

COVID-19 AND THE PERILS OF FREE-MARKET PARENTING: WHY IT IS PAST TIME FOR THE UNITED STATES TO INSTALL GOVERNMENT SUPPORTS FOR FAMILIES

Maxine Eichner*

U.S. public policy has for decades rested on the expectation that parents will privately provide the cash and conditions their children need. This expectation is exceptional: most other wealthy countries' public policies support children through a mix of public and private funds. The COVID-19 pandemic, however, radically changed U.S. policy. The severe economic dislocation that resulted led Congress to pass a series of measures that funneled trillions of public dollars to families and parents. Whether these measures should represent a temporary deviation from the nation's free-market expectations during an unprecedented emergency or the first step in a long-term shift toward routine public funding for children remains an open question.

This Essay makes the urgent case for the United States to join other countries in permanently shifting its approach toward one that combines private support of children with generous public support. It argues that "free-market family policy" failed to adequately support American children long before the pandemic.

Supplementing private funding with a generous stream of public funding is necessary to support the well-being of U.S. children even after the pandemic's economic effects recede.

INTRODUCTION.....	2510
I. PANDEMIC RELIEF MEASURES AND U.S. FAMILIES.....	2512
II. U.S. FREE-MARKET FAMILY POLICY	2515

* Graham Kenan Distinguished Professor of Law, University of North Carolina School of Law; J.D., Yale Law School; Ph.D., University of North Carolina at Chapel Hill. This Essay was prepared for the Symposium entitled *The Law of Parents and Parenting*, hosted by the *Fordham Law Review* on November 5, 2021, at Fordham University School of Law. With thanks to the faculty organizers of the *The Law of Parents and Parenting* Symposium, and the terrific assistance of Grant Emrich, Mary Hornak, Anastasia Lacina, Jocelyn Lee, and the student editors of the *Fordham Law Review*. I am grateful for the excellent work of my research assistants, Elise Jamison and Cassandra Zietlow.

III. WHY U.S. FREE-MARKET FAMILY POLICY FAILED TO MEET CHILDREN’S NEEDS EVEN BEFORE THE PANDEMIC	2520
A. <i>America’s Skyrocketing Economic Inequality</i>	2521
B. <i>Economic Insecurity</i>	2524
C. <i>The Effects of Free-Market Policy in the Unequal and Insecure Pre-Pandemic Economy</i>	2525
IV. U.S. FAMILY POLICY POST-PANDEMIC	2527
CONCLUSION	2528

INTRODUCTION

The United States has long been an outlier among wealthy countries when it comes to children’s material support.¹ Other wealthy democracies treat government as an integral partner in ensuring that parents get the cash that allows children the goods and services they need to thrive.² In contrast, the United States expects parents to meet children’s needs largely alone, through market earnings.³

The COVID-19 pandemic exposed the glaring weaknesses in the U.S. system of private support for families. In 2020, almost half of U.S. families reported a significant drop in income as a result of the pandemic; households with children were disproportionately affected.⁴ The economic dislocation meant that one in five children—and almost one in four Black and Hispanic children—lived in families that fell below the U.S. poverty line.⁵ Female-headed households were disproportionately impacted, as the closure of schools and daycares meant that millions of mothers were forced to take unpaid time off or leave their jobs entirely to care for children.⁶

The clear failures of the United States’s “free-market family” approach during the crisis resulted in a seismic—albeit temporary—shift away from the expectation that children should sink or swim based on their parents’

1. See generally MAXINE EICHNER, *THE FREE-MARKET FAMILY: HOW THE MARKET CRUSHED THE AMERICAN DREAM (AND HOW IT CAN BE RESTORED)* ch. 2 (2020).

2. See generally *id.*

3. See generally *id.*

4. See Kim Parker et al., *About Half of Lower-Income Americans Report Household Job or Wage Loss Due to COVID-19*, PEW RSCH. CTR. (Apr. 21, 2020), <https://www.pewresearch.org/social-trends/2020/04/21/about-half-of-lower-income-americans-report-household-job-or-wage-loss-due-to-covid-19/> [https://perma.cc/56TL-Y7BA].

5. Melissa Jenco, *Study: COVID-19 Pandemic Exacerbated Hardships for Low-Income, Minority Families*, AM. ACAD. OF PEDIATRICS (June 3, 2020), <https://publications.aap.org/aapnews/news/pdfDownload/13838> [https://perma.cc/2JW6-R5NP].

6. See Sarah Jane Glynn, *Millions of Families Are Struggling to Address Child Care Disruptions*, CTR. FOR AM. PROGRESS (June 22, 2021), <https://www.americanprogress.org/issues/women/news/2021/06/22/500847/millions-families-struggling-address-child-care-disruptions/> [https://perma.cc/BT3L-LXD9]; Heather Long, *‘The Pay Is Absolute Crap’: Child-Care Workers Are Quitting Rapidly, a Red Flag for the Economy*, WASH. POST (Sept. 19, 2021, 6:00 AM), <https://www.washingtonpost.com/business/2021/09/19/childcare-workers-quit/> [https://perma.cc/8PFX-5LWS].

market earnings.⁷ In response to the economic fallout, Congress took a series of extraordinary measures to get public cash into the hands of American families: It provided a weekly federal supplement to state unemployment benefits for workers who lost their jobs,⁸ issued three pandemic relief checks to adults and children,⁹ and appropriated billions of dollars in emergency aid to help renters facing eviction.¹⁰ And, as the pandemic continued, Congress approved monthly checks to most families with children for the first time in the nation's history.¹¹

However, Congress framed all these actions as temporary measures to allow families to weather the pandemic.¹² The question that remains is whether measures like these should open the door to more permanent changes in the nation's public policy. The Biden administration and many congressional Democrats have proposed public supports for children going forward, including continued child-benefit checks, but as this Essay goes to press, the fate of the Build Back Better bill containing these supports is stalled in Congress.¹³

7. I develop the contrasts between what I call the “free-market family policy” of the United States and the “pro-family policy” of other wealthy democracies in more detail in my recent book, *The Free-Market Family: How the Market Crushed the American Dream (and How It Can Be Restored)*. EICHNER, *supra* note 1. For another critique of the market's ability to support families, see generally Meredith J. Harbach, *Childcare Market Failure*, 2015 UTAH L. REV. 659.

8. Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, § 2104, 134 Stat. 281, 318 (2020) (codified as amended at 15 U.S.C. § 9023).

9. *See id.* § 2201 (codified as amended at 26 U.S.C. § 6428); COVID-related Tax Relief Act of 2020, Pub. L. No. 116-260, § 272, 134 Stat. 1182, 1965 (codified at 26 U.S.C. § 6428A); American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 9601, 135 Stat. 4, 138 (codified as amended at 26 U.S.C. § 6428B).

10. Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. V(A), § 501, 134 Stat. 1949, 2069–78 (codified as amended at 15 U.S.C. § 9058a); American Rescue Plan Act of 2021 §§ 3201–3202, 135 Stat. at 54–60 (codified as amended at 15 U.S.C. § 9058c and 42 U.S.C. § 1437f note).

11. American Rescue Plan Act of 2021 §§ 9611–9622, 135 Stat. at 144–53 (codified as amended in scattered sections of 26 U.S.C.).

12. The pandemic relief checks were characterized as one-time cash payments. *See generally* CARES Act; COVID-related Tax Relief Act of 2020; Consolidated Appropriations Act, 2021; American Rescue Plan Act of 2021. Federal unemployment benefits ended in all states on September 6, 2021. *See* SUZAN G. LEVIN, EMP. & TRAINING ADMIN., U.S. DEP'T OF LABOR, UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 15-20, CHANGE 4, at § 3(a) (2021), https://wdr.doleta.gov/directives/attach/UIPL/UIPL_15-20_Change_4.pdf [<https://perma.cc/2R3V-XVGD>]. The child-benefit checks expired at the end of 2021. *See* American Rescue Plan Act of 2021 §§ 9611–9622, 135 Stat. at 144–53; Ben Casselman, *Child Tax Credit's Extra Help Ends, Just as Covid Surges Anew*, N.Y. TIMES (Jan. 2, 2022), <https://www.nytimes.com/2022/01/02/business/economy/child-tax-credit.html> [<https://perma.cc/H7DP-WMGP>]. Pandemic rental assistance will expire either on September 30, 2022 (for funds authorized by the Consolidated Appropriations Act, 2021) or on September 30, 2025 (for funds authorized by the American Rescue Plan Act of 2021). *See* Consolidated Appropriations Act, 2021 § 501(e)(1), as extended by the American Rescue Plan Act of 2021 § 3201(h); American Rescue Plan Act of 2021 § 3201(g).

13. On November 19, 2021, the U.S. House of Representatives passed a version of the Build Back Better Act., H.R. 5376, 117th Cong. (2021). As this Essay goes to press, however, the Act has not passed the U.S. Senate.

This Essay argues that the answer to the question of whether the United States should permanently change its approach to family support should be an emphatic “yes.” The extraordinary policy measures taken to support U.S. families during the pandemic should become the first steps toward routine public funding for families. Part I of this Essay describes the measures that Congress took during the pandemic to support U.S. families. Part II situates these extraordinary steps in context with the United States’ long-standing free-market family policy, which expects families to support themselves almost exclusively through market earnings. Part III demonstrates that, long before the pandemic, the rise of economic inequality and insecurity made it increasingly tough for U.S. families to provide the support their children needed under free-market family policy. Finally, Part IV argues that the continuation of public funding is necessary to support the well-being of children after the pandemic’s economic effects recede.

I. PANDEMIC RELIEF MEASURES AND U.S. FAMILIES

The COVID-19 pandemic created economic dislocations that resulted in unprecedented hardships for U.S. families. The private stream of income Americans necessarily rely on to support their families ran dry for many, as many stores, restaurants, and other service establishments shuttered their doors, and warehouses and offices closed or cut back hours. Between February and April 2020, the unemployment rate rose from 3.5 percent to 14.7 percent, and the employment-to-population ratio fell from 61.1 percent to 51.3 percent.¹⁴ In April 2020, roughly three in ten adults (28 percent) said they or someone in their household was laid off or lost their job due to the outbreak.¹⁵ When workers who either had their pay cut because their work hours were reduced or had to leave work to take care of children are factored in, four in ten U.S. adults reported their households suffered an income shock.¹⁶ Households with children were disproportionately affected.¹⁷ All

14. See William G. Gale & Grace Enda, *Economic Relief and Stimulus: Good Progress but More Work to Do*, BROOKINGS INST. (Dec. 16, 2020), <https://www.brookings.edu/research/economic-relief-and-stimulus-good-progress-but-more-work-to-do/> [https://perma.cc/Y62X-QYM3].

15. See Kim Parker et al., *About Half of Lower-Income Americans Report Household Job or Wage Loss Due to COVID-19*, PEW RSCH. CTR. (Apr. 21, 2020), <https://www.pewresearch.org/social-trends/2020/04/21/about-half-of-lower-income-americans-report-household-job-or-wage-loss-due-to-covid-19/> [https://perma.cc/HC8H-E8JK].

16. See *id.*; see also LAUREN BAUER ET AL., THE HAMILTON PROJECT, BROOKINGS INST., TEN FACTS ABOUT COVID-19 AND THE U.S. ECONOMY 14 (2020), https://www.brookings.edu/wp-content/uploads/2020/09/FutureShutdowns_Facts_LO_Final.pdf [https://perma.cc/H5BX-4WW4].

17. See generally BETSEY STEVENSON, THE HAMILTON PROJECT, BROOKINGS INST., THE INITIAL IMPACT OF COVID-19 ON LABOR MARKET OUTCOMES ACROSS GROUPS AND THE POTENTIAL FOR PERMANENT SCARRING (2020), https://www.brookings.edu/wp-content/uploads/2020/07/Stevenson_LO_FINAL.pdf [https://perma.cc/FT3A-A69M]; Nicole Bateman & Martha Ross, *Why Has COVID-19 Been Especially Harmful for Working Women?*, BROOKINGS INST. (Oct. 2020), <https://www.brookings.edu/essay/why-has-covid-19-been-especially-harmful-for-working-women/> [https://perma.cc/NM4F-69CD].

told, upward of three out of five low-income households with children, disproportionately from nonwhite households, reported that they experienced an income shock from the pandemic.¹⁸

Under U.S. free-market family policy, these income shocks translated into real hardship for U.S. children at the most basic level. A Brookings Institution study found that economic dislocation due to the pandemic in late June 2020 meant that 13.9 million children (18 percent of all children in the United States) were not getting enough to eat because their families simply could not afford to pay for food.¹⁹ This number was almost six times the number of children who were food insecure in all of 2018.²⁰ And this was the number of families in which *children* did not get enough to eat. One in four U.S. households with children reported that the *household* lacked adequate food in June 2020.²¹ Children of color were disproportionately affected, experiencing food hardship at three times the rate of white children.²² That few children were going to school—where they could have received free or reduced-price lunches—added to the gravity of the problem.²³ These income shocks also meant that parents could not afford rent: in early September 2021, almost one in four renters (23 percent) living with children reported that they were behind on rent.²⁴ Such economic distress has long been known not only to affect children materially but also to undermine parents' mental health and emotional bandwidth, thus undermining the quality of their parenting;²⁵ preliminary research suggests that the pandemic was no exception.²⁶

Faced with the economic disruption caused by COVID-19, Congress passed extraordinary measures to get cash into the hands of U.S. families. It supplemented states' unemployment benefits for workers who had lost jobs

18. See BAUER ET AL., *supra* note 16, at 13.

19. See Lauren Bauer, *About 14 Million Children in the US Are Not Getting Enough to Eat*, BROOKINGS INST. (July 9, 2020), <https://www.brookings.edu/blog/up-front/2020/07/09/about-14-million-children-in-the-us-are-not-getting-enough-to-eat/> [<https://perma.cc/8Q6B-TMPU>].

20. See *id.*

21. See *id.* The rate of food-insecure households is higher than the rate of households with food-insecure children because adults usually scrimp to ensure that children eat first. See Brynne Keith-Jennings et al., *Number of Families Struggling to Afford Food Rose Steeply in Pandemic and Remains High, Especially Among Children and Households of Color*, CTR. ON BUDGET & POL'Y PRIORITIES (Apr. 27, 2021), <https://www.cbpp.org/research/food-assistance/number-of-families-struggling-to-afford-food-rose-steeply-in-pandemic-and> [<https://perma.cc/2FFJ-GZ8B>].

22. See Keith-Jennings, *supra* note 21.

23. See *id.*

24. See *Tracking the COVID-19 Economy's Effects on Food, Housing, and Employment Hardships*, CTR. ON BUDGET & POL'Y PRIORITIES (Nov. 10, 2021), <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-economys-effects-on-food-housing-and> [<https://perma.cc/TE4Z-Q2Z5>].

25. See Lisa A. Gennetian & Eldar Shafir, *The Persistence of Poverty in the Context of Financial Instability: A Behavioral Perspective*, 34 J. POL'Y ANALYSIS & MGMT. 904, 910–16 (2015).

26. See Elizabeth O. Ananat & Anna Gassman-Pines, *Snapshot of the COVID Crisis Impact on Working Families*, ECONOFACT (Mar. 30, 2020), <https://econofact.org/snapshot-of-the-covid-crisis-impact-on-working-families> [<https://perma.cc/7R56-4BVW>].

with \$600 per week in federal money.²⁷ It authorized three rounds of direct relief payments to Americans totaling up to \$3200 for adults and up to \$2700 for children.²⁸ Further, Congress appropriated \$46.5 billion for emergency aid to help renters facing eviction.²⁹ Last, but hardly least, in March 2021, Congress temporarily made the Child Tax Credit fully refundable and raised the credit to \$3600 for children younger than age six and \$3000 for those between ages six and seventeen.³⁰ In light of this legislation, half of these benefits were paid out in monthly benefit checks of \$300 per child under the age of six and \$250 per child between the ages of six and seventeen.³¹

The support delivered through these measures provided broad relief to U.S. families. The one-year expansion of the Child Tax Credit was particularly transformative for American households with children. The monthly child-benefit payments reached 61 million children—roughly 84 percent of all U.S. children.³² Nearly 70 percent of moderate- and low-income families who received checks reported that the payments made them feel less economically stressed.³³

The child-benefit checks were particularly transformative for poor families. The Center on Poverty and Social Policy at Columbia University

27. See Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, § 2104, 134 Stat. 281, 318 (2020) (codified as amended at 15 U.S.C. § 9023). The \$600 per week CARES Act supplement ended in late July 2020. *See id.* Subsequent legislation contained a \$300 per week supplement until September 6, 2021, when the federal program ended. *See American Rescue Plan Act of 2021*, Pub. L. No. 117-2, § 2901, 135 Stat. 4, 49 (amending 45 U.S.C. § 352(a)(5)(A)); *see also* LEVIN, *supra* note 12.

28. In March 2020, the CARES Act provided payments of up to \$1200 per adult and \$500 per child under the age of seventeen. *See* CARES Act § 2201 (codified as amended at 26 U.S.C. § 6428). In December 2020, the COVID-related Tax Relief Act of 2020 paid up to an additional \$600 per person. *See* Pub. L. No. 116-260, § 203, 134 Stat. 1182, 1953 (amending 15 U.S.C. § 9023(e)). In March 2021, Congress authorized payment of up to an additional \$1400 per person. *See American Rescue Plan Act of 2021*, Pub. L. No. 117-2, § 9601, 135 Stat. 4, 138 (codified at 26 U.S.C. § 6428B). The payments were reduced for individuals making more than \$75,000 per year and married couples making more than \$150,000 per year. *See id.*

29. *See* COVID-related Tax Relief Act § 501 (appropriating \$25 billion); American Rescue Plan Act of 2021 §§ 3201–3202 (appropriating \$21.55 billion); *see also Emergency Rental Assistance Program*, U.S. DEP'T OF THE TREASURY, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program> [<https://perma.cc/7JFJ-KQFP>] (last visited Apr. 2, 2022) (providing information about the two Emergency Rental Assistance programs).

30. Full funding was available for individual parents with children and an adjusted gross income of less than \$75,000, less than \$112,500 for heads of households, or less than \$150,000 for a married couple filing jointly. *See American Rescue Plan Act of 2021* § 9611.

31. *See id.*; *see also The Child Tax Credit*, THE WHITE HOUSE, <https://www.whitehouse.gov/child-tax-credit/> [<https://perma.cc/QT37-YQZ2>] (last visited Apr. 2, 2022).

32. Press Release, U.S. Dep't of the Treasury, Treasury and IRS Disburse Sixth Monthly Child Tax Credit to Families of 61 Million Children (Dec. 15, 2021), <https://home.treasury.gov/news/press-releases/jy0533> [<https://perma.cc/TV4H-SVJD>].

33. *See* Casey Parks, *Most Parents Use Child Tax Credit on Food, Bills and Other Necessities, Survey Finds*, WASH. POST (Nov. 18, 2021, 2:15 PM), <https://www.washingtonpost.com/dc-md-va/2021/11/18/child-tax-credit-spent-on-bills/> [<https://perma.cc/W4TH-BZLY>].

found that the first payment in July 2021 lifted 3 million children out of poverty, representing a 25 percent cut in the monthly child poverty rate.³⁴ After the second payment, the number of households with children who did not have enough to eat fell by one-third, or nearly 3.3 million, based on U.S. Census Bureau data.³⁵ The Center on Poverty and Social Policy at Columbia University projected that, in the course of the year during which the Child Tax Credit was expanded, child poverty would be cut by more than half, with particularly large reductions for Black, Hispanic, and Native American children.³⁶ The number of children living in deep poverty would also be cut by almost half.³⁷ The significance of a 48 percent reduction of child poverty within one year to the well-being of U.S. children is, as the Brookings Institution put it, “hard to overstate.”³⁸

II. U.S. FREE-MARKET FAMILY POLICY

The economic dislocations resulting from the pandemic hit U.S. families particularly hard because the country has long relied on a market-focused approach to family support that I call “free-market family policy.” This policy is based on the view that families do better when they get what they need privately through markets.³⁹ According to free-market family policy, the government’s role is not to support children directly but rather simply to ensure strong markets, which will in turn supposedly benefit families.⁴⁰ If markets are strong, this theory posits, then every family will get a big enough slice of the pie to privately satisfy its needs.⁴¹

Under free-market family policy, U.S. government programs provide considerably less public support to families than do other countries’ programs. Before the pandemic, the United States was one of the few

34. See ZACHARY PAROLIN ET AL., *CTR. ON POVERTY & SOC. POL’Y, MONTHLY POVERTY RATES AMONG CHILDREN AFTER THE EXPANSION OF THE CHILD TAX CREDIT 1* (2021), <https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/612014f2e6deed08adb03e18/1629492468260/Monthly-Poverty-with-CTC-July-CPSP-2021.pdf> [<https://perma.cc/3N9K-LAJY>].

35. See Claire Zippel, *After Child Tax Credit Payments Begin, Many More Families Have Enough to Eat*, *CTR. ON BUDGET & POL’Y PRIORITIES* (Aug. 30, 2021, 12:00 PM), <https://www.cbpp.org/blog/after-child-tax-credit-payments-begin-many-more-families-have-enough-to-eat> [<https://perma.cc/4439-BKTJ>].

36. See *CTR. ON POVERTY & SOC. POL’Y, A POVERTY REDUCTION ANALYSIS OF THE AMERICAN FAMILY ACT 1* (2021), <https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/600f2123fdfa730101a4426a/1611604260458/Poverty-Reduction-Analysis-American-Family-Act-CPSP-2020.pdf> [<https://perma.cc/774H-492W>].

37. See *id.* at 2.

38. Christopher Pulliam & Richard V. Reeves, *New Child Tax Credit Could Slash Poverty Now and Boost Social Mobility Later*, *BROOKINGS INST.* (Mar. 11, 2021), <https://www.brookings.edu/blog/up-front/2021/03/11/new-child-tax-credit-could-slash-poverty-now-and-boost-social-mobility-later/> [<https://perma.cc/27K5-PDNU>].

39. See EICHNER, *supra* note 1, at 19; GÖSTA ESPING-ANDERSEN, *THE THREE WORLDS OF WELFARE CAPITALISM* 26–27, 41–44 (1990).

40. See EICHNER, *supra* note 1, at 19.

41. See *id.*

wealthy countries that failed to provide routine child-benefit checks.⁴² The United States is also the only wealthy country that fails to provide any paid parental leave whatsoever.⁴³ Recently, a few states have sought to fill this gap by passing their own paid leave laws—an important advance, despite providing far shorter leaves than provided by other wealthy countries.⁴⁴

In keeping with free-market family policy, even U.S. safety-net programs do not fill the gap in ensuring that children receive adequate material support. In every state but Wisconsin, the eligibility rules for Temporary Assistance for Needy Families (TANF) require that a family's income fall below the poverty line to be eligible.⁴⁵ Of these, a majority of states require income below half the amount of the poverty line, most of these requiring income below 30 percent of the poverty line, even to be eligible for benefits.⁴⁶ Further, under federal law, every state must set a lifetime TANF cap for families of five years or less;⁴⁷ some states have set the cap at as few as twelve months.⁴⁸ Roughly a third of states also cap or reduce TANF benefits on the birth of a new child if the family was receiving benefits when the child was born.⁴⁹ The result of TANF's restrictions and exclusions is that only twenty-one in one hundred poor families nationally receive benefits.⁵⁰ And

42. See, e.g., Dylan Matthews, *Sweden Pays Parents for Having Kids—It Reaps Huge Benefits. Why Doesn't the U.S.?*, VOX (May 23, 2016, 9:00 AM), <https://www.vox.com/2016/5/23/11440638/child-benefit-child-allowance> [<https://perma.cc/EH57-934X>].

43. See Ellen Francis et al., *How Does the U.S. Compare to Other Countries on Paid Parental Leave? Americans Get 0 Weeks. Estonians Get More than 80.*, WASH. POST (Nov. 11, 2021, 11:08 AM), <https://www.washingtonpost.com/world/2021/11/11/global-paid-parental-leave-us/> [<https://perma.cc/BH85-CH7T>].

44. See, e.g., CAL. LAB. CODE §§ 245–249 (West 2022) (six weeks); D.C. CODE ANN. § 32-502 (West 2022) (sixteen weeks); N.J. STAT. ANN. § 43:21-39.3 (West 2021) (thirteen weeks); N.Y. WORKERS' COMP. LAW § 380-2.4 (McKinney 2020) (eight weeks); 28 R.I. GEN. LAWS ANN. § 28-48-2 (West 2022) (four weeks); WASH. REV. CODE ANN. § 50A.15.020 (West 2022) (twelve weeks).

45. See GENE FALK, CONG. RSCH. SERV., R43634, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF): ELIGIBILITY AND BENEFIT AMOUNTS IN STATE TANF CASH ASSISTANCE PROGRAMS 3, 4 fig.1 (2014), <https://sgp.fas.org/crs/misc/R43634.pdf> [<https://perma.cc/RU5H-6VAS>].

46. See *id.*

47. See GENE FALK, CONG. RSCH. SERV., R44668, THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT: A LEGISLATIVE HISTORY 15 (2021), <https://sgp.fas.org/crs/misc/R44668.pdf> [<https://perma.cc/D3RU-LJSW>].

48. See Mary Jo Pitzl, *Arizona Limits Poverty Aid to 1 Year; Strictest in U.S.*, AZCENTRAL (July 1, 2016, 10:40 AM), <https://www.azcentral.com/story/news/politics/arizona/2016/07/01/arizona-limits-poverty-aid-1-year-strictest-us/86499262/> [<https://perma.cc/F82S-LKWX>].

49. See ELISSA COHEN ET AL., U.S. DEP'T OF HEALTH & HUM. SERVS., ADMINISTRATION OF CHILDREN AND FAMILIES WELFARE RULES DATABOOK: STATE TANF POLICIES AS OF JULY 2015, at 158, 183–84 (2016), <https://www.urban.org/research/publication/welfare-rules-databook-state-tanf-policies-july-2015> [<https://perma.cc/G23H-GQEQ>]; ELIZABETH LOWER-BASCH & STEPHANIE SCHMIT, CTR. FOR L. & SOC. POL'Y, TANF AND THE FIRST YEAR OF LIFE: MAKING A DIFFERENCE AT A PIVOTAL MOMENT 1, 12 (2015), https://www.clasp.org/sites/default/files/public/resources-and-publications/body/TANF-and-the-First-Year-of-Life_Making-a-Difference-at-a-Pivotal-Moment.pdf [<https://perma.cc/5MY3-R9HA>].

50. CTR. ON BUDGET & POL'Y PRIORITIES, POLICY BASICS: TEMPORARY ASSISTANCE FOR NEEDY FAMILIES 6 (2021), <https://www.cbpp.org/sites/default/files/atoms/files/7-22-10tanf2.pdf> [<https://perma.cc/YAU9-VRDD>].

the few families declared eligible for benefits will receive little help: in two-thirds of states, their benefits will not raise them to even a third of the poverty line.⁵¹ Moreover, despite the steep rise in rents across much of the country, the United States' housing subsidy programs are vastly underfunded and waiting lists are generally extremely long.⁵²

Most of the minimal public support U.S. families receive comes in the form of tax benefits. Pre-pandemic, the Child Tax Credit gave most U.S. families a yearly tax credit of up to \$1000 (tax reform in 2017 temporarily raised this amount to \$2000 in exchange for elimination of the dependency exemption).⁵³ Because it was not fully refundable, however, the lowest-earning families—including 27 million children—could not get the full benefit of the credit.⁵⁴ The Earned Income Tax Credit, while specifically aimed at low-income families, is geared toward incentivizing work rather than toward ensuring children's support. Low-income families in which a parent works accordingly receive a refundable tax credit that pays out at most the amount at which a minimum-wage worker would earn in a year, and the credit then provides a decreasing subsidy as the worker earns more above that amount.⁵⁵ But the program does not provide any benefits to the poorest American children whose parents do not have earned income.⁵⁶

Free-market family policy stands in stark contrast to the model of the government's relationship to families that most other wealthy, industrialized countries have adopted, which I will call "pro-family policy." Pro-family policy considers the market to be an important tool for ensuring that families get the resources they need to thrive, but it does not expect that the market on its own can give families the economic security they need to do their best.⁵⁷ It therefore supplements private funding with a stream of public

51. See Lower-Basch & Schmit, *supra* note 49, at 6.

52. See NAT'L LOW INCOME HOUS. COAL., THE LONG WAIT FOR A HOME (2016), https://nlihc.org/sites/default/files/HousingSpotlight_6-1.pdf [<https://perma.cc/PP36-GXRQ>]; see also *Policy Basics: Federal Rental Assistance*, CTR. ON BUDGET & POL'Y PRIORITIES (Jan. 11, 2022), <https://www.cbpp.org/research/housing/federal-rental-assistance> [<https://perma.cc/H7VF-9PY8>].

53. See 26 U.S.C. § 24(h)(2).

54. See Chuck Marr et al., *Congress Should Adopt American Families Plan's Permanent Expansions of Child Tax Credit and EITC, Make Additional Provisions Permanent*, CTR. ON BUDGET & POL'Y PRIORITIES (May 24, 2021), <https://www.cbpp.org/research/federal-tax/congress-should-adopt-american-families-plans-permanent-expansions-of-child> [<https://perma.cc/NP9C-3V88>]. Only \$1400 of the Child Tax Credit's temporary increase to \$2000 annually, passed in 2017, is fully refundable to parents with insufficient earnings to get the full benefit of the tax credit. See *id.*; GROVER (RUSS) WHITEHURST, ECON. STUD. AT BROOKINGS, WILL TAX REFORM PROVIDE MORE SUPPORT FOR CHILDREN AND THEIR FAMILIES? FOLLOW THE MONEY (2017), <https://www.brookings.edu/wp-content/uploads/2017/10/follow-the-money-report1.pdf> [<https://perma.cc/TP4K-TD7W>].

55. See 26 U.S.C. § 32; INTERNAL REVENUE SERV., DEP'T OF THE TREASURY, TAX GUIDE 2021: FOR INDIVIDUALS 104-08 (2021), <https://www.irs.gov/pub/irs-pdf/p17.pdf> [<https://perma.cc/8CS9-EYP8>]; CTR. ON BUDGET & POL'Y PRIORITIES, POLICY BASICS: THE EARNED INCOME TAX CREDIT 4 (2018), <https://www.cbpp.org/sites/default/files/atoms/files/policybasics-eitc.pdf> [<https://perma.cc/N3VJ-ABAZ>].

56. See 26 U.S.C. § 32; WHITEHURST, *supra* note 54, at 5.

57. See EICHNER, *supra* note 1, at 20-23.

funding to families.⁵⁸ The idea is to construct systems that ensure families get what they need *before* any damage is done to vulnerable people, like children. Accordingly, long before the pandemic, pro-family policy countries delivered monthly or quarterly child-benefit checks to families with young children.⁵⁹ These benefits are intended to make sure that children's material needs are consistently met, accounting for the fact that parents' market earnings can sometimes be inconsistent and inadequate.⁶⁰ This stream of public funding is meant to ensure that all children have a "floor" of economic support even when parents hit hard economic times; at other times, the "ceiling" of children's economic support is increased beyond what their parents alone could pay.⁶¹

The distinctions I make between free-market and pro-family policy are between ideal types; no country is a perfect exemplar of either of these policies. However, the United States is certainly the country with policies that most closely resemble the free-market ideal, although somewhat less so if the temporary measures taken during the pandemic are considered. Meanwhile, Finland is one of the countries that comes closest to the pro-family ideal. Finnish parents receive a government check each month following the birth of their first child and slightly more for each additional child (so that the total check for a family with two kids is more than double the check for a family with just one child).⁶² Further, Finland has other programs that give parents cash.⁶³ The government gives families about a year's publicly paid parental leave that can be split between parents, paid at about two-thirds of their usual salary.⁶⁴ Families who need still more financial help can fall back on Finland's safety-net programs, which include a generous housing subsidy.⁶⁵

Figure 1 below demonstrates the difference between pro-family and free-market policies on public spending for children in graphic detail.

58. *See id.*

59. *Id.*

60. *Id.* at 20–21.

61. *Id.*

62. *Amount and Payment of the Child Benefit*, KELA, <https://www.kela.fi/web/en/child-benefit-amount-and-payment> [<https://perma.cc/HCV7-UDGN>] (last visited Apr. 2, 2022).

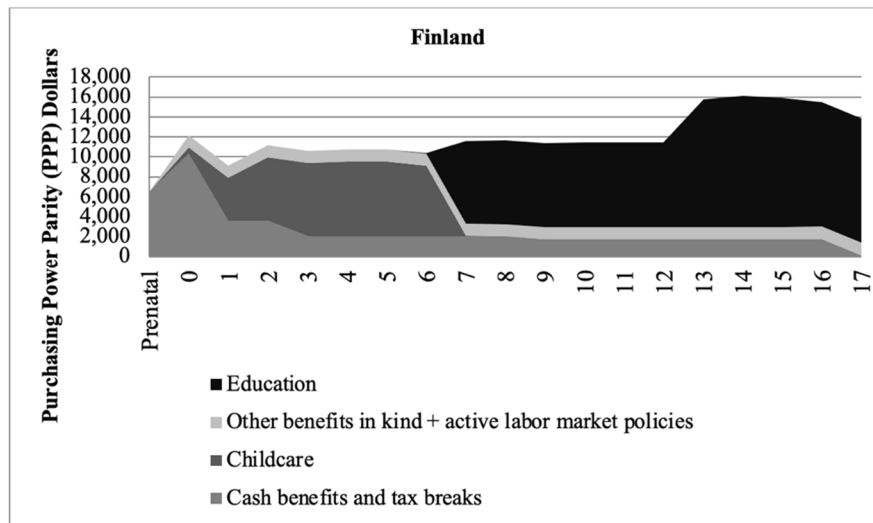
63. *See id.*

64. Finland offers three types of parental subsidies for new parents that can be cumulatively combined. KELA, *FAMILIES WITH CHILDREN* 8–13 (2021), <https://www.kela.fi/documents/12099/37345256/Families-with-children-brochure-Kela.pdf> [<https://perma.cc/2ZSD-Y98Z>]. Maternity allowance is available up to eight weeks before the expected due date and lasts until the child is three months old. *Id.* Parental allowance becomes available when the child is three months old and can be collected for approximately six months (158 weekdays). *Id.* Fathers receive paternity allowance for a total of nine weeks throughout the first two years of the child's life. *Id.*

65. *Id.* at 4 ("Other Kela benefits that may be relevant to families include housing benefits, financial aid for students, benefits for conscripts, unemployment benefits, and benefits related to sickness and incapacity."). Finland offers a general housing allowance, covering up to 80 percent of housing costs for low-income families. *See* KELA, *GENERAL HOUSING ALLOWANCE: BRIEFLY AND IN PLAIN LANGUAGE* 9–14 (2021), <https://www.kela.fi/documents/12099/37345190/General-housing-allowance-brochure-Kela.pdf/3bb1dcb3-abc8-4ae8-b651-fe0422ea6dbf> [<https://perma.cc/R2UA-36XE>].

Overall, the average level of Finland’s public spending on family benefits per child between the ages of zero and five in 2015—including spending on family programs like parental leave, child benefits, daycare, and tax expenditures—clustered somewhere around \$10,000 per year, calculated in purchasing power parity (PPP) adjusted dollars.⁶⁶ Most of that amount was for cash benefits in the first year, transitioning to large amounts spent for childcare after that.⁶⁷ In contrast, the average level of U.S. public spending per child—much of it from tax breaks—was far lower.⁶⁸ U.S. public spending bumped up a little when kids reach ages three and four because of the limited amount of public funds spent on childcare programs like Head Start and prekindergarten at these ages.⁶⁹ It bumped up still more when children reach kindergarten at age five because our public spending on education kicks in.⁷⁰ But by that age, it is often too late for kids to make up for what they did not get in earlier years.

Figure 1: 2015 Public Spending on Children by Age (Finland and the United States)⁷¹



66. Many thanks to Fernando Filgueira for his insights here and in the next paragraphs. See MERIKE BLOFIELD & FERNANDO FILGUEIRA, FATHERS, FAMILIES, AND THE STATE IN THE WESTERN WORLD: SOCIAL TRANSFORMATION AND POLITICAL RESPONSES (forthcoming); see also GØSTA ESPING-ANDERSEN ET AL., WHY WE NEED A NEW WELFARE STATE 51 (2002); Merike Blofield et al., *The Pluralization of Families*, in 3 INT’L PANEL ON SOC. PROGRESS, RETHINKING SOCIETY FOR THE 21ST CENTURY: REPORT OF THE INTERNATIONAL PANEL ON SOCIAL PROGRESS 677 (2018).

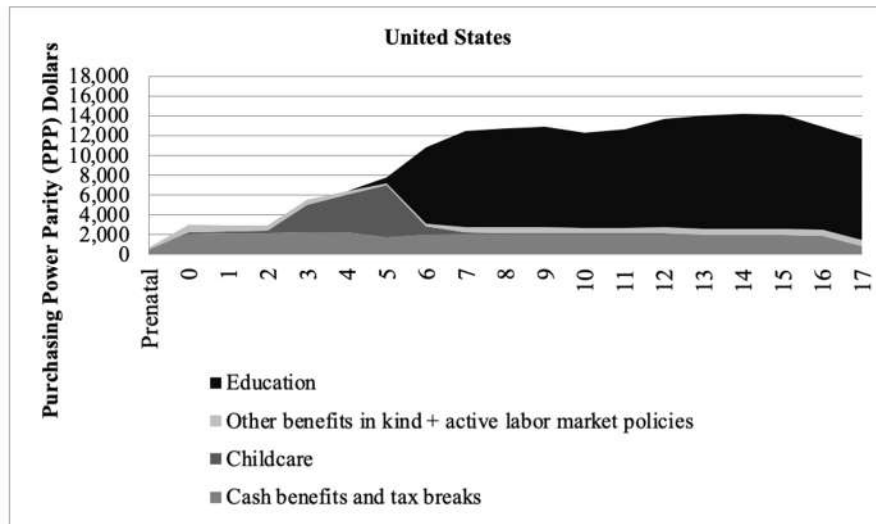
67. See PF1.6 *Public Spending by Age of Children*, ORG. FOR ECON. COOP. & DEV. (2015), <https://www.oecd.org/els/family/database.htm> [<https://perma.cc/55AR-XB98>].

68. See *id.*

69. See *id.*

70. See *id.*

71. The graphs use the 2017 “PF1.6 Public spending by age of children” dataset from the Organisation for Economic Co-operation and Development family database. *Id.* Spending



Americans do not pay any less to support their well-being than do citizens of other countries. In fact, overall, Americans spend significantly *more* on overall well-being than people in most countries when both public and private spending, as well as spending on health care, are factored in.⁷² Americans just spend most of this money privately as consumers—paying it directly to doctors, hospitals, preschools, colleges, and private pension plans.⁷³ In contrast, citizens of countries with bigger public programs pay more taxes to the government, which then spends it directly on goods and services or through child-benefit checks.⁷⁴

III. WHY U.S. FREE-MARKET FAMILY POLICY FAILED TO MEET CHILDREN'S NEEDS EVEN BEFORE THE PANDEMIC

Free-market family policy leaves parents subject to market forces when it comes to ensuring that children get the material support they need to do their

includes tax breaks for families with children; cash transfers (child benefits); paid maternity, paternity, and parental leaves; daycare and prekindergarten; and education.

72. See GØSTA ESPING-ANDERSEN, *THE INCOMPLETE REVOLUTION: ADAPTING TO WOMEN'S NEW ROLES* 105, 108–09 (2009); *Social Expenditure—Aggregated Data*, ORG. FOR ECON. COOP. & DEV., https://stats.oecd.org/Index.aspx?DataSetCode=SOEX_AGG [<https://perma.cc/532S-85VZ>] (last visited Apr. 2, 2022).

73. See *Social Expenditure—Aggregated Data*, *supra* note 72.

74. In fact, when private spending and public spending on social welfare goods in the United States are added together, the total (29.6 percent of U.S. gross domestic product (GDP) in 2017) was significantly higher than what most other countries spend. See *id.* Meanwhile, Finland spent 24.5 percent of its GDP on well-being, and Denmark spent 25.2 percent of its GDP on the same. See *id.* Recognizing that welfare states must be characterized not only by how much is spent publicly, but also in terms of private spending on welfare goods, was a key insight of Gøsta Esping-Andersen's groundbreaking work. See ESPING-ANDERSEN, *supra* note 39, at 103–04; ESPING-ANDERSEN, *supra* note 72, at 108–09.

best. It should be no surprise then that, during the pandemic, the significant market dislocations threatened devastation to children. Yet, as this next section shows, well before the pandemic (beginning in the 1970s and continuing through later decades) two macroeconomic changes—in the form of dramatic rises in economic inequality and insecurity—occurred. These changes made it difficult, and in many cases impossible, for U.S. parents to meet their children’s needs privately.

A. America’s Skyrocketing Economic Inequality

Between 1973 and 2015, even as earnings among the top fifth of workers skyrocketed, the hourly wages of the two-thirds of men without college degrees dropped 18 percent in real dollars.⁷⁵ Further, the drop in the real value of the minimum wage during these decades and the large increase in the number of low-wage service jobs in the U.S. economy mean that far more jobs do not pay nearly enough to support a family. Almost a third of those in the workforce today make less than \$12 an hour, and few in these low-wage jobs receive benefits.⁷⁶ Many of these workers have children, and no matter how hard or long they work, they simply will not earn enough to get their kids what they need to do their best.⁷⁷

To be sure, real household income grew even in the bottom fifth of households during these decades.⁷⁸ Yet this growth toward the bottom of the economic ladder largely came from two factors. First, women’s hours of paid work increased considerably during this time, resulting in families working many more hours than they did in the past.⁷⁹ Second, Medicare and Social Security benefits rose for middle- and low-income senior citizens.⁸⁰

75. See Ariel Binder & John Bound, *The Declining Labor Market Prospects of Less-Educated Men*, J. ECON. PERSPS., Spring 2019, at 163, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7745920/> [<https://perma.cc/AKX9-MX3J>] (wages for men ages 25–54).

76. See ECON. POL’Y INST. & OXFAM AM., FEW REWARDS: AN AGENDA TO GIVE AMERICA’S WORKING POOR A RAISE 4–5, 12 (2016), https://s3.amazonaws.com/oxfam-us/www/static/media/files/Few_Rewards_Report_2016_web.pdf [<https://perma.cc/MH67-HCHW>].

77. See *Why the U.S. Needs a \$15 Minimum Wage: How the Raise the Wage Act Would Benefit U.S. Workers and Their Families*, ECON. POL’Y INST. (Jan. 26, 2021), <https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/> [<https://perma.cc/VCV5-QXMA>] (“More than a quarter (28%) [of minimum wage] workers have children. . . . Today, in all areas across the United States, a single adult without children needs at least \$31,200—what a full-time worker making \$15 an hour earns annually—to achieve a modest but adequate standard of living.”).

78. See JACOB S. HACKER & PAUL PIERSON, WINNER-TAKE-ALL POLITICS: HOW WASHINGTON MADE THE RICH RICHER—AND TURNED ITS BACK ON THE MIDDLE CLASS 21–25 (2010); see also Edward N. Wolff, *Household Wealth Trends in the United States, 1962 to 2016: Has Middle Class Wealth Recovered?* 13 (Nat’l Bureau of Econ. Rsch., Working Paper No. 24,085, 2017), https://www.nber.org/system/files/working_papers/w24085/w24085.pdf [<https://perma.cc/SN8S-7CLR>].

79. This was a key finding of Elizabeth Warren’s best seller, *The Two-Income Trap*. ELIZABETH WARREN & AMELIA WARREN TYAGI, THE TWO-INCOME TRAP: WHY MIDDLE-CLASS PARENTS ARE GOING BROKE (2003); see also LAWRENCE MISHEL ET AL., THE STATE OF WORKING AMERICA 36–38, 123–26 (12th ed. 2012).

80. MISHEL ET AL., *supra* note 79, at 123–26.

Neither of these shifts, though, is much help for families raising children. At least one parent almost always must cut back on paid work when a child is born, which decreases the extra cash a second working parent provides. And insofar as both parents remain in paid jobs, the family will generally have to pay the high cost of daycare.⁸¹ Further, very few of these families will benefit from the increased Medicare and Social Security benefits of the past few decades since they are usually paid to families further along in life than families with young children.⁸²

Disparities in families' wealth have also mushroomed in the last five decades. Today, families in just the top 1 percent hold roughly twice as much wealth as those in the entire bottom 90 percent.⁸³ To make matters worse, the drop in net worth of households headed by adults younger than thirty-five—the families most likely to have young kids—has been particularly steep. In 1984, the median net worth of these younger households was \$11,500; in 2009, it was \$3500.⁸⁴ Some of this drop comes from the decreased real wages for men without college degrees and for employees in entry-level jobs.⁸⁵ The ballooning of two types of costs in recent decades—housing and college⁸⁶—also plays a major role in the drop in net worth. Buying or renting a house and attending college are milestones in life that are often associated with responsible adulthood. Attaining them, however, is far more expensive than in the past and often depletes families'

81. See LYNDA LAUGHLIN, U.S. CENSUS BUREAU, MATERNITY LEAVE AND EMPLOYMENT PATTERNS OF FIRST-TIME MOTHERS: 1961–2008, at 19 (2011), <https://www2.census.gov/library/publications/2011/demo/p70-128.pdf> [<https://perma.cc/2V55-SWBC>]; WARREN & TYAGI, *supra* note 79, at 38–39.

82. Medicare generally provides benefits only to those who are sixty-five years old or older. See MEDICARE, SOC. SEC. ADMIN. (2022), <https://www.ssa.gov/pubs/EN-05-10043.pdf> [<https://perma.cc/2KBR-E4BA>]. Social Security generally provides benefits only to those who are sixty-two years old or older. See RETIREMENT BENEFITS, SOC. SEC. ADMIN. (2022), <https://www.ssa.gov/pubs/EN-05-10035.pdf> [<https://perma.cc/Y6JY-NAH9>]. The average age of first-time mothers is twenty-six, and the average age of first-time fathers is thirty-one. See Quoc Trung Bui & Claire Cain Miller, *The Age That Women Have Babies: How a Gap Divides America*, N.Y. TIMES (Aug. 4, 2018), <https://www.nytimes.com/interactive/2018/08/04/upshot/up-birth-age-gap.html> [<https://perma.cc/9VKU-DDBB>].

83. See Wolff, *supra* note 78, at 9; see also CONG. BUDGET OFF., TRENDS IN FAMILY WEALTH, 1987 TO 2013, at 1 (2016), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51846-familywealth.pdf> [<https://perma.cc/Q8KB-HPRM>]; Jesse Bricker et al., *Changes in U.S. Family Finances from 2013 to 2016: Evidence from the Survey of Consumer Finances*, 103 FED. RESRV. BULL. 1, 10 (2017), <https://www.federalreserve.gov/publications/files/scf17.pdf> [<https://perma.cc/MF8R-MJ7J>].

84. See RICHARD FRY ET AL., PEW RSCH. CTR., THE OLD PROSPER RELATIVE TO THE YOUNG: THE RISING AGE GAP IN ECONOMIC WELL-BEING 1 (2011), <http://www.pewresearch.org/wp-content/uploads/sites/3/2011/11/WealthReportFINAL.pdf> [<https://perma.cc/4AHH-ZVRM>] (2010 dollars).

85. See DAVID AUTOR & MELANIE WASSERMAN, THIRD WAY, WAYWARD SONS: THE EMERGING GENDER GAP IN LABOR MARKETS AND EDUCATION 12 fig.2 (2013), <https://economics.mit.edu/files/8754> [<https://perma.cc/Z8PF-Y8FL>]; MISHEL ET AL., *supra* note 79.

86. See FRY ET AL., *supra* note 84, at 2.

assets for two decades or longer, a period during which most will have young kids they must also support.⁸⁷

This decrease in wealth, even before the pandemic, makes it tough to impossible for most young families to get their children off to a good start. The \$3500 in wealth that the average young household has is often tied up in a house or a car. But, even if it were liquid and available, it would be almost completely depleted by the \$3400 average out-of-pocket fees that hospitals charge for a baby's delivery—and that's the cost for parents with health insurance.⁸⁸ That means most parents will have to scramble even to buy basics like diapers, formula, and baby food.

The economic situation is even tougher for Black and Hispanic families. The income gap between the median Black and white household has lingered at about 60 percent for decades.⁸⁹ That is partly because—for workers at every level of education and during both boom and bust economies—unemployment rates have remained roughly two times higher for Black workers than for white workers since 1970.⁹⁰ And, even when Black workers find jobs, they are paid far less than white workers because fewer Black parents can afford the high cost of college (publicly paid in most other countries) and because of the United States' persistent racism.⁹¹ The median

87. See *id.* at 4 (describing how housing costs diminish younger households' wealth); ROBERT HILTONSMITH, DEMOS, AT WHAT COST?: HOW STUDENT DEBT REDUCES LIFETIME WEALTH 10 (2013), <https://www.demos.org/sites/default/files/publications/AtWhatCost.pdf> [<https://perma.cc/JB44-JZJT>] (finding that student loan debt reduces lifetime net assets by \$207,690 on average).

88. EUGENE R. DECLERCQ ET AL., CHILDBIRTH CONNECTION, LISTENING TO MOTHERS III: NEW MOTHERS SPEAK OUT 46 (2013), <https://www.nationalpartnership.org/our-work/resources/health-care/maternity/listening-to-mothers-iii-new-mothers-speak-out-2013.pdf> [<https://perma.cc/EJ6W-TWVA>].

89. See MARY C. DALY ET AL., FED. RSRV. BANK OF S.F., DISAPPOINTING FACTS ABOUT THE BLACK-WHITE WAGE GAP 2–3 (2017), <https://www.frbsf.org/economic-research/files/el2017-26.pdf> [<https://perma.cc/LP4S-Y3VW>]; see also Valerie Wilson, *Racial Disparities in Income and Poverty Remain Largely Unchanged amid Strong Income Growth in 2019*, ECON. POL'Y INST. (Sept. 16, 2020, 10:49 AM), <https://www.epi.org/blog/racial-disparities-in-income-and-poverty-remain-largely-unchanged-amid-strong-income-growth-in-2019/> [<https://perma.cc/NJ33-K5KL>] (showing that, in 2019, the median Black household earned 61 percent of what the median white household earned).

90. Robert W. Fairlie & William A. Sundstrom, *The Emergence, Persistence, and Recent Widening of the Racial Unemployment Gap*, 52 INDUS. & LAB. RELS. REV. 252, 255 (1999); Drew Desilver, *Black Unemployment Rate Is Consistently Twice That of Whites*, PEW RSCH. CTR. (Aug. 21, 2013), <https://www.pewresearch.org/fact-tank/2013/08/21/through-good-times-and-bad-black-unemployment-is-consistently-double-that-of-whites/> [<https://perma.cc/SZ8U-6B48>].

91. See DALY ET AL., *supra* note 89, at 3; VALERIE WILSON & WILLIAM M. RODGERS III, ECON. POL'Y INST., BLACK-WHITE WAGE GAPS EXPAND WITH RISING WAGE INEQUALITY 3 (2016), <https://files.epi.org/pdf/101972.pdf> [<https://perma.cc/696S-W4NG>]; Tomaz Cajner et al., *Racial Gaps in Labor Market Outcomes in the Last Four Decades and over the Business Cycle* 23 (Fed. Rsrv. Bd. Fin. & Econ. Discussion Ser. 2017-071, 2017), <https://www.federalreserve.gov/econres/feds/files/2017071pap.pdf> [<https://perma.cc/9NJ8-BHD8>]; see also Marianne Bertrand & Sendhil Mullainathan, *Are Emily and Greg More Employable than Lakisha and Jamal?: A Field Experiment on Labor Market Discrimination*, 94 AM. ECON. REV. 991, 1011 (2004); Valerie Wilson, *Black Unemployment Is Significantly Higher than White Unemployment Regardless of Educational Attainment*, ECON. POL'Y INST.

Hispanic household, meanwhile, earns only 74 percent of what the median white household earns.⁹²

Families headed by single mothers must also deal with the gender wage gap. Women, as a group, make 82 cents for every dollar men make.⁹³ For Black women, that figure drops to 62 cents.⁹⁴ While Finland increases child-benefit checks for single-parent families to ensure that they can dependably support their children,⁹⁵ such subsidies are anathema to U.S. free-market family policy.

B. Economic Insecurity

The other economic trend undercutting parents' ability to provide for their children is the steep rise in economic insecurity in the past five decades. Much of this increased insecurity comes from private companies offloading risks they once assumed onto American workers and their families.⁹⁶ Employers who need work done are more likely to hire temporary employees or independent contractors than in the past, and they are more likely to lay workers off when business is slow, leading to fewer workers having steady, full-time jobs with benefits.⁹⁷ Employers also moved to scheduling systems that shift employee staffing based on customer demand, which maximize employer profits at the cost of erratic paychecks for employees.⁹⁸ Companies are also less likely to provide health insurance than in the past, and when they do, they are more likely to pass on more costs.⁹⁹ The result is that one serious

(Dec. 17, 2015), <https://www.epi.org/publication/black-unemployment-educational-attainment/> [<https://perma.cc/TV9K-HL3U>].

92. See Wilson, *supra* note 89.

93. See Robin Bleiweis, *Quick Facts About the Gender Wage Gap*, CTR. FOR AM. PROGRESS (Mar. 24, 2020), <https://www.americanprogress.org/issues/women/reports/2020/03/24/482141/quick-facts-gender-wage-gap/> [<https://perma.cc/JWT8-DAPU>].

94. *Id.*

95. See *Amount and Payment of the Child Benefit*, *supra* note 62.

96. See generally JACOB HACKER, *THE GREAT RISK SHIFT: THE ASSAULT ON AMERICAN JOBS, FAMILIES, HEALTH CARE, AND RETIREMENT AND HOW YOU CAN FIGHT BACK* (2006).

97. See *id.* at 68–69, 71; see also JONATHAN MORDUCH & RACHEL SCHNEIDER, U.S. FIN. DIARIES, SPIKES AND DIPS: HOW INCOME UNCERTAINTY AFFECTS HOUSEHOLDS 3 (2013), <https://static1.squarespace.com/static/53d008ede4b0833aa2ab2eb9/t/53d6e12ae4b0907fe7bedf6f/1410469662568/issue1-spikes.pdf> [<https://perma.cc/363J-5PTK>]; U.S. GOV'T ACCOUNTABILITY OFF., *CONTINGENT WORKFORCE: SIZE, CHARACTERISTICS, EARNINGS AND BENEFITS* 15–16 (2015), <https://www.gao.gov/assets/670/669899.pdf> [<https://perma.cc/TFW9-X6MC>]; Lawrence Katz & Alan B. Krueger, *The Rise and Nature of Alternative Work Arrangements in the United States, 1995–2015* (Nat'l Bureau of Econ. Rsch., Working Paper No. 22,667, 2016), https://www.nber.org/system/files/working_papers/w22667/w22667.pdf [<https://perma.cc/Z4WN-7VM6>]; Press Release, NPR, *Contract Jobs Are the New Normal: NPR/Marist Poll* (Jan. 22, 2017), <https://www.npr.org/about-npr/579672112/contract-jobs-are-the-new-normal-npr-marist-poll> [<https://perma.cc/G62K-BV9P>].

98. See LONNIE GOLDEN, ECON. POL'Y INST., *IRREGULAR WORK SCHEDULING AND ITS CONSEQUENCES* 1 (2015), <https://files.epi.org/pdf/82524.pdf> [<https://perma.cc/JPK7-N2WT>]; MORDUCH & SCHNEIDER, *supra* note 97, at 3.

99. See GARY CLAXTON ET AL., HENRY J. KAISER FAM. FOUND. & HEALTH RSCH. & EDUC. TR., *EMPLOYER HEALTH BENEFITS: 2017 ANNUAL SURVEY* 8, 106 (2017), <https://files.kff.org/attachment/Report-Employer-Health-Benefits-Annual-Survey-2017> [<https://perma.cc/3WRX-RTSL>]; MISHEL ET AL., *supra* note 79, at 200 tbl.4.10; CATHY SCHOEN ET AL.,

illness or significant chronic medical condition can destroy a family's budget.¹⁰⁰

Among all Americans, more than one-third—roughly 98 million people—were officially poor for at least two months between 2009 and 2012.¹⁰¹ And many who do not fall below the poverty line are just one emergency away from that fate. In 2017, four in ten Americans reported that they would not be able to cover an unexpected expense of \$400.¹⁰² Even hourly workers with middle-class incomes commonly have shifts in income of 30 percent per month.¹⁰³ Families of color bear the brunt of this insecurity: nearly two-thirds of Black families and half of Hispanic families live in a household with moderate or high levels of economic insecurity.¹⁰⁴ These increases in inequality and insecurity mean that far fewer families can reliably support children on their own today than families could five decades ago.

C. *The Effects of Free-Market Policy in the Unequal and Insecure Pre-Pandemic Economy*

Increases in inequality and insecurity meant that, even before the pandemic, far fewer U.S. children received the consistent material support they needed to do their best than did children who lived under pro-family policy. Comparing how many children got the resources they needed in each regime depends on exactly where we set the bar for the level of resources that children should receive. One reasonable place to set it is at the amount of

COMMONWEALTH FUND, STATE TRENDS IN THE COST OF EMPLOYER HEALTH INSURANCE COVERAGE, 2003–2013, at 4, 6 (2015), https://www.commonwealthfund.org/sites/default/files/documents/___media_files_publications_issue_brief_2015_jan_1798_schoen_state_trends_2003_2013.pdf [<https://perma.cc/5HRK-EV4X>].

100. See Melissa Jacoby & Mirya Holman, *Financial Fragility, Medical Problems and the Bankruptcy System*, in WORKING AND LIVING IN THE SHADOW OF ECONOMIC FRAGILITY 53, 56–61 (Marion Crain & Michael Sherraden eds., 2014).

101. See JONATHAN MORDUCH & RACHEL SCHNEIDER, THE FINANCIAL DIARIES: HOW AMERICAN FAMILIES COPE IN A WORLD OF UNCERTAINTY 159 (2017); *Dynamics of Economic Well-Being: Poverty, 2009–2012: Table 3: People in Poverty 2 or More Months by Selected Characteristics: 2009 to 2012*, U.S. CENSUS BUREAU (2012), <https://www.census.gov/data/tables/time-series/demo/income-poverty/poverty-dynamics-09-12.html> [<https://perma.cc/973Q-HYSL>].

102. See FED. RESRV. BD., DIV. OF CONSUMER & CMTY. AFFS., REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2017, at 21 (2018), <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf> [<https://perma.cc/FR9U-CJ8A>].

103. See Patricia Cohen, *Steady Jobs, with Pay and Hours That Are Anything But*, N.Y. TIMES (May 31, 2017), <https://www.nytimes.com/2017/05/31/business/economy/volatile-income-economy-jobs.html> [<https://perma.cc/G3A7-BLPG>].

104. See ROBERT P. JONES ET AL., PUB. RELIGION RSCH. INST., ECONOMIC INSECURITY, RISING INEQUALITY, AND DOUBTS ABOUT THE FUTURE: FINDINGS FROM THE 2014 AMERICAN VALUES SURVEY 11 (2014), <https://www.prii.org/wp-content/uploads/2014/09/PRRI-AVS-with-Transparency-Edits.pdf> [<https://perma.cc/6PXZ-U57C>]; see also JACOB HACKER ET AL., ECON. SEC. INDEX, ROCKEFELLER FOUND., STANDING ON SHAKY GROUND: AMERICANS' EXPERIENCE WITH ECONOMIC INSECURITY 21–22 (2010), http://www.economicsecurityindex.org/upload/media/ESI%20report%20final_12%2013.pdf [<https://perma.cc/VN95-VMV8>]; Jacob Hacker, *Understanding Economic Insecurity: The Downward Spiral of the Middle Class*, CMTYS. & BANKING, Fall 2011, at 25, 27.

money that it costs for a family to meet their basic expenses like food, rent, utilities, childcare, medical care, and transportation. Research suggests that, on average, U.S. families need an income equal to at least two times the federal poverty threshold to meet these needs.¹⁰⁵ Yet, even set at this low point—which fails to account for cash for families to pay for recreational items like toys and games—in 2019, 38 percent of American children still did not clear this bar.¹⁰⁶ By comparison, a 2013 UNICEF study that set a slightly higher bar for calculating what children should receive (it included basic recreational items like bicycles and roller skates) concluded that only 2.5 percent of Finnish children were raised in households that could not meet that standard.¹⁰⁷ Put simply, almost none of Finland’s children failed to have their basic needs met for lack of sufficient cash, compared to more than one-third of U.S. children.

Setting the standard at the lower bar of simply avoiding poverty, the U.S. system closes the gap somewhat with Finland, but not by much. Before the pandemic, a 2017 comparative study concluded that the United States had by far the highest rate of young children living in relative poverty (the poverty standard that adjusts for the nation’s wealth) of the wealthy countries that were compared: 21 percent. Finland’s rate, by contrast, was 4 percent.¹⁰⁸ Under free-market family policy, nearly half of U.S. single-mother families—46 percent—were determined poor, compared with 12 percent of single-mother families in Finland.¹⁰⁹ And U.S. families headed by Black, Hispanic, and Native American women are disproportionately likely to be poor.¹¹⁰ Even when comparing poverty rates based on an absolute poverty standard (a standard that defines deprivation without taking the wealth of the country into account), the United States still fared poorly, dropping to a 14 percent poverty rate for young children, compared to Finland’s 2 percent.¹¹¹

105. See KINSEY ALDEN DINAN, NAT’L CTR. FOR CHILD. IN POVERTY, BUDGETING FOR BASIC NEEDS: A STRUGGLE FOR WORKING FAMILIES (2009), https://www.nccp.org/wp-content/uploads/2009/03/text_858.pdf [<https://perma.cc/M9Z5-N6UW>]; SARAH FASS, NAT’L CTR. FOR CHILD. IN POVERTY, MEASURING INCOME AND POVERTY IN THE UNITED STATES (2009), https://www.nccp.org/wp-content/uploads/2020/05/text_876.pdf [<https://perma.cc/2LAS-X25J>].

106. See *Children Below 200 Percent Poverty by Race in the United States*, ANNIE E. CASEY FOUND.: KIDS COUNT DATA CTR., <https://datacenter.kidscount.org/data/tables/6726-children-below-200-percent-poverty-by-race> [<https://perma.cc/TH95-ML3B>] (last visited Apr. 2, 2022).

107. See UNICEF, CHILD WELL-BEING IN RICH COUNTRIES: A COMPARATIVE OVERVIEW 9 fig.1.2a (2013), https://www.unicef-irc.org/publications/pdf/rc11_eng.pdf [<https://perma.cc/UWY5-EZWM>]; see also UNICEF, MEASURING CHILD POVERTY: NEW LEAGUE TABLES OF CHILD POVERTY IN THE WORLD’S RICH COUNTRIES 2, 10 fig.1a (2012), https://www.unicef-irc.org/publications/pdf/rc10_eng.pdf [<https://perma.cc/PU4N-8RPH>].

108. See Janet C. Gornick & Emily Nell, *Children, Poverty, and Public Policy: A Cross-National Perspective* 11 tbl.2 (Lux. Income Study, Working Paper No. 701, 2017), <http://www.lisdatacenter.org/wps/liswps/701.pdf> [<https://perma.cc/57L4-DHGY>].

109. See *id.* at 13 tbl.3.

110. See AMANDA FINS, NAT’L WOMEN’S L. CTR., NATIONAL SNAPSHOT: POVERTY AMONG WOMEN & FAMILIES 1–2 (2020), <https://nwlc.org/wp-content/uploads/2020/12/PovertySnapshot2020.pdf> [<https://perma.cc/7XJH-JT3Y>].

111. See Gornick & Nell, *supra* note 108, at 18 tbl.1.

And, since these poverty rates are based on *annual* income, both the absolute and relative poverty rates radically underestimate the proportion of children who are not receiving the material support they need. The families of a full four-in-ten children fell below the U.S. federal poverty threshold for at least two months of the year.¹¹² Unfortunately, even temporary shifts in income are associated with significant declines in children's well-being over time.¹¹³

In sum, even before COVID-19, Finland's pro-family policy system did a much better job of ensuring that children received a consistent stream of necessary material support than the United States' free-market policy did. In fact, Finland's family support policies work so well that children's relative and absolute poverty rates are actually *lower* than the country's relative and absolute poverty rates for all persons.¹¹⁴ U.S. children's poverty rates under both measures are significantly higher than the general population's.¹¹⁵ Long before the pandemic produced such wide-scale harm that Congress threw a temporary life preserver to American families, free-market family policy was failing a high proportion of the nation's children.

IV. U.S. FAMILY POLICY POST-PANDEMIC

Countries that supplement parents' income with public funds to support children tend to improve children's well-being for several reasons described below. All these reasons justify enacting permanent public support for U.S. families that will remain in effect even though the economic upheaval from the pandemic's onset has now subsided.

First, because of workers' upward earning trajectories during the course of their lives, most families have more private money to spend later in their life than at the time it could have best served their children's development. The U.S. system increases the skewing of wealth toward later in life still further because the nation's largest public spending programs, Social Security and Medicare, funnel public funds to citizens at the end of their lives, but there are no comparable spending programs at the beginning of life.¹¹⁶ As a result, in 2019, the U.S. government spent about 9 percent of the federal budget on the 22 percent of Americans eighteen and younger; meanwhile, the government spent 45 percent of the federal budget on the 15 percent who are elderly.¹¹⁷ In contrast, public spending on family policies would shift money forward in U.S. families' life cycles so they could spend it when it would

112. ASHLEY EDWARDS, U.S. CENSUS BUREAU, DYNAMICS OF ECONOMIC WELL-BEING: POVERTY 2009–2011, at 64 (2014), <https://www2.census.gov/library/publications/2014/demographics/p70-137.pdf> [<https://perma.cc/PZQ2-UQ2Q>].

113. See generally Nat'l Inst. of Child Health & Hum. Dev. Early Child Care Rsch. Network, *Duration and Developmental Timing of Poverty and Children's Cognitive and Social Development from Birth Through Third Grade*, 76 CHILD DEV. 795 (2005).

114. See Gornick & Nell, *supra* note 108, at 18 tbl.1.

115. See *id.*

116. See JULIA B. ISAACS ET AL., URBAN INST., KIDS' SHARE, 2018: REPORT ON FEDERAL EXPENDITURES ON CHILDREN IN 2017 AND FUTURE PROJECTIONS 32 (2018), https://www.urban.org/sites/default/files/publication/98725/kids_share_2018_0.pdf [<https://perma.cc/2M7K-SDS2>].

117. See *id.* at 24.

most benefit their children. Second, greater public outlays generally help equalize spending among children, whereas private spending tends to increase spending disparities. To take one example, for a U.S. child born in 2015, low-income families are likely to spend \$212,300 to raise that child through age seventeen.¹¹⁸ Higher-income families will spend more than double that—about \$454,770.¹¹⁹ Add a private college degree, and that figure grows by close to another \$200,000.¹²⁰ But more equitable spending on children results in significantly higher social welfare payoffs overall. The same amount of money that well-off parents spend on a child's participation on a travel sports team would increase well-being far more if it were used to pay for a high-quality preschool tuition that a family could not otherwise afford.¹²¹

Third, systems that provide a stream of public funding deliver necessary resources to children more consistently. One necessary feature of capitalism is that it must be able to respond to market signals, including decreasing work hours or laying workers off when demand softens. That means that the income stream that comes in from private wages will, in many instances, be insecure. Adopting more generous public funding for U.S. families would therefore serve an income “smoothing” function that cushions children during periods in which a family's private income sources are reduced or cut off. Children would therefore always have the floor of material support they need to develop well.

CONCLUSION

The chances that the United States will move toward routine public funding for children on a permanent basis have dimmed considerably during the time this Essay has been in production. President Joe Biden's Build Back Better measure, which would have implemented important supports, is now stalled in Congress, and its passage seems increasingly unlikely.¹²² What is absolutely clear, however, is that the lives of U.S. children would have been significantly improved by its passage. Concomitantly, its failure means that the nation will continue to squander the well-being of its next generation.

118. See MARK LINO ET AL., U.S. DEP'T OF AGRIC., EXPENDITURES ON CHILDREN BY FAMILIES: 2015, at 19 (2017), https://cdn2.hubspot.net/hubfs/10700/blog-files/USDA_Expenditures%20on%20children%20by%20family.pdf?t=1520090048492 [<https://perma.cc/K26M-5QAT>] (values adjusted for future inflation).

119. See *id.* (values adjusted for future inflation).

120. See Abha Bhattarai, *It's More Expensive than Ever to Raise a Child in the U.S.*, WASH. POST (Jan. 10, 2017), <https://www.washingtonpost.com/news/business/wp/2017/01/10/its-more-expensive-than-ever-to-raise-a-child-in-the-u-s/> [<https://perma.cc/X26B-V5TN>].

121. One survey of Utah parents whose children participated in club sports found that the average family spends approximately \$2292 per year on sports, with some respondents spending close to \$20,000 due to travel and personal trainer costs. See Emily Barone, *The Astronomical Cost of Kids' Sports*, TIME (Aug. 24, 2017, 9:40 AM), <https://time.com/4913284/kids-sports-cost/> [<https://perma.cc/AV73-MXN4>].

122. See *supra* note 13.