

# Chapitre 10/Chapter 10

## UNION REPRESENTATION OF CHILD-CARE WORKERS IN THE UNITED STATES

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### I. INTRODUCTION

By various accounts, the United States is confronting a “child-care crisis.”<sup>2</sup> In many communities, the supply of child care is inadequate to meet the needs of working parents who are struggling to achieve a healthy balance between work and family. Two themes dominate discussions of how best to resolve the crisis: the effect of child care on the employment decisions of parents, specifically mothers,<sup>3</sup> and the influence of child care on children’s development.<sup>4</sup> The discussions frequently fail to appreciate that child care is also a labor issue, and that a critical connection exists between affordable, quality child care, on the one hand, and the economic status of the child-care workforce, on the other hand. While the demand for child care climbs, working conditions in the child-care industry remain stagnant, and child-care workers toil at the very bottom of the economic ladder. As a group, they are poor women who rarely receive job-related benefits such as health insurance, sick leave, vacation time, or retirement plans.<sup>5</sup>

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<sup>2</sup> See STANLEY GREENSPAN, *THE FOUR-THIRDS SOLUTION: SOLVING THE CHILD-CARE CRISIS IN AMERICA TODAY* (2001); see also Julianne Malveaux, *Candidates Should Focus on Child Care*, USA TODAY, Nov. 7, 2003, at 15A; Denise Talbot-White, *We Fail Our Children, Elderly*, HARTFORD COURANT (Connecticut), Dec. 5, 2000, at A16.

<sup>3</sup> For example, see Jean Kimmel, *Child Care Costs as a Barrier to Employment for Single and Married Mothers*, 80 REV. ECON. & STATISTICS 287 (1998); Dan A. Black, *Child Care Subsidies, Quality of Care, and the Labor Supply of Low-Income, Single Mothers*, 74 REV. ECON. & STATISTICS 635 (1992); David C. Ribar, *A Structural Model of Child Care and the Labor Supply of Married Women*, 13 J. LAB. ECON. 558 (1995).

<sup>4</sup> For example, see David M. Blau, *The Effects of Child Care Characteristics on Child Development*, 34 J. HUMAN RESOURCES 786 (1999); Debby Cryer, *Defining and Assessing Early Childhood Program Quality*, 563 ANNALS OF THE AMERICAN ACAD. OF POL. & SOCIAL SCI. 39 (1999); Ellen C. Frede, *The Role of Program Quality in Producing Early Childhood Program Benefits*, 5 FUTURE OF CHILDREN J. 115 (1995); William Gormley, *Regulating Child Care Quality*, 563 ANNALS OF THE AMERICAN ACAD. OF POL. & SOCIAL SCI. 116 (1999).

<sup>5</sup> CENTER FOR THE CHILD CARE WORKFORCE, CURRENT DATA ON CHILD CARE SALARIES AND

A comprehensive child-care policy must represent not only the interests of the children who need care, and their families, but also the interests of child-care workers, as workers, who should be fairly compensated and provided with workplace benefits. Yet, for too long, child-care policies in the United States have privileged consumers of child care while ignoring the economic interests of women who labor as child-care workers. Fortunately, this situation is slowly beginning to change in large part because of the labor movement's increased commitment to organizing child-care workers. While unions are not a magic elixir to solve the child-care crisis, they are well positioned to press for the type of government policies that can help ensure that child-care workers do not continue to subsidize America's poorly funded child-care system by working for substandard wages and few benefits. Importantly, child-care unionization stands to benefit both the child-care workforce and children as care recipients. Studies have consistently shown that when child-care workers are treated with respect and dignity, they are more likely to provide quality care and to remain in their jobs. By marshaling the shared interests of children, parents, and workers, the labor movement has initiated child-care campaigns across the United States that recognize the value of increased public support for child care and the need to link improved quality with decent job conditions.

This essay examines several of those campaigns to explore the challenges involved in organizing child-care workers and the potential promise of unionization to garner increased public resources for child care. The essay considers both center-based child care and family child care. Unlike center-based child care, family child care refers to child-care services that a worker provides for compensation in her own residence to two or more unrelated children.<sup>6</sup>

## **II. A SNAPSHOT OF THE CHILD-CARE INDUSTRY**

The growing demand of working parents for help caring for their children highlights basic transformations in the workplace and family structures. In 1947 the number of mothers in the United States labor force with children between 6 and 17 years of age was just over 25 percent.<sup>7</sup> Many families with children conformed to the societal norm that expected mothers to stay home and care for young children while fathers worked outside of the home for paid wages. Yet today that norm has largely gone by the wayside. In 2005, the labor force participation rate of mothers with young children in the United States was 62.6 percent.<sup>8</sup> This

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BENEFITS IN THE UNITED STATES 5 (2002), *available at* [www.ccw.org/pubs/2002Compendium.pdf](http://www.ccw.org/pubs/2002Compendium.pdf).

<sup>6</sup> Katie Hamm & Avis Jones-DeWeever, Inst. For Women's Policy Research, *Family Child Care: Recent Trends and New Directions* 1 (2004), *available at* [http://www.kwdi.re.kr/data/wotrend2/family\\_child\\_care\\_trends.pdf](http://www.kwdi.re.kr/data/wotrend2/family_child_care_trends.pdf).

<sup>7</sup> Staff of the H. Comm. on Ways & Means, 108th Cong., 2004 GREEN BOOK 9-2 (Comm. Print 2004) [hereinafter GREEN BOOK], *available at* <http://waysandmeans.house.gov/media/pdf/greenbook2003/Section9.pdf>.

<sup>8</sup> BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, 2005 ANNUAL SOCIAL & ECONOMIC SUPPLEMENT, CURRENT POPULATION SURVEY (Table 5), *available at* <http://www.bls.gov/cps/wlf-table5-2006.pdf>.

shift has affected both married women with young children as well as single mothers who rely more heavily on child-care arrangements relative to two-parent families.

Official statistics indicate that there are 1.3 million paid child-care workers in the United States whose job responsibilities include nurturing the social and educational development of children, helping them with bathing, feeding, and other personal hygiene, and supervising play.<sup>9</sup> While the vast majority of these workers labor in center-based settings, both for profit and non-profit, some 28 percent of child-care workers are self-employed as family child care providers who work from their own homes.<sup>10</sup> In addition to center-based workers and family providers, the paid child-care workforce includes au pairs and nannies, who provide care in the child=s home, as well as relatives -- commonly grandmothers -- who either provide care in the child=s home or in their own homes.

Although the United States Bureau of Labor Statistics lists child care as one of the “fastest growing occupations,”<sup>11</sup> concern about the quality of care has grown. The concern is justified in light of reports revealing that the quality of paid child care many children receive is uniformly dismal. A 1995 study, *Cost, Quality and Child Outcomes*,<sup>12</sup> evaluated the quality of care offered at 410 child-care centers. The study found that more than 80 percent of the centers “provided mediocre or poor-quality services”<sup>13</sup> and that the quality of 12 percent was so poor that the centers failed to adequately meet children’s basic health and safety needs and offered few learning opportunities.<sup>14</sup> Overall, only one in seven centers studied provided an environment that promoted the healthy development of children. The situation that exists in the context of family child care providers proves similarly discouraging. Of the 226 family care providers evaluated in the *Study of Children in Family Child Care and Relative Care*, only 9 percent provided good quality care, 56 percent provided adequate care, and 35 percent provided care deemed inadequate.<sup>15</sup>

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<sup>9</sup> BUREAU OF LABOR STATISTICS, U.S. DEP’T OF LABOR, 2006–07 OCCUPATIONAL OUTLOOK HANDBOOK: CHILD CARE WORKERS 389, 391 (2005), *available at* <http://www.bls.gov/oco/pdf/ocos170.pdf>.

<sup>10</sup> THE CENTER FOR THE CHILD CARE WORKFORCE AND THE HUMAN SERVICES POLICY CENTER AT THE UNIVERSITY OF WASHINGTON, ESTIMATING THE SIZE AND COMPONENTS OF THE U.S. CHILD CARE WORKFORCE AND CAREGIVING POPULATION 2 (2002) [hereinafter ESTIMATING CHILD CARE WORKFORCE], *available at* [www.ccw.org/pubs/workforceestimatereport.pdf](http://www.ccw.org/pubs/workforceestimatereport.pdf).

<sup>11</sup> *Id.* at 6.

<sup>12</sup> SUZANNE HELBURN & MARY CULKIN, COST, QUALITY, AND CHILD OUTCOMES IN CHILD CARE CENTERS, PUBLIC REPORT (1995).

<sup>13</sup> Suzanne Helburn & Carollee Howes, *Child Care, Cost and Quality*, 6 FUTURE OF CHILDREN J., Summer/Fall 1996, at 62, 66, *available at* [http://www.futureofchildren.org/usr\\_doc/vol6no2ART4.pdf](http://www.futureofchildren.org/usr_doc/vol6no2ART4.pdf).

<sup>14</sup> *Id.* at 66, 68.

<sup>15</sup> *Id.*

Concerns about child-care quality also reflect the extremely high levels of job turnover in the child-care workforce. With annual turnover rates ranging from 30 to 40 percent,<sup>16</sup> child-care workers have a median job tenure of only 2.7 years.<sup>17</sup> Notably, the turnover rate in child care is almost twice the rate for most other occupations, including other child-related settings such as elementary education.<sup>18</sup> To be sure, not all turnover is negative; “[b]oth the field and children benefit when caregivers who provide low-quality care choose to end their business.”<sup>19</sup> Yet most child-care turnover is disruptive, both to the child and the profession.

Support for this conclusion has been well documented. Studies have shown that children who attend child-care centers with high turnover rates exhibit diminished language skills, are “more aggressive with peers, more withdrawn, and spend more time unoccupied.”<sup>20</sup> Instability breeds these detrimental outcomes because it deprives children of the time necessary to create a positive and secure foundation upon which to build.<sup>21</sup> By contrast, children enrolled in centers with a relatively stable child-care staff evidence greater language and pre-math skills, have a more positive self-concept, display more advanced social skills, relate better with teachers,<sup>22</sup> engage in more complex play activities, and are more secure in their attachments with others.<sup>23</sup> These findings suggest that when children are cared for in a stable environment that enables them to foster and maintain relationships with care providers, they “feel safe about their world, develop a sense of trust, explore their environment, and

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<sup>16</sup> See GREEN BOOK, *supra* note 7, at 9-20. See also Elizabeth E. Manlove & Jacqueline R. Guzella, *Intention to Leave, Anticipated Reasons for Leaving, and 12-month Turnover of Child Care Center Staff*, 12 EARLY CHILDHOOD RESEARCH Q. 145 (1997); Donna King & Carol E. MacKinnon, *Making Difficult Choices Easier: A Review of Research on Day Care and Children's Development*, 37 FAMILY RELATIONS 392 (1988).

<sup>17</sup> Deanna M. Deery-Schmitt & Christine M. Todd, *A Conceptual Model for Studying Turnover among Family Child Care Providers*, 10 EARLY CHILDHOOD RESEARCH Q. 121, 122 (1995).

<sup>18</sup> Marcy Whitebook & Laura Sakai, *Turnover Begets Turnover: An Examination of Job and Occupational Instability among Child Care Center Staff*, 18 EARLY CHILDHOOD RESEARCH Q. 273, 274 (2003).

<sup>19</sup> Deery-Schmitt & Todd, *A Conceptual Model*, *supra* note 17, at 121. See also Whitebook & Sakai, *Turnover Begets Turnover*, *supra* note 18, at 275.

<sup>20</sup> Manlove & Guzella, *supra* note 16, at 145. See also Whitebook & Sakai, *Turnover Begets Turnover*, *supra* note 18, at 274.

<sup>21</sup> Deery-Schmitt & Todd, *A Conceptual Model*, *supra* note 17, at 122. See also Christine M. Todd & Deanna M. Deery-Schmitt, *Factors Affecting Turnover among Family Child Care Providers: A Longitudinal Study*, 11 EARLY CHILDHOOD RESEARCH Q. 351, 351 (1996).

<sup>22</sup> Whitebook & Sakai, *Turnover Begets Turnover*, *supra* note 18, at 275.

<sup>23</sup> Deery-Schmitt & Todd, *Factors Affecting Turnover*, *supra* note 21, at 351-52.

develop positive peer relationships.”<sup>24</sup>

The prevailing working conditions in child care readily explain the industry’s difficulty in retaining qualified and committed workers. Industry wages are extremely low in absolute terms, as well as when compared with other occupations. In 2006, the median hourly wage for all child-care workers was \$8.48. By comparison, service station attendants earned \$8.53 an hour, locker room and coatroom attendants earned \$8.95 an hour, meter readers earned \$14.58 an hour, and bicycle repairers earned \$15.15 an hour.<sup>25</sup>

In addition, evidence indicates that accumulated human capital -- by way of experience, skill, and education -- correlates weakly with wage increases for child-care workers. While many workers lack child-care related training and education, workers who do possess these qualities are not financially rewarded.<sup>26</sup> Moreover, child-care workers experience lower returns on productivity investments such as education relative to workers in other occupational sectors.<sup>27</sup> To illustrate, child-care workers with a college or graduate degree earn less than half the amount comparably educated women receive in other sectors.<sup>28</sup>

The disadvantages of child care extend beyond the job’s paltry wages. Few child-care workers receive benefits such as health care. For example, in Pennsylvania, 60 percent of all workers receive health insurance benefits through their employers but only 25 percent of child-care workers receive comparable benefits.<sup>29</sup> Moreover, even when child-care workers have access to an employer’s health care plan, few can afford the premiums.<sup>30</sup> Along with limited health insurance, workers in the field seldom receive other job-related benefits such as paid sick days, vacation time, or retirement plans.<sup>31</sup>

The disadvantageous working conditions in child care owe partially to the cost of

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<sup>24</sup> Deery-Schmitt & Todd, *A Conceptual Model*, *supra* note 17, at 121.

<sup>25</sup> BUREAU OF LABOR STATISTICS, U.S. DEP’T OF LABOR, *Occupational Employment and Wages* (2006), available at <http://www.bls.gov/news.release/pdf/ocwage.pdf>.

<sup>26</sup> David Blau, *The Quality of Child Care: An Economic Perspective in THE ECONOMICS OF CHILD CARE* 145, 167 (David Blau ed., 1991). See also HEIDI HARTMANN & DIANA PIERCE, *HIGH SKILL AND LOW PAY: THE ECONOMICS OF CHILD CARE WORK* 47-48 (1989).

<sup>27</sup> Manlove & Guzell, *supra* note 16, at 147.

<sup>28</sup> Peter Pitegoff, *Child Care Enterprise, Community Development, and Work*, 81 *GEO. L.J.* 1897, 1924-25 (1993).

<sup>29</sup> DAVID BRADLEY & STEPHEN HERZENBERG, *PENNSYLVANIA CHILD CARE WORKERS FACE HEALTH INSURANCE CRISIS* 7 (2001), available at [http://www.keystoneresearch.org/publications/summaries/2001/childcare\\_health\\_ins.php](http://www.keystoneresearch.org/publications/summaries/2001/childcare_health_ins.php).

<sup>30</sup> *Id.* at 2.

<sup>31</sup> CENTER FOR THE CHILD CARE WORKFORCE, *CURRENT DATA ON CHILD CARE SALARIES AND BENEFITS IN THE UNITED STATES* (2002), available at [www.ccw.org/pubs/2002Compendium.pdf](http://www.ccw.org/pubs/2002Compendium.pdf).

quality care. While some families can afford to pay child care's true cost, a defining characteristic of the industry is that most families cannot, without support, finance the cost of high quality care nor can they afford to pay child-care workers decent wages. As advocates have repeatedly observed, improving the wages of workers and improving the quality of care requires, at a minimum, a comprehensive policy of government support and funding for child care.<sup>32</sup>

Poor compensation for child-care workers also stems from societal attitudes that regard the work as menial, unskilled labor that any woman can readily perform. Examining the link between paid child care and women's unpaid work in the home, scholars have shown that child care is frequently dismissed as a form of emotional work that lacks economic visibility and value. Mary Tuomien, for example, reveals the extent to which society views child-care workers as mere babysitters who provide only custodial care.<sup>33</sup> Even though market-based child care is performed for pay, there exists a strong tendency to devalue the work on the theory that workers perform it "out of love." These perceptions have serious economic consequences for, as Paula England has documented, child-care workers suffer a "wage penalty" based on the job's perception as "women's work."<sup>34</sup>

Against that discouraging backdrop, unions are beginning to impress upon the American public the extent to which the child-care crisis is as much a labor issue for child-care workers as it is an issue of affordability, availability, and quality for child-care consumers. Although, less than four percent of child-care workers presently belong to a union,<sup>35</sup> the child-care industry appears ripe for organizing considering the size of the workforce and the appalling conditions that prevail in the job. As the next section demonstrates, unions can play a pivotal role in assisting child-care workers in the use of collective strategies to redefine child care as skilled, valuable labor that merits decent working conditions, including improved wages.

### III. UNION CAMPAIGNS TO ORGANIZE CHILD-CARE WORKERS

The labor movement is engaged in child-care organizing campaigns across the United States. While some of the campaigns are grassroots initiatives, others receive the support of national unions including the Service Employees International Union (SEIU) and the

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<sup>32</sup> MARCY WHITEBOOK, ET. AL., *WORTHY WORK, UNLIVABLE WAGES: THE NATIONAL CHILD CARE STAFFING STUDY, 1988-1997*, at 20 (1998), *available at* [www.ccw.org/pubs/worthywork.pdf](http://www.ccw.org/pubs/worthywork.pdf).

<sup>33</sup> MARY TUOMINEN, *WE ARE NOT BABYSITTERS: FAMILY CHILD CARE PROVIDERS REDEFINE WORK AND CARE* (2003).

<sup>34</sup> ANNE L. ALSTOTT, *NO EXIT* 66-68 (2004); Paula England, et al., *Wages of Virtue: The Relative Pay of Care Work*, 49 *SOCIAL PROBLEMS* 455 (2002); NANCY FOLBRE, *THE INVISIBLE HEART* 5-6 (2001).

<sup>35</sup> LEA GRUNDY ET AL., *LABOR'S ROLE IN ADDRESSING THE CHILD CARE CRISIS* 12 (1999), *available at* [www.laborproject.org/publications/workpapers/wp1.pdf](http://www.laborproject.org/publications/workpapers/wp1.pdf). Of course, low union density is not limited to the child-care industry; currently less than 8 percent of private-sector workers in the United States belong to a union. See BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, *Union Members in 2006* (2007), *available at* [www.bls.gov/news.release/pdf/union2.pdf](http://www.bls.gov/news.release/pdf/union2.pdf).

American Federation of State, County and Municipal Employees (AFSCME). This Part discusses several child-care organizing campaigns to examine how the labor movement is helping to promote the economic interests of child-care workers, both center-based child-care workers as well as family child care providers.

At the outset, it is worth observing that the organizing campaigns discussed below target child-care workers who provide services for low- and moderately-income parents who rely on public funding to help subsidize the cost of child care. Because these parents are financially unable to pay higher fees, organizing child-care workers will likely not result in greater compensation or improved working conditions if the cost of a union contract is passed on to parents. Thus, contrary to most successful union negotiations, where consumers typically shoulder the costs of improved labor conditions in the form of higher prices, it is unreasonable to expect parents, as child-care consumers, to bear the costs associated with enhanced wages or benefits for child-care workers. If labor is to help workers secure improved wages and working conditions, it must push for enhanced public support for child care. Consequently, unions are pursuing an organizing approach that couples the mobilization of child-care workers with efforts to increase child-care funding.

#### ***A. Organizing Center-Based Child-care Workers***

Center-based child-care programs are a critical component of child care in the United States. Approximately 21 percent of families with children under the age of 5 use child-care centers as their primary child-care arrangement, up from 13 percent in 1977.<sup>36</sup> Of the estimated 2.3 million child-care workers, 24 percent work in centers.<sup>37</sup> Unions are focusing on those centers that accept children whose care is subsidized by the government. This focus involves a two-step strategy. First, unions are lobbying local and state governments to provide the centers with increased funding for child care. Second, unions are bargaining with the centers to guarantee that the centers use a portion of any increase in public funds to improve the wages of child-care workers. This part briefly discusses center-based child-care campaigns located in two areas: Seattle, Washington and Philadelphia, Pennsylvania.

##### ***1. SEIU District 925 (Seattle, Washington)***

Seattle, Washington is home to one of the more innovative center-based child-care unionizing movements in the United States that has had some limited success. In 1999, child-care workers at twelve child-care centers in Seattle voted to join SEIU District 925.<sup>38</sup> That same year, a coalition of child-care advocacy groups, spearheaded by SEIU, created the political momentum necessary to persuade the governor of the state to allocate public funds

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<sup>36</sup> GREEN BOOK, *supra* note 7, at 9-12.

<sup>37</sup> ESTIMATING CHILD CARE WORKFORCE, *supra* note 10, at 2.

<sup>38</sup> Fred Brooks, *What Differences Unionizing Teachers Might Make on Child Care in the USA: Results from an Exploratory Study*, 32 CHILD & YOUTH CARE FORUM 3, 6 (2003); Joan Fitzgerald, *Caring for Children as a Career*, 13 AMER. PROSPECT 28 (2002).

to implement an Early Childhood Education Career Development Ladder in the state.<sup>39</sup> The Ladder was a state-wide pilot program that provided funding to child-care centers if they agreed to adopt a progressive wage ladder based on education, job tenure, and job responsibilities. The Ladder's key feature was that it predicated enhanced child-care quality on the provision of a direct increase in the regular wages of child-care workers.<sup>40</sup> Under the Ladder, workers were guaranteed a base wage and received pay increments of fifty cents an hour for each qualifying educational credential they achieved (beginning with a high school degree), "25 cents an hour for each year of service," and "50 cents an hour for increased job responsibilities."<sup>41</sup>

The positive impact of the Ladder was clear. In 2003, the average hourly wage for workers employed by centers participating in the Ladder was \$9.68, compared with an average wage of \$8.94 an hour for workers at non-participating centers.<sup>42</sup> Anecdotal accounts also testified to the Ladder's value. In the words of one child-care worker employed at a participating center:

This project has motivated not just me but most of the staff in our center to continue their education or go to more training. This has greatly improved the quality of care AND education that we all give to the children in our classes. The morale throughout the entire center has increased, and it seems that most of us are willing to go over and beyond the "call of duty" for our director and families. With the higher wages, we seem to all feel more appreciated.<sup>43</sup>

To effect positive changes in other working conditions, SEIU negotiated a master contract with the centers.<sup>44</sup> The presence of many small child-care centers within a given geographical area can readily undermine an organizing strategy that fails to mobilize sufficient numbers of centers. Consequently, a master contract that applies across-the-board to all the unionized centers in a given geographical area enables the union to establish area-

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<sup>39</sup> For overviews of the Ladder program, see Fitzgerald, *supra* note 38; JENNIFER PARK JADOTTE, ET AL., BUILDING A STRONGER CHILD CARE WORKFORCE: A REVIEW OF THE EFFECTIVENESS OF PUBLIC COMPENSATION INITIATIVES 45 (2002), available at <http://www.iwpr.org/pdf/CCW.pdf>.

<sup>40</sup> JENNIFER MOON & JOHN R. BURBANK, THE EARLY CHILDHOOD EDUCATION CAREER AND WAGE LADDER: A MODEL FOR IMPROVING QUALITY IN EARLY LEARNING AND CARE PROGRAMS 6-7 (2004), available at [www.econop.org/ELC/ChildCare/Ladder/Ladder0704.pdf](http://www.econop.org/ELC/ChildCare/Ladder/Ladder0704.pdf).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 9-10.

<sup>43</sup> *Id.* at 18-19.

<sup>44</sup> Brooks, *supra* note 38, at 7; JOHN R. BURBANK & NANCY WIEFEK, THE WASHINGTON STATE EARLY CHILDHOOD EDUCATION CAREER DEVELOPMENT LADDER (2001), available at <http://www.econop.org/ECE-PolicyBrief2001-SupplySideSolution.htm>.

wide labor standards. Under the master contract, unionized centers in Seattle provide benefits that are rare in the child-care field including a pension plan, paid personal leave, and paid days for workers with teaching responsibilities to plan their curriculum.<sup>45</sup>

In addition to the master contract, two other features of SEIU's Seattle-based organizing campaign deserve highlighting. First, unlike conventional unions, which are organized from the top down in a hierarchal fashion, SEIU District 925 evolved from a history that emphasized a bottom-up culture. Child-care workers in Seattle had actively pushed for a union and had acquired first-hand experience fighting for improved wages through their involvement with the Worthy Wages Campaign,<sup>46</sup> a grassroots movement that started in 1988 to heighten public awareness of the poor conditions in child-care work and the need for affordable, quality care.<sup>47</sup>

The rank-and-file was thus integral to SEIU's organizing process, providing workers with a sense of ownership over the union. That outlook continued after the union was recognized. Workers indicated that the presence of a union helped to facilitate a team-like atmosphere that better enabled them to participate actively in the mission and operation of the child-care centers.<sup>48</sup> As described by workers, SEIU appears to have created a "participatory democracy"<sup>49</sup> in which workers felt empowered. Indeed, as part of the master contract, the union negotiated with the centers to provide workers with release time so that they could take part in advocacy-related activities.<sup>50</sup>

## **2. United Child Care Union (Philadelphia, Pennsylvania)**

The United Child Care Union (UCCU) is the first union in the United States dedicated solely to representing child-care workers. A part of the National Union of Hospital and Health Care Employees which is affiliated with AFSCME, UCCU began in Philadelphia "to improve the wages, benefits and working conditions for all child-care workers, and by so doing to improve the overall quality of child care services."<sup>51</sup> UCCU achieved its first major

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<sup>45</sup> Brooks, *supra* note 38, at 11. *See also* Deena Heg & Stephanie Snyder-Cerda, *Improving Child Care Worker Compensation In Washington State: A Case Study* 10 (2002), available at <http://www.urban.org/advocacyresearch/WAreport.pdf>.

<sup>46</sup> Brooks, *supra* note 38, at 6.

<sup>47</sup> MARCY WHITEBOOK, *WORKING FOR WORTHY WAGES: THE CHILD CARE COMPENSATION MOVEMENT, 1970-2001* (2001, updated 2002) available at [www.iir.berkeley.edu/cscce/pdf/worthywages.pdf](http://www.iir.berkeley.edu/cscce/pdf/worthywages.pdf).

<sup>48</sup> Brooks, *supra* note 38, at 13.

<sup>49</sup> Marion Crain, *Feminism, Labor, and Power*, 65 S. CAL. L. REV. 1819, 1865-66 (1991).

<sup>50</sup> Brooks, *supra* note 38, at 11.

<sup>51</sup> United Child Care Union, *UCCU Resolutions*, available at [http://www.uccunion.org/how\\_resolutions.html](http://www.uccunion.org/how_resolutions.html).

victory in 2000 when it successfully organized workers at child-care centers owned by the Allegheny Child Care Academy, the largest for-profit child-care provider in Pennsylvania. In 2001, UCCU signed a contract with Allegheny that included guaranteed work hours, a reduced probationary period, an increase in paid leave, the provision of paid service days for on-the-job-training, a 17.5 percent guaranteed pay raise over five years, a significant reduction in the cost of their health insurance premiums, and a good cause provision to insure against arbitrary termination.<sup>52</sup>

Notably, while Allegheny initially launched an aggressive anti-union campaign against UCCU, it has since formed a strong partnership with the union that defies the “us-them” traditional union mentality pitting workers against management. As Dorothy Sue Cobble observes, for many low-income service workers economic empowerment requires “more than animus against ... [the] employer.”<sup>53</sup> Instead of animus, UCCU and Allegheny joined forces to help improve the profession through sponsorship of programs that focus on worker training and mentoring. For Allegheny, the union contract has been offset by workers who are better trained and by a 20-percent reduction in turnover rates.<sup>54</sup>

Because its membership primarily serves the needs of low-income families, UCCU recognizes that parents will be unable to absorb the cost of improved working conditions.<sup>55</sup> Thus in collaboration with parents and center-based child-care employers, the union focuses much of its energy on pressing the state legislature to increase child-care funding. This type of collaborative approach reflects an appreciation of the unique dynamics that shape the provision of child-care services. Even as child-care workers provide services for a wage, many understand that their working relationship does not adhere to “notions of strict and clear demarcations between employee and employer . . . .”<sup>56</sup> A collaborative organizing model seeks to identify and cultivate mutual interests, and in the process acknowledges the connection between the quality of the service and the employment relationship – pressing for improvements in the latter will also improve the former. A successful child-care campaign understands that securing positive results for workers depends as much, if not more, on their relationship with parents and children as it does with employers.

### *B. Organizing Family Child Care Providers*

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<sup>52</sup> Luchina Fisher, *Child Caretakers Push for Better Wages, Benefits*, IPS-INTER PRESS SERVICE (May 6, 2004).

<sup>53</sup> Dorothy Sue Cobble, *Organizing the Postindustrial Work Force: Lessons from the History of Waitress Unionism*, 44 INDUSTRIAL & LAB. REL. REV. 419, 433 (1991).

<sup>54</sup> DAN BELLM, NEW APPROACHES TO ORGANIZING IN THE CHILD CARE INDUSTRY 4 (nd.), available at [www.laborproject.org/publications/pdf/bellm.pdf](http://www.laborproject.org/publications/pdf/bellm.pdf); Katherine Yung, *Child-Care Unions Build Forces*, DALLAS MORNING NEWS, Feb. 3, 2002, at 23A.

<sup>55</sup> Fisher, *supra* note 52.

<sup>56</sup> Dorothy Sue Cobble, *The Prospects for Unionism in a Service Society* in WORKING IN THE SERVICE SOCIETY 333, 340 (Cameron Macdonald & Carmen Sirianni, eds., 1996).

Organizing family child care providers, who operate day care centers from within their own homes, presents a unique set of obstacles, both practical as well as legal. From a practical perspective, family child care, similar to many low-wage service jobs, clashes with the model of work site unionism that undergirds the collective bargaining process in the United States.<sup>57</sup> Developed and perfected against the landscape of manufacturing jobs, work site unionism functions best when applied to a group of workers who labor for a common employer and at a common workplace that has a fixed location. In such an environment, labor organizers can easily identify both the employer as well as the potential bargaining unit.<sup>58</sup> However, this type of identification is extremely difficult in occupations like family child care where workers are hidden inside the private sphere of the home, work in isolation from each other without a common workplace, and are fragmented throughout neighborhoods, towns, and cities. In addition, the one-on-one character of the family child care relationship—where an individual provider interacts with several parents, but does so separately with each one—stands in sharp opposition to the vision of *collective* bargaining.

As noted earlier, strategies for union representation of the child-care workforce must allow for the fact that many families are simply unable to pay child-care workers decent wages. In light of this reality, child-care unionization may have difficulty garnering public support if the bargaining process undermines parents' ability to afford child care or sacrifices the interests of children receiving such care. This observation is especially relevant to family child care because it caters disproportionately to the working poor.<sup>59</sup>

Although formidable, these obstacles are not insurmountable. To respond effectively to them, labor must rethink conventional models of organizing and develop alternative approaches that can respond to the specific challenges of home-based, low-wage care work. Labor has achieved gains on this front that are applicable to organizing family child care providers. The successful unionization of home-care workers is particularly instructive.

Home care refers to in-home services provided to elderly and disabled individuals who require assistance with personal care tasks such as grooming, dressing, and bathing, and household activities such as shopping, cleaning, and meal preparation.<sup>60</sup> By helping with these tasks, home-care workers enable elderly and disabled individuals to live as

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<sup>57</sup> See Howard Wial, *The Emerging Organizational Structure of Unionism in Low-Wage Services*, 45 RUTGERS L. REV. 671, 681-82 (1993); see also DOROTHY SUE COBBLE, *DISHING IT OUT: WAITRESSES AND THEIR UNIONS IN THE TWENTIETH CENTURY* 9 (1991).

<sup>58</sup> Francoise Carré, et al., *Representing the Part-time and Contingent Workforce: Challenges for Unions and Public Policy*, in RESTORING THE PROMISE OF AMERICAN LABOR LAW 314 (Sheldon Friedman et al. eds., 1994); James Green & Chris Tilly, *Service Unionism: Directions for Organizing*, 1987 INDUS. REL. RES. ASS'N SPRING PROC. 486.

<sup>59</sup> AMY R. GILLMAN, SURDNA FOUNDATION, STRENGTHENING FAMILY CHILD CARE IN LOW-INCOME COMMUNITIES 4 (2001), available at [http://www.surdna.org/usr\\_doc/childcare.pdf](http://www.surdna.org/usr_doc/childcare.pdf); TUOMINEN, *supra* note 33.

<sup>60</sup> Linda Delp & Katie Quan, *Homecare Worker Organizing in California: An Analysis of a Successful Strategy*, 27 LAB. STUD. J. 1, 2 (2002).

independently as possible in their own homes. In 1999, SEIU successfully organized and won the right to represent 74,000 home care workers in Los Angeles County, California. The success, which gained unprecedented national attention, marked the largest union victory in the United States since 1941.<sup>61</sup> In the process of achieving such a remarkable victory, SEIU confronted many of the aforementioned challenges that face family child care providers, including worker fragmentation and limited consumer resources.

Similar to family child care, home-care work occurs within the private sphere of the home, although the homes at issue belong to the care recipients and not to the workers. Lacking a common work site, the home-care workforce is highly fragmented, and workers rarely have occasion to come together as a group. Consequently, union organizers turned to a resource-intensive, door-to-door grassroots organizing approach in order to find and mobilize the workers. Organizers “went to senior citizens’ centers, doctor’s offices, markets, churches . . . [and] even dug in trash cans to find lists of workers.”<sup>62</sup> A comparable grassroots strategy holds promise for reaching out to family child care providers.

As with family child care, the majority of home-care consumers lack the financial resources to improve the wages of home-care workers.<sup>63</sup> As one commentator observed, home-care “[u]nionization meant the possibility of wage demands and strikes against elderly and disabled consumers. If the workers became pitted against the consumers, the public might well sympathize with the consumers.”<sup>64</sup> To minimize the likelihood of this outcome, labor formed a strong coalition that represented a partnership, first and foremost, between workers and consumers, but which also attracted the backing of community organizations and advocacy groups.<sup>65</sup> The coalition’s success required that the group demonstrate to consumers that they shared common interests with workers and convince them that unionization was not a “‘zero sum’ proposition in which increased wages for workers could only come at the expense of fewer hours of care for consumers.”<sup>66</sup> Working as part of a coalition, labor effectively made the case that problems that had long plagued home-care services, including high turnover rates and poorly trained workers, could be ameliorated by transforming home-

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<sup>61</sup> *Id.* See also JANET HEINRITZ-CANTERBURY, PARAPROFESSIONAL HEALTHCARE INST., COLLABORATING TO IMPROVE IN-HOME SUPPORTIVE SERVICES: STAKEHOLDER PERSPECTIVES ON IMPLEMENTING CALIFORNIA’S PUBLIC AUTHORITIES 4–6 (2002), available at <http://www.paraprofessional.org/publications/CA%20PA%20Report.pdf>; Stu Schneider, *Victories for Home Health Care Workers*, 249 DOLLARS & SENSE 25 (2003).

<sup>62</sup> Delp & Quan, *supra* note 60, at 6; HEINRITZ-CANTERBURY, *supra* note 61, at 19, n.8.

<sup>63</sup> Delp & Quan, *supra* note 60, at 4-5.

<sup>64</sup> *Id.* at 5.

<sup>65</sup> *Id.* at 11-12; Immanuel Ness, *Organizing Home Health-Care Workers: A New York City Case Study*, 3 WORKINGUSA 59, 64 (1999).

<sup>66</sup> Delp & Quan, *supra* note 60, at 11-12; Ness, *supra* note 65, at 64.

care work into a decent job.<sup>67</sup> The coalition recognized the financial constraints on consumers and made it a priority to mobilize public support to pressure state and local governments to provide greater funding for home-care services.<sup>68</sup>

This approach suggests three key lessons for the organization of child care generally and family child care specifically. First, in order to improve the wages of child-care workers, unions must affirmatively push for enhanced public support of child care. Second, such a push needs to emphasize the critical connection between quality care and decent working conditions. Third, unions need to unite a broad based coalition that can clearly convey to society that child care is a matter of public concern. To this end, unions should look to forge partnerships with interested constituencies including parents and community groups.

Together with figuring out how to resolve the practical challenges facing family child care's organization, unions must solve the legal dilemma posed by the fact that the law treats family child care providers as self-employed, independent contractors who lack rights under labor law statutes in the United States.<sup>69</sup> Consequently, the law denies family child care providers the right to form a union for the purpose of engaging in collective bargaining.<sup>70</sup> Because each provider contracts with several different parents, and the law does not regard the parents as employers, providers are left in a situation where there is no employer with whom to bargain for increased wages or other improvements in working conditions.

Unions have managed to overcome this hurdle, at least with respect to those providers who provide publicly subsidized child care, by pressing for legislation that grants providers collective bargaining rights despite the absence of a traditional employment relationship. Given that the government provides the funds to compensate publicly subsidized providers, the legislation designates a government agency as an employer of record for the providers for the purpose of collective bargaining. Under the law, the agency that serves as the employer of record must bargain with the union that represents the providers. In 2005, Illinois became the first state to pass legislation that created an employer-of-record on behalf of publicly subsidized family child care providers.<sup>71</sup> The legislation regards the state of Illinois as the employer of the providers solely for the purpose of collective bargaining. Following enactment of the law, 49,000 family child care providers in Illinois voted in an election to have the SEIU represent them in negotiations with the state. The election, which was the second largest union victory achieved in the United States since 1941, stands as the largest child-care election in United States history.<sup>72</sup> In December 2005, the providers announced the

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<sup>67</sup> HEINRITZ-CANTERBURY, *supra* note 61, at 20.

<sup>68</sup> Delp & Quan, *supra* note 60.

<sup>69</sup> See, for example, the National Labor Relations Act, 29 U.S.C. § 152(3) (2005) (The “term ‘employee’ . . . shall not include . . . any individual having the status of an independent contractor[.]”).

<sup>70</sup> Smith, *Welfare, Child Care, and the People Who Care*, *supra* note 1, at 344-45.

<sup>71</sup> *Id.* at 361.

<sup>72</sup> *Id.* at 363.

details of their first contract with the state. Key provisions of the contract include access to affordable health care for providers, incentives for providers to acquire training in early education, and an increase in the wages paid to family child care providers.<sup>73</sup>

Unions are pursuing a comparable strategy to organize and represent family child care providers in several other states. Since the Illinois victory in 2005, the labor movement has secured labor rights for publicly-subsidized family child care providers in an additional nine states: Iowa, Kansas, Michigan, New Jersey, New York, Oregon, Pennsylvania, Washington, and Wisconsin.<sup>74</sup> Although it is too early to ascertain the long-term effects that labor's involvement might produce, the current trend is a clear step in the right direction to secure improved working conditions for some of the poorest workers in the United States.

#### IV. CONCLUSION

The lack of affordable, quality child care dominates public discussions of work-family issues, yet the poor conditions that exist in the child-care labor market garner only infrequent attention. Seldom do they headline the national debate about America's child-care crisis. The crisis, however, is both a problem of child-care affordability and quality for consumers, on the one hand, and a labor problem for workers, on the other. To effectuate positive change in the delivery of child-care services requires a multifaceted approach that appreciates the link between child-care quality, and improved wages and working conditions in the child-care industry. Critically, such an approach must include policies that accord centrality to the employment interests of the child-care work force. For too long, child-care policies have treated child-care workers as a means to an end, as useful vehicles to help promote the interests of families other than their own.

This essay has argued that in order to help insure that the economic interests of child-care workers are taken seriously, and not continuously sacrificed to fill gaps in America's piecemeal child-care system, collective action by way of organizing and unionizing should become the essential anchors of an overall approach to improve the labor conditions of paid caregivers. Such an approach holds promise for both caregivers, as employees, and parents, as consumers. As unions begin to appreciate the need for greater public support of child care, they are increasingly at the forefront of campaigns to lobby government officials for additional funding. When funds are used to support a stabilized child-care labor market -- characterized by improved wages, decent working conditions, and low turnover rates -- the end result benefits not only workers but parents and children as well.

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<sup>73</sup> See Press Release, Serv. Employees Int'l Union, *49,000 Family Child Care Providers Negotiate Historic Contract in IL to Raise Standard for Quality Care Services* (Dec. 13, 2005), available at [http://www.seiu.org/media/pressreleases.cfm?pr\\_id=1275](http://www.seiu.org/media/pressreleases.cfm?pr_id=1275). See also Stephen Franklin, *Illinois Agrees to Labor Pact on Child Care*, CHI. TRIB., Dec. 13, 2005, at 3; Smith, *Welfare, Child Care, and the People Who Care*, *supra* note 1, at 363.

<sup>74</sup> Deborah Chalfie et al., *Getting Organized: Unionizing Home-Based Child Care Providers* 26 (2007), available at [www.nwlc.org/pdf/GettingOrganized2007.pdf](http://www.nwlc.org/pdf/GettingOrganized2007.pdf).