

Is Work the Only Thing that Pays? The Guaranteed Income and Other Alternative Anti-Poverty Policies in Historical Perspective

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I. INTRODUCTION

¶1 In the years since 1996, welfare has largely ceased to be an issue in mainstream national debate. “Welfare reform,” a goal of Democratic and Republican administrations and legislatures from the late 1960s to the middle 1990s, has likewise virtually ceased to exist as an object of political attention. In a sense, then, and to a degree that my colleagues in the feminist historical and advocacy communities could hardly have anticipated, President Clinton was correct when he asserted publicly during his 1992 campaign that he could “end welfare” as policy makers had known it—and when he and advisors such as Dick Morris suggested more privately that one grand gesture toward “welfare reform” could put welfare to rest as a tool for Republicans to wield against Democratic aspirants to political office.¹ By acquiescing in this one regard to the philosophical and practical agenda of the so-called “Contract with America” in the wake of the Democratic debacle of the 1994 Congressional elections, President Clinton succeeded at an act of prestidigitation that my colleagues and I could scarcely have anticipated; he made welfare, poverty, and especially poor women raising children on the economic margins disappear from public debate.²

¶2 One of the many unanticipated consequences of the recession of welfare from public concern is that poverty has continued to hover beyond the margins of mainstream policy debate even as economic and political circumstances have changed dramatically. According to a recent issue of the *New York Times Magazine*, both Democratic and Republican analysts suspected that the Congressional elections of 2006 may have marked

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¹ For the underlying thinking behind Clinton’s decision to make welfare a target during the 1992 presidential elections, and that encouraged him to sign the welfare reform bill initiated by congressional Republicans in 1996, see STANLEY GREENBERG, *MIDDLE CLASS DREAMS: THE POLITICS AND POWER OF THE NEW AMERICAN MAJORITY* 110–11 (1995). Greenberg was the leading pollster for candidate Bill Clinton in 1992, and a political advisor thereafter. On the legislation itself, see JOEL F. HANDLER & YEHESKEL HASENFELD, *BLAME WELFARE, IGNORE POVERTY AND INEQUALITY* 282–83 (2007).

² *THE CONTRACT WITH AMERICA: THE BOLD PLAN BY REP. NEWT GINGRICH, REP. DICK ARMEY AND THE HOUSE REPUBLICANS TO CHANGE THE NATION* (Newt Gingrich, Dick Arme, Ed Gillespie & Bob Schellhas eds., 1994) (presenting a ten-point platform for Republican house candidates to run on); *REPUBLICAN NATIONAL COMMITTEE, CONTRACT WITH AMERICA* (1994) (same).

the beginning of a transformation comparable to the one that occurred after the “Contract with America” elections of 1994.³ After 2006, Democrats were poised to consolidate and extend their legislative majorities and, perhaps, to initiate the kind of electoral realignment that comes only once or twice in a generation. Despite this turnaround, welfare has remained below the radar. Moreover, issues of poverty, income inequality, urban devastation, and the failure of women and children in particular to thrive economically have barely registered in national political discourse.

One instructive exception was the 2008 presidential campaign of John Edwards. Edwards made his concern about poverty a centerpiece of his bid for office. By returning repeatedly to New Orleans, he reminded his audience about the extreme devastation in some contemporary cities and about the racial dimension of the problem of the “two Americas.”⁴ Edwards’ appeal energized many liberal voters and also resonated with some evangelical Protestants who were rediscovering the issue of poverty.⁵ However, even Edwards avoided focusing on welfare. Moreover, his rhetoric did not capture the imaginations of enough Americans to make him a lasting candidate, nor did his anti-poverty agenda remain at the center of political concern after Edwards departed from the race.

From my perspective as a historian and a feminist advocate, the great weakness of the Edwards agenda was the degree to which it failed to reflect the excellent work that has been done in the past thirty years on the gender of poverty. By this, I mean scholarship and advocacy that have emphasized the ways in which both the mainstream economy and the social welfare state have privileged full-time, primary-sector male heads of household, the ways in which that male-breadwinner model has failed for most women, and the economic consequences of this lack of fit. Edwards’ agenda included raising minimum wages, changing the voting procedures in union representation elections so that workers could affiliate through “card checks,” reforming the National Labor Relations Board, and increasing the Earned Income Tax Credit (EITC).⁶ Such policy solutions would not be irrelevant for women workers or for women whose partners are full-time, primary-sector workers; on the contrary, the Edwards approach to “making work pay” might raise family incomes significantly. However, these policies would not fully address some of the most vexing and long-standing questions in U.S. social policy, including the question of how to reconcile family parenting responsibilities—and the

³ Benjamin Wallace-Wells, *A Case of the Blues*, N.Y. TIMES, Mar. 30, 2008, § 6 (Magazine), at 44; see also George Packer, *The Fall of Conservatism*, THE NEW YORKER, May 26, 2008, at 47; Eyal Press, *Is The Party Over?*, THE NATION, June 2, 2008, at 11.

⁴ John Edwards’ Plan to Build One America, <http://johnewards.com/issues/> (last visited Mar. 1, 2009) (“In today’s Two Americas, it is no coincidence that most families are working harder for stagnating wages.”). For the origins of the “two nations” image regarding poverty and wealth, see Benjamin Disraeli, *THE TWO NATIONS*, excerpted in *THE PORTABLE VICTORIAN READER* 22, 22–23 (Gordon S. Haight ed., 1972); see also GERTRUDE HIMMELFARB, *THE IDEA OF POVERTY: ENGLAND IN THE EARLY INDUSTRIAL AGE 489–503* (1983). For the image in regard to race in the United States, see ANDREW HACKER, *TWO NATIONS: BLACK AND WHITE, SEPARATE, HOSTILE, UNEQUAL* (Scribner 2003) (1993).

⁵ See Sojourners, Presidential Forum on Faith, Values, and Poverty, http://www.sojo.net/index.cfm?action=action.display&item=pentecost07_candidates_forum (last visited Mar. 1, 2009).

⁶ John Edwards, A National Goal: End Poverty within 30 Years, <http://www.johnewards.com/issues/poverty> (last visited Mar. 1, 2009). Specific proposals included raising the minimum wage, tripling the EITC for childless adults, and reforming labor law to allow for union representation as the result of card checks rather than traditional, secret-ballot elections. *Id.*

deference our polity has generally shown toward parents in permitting them to make choices about their children's care—with an economic system in which wages from mainstream employment are treated as the only legitimate source of income for all but the wealthy and the elderly.⁷

¶5 The wisdom of the Edwards approach, one of making “work pay” through a variety of policy approaches, has become a kind of consensus common sense among many people who want to recreate an anti-poverty agenda in the post-“welfare reform” world.⁸ If enacted, such an agenda would certainly improve the circumstances of many of the mothers who have joined the labor market as welfare (now Temporary Assistance to Needy Families, or TANF) clients or as former clients who have reached their eligibility limit for benefits. But such an agenda would underline, rather than dismantle, the favoritism toward a relatively narrow group of citizens within our social polity; it would continue the relative silence U.S. policy makers have maintained on the issue of long-term unemployment; and it would continue the biases not only of gender but also of ability and disability that are inherent in a wage-work-centric approach to preventing and healing the social problem of poverty.⁹ Moreover, although surely more politically palatable than “welfare,” the passage of such an agenda would hardly be assured even under the Obama White House and Democratic majorities in both houses of Congress.

¶6 Drawing upon historical examples and the wisdom of advocates as well as researchers, two alternative approaches suggest themselves. The first follows the example of the U.S. House Select Committee on Children, Youth, and Families, which was itself a response to the changes that occurred in social policy in the early 1980s, and was ultimately a casualty of the Republican legislative takeover in the middle 1990s.¹⁰ This approach takes the family, whether straight or gay, single-parent or two-parent, as the unit of political analysis. The family-based agenda treats universal social services as

⁷ For a review of scholarship that addresses the place of women and families in U.S. social policy, see Felicia Kornbluh, *Women's History with the Politics Left In: Feminist Studies of the Welfare State*, in *EXPLORING WOMEN'S STUDIES: LOOKING FORWARD, LOOKING BACK* 236, 236–55 (Carol Berkin et al. eds., 2006).

⁸ See generally *MAKING WORK PAY: AMERICA AFTER WELFARE* (Robert Kuttner ed., 2002) (compiling articles examining the effects of “welfare reform”).

⁹ For alternative frameworks for social policy that might be consistent with a guaranteed income approach, see Martha Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 *YALE J.L. & FEMINISM* 1 (2008) (arguing for policies that recognize the universality of vulnerability in human life, and that distribute benefits on the basis of their ability to address vulnerabilities rather than on the basis of their ability to reward market work); MARTHA C. NUSSBAUM, *FRONTIERS OF JUSTICE: DISABILITY, NATIONALITY, SPECIES MEMBERSHIP* (2006) (arguing for a “capabilities” approach that respects differences in physical and intellectual ability). I have explored the links between a gendered and a disability-sensitive critique of U.S. social policy. See Felicia Kornbluh, *Jacobus TenBroek's Fourteenth Amendment: Civil Rights, Disability, and Law in the Work of America's Leading Blind Activist Before the 1960s*, Society for Disability Studies Conference, Bethesda, Maryland (2006) (unpublished paper, on file with author); Felicia Kornbluh, *Virtually Normal: Jacobus TenBroek, Blindness and Masculinity in Early Disability Rights Discourse*, Feminism and Legal Theory Workshop, Atlanta, Georgia (2004) (unpublished paper, on file with author).

¹⁰ See STAFF OF H. SELECT COMM. ON CHILDREN, YOUTH, AND FAMILIES, 98TH CONG., *CHILDREN, YOUTH, AND FAMILIES: 1983* (Comm. Print 1983); STAFF OF H. SELECT COMM. ON CHILDREN, YOUTH, AND FAMILIES, 99TH CONG., *CHILDREN AND FAMILIES IN POVERTY: BEYOND THE STATISTICS* (Comm. Print 1985); STAFF OF H. SELECT COMM. ON CHILDREN, YOUTH, AND FAMILIES, 100TH CONG., *AMERICAN FAMILIES IN TOMORROW'S ECONOMY* (Comm. Print 1987); STAFF OF H. SELECT COMM. ON CHILDREN, YOUTH, AND FAMILIES, 100TH CONG., *A DOMESTIC PRIORITY: OVERCOMING FAMILY POVERTY IN AMERICA* (Comm. Print 1988).

a key solution to the poverty problem. Universal child care on a French or Swedish model, or healthcare on a Canadian or British model, would relieve poverty by removing a set of expensive and necessary family expenditures from the market (“de-commodification,” in Gosta Esping-Anderson’s phrase).¹¹ Such services speak to family needs that stretch across the income spectrum, as well as across other social differences, and so they alleviate poverty without stigmatizing the poor. Although politically difficult to initiate, such proposals are more appealing the more they address the circumstances and values of people who already know that they are compelled to over-identify with their market work.

¶17 History has shown that universal social policies, once implemented, generate majoritarian voting coalitions that make them nearly impregnable to challenge. This has certainly been the case with the Canadian healthcare system (remarkable given that in the early 1970s, the Canadian system was a patchwork, much like the system in the contemporary United States) and the U.S. system of Old-Age and Survivors’ Insurance (“Social Security”).¹² In designing a family-based policy agenda, I would explicitly include services that advocates often think of as serving middle-class families, but which are also critical for lifting families out of poverty or helping them stay in the middle class. These include mortgage and housing assistance and the financing of higher education.

¶18 Drawing upon my research on the welfare rights campaigns of the late 1960s and early 1970s, the other alternative that suggests itself is a strategy based on income rather than on mainstream work.¹³ This is, in a sense, the simplest possible approach to poverty, in that it proposes that each adult citizen receive a basic adequate income from a combination of market and state resources; if someone is not earning a wage, then she or he receives substantial support from the government and, in the case of a low wage, receives a smaller supplemental grant. Forty years ago, this approach produced a variety of proposals for what was termed the “national guaranteed income” or “negative income tax.”¹⁴ In recent years, its most significant embodiment has been the EITC, which has substantially grown in value and coverage since the early 1990s.¹⁵ Other income-based

¹¹ GOSTA ESPING-ANDERSEN, *THE THREE WORLDS OF WELFARE CAPITALISM* 21–23, 26–28, 35–54, 128–29, 182–84 (1990).

¹² Theda Skocpol, *Targeting Within Universalism: Politically Viable Policies to Combat Poverty in the United States*, in *THE URBAN UNDERCLASS* 411, 411 (Christopher Jencks & Paul E. Peterson eds., 1991). *But see* Robert Greenstein, *Universal and Targeted Approaches to Relieving Poverty: An Alternative View*, in *THE URBAN UNDERCLASS* 437, 437–59 (Christopher Jencks & Paul E. Peterson eds., 1990). On healthcare, see JILL QUADAGNO, *ONE NATION, UNINSURED: WHY THE UNITED STATES HAS NO NATIONAL HEALTH INSURANCE* (2005).

¹³ *See generally* FELICIA KORNBLUH, *THE BATTLE FOR WELFARE RIGHTS: POLITICS AND POVERTY IN MODERN AMERICA* (2007) (chronicling the history of the welfare rights movement).

¹⁴ Felicia Kornbluh, *A Right to Welfare? Poor Women, Professionals, and Poverty Programs, 1935-1975* 35–188 (November, 2000) (unpublished Ph.D. dissertation, Princeton University) (on file with author).

¹⁵ On the history of the EITC, see BRIAN STEENSLAND, *THE FAILED WELFARE REVOLUTION: AMERICA’S STRUGGLE OVER GUARANTEED INCOME POLICY* 178–80 (2008). For general discussion of the EITC, see Center on Budget and Policy Priorities, *The Earned Income Tax Credit*, <http://www.cbpp.org/pubs/eitc.htm> (last visited March 19, 2009). The Center on Budget and Policy Priorities notes the rise in state, as well as federal, EITC’s. As of June 2008, twenty-four states had EITC’s, and twenty-one had refundable EITC’s, meaning that people who qualified were not only exempt from state taxes but also received income supplements from the state. *See* JASON LEVITIS & JEREMY KOULISH, *CTR. FOR BUDGET AND POLICY PRIORITIES, STATE EARNED INCOME TAX CREDITS: 2008 LEGISLATIVE UPDATE 6*, <http://www.cbpp.org/6-6-08sfp.pdf>. Moreover, Democrats in the U.S. House and Senate, and local leaders, such as Mayor Michael

approaches include Bruce Ackerman's and Anne Alstott's idea of endowing each citizen with a "stake," or a one-time income grant distributed in early adulthood. Other alternatives include what has been dubbed a Basic Income Grant. This proposal has gained adherents throughout the world but especially in Europe and Latin America, and is the idea behind the fund (created from oil revenues) that the state of Alaska has used to supplement the incomes of all of its citizens.¹⁶

¶9 An income-based approach to poverty lacks the political appeal of approaches that take the labor market as their starting point. However, it has many advantages. First, an income-based approach recognizes the reality of long-term and structural unemployment as well as under-employment.

¶10 Second, it allows for consideration of the particular vulnerability to poverty of women, especially mothers of young children. Women have been disproportionately poor, and disproportionately the objects of anti-poverty policy, throughout Anglo-American history. The contemporary reasons for women's disproportionate need for state-funded economic aid include segregated labor markets; part-time work; limited access to private-sector benefits or to public-sector ones that are based on wages or hours; post-divorce or post-separation declines in income; limited child support awards or collections; and domestic violence and the costs of fleeing an abuser.¹⁷ As recent research has demonstrated, the women on late twentieth and early twenty-first century welfare rolls have overwhelmingly been victims of intimate violence.¹⁸ Family homelessness, which arose in the 1980s, has been largely a product of intimate violence, on the one hand, and a tattered system of mental health and income supports, on the other.¹⁹

Bloomberg of New York City, have endorsed expanding the EITC for childless workers. As of October, 2007, childless workers were eligible for Earned Income Tax Credits, but the value of these credits was very low, a maximum of \$438 per year, or less than one-tenth of the maximum EITC for a family with one child. See AVIVA ARON-DINE & ARLOC SHERMAN, CTR. ON BUDGET AND POLICY PRIORITIES, WAYS AND MEANS COMMITTEE CHAIRMAN CHARLES RANGEL'S PROPOSED EXPANSION OF THE EITC FOR CHILDLESS WORKERS: AN IMPORTANT STEP TO MAKE WORK PAY 2, <http://www.cbpp.org/10-25-07tax.pdf>.

¹⁶ I discuss these alternatives in KORNBLUH, *supra* note 13, at 8–9; see also BRUCE ACKERMAN & ANNE ALSTOTT, THE STAKEHOLDER SOCIETY 4–5, 21–44 (1999); Scott Goldsmith, *The Alaska Permanent Fund Dividend: An Experiment in Wealth Distribution*, in PROMOTING INCOME SECURITY AS A RIGHT: EUROPE AND NORTH AMERICA 549 (Guy Standing ed., 2004) (discussing the creation of the Alaska Permanent Fund as a source of income for citizens of Alaska and the fund's concept of a basic income as applicable to other regions); GUY STANDING, BEYOND THE NEW PATERNALISM: BASIC SECURITY AS EQUALITY 214 (2002) (examining various approaches to a basic income taken in European and South American countries).

¹⁷ For discussions of the reasons that women need public aid, see HANDLER & HASENFELD, *supra* note 1, at 19, 26, 39, 77, 303; DAVID K. SHIPLER, THE WORKING POOR: INVISIBLE IN AMERICA, at xi (2004) (discussing women as the majority of the "working poor"); Mary Corcoran, Greg J. Duncan & Martha S. Hill, *The Economic Fortunes of Women and Children: Lessons from the Panel Study of Income Dynamics*, in WOMEN AND POVERTY 7 (Barbara C. Gelpi, et al. eds., The Univ. of Chi. Press 1986) (1983); Diana M. Pearce, *Toil and Trouble: Women Workers and Unemployment Compensation*, in WOMEN AND POVERTY 141 (Barbara C. Gelpi et al. eds., The Univ. of Chi. Press 1986) (1983); WOMEN'S ECONOMIC AGENDA WORKING GROUP, TOWARD ECONOMIC JUSTICE FOR WOMEN: A NATIONAL AGENDA FOR CHANGE 11–19 (1985).

¹⁸ See Richard Tolman & Jody Raphael, *A Review of Research on Welfare and Domestic Violence* 56 J. SOC. ISSUES 655 (2000) (summarizing and critiquing research on the link between welfare and domestic violence); JODY RAPHAEL, SAVING BERNICE: BATTERED WOMEN, WELFARE AND POVERTY (2000) (chronicling one woman's experience of domestic abuse while on welfare as a tool to increase understanding of how domestic violence perpetuates reliance on welfare by domestic violence victims).

¹⁹ See generally The National Center on Family Homelessness, Women, Co-Occurring Disorders and Violence Study, Ellen Bassuk, Director, http://www.familyhomelessness.org/work_past_women.php (last

¶11 Third, an income-based approach de-stigmatizes the poor, at least in theory, in that it rests on the idea that all citizens are vulnerable to periods of low income. This approach promotes as a component of citizenship the right to be free from poverty regardless of its origins. Negative income taxes and similar policies gather together in their recipient pool the very poor and the so-called “working poor,” and suggest a political coalition between these groups. Although not universal in the sense of offering a benefit to people of all social classes, income-based policies are at any rate not categorical in their application (unlike TANF, Supplemental Security Income, and other policies whose lineage begins with the Social Security Act of 1935) and do not therefore demand the separations between groups of people that proved so devastating to both the reputations and the political health of the categorical programs in the decades after the 1930s.²⁰

¶12 In what follows, I explore the meaning and history of the idea of a minimum income for all U.S. citizens. Although this idea seems far from mainstream policy consideration in the twenty-first century, I argue that it was an object of serious discussion by intellectuals, advocates, and government officials during the Johnson and Nixon years. I explore the reasons for its emergence, and both the strengths and weaknesses of the idea as it came into being. I frame my discussion with reference to the Nixon administration’s Family Assistance Plan (1969-1972), a massive national income support program, which was the most historically significant effort to translate the idea of a guaranteed income into a concrete legislative proposal.

II. A GUARANTEED INCOME: THE IDEA

¶13 In January, 1969, as Richard Nixon assumed the presidency, the idea of a minimum income for all U.S. citizens was so commonplace that one political insider suggested it was one of the two domestic policy proposals that could unite the Republican Party.²¹ The idea was nearly as common among leading Democrats, and among policy intellectuals from all points on the political spectrum, as it was among Republicans. From economist Milton Friedman to Senator George McGovern, a remarkable range of political thinkers in the 1960s and early 1970s settled upon the income guarantee as a logical next step in poverty policy, and as an important balance-wheel of what they were

visited March 19, 2009) (studying the effects of violence against women, especially mental health and substance abuse).

²⁰ See generally ALICE KESSLER HARRIS, *IN PURSUIT OF EQUITY: WOMEN, MEN AND THE QUEST FOR ECONOMIC CITIZENSHIP IN 20TH-CENTURY AMERICA* (2001) (discussing how seemingly neutral legislation actually limited women’s employment and citizenship rights); LINDA GORDON, *PITIED BUT NOT ENTITLED: SINGLE MOTHERS AND THE HISTORY OF WELFARE 1890-1935* (1994) (examining the evolution of the welfare state through early programs to assist single mothers); MICHAEL B. KATZ, *THE UNDESERVING POOR: FROM THE WAR ON POVERTY TO THE WAR ON WELFARE* (1989) (looking at how views and assumptions of welfare have shaped the political discourse).

²¹ On the idea of a guaranteed income, and the Nixon plan as a manifestation of this idea, see KORNBLUH, *supra* note 13, at 78–188. See generally STEENSLAND, *supra* note 15. On the guaranteed income within the Republican Party, see DANIEL P. MOYNIHAN, *THE POLITICS OF A GUARANTEED INCOME: THE NIXON ADMINISTRATION AND THE FAMILY ASSISTANCE PLAN* 63 (1973); VINCENT J. BURKE & VEE BURKE, *NIXON’S GOOD DEED: WELFARE REFORM* 50 (1974). The insider was John Price, a founder of the young Republicans’ group the Ripon Forum and, later, counsel to Daniel Patrick Moynihan at the Nixon administration’s Urban Affairs Council.

beginning to call the “post-industrial” economy.²² Guaranteed income proposals also lay at the heart of the political program of the grassroots movement for welfare rights, a movement of welfare recipients and their allies that had chapters in every major city of the United States.²³ These grassroots activists ultimately devoted an enormous amount of energy to defeating Nixon’s Family Assistance Plan proposal, which contained a national guaranteed income as well as work requirements for some recipients of aid. However, they advanced their own proposal for a guaranteed income, the so-called Guaranteed Adequate Income, which was set to a standard of living that exceeded mere subsistence and contained no specific quid pro quo for recipients in the form of employment.²⁴

¶14 The idea of the guaranteed income was that the national government should insure the citizenry against extreme poverty. Like the categorical aid programs under the Social Security Act, and unlike Old-Age Insurance under Social Security, most guaranteed income plans provided that payments from the Treasury would go to those who could demonstrate a need for them. Unlike the categorical programs, citizens only needed to demonstrate low monetary income to establish need. They did not need to demonstrate in addition that they were disabled from working, or entitled to receive financial help because of the service they did to the nation by raising children. They did not need to prove to caseworkers or local administrators that they were worthy of assistance on account of their behavior. From both the political right and the left, the guaranteed income proposals of the 1960s and early 1970s eliminated caseworkers and the layers of state and local bureaucracy that administered the categorical programs. One version of the guaranteed income, which Friedman advocated as an alternative to all other anti-poverty policies, was a negative income tax that the Internal Revenue Service (IRS) would administer along with other taxes. Under Friedman’s proposal, citizens or families with incomes below a certain level would not only cease to owe taxes, but would receive money back from the federal treasury.²⁵

¶15 The idea of a guaranteed income represented a major departure in social welfare thinking since the New Deal. A comprehensive, universal income guarantee would have dulled the edge of many of the classic forms of stratification that existed within the U.S. welfare state, including forms of stratification inherited from public poor relief in the late eighteenth century, from private charity in the nineteenth century, and from the proto-welfare state policies of the Progressive period.²⁶ It would not, of course, have dulled the

²² For Friedman’s views, see MILTON FRIEDMAN WITH ROSE FRIEDMAN, *CAPITALISM AND FREEDOM* (1962) [hereinafter *CAPITALISM AND FREEDOM*]. Friedman remembered his supports for the guaranteed income and his growing disenchantment with the Nixon welfare reform proposal between 1969 and 1971, in MILTON FRIEDMAN & ROSE D. FRIEDMAN, *TWO LUCKY PEOPLE: MEMOIRS* 381–82 (1998) [hereinafter *TWO LUCKY PEOPLE*]. To understand McGovern’s minimum income, or “demo-grant” proposal, I rely upon an interview with Alan Stone, Dir. of Gov’t Relations, Columbia Univ., N.Y., N.Y. (Feb. 11, 1997). McGovern retreated from his universal income proposal in August, 1972, eleven weeks before the Presidential election. BURKE & BURKE, *supra* note 21, at 142.

²³ KORNBLUH, *supra* note 13, at 48–51, 142–44.

²⁴ *Id.* at 137–60. For more on the Nixon welfare proposal, see Felicia Kornbluh, *Who Shot F.A.P.? The Nixon Welfare Plan and the Transformation of American Politics*, 1 *THE SIXTIES: A JOURNAL OF HIST., POLITICS, & CULTURE* 125 (2008); STEENSLAND, *supra* note 15, at 79–156; and JILL QUADAGNO, *THE COLOR OF WELFARE: HOW RACISM UNDERMINED THE WAR ON POVERTY* 117–34 (1994).

²⁵ For the IRS’ role and Friedman’s proposal, see discussion *infra* notes 76 to 87 and accompanying text.

²⁶ On welfare states as systems of stratification, see ESPING-ANDERSEN, *supra* note 11, at 3–4 (“Social stratification is part and parcel of welfare states. Social policy is supposed to address problems of stratification, but it also produces it. . . . The really neglected issue is the welfare state as a stratification

edge of distinctions between those who received private healthcare and other “fringe benefits” and those who received public benefits, or between those who received relatively well-paying public benefits based upon their earnings (such as Unemployment Insurance and Old-Age Insurance) and those who received relatively miserly benefits that were not based upon earnings.²⁷ However, an income guarantee would have eased the distance between workers at the low end of the income scale (and those, such as laundry workers, farm workers, and many part-time workers, who were not covered by the Old-Age or Unemployment Insurance programs in the middle 1960s) and the categories of people who received public assistance between the 1930s and the 1960s.²⁸ They would all have been eligible for the same grants or wage supplements. The income guarantee would have diminished the power within the welfare state of the wage-work ethic for men and what social welfare historian Mimi Abramovitz has termed the “family ethic” for women, since men who were outside the labor market and women who had neither children nor male partners would have received the same benefits (scaled for family size) as those in the labor market and/or in nuclear families.²⁹ An income guarantee for all citizens would also have delimited the position of relative privilege enjoyed by the categorical aid recipients under Social Security, that is, between those who were, in historian Linda Gordon’s phrase, “pitied but not entitled” and those who were not even pitied under the New Deal state system.³⁰

¶16 Advocates of the negative income tax first formulated the idea in the 1940s.³¹ However, it took fifteen to twenty years for the concept of ensuring that all Americans had minimal incomes to find a place at the table of national policy. Postwar social criticism concerning the relationship between the state and the economy, public poverty policies, and the combination of the civil rights movement, black migration, and urban riots raised aloft problems that the guaranteed income appeared to answer. The relevant social criticism discussed the United States as an affluent society with a powerful and ever-growing economy fueled by rapid technological change. However, the critics also

system in its own right.”). For a single volume on welfare practices from the late eighteenth century through the twentieth century, see MICHAEL B. KATZ, *IN THE SHADOW OF THE POORHOUSE: A SOCIAL HISTORY OF WELFARE IN AMERICA* (1986).

²⁷ On private benefits as part of the welfare state, see ESPING-ANDERSEN, *supra* note 11; SUSAN PEDERSEN, *FAMILY, DEPENDENCE, AND THE ORIGINS OF THE WELFARE STATE: BRITAIN AND FRANCE, 1914-1945*, 224–88 (1993). On the rise of “fringe benefits,” see Beth Stevens, *Blurring the Boundaries: How the Federal Government Has Influenced Welfare Benefits in the Private Sector*, in *THE POLITICS OF SOCIAL POLICY IN THE UNITED STATES* 123 (Margaret Weir et al. eds., 1988). On the “two-tier” welfare state generally, considered particularly in terms of gender, see Barbara J. Nelson, *The Origins of the Two-Channel Welfare State: Workmen’s Compensation and Mothers’ Aid*, in *WOMEN, THE STATE, AND WELFARE* 123 (Linda Gordon ed., 1990); GORDON *supra* note 20, at 293–95.

²⁸ KORNBLUH, *supra* note 13, at 187.

²⁹ On relationships between U.S. public welfare benefits and the labor market, see FRANCES FOX PIVEN & RICHARD CLOWARD, *REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE* (1971); KATZ, *supra* note 20. On the “family ethic” or relative privilege of mothers over non-mothers, see MIMI ABRAMOVITZ, *REGULATING THE LIVES OF WOMEN: SOCIAL WELFARE POLICY FROM COLONIAL TIMES TO THE PRESENT* (1988). For a comparative view, see Carole Pateman, *The Patriarchal Welfare State*, in *DEMOCRACY AND THE WELFARE STATE* 231–60 (Amy Gutmann ed., 1988). For complications of both the work-ethic and family-ethic models, see Felicia Kornbluh, *The New Literature on Gender and the Welfare State: The U.S. Case*, 22 *FEMINIST STUDIES* 171 (1996).

³⁰ See generally GORDON, *supra* note 20.

³¹ The advocates were Milton Friedman and his fellow economist, George Stigler. See George J. Stigler, *The Economics Of Minimum Wage Legislation*, 36 *AM. ECON. REV.* 358, 365 (1946) (proposing a negative income tax as an alternative to a minimum wage).

saw increasing unemployment or underemployment, particularly for men of color and white working-class men, as a consequence of the very forces that led to affluence. Journalistic and academic writing about poverty, and the anti-poverty rhetoric of the Kennedy and Johnson Administrations, raised the problem of persistent poverty in socio-geographic corners of the United States that affluence somehow had missed.³² The social movements, continued migration, and riots were constant reminders of African-American discontent. By the late 1960s, when the Nixon Administration and its congressional allies finally translated the idea of a guaranteed income into statutory language, it had come to represent a kind of anti-New Deal and anti-War on Poverty, a response to the problems of male under-employment, persistent poverty, and black rage that differed from anything the United States had yet tried.

III. THE GUARANTEED INCOME AS A POLICY FOR THE 1960S

¶17 After its initial introduction in the 1940s, the guaranteed income idea resurfaced within the increasingly heated public conversation about poverty in the Kennedy era. It also emerged from the postwar conversation about American affluence. The starting point for the closely related conversations about poverty and affluence was the effect of new technology and new ways of organizing work on the post-World War II U.S. economy. Worker productivity, national growth, and economic efficiency were seen to have improved almost to dangerous degrees since the war. Michael Harrington noted ironically about 1950s social thought: “There was introspection about Madison Avenue and tail fins; there was discussion of the emotional suffering taking place in the suburbs.”³³ But postwar social criticism also had a structural dimension. The critics predicted that productivity gains would lead to such a large decline in the need for labor that social values would change, with the search for meaningful forms of leisure largely replacing a commitment to remunerative work, with unemployment increasingly accepted as a normal byproduct of the economic structure, and with consumption eventually replacing production as the society’s paradigmatic economic activity and as the rock on which Americans formed their identities.

¶18 The economic and social changes that the critics predicted were particularly alarming because they signaled potential emasculation or feminization. It appeared masculinity would have to change, if not diminish, as the social need for men’s work, the physical intensity of their work, and their autonomy in performing it all declined.³⁴ The danger of feminization united men across the class spectrum and racial divide in 1950s and 1960s social criticism, applying equally to David Riesman’s “other-directed” men of the modern corporation,³⁵ Paul Goodman’s unfree middle-class students,³⁶ and the

³² Author’s conclusion from MICHAEL B. KATZ, *THE UNDESERVING POOR: FROM THE WAR ON POVERTY TO THE WAR ON WELFARE* 79–123 (1989); ALLEN MATUSOW, *THE UNRAVELLING OF AMERICA: A HISTORY OF LIBERALISM IN THE 1960S* 218–221 (1984); WALTER I. TRATTNER, *FROM POOR LAW TO WELFARE STATE: A HISTORY OF SOCIAL WELFARE IN AMERICA* 280, 288–90 (The Free Press 1989) (1974).

³³ MICHAEL HARRINGTON, *THE OTHER AMERICA: POVERTY IN THE UNITED STATES* 1 (Penguin Books 1981) (1962).

³⁴ For a general discussion of masculinity and post-World War II social thought, see BARBARA EHRENREICH, *THE HEARTS OF MEN: AMERICAN DREAMS AND THE FLIGHT FROM COMMITMENT* (1983).

³⁵ DAVID RIESMAN WITH NATHAN GLAZER AND REUEL DENNEY, *THE LONELY CROWD: A STUDY OF THE CHANGING AMERICAN CHARACTER* 19–23 (Yale Univ. Press 1989) (1950). As Ehrenreich argues throughout the work, Riesman referred to the “other-directed person” and not to men per se. However, the

redundant working-class black men whom Daniel Patrick Moynihan believed needed to “strut” to avoid obliteration at the hands of both large-scale economic forces and the matriarchal women in their lives.³⁷ All of these men were potentially vulnerable to the shift in social emphasis from the activities that had been coded as masculine in Europe and the United States since at least the early nineteenth century to those that had been coded as feminine.³⁸

¶19 The other side of the coin of considering the possibly deleterious effects of American affluence was an increasing concern in the late 1950s and early 1960s about the persistence of poverty amid prosperity. John Kenneth Galbraith showed both faces of the coin in *THE AFFLUENT SOCIETY*.³⁹ *THE AFFLUENT SOCIETY* decried a social over-emphasis on production or industrial output that continued although such output spoke to no obvious or natural needs. Galbraith claimed that much of the production that occurred in the private market was more significant for keeping people working, and therefore earning (and spending what they earned), than for meeting human needs.⁴⁰ By way of remedy, he urged “social balance” among the products produced in the private market and in the form of investments in public goods, such as schools, hospitals, and roads, which approached the levels of private investment that drove the postwar economy.⁴¹ To finance such investments, he urged higher taxes, especially sales taxes, which had the twin virtues of raising revenue and discouraging consumption.⁴²

¶20 The poverty Galbraith observed was of two types: “case” and “insular.” Case poverty had to do with personal disabilities or shortcomings, whether physical or psychological, that prevented people from taking advantage of opportunities.⁴³ Insular poverty, on the other hand, transcended the individual.⁴⁴ It was the outcome of uneven development and technological change, combined with a “homing instinct” that made

change in social character that Riesman described—from autonomy, inner-direction, and material well-being achieved through physically demanding work—was only meaningful in reference to stereotypes of men’s activity and attitudes. “[A] book on ‘other-directed women’ would have been as unsurprising as a book on, say, fair-skinned Anglo-Saxons, because other-directedness was built into the female social role as wives and as mothers. The traits that Riesman found in the other-directed personality . . . were precisely those that the patriarch of mid-century sociology, Talcott Parsons, had just assigned to the female sex.” EHRENREICH, *supra* note 34, at 33–34. For similar concerns, see C. WRIGHT MILLS, *WHITE COLLAR: THE AMERICAN MIDDLE CLASSES* (Galaxy Books 1956) (1951).

³⁶ PAUL GOODMAN, *GROWING UP ABSURD: PROBLEMS OF YOUTH IN THE ORGANIZED SYSTEM* (1960); PAUL GOODMAN, *COMPULSORY MIS-EDUCATION* (1964). This is not to say that Goodman had an easy relationship with normative masculinity. See Paul Goodman, *Memoirs of an Ancient Activist*, in *THE GAY LIBERATION BOOK: WRITING AND PHOTOGRAPHS ON GAY (MEN’S) LIBERATION* 22, 22–29 (Len Richmond & Gary Noguera eds., 1973). Thanks to Bruce Aaron for the reference.

³⁷ Daniel Patrick Moynihan, *The Negro Family: The Case for National Action*, in *THE MOYNIHAN REPORT AND THE POLITICS OF CONTROVERSY: A TRANS-ACTION SOCIAL SCIENCE AND POLICY REPORT* 39, 39–125 (Lee Rainwater & William Yancey eds., 1967).

³⁸ See Victoria deGrazia, *Introduction* to *THE SEX OF THINGS: GENDER AND CONSUMPTION IN HISTORICAL PERSPECTIVE* 1–10 (Victoria deGrazia & Ellen Furlough eds., 1997).

³⁹ JOHN KENNETH GALBRAITH, *THE AFFLUENT SOCIETY* (Houghton Mifflin 1st ed. 1958) [hereinafter GALBRAITH, 1st ed.].

⁴⁰ *Id.* at 121–51.

⁴¹ *Id.* at 251–80.

⁴² *Id.* at 315.

⁴³ *Id.* at 325–26.

⁴⁴ *Id.*

people desire “to spend their lives at or near the place of their birth” instead of moving someplace more economically productive.⁴⁵

¶21

Since he believed that poverty, especially of the “insular” type, was inescapable under modern conditions, Galbraith urged state action to ameliorate it. He argued that it was increasingly important to make employment available to everyone who sought it, since the “discrimination” between those with jobs and therefore income, and those without, was “altogether too flagrant.”⁴⁶ As a further hedge against such discrimination, Galbraith sought “a reasonably satisfactory substitute for production as a source of income. This and this alone,” he argued, “would break the present nexus between production and income” and allow the United States to move away from excessive private output without generating mass unemployment and misery.⁴⁷ The key “substitute” that Galbraith proposed was unemployment compensation, which he believed should be more widely available than it was in 1958, and available for longer periods of time; in later editions of *THE AFFLUENT SOCIETY*, he openly advocated a guaranteed income.⁴⁸ To objections he anticipated to the idea of providing income to citizens without demanding that they earn it by producing something, Galbraith asked:

[I]f the goods have ceased to be urgent, where is the fraud? Can the North Dakota farmer be indicted for failure to labor hard and long to produce the wheat that his government wishes passionately it did not have to buy? Are we desperately dependent on the diligence of the worker who applies maroon and pink enamel to the functionless bulge of a modern motorcar? The idle man may still be an enemy of himself. But it is hard to say that the loss of his effort is damaging to society.⁴⁹

Galbraith asked his readers to consider a “divorce of production from security,” untying the knot between a worker’s marketable output and his or her income.⁵⁰

⁴⁵ *Id.* at 326–27. In later editions, Galbraith specified his idea of island poverty further, to refer to “rural and urban slums” in the South, the urban North, Appalachia, or Puerto Rico. “Race,” he argued, “which acts to locate people by their color rather than by the proximity to employment [was] obviously” one factor that created these islands of the poor. See JOHN KENNETH GALBRAITH, *THE AFFLUENT SOCIETY* 248–49 (Houghton Mifflin 4th ed. 1984) (1958) [hereinafter GALBRAITH, 4th ed.].

⁴⁶ GALBRAITH, 1st ed., *supra* note 39, at 292.

⁴⁷ *Id.* at 293.

⁴⁸ In both the second edition of his ground-breaking book, which appeared in 1969, and the third edition, published in 1976, Galbraith advocated a guaranteed income or negative income tax “as a matter of general right and related in amount to family size but not otherwise to need,” in addition to public investments and expanded unemployment allowances. He explained that the idea had seemed utterly impracticable to him in 1958 but appeared reasonable later. See JOHN KENNETH GALBRAITH, *THE AFFLUENT SOCIETY* 266–67 (Hamish Hamilton 2d. ed. 1969) (1958) [hereinafter GALBRAITH, 2d. ed.]; GALBRAITH, *THE AFFLUENT SOCIETY* 228 (Houghton Mifflin 3d ed. 1976) (1958) [hereinafter GALBRAITH, 3d. ed.].

⁴⁹ GALBRAITH, 1st ed., *supra* note 39, at 290.

⁵⁰ *Id.* at 292–307 (Chapter XXI, “The Divorce of Production from Security”). In later editions of *THE AFFLUENT SOCIETY*, beginning with the second edition in 1969, Galbraith argued for un-linking production and security especially for “those whom the modern economy employs only with exceptional difficulty or unwisdom.” He did not propose that the government create jobs for such people or attempt to encourage private employers to hire them: “Beyond a certain point,” he argued, “and given the shortage of qualified workers that will exist, it is impractical to pull the uneducated, the inexperienced and the black workers into the labor force and into jobs.” He also found a range of people, including “women heading households,” whom he believed the government should sustain economically rather than seek to employ. GALBRAITH, 2d. ed., *supra* note 48, at 266; GALBRAITH, 3d. ed., *supra* note 48, at 227.

¶22 As the 1950s became the 1960s, Michael Harrington's *THE OTHER AMERICA* succeeded Galbraith's *THE AFFLUENT SOCIETY* as the touchstone text on poverty in the United States. The difference between *THE AFFLUENT SOCIETY* and *THE OTHER AMERICA* was one of emphasis more than of argument. Where Galbraith devoted most of his book to the problems that affluence posed, and spent one chapter on the problem of poverty, Harrington devoted his entire work to naming poverty as a social problem. Harrington, like Galbraith, wrote of the contrast between large-scale prosperity and persistent poverty, and argued that the two were not merely coincidentally but also causally related to one another. "The other Americans," according to Harrington, "[were] the victims of the very inventions and machines that have provided a higher living standard for the rest of the society. They are upside-down in the economy, and for them greater productivity often means worse jobs; agricultural advance becomes hunger."⁵¹

¶23 Galbraith and Harrington both understood postwar American poverty as a minority phenomenon, but not one that could therefore be ignored or expected to wash away in the general tide of economic growth. However, Harrington objected to Galbraith's idea of "island" poverty because, he claimed, it implied "a serious, but relatively minor, problem."⁵² In place of Galbraith's typology, Harrington employed the idea of a "culture" or "subculture of poverty" to argue that some people would not respond in simple or predictable ways to economic change.⁵³ Harrington's poverty culture at first emerged from structural and environmental factors, but later in life (or in a second generation) was self-perpetuating. The culture was "an institution, a way of life,"⁵⁴ "a fatal, futile universe,"⁵⁵ "an underdeveloped nation . . . beyond history, beyond progress, sunk in a paralyzing, maiming routine."⁵⁶ He offered few specific governmental programs to help the "other America." However, Harrington argued that the self-perpetuating poverty culture resisted normal economic incentives and required a national response.⁵⁷

¶24 In January 1963, Dwight Macdonald underlined and expanded upon the arguments of *THE OTHER AMERICA* in an influential essay for *The New Yorker* on Harrington and poverty.⁵⁸ The Macdonald review exerted a greater direct impact on public policy than

⁵¹ HARRINGTON, *supra* note 33, at 12–13.

⁵² *Id.* at 12, 82, 122.

⁵³ *Id.* at 16. Harrington's idea is virtually the same as Oscar Lewis's idea of the culture of poverty, which Lewis developed for explaining the resistance of some Mexicans and Puerto Ricans to economic growth and modernization. Lewis had not yet, by 1962, when Harrington's work appeared, applied the idea to the poor minority within the United States. See OSCAR LEWIS, *THE CHILDREN OF SANCHEZ* (1961); OSCAR LEWIS, *LA VIDA: A PUERTO RICAN FAMILY IN THE CULTURE OF POVERTY—SAN JUAN AND NEW YORK* (1966); Oscar Lewis, *The Culture of Poverty*, 215 *SCI. AM.* 19 (1966).

⁵⁴ HARRINGTON, *supra* note 33, at 18.

⁵⁵ *Id.* at 129.

⁵⁶ *Id.* at 166. Historian Michael Katz points out the coincidence of such descriptions of poor people (and people of color) in the United States and in "underdeveloped nation[s]," and the most significant anti-colonial political and civil rights movements of the twentieth century. "In the same years that social scientists described them as passive, apathetic, and detached from politics," writes Katz, "all over the world previously dependent people were asserting their right to liberation." See KATZ, *supra* note 32, at 36. Particularly remarkable were passages in which Harrington compared the poor in the United States with the poor of Asia, at the same moment that U.S. engagement in Vietnam was increasing steadily. "Like the Asian peasant," Harrington wrote, "the impoverished American tends to see life as a fate, an endless cycle from which there is no deliverance." See HARRINGTON, *supra* note 33, at 170.

⁵⁷ HARRINGTON, *supra* note 33, at 166, 170–74.

⁵⁸ Dwight Macdonald, *Our Invisible Poor*, *THE NEW YORKER* (Jan. 19, 1963), reprinted in *POVERTY IN*

Harrington's own work, since it appears to have been Macdonald, and not Harrington, whom John F. Kennedy read before formulating his anti-poverty proposals.⁵⁹ Macdonald also connected Harrington's and Galbraith's ideas about poverty and economic structure to the idea of a guaranteed minimum standard of living for all U.S. citizens. He joined the critical consensus when he warned about the potential social impact of industrial automation.⁶⁰ In addition, he joined Harrington in reflecting upon what he saw as the special character of the "new minority mass poverty" of the age of affluence, a poverty that was "isolated and hopeless" and probably "chronic."⁶¹

¶25 In his *New Yorker* piece, Macdonald treated the essence of the poverty problem as a problem of consumption. For Macdonald, participation in the consumer economy was not the wasteful error it was for Galbraith; rather, it was the key sign of social membership or inclusion in the United States of 1963.⁶² Macdonald defined poverty in terms of model family budgets that the Bureau of Labor Statistics (B.L.S.) drafted to describe "adequate living."⁶³ He commented on these budgets:

This is an ideal picture, drawn up by social workers, of how a poor family *should* spend its money. But . . . only a statistician could expect an actual live woman, however poor, to buy new clothes at intervals of five or ten years. Also, one suspects that a lot more movies are seen and ice-cream cones and bottles of beer are consumed than in the Spartan ideal. These necessary luxuries are had only at the cost of displacing other items—necessary, so to speak—in the B.L.S. budget.⁶⁴

The "necessary luxuries" that poor people would need to do without, or for which they would have to sacrifice other necessities, largely defined participation in postwar social life for Macdonald. While he accepted the claim that general economic prosperity and ameliorative welfare payments together had eliminated starvation in the United States, Macdonald insisted this was unacceptable as long as "a fourth of us are excluded from the common social existence. Not to be able to afford a movie or a glass of beer is a kind of starvation," he added "—if everybody else can."⁶⁵

¶26 Consumer deprivation, combined with the sense he shared with Galbraith and Harrington that "a hard core of the specially disadvantaged" were relatively immune to general economic expansion, also formed Macdonald's justification for state action against poverty.⁶⁶ "To do something about this hard core," Macdonald argued:

AMERICA 6 (Louis Ferman, Joyce Kornbluh & Alan Haber eds., 1968).

⁵⁹ KATZ, *supra* note 20, at 82.

⁶⁰ Macdonald, *supra* note 58, at 16.

⁶¹ *Id.* at 20.

⁶² Author's conclusion from *id.* at 9–10, 24.

⁶³ *Id.* at 9 (internal quotations omitted).

⁶⁴ *Id.* at 10.

⁶⁵ *Id.* at 23–24.

⁶⁶ *Id.* at 23. This language calls to mind that from the 1980s of sociologist William Julius Wilson. In *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987), Wilson, like other "underclass" researchers, attempted to justify state action on behalf of poor people by insisting upon their social aberrance and relative resistance to behavioral incentives that worked for other portions of the population. For a similar view of the "underclass," see EROL RICKETTS & ISABEL SAWHILL, *URBAN INSTITUTE, DEFINING AND MEASURING THE UNDERCLASS* (1987). The author worked with Ricketts and

[A] second line of government policy [other than macroeconomic] would be required; namely, direct intervention to help the poor. We have had this since the New Deal, but it has always been grudging and miserly, and we have never accepted the principle that every citizen should be provided, at state expense, with a reasonable minimum standard of living regardless of other considerations. It should not depend on earnings, as does Social Security Nor should it exclude millions of our poorest citizens because they lack the political pressure to force their way into the Welfare State. The governmental obligation to provide, out of taxes, such a minimum living standard for all who need it should be taken as much for granted as free public schools have always been in our history.⁶⁷

The article ended with a hope for the day when “our poor can be proud to say ‘*Civis Americanus sum!* [I am an American citizen].”⁶⁸ Macdonald wrote: “[U]ntil the act of justice that would make this possible has been performed by the three-quarters of Americans who are not poor—until then the shame of the Other America will continue.”⁶⁹

IV. FEAR OF A POOR BLACK NATION? CIVIL RIGHTS AND THE INCOME IDEAL

¶27

The black civil rights movement influenced demands for a guaranteed income as much as did the writing about poverty and economic structure in the late 1950s and early 1960s. Harrington’s and Macdonald’s visions of poverty as in part intractable relied upon their common understanding that a meaningful fraction of the poor was African American, excluded from the new prosperity by racial discrimination and by a lack of the educational background they believed workers needed to fit into the changing labor market.⁷⁰ The civil rights movement, South and North, placed concerns about African American economic advancement on the national agenda. Although the nexus between poverty and racial difference was an old one in the United States, movement demands for equal justice at the work place and the lunch counter, as well as at the polling place and the court house, compelled many whites to see how little the affluent society had offered black communities.⁷¹

Sawhill at the Urban Institute while they wrote the paper.

⁶⁷ Macdonald, *supra* note 58, at 23. Macdonald was wrong to suppose that public schooling, even at the primary level, had always been a common fiscal obligation in the United States. For discussions, see MICHAEL B. KATZ, *THE IRONY OF EARLY SCHOOL REFORM: EDUCATIONAL INNOVATION IN MID-NINETEENTH CENTURY MASSACHUSETTS* (1968); SAMUEL BOWLES & HERBERT GINTIS, *SCHOOLING IN CAPITALIST AMERICA: EDUCATIONAL REFORM AND THE CONTRADICTIONS OF ECONOMIC LIFE* (1976); IRA KATZNELSON & MARGARET WEIR, *SCHOOLING FOR ALL: CLASS, RACE, AND THE DECLINE OF THE DEMOCRATIC IDEAL* (1985). Bowles and Gintis, and Katznelson and Weir, agree that schools were not always publicly funded, although they disagree about whether universal public schooling ultimately occurred because of employers’ demands or because of working-class demands.

⁶⁸ Macdonald, *supra* note 58, at 24.

⁶⁹ *Id.*

⁷⁰ See HARRINGTON, *supra* note 33, at 75; Macdonald, *supra* note 58, at 12; GALBRAITH, 2d. ed., *supra* note 48, at 215–16, 266; GALBRAITH, 2d. ed., *supra* note 48, at 185, 227.

⁷¹ On links between civil rights and economic rights, see generally Kornbluh, *supra* note 14; THOMAS JACKSON, *FROM CIVIL RIGHTS TO HUMAN RIGHTS: MARTIN LUTHER KING, JR. AND THE STRUGGLE FOR ECONOMIC JUSTICE* (2006); CHARLES HAMILTON & DONA COOPER HAMILTON, *THE DUAL AGENDA: THE*

¶28

The civil rights movement's Birmingham campaign and the March on Washington, both of which occurred in 1963, enhanced the movement's appearance of efficacy and its leaders' self-confidence. These two events also brought into focus the connections between formal civil equality between blacks and whites and their relative economic circumstances. In Birmingham, the multi-part agreement between the city's merchants and civil rights activists encompassed desegregating fitting rooms, wash rooms, and lunch counters, hiring more black sales people and cashiers, and making a commitment to improve African Americans' employment options in the future.⁷² The March on Washington united support for the freedoms at issue in the Civil Rights Bill then before Congress with calls for full employment and an end to racial discrimination in hiring.⁷³ In his "I Have A Dream" speech at the March on Washington, Martin Luther King, Jr., called for economic justice as well as for the formal equality that would allow whites to judge his children not "by the color of their skin, but by the content of their character."⁷⁴ King drew upon the imagery that Galbraith popularized, of "island" poverty. "One hundred years" after the Emancipation Proclamation, King said:

[T]he Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity In a sense we have come to our nation's Capital to cash a check. When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir

Instead of honoring this sacred obligation, America has given the Negro people a bad check; a check which has come back marked 'insufficient funds.' But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. So we have come to cash this check -- a check that will give us upon demand the riches of freedom and the security of justice.⁷⁵

King followed this language with more sanguine, and familiar, calls for nonviolent protest and an end to segregation in the South. But his gentler political rhetoric did not negate his insistence that African Americans receive a raft off the island of poverty "upon

AFRICAN AMERICAN STRUGGLE FOR CIVIL AND ECONOMIC EQUALITY (2000).

⁷² THE BIRMINGHAM TRUCE AGREEMENT (May 10, 1963), *reprinted in* THE EYES ON THE PRIZE CIVIL RIGHTS READER 159, 159–60 (Clayborne Carson, David J. Garrow, Gerald Gill, Vincent Harding & Darlene Clark Hine eds., 1991).

⁷³ JAMES T. PATTERSON, GRAND EXPECTATIONS: THE UNITED STATES, 1945-1974, 482–85 (1996). For a greater focus on economic inequality between whites and blacks, and the argument that civil rights laws and court-based strategies were "too little, and too late," see John Lewis, *Original Text of Speech to Be Delivered at the Lincoln Memorial*, *reprinted in* THE EYES ON THE PRIZE CIVIL RIGHTS READER, *supra* note 72, at 163–65. For a contemporaneous observation of the March that was sensitive to its attention to black poverty as well as to statutory civil rights, see I.F. Stone, *The March on Washington*, *reprinted in* IN A TIME OF TORMENT, 122, 122–24 (1967).

⁷⁴ Martin Luther King, Jr., *I Have A Dream*, in NEGRO PROTEST THOUGHT IN THE TWENTIETH CENTURY 400, 404 (Francis Broderick & August Meier eds., 1965).

⁷⁵ *Id.* at 401.

demand,” or his judgment that the “promissory note” from prosperous white to impoverished black America was long past due.

¶29 The guaranteed income idea was only one of many possible responses to demands such as King’s. In some ways, it was a politically expedient answer that accommodated beliefs about black inferiority and ultimate inability to succeed in a predominantly white labor market. Given the assumption of affluence—including the idea that the United States economy had defeated the business cycle and that economic growth could continue indefinitely—direct income grants to a multitude of people who were outside the labor market, while costly in dollar terms, may have seemed a relatively small price to pay for social peace. Guaranteed income schemes were politically expedient in that they allowed bureaucrats, legislators, and intellectuals to avoid other, more politically complicated, options, such as making a full-out effort to desegregate trade unions and private-sector work forces. The guaranteed income was also an alternative to the full employment policy that activists had sought at the March on Washington, and to the turn toward increased taxation and increased investment in public goods that Galbraith had advocated in *THE AFFLUENT SOCIETY*. However, despite their limitations, guaranteed income proposals represented a response to the claims of civil rights activists that African-Americans deserved equal treatment both economically and politically—and that “equality of opportunity,” the great catch phrase of the Kennedy years, was not sufficient to ensure economic equality.

V. MEN AND MARKETS

¶30 One major conservative contribution to the public conversation about guaranteeing incomes was *CAPITALISM AND FREEDOM*, by Milton and Rose Friedman, which appeared in 1962. *CAPITALISM AND FREEDOM* was a quintessential text of the Cold War Era, an extended argument for capitalism as a system of “economic freedom and a necessary condition for political freedom.”⁷⁶ The work launched the idea of a negative income tax, or guaranteed income administered by the IRS, into Republican policy parlance.

¶31 While they were hardly Keynesians, the Friedmans nonetheless treated as obvious the conclusion of such Keynesians as John Kenneth Galbraith that poverty was a serious and remediable social problem, and that the national government had a legitimate role to play in alleviating it.⁷⁷ However, the Friedmans judged virtually all prior anti-poverty efforts by the government to be inefficient and corrosive of human freedom. They argued for the abolition of corporate taxes and of the graduated personal income tax because they saw them as coercive and confiscatory means of redistributing income. They opposed minimum wages because they believed that minimums created more poverty than they cured.⁷⁸ The state, they claimed, could compel employers to pay a wage but not to hire workers at that wage who were formerly paid (and whose marginal product was presumably worth) something less.⁷⁹ They also proposed to end such substantive social welfare programs as public housing, which created and maintained goods through the state that individuals with money to spend could more efficiently call

⁷⁶ *CAPITALISM AND FREEDOM*, *supra* note 22, at 4.

⁷⁷ *Id.* at 191.

⁷⁸ *Id.* at 163, 176, 180–81.

⁷⁹ *Id.* at 180.

into being through the private market. “[W]hy subsidize housing in particular?” the Friedmans asked.⁸⁰ “If funds are to be used to help the poor, would they not be used more effectively by being given in cash rather than in kind? Surely the families being helped would rather have a given sum in cash than in the form of housing. They could themselves spend the money on housing if they so desired.”⁸¹

¶32 Consistent with their preference for cash transfers over public provision of goods such as housing, the Friedmans argued for a national system of cash transfers to replace all forms of state social welfare provision. The instrument for enacting these transfers was to be the income tax system.⁸² Writing ten years after the publication of *CAPITALISM AND FREEDOM*, Daniel Patrick Moynihan recalled that the negative tax idea had originated with Milton Friedman’s frustration over technical problems with the tax system:

In 1943, working in the Treasury Department on income-tax matters, he became concerned about the problem of fluctuating earnings. Given graduated tax rates, persons whose incomes rose and fell from one year to the next paid more tax over a long period than persons with equivalent gross earnings whose annual income was steady. This inequity was especially pronounced among low-income workers who moved back and forth from a zero tax bracket to a positive one. Friedman conceived of a negative income tax to even things up. In a good year such a worker would pay taxes to the Treasury; in a bad one, the Treasury would pay taxes to him. By the late 1940s it had further occurred to Friedman and his fellow economist George Stigler that a negative income tax could do more than smooth some of the bumps in the citizen’s experience with Form 1040. It could become a permanent device for eliminating poverty: that is to say, it could be paid routinely to persons whose income never entered the positive brackets.⁸³

In 1962, Milton and Rose Friedman justified the negative income tax exclusively as an anti-poverty measure. They argued that such a system was superior to conventional public welfare measures because it answered the problem of poverty most directly.⁸⁴ Moreover, a negative income tax made “explicit the cost borne by society” for social welfare—as opposed to the patchwork of social policies that obscured their total costs.⁸⁵ The proposal was attractive to the Friedmans because it was “outside the market,” unlike, for example, minimum wages, which structured employer choices, or a national healthcare system, which would compete with and in part supplant privately provided goods. Finally, they favored negative income taxes because, although they might reduce the work ethic somewhat by softening the sting of an individual’s choice not to work,

⁸⁰ *Id.* at 178.

⁸¹ *Id.*

⁸² *Id.* at 192 (“The system would fit directly into our current income tax system.”).

⁸³ MOYNIHAN, *supra* note 21, at 50. Friedman and Stigler also saw the negative income tax as an answer to such New Deal interferences with employer prerogative as the minimum wage. *See* Stigler, *supra* note 31; KATZ, *supra* note 20, at 104.

⁸⁴ *CAPITALISM AND FREEDOM*, *supra* note 22, at 191–92.

⁸⁵ *Id.* at 192.

they also allowed for work incentives. “An extra dollar earned,” they wrote, would “always mean[] more money available for expenditure.”⁸⁶

¶33 CAPITALISM AND FREEDOM did not truck at all with the political process by which a negative income tax might be created, or by which the many constituencies with vested interests in existing social welfare programs might be persuaded to prefer a negative tax. Political considerations entered the text only insofar as the Friedmans worried that negative taxes might become excessively high, coercive, or confiscatory in the way they believed graduated income taxes had become.⁸⁷ They barely discussed the most politically contentious of social welfare programs—those that were the least amenable to substitution by the negative tax—the categorical programs under Social Security for people with no other incomes. When they discussed the way in which citizen-recipients of negative taxes could raise their incomes by working for wages, they did not consider whether mothers with young children, or the other recipients of categorical programs, would be able to do this.

VI. THE WAR ON POVERTY, THE WAR IN VIETNAM, AND THE GUARANTEED INCOME IDEA

¶34 The guaranteed income idea rose to the fore in policy circles at the same time as a range of other ideas for alleviating poverty. John F. Kennedy committed himself to doing something about poverty during his pivotal West Virginia primary campaign in 1960.⁸⁸ However, the Kennedy administration did not advance a particularly ambitious anti-poverty program, in part because of its thin electoral mandate and the opposition it faced in Congress from Republicans and conservative Southern Democrats.⁸⁹ Consistent with Galbraith’s idea of “island” poverty, the Kennedy administration focused upon an agency called the Area Redevelopment Agency, which made federal grants to regions that were seen to have been left behind by the new economy.⁹⁰ Kennedy administration officials also funded anti-poverty programs through the President’s Committee on (and later the federal Office on) Juvenile Delinquency, which proceeded on the theory that social factors, especially poverty, inspired juvenile crime and misbehavior.⁹¹

¶35 After Kennedy’s assassination, the Johnson administration pursued a major tax cut, the Civil Rights Act, and a legislative and administrative war on poverty.⁹² The

⁸⁶ *Id.*

⁸⁷ *Id.* at 194–95.

⁸⁸ West Virginia was pivotal because it was the place where Kennedy proved to the national Democratic Party establishment that he could win large numbers of Protestant votes. Kennedy also demonstrated that he could win some Southern votes. See THEODORE WHITE, *THE MAKING OF THE PRESIDENT, 1960*, 114–37 (1961). One specific issue Kennedy addressed in West Virginia was the narrowness of the surplus food program, the expansion of which he made the subject of his first executive order. See MOYNIHAN, *supra* note 21, at 117.

⁸⁹ On the initial cautiousness of the Kennedy Administration and the political forces that made him cautious, see ALLEN J. MATUSOW, *THE UNRAVELING OF AMERICA: A HISTORY OF LIBERALISM IN THE 1960S* 30–59 (1984).

⁹⁰ On the Area Redevelopment Act of 1961, see *id.* at 100–02; WALTER TRATTNER, *FROM POOR LAW TO WELFARE STATE: A SOCIAL HISTORY OF WELFARE IN AMERICA* 321 (Free Press 4th ed. 1989) (1974); JAMES PATTERSON, *AMERICA’S STRUGGLE AGAINST POVERTY* 127–29 (1981).

⁹¹ For the theory that underlies the work of the President’s Committee on Juvenile Delinquency, see RICHARD A. CLOWARD & LLOYD E. OHLIN, *DELINQUENCY AND OPPORTUNITY: A THEORY OF DELINQUENT GANGS* (1960). On President Kennedy’s efforts in the area of juvenile delinquency, see MATUSOW, *supra* note 89, at 110–19.

⁹² On the legislative priorities of the early Johnson Administration, see *TAKING CHARGE: THE LYNDON*

guaranteed income idea does not appear to have figured much in the thinking of Johnson or his wise men when they planned the War on Poverty, or drafted its central legislation, the Economic Opportunity Act of 1964.⁹³ However, the guaranteed income idea survived the Johnson presidency. The key bureaucracy of the War on Poverty, the Office of Economic Opportunity (OEO), contained a column of guaranteed income advocates.⁹⁴ While most of the agency's institutional resources went to managing the Community Action Program and other programs, OEO also contained a cadre of policy experts who repeatedly drafted plans for a negative income tax.⁹⁵ In the first year of OEO's existence, for example, they drafted a five-year plan, which they did not release to the public or to Congress, which included a provision for a negative income tax of \$1738 per year for a family of four with no other income.⁹⁶ OEO staff incorporated some version of a negative income tax into plans they drafted in 1966, 1967, and 1968.⁹⁷

¶36 Even without Johnson's backing, the negative income tax appealed to a group of policy professionals in Washington, D.C. It was at once grand enough in scale to appear to meet the "welfare crisis" and sufficiently different from both New Deal and Great Society social policy that it appeared as a departure. As a potential answer to the labor-market position of African American men, the stock of the guaranteed income idea rose as riots and Northern protests illuminated the unemployment of black men in the cities, the gap between their unemployment rates and those of whites, and their fury.⁹⁸ The draft and the Vietnam War made the work situation for men of color temporarily less stark than it would otherwise have been. But returning veterans without jobs were grim reminders of the weakness of war as an employment policy.⁹⁹

¶37 Proposals for the guaranteed income and negative income tax enjoyed a renaissance later in the 1960s. A front-page *Wall Street Journal* article in 1966 reported the Johnson administration's interest in the guaranteed income concept; the idea also had the support of John Kenneth Galbraith and New York's liberal Republican mayor, John Lindsay.¹⁰⁰

JOHNSON WHITE HOUSE TAPES 24–149 (Michael Beschloss, ed., 1997). The tax cut and the civil rights bill were two pieces of legislation left by Kennedy at the time of his death. Johnson pursued the tax cut aggressively in part to reassure Wall Street after the death of the President, as well as to warm business people and middle-class constituents to his administration.

⁹³ See Economic Opportunity Act of 1964, Pub. L. No. 88-452, 78 Stat. 508 (1964). However, Burke and Burke claim that a report produced within the Department of Health, Education and Welfare in 1964 (and not published until 1966) called for a version of an income guarantee. BURKE & BURKE, *supra* note 21, at 16.

⁹⁴ BURKE & BURKE, *supra* note 21, at 16–19.

⁹⁵ *Id.*

⁹⁶ *Id.* at 18–19. Burke and Burke note that Sargent Shriver, head of the OEO, expressed support for the negative income tax idea in October 1965.

⁹⁷ *Id.* MOYNIHAN, *supra* note 21, at 195 (noting the support, particularly of economists within OEO, for the negative income tax).

⁹⁸ The Kerner Commission Report identified the welfare system as one of the key areas where policy changes could help prevent future urban riots. NAT'L ADVISORY COMM'N ON CIVIL DISORDERS, REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 460–65 (1968). The Commission's members came just short of supporting a guaranteed income, proposing instead a national uniform system of welfare administration funded entirely out of federal tax coffers, higher welfare benefits, cost-of-living increases in benefits, work incentives, and an end to home visits of clients. *Id.*

⁹⁹ On the racial composition of the forces in Vietnam, illustrations of ways in which the draft was skewed by race, and discussion of the position of returning black veterans, see JAMES E. WESTHEIDER, FIGHTING ON TWO FRONTS: BLACK SOLDIERS IN VIETNAM (1997).

¹⁰⁰ Alan Otten, *Antipoverty Tack—A Gradual Expansion Of Welfare Is Studied As Way to Lift Incomes—Administration Sees Approach Stirring Less Opposition Than Sweeping Programs—One Move: More*

However, the article also reported that “Vietnam-induced budget strains and Johnsonian political caution” prevented the Administration from doing more than tinkering with existing welfare programs.¹⁰¹ It took a few more years of urban riots—from the Harlem conflagration in 1964 through the national response to King’s assassination in April 1968—and continued protests by the Northern civil rights movement to persuade many whites that the War on Poverty was not following a sufficiently ambitious battle plan. “In retrospect,” Moynihan wrote, “the negative income tax appears very much an idea whose time to come was the late 1960s.”¹⁰²

¶38 In January 1967, Johnson responded to pressures internal and external to his administration and announced his intention to appoint a national commission on income maintenance programs, the central mission of which was to report on the strengths and weaknesses of the guaranteed income and negative income tax ideas.¹⁰³ At the same time, OEO researchers began a study of the effects of the negative income tax upon one thousand families in New Jersey.¹⁰⁴ Johnson ultimately appointed the income-maintenance commission, headed by industrialist Ben Heineman, in 1968; nearly one year into the Nixon administration, the Heineman Commission reported its findings, and its strong support for a negative income tax, in a report titled *POVERTY AMID PLENTY, THE AMERICAN PARADOX*.¹⁰⁵

VII. A REPUBLICAN WAR ON POVERTY?

¶39 While the Johnson Administration dawdled in its approach to guaranteeing incomes, East-Coast Republicans came increasingly to favor the idea. The “welfare crisis” in New York made Governor Nelson Rockefeller a ready audience for such a proposal. He joined John Lindsay, Mayor of New York and a fellow liberal Republican with similar ambitions for national office, in answering the rising welfare rolls and continuing activist pressure with a call for the federal government to remake the welfare system.¹⁰⁶

Jobless Pay, WALL ST. J., Sept. 15, 1966, at 1. The article dated the beginning of elite political interest in the negative income tax to 1964, “when budget surpluses and more tax cuts seemed likely The negative income tax,” Otten noted, “has twice been urged on the White House by Sargent Shriver’s poverty-fighters, once in 1964 and again in 1965. Early this year the National Commission on Technology, Automation and Economic Progress, consisting of business, labor and academic leaders, and more recently the planning council for the White House conference on civil rights advocated that the Government provide some uniform, nationwide floor under family income.”

¹⁰¹ *Id.*

¹⁰² MOYNIHAN, *supra* note 21, at 55.

¹⁰³ KATZ, *supra* note 20, at 103.

¹⁰⁴ MOYNIHAN, *supra* note 21, at 58; BURKE & BURKE, *supra* note 21, at 21. The Department of Health, Education, and Welfare soon after sponsored more ambitious tests of the income guarantee idea in Gary, Indiana, Seattle, and Denver. Early results from the New Jersey experiment, which suggested some effects of an income guarantee on family break-up, and no effects on the work ethic of recipients, were utilized by both the Administration and Congress to evaluate the Nixon welfare proposals. See KATZ, *supra* note 20, at 120; STEENSLAND, *supra* note 15, at 213–15; *Family Assistance Act of 1970: Hearings on H.R. 16311 Before the S. Comm. on Finance, Part 2*, 91st Cong., 2d Session, 967 (1970) (statement of John O. Wilson, Assistant Director for Planning, Research, and Evaluation, U.S. Office of Economic Opportunity).

¹⁰⁵ *POVERTY AMID PLENTY, THE AMERICAN PARADOX: REPORT OF THE PRESIDENT’S COMMISSION ON INCOME MAINTENANCE PROGRAMS* (1969); see also *THE UNITED STATES PRESIDENT’S COMMISSION ON INCOME MAINTENANCE PROGRAMS: BACKGROUND PAPERS* (1970) (another income maintenance commission headed by Heineman).

¹⁰⁶ On Rockefeller, Lindsay, and Welfare, see KORNBLUH, *supra* note 13, at 88–113, 137–38, 144;

¶40 Rockefeller first responded to the “welfare crisis” by taking measures at the state level that were consistent with federal law: In 1968, he proposed a “flat grant” for all public assistance recipients that was slightly higher than the basic grants they had previously received.¹⁰⁷ The “flat grant” proposal would have saved New York State money, and would have made welfare administration more manageable, because it allowed little discretionary spending authority to local welfare officials or individual case workers.¹⁰⁸ Previously, these low-level officials had the power to calculate family welfare budgets (within given parameters but also according to their assessments of family needs) and to disburse potentially large additional grants for families’ occasional needs.¹⁰⁹ The “flat grant” was not a minimum income because it did not apply to all citizens. However, it was a definite stride toward a minimum income, away from the budget-based, highly discretionary welfare system of the period between 1935 and the late 1960s.

¶41 The fate of Rockefeller’s “flat grant” proposal presaged the fate of the Family Assistance Plan under President Nixon. Rockefeller’s plan failed in the New York State legislature in 1968.¹¹⁰ Welfare activists opposed it because they saw it as in effect a grant cut and as a blow to their opportunities for organizing against local targets that had discretionary spending authority; state legislators also opposed the plan, which they saw as a generous guaranteed income for New York City welfare clients.¹¹¹ A less generous proposal passed in 1969.¹¹² While the proposals were being debated, and even after New York changed its welfare law, protests continued.¹¹³

¶42 Rockefeller, Mayor Lindsay, and Lindsay’s Welfare Chief Mitchell Ginsberg viewed the administration of public assistance programs as unmanageable. They argued that the costs could no longer be borne by the cities or states alone.¹¹⁴ They all ultimately called upon the federal government for relief, seeking to nationalize programs that had been radically decentralized since their inception in the New Deal. At hearings on the Nixon welfare proposals before the U.S. Senate Finance Committee, Lindsay argued that the “single most far-reaching reform would be complete Federal financing and administration of the welfare system It would be unthinkable not to have Federal financing and administration of the social security system From the perspective of a few years, it would seem unthinkable to do it any other way.”¹¹⁵

¶43 To clarify his options, both as Governor of New York and as a potential candidate for the Republican nomination for President, Rockefeller organized a small conference on

CHARLES MORRIS, *THE COST OF GOOD INTENTIONS: NEW YORK CITY AND THE LIBERAL EXPERIMENT* 66–71 (1980); JIM SLEEPER, *THE CLOSEST OF STRANGERS: LIBERALISM AND THE POLITICS OF RACE IN NEW YORK* 61–63, 91–96 (1990).

¹⁰⁷ KORNBLUH, *supra* note 13, at 104.

¹⁰⁸ *Id.* at 107.

¹⁰⁹ *Id.* at 44–48.

¹¹⁰ *Id.* at 105.

¹¹¹ Michael Clendenin, *Legislators’ Howl Stops Welfare Income Plan*, DAILY NEWS (New York), July 4, 1968, at 30.

¹¹² Edith Evans Asbury, *U.S. Court Backs Welfare Protest*, N.Y. TIMES, Aug. 5, 1969, at 25.

¹¹³ KORNBLUH, *supra* note 13, at 107–08.

¹¹⁴ Peter Kihss, *Monthly City Cost for Extra Relief Put at \$10 Million - Ginsberg Says Increase in Special Aid Shows Need for Flat-Grant System*, N.Y. TIMES, July 15, 1968, at A1.

¹¹⁵ *Family Assistance Act of 1970: Hearing on H.R. 16311 Before the S. Comm. on Finance*, 91st Cong. 1305 (1970) (statement of Hon. John V. Lindsay, Mayor, City of New York, accompanied by Mitchell I. Ginsberg, Commissioner, Department of Social Services).

welfare options in March 1967. Moynihan remembered this conference as a “formative event” in the coalescence of Republican sympathy for the guaranteed income idea.¹¹⁶ The meeting debated the merits of a negative income tax versus those of a European-style family allowance, with Milton Friedman speaking for the former and Moynihan for the latter.¹¹⁷ A steering committee of participants at the meeting, headed by the Chief Executive Officer of the Xerox Corporation, and composed primarily of other corporate executives, approved both ideas but expressed a preference for the negative income.¹¹⁸ After Rockefeller’s conference, this steering committee continued to press for replacing the welfare system with either a family allowance or negative income tax, and brought its recommendations before a business-oriented lobbying group, the Committee for Economic Development, in May 1968.¹¹⁹ Although Rockefeller did not promise a negative income tax in his effort to win the Presidential nomination, in the 1968 electoral season, the liberal Republican Ripon Society favored the idea, and the leader of the House Republican Conference, Melvin Laird, edited a book that included Milton Friedman’s brief for a guaranteed income.¹²⁰

¶44 By the time of the 1968 Presidential election, the idea of a guaranteed income had traveled a remarkable distance from its origins in the margins of John Kenneth Galbraith’s vision of an affluent postwar society or the efforts of Milton and Rose Friedman to find a philosophically palatable alternative to New Deal-style positive state programming. In the spring and summer of 1968, Great Society and New Deal solutions to the problem of maintaining social peace lay in shambles. Political and economic elites, no less than mobilized groups of African American activists or disillusioned college students, had ceased to believe that either public assistance or community action could right the balance. For all of the reasons that explained its longevity throughout the 1960s—not least its elasticity as a concept and its openness to multiple interpretations—the guaranteed income idea was poised to enter the domestic agenda of the incoming President, virtually without respect to party.

VIII. CONCLUSION

¶45 What does the intellectual and political campaign for a guaranteed income in the United States have to offer attorneys and advocates concerned with poverty at the beginning of the twenty-first century? First, and most importantly, the history of the demand for a minimum national income serves as a reminder that “making work pay” is not the only possible approach to anti-poverty policy. Indeed, as the economy falters and the truly remarkable job growth of the 1990s and early 2000s appears to grind to a halt, the economic analyses of John Kenneth Galbraith, Michael Harrington, and others may be more relevant than they have been for many years. Few commentators would refer to the United States at the end of the first decade of the twenty-first century as an “affluent

¹¹⁶ MOYNIHAN, *supra* note 21, at 57.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.* For the views on the Nixon welfare plan of the Committee on Economic Development, see *Family Assistance Act of 1970: Hearing on H.R. 16311 Before the S. Comm. on Finance*, 91st Cong. 1455 (1970) (statement of Joseph C. Wilson, Chairman, Committee for Economic Development, accompanied by C. W. Cook, Vice Chairman).

¹²⁰ BURKE & BURKE, *supra* note 21, at 50; MOYNIHAN, *supra* note 21, at 63–64.

society” (although it is still a very wealthy society). However, many would recognize in contemporary circumstances echoes of Galbraith’s, Harrington’s, and Macdonald’s concerns about the effects of technology on the structure and size of the labor market. The “discrimination,” in Galbraith’s language, between those with jobs and those without has become extremely stark, as has the gulf between those with full-time, primary-sector jobs with benefits and those who work outside this shrinking, privileged tier.

¶46 One of the most instructive elements of the history of the guaranteed income in the postwar United States is the breadth of support that existed for it. While many Democrats were intrigued with the idea, leading Democratic politicians, such as President Johnson, were skeptical. But Republicans, such as Nelson Rockefeller, and conservative intellectuals who opposed the welfare state, such as Milton and Rose Friedman, were engaged with the idea. To some degree, advocates for poor people in the United States since the 1970s have already learned that conservatives and libertarians may support income transfers if they are conducted with minimal government bureaucracy, especially if the agent of such transfers is the IRS. Thirty years of experience with the EITC has provided good evidence of this. However, the EITC continues to be small relative to family economic needs. It has been many years since advocates made a serious effort to provide cash support, on a non-categorical basis, adequate to alleviate poverty to those with minimal or no officially declared earned income. Although there are certainly weaknesses to such a market-based approach to alleviating poverty, a guaranteed income program that would allow individual recipients to decide for themselves how and where to spend their money might appeal to conservatives and libertarians in ways that traditional liberal social programs, such as those to build or subsidize housing or help families purchase healthy food, are unlikely to do.

¶47 For women and their families, the history of the proposal for a national minimum income offers both hope and a warning. The hope lies in the fact that guaranteed income proposals were by design universal (or, if limited, limited to all families raising children), in the sense that their only eligibility criteria were financial ones. If implemented today, such a program would liberate impoverished women from the intrusive and moralistic procedures they still must endure when they become clients of the U.S. welfare state. Moreover, a universal citizenship income would make women raising children without sufficient economic resources far less vulnerable politically than they have been for most of United States history. By including low-income mothers in a general program for poor people, a guaranteed income policy would make them part of a large group with some political clout, and would eliminate the special categorical program that has served women and children since the 1930s (today called TANF), with its tenuous hold on national political sympathies. The warning lies in the way guaranteed income proposals that were generated as a response to historically high rates of unemployment and under-employment might be used to justify the exclusion of women from the first-tier labor market or from training programs for non-traditional jobs. At a moment when the federal courts appear to be retreating from attempts to remedy sex-based discrimination in the workplace,¹²¹ a guaranteed income program might become an excuse for laggard enforcement of anti-discrimination mandates in the law.

¹²¹ See *Ledbetter v. Goodyear Tire and Rubber Co.*, 550 U.S. 618 (2007) (protecting employers from discrimination claims when based on employer decisions made at least 180 days prior to the filing of the claim), *superseded by statute*, Lilly Ledbetter Fair Pay Act of 2009, Pub. L. No. 111-2, 123 Stat. 5–7

¶48 Similarly, for African Americans, the history of the idea of a guaranteed income contains both promise and risk. Proposals for a national minimum income in the 1960s were provoked by the demands of the civil rights movement and by policy makers' fears of urban riots. However, many African American activists demanded jobs rather than government income supports, and others demanded jobs *or* income. Policy intellectuals who offered income alone as a solution to African American unemployment and poverty appear to have wanted an answer to civil rights demands that would be less controversial among working-class white voters than special training programs and aggressive enforcement of anti-discrimination mandates would have been.

¶49 Today, given that African American citizens still face egregiously high rates of unemployment and under-employment, a national income policy would certainly help to ease the economic disparities between whites and blacks. As in the case of mothers and children, a universalistic, income-based program would also soften the political vulnerability of social programs that disproportionately target citizens of color. The risk in creating such a program is that its existence would help naturalize unemployment for African Americans, and would become an argument against making investments in public schools, adult education, training programs, affirmative action programs, or civil rights enforcement.

¶50 Overall, the most successful solution to the problem of poverty in the early twenty-first century is likely to be a combination of "making work pay," a family-based strategy, and a functioning support system of basic income for those who earn very little or nothing. This hybrid approach to the poverty problem is both philosophically and practically preferable to a one-dimensional approach. Many people in the United States are simultaneously workers, parents, and consumers. Government has potential roles to play in structuring the labor market and counteracting its weaknesses, ensuring that families get the services they need, and helping people acquire what they need in the consumer marketplace. None of these approaches has a monopoly on moral, philosophical, or practical political legitimacy. Together, these multiple approaches might point the United States toward a future not merely of ending welfare but finally of moving beyond it.