of both men and women who were allowed to do so in hourly paid jobs. The proportions who were “never” allowed to change their schedules were about 40% for salaried workers and 24% for the hourly paid workforce.³³ Thus, the ability of workers to influence the timing of their work in their daily schedules is currently a glass at least half empty, and far more than half for the hourly, relatively lower paid workforce.

Is there an optimal level of hours per week? Some analysts have found that there is a strong and quite homogeneous preference among men for a standard full-time work week. Among women, however, the preference is quite heterogeneous. It varies considerably by age (i.e., life-cycle stage)

²⁹ See Golden, *supra* note 2, at 45.

³⁰ *Id.* at app. 53–54.

³¹ INTERNATIONAL SOCIAL SURVEY PROGRAMME, WORK ORIENTATIONS III (2005). Data on file with author.

³² GENERAL SOCIAL SURVEY, MODULE ON QUALITY OF WORKING LIFE (2006). Data on file with author.

³³ *Id.*

and their share of household work.³⁴ Among households with dual earners in salaried positions, there is a strong convergence toward sixty hours of work among intact households with children. When both parents work up to but, do not exceed, sixty hours per week combined, these sixty-hour couples report improved well-being and less work/family conflict.³⁵ In Australia, women in dual-earner households prefer to work just under three-quarters as long as their partner works—twenty-eight and forty hours, respectively, in the average household.³⁶ This is not too dissimilar from the “one and a half jobs” per household model attributed to the typical labor force participation of households in the Netherlands.³⁷

IV. THE CASE OF WORK-SHARING

Work-sharing is considered to be any type of policy-induced, downward adjustment of working time. Shortened work weeks might be intended to be permanent or temporary arrangements. The former have been popular with certain European governments and labor unions, either as a reward in the form of leisure time for productivity gains achieved or as a potential means for spreading employment opportunities, particularly to those who have faced difficulty finding employment.³⁸ A key goal of both arrangements is a higher employment level—the first, by counteracting the structural issues, and the second, by combatting the cyclical forces that restrain job creation or encourage job destruction and job security among the employed. The temporary types of work-sharing may be promoted through government programs designed for the purpose of preventing or postponing planned layoffs by employers, thus preserving employment, typically during recessions. The STC program in the unemployment insurance system tends to benefit employers in the long run by saving them burdensome training and hiring expenses when a downturn eventually ends. In North America, Canada and seventeen U.S. states have adopted

³⁴ See E. Jeffrey Hill et al., *Researching the 60-Hour Dual-Earner Workweek: An Alternative to the “Opt-Out Revolution,”* 49 AM. BEHAV. SCIENTIST 1184, 1185–86 (2006) (observing that many women choose to work part-time or leave their careers entirely once they become mothers).

³⁵ *Id.* at 1193.

³⁶ See Brigid van Wanrooy, *A Desire for 9 to 5: Australians’ Preference for a Standard Working Week*, 17 LAB. & INDUSTRY 71, 85 (2007). Generally, men prefer to work about ten more hours per week than women. See Jeremy Reynolds & Lydia Aletraris, *Pursuing Preferences: The Creation and Resolution of Work Hour Mismatches*, 71 AM. SOC. REV. 618, 626 (2006).

³⁷ See Jelle Visser, *The First Part-Time Economy in the World: A Model To Be Followed?*, 12 J. EUR. SOC. POL’Y 23, 24–26 (2002); see also generally Janneke Plantenga, *Combining Work and Care in the Polder Model: An Assessment of the Dutch Part-Time Strategy*, 22 CRITICAL SOC. POL’Y 53 (2002).

³⁸ See William K. Roche et al., *Working Time and Employment: A Review of International Evidence*, 135 INT’L LAB. REV. 129, 130–31 (1996) (describing the renewed interest in work-sharing in Europe as reflected in the mandatory adoption of a Working Time Directive by the European Union, which seeks to redistribute the total volume of work in order to increase employment opportunities for those seeking work).

STC as part of their unemployment insurance programs. They vary in size and number of participating workers; number of participating companies; amounts of wage subsidies and/or tax incentives offered to promote work-sharing; links between work-sharing and training/retraining activities for affected workers; specific time limits on the availability of work-sharing measures; and the total financial outlays associated with the work-sharing program. In the STC program, employers must choose to register with the unemployment insurance system and announce a potential reduction in workforce in an affected work unit. Employees can enjoy replacement of lost earnings, typically based on half of the overall percentage of reduced hours within the work unit, for up to twenty-six weeks while the reduction is still in force.³⁹

The main value of STC might be more as a “defensive measure,” preventing layoffs that would lead to a long spell of unemployment for a worker. The potentially positive effects of STC are for the macroeconomy, employers, and workers—unemployed and employed alike. It also may act as an automatic stabilizer to keep consumption spending from going into a free fall. Under certain circumstances, work-sharing may promote the creation of new jobs and thus promote a stronger or more hastened recovery. Perhaps most importantly, and most often neglected, the reduction in daily hours or number of days at work per week grants those who remain employed additional time off—time that they can devote to other uses ordinarily not attended to.

Is the ideal work week shorter than the current standard? When it comes to permanent reductions in work weeks, there are many possible filters—with both direct and indirect effects—which exist between transforming a reduction in standard hours into eventual employment creation effects. The potentially positive direct effect is that employers will be compelled to create more jobs to recoup potential drops in output. This occurs to the extent that hours and employment are substitutable in total labor input. Employment effects at the macroeconomic level occur only if aggregate demand (i.e., total spending) is not reduced, but rather shifted in composition. This depends on adding more employees who are subject to “diminishing returns” and daily “set-up costs” for employers being relatively low. This would mitigate the potentially negative effects on employment if overall output was reduced. To minimize direct negative effects on output due to restricting work hours, evidence suggests that shortening work days is superior to reducing the number of days, given the fixed costs of work for employers.⁴⁰

³⁹ See VROMAN & BRUSENTSEV, *supra* note 9, at 1–3, 8, 17.

⁴⁰ DANIEL S. HAMERMESH, *WORKDAYS, WORKHOURS AND WORK SCHEDULES: EVIDENCE FOR THE UNITED STATES AND GERMANY* 141 (1996).

There are several indirect effects that act as potential “offsets” to the translation of reduced hours into more jobs.⁴¹ The clearest offset is the rise in per-unit labor costs that employers will incur if per-hour pay is not reduced proportionately, which creates adverse “scale effects” at the individual firm level. The consequent rise in average costs of production, if it cannot be passed along to consumers in the form of higher prices, would reduce the total demand for labor, hours, and employees.⁴² If the rise in costs is passed along to consumers, then it would ultimately reduce demand for output, and thus firms would need fewer employees. Similarly, if the firm’s capital capacity becomes more underutilized, its costs would escalate. Moreover, as the ratio of *fixed* costs of labor per hour worked rises, this incentivizes longer scheduled hours and “labor hoarding” rather than new job creation. Even with standard hours reduced, firms might rationally choose to keep the duration of hours steady. This is the “overtime leakage effect,” because some of the hours of work per employee now become “overtime” hours. If these hours are paid, particularly at premium overtime pay rates, this in turn might also increase unit labor costs. Alternatively, if the additional hours are not paid for, they would result in a larger workload for salaried workers.⁴³

Another factor is referred to as the “productivity offset.” Firms may respond to an externally-imposed reduction in the standard work week by rearranging or reorganizing work hours, perhaps across the year (e.g., “annualization”) or quickening the expected pace of workers (i.e., increasing the average intensity of an hour of work). Also, some workers previously working long hours may have suffered from fatigue at the end of their daily shifts or work week. These responses tend to foster a higher rate of worker productivity per hour, which can circumvent the need to hire more employees to recoup lost output. The most stubborn limit on how much employment will gain—in other words, how much unemployment can be reduced—is the extent to which there is a mismatch or difference in the skills between the unemployed and the employed.⁴⁴ Indeed, reducing hours can actually backfire to the extent skilled and unskilled jobs are complementary and a work week reduction leads to less use of both physical and human capital.⁴⁵ If most of the unemployed are unskilled, and skilled and unskilled labor are complements, then a reduction in work

⁴¹ See Jennifer Hunt, *Hours Reductions as Work-Sharing*, 1998 BROOKINGS PAPERS ON ECON. ACTIVITY 339, 340–41.

⁴² *Id.* at 340.

⁴³ See *id.* at 353; Roche et al., *supra* note 38, at 140.

⁴⁴ Richard B. Freeman, *Work-Sharing to Full Employment: Serious Option or Populist Fallacy?*, in *GENERATING JOBS: HOW TO INCREASE DEMAND FOR LESS-SKILLED WORKERS*, at 195, 215–16 (Richard B. Freeman & Peter Gottschalk eds., 1998).

⁴⁵ *Id.* at 216.

time of skilled labor actually decreases the demand for the unskilled unemployed.

In sum, the size of the subsequent employment effects of reduced work hours are likely to be positive, but may be substantially suppressed if they are followed by a rise in the level of per unit (average) labor cost per hour or a rise in the ratio of fixed relative to variable labor costs. The amount of employment created also may be limited by any subsequent increase in overtime hours (beyond the reduced standard work week) used by employers; a rise in average labor productivity per hour; a reduced rate of capital capacity utilization; or an inadequacy of qualified labor available for the new positions created. The overall net effect on employment depends on the extent to which the potential direct effect of increasing employment, to make up for the hours reduction, is offset by these several potential indirect effects that obviate the need for new hiring.

This, however, may not be the end of the story. Work-sharing and other forms of hours reduction should not be judged to be of limited value because they trigger a boost in average labor or organizational productivity. While a standard hours reduction may dampen productivity per *worker*, if it indeed leads to higher average productivity per *hour* of work, this would actually reduce, not increase, per unit labor cost.⁴⁶ The potential gain in the rate of labor productivity per hour makes labor a relatively more attractive resource for employers to retain or hire in the long run and help counter a rise in costs. This enhances rather than stifles the perhaps small or negligible immediate job creation effects. In addition, productivity offsets may exist only in the short run and evaporate over the long term. Furthermore, the productivity offset may not be symmetric at every level of hours. It tends to be smaller if average hours worked are already under forty. If unit labor cost increases can be avoided, for example, via rationalization or intensification of work or increased capital capacity utilization, a reduction in hours may actually somewhat promote the goal of greater efficiency, welfare, and, quite likely, equity, all without harming economic growth.⁴⁷ Unit labor cost increases can also be avoided in cases where the reduced hours are accompanied by fixed hourly wage rates, such as in the case of state-sponsored work-sharing measures and/or by reinforcing government subsidies for hiring, such as reduced payroll taxes (as undertaken in France).⁴⁸ To reduce the potentially adverse effect on labor cost of higher overtime hours, changing the underlying economics of the employers' hours decision—for example, reducing the ratio of fixed

⁴⁶ Gerhard Bosch & Steffen Lehndorff, *Working-Time Reduction and Employment: Experiences in Europe and Economic Policy Recommendations*, 25 CAMBRIDGE J. ECON. 209, 212 (2001).

⁴⁷ *Id.*

⁴⁸ *Id.* at 235, 238; Anders Hayden, *France's 35-Hour Week: Attack on Business? Win-Win Reform? Or Betrayal of Disadvantaged Workers?*, 34 POL. & SOC'Y 503, 508 (2006).

to variable costs of labor by pro-rating the costs of employee benefits—might induce a replacement of jobs for hours of existing employees. In the specific case of a work week compressed down to four days, states such as Utah have experienced a surprising, but fiscally welcome, reduction of paid overtime hours, saving the state millions of dollars.⁴⁹

Potentially adverse effects on employment also can be avoided if shortening shift lengths induces some employers to add new shifts and the unemployed are trained in the skills needed to get hired by firms whose hours per worker have been shortened.⁵⁰ In the long term, there is not a complete immobility between skill levels and occupations. Mobility or upgrading may indeed occur in actuality at the workplace level, under certain conditions, particularly during an eventual period of macroeconomic upswing. Collectively bargained programs have had more success in inducing employment gains than those adopted as a national policy.⁵¹ The actual effects of work-sharing on employment are difficult to ascertain empirically because some of the effects occur through job retention rather than job creation.⁵² Indeed, job maintenance may be the predominant and most valuable contribution of work-sharing.

While it may not profoundly reduce unemployment, the social and economic benefits of a reduction in work hours may occur through other channels, benefiting individuals and the macroeconomy. For example, work-sharing, even when compulsory, grants workers time off from work that they likely did not have before, and which they might well value. A survey conducted among 1500 employees facing compulsory 5% reductions in work hours and earnings presents illuminating results.⁵³ On average, the workers spent 45% of their new non-work time on leisure activities such as resting, reading, and hobbies, and 43% of their time on other work such as housework, childcare, and nonmarket chores. The amount of time spent on other work rose with the presence of children, especially for women. About 12% of their newly free time was spent on uncompensated work for the company, which was positively correlated to income, education level, and younger ages. The employee reaction to the program was favorable, but far more so for married women than married men. Workers who spent more of their free time working without pay at the company, or in home production, were much less positive about the program than those who spent more time on leisure activities. The

⁴⁹ Jennifer Senior, *The Four-Day Workweek: Getting Over Overtime*, N.Y. MAG., Nov. 9, 2009.

⁵⁰ See Bosch & Lehndorff, *supra* note 46, at 231 (noting that Germany did not have a problem with skilled labor when it reduced working hours because it had a large pool of skilled labor).

⁵¹ *Id.* at 220.

⁵² Paul Blyton & Rainer Trinczek, *Renewed Interest in Work-Sharing? Assessing Recent Developments in Germany*, 28 INDUS. REL. J. 3, 5 (1997).

⁵³ Victor R. Fuchs & Joyce P. Jacobsen, *Employee Response to Compulsory Short-Time Work*, 30 INDUS. REL. 501, 502–05, 508, 510–11 (1991).

findings are consistent with recent evidence that men who do not work spend more time than their employed counterparts on leisure activities (e.g., watching television), but also spend somewhat more time sleeping and doing household production work.⁵⁴ The findings are also consistent with the changes in leisure time found in France following the reduction in the standard work week from thirty-nine to thirty-five hours.⁵⁵ The individual welfare change attributed to hours reductions such as work-sharing depends on the degree of income lost versus uses of time gained. Those workers whose perceived aversion to loss of income is lower than their aversion to loss of time—and whose perceived probability of being laid off is high—may wind up with an increase in well-being. For others, however, who do not meet this criterion, their well-being may decrease.

The net welfare gain might be greatest if the hours reductions were targeted toward mismatches in the labor market, specifically toward overemployment, which occurs when individuals express a willingness to incur reduced income in order to attain shorter working hours. Some regard overemployment as a more potentially damaging mismatch to employers and the economy than underemployment (i.e., working fewer than one's preferred number of hours and earning less income). Overemployment can be mitigated only through tardiness and absenteeism, while underemployment can be mitigated through secondary job holding or unpaid work during the unpreferred non-work time. Those who would prefer a reduction in hours tend to be workers with the longest hours.

According to an analysis of U.S. Current Population Survey data from 2001 (the last time a relevant question was asked), the overemployment rate in the workforce was 5.6% among those working precisely 40 hours, but 8.1% among those reporting 41 to 48 hours, 9.6% among those working 49 to 59 hours, and 13.3% among those working 60 hours or more. Overemployment is also almost double among workers who usually work full-time rather than part-time. Also, women are almost twice as likely to feel overemployed than men: 8.6% versus 5.4%, respectively.⁵⁶ This reinforces the results of a recent poll finding that between 1997 and 2007, working mothers preferred converging toward part-time work at the expense of both full-time work and not working.⁵⁷ However, those working the standard forty-hour work week have, on average, the least influence over their own schedule, but long-hours and short-hours workers

⁵⁴ Jay Stewart, *The Time Use of Nonworking Men*, in *HOW DO WE SPEND OUR TIME? EVIDENCE FROM THE AMERICAN TIME USE SURVEY*, at 109, 121–22 (Jean Kimmel ed., 2008).

⁵⁵ Jeanne Fagnani & Marie-Thérèse Letablier, *Work and Family Life Balance: The Impact of the 35-Hour Laws in France*, 18 *WORK, EMP. & SOC'Y* 551, 552–53, 565 (2004) (discussing how parents felt the reduced work week enabled them to spend more time with their families).

⁵⁶ Golden & Gebreselassie, *supra* note 11, at 18, 23–24, 26.

⁵⁷ PEW RESEARCH CTR., *FROM 1997 TO 2007: FEWER MOTHERS PREFER FULL-TIME WORK* 1 (2007).

appear to have more scheduling flexibility.⁵⁸ Thus, the opportunity for a compressed work week might be welcomed most by those who work standard forty-hour work weeks, which comprises a full half of the overall workforce. Through an analysis of the 2006 U.S. General Social Survey, we can identify some of the specific (i.e., self-reported) well-being outcomes for workers who have some control over the timing of their work activity—having the flexibility to set or influence their own work schedules.⁵⁹ The two specific indicators examined here are work stress and happiness among the employed.

Working longer hours, working extra hours at least one day per month, and working a full-time job all increase work stress. Thus, even controlling for the difference between full-time and part-time employment, longer work hours are associated with higher stress. In contrast, the ability to take time off during the day and the ability to set or change start and end times of work are associated with significantly lower levels of work stress. Working longer hours, however, does not impinge on levels of self-reported happiness. In fact, working extra days is somewhat associated with higher happiness, although this might reflect simultaneity, such as happier workers being more willing and able to put in extra work. Nevertheless, when workers have this flexibility, it significantly raises their happiness.

V. CONCLUSION: POLICY OPTIONS—COMPENSATORY TIME FOR OVERTIME, LEGAL RIGHTS TO REQUEST AND REFUSE

Laws and regulations can increase the chances of improving social welfare and individual welfare outcomes by reforming the work week in ways that do not hamper other economic goals such as efficiency, growth, and equity. Can we promote “Pareto-improving” reallocations of work time such that at least one individual is made better off without making any other individual worse off? The most promising approach from this more individualistic standpoint would be adopting proposed legislation that would ensure employers consider individual employee requests for flexible work and conditions within two weeks of such a request.⁶⁰ This legislation would specifically authorize an employee to request from an employer a change in the terms or conditions of the employee’s employment if the request relates to: (1) the number of hours the employee is required to work; (2) the times when the employee is required to work, including compressed work weeks; or (3) where the employee is required to work. It would be unlawful for an employer to interfere with any rights provided to

⁵⁸ Golden, *supra* note 2, at 34.

⁵⁹ See GENERAL SOCIAL SURVEY, *supra* note 32.

⁶⁰ *E.g.*, Working Families Flexibility Act, H.R. 1274, 111th Cong. (2009); Working Families Flexibility Act, S. 2419, 110th Cong. (2007).

an employee under this type of legislation. Employers can deny such requests only if the identifiable costs of the change in terms requested in the application—such as loss of productivity, costs of retraining or hiring employees, or costs of transferring employees from one facility to another facility—exceed the overall financial resources involved.⁶¹

The proposed law is quite similar to one adopted already in the United Kingdom, as a “right to request” under the Flexible Working regulations, which enables mothers and fathers and carers of adults to request shorter hours (for an indefinite time period).⁶² Reforms now under consideration would extend the scope of flexible working laws to parents with children up to the age of eighteen rather than the current age of sixteen (raised from age six in 2007) and would make such rights to request available to all workers, regardless of parental status.⁶³ Future discussion might include making one’s arrangement portable to their next full-time job. Likewise, the recently adopted Australian “National Employment Standards” include a similar legal right to request a flexible schedule, reduced hours, an extension of unpaid time off, and part-time work when returning from parental leave.⁶⁴ It also sets the new work week norm at thirty-eight hours, to be used for calculating “overtime” and determining how much of that time is considered “reasonable” (or “unreasonable”).⁶⁵ By 2009, fifteen U.S. states had passed laws that place restrictions on the use of mandatory overtime beyond the usual work week, with a protected right to refuse such additional hours. Virtually all such laws, however, are limited to nurses and other healthcare workers.⁶⁶ Moreover, federal laws have been proposed, such as the Safe Nursing and Patient Care Act of 2007,⁶⁷ which languished in the House Subcommittee on Health. All such laws are

⁶¹ H.R. 1274; S. 2419.

⁶² Employment Act, 2002, c. 22, § 47 (U.K.); The Flexible Working (Eligibility, Complaints and Remedies) Regulations, 2002, S.I. 2002/3236 (U.K.); The Flexible Working (Procedural Requirements) Regulations, 2002, S.I. 2002/3207 (U.K.). See also ARIANE HEGEWISCH ET AL., FRIEDRICH EBERT FOUND., WORKING TIME FOR WORKING FAMILIES: EUROPE AND THE UNITED STATES 52, 106–07 (2005), available at http://www.uchastings.edu/site_files/WLL/FESWorkingTimePublication.pdf; ARIANE HEGEWISCH & JANET C. GORNICK, INST. FOR WOMEN’S POLICY RESEARCH, STATUTORY ROUTES TO WORKPLACE FLEXIBILITY IN CROSS-NATIONAL PERSPECTIVE 28–29 (2008), available at <http://www.lisproject.org/publications/parentwork/FlexWorkReport.pdf>. For further discussion of the “right to request” policy appearing in this Symposium Issue, see Michelle A. Travis, *What a Difference a Day Makes, or Does It? Work/Family Balance and the Four-Day Work Week*, 42 CONN. L. REV. 1223, 1246–49 (2010).

⁶³ See Sue Himmelweit, *The Right to Request Flexible Working: A ‘Very British’ Approach to Gender (In)Equality?*, 33 AUSTL. BULL. LAB. 246, 250–51 (2007); Equal Pay and Flexible Working Bill—Second Reading, 706 PARL. DEB., H.L. (5th ser.) (2009) 1875–77 (Baroness Morris).

⁶⁴ Fair Work Act, 2009, c. 2, pt. 2-2 (Austl.), available at http://www.fwa.gov.au/documents/legislation/download/fw_act.pdf.

⁶⁵ *Id.* at div. 2–3.

⁶⁶ American Nurses Association, Mandatory Overtime, <http://www.nursingworld.org/MainMenuCategories/ANAPoliticalPower/State/StateLegislativeAgenda/MandatoryOvertime.aspx> (last visited Apr. 19, 2010).

⁶⁷ H.R. 2122, 110th Cong. (2007).

consistent with the “Work & Family Bill of Rights,” which advocated a right to negotiated flexibility over hours, the ability to shift between full-time and reduced hours as family and personal circumstances change, no mandatory overtime, and flexible schedules mutually agreed upon by employees and employers.⁶⁸

Proposals in the previous, Republican-controlled Congresses attempted to alter the FLSA rules regarding the payment of overtime wages at a premium, which would have allowed employers to pay future compensatory time off (“comp time”) in lieu of pay, if employees signed such an agreement.⁶⁹ While compelling in that it provided workers much needed time off, such a law was bound to be counterproductive as an attempt to reduce working hours and/or improve worker well-being. From the perspective of labor demand, there is good reason to believe that employers would demand more overtime hours, ironically, from those employees who signed a preference for shorter work time. The legislation would make scheduling longer work weeks relatively cheaper because it allows employers to store comp time credits for up to a year and have the final say in when overtime work gets scheduled and when comp time use could be denied. Comp time could potentially be forcibly scheduled by employers according to their own preference rather than that of employees. If the law were to foster true worker “choice” by allowing for refusal of the originally scheduled overtime hours and allowing workers to decide the use of their comp time unless it would clearly “cause substantial and grievous injury to the employer’s operations” (rather than the proposed lower standard of “avoidance of ‘undue disruption’ of business or operations”), it might actually deliver some reduction in overemployment among certain workers.

In a large survey, workers—mostly unionized workers—were asked the following question: “If you had a choice, would you rather be paid time-and-a-half for overtime hours or get time-and-a-half OFF for the overtime hours you work?”⁷⁰ Nearly 80% of those surveyed preferred pay compensation. As many as 32% of salaried workers, however, reported that would take the comp time option (including those who would consider taking either comp time or pay), and women preferred comp time (25%)

⁶⁸ Take Care Net, Work & Family Bill of Rights, <http://www.takecarenet.org/WorkFamilyBOR.aspx> (last visited Apr. 19, 2010).

⁶⁹ Michael T. Leibig, *The Importance of Time Off: Valuing Restricted vs. Unrestricted Compensatory Time Under The Fair Labor Standards Act*, 47 S.D. L. REV. 511, 542–44 (2002); Shirley Lung, *Overwork and Overtime*, 39 IND. L. REV. 51, 55 (2005); Scott D. Miller, *Atrophied Rights: Maximum Hours Labor Standards Under the FLSA and Illinois Law*, 28 N. ILL. U. L. REV. 261, 306 (2008); David J. Walsh, *The FLSA Comp Time Controversy: Fostering Flexibility or Diminishing Worker Rights?*, 20 BERKELEY J. EMP. & LAB. L. 74, 79–81 (1999).

⁷⁰ WILL FRIEDMAN & JILL CASNER-LOTTO, WORK IN AMERICA INST. & LABOR PROJECT FOR WORKING FAMILIES, TIME IS OF THE ESSENCE: NEW SCHEDULING OPTIONS FOR UNIONIZED EMPLOYEES 53 (2003).

somewhat more than men. Those who had fewer vacation days were slightly more receptive to having comp time, suggesting again that reduced hours appeals more to workers whose non-work time is scarce. Among those who are not paid for their extra hours, 31% would prefer time off.⁷¹ Thus, a system of comp time would be more likely to improve worker well-being if it were available to exempt employees, as opposed to the non-exempt employees currently governed by the FLSA overtime pay regulations.⁷² This underscores the notion that the well-being effects of work week changes will depend on the extent that they are delivered to those who actually prefer them, and whether the additional uses of time are either welfare- or efficiency-enhancing. In addition, the timing of work and employee control over such work may matter as much as, if not more than, the duration of work hours. Thus, reforms that would reduce work time must consider nuances in differences among workers by job type and income level.⁷³ Reforms should target those types of jobs and workers most likely to be overemployed and to have a lack of control over the timing of their work; create or preserve employment opportunities; and be subsidized through programs such as STC, in order to avoid unintended reductions in worker well-being.

⁷¹ Lonnie Golden, *More or Less Fair? FLSA Overtime Law and Workers' Preferences Regarding Comp Time Versus Pay* (July 4, 2006) (unpublished paper presented at the Annual Meeting of The Law and Society Association, Baltimore, Md., on file with author).

⁷² Juliet B. Schor, *Worktime in Contemporary Context: Amending the Fair Labor Standards Act*, 70 CHL.-KENT L. REV. 157, 167–70 (1994).

⁷³ See JOAN C. WILLIAMS & HEATHER BOUSHEY, *THE THREE FACES OF WORK-FAMILY CONFLICT: THE POOR, THE PROFESSIONALS, AND THE MISSING MIDDLE* 9–10 (2010).