Civil Justice Clinic's new Work-Life Policy Unit at Arizona State University

Bio: Marcy Karin is an Associate Clinical Professor and Director of the Work-Life Policy Unit of the Civil Justice Clinic at Arizona State University's Sandra Day O'Connor College of Law. Karin previously served as Legislative Counsel for Workplace Flexibility 2010 and as an Adjunct Professor of Law, Teaching Fellow, and Supervising Attorney at Georgetown University Law Center's Federal Legislation and Administrative Clinic. Before Georgetown, she worked for Arent Fox PLLC in Washington, D.C., where she received the Albert E. Arent Pro Bono Award for Outstanding Contributions to the Public Interest for her work with groups who attempt to eradicate domestic violence and her support of D.C. Public High Schools through the Street Law Clinic.

Prof. Karin received her JD from Stanford Law School, her LLM from Georgetown University Law Center, and her BA from American University, where she graduated summa cum laude, with a double major in Gender Studies and Justice. She was a 2003 recipient of the Burton Award for Legal Achievement for her article on Executive Order 13,233 published in Stanford Law Review. Her most recent articles involve proposals to amend and analysis of statutory protections for time off for military families and victims of domestic violence. She also researches, writes, and speaks about workplace law, policy, and practice, civil justice and litigation, and women's legal history.

An Interview with Marcy Karin

by Julie Weber and Karen Corday

Weber: Please tell us about the newly developed Civil Justice Clinic's new Work-Life Policy Unit at Arizona State University, including how the unit came to be, why the unit is unique, and what your short- and long-term goals are for the unit.

Karin: The ASU Civil Justice Clinic is a law school course that combines client representation with classroom seminars in hopes of achieving a dual mission, which is to provide ASU law students with the training, supervision, and field experience necessary to become effective lawyers as well as to undertake projects that advance the public interest and provide quality representation to individuals who need pro bono representation or nonprofit clients who need legislative law services on work-life policy issues.

The Work-Life Policy Unit became operational last semester when I joined ASU's faculty. It's a completely integrated part of the larger Civil Justice Clinic. It provides students with the opportunity to work with clients ranging from individual employees who are involved in wage recovery, time off, or discrimination actions to people who have been wrongly denied unemployment benefits, to nonprofit clients who are working on big work-life issues, including the proper role of government in supporting the needs of employers, employees, and the community at large.

It's pretty unique in law school culture because it allows students to do individual representation along with the chance to work on creating systemic changes. Students get the chance to see how litigation and policy advo-
cacy interact and the important role that lawyers can play in those processes. Our main goal is to provide quality education for our students by helping them develop analytic and advocacy skills and really have the chance to do creative and collaborative problem solving, to serve the community, and to critically examine the justice and legislative systems as well as other public institutions. We are also designed to allow students to do all of that while providing quality work products for our client.

**Corday:** How and when did you first become interested in the work-family balance policy area, and how has the policy landscape changed since then?

**Karin:** I’ve been interested in work-family policy for some time. I don’t see how you can be a worker or a manager and not be interested in work-family policy! Anyone who’s been in the workplace has seen firsthand the mismatch that some of their colleagues experience. I have personally benefited from working at places with significant flexibility where I’ve been able to have the conversations about how I need the workplace structured to meet my other needs.

Before my current position, I was an employment lawyer, so I also had the opportunity to advise employers of all sizes, as well as individual employees, on flexibility practices, what the relevant laws are, what employers are required to provide, what else can and should be provided, and what employees are entitled to or should ask for anyway. Based on that experience, I know that these conversations can be difficult and the solutions are often difficult as well. It really requires commitment from both employers and employees to make flexibility work.

But I don’t believe that just because something is difficult it shouldn’t be discussed or challenged. Having seen the positive impact that successful workplace policies can have on the day-to-day lives of myself and others, I think that everyone has some form of obligation to support efforts to obtain access to more flexibility.

With respect to how the landscape has changed, one of the most significant changes in the work-family policy field has been its expansion. For example, there are a host of new voices at the table talking about work-family policy. Stakeholders and policy makers across the country are noticing the broad impact that workplace structures have on all sorts of people and organizations. The conversation now includes how work-life policy matters for military families, domestic violence survivors, people with disabilities, and low-income hourly workers; these groups of people were not specifically talked about just a few decades ago.

There are also discussions happening right now about the benefits of flexibility for the aging population as well as the new generation of workers. There are also lots of interesting things happening in the policy arena related to men, mental health, and emergency preparedness, among other areas. My point here is that there are voices that were traditionally not part of the work-family conversation that are now very much part of the conversation, and when you add those voices to those of advocates who have been paving the way for decades, there’s real opportunity for policy that supports the development of workplace policy.

I’d be remiss if I didn’t also mention two other changes to the policy landscape since I have been involved. One is the new Obama Administration, which talks about the importance of work-life issues. Indeed, President Obama talked about it on the campaign trail and continues to talk about it in office. Some of the structures he’s created since becoming President have played an increasingly large role in setting the agenda for the national conversation on work-life issues. Groups like the White House Council on Women and Girls and the Middle Class Task Force were created in part to evaluate and develop national policy on work-life and related issues. And Michelle Obama speaks about the need for flexible work hours, paid sick leave, quality onsite child care, promoting best practices in these areas, and the importance of supporting military families.

In addition to the Administration, there’s a renewed interest on Capitol Hill. We see a lot more bipartisan efforts than you did last decade, when there was a huge stalemate on these issues. There’s a bipartisan Senate Study Group on Workplace Flexibility, for example, and bipartisan bills, hearings, and efforts to study and support flexibility, particularly from the aging perspective.

**Weber:** Upon which work-family policies will the Work-Life Policy Unit be focused?

**Karin:** The clinic believes in client-centered lawyering, which means we’ll do anything that relates to expanding access to work-life policy that supports the goals of our clients. We’re here to help nonprofit clients who are interested in improving the law in this area. We don’t have our own agenda, per se; rather, we teach our students to find out the goals of our clients and see what we can do to help those clients achieve their goals.
We have done and can do a wide range of services for clients, from drafting a white paper on the legal framework of flexibility for state employees to writing a comment in response to a notice of new regulations under the Family and Medical Leave Act for military families to drafting talking points, hearing testimony, or proposed text for new paid leave legislation.

**Corday:** Which work-family policies do you think are the most likely to be adopted and why?

**Karin:** Given the economic and political realities that exist right now, I think we’re more likely to see policies geared toward making the government a model employer. For example, the federal government was an early leader on flexibility, but the Administration and Congress has shown a renewed interest in making it even better. I think we’ll see policies that work to make a more flexible Fed and work-life support as an integral part of the way that work actually gets done in the government.

You see some of this already in the House’s passage of the Federal Employees Paid Parental Leave Act and discussions surrounding some of the telework bills and initiatives, which are aimed at providing new or improving existing supports to federal employees. Additional measures that extend unemployment insurance benefits and do things like improve workforce investment and training programs are also likely to pass. I think there will also be new supports for states and employers who are looking to implement new or expand existing flex programs, whether through grants for states with new leave insurance programs or incentives for businesses to learn about and try new scheduling initiatives or creative reentry programs.

On the state level, we’re going to continue to see creative pilots and other policies that try new ways to use flexibility to focus on efficient operations and boosting employee moral that will counterbalance some of the severe budget cuts and crises that many states see themselves in. We started to see some of that with programs like Working 4 Utah. Here in Arizona, the telework program has been piloted and expanded, and once states are able to study and recognize how beneficial these programs are to the citizens and the state as an employer, I think we’ll continue seeing more on the state level. Even if I’m wrong about my specific predictions, one thing I would bet on is that more work-life laws are coming. We’re going to continue to see new advances over the next several years. This issue isn’t going away anytime soon.

**Weber:** Which work-family policies are least likely to be adopted and why?

**Karin:** All things considered, it’s going to be difficult to have new mandates right now, especially given the economic and political realities facing our country. However, new mandates sometimes are the only way to move things forward. Conversations about whether and what new requirements are needed aren’t going to go away, even if passage might be difficult right now.

**Corday:** What specific tasks will you have the students do to help develop policy on work-life balance?

**Karin:** As I mentioned earlier, we believe in a client-centered approach, so our students spend some time getting to know their clients and figuring out the best legislative and regulatory work we can do to move the ball forward. This can involve drafting comments, engaging in coalition work, or explaining the current legal landscape and the impact a proposed bill would have on an existing law. We look for clients who are willing to let students take the lead. We want clients who are willing to engage in our process of letting students learn how to be legislative lawyers and leaders, with my constant supervision.

**Weber:** Are you focusing solely on state-level change or on federal level change, too?

**Karin:** We focus on all levels, including city and local. All levels of government have a role in increasing access to flexibility, so really we’ll be working with our clients on any level that will help them meet their goals and provide a quality legislative lawyering experience for our students.

**Corday:** What further academic research do you think could be done to move these policies forward?

**Karin:** Academics can provide support for the ongoing conversations. They can continue the research that’s been happening for the last several decades that explores the effects these supports have on people’s day-to-day lives and on the business operations of a wide range of employers. Academics can think through various issues and proposals, test out solutions, collect data, and share information so others can learn from the work they’ve done.
Weber: What can businesses do to move these policies along?

Karin: Stay engaged. What we’ve seen with the Obama Administration so far is the feeling that the country needs policies to encourage employers to follow the lead of some of the best practices in which some businesses are already engaged. Write letters, blog about your experiences, talk about them on Twitter—air your struggles and opportunities. More education and information is always needed. Businesses can reevaluate their own programs and policies. Just because a business has been a best practice employer in one area doesn’t mean that there isn’t room to grow in another. Take a lead from the federal government and revisit your policies. Is there a new flexibility program you can offer your employees that works for you as an employer? Not sure? Try something out; then try again. And document your efforts. Think about what the government can do to support your efforts to be a better employer, and then talk about that idea. Pick up the phone or take to your computer and share that information. Learn to be a flexibility advocate and leader, and improve your operations and support your employees and the larger community in which your business operates at the same time.

States That Have Passed Statutes Addressing Flexible Work Schedules