CORNELL HR REVIEW

THINKING WIN-WIN: BOOSTING PROFITABILITY THROUGH GENDER-BALANCED FLEX-TIME

Gabriela Steier

Abstract

Setting working mothers free from the gridlock of inflexible “all-or-nothing” workplaces¹ can unleash the tremendous potential of female leadership qualities and create win-win² situations for both employers and employees. When human resources managers create such win-win situations, they can boost efficiency, productivity, profitability, and ultimately increase their company’s bottom line. The key to this strategy consists of attracting and maintaining female talent in the market by implementing mother-friendlier time management. This article analyses the business case for women in terms of gender-balanced leadership, and evaluates flex-time block-schedules as a corporate management strategy to achieve the goals of boosting the bottom line through increased flex-time schedules.

TABLE OF CONTENTS

ABSTRACT	1
INTRODUCTION	1
PART I THE WORK-LIFE CONFLICT FOR BREASTFEEDING WORKING MOTHERS.....	2
A. THE CLASH OF TWO IRRECONCILABLE SPHERES	2
B. THE MOMMY WAGE-GAP AND THE MATERNAL WALL	6
PART II. WOMENOMICS AND MOTHER-FRIENDLY FLEX-TIME.....	7
A. THE BUSINESS CASE FOR WOMEN.....	7
B. FORMAL FLEX-TIME AND RESULT-DRIVEN WORK ENVIRONMENTS	10
CONCLUSION.....	11

Introduction

Gender bias at work often coerces breastfeeding-working mothers to choose between their baby and their job. The forced choice between private and work life irreconcilably separates motherhood from a woman’s career. Consequently, the separation of work and family life has negative impacts on both the mother and on her baby. The more unaccommodating workplaces are, the stricter the separation between work and family life is, the more permanent the choice a working mother has to make. Such unaccommodating workplaces thus force breastfeeding-working mothers to either wean their children too early or to opt-out. These negative impacts also bear on public health and the economy at large. Ultimately, the improvements associated with mother-

friendlier workplaces would enhance public health in the long run and boost the economy through womenomics.³

Part I describes how the work-life conflict affects working mothers and particularly those who are breastfeeding their children. First, this section will explain the two-sphere conflict that prevents breastfeeding working mothers from reconciling work and family life. Second, Part I analyzes the gender bias at work that gives rise to the Mommy Wage-Gap, and the Maternal Wall, which drive the two spheres (work and family) even further apart.⁴ Part II suggests solutions to the problems outlined in Part I, such as by increasing work-time flexibility through womenomics and by implementing a Results Only Work Environment (ROWE). Part II also presents examples of how some modern companies have successfully embraced the mother-friendly work schedules, shows how the European Union is implementing the work-life balance directives, and then suggests how the U.S. could adopt similar business management strategies with the goal to increase breastfeeding rates for improved public health and with the ultimate goal to boost profitability.

Part I The Work-Life Conflict for Breastfeeding Working Mothers

A. The Clash of Two Irreconcilable Spheres

Generally, many employees find it difficult to strike a balance between professional and family life. This difficulty affects all persons in the workforce. Working parents often feel more pressure from this conflict because their children depend on them and have needs, which their working parents, in turn, factor into the work-life equation. The resulting work-life conflict affects both employers and employees. In effect, the conflict divides the lives of those employees who have little flexibility in their schedules into two spheres: the first sphere is the private and the second the public sphere. While the private sphere encompasses domestic and familial obligations, the public sphere is exclusively career-oriented.⁵ Often, these two spheres become irreconcilable, especially for breastfeeding-working mothers because their babies heavily depend on them.

When companies fail to provide their employees sufficient flexibility to reconcile the two spheres—with rigid and unforgiving work schedules—these companies harm their employees and ultimately reduce their productivity and profitability.⁶ If the workplaces are unaccommodating and not family-friendly, it becomes extremely difficult for working parents to reconcile the two spheres, so they are often forced to choose one.⁷ This irreconcilability of the two spheres is especially troublesome for working mothers and, most of all, for those who are breastfeeding their newborns because of the unique relationship that only a nursing mother has with her baby.⁸ Consequently, breastfeeding-working mothers are forced to either wean their baby too early⁹ or to leave their job, i.e. to opt-out.¹⁰ On a large scale, when women wean their babies too early, both the children and the mothers are more prone to disease and thus, early weaning has large-scale negative effects on public health and burdens the economy through high health care costs.¹¹ On the small scale, turnover costs for employers rise when they lose working mothers who opt out. In both scenarios, when breastfeeding-working mothers cannot

reconcile the two-sphere clash, and want to avoid weaning their babies too early, they quit¹² and employers are left with a costly void to fill.

Figure 1 Irreconcilability of the Two Spheres

This depiction illustrates that flexibility (orange arrow) can be the key to reconciling the public (purple) and the private (yellow) spheres. The more flexibility, the closer the two spheres can come and the more overlap can be achieved. Overlap of the two spheres translates into greater work-life balance and, ultimately, into increased wellbeing of the employee and improved productivity for the employer because the employee's needs are met through accommodating work schedules.

When breastfeeding working mothers leave their jobs once they can no longer reconcile the private and public spheres (see Figure 1), the companies they worked for lose talent, experience, and professional expertise. In turn, these companies may become less productive and less profitable, which could detrimentally affect the economy on a large scale as these trends occur to many companies simultaneously.¹³ The resulting opt-out trend thus depletes companies of female talent and makes the business case for women, which explains why female talent functions as an important factor in a company's success. Adapting workplaces to working mothers would be one of many methods to retain the valuable female talent and to reduce stress for both male and female employees across the board. Correspondingly, Lisa Belkin, Huffington Post's Senior Columnist on Life/Work/Family, former New York Times columnist and author of *Life's Work* (Simon and Schuster 2002) first coined the phrase "to opt out" in 2003. Ten years later, in April, 2013, she reported on "the limits of worktime flexibility"¹⁴ where she concludes that "the way Americans work is overdue for a change"¹⁵ and asks where the much-needed changes will head because the purpose of old-fashioned office-time has been muted by ease of telecommuting and modern communications technology.¹⁶ Belkin continues to explain that a Results Only Work Environment (ROWE) has been the answer to many dilemmas human resources and management departments in modern companies have had. However, adopting such flexible work environment presupposes that the outdated "'work is primary' model"¹⁷ be abolished.

The reason many women do not request more flexible schedules is because "most women don't think they get enough support for flexibility where they work and worry that if they do work flexibly it will make them appear less committed"¹⁸ and thereby jeopardize their chances to climb the career ladder. This is a form of discrimination that remains largely unaddressed by the legislature. Proof for this injustice is the opt-out revolution.¹⁹ Opting-out²⁰ describes the allegedly voluntary choice a working mother makes to quit her career upon the birth of a child to devote her time to child rearing.²¹ Although opting-out

seems like a voluntary and welcome choice, this assumption is inherently untrue. According to Williams, one of the driving factors for this increasing trend is the “powerful gender bias that depicts working mothers as neither committed nor competent.”²² Said another way, employers and co-workers consider these working mothers conflicted employees and assume that they are more loyal to their family responsibilities than work.²³ This means women with professional and familial responsibilities simultaneously face the most severe gender bias from their workplace peers; and those women who still have to take time to breastfeed their children likely suffer most. These assumptions are unwarranted and are merely a result of stereotypes. Williams explains that the male-breadwinner stereotype has also pushed women into opting-out because workplaces modeled for male breadwinners are so inflexible and hard to change.²⁴ As a result, the employers and co-workers marginalize these women and they opt-out. For the majority of breastfeeding employees, better work-time flexibility and extended maternity leave are only wishful thinking, so they “optout” if they do not want to wean their babies too early.

Women should not be forced to opt-out because their schedules are not flexible enough or to wean their babies too early. When women opt-out, they affect the turnover rates²⁵ of the companies they work for, therefore likely reducing its assets by increasing its costs, thereby affecting balance sheets in several negative ways and decreasing profitability. The two aforementioned alternatives have likely lead to an ever-greater shortage of skilled workers and have potentially helped drain the economy. Conversely, when working- breastfeeding mothers wean their babies too early, there is likely a negative effect on public health, and implicitly also the economy. For example, a study by Michael Baker and Kevin Milligan on maternal employment showed that “the labor market policy may prove an effective way of achieving breastfeeding goals” to save both lives and money.²⁶ Moreover, the Center for Disease Control found that “if ninety percent of women breastfed for six months, this would save the United States approximately 13 billion dollars in medical costs as well as prevent 911 deaths per year.”²⁷ More importantly, [t]he Economic Research Service of USDA recently estimated a minimum savings of \$3.1 billion if breastfeeding rates increased from the 1998 rates to those recommended by the US Surgeon General This analysis likely underestimates the total savings because it represents cost savings from the treatment of only three childhood illnesses—otitis media, gastroenteritis, and necrotizing enterocolitis. . . . In addition to the savings in direct medical costs, data are emerging that document the economic benefits of breastfeeding support to employers, including lower maternal absenteeism due to infant illness, increased employee loyalty, improved productivity, and enhanced public image.²⁸

These reports support the premise that longer maternity leave and more work-time flexibility would give lactating mothers a chance to breastfeed their babies longer and to boost the health of both mother and child. The saved funds are available for reinvestment and a win-win situation is created: While working mothers’ and their babies’ lives and health are improved, employers retain female talent, save costs and can benefit financially. Although the potential increases in profitability are premised on voluntary work schedule adaptations, in other words, the law merely protects the bare bones of what a business should provide to working breastfeeding employees, providing more

flexibility for working breastfeeding mothers is synonymous with developing a competitive edge.

Figure 2 Factors Affecting the Divergence of the Two Spheres for Breastfeeding Working Mothers

This model summarizes the more stressors (blue and green arrows) impact each sphere, the further the spheres diverge. While greater stress on the public sphere results in opting out, increased stress on the private sphere may yield earlier weaning rates in working breastfeeding mothers (orange arrows). As the spheres move further apart, the prevalence of either opting out or early weaning increases and the work-life balance of the working breastfeeding mothers decreases.

Sustainable management models consider employee work-life balance and allow their employees to reconcile the two spheres. Figure 2 illustrates that the more stressors affect each sphere, the further the private and public spheres drift apart. In turn, the further the two spheres drift apart, the less work-life balance the working mother can achieve. The drifting away of the two spheres thus correlates to a lack of work-life balance. As Part II shows, work-life imbalance in an employee's job reduces the employer-company's productivity and profitability. Therefore, human resources management goals should consider that increased flexibility and mother-friendly work schedules will provide work-life balance by joining the two spheres and, thereby, positively impact the company's bottom line and competitiveness.

Unfortunately, and despite all modern emancipation, "women's careers are seen as deviations from the unsustainable 'work is primary' model"²⁹ in many professions – the opposite of a sustainable management model. Gender-bias and stereotypes are one important factor blocking the success that women could bring to the workforce. Surveys clearly show that "[o]f all the triggers of stereotyping in today's workplace, motherhood triggers the strongest bias."³⁰ Consequently, working mothers, especially those who are breastfeeding, are promoted less frequently, earn less, and receive less respect than their male colleagues doing the same jobs.³¹ The two resulting forms of discrimination against mothers that emerge from this gender bias at work are called, depending on the situation, the Mommy Wage-Gap, and/or the Maternal Wall.³²

B. The Mommy Wage-Gap and the Maternal Wall

The Maternal Wall is the abstract limitation in career opportunities that a woman faces in her professional life upon becoming a mother.³³ Joan C. Williams, Distinguished Professor of Law, UC Hastings Foundation Chair, Founding Director of the Center for Work Life Law at the University of California, Hastings College of the Law, writes that “[t]he [M]aternal [W]all reflects the continuing hold of separate-spheres imagery that mothers belong in a domestic sphere set apart from the world of work Separate-spheres imagery of selfless motherhood continues to structure social intuitions in ways that systematically disadvantage women at work.”³⁴ Thus, employers and supervisors who believe in the two-sphere structure of women’s lives fail to acknowledge the true female talent of working mothers and the associated economic power.

Gender bias is also the underlying reason for much of the prejudice that creates this Mommy Wage-Gap and makes reconciling the two spheres unnecessarily difficult. The Gender Wage-Gap is the wage differentials between “equally productive males and females” in the U.S.³⁵ More specifically, the Mommy Wage-Gap, for the purpose of this paper, is the difference in a mother’s earnings as compared to the earnings of childless women or men doing the same job.³⁶ Williams explains that “[s]ociological studies show that motherhood accounts for an increasing proportion of the wage gap between men and women.”³⁷ She also notes that “[t]he cost of motherhood is particularly steep for fast track women [b]ut quitting work to look after the children can mean financial disaster” once the two spheres drift too far apart (see Figure 2).³⁸ Furthermore, if the mother in a two-income family quits her job to look after small children, significant financial problems may arise. Accordingly, women bow to the financial drive behind the separation of the two spheres and consequently earn less. In fact, “[full]-[time] working women in America earned only 82.2% of men's median weekly earnings last year [2011], according to the Institute for Women's Policy Research, a think-tank in Washington, D. C.”³⁹ Moreover, “[h]ighly trained mothers are 59 [percent] less likely to work fifty-plus hours a week than are their colleagues without children. Indeed, only 5 percent of mothers aged 24 to 44 work fifty or more hours a week.”⁴⁰ This means that a woman earns about \$0.70 where a man earns \$1.00 for the same amount and quality of work. In the case of pregnant or breastfeeding employees, the Mommy Wage-Gap is probably even more drastic and rampant. Thus, the Mommy Wage-Gap results as an unfair and unfounded penalty for professional women who are also mothers.

On the other hand of the aforementioned opt-out trend is part-time work, a compromise that many mothers of young children choose in an effort to bridge the gap between their responsibilities as a mother and as an employee, i.e. to reconcile the two spheres. However, this also means a large pay-gap between employees working fulltime and part-time. Williams notes that “the wage penalty for part-time work is a whopping 21 [percent] per hour worked.”⁴¹ Nonetheless, more and more women choose this route because the pressures from the two spheres are too big or irreconcilable and their work times are inflexible.⁴² Thus, mothers of young children rarely get a fair deal when they work part-time, even though a 2007 survey showed that 60 percent of working mothers would prefer part-time work, largely so they can accommodate being available for their

children's schedules.⁴³ As Part II shows, ROWE and increased flex-time work schedules would bridge the gaps between the two spheres while also allowing employers to maintain result- and productivity-oriented demands from their staff, which, in turn, would facilitate fair compensation.

One of the driving forces behind breastfeeding-working mothers' requirements for part time work is the virtual impossibility to reconcile their parental obligations and professional duties because their workplaces are unaccommodating to their unique and essential needs. According to broadcasters' Claire Shipman, at ABC News' Good Morning America, and Katty Kay, at BBC World News America, the analysis of empirical data shows: that women generally want more flexibility and half of all working women want to work fewer hours, half of all working women would change their schedules if they had the opportunity, more than half would trade money for a day off, and three quarters of all working women want flexible work options.⁴⁴ As a result of the aforementioned gender bias, these women cannot afford to request the flexibility they need and want. Those employers who offer flex-time schedules or other means of accommodating working mothers, therefore, become significantly more attractive to female employees and also make room for female talent that can propel economic growth, as Part II shows.

If workplaces were more accommodating to the needs of breastfeeding mothers, women would not need to either opt out or wean their babies as soon as they return to work and businesses could thereby retain their female talent and increase profitability. A study⁴⁵ published in *Pediatrics* in 2008 revealed how working mothers who are breastfeeding their children adapt to the workplace upon returning to work after a short three-month maternity leave, showing that: 31.8 percent of working breastfeeding employees keep their child at work during the work day to breastfeed, only 7.9 percent of nursing employees go to their child, but 52.7 percent pump and save milk during the work day, and 15.9 percent wean their babies as soon as they return to work.⁴⁶ About one third of workplaces are supportive of pregnant employees and about half of workplaces show support for employees in need of postnatal care.⁴⁷ These numbers could change for the better if working breastfeeding mothers had more flexible work schedules and if workplaces were more accommodating. The power to change these negative trends lies with the companies that make the reconciliation of the two spheres so difficult for their female employees. Consequently, methods of accommodating working mothers support the business case for women by showing how much retaining female talent can boost the bottom line.

Part II. Womenomics and Mother-Friendly Flex-Time

A. The Business Case for Women

The correlation between profitability and female employment rates in the most successful companies is an increasingly important trend.⁴⁸ Those companies that were most severely affected by the 2008 financial meltdown seem to have overlooked the enormous resources that were all too obvious: women! According to several studies, companies with higher rates of female employees are more competitive in the market, and those

companies that need to boost their balance sheets the most also need to hire women the most.⁴⁹ Women in business are a powerful, but underutilized, resource of skill and talent to generate profits, which companies should start to appreciate more. If more companies hired and maintained the already available female talent, they would become more competitive and profitable.

A British study⁵⁰ by the International Centre for Women Leaders from the Cranfield School of Management proved that companies sporting diversity in top management positions “outperform their less diverse competitors.”⁵¹ Notably, the fact that Barclay’s Bank is one of the sponsors of this study supports the conclusion that the financial industry may be beginning to pay attention to the female professionals’ values for the market. Additionally, the Catalyst study showed that “[c]ompanies that recruit, retain and advance women can tap into an increasingly educated and skilled segment of the talent pool”⁵² One of the companies that are benefitting from female executives, for example, is the high-end fashion label Burberry. Correspondingly, the Cranfield School of Management report awarded the “top place of the 2010 ranking [to] Burberry with three out of eight female board members (37.5%). In Burberry both the Chief Executive and the Chief Financial Officer are women, and there is also a female non-executive director.”⁵³ Using the female workforce better, as The Economist suggested in its November 2011 special report on women in the workforce,⁵⁴ is thus a viable and inexpensive method to boost productivity and profitability of a company. By way of supporting women’s careers, the increased buying power that their jobs generates also helps the economy at large.

The data support the win-win situations created by adapting workplaces to women: In a nineteen-year survey of 215 Fortune 500 companies, researchers found that “the companies with the very best records of promoting women beat the industry average by 116 percent in terms of equity, 46 percent in terms of revenue, and 41 percent in terms of assets.”⁵⁵ In their book, *Womenomics*, Shipman and Kay call the results of this study a “little short of revolutionary,”⁵⁶ because companies “with the highest representation of women in senior management positions performed best. They had a higher return on equity and a higher total return to shareholders- higher by more than a third.”⁵⁷ Thus, it pays to employ women.

What makes women such priceless assets in business are their management skills. Shipman and Kay provide elaborate support for the positive twist women bring to the world of business: women are more likely to engage both brain halves than men, are more likely to make staff members feel good about themselves, quickly form relationships with clients and business partners, calm frustrated employees, and juggle many balls without losing sight of the company’s priorities.⁵⁸ After all, mothers generally practice “juggling many balls” through childcare, family responsibilities and professional responsibilities. This high-stake experience on a personal level can easily be transferred to their jobs. In its breakthrough article on womenomics, The Economist reported findings from several recent studies that explain female qualities in business: “McKinsey, the most venerable of management consultancies, has published research arguing that women apply five of the nine ‘leadership behaviours’ that lead to corporate

success more frequently than men.”⁵⁹ Shipman and Kay are right: “women . . . are different from men,” in “very useful ways.”⁶⁰ Therefore, the female-style of management can boost the economy by increasing the competitiveness and profits of businesses. It is time for the business world to acknowledge women’s exceptional skills and to give them a chance to use them.

Changing workplaces to render them mother-friendlier would be an ideal way to start and promise significant economic benefits company-wide, market-wide, and on national levels. According to Shipman and Kay, “[t]he cost of replacing professional employees is going up, not down. The total cost of replacing a senior manager can be three times that person’s salary. . . . the cost of turnover for knowledge-based companies is . . . a whopping 500 percent—and those are just the kinds of companies in which professional women tend to work.”⁶¹ Companies that eliminate the pressures forcing female employees to opt-out save such turnover costs and may ultimately increase profitability and productivity. Another way increased work-time flexibility could boost productivity is through improved work atmospheres, where “[e]mployees working flexibly were found to be more committed and more satisfied.”⁶² Shipman and Kay found that in companies that offered flexible work schedules that “[t]he majority of employees said they were less stressed with a schedule they could control and they were more productive,”⁶³ which also gave those companies a competitive edge.⁶⁴

Women have the potential to contribute significantly to the recovery from the current recession. The increasing numbers of female university graduates and post-doctoral students will bring “smart, sophisticated businesspeople who are technologically literate, globally astute, and operationally agile”⁶⁵ into the labor market, and thus “women can compete as well as men.”⁶⁶ Especially where “women are ‘better lateral thinkers than men,’”⁶⁷ women may think of solutions to modern problems that a predominantly male labor force would not think of. Never has this been more important than since the 2008 financial meltdown.

The European Union (E.U.) is a respectable role model in mother-friendly work-life regulation. In fact, all E.U. member states have maternity leave policies that allow for greater work-life balance for new mothers than those under United States law.⁶⁸ The Equal Treatment Directive, the Pregnant Workers Directive, the Parental Leave Directive, and the Work-Life Balance Package⁶⁹ are all examples of progressive policies and proof for the genuine concern Europeans show for working mothers. The first breakthrough in E.U. work-life regulation came in 2000, with the “Council Resolution on the Balanced Participation of Women and Men in Family and Working Life . . . [which] for the first time firmly placed the public and private spheres on an equal footing.”⁷⁰ This is the type of breakthrough legislation that the U.S. also needs. It makes for a good role model for potential amendments to the FMLA in the United States because it acknowledges the importance of the right to breastfeed,⁷¹ and provides guidelines to adapt workplace policies accordingly to these needs.⁷² As a means of implementing the aforementioned charter, several European Unions’ member states are adopting flexible work schedules. For example, “Austria, the Czech Republic, Finland and Hungary provide up to three years of paid leave for mothers.”⁷³ In addition, “[m]ore than 90% of

companies in Germany and Sweden allow flexible working.”⁷⁴ Proof of the economic viability of these approaches are the AAA ratings that these countries maintained throughout the recession.⁷⁵

The reason why these public policy solutions can be implemented successfully in Europe is that businesses are embracing flexible work schedules. They are “learning to divide the working week in new ways—judging staff on annual rather than weekly hours, allowing them to work nine days a fortnight, letting them come in early or late and allowing husbands and wives to share jobs.”⁷⁶ All Americans have to do is learn from the Europeans and apply the same principles nationally. If American companies adopted some of these strategies, they would most likely reap similar successes as their European colleagues already have. Increased work-time flexibility is not only a viable strategy for the European Union, but also for the United States. Williams, however, predicts that the types of policies featured in the European Union are “unthinkable” in the United States because “American politics [are] fueled by class conflict between the professional-managerial class and the white working class.”⁷⁷ The caveat Williams documents is that measures to reconcile work and family “will remain politically unattainable unless and until progressives can reconstruct the kind of viable, long term coalition that has been missing for nearly forty years.”⁷⁸ She explains that this change would require work-family commentators to shift away “from the single-minded focus on gender traditionally [].”⁷⁹ Williams’ observations concerning the need to bring work-life balance to the center of political discussion is directly in line with Calvert’s suggestion to use public education campaigns to achieve the goals set out in this paper.⁸⁰ The private sphere is unregulated in the United States because it is considered a private issue.⁸¹ That is part of the problem. Where the two spheres overlap, regulation of one without the other will not succeed. A more invasive approach is needed.

B. Formal Flex-Time and Result-Driven Work Environments

The most invasive approach to reconcile the private and the public spheres comes from the inside out. This means that businesses and companies at large are empowered to adopt mother-friendly management, for example through flex-time scheduling systems. Both European and several American companies’ bottom lines already provide the necessary economic proof that such mother-friendly workplaces create win-win situations for both working mothers and their employers: By allowing working-breastfeeding mothers to bring the private and public spheres closer together, and to thereby attain greater work-life balance, businesses and companies will be empowered to increase efficiency, productivity, and eventually profitability. Furthermore, if more working mothers were able to breastfeed their babies for the recommended six months,⁸² the government could save public health care costs, and use these savings for reinvestments to fuel economic recovery. Using the principles of womenomics for nursing growth ultimately remains a viable solution for the current recession and could cure many of the public health concerns in the United States but some of the driving force needs to come from the legislature.

Federal law in the U.S. limits maternity leave to three months.⁸³ Under the family-care provisions⁸⁴ of the Family and Medical Leave Act (FMLA), parents have the right to take twelve weeks of unpaid bonding leave upon the birth of a child.⁸⁵ However, three months of maternity leave is half of the minimum recommended time mothers are instructed to breastfeed their infants for optimal health.⁸⁶ Thus, women's compliance with these recommendations are at odds with their need to return to work⁸⁷ because "few working women in the United States are able to take even six months away from work."⁸⁸ These unreasonable limitations make it difficult for women with small children to reconcile the private and public spheres.⁸⁹ The FMLA allots too little time for women to breastfeed and fails to instruct employers to allow for greater work-time flexibility, so that women who are nursing their babies may in fact schedule time to do so.

One of the true reasons behind such legislative oversight may be gender biased workplaces and labor practices as described in Part I. Nonetheless, this article suggests that businesses can ultimately achieve flexibility through formality, i.e. by adopting streamlined procedures to request leaves and to organize work shifts. Such streamlined procedures may comprise sufficient advance notice before an employee takes a leave, or, for emergency situations, having replacement, or "jeopardy," workers to fill in. A block schedule, for example, could work in a small firm or business. Block schedules already work well in booking operating rooms for surgeries and could be implemented in a similar way to break-up jobs within a division in an office. For larger companies, a computerized system may be in place, which should also be easy enough to implement. How exactly business or company management would implement strategies to achieve better flexibility, control, and stability is beyond the scope of this paper, but through such increased formality and flexibility, the work-life, or two-sphere, conflict could be better mastered by employees and provide supervisors and higher executives with greater control.⁹⁰ Therefore, formality would be an inexpensive and effective method to give employees more work-time flexibility.

Flexibility would be a means of adapting workplaces to their employees and creating a symbiotic relationship for optimal productivity within a company. Flexibility can be implemented in four steps. Williams describes the "four crucial steps toward an improved fit"⁹¹ of the two aforementioned spheres and thus outlines a work-life reconciliation strategy: "1. Comply with the FMLA and applicable state leave provisions. . . . 2. Create multiple types of leaves for workers with unavoidable work-family conflicts. . . . 3. Create family-responsive overtime systems. . . . 4. Offer reduced hours and flexible work options."⁹² These four elements constitute the cornerstones of the rules by which the block schedules suggested above would be enforced. "Employers find that increasing workplace flexibility enhances worker engagement and loyalty" and thus flexibility would help boost economic growth.

Conclusion

Part I explains that increased work-time flexibility can help working mothers and women to continue to breastfeed. The problem is that breastfeeding mothers face the irreconcilable dilemma of either weaning their babies too early upon returning to work

after maternity leave, or of opting-out, both of which take these working women out of the data reported in the work-related statistics. Consequently, there are virtually no statistics about the benefits of work-time flexibility for breastfeeding working mothers. Nonetheless, based on the analysis above, this paper concludes that flexibility would in fact allow working-breastfeeding mothers to not wean too early and not to opt-out, so that they may continue to contribute to the economic output of the companies they work for. For the reason that the statistics which are available provide information about the role of women and mothers in the workplace, this paper argues that working-breastfeeding mothers, as a subgroup of working mothers and working women, would benefit from increased work-time flexibility in the same manner as their childless colleagues, if not more. Women already greatly affect the economy so increasing the numbers of breastfeeding-working mothers in the labor market would help boost economic growth even further.

Part II demonstrates that whether companies boost their profitability by complying with mother-friendly labor laws or by improving management through greater flexibility from the inside out is ultimately irrelevant. The key is that work-time flexibility for working mothers, and especially for those who are breastfeeding their babies, is an important part of this progress. After all, financial profit propels the motives for new labor laws and regulations. Naturally, “[e]mployers are not social service agencies: they have legal obligations to their shareholders and a business imperative to attend to the bottom line. Yet this does not preclude flexibility because, in many contexts, refusing to be flexible is bad management.”⁹³ Therefore, female management and the workplace adaptation female workers can help achieve the goals discussed in this paper.

For some mothers, breastfeeding availability could directly correlate with the mother’s professional productivity, and thus could help lead to an implicit boost in the economy by saving money and increasing spending. It is economically illogical not to adapt workplaces to the needs of working mothers, and especially to breastfeeding-working mothers, because the data proves that such adaptations would likely increase profitability. Breastfeeding has various public health benefits and increased breastfeeding rates could result in significant savings in health care costs and increased female spending power with the ultimate goal to recycle funds and foster economic growth. More importantly, however, and in addition to the practical implications outlined in this paper, adapting workplaces to breastfeeding working mothers would lead to “a more respectful way to work.”⁹⁴ ✕

Gabriela Steier is a lawyer in Washington, D.C., with an academic concentration in international food safety, sustainability, international intellectual property and environmental law, including health care, commercial and corporate law. She has a J.D. from Duquesne University School of Law and a B.A. from Tufts University. Her numerous publications range from peer-reviewed articles in international medical journals to law reviews and may be accessed at http://works.bepress.com/gabriela_steier/.

¹ JOAN C. WILLIAMS, RESHAPING THE WORK-FAMILY DEBATE – WHY MEN AND CLASS MATTER 3, 30-31, 33 (2010).

² The term was coined in STEPHEN R. COVEY, *THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE*, Habit 4: Think win-win (2004). For a summary of the “thinking win-win” principle *see* <https://www.stephencovey.com/7habits/7habits-habit4.php> (last visited May 31, 2013).

³ Womenomics, for the purpose of this paper, is the economic effect of women in the market. It describes the approaches of businesses and companies to the increase in value and number of women in the workforce and the progressive work-life reconciliation of professional women.

⁴ Eugenia Caracciolo di Torella, Is there a fundamental right to reconcile work and family life in the EU? in *FAMILIES CARE-GIVING AND PAID WORK – CHALLENGING LABOR LAW IN THE 21ST CENTURY* 59 (Nicole Busby et al. eds., 2011) (citations omitted).

⁵ See ANN CRITTENDEN, *THE PRICE OF MOTHERHOOD: WHY THE MOST IMPORTANT JOB IN THE WORLD IS STILL THE LEAST VALUED* 48-53 (2001).

⁶ CLAIRE SHIPMAN & KATTY KAY, *WOMENOMICS: WRITE YOUR OWN RULES FOR SUCCESS* xviii (2010) at 41-42.

⁷ See CRITTENDEN, *supra* note 6, at 5.

⁸ See generally Karleen D. Gribble, Mental health, attachment and breastfeeding: implications for adopted children and their mothers, 1:5 *INT’L BREASTFEEDING J.*, 1, 1-15 (2006) (discussion that breastfeeding supports the bonding between a mother and an adopted infant).

⁹ The recommended period to breastfeed is at least six months. See Michael B. Krawinkel, Benefits from Longer Breastfeeding: Do We Need to Revise the Recommendations?, 41 *CURR. PROBL. PEDIATR. ADOLESC. HEALTH CARE*, issue 9, 240, 240-43 (Oct. 2011); see also CRITTENDEN, *supra* note 6, at 259.

¹⁰ See generally CRITTENDEN, *supra* note 6, at 233-39.

¹¹ Judith L. Gutowski, Marsha Walker & Ellen Chetwynd, Containing Health Care Costs: Help in Plain Sight, U.S. LACTATION CONSULTANT ASSOCIATION 4-6 (2010), available at http://www.hmhbga.org/Reimbursement_White_Paper.pdf.

¹² See Lisa Belkin, The Opt-Out Revolution, *N. Y. TIMES* (Oct. 26, 2003), <http://www.nytimes.com/2003/10/26/magazine/26WOMEN.html?pagewanted=all> (for a discussion on women leaving the workplace).

¹³ Over 90 percent of women in the workforce are affected/use flexible work arrangements (FWA’s), which amounts to about 10 million jobs in the U.S. that could or will be lost if employers cannot be flexible to working mothers. See Mary Shapiro, Cynthia Ingols & Stacy Blake-Beard, Optioning In versus “Opting Out”: Women Using Flexible Work Arrangements for Career Success, CENTER FOR GENDER IN ORGANIZATIONS (CGO), Simmons School of Management, Briefing Note Number 25, 3 (Jan. 2007), http://www.simmons.edu/som/docs/insights_25.pdf.

¹⁴ Lisa Belkin, Is ROWE The Future Of Work? Or An Unworkable Fantasy?(April 19, 2013), available at http://www.huffingtonpost.com/2013/04/15/rowe-future-work_n_3084426.html?1366212378&ncid=edlinkusaolp00000008

¹⁵ Id.

¹⁶ Id.

¹⁷ Over 90 percent of women in the workforce are affected/use flexible work arrangements (FWA’s), which amounts to about 10 million jobs in the U.S. that could or will be lost if employers cannot be flexible to working mothers. See Mary Shapiro, Cynthia Ingols & Stacy Blake-Beard, Optioning In versus “Opting Out”: Women Using Flexible Work Arrangements for Career Success, CENTER FOR GENDER IN ORGANIZATIONS (CGO), Simmons School of Management, Briefing Note Number 25, 3 (Jan. 2007), http://www.simmons.edu/som/docs/insights_25.pdf.

¹⁸ SHIPMAN & KAY, *supra* note 7, at 29.

¹⁹ See Belkin, *supra* note 15.

-
- 20 Id.
- 21 See CRITTENDEN, *supra* note 6; see also WILLIAMS, *supra* note 2, at 3-4, 12-14, 23, 30.
- 22 WILLIAMS, *supra* note 2, at 3.
- 23 Based on the ideas set forth in WILLIAMS, *supra* note 2, at 3.
- 24 Id. at 32.
- 25 See SHIPMAN & KAY, *supra* note 7, at 17 (citations omitted).
- 26 Michael Baker & Kevin S. Milligan, Maternal employment, breastfeeding, and health: Evidence from maternity leave mandates (National Bureau of Economic Research, Inc. Working Papers 13188, 2007), 24 HEALTH ECONOMICS, issue 4, 871, 884 (July 2008), available at <http://www.nber.org/papers/w13188>.
- 27 Lane, *supra* note 66, at 172 (citing Nicholas Bakalar, Despite Advice, Many Fail to Breast-Feed, N.Y. TIMES, Apr. 19, 2010, at D7).
- 28 Brenda Dobson & Maureen A. Murtaugh, Position of the American Dietetic Association: Breaking the Barriers to Breastfeeding, 101 JOURNAL OF THE AMERICAN DIETETIC ASSOCIATION, 1213, 1216 (Oct. 2001), available at <http://www.sciencedirect.com/science/article/pii/S000282230100298X> (citations omitted).
- 29 Id.
- 30 WILLIAMS, *supra* note 2, at 92.
- 31 Id. at 28-29.
- 32 CRITTENDEN, *supra* note 6, at 98-99. For more on the Mommy Wage-Gap, and/or the Maternal Wall, *see* Gabriela Steier, Womenomics for Nursing Growth: Making the Case for Work Time Flexibility and Mother-Friendlier Workplaces, 21 *Buffalo Journal of Gender, Law & Social Policy* 111 (2013), available at http://works.bepress.com/gabriela_steier/21/.
- 33 WILLIAMS, *supra* note 2, at 92-93 (citations omitted).
- 34 Id. at 93.
- 35 See Doris Weichselbaumer & Rudolf Winter-Ebmer, A Meta-Analysis of the International Gender Wage Gap, in 19 JOURNAL OF ECONOMIC SURVEYS 479, 479 (2005).
- 36 Id. at 506.
- 37 Joan C. Williams & Nancy Segal, Beyond the Maternal Wall: Relief for Family Caregivers Who Are Discriminated Against on the Job, 26 HARV. WOMEN'S L. J. 77, 77 (2003).
- 38 Female Power, THE ECONOMIST, Jan. 2, 2010, at 50, available at <http://www.economist.com/node/15174418>.
- 39 America's gender wage gap, THE ECONOMIST ONLINE (Apr. 17, 2012, 5:52PM), <http://www.economist.com/blogs/graphicdetail/2012/04/focus-3>.
- 40 WILLIAMS, *supra* note 2, at 31.
- 41 Id. at 45.
- 42 See *id.* at 46.
- 43 See SHIPMAN & KAY, *supra* note 7, at 29.
- 44 Id. at 34.
- 45 Sara B. Fein, Bidisha Mandal, & Brian E. Roe, Success of Strategies for Combining Employment and Breastfeeding, 122 PEDIATRICS S56 (2008).
- 46 Id. at S58.
- 47 Id.

-
- ⁴⁸ See generally SHIPMAN & KAY, *supra* note 7, at 1-21 (see footnote 50 for further explanation).
- ⁴⁹ *Id.* at 2. (A nineteen year study by Pepperdine University of two hundred and fifteen Fortune 500 companies found that “companies with the best records for promoting women outperform[ed] the competition”).
- ⁵⁰ See generally Susan Vinnicombe Obe et al., *The Female FTSE Board Report 2010*, INTERNATIONAL CENTRE FOR WOMEN LEADERS, CRANFIELD SCHOOL OF MANAGEMENT (2010), <http://www.som.cranfield.ac.uk/som/dinamiccontent/res-earch/documents/-FemaleFTSEReport2010.pdf>.
- ⁵¹ SHIPMAN & KAY, *supra* note 7, at 4 (citing Obe et al., *supra* note 104).
- ⁵² *Id.* at 4 (citing *The Bottom Line: Connecting Corporate Performance and Gender Diversity*, CATALYST 2 (2004), available at <http://www.catalyst.org/pub-lication/82/the-bottom-line-connecting-corporate-performance-andgender-diversity>).
- ⁵³ Obe et al., *supra* note 105, at 8.
- ⁵⁴ See *Closing the Gap*, THE ECONOMIST, Nov. 26, 2011, at 55-57, available at <http://www.economist.com/node/21539928>.
- ⁵⁵ SHIPMAN & KAY, *supra* note 7, at 2.
- ⁵⁶ *Id.*
- ⁵⁷ *Id.* at 3.
- ⁵⁸ See *id.* at 9-11, 26-27.
- ⁵⁹ *Womenomics*, *supra* note 1, at 48.
- ⁶⁰ SHIPMAN & KAY, *supra* note 7, at 6.
- ⁶¹ SHIPMAN & KAY, *supra* note 7, at 17 (citations omitted).
- ⁶² *Id.* at 42.
- ⁶³ *Id.*
- ⁶⁴ *Id.*
- ⁶⁵ *Id.* at 16.
- ⁶⁶ See *Female Power*, *supra* note 33, at 50.
- ⁶⁷ *Womenomics*, *supra* note 1, at 48.
- ⁶⁸ *Torella*, *supra* note 5, at 60.
- ⁶⁹ *Id.*
- ⁷⁰ *Id.* at 56-57.
- ⁷¹ Benjamin Mason Meier & Miriam Labbok, *From the Bottle to the Grave: Realizing A Human Right to Breastfeeding Through Global Health Policy*, 60 CASE W. RES. L. REV. 1073, 1115 (2010).
- ⁷² See *id.* at 1124-42.
- ⁷³ *Female Power*, *supra* note 33, at 51.
- ⁷⁴ *Id.*
- ⁷⁵ *Germany’s economic model: What Germany offers the world*, THE ECONOMIST, Apr. 14, 2012, at 29, available at <http://www.economist.com/node/21552567>.
- ⁷⁶ *Female Power*, *supra* note 33, at 51.
- ⁷⁷ WILLIAMS, *supra* note 2, at 6.
- ⁷⁸ *Id.* at 9.

-
- 79 *Id.*
- 80 Compare Calvert, *supra* note 53 (interview on file with author).
- 81 WILLIAMS, *supra* note 2, at 7.
- 82 See Nutrition: Exclusive breastfeeding, *supra* note 3.
- 83 *Id.*
- 84 *Coleman v. Ct. of Apps. of Md.*, 132 S. Ct. 1327, 1336 (2012) (The Supreme Court of the United States “considered subparagraph (C) in *Nevada Dept. of Human Resources v. Hibbs*, 538 U.S. 721 (2003). Subparagraph (C), like (A) and (B), grants leave for reasons related to family care, and those three provisions are referred to . . . as the family-care provisions.” *Id.* at 1332).
- 85 Family and Medical Leave Act, 29 U.S.C. § 2612(a) (2009).
- 86 Ideally, women should breastfeed their infants exclusively for six months “and then partially breastfed for another six months as first foods are introduced.” Heather M. Kolinsky, *Respecting Working Mothers with Infant Children: The Need for Increased Federal Intervention to Develop, Protect, and Support A Breastfeeding Culture in the United States*, 17 DUKE J. GENDER L. & POL’Y 333, 335 (2010).
- 87 Chuang et al., *supra* note 54, at 462, 468-69.
- 88 Kolinsky, *supra* note 85, at 335 (“Federal legislation, specifically the Family Medical Leave Act, provides for twelve weeks of unpaid leave under certain conditions. . . . Beyond that most women are at the mercy of state and private employers’ leave policies.” *Id.* at 335 n.13).
- 89 Linda K. Kerber, *Toward an Intellectual History of Women: Essays*, CHAPEL HILL: UNIV. OF N.C. PRESS 159 (1997) available at [http:// faculty.uml.edu/sgallagher/separate_spheres.htm](http://faculty.uml.edu/sgallagher/separate_spheres.htm).
- 90 Business management strategies often suggest prioritizing tasks and fitting the most important and urgent tasks into the block schedule, followed by less important ones. Steven R. Covey, A. Roger Merrill & Rebecca R. Merrill use the metaphor of a jar filled with rocks to illustrate the four-quadrant approach to business management through a block schedule. STEVEN R. COVEY, A. ROGER MERRILL & REBECCA R. MERRILL, *FIRST THINGS FIRST* 89 (2003).
- 91 WILLIAMS, *supra* note 2, at 72-74.
- 92 *Id.*
- 93 WILLIAMS, *supra* note 2, at 64.
- 94 Quoting Kyle Peterson in Lisa Belkin, *Is ROWE The Future Of Work? Or An Unworkable Fantasy?*(April 19, 2013), available at http://www.huffingtonpost.com/2013/04/15/rowe-future-work_n_3084426.html?1366212378&ncid=edlinkusaolp00000008