The Return of the Welfare Queen

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THE RETURN OF THE WELFARE QUEEN

Michele Estrin Gilman*

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INTRODUCTION

After welfare reform was passed in 1996, there was every reason to hope that the welfare queen was dead. The “welfare queen” was shorthand for a lazy woman of color, with numerous children she cannot support, who is cheating taxpayers by abusing the system to collect government assistance. For years, this long-standing racist and gendered stereotype was used to attack the poor and the cash assistance programs that support them. In 1996, Temporary Assistance for Needy Families (TANF) capped welfare receipt to five years and required work as a condition of eligibility, thus stripping the welfare queen of her throne of dependency. Nevertheless, during the 2012 presidential campaign, Republican candidate and former Massachusetts Governor Mitt Romney resurrected the welfare queen.

In a barrage of television campaign ads, Governor Romney accused President Obama of gutting TANF work requirements by allowing states to apply for waivers. Governor Romney kept the ads on the air even after they were disproved by independent fact-checkers who explained that state governors, including Republicans, asked the Obama Administration to consider waivers so that states could have greater flexibility in designing and reporting on effective work requirements. In the subsequent battle to prove which candidate was toughest on the poor, there was no mention that TANF is largely a failure. While TANF enrollment has plunged since

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1996, it has not reduced poverty. Instead, it pushed many poor mothers into the low-wage workforce, where they struggle to survive on meager wages. In addition, many families have slipped out of the safety net altogether, sanctioned by TANF caseworkers or discouraged by TANF’s onerous application requirements, privacy-stripping processes, and stingy grants that total an average of $429 per month for a family of three. As a result, only 4.5 million people receive cash assistance through TANF (amounting to 0.47% of the federal 2012 budget), as compared to 46 million people who receive food stamps.¹

In other words, the political salience of the welfare queen far outstrips her numbers. Thus, it is fair to argue that Governor Romney dredged up the welfare queen to appeal to white, working class voters, who dislike government assistance for the “undeserving” poor. The good news is that Governor Romney’s dependency rhetoric did not work and may have backfired; minorities and women vastly preferred President Obama in the 2012 election. The bad news is that the welfare queen continues to lurk behind repeated calls to cut government benefits and to criminalize poverty. Can we bury the welfare queen forever, or will she always be part of attempts to demonize the poor while diverting attention away from governmental responsibility for poverty?

This Article identifies ways to strengthen TANF so that it reduces poverty, but also suggests that it may be time to deconstruct welfare entirely and to replace it with a more expansive social justice vision. Part I describes the dispute about whether President Obama was loosening TANF’s work requirements and explains how Governor Romney misrepresented the changes proposed by the Obama Administration in the 2012 presidential campaign. Part II sets forth the history of the welfare queen, a damaging stereotype that sits at the crossroads of race, gender, and class and that has played a central role in the development of welfare policy. Part III assesses the impact and effectiveness of TANF, concluding that it has failed to lift low-income families out of poverty or move them to self-sufficiency. Part IV suggests an alternative approach designed to alleviate poverty and to put the welfare queen to rest once and for all.

I. WELFARE IN THE 2012 CAMPAIGN

In 1996, President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act promising to “end welfare as we have come to know it” and implementing TANF.² For sixty years prior to 1996,

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¹ See infra notes 122-23.
Aid to Families with Dependent Children (AFDC) was an open-ended funding program that provided checks to welfare families based on objective eligibility criteria. However, AFDC was attacked from both the left and the right for encouraging dependency while discouraging work. Accordingly, TANF abolished the entitlement to welfare by providing states with fixed block grants and placing a five-year lifetime limit on the receipt of welfare benefits. Significantly, TANF requires that recipients work within two years of receiving benefits, although most states impose a shorter timeframe. Indeed, states do not have to provide cash assistance at all with their block grant funds; rather, they may use TANF funding in any manner "reasonably calculated to accomplish the purposes of TANF." The stated purposes of the TANF program are to reduce welfare dependency and out of wedlock births, and to encourage the formation of two-parent families. To reach these goals, TANF permits states to impose certain behavioral modification requirements on recipients, such as reducing benefits for mothers who fail to establish the paternity of their children, denying benefits to children born while their family is receiving benefits, or cutting benefits to families with truant children.

Upon signing TANF into law, President Clinton optimistically predicted, "After I sign my name to this bill, welfare will no longer be a political issue. The two parties cannot attack each other over it. Politicians cannot attack poor people over it. There are no encrusted habits, systems, and failures that can be laid at the foot of someone else." Sixteen years later, President Clinton was proved wrong. In August of the 2012 presidential

4. See id. at 162-66.
10. States can also elect whether or not to adopt exemptions or extensions to the lifetime limits. See generally MARY FARRELL ET AL., THE LEWIN GRP. AND MDRC, WELFARE TIME LIMITS, AN UPDATE ON STATE POLICIES, IMPLEMENTATION, AND EFFECTS ON FAMILIES ES-2, 10-13 (2008), available at http://www.acf.hhs.gov/sites/default/files/opre/welfare_time_limits_an_update_on_stat e_policies_implementation_and.pdf.
campaign, Mitt Romney began claiming that President Obama was loosening TANF’s work requirements. The first Romney campaign ad was called “Right Choice,” (week of 8/7) and a narrator intoned over pictures of President Clinton and American workers:

In 1996, President Clinton and a bipartisan Congress helped end welfare as we know it by requiring work for welfare. But on July 12, President Obama quietly announced a plan to gut welfare reform by dropping work requirements. Under Obama’s plan, you wouldn’t have to work and wouldn’t have to train for a job. They just send you your welfare check. And welfare-to-work goes back to being plain old welfare. Mitt Romney will restore the work requirement because it works.

A week later (8/17), the Romney campaign ran another ad called “Long History,” in which the announcer stated, “Do you support work for welfare? Barack Obama has a long history of opposing work for welfare.”

A week after that (8/20), a third television ad was unveiled with the same theme, calling the Obama plan “nuts.” At campaign rallies, Governor Romney promised supporters that if elected he would “put work back in welfare,” and “end the culture of dependency and restore a culture of good, hard work.” Then, a week prior to the election, he issued yet another ad, called “Can’t Afford Another Term,” which stated, among other things, “If you want to know President Obama’s second term agenda, look at his first: gutted the work requirement for welfare . . .”

Meanwhile, Republican Senator Orrin Hatch had issued a press release claiming that the changes would allow massage, journaling, and bed rest to

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17. See Rucker & Turque, supra note 12.

count as work activities.19

The Obama campaign fought back. A spokeswoman for President Obama immediately denounced the Romney campaign ads in a conference call with reporters as “untrue and hypocritical,” because Governor Romney had sought certain welfare reform waivers as Governor of Massachusetts.20 President Obama’s Chief of Staff, John Podesta, called the ads “completely false,”21 while Press Secretary, Jay Carney remarked, “[h]ypocrisy knows no bounds.”22 The Obama campaign ran an ad entitled “Blatant” that stated,

See this? Mitt Romney claiming the president would end welfare’s work requirements? *The New York Times* calls it ‘blatantly false.’ *The Washington Post* says, ‘The Obama administration is not removing the bill’s work requirements at all.’ In fact Obama’s getting states to move 20% more people from welfare to work. And President Clinton’s reaction to the Romney ad? It’s just ‘not true.’ Get the facts.23

At a press conference, President Obama reiterated that “what has happened was that my administration, responding to the requests of five governors, including two Republican governors, agreed to approve giving them, those states, some flexibility in how they manage the welfare rolls as long as it produced twenty percent increases in the number of people who


21. *Id.*


are getting work.” President Clinton also denounced Governor Romney’s ads, stating that the proposed HHS waivers were in keeping with the law’s mandate and that the claims in the Romney campaign ads were “not true.”

Obviously, both Governor Romney and President Obama could not be right. What was the truth? Multiple independent fact checkers affirmed President Obama’s position that the Department of Health and Human Services (HHS) was not weakening TANF work requirements. On February 28, 2011, President Obama issued a memorandum directing federal agencies to ask state and local governments to identify unnecessary red tape and regulatory barriers that they were dealing with in carrying out federal programs. HHS thus sought feedback from states regarding the programs it manages, including TANF. Five states, including two with Republican governors, responded. For instance, Utah’s Republican administration wrote to HHS on August 1, 2011, requesting waiver authority in the TANF grant so that it could spend its TANF “dollars in the most efficient and effective manner,” while being “held accountable for the positive employment outcomes.”


25. See Rucker & Turque, supra note 12.


emphasis on the reporting process rather than outcomes would "relieve staff from the burden of collecting data that is not relevant to the outcome of work."\textsuperscript{32} Similarly, Nevada, another state headed by a Republican governor, asked HHS to consider waivers that would link work requirements to the state's unemployment rate rather than to benchmarks set in 2005, and to grant a six-month grace period to the hardest to employ in order to address barriers to employment.\textsuperscript{33}

On July 12, 2013, HHS issued an Information Memorandum stating that HHS would consider waivers that create "more effective mechanisms for helping families succeed in employment."\textsuperscript{34} In particular, HHS stated that it was "interested in more efficient or effective means to promote employment entry, retention, advancement, or access to jobs that offer opportunities for earnings and advancement that will allow participants to avoid dependence on government benefits."\textsuperscript{35} Subsequently, an Acting Assistant Secretary at HHS explained the rationale for the policy change, stating, "[m]any states report that their caseworkers are spending more time complying with federal-documentation requirements than helping parents find jobs."\textsuperscript{36} The Secretary of HHS, Kathleen Sebelius, responded to a critical letter from Senator Orrin Hatch of Utah and House Ways and Means Committee Chairman Dave Camp,\textsuperscript{37} writing each of them, "The department is providing a very limited waiver opportunity for states that develop a plan to measurably increase the number of beneficiaries who find and hold down a job."\textsuperscript{38} She wrote that governors must commit to moving

\textsuperscript{32} Id.
\textsuperscript{34} See TANF-ACF-IM-2012-03, OFFICE OF FAMILY ASSISTANCE, ADMIN. FOR CHILDREN & FAMILIES (July 12, 2012), http://www.acf.hhs.gov/programs/ofa/resource/policy/imofa2012/im201203/im201203 (providing guidance concerning waiver and expenditure authority under Section 1115).
\textsuperscript{35} Id.
\textsuperscript{37} See Letter from Sen. Orrin Hatch & Rep. Dave Camp, Members, U.S. Cong., to Kathleen Sebelius, Sec'y, Dep't of Health & Human Servs., (July 12, 2012) (on file with the U.S. Cong.). The July 12, 2012, letter stated, "if Congress intended to allow waivers of TANF work requirements, it would have said so in the statute." Id.
"at least [twenty percent] more people from welfare for work compared to the state's past performance" to receive a waiver, although this twenty percent benchmark was not set forth in the Information Memorandum.\textsuperscript{39} Furthermore, "[n]o plan which undercuts [that goal] will be considered or approved."\textsuperscript{40} To date, no state has applied for a waiver, and none have been granted.\textsuperscript{41} In March of 2013, the House of Representatives passed a bill that would forbid the government from granting waivers, but the Senate has not taken up the legislation.\textsuperscript{42}

As for the precise terrain of this dispute, the TANF work requirements impose obligations on both TANF recipients and the states, and failure to comply with obligations results in sanctions (for individuals) or fiscal penalties (for states). The rules are complex. In brief, and with some exceptions, states must engage half of all single parent TANF families in work activities for at least thirty hours a week,\textsuperscript{43} while placing ninety

(\textsuperscript{39} Id. The impact of the changes would be small. "Looking at the states with Republican governors that the administration said requested waivers, the numbers needed to meet the 20[\%] target do not appear to be large. In Nevada, the target for 20[\%] would be an additional 46 families. In Utah, the number would be 147 families." See Glenn Kessler, A Too-Simple Defense of the New Welfare Rule, WASH. POST, Sept. 16, 2012, at A7.

\textsuperscript{40} Letter from Kathleen Sebelius to Sen. Orrin Hatch, \textit{supra} note 38.


\textsuperscript{42} H.R. 890, 113th Cong. (1st Sess. 2013). The status of the bill is discussed in FALK, \textit{supra} note 4, at 13.

\textsuperscript{43} 42 U.S.C. § 607(a), (c) (2012). The requirement is twenty hours a week for a single parent with a child younger than six. § 607(c)(2)(B). These are minimum requirements; many states have stricter requirements. See HEATHER HAHN ET AL., THE
percent of two parent families in work activities for thirty-five hours a week. At least twenty hours of the total requirement for single parents must be spent in a core work activity, which is defined as unsubsidized employment, subsidized employment in the public or private sector, work experience, on-the-job training, job search and job readiness assistance, community service programs, vocational education training for up to twelve months, and providing child care to an individual participating in a community service program. After meeting that twenty hour threshold, an individual can spend the remaining hours in a specified non-core activity, such as education or job skills training. A family faces sanctions if a parent fails to meet these requirements; sanctions can include termination of benefits for the entire family.

In addition, various federal rules limit when certain activities can count toward the federal work rate. For instance, an individual can only spend the hourly equivalent of six weeks per year on job search and job readiness activities. Likewise, only thirty percent of TANF families can meet the work requirement through vocational or educational training. Changes to TANF in the Deficit Reduction Act of 2005 further tightened the definitions of allowable work activities, such as limiting the states' ability to count rehabilitation activities, i.e., mental health and substance abuse treatment, to the core activities of job search and job-readiness and by placing a twelve-month lifetime limit on vocational education. These tougher 2005 requirements eliminated any slack in the definition of work activities, such as the "massage," "bed rest," and "journaling," that Senator Hatch accused some states of implementing. In short, there is no


44. § 607(a), (c). The requirement is fifty-five hours a week for families receiving federally funded child care subsidies. § 607(c)(1)(B). Two parent families are only five percent of the TANF caseload. See Gene Falk, Cong. Research Serv., R. 42768, Temporary Assistance to Needy Families: Welfare-to-Work Revisited 15 (2012).

45. See Falk, supra note 41, at 27. For two-parent families, thirty of the thirty-five hours must be from core activities. Id.

46. See TANF Work Requirements, supra note 43, at 6.

47. Id.


50. Id. These activities were linked by some states to medical recovery or job readiness. See U.S. Gov't Accountability Office, GAO-05-821, HHS Should Exercise Oversight to Help Ensure TANF Work Participation is Measured
indication in any of the HHS waiver announcements or letters that the agency will grant a waiver approving any work activity not directly linked to employment. The irony was that Republicans, who usually advocate for greater state control over social policy, were crying foul over a federal attempt to allow state experimentation.

In fighting about who was tougher on welfare recipients, both President Obama and Governor Romney continued the ongoing vilification of welfare mothers. In their dispute, welfare became a symbol of dependency disconnected from today’s reality. As discussed below, Governor Romney, President Obama, and the media reporting on the dispute all failed to confront the failures of TANF to move families out of poverty, the paltry level of TANF benefits, and the lack of paying work for people who want it—all of which fall disproportionately on women of color.51

II. THE HISTORY OF THE WELFARE QUEEN

Although the Obama Administration sharply criticized the factual accuracy of the ads, it did not raise the lurking issue of race. However, many observers felt there was a racial subtext to Governor Romney’s ads designed to appeal to white, working class voters,52 given that welfare is linked in the public’s mind with African-Americans.53 Indeed, the mere

CONSISTENTLY ACROSS STATES (2005).


53. See PREMILLA NADASEN, WELFARE WARRIORS: THE WELFARE RIGHTS
mention of the word welfare evokes an emotional response that "exploit[s] racial animus"—and that's exactly the point.54 As Martin Gilens has explained, a majority of Americans oppose welfare spending because they hold stereotypes of blacks as lazy, and the media reinforces these racial attitudes.55 Notably, the Romney campaign ads featured images of working whites juxtaposed against that of an African-American President. The message was clear, but it involved more than race. Governor Romney's ads purposefully revived the old welfare queen stereotype of poor, women of color who cheat taxpayers while living supposedly extravagant lifestyles from the government dole.56 This stereotype lies at the intersection of gender, race, and class, and has deep roots.

Historically, the poor in America have been categorized as either deserving—meaning they cannot be blamed for their poverty, such as children, widows, and the disabled, or undeserving—meaning they should be self-sufficient, such as able-bodied adults.57 "Given the challenges husbandless mothers pose to the rules of both capitalism and patriarchy,"58 single mothers of children have always occupied a shifting and uneasy space between these two poles. White widows have received the most sympathy, while unmarried women of color have been the targets of

Michael B. Katz, The Undeserving Poor: From the War on Poverty to the War on Welfare 8 (1989); Joel F. Handler, "Constructing the Political Spectacle:" The Interpretation of Entitlements, Legalization, and Obligations in Social Welfare History, 56 Brook. L. Rev. 899, 906 (1990) ("The heart of poverty policy centers on the question of who is excused from work. Those who are excused are the 'deserving poor'; those who must work are the 'undeserving'. Ultimately, this is a moral distinction."); Thomas Ross, The Rhetoric of Poverty: Their Immorality, Our Helplessness, 79 Geo. L.J. 1499, 1505 (1991) ("[T]his distinction created a line running through the poor, putting the aged, infant, and disabled on one side of the line, and the able-bodied on the other side.").
approbation. In the early twentieth century, progressive reformers convinced states to adopt mother’s pensions programs, which provided aid to “suitable” single women, mostly white widows, so that they could raise their children at home. These programs were federalized in the New Deal in the form of Aid to Dependent Children (ADC, later renamed AFDC). The program provided economic freedom to women, but also posited “domesticity as the only maternal virtue.” Moreover, it was part of a New Deal dichotomy that reinforced the deserving/undeserving paradigm by treating relief for white men differently than relief for minorities and women. Social insurance programs designed for white working men, such as social security and unemployment insurance, have carried no stigma, provided generous benefits pursuant to objective criteria, and been federally administered. By contrast, cash assistance programs for single mothers, primarily AFDC, became stingy, stigmatized, state-administered, and discretionary.

ADC was designed to provide economic support to deserving, mostly white, poor single widows. It “subsidized mothers to reproduce the labor force and maintain the non-working members of the population, but made receipt of a grant highly conditional upon compliance with the family ethic.” Indeed, throughout the decades, states adopted a variety of discretionary and moralistic policies, including man-in-the-house rules, midnight raids, and suitable home requirements that often disqualified women of color from welfare. Nevertheless, from the 1950s to the 1970s, AFDC rolls grew rapidly as women of color obtained rights to welfare, family structures changed across society, and economic dislocations

59. See Handler & Hasenfeld, supra note 3, at 156-57.
60. See Abramovitz, supra note 58, at 199.
62. See id. at 5-6, 145, 293-99.
63. Id.
64. Id.
65. See Abramovitz, supra note 58, at 315-18; Handler & Hasenfeld, supra note 3, at 156.
66. Abramovitz, supra note 58, at 318.
67. See id. at 323; Kaaryn S. Gustafson, Cheating Welfare: Public Assistance and the Criminalization of Poverty 21 (2011) (“The unstated but underlying goals of the rules were to police and punish the sexuality of single mothers, to close off the indirect access to government support of able-bodied men, to winnow the welfare rolls, and to reinforce the idea that families receiving aid were entitled to no more than near-desperate living standards.”); Handler & Hasenfeld, supra note 3, at 164-66. States and welfare officials were trying to “distinguish between fit and unfit mothers.” Id. at 157.
disproportionately impacted African-Americans. 68 These societal shifts made it harder for states to deny welfare to women of color. 69 In turn, this spurred a public backlash that blamed the behavior of poor, black women for the growing welfare rolls, rather than the structural changes in society and the economy. 70 The attacks against welfare reached a frenzy in the 1980s, particularly when President Reagan famously attacked welfare recipients as Cadillac driving “welfare queens.” 71 He was certainly not the first to raise the specter of welfare cheats as a way of tapping into the economic insecurities of the white working class, 72 but he was perhaps the most effective.

Throughout his campaigns and while in office, Reagan repeatedly talked about welfare fraud and specifically, the story of the “Chicago welfare queen”—a woman “who has eighty names, thirty addresses, twelve social security cards[,] and is collecting veterans’ benefits on four non-existing deceased husbands . . . . Her tax-free cash income alone is over $150,000.” 73 The story supported Reagan’s philosophy of shrinking government in favor of trickle-down economics. 74 However, Reagan’s welfare queen was fictional; the woman on whom the story was apparently based, Linda Taylor, was convicted in 1977 of welfare fraud for using two aliases to collect $8,000. 75 While there were some women who abused the welfare system—just as there are wealthy tax cheats 76—these women were isolated instances that came to exemplify the typical welfare recipient in


69. See Abramovitz, supra note 58, at 352.

70. See id. at 321; Handler & Hasenfeld, supra note 3, at 159.

71. See NadASEn, supra note 53, at 194-99, 239-40 (describing the roots of the backlash); TrattNER, supra note 56, at 362-85 (recounting political responses to the perceived welfare crisis).

72. See Neubeck & Cazenave, supra note 54, at 127.


74. See Stephanie D. Sears, Imagining Black Womanhood 38 (2010).


76. For instance, the annual cost of tax fraud, including underreporting and offshore tax shelters, is immense, but nevertheless is not considered “morally indecent.” Donald Crump, Criminals Don’t Pay: Using Tax Fraud to Prohibit Organized Crime, 9 Hous. Bus. & Tax L.J. 386, 397 (2009); see also Eric A. Posner, Law and Social Norms: The Case of Tax Compliance, 86 Va. L. Rev. 1781, 1783-84 (2000) (stating that “the audit rate is currently under 2%, and of those audited only a small fraction (4.1% in 1995) are penalized.”).
the minds of politicians, the media, and the public. The welfare queen embodies two stereotypes. On the one hand, she is a cunning, rational actor seeking to maximize government largesse for her benefit by having multiple children and refusing to work. On the other hand, she is a lazy, promiscuous woman "robbing" the country of its moral and economic resources. She challenges gender norms by failing to conform to patriarchal notions of a proper family; she ignites racist stereotypes about minorities; and her failure to succeed in a capitalist society makes her a subject of derision.

The welfare queen also plays a featured role in judicial opinions. She is most vividly described in the 1971 case of Wyman v. James, in which the Supreme Court upheld home visits by government agents for welfare applicants. The Court reasoned that the visits were not searches covered by the Fourth Amendment because they were consensual. Moreover, even if the home visits constituted searches, they were reasonable given the state's interest in deterring fraud, the need to protect the children of welfare mothers, the rehabilitative purpose of the searches, and the lack of criminal consequences. In addition to its legal analysis, the Court expressed its distaste for Ms. James, the plaintiff, and how she ran her household. The Court remarked on her "attitude," "evasiveness," and "belligerency"—all of which arose from her resistance to the state and her entirely reasonable belief that the state could verify her eligibility through personal interviews and documents. Her request was simply to be treated the same as other beneficiaries of governmental largesse. The Court in Wyman also intimated, based on Ms. James' social services case file and not evidence adduced at trial, that Ms. James' son had been physically abused and bitten by rats and concluded that "[t]he picture is a sad and unhappy one." The Court's clear assumption was that Ms. James was a welfare queen warranting suspicion and distrust.

77. See Gustafson, supra note 67, at 36; Neubeck & Cazenave, supra note 54, at 127.
78. See Gustafson, supra note 67, at 36.
79. See Sears, supra note 74, at 39; Gustafson, supra note 67, at 36.
81. See Wyman, 400 U.S. at 318-24.
82. Id. at 322 n.9.
83. As Justice Douglas bitterly remarked in his dissent, "No such sums are spent policing the government subsidies granted to farmers, airlines, steamship companies, and junk mail dealers, to name but a few." Id. at 332 (Douglas, J., dissenting).
84. Id. at 322 n.9.
This distrust persists post-TANF, even though welfare mothers have joined the working poor. In 2007, the Ninth Circuit upheld Wyman, refusing to recognize differences between AFDC and TANF or to apply post-Wyman jurisprudence that would significantly limit suspicionless searches. Instead, the court in Sanchez v. San Diego expressly lumped welfare mothers with criminals on probation and concluded that neither group had a reasonable expectation of privacy. In turn, this prompted a bitter dissent from a denial of a petition for rehearing en banc, in which seven Ninth Circuit judges called the case “nothing less than an attack on the poor,” who are required “to sacrifice their dignity and their right to privacy.” By contrast, “[T]he government does not search through the closets and medicine cabinets of farmers receiving subsidies. They do not dig through the laundry baskets and garbage pails of real estate developers or radio broadcasters.” The dissenters concluded, “[T]his situation is shameful.”

The welfare queen also played a starring role in the pre-1996 welfare reform debates. The welfare reform movement brought the left and the right together, although they loathed AFDC for different reasons. On the right, conservatives charged that welfare sustained poverty by encouraging dependency, weakening the work ethic, and breaking down the nuclear family. On the left, some liberals believed that work would reduce the stigma of cash support. For example, David Ellwood, an Assistant Secretary of Health and Human Services under President Clinton, argued that welfare was a failure and that the American ideal was “a guarantee that people who strive and who meet reasonable social responsibilities will be able to achieve at least a modest level of dignity and security.”

85. Sanchez v. San Diego, 464 F.3d 916 (9th Cir. 2006), r’hrg en banc den., 483 F.3d 965 (2007).
86. Id. at 927.
87. Sanchez v. San Diego, 483 F.3d 965, 969 (9th Cir. 2007), r’hrg en banc den., (Pregerson, J., dissenting).
88. Id.
89. Id.
90. Id.
92. See David Ellwood, Poor Support: Poverty in the American Family 44 (1988); see also Judith M. Gueron, Welfare and Poverty: The Elements of Reform, 11 Yale L. & Pol’y Rev. 113 (1993) (“For the last thirty years, there has been widespread agreement that the nation’s welfare system should be reformed to make it more
Ultimately, both Republicans and Democrats seized upon the notion of work as a basic American value and as being necessary to social citizenship. TANF embodies these notions, although it takes the work requirements to a punitive level that was not endorsed by Ellwood and many other Democrats.

During the debates that preceded welfare reform, welfare recipients were viciously attacked. Members of Congress compared them to “alligators,” “mules,” and “wolves.” For example, John Mica, a Republican congressman, infamously held up a sign on the House floor that read, “Don’t feed the alligators.” Meanwhile, several congresswomen, and particularly black congresswomen, rallied against the bill, but they were largely ignored even as they sought to correct welfare myths through social science and empirical evidence.

The racialization of the poor had conflated welfare recipient(s) and black women so powerfully in the minds of some members of the House that they refused to accept that the typical welfare recipient is a white woman who resorts to welfare for a short time after a divorce in order to support her kids while she gets back on her feet.

consistent with the basic public values endorsing the primacy of family and the importance of work.”).  


94. See Jason DeParle, The Ellwoods: Mugged by Reality, N.Y. TIMES MAGAZINE, Dec. 8, 1996, at 64 (describing welfare reform as a “corruption” of Ellwood’s ideas and explaining that Ellwood proposed accompanying welfare time limits with “universal health care, expanded training programs, wage supplements, guaranteed child support, and last-resort Government jobs”).


97. See Mary Hawksworth, Congressional Enactments of Race-Gender: Toward a Theory of Raced-Gendered Institutions, 97 AM. POL. SCI. REV. 529, 541-43 (2003). As Representative Barbara Collins (D-MI) later explained, “[t]he Congress unfortunately had the image of a welfare recipient as an urban black woman, who irresponsibly had children, was lazy, refused to work, was uneducated. Whereas the truth of the matter was that the majority of welfare recipients were white, white women and white families.” Id. at 542.

98. Id.
Instead, legislators "portrayed parenting, family, and children as conditions legitimately experienced only by the middle class." Further, while the welfare reform hearings featured 1,099 witnesses, only forty-two were actual AFDC recipients or affiliated with recipient organizations. In short, the voices of welfare mothers were not part of the debates, and feminists failed to organize effectively against the bill.

While the image of the welfare queen spurred the changes enacted in TANF, the welfare queen was and is a myth. For instance, while TANF was a response to perceived welfare dependency, only a small minority of AFDC recipients stayed on welfare for more than six years. Most welfare recipients use welfare for a short-term spell, or they cycle on and off for short periods as economic circumstances dictate. TANF assumes a culture of poverty that is passed from generation to generation that is marked by promiscuity and large families; these claims are likewise false. Former TANF recipients marry at the same rates as other women, thus debunking "culture of poverty" theories that welfare destroys morals. Moreover, while there was hysteria about "children having

100. Id. at 571. 
101. See Gwendolyn Mink, The Lady and the Tramp (II): Feminist Welfare Politics, Poor Single Mothers, and the Challenge of Welfare Justice, 24 FEMINIST STUDIES 55 (1988). Professor Mink asks: "Why were so many feminists unconcerned that welfare reform not only repealed poor single mothers' entitlement to cash assistance but encroached on their basic civil rights as well?"
103. See Sylvia A. Law, ENDING WELFARE AS WE KNOW IT, 49 STAN. L. REV. 471, 476-79 (1997) (summarizing research from five different books that studied welfare populations).
104. See Handler & Hasenfeld, supra note 3, at 53-54.
105. Id. at 57-58. Welfare families are no larger than non-welfare families, and the growth in single-parent families has occurred across class lines. In addition, most daughters (64%) who grew up in AFDC dependent households did not become welfare dependent themselves, although "there is a higher likelihood of welfare receipt among women with welfare backgrounds" due to the effects of poverty and single parenthood. Id. at 14-15.
106. "Not only can we rule out the proposition that welfare participation, at least in the post-welfare reform era, has toxic effects on morality and values that discourage marriage, we can also rule out the classic culture of poverty argument that reliance on government assistance and rejection of the institution of marriage are two aspects of a culturally embedded set of poverty norms that is transmitted across generations or communities." Julien O. Teitler, et al., Effects of Welfare Participation on Marriage, 71 J. MARRIAGE & FAM. 878, 888 (2009). However, TANF recipients are more likely
children," teenage mothers were a small percentage of AFDC recipients.107 In sum, TANF is founded on the simplistic notion that failure to work is the reason for poverty; however, in actuality, poverty is caused by complex structural and economic forces.108 As Handler and Hasenfeld have stated: "[d]emonizing welfare allows the country to ignore the economic and social conditions that produce poverty and inequality—class, race, gender, the economy, and inadequacies of the low-wage labor market."109 As opposed to the stereotype of the welfare queen, most welfare recipients show adherence to a work ethic; indeed, they have long worked part-time and/or earned unreported income in order to meet basic expenses.110 They also share the same attitudes and values about work as the rest of the population.111 Unfortunately, the "welfare queen" is remarkably resistant to facts.

Governor Romney was able to trigger the stereotypes underlying the welfare queen, through his welfare attack ads in order to seek an advantage among white voters. Governor Romney's tactics may have worked, as white voters overwhelmingly voted for him.112 The welfare queen also fit within Governor Romney's theories of dependency and personal than the general population to have suffered personal violence "including sexual abuse as a child (42%) and severe domestic violence ever in a romantic relationship (70%)." Mary Jane Taylor & Mary Beth Vogel-Ferguson, Attitudes Toward Traditional Marriage: A Comparison of TANF Recipients and a General Population of Adults, 92 Fam. Soc'y 225, 228 (2011).

107. See NEUBECK & CAZENAVE, supra note 54, at 5. Currently, "only 12 percent of teen recipients have children of their own." HANDLER & HASENFELD, supra note 3, at 307-08.


109. See HANDLER & HASENFELD, supra note 3, at 3.

110. See HANCOCK, supra note 54, at 10; Valerie Polakow, Savage Distributions: Welfare Myths and Daily Lives, in An Introduction to Poverty: The Role of Race, Power, and Politics 241, 247 (Louis Kushnik and James Jennings eds., 1999) ("The reality is that most women on welfare have worked part time, and many are cyclical part-time workers forced out of the labor market by lack of jobs, layoffs, and/or ever-pressing needs for health care and child care.").


112. See Tom Scocca, Eighty-eight Percent of Romney Voters Were White, SLATE (Nov. 7, 2012), http://www.slate.com/articles/news_and_politics/scocca/2012/11/mitt_romney_white_voters_the_gop_candidate_s_race_based_monochromatic_campaign.html (finding that Governor Romney won 59% of the white vote).
responsibility. He was secretly taped at a fundraiser maligning the “47 percent” of Americans who “[would] vote for the president no matter what . . . who [were] dependent upon government, who believe[d] that they [were] victims . . . [the] people who [paid] no income tax . . . .” He believed that his job was “not to worry about those people” because he would “never convince them that they should take personal responsibility and care for their lives.” Here too, Governor Romney may have garnered votes, but he was simply wrong.

Over ninety percent of public assistance and entitlement dollars go to the elderly, the severely disabled, and family members of working individuals; they do not flow to “able bodied, working-age Americans who choose not to work.” Meanwhile, the top twenty percent of the population, including Governor Romney, receives sixty-six percent of tax benefits, which include deductions, credits, and other federal tax write-offs. As for the middle-class, they are not being squeezed to support the poor. Rather, they receive their proportionate share of government entitlements, such as tax deductions for mortgages and retirement plans, and child care tax credits—none of which are stigmatized like welfare. American businesses receive about 100 billion dollars a year in subsidies, and the recent government bailouts of the auto industry and


115. See ARLOC SHERMAN ET AL., CTR. ON BUDGET & POL’Y PRIORITIES, CONTRARY TO “ENTITLEMENT SOCIETY” RHETORIC, OVER NINE-TENTHS OF ENTITLEMENT BENEFITS GO TO ELDERLY, DISABLED, OR WORKING HOUSEHOLDS 1-2 (2012) available at http://www.cbpp.org/files/2-10-12pov.pdf (discussing that able-bodied, working age adults receive only 9% of the benefits, and the majority of those benefits are in the form of medical care, unemployment insurance benefits, Social Security survivor benefits for children and spouses of deceased workers, and Social Security benefits for retirees between ages sixty-two and sixty-four).

116. Id. at 3-4 (finding that the top 1% recieves 23.9% of these benefits).

117. Id. at 3 (“In 2010, the middle 60% of the population received 58% of the entitlement benefits.”).

118. See MARTHA ALBERTSON FINEMAN, THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES 191 (1995) (“[Middle-class families] benefit from extensive entitlement programs, be they FHA or VA loans at below mortgage market rates or employer health and life insurance. These families receive untaxed benefits as direct subsidies.”).

Wall Street banks added hundreds of billions more to the taxpayers tab when those entities failed. Wal-Mart may be the true welfare queen, as it receives billions of dollars in state and local subsidies. At the same time, Wal-Mart pays poverty-level wages to its employees, thereby putting the costs of those employees’ food stamps and health care costs on taxpayers. Nevertheless, these companies avoid public disapproval.

To the contrary, the welfare queen fit comfortably within Governor Romney’s dependency rhetoric. She was also a counterpoint to Ann Romney, the candidate’s wife and a stay-at home mother of five, who the campaign positioned as the exemplar of decent, proper American motherhood. The campaign and talking heads trumpeted Mrs. Romney’s devotion to family while implicitly demeaning similar choices of poor mothers. This is consistent with federal policy that expects affluent, married mothers to stay home with their children, while pushing poor single mothers into the workplace and marriage.

III. THE TRUTH ABOUT TANF

In posturing over who was tougher on welfare recipients, both Governor Romney and President Obama seemed to share similar misconceptions about TANF’s cost, benefits, reach, and effectiveness. To start, both candidates implicitly assumed that welfare spending was a big part of the federal budget that warranted special scrutiny. In fact, in 2012, TANF’s budget was only 0.47% of annual federal expenditures; thus, compared to other safety net programs, TANF was an extremely small program. For example, in 2012, 4.2 million recipients—or 1.8 million families—received TANF, whereas about 45 million people received food stamps in 2012.

Role of Corporations in Society, 34 GA. L. REV. 1011, 1017-18 (2000) (“One cannot reasonably suggest that the major work of redistribution be done through progressive taxes and redistributive government programs without noting that much of what government now does is regressive—billions of dollars a year go into export subsidies, price supports, tax concessions, and other examples of ‘corporate welfare,’ which in effect redistribute wealth from the working and middle classes to the wealthy.”).


124. See GENE FALK, CONG. RESEARCH SERV., RL 32760, THE TEMPORARY
Furthermore, the program that does the most to lift the working poor out of poverty is the Earned Income Tax Credit (EITC). The EITC provides an annual tax refund to low-income workers based on their family size and income and carries far less of a stigma than welfare. Not only is the program administered by the IRS, an agency that serves all Americans, but it is also largely delivered through for-profit tax providers where claimants are treated as customers rather than social service recipients. In 2010, the ETIC lifted approximately 6.3 million people out of poverty. In 2011, the ETIC served 26.2 million families; they received about 58.6 billion dollars. By contrast, annual TANF spending is capped at 16.5 billion dollars.

TANF is not only a relatively small program, but it also has a limited impact in assisting poor families. The average monthly benefit is $427 for a family of three, while in fourteen states the benefit levels for a family of this size are less than $300. This means that in all states, benefits are

126. See Chuck Marr et al., CTR. ON BUDGET & POL’Y PRIORITIES, EARNED INCOME TAX CREDIT PROMOTES WORK, ENCOURAGES CHILDREN’S SUCCESS AT SCHOOL, RESEARCH FINDS 4, 9 (2013), available at http://www.cbpp.org/files/6-26-12tax.pdf (providing research that shows that the EITC has done more to help low-income mothers transition to work than TANF); Leslie Book, Preventing the Hybrid from Backfiring: Delivery of Benefits to the Working Poor Through the Tax System, 2006 WIS. L. REV. 1103, 1104 (2006). Along with the Child Care Tax Credit, the EITC lifted 9.4 million people above the poverty threshold in 2011. Id.
127. See Ruby Mendenhall et al., The Role of Earned Income Tax Credit in the Budgets of Low-Income Households, 86 SOC. SERV. REV. 367, 371 (2012). “Clients perceive real advantages as well. At H&R Block and its competitors, an EITC claimant is no longer a recipient but a customer. The facilities are pleasant, well lit, and clean. This environment stands in stark contrast to the often rundown welfare office, the long wait to be seen, and the caseworker who may be more concerned with detecting misuse of funds than with client service.” Id.
128. Id. at 369.
129. Id. at 368.
130. Id.
131. See Frequently Asked Questions, supra note 124, at 10-12 (finding that the range is from $923 per month in Alaska to $170 per month in Mississippi).
132. Id. at 4; see also Ife Finch & Liz Schott, CTR. ON BUDGET & POL’Y PRIORITIES, TANF BENEFITS FELL FURTHER IN 2011 AND ARE WORTH MUCH LESS THAN IN 1996 IN MOST STATES 1, 3 (2011), available at http://www.cbpp.org/files/11-21-11pov.pdf (elaborating further that the dollar value of TANF benefits have fallen below 1996 levels after adjusting for inflation and that the block grant has lost 30% of
below fifty percent of the poverty line, and in the majority of states they are below thirty percent of the poverty line. Moreover, there is no state in which benefit levels for a family of three would be enough to pay fair market rent for a two-bedroom apartment. Housing subsidies do not compensate for the difference because only one in four eligible households receives subsidized housing benefits due to shortages in funding. Even when TANF is combined with SNAP benefits—formerly known as food stamps—most recipients remain below the poverty line. Indeed, half of TANF recipients have incomes below the poverty line. Thus, the claim that welfare recipients are taking advantage of the system while leading lives of luxury is spurious.

Furthermore, for all the presidential candidates’ emphasis on work, the reality is that half of TANF recipients are not adults—making the work requirement irrelevant. Half of the TANF caseload consists of child-only cases; that is, cases in which neither parent is eligible for benefits. Forty percent of these children are living with grandparents or other non-parent caregivers. Thus, TANF interacts with the child welfare system, and the rules of each system determine whether a caregiver will seek or be eligible for TANF. These families tend to be better off economically than parent-headed households, but the children are doing worse with respect to

its real value since 1996 due to inflation).

133. See Finch & Schott, supra note 132, at 1.
134. See id. at 2.
135. Id. at 6-7.
138. See ZEDLEWSKI, supra note 51, at 4 (discussing that under AFDC, child-only cases were one in five of the caseload).
140. See GOLDEN & HAWKINS, supra note 139, at 3; STRENGTHENING TANF, supra note 136, at 9 (TANF might keep states from providing these children with services available in the foster care system because “limited resources in both TANF and child welfare services, including the foster care system, can create incentives for states to provide caretaker relatives with minimal supports through TANF rather than making more expensive investments through child protective services”).
mental health and educational measures. Of those children who are residing with parents, the parents are typically ineligible for TANF due to citizenship status, receipt of SSI (disability) benefits, or sanctions.

In addition, contrary to assumptions, most TANF funds are not spent on cash assistance. Rather, states spend about seventy-three percent of their funds on other TANF-related purposes. States can spend federal TANF funds for any of the four purposes listed in the statute: (1) assisting needy families so children can be cared for in their own homes; (2) reducing the dependency of needy parents by promoting job preparation, work, and marriage; (3) preventing out-of-wedlock pregnancies; and (4) encouraging the formation and maintenance of two-parent families. Accordingly, states provide a variety of social services to low-income families (a group broader than cash assistance recipients), including job training, child care, and transportation, as well as services related to mental health and substance abuse, family planning, parenting education, and the child welfare system. While these services are valuable, they decrease the slice of the pie available for cash assistance. Moreover, "[t]his flexibility creates incentives for states to provide cash assistance to fewer families and not to create employment programs that, especially for hard-to-serve families, can be very expensive."

The candidates assumed, even boasted, that TANF is effective. To be sure, the welfare rolls have plunged almost sixty percent since 1996, and shortly after 1996, many welfare mothers joined the workforce due to a strong economy as well as expansion of the Earned Income Tax Credit and increased child care funding. However, since the recession, poverty and unemployment rates have increased while TANF participation has decreased, revealing that many needy people are not getting the help they

141. See GOLDEN & HAWKINS, supra note 139, at 5.

142. Id., at 4 (examining how state policies regarding child-only cases vary widely); see also ZEDLEWSKI, supra note 51, at 4 (finding that 20% of these parents are on SSI, 25% are disqualified for immigration status, 6% are sanctioned, and 8% have lost benefits for other reasons).

143. See FREQUENTLY ASKED QUESTIONS, supra note 124, at 5; see also ZEDLEWSKI, supra note 51, at 7.


145. See STRENGTHENING TANF, supra note 136, at 3-4.

146. See Policy Basics, supra note 48, at 5-6; ZEDLEWSKI, supra note 51, at 2 (providing further that state rates vary from an 80% decline to less than 25%).

TANF’s role in our social safety net has shrunk. In 1996, TANF served 68 out of 100 families with children living in poverty; yet by 2010, that ratio was down to 27 out of 100 poor families. The drop is not due to increased work rates; rather, employment rates among single mothers are low. Single mothers with a high school education or less were employed at a rate of fifty-one percent in 1992, this rose to a high of seventy-six percent in 2000, but fell to fifty-four percent by 2011.  

States struggle to put TANF adults in work activities given that most adults receiving TANF have at least one barrier to work, while about four in ten TANF eligible adults face multiple barriers. These barriers to work include lack of education, mental or physical disabilities, substance abuse or alcoholism, limited work experience, and caregiving responsibilities for disabled children. For those who are working, income gains from employment are often reduced by the loss of public benefits and are eaten up by the very costs of working – child care, transportation, uniforms, and other expenses. Thus, “even among the least disadvantaged sample members, those with more than a high school education, substantial recent work histories, and consistently good health, steady economic progress is far from certain.”

Moreover, as a result of sanctions, time limits, diversion tactics, and other discouraging practices in social service offices, at least one in five families that leave TANF are disconnected from the social safety net, and these families tend to be poorer than other single-parent families.

148. See STRENGTHENING TANF, supra note 136, at 5 (finding that likewise, between 2008 and 2010 the TANF caseload only rose 13%, while the unemployment rate rose 66%).
149. See Policy Basics, supra note 48, at 6.
150. Id. at 6; see also Glenn Kessler, A Too-Simple Defense of the New Welfare Rule, WASH. POST, Sept. 16, 2012, at A7 (explaining that in 2010, 16.6% of welfare families, about 300,000, left welfare due to work).
151. See Rote & Quadagno, supra note 147, at 241 (“[W]elfare reform appears to leave the neediest women (in this case, those with the most depressive symptoms) on the welfare rolls.”); ZEDLEWSKI, supra note 51, at 5.
152. See Wood, Moore, & Rangarajan, supra note 137, at 24; see also Steven G. Anderson, Anthony P. Halter & Brian M. Gryzlak, Difficulties After Leaving TANF: Inner-City Women Talk about Reasons for Returning to Welfare, 49 Soc. Work 185, 186-89 (2004) (discussing how TANF returners were unable to maintain work paying a living wage, faced job instability, job shortages in poor neighborhoods, lack of child care, and demeaning interactions with caseworkers).
153. See Lisa Gonzales, Kenneth Hudson & Joan Acker, Diverting Dependency: The Effects of Diversion on the Short Term Outcomes of TANF Applicants, 11 J. OF POVERTY. 83, 85, 101 (2007) (discussing how given the pressure to keep caseloads low, many states use diversion strategies to keep women off of TANF; they include short-term cash grants or housing assistance and how most of these diverted women
Ironically, sanctions do not incentivize finding work. To the contrary, as they increase in severity and duration, welfare leavers are more likely to end up jobless and with lower earnings.\textsuperscript{154} In short, the employment rate of welfare parents has decreased, TANF caseloads remain low despite increasing need caused by the recession, and current and former welfare recipients remain mired in poverty.\textsuperscript{155}

While the presidential candidates judged TANF’s effectiveness based on its shrinking numbers, it is just as important to consider the non-economic aspects of family well-being. After all, TANF’s express purposes are to foster family formation by increasing marriage in order to improve the well-being of children, who constitute the majority of welfare recipients. Research concerning the impact of TANF on child welfare is limited and inconclusive because of the complexity of isolating causality.\textsuperscript{156} Overall, studies reveal that TANF has not had a significant influence on children in families that receive welfare,\textsuperscript{157} although there are some troubling indicators for teenagers.\textsuperscript{158} Children in families that receive welfare and in

\begin{itemize}
\item \textsuperscript{154} See Chi-Fang Wu, \textit{Severity, Timing, and Duration of Welfare Sanctions and the Economic Well-Being of TANF Families With Children}, 30 CHILD. & YOUTH SERVS. Rev. 26, 42 (2008) (providing further that “substantial numbers of sanctioned participants are leaving welfare with no job or with a low-wage job that barely covers their living expenses”).
\item \textsuperscript{155} See \textit{Policy Basics}, supra note 48, at 5.
\item \textsuperscript{156} See Anita M. Larson, Shweta Singh & Crystal Lewis, \textit{Sanctions and Education Outcomes for Children in TANF Families}, 32 CHILD. & YOUTH SERVS. Rev. 180, 194 (2011) (finding, however, that children in families that have been sanctioned have greater educational disruptions).
\item \textsuperscript{158} See \textit{NGA CTR. FOR BEST PRACTICES, Child and Youth Well-Being Under Welfare Reform: Recent Research} 2-3 (2004) (discussing that elementary age children appear to be achieving some gains in school achievement and behavior, while teenage children are showing some negative impacts, through poor school achievement,
families that have left welfare are both at risk for poor development outcomes, "and there have been no major shifts in well-being for either group."159

Although there is little research on the impact of TANF on child maltreatment, there is substantial research showing an "inverse relationship between earned income from employment and subsequent child maltreatment."160 Consistent with this finding, some studies have suggested that reductions in welfare benefits are linked to increased entry into the child welfare system, particularly if the mother does not obtain subsequent employment.161 Studies have also shown that rates of neglect rise as the share of single working mothers increases, and, conversely, that states with more generous welfare benefits have lower numbers of neglect cases.162 Involuntary exits from TANF are associated with increased maltreatment.163 Not surprisingly, poor families do better in jurisdictions with more work support services, such as job training, health insurance, income supplements, and subsidized child-care.164 Thus, researchers have concluded that job quality should be emphasized over caseload reductions.165

TANF also has not achieved significant progress in increasing marriage rates or reducing single-parent families, the express purposes of the Act.166 Millions of dollars of TANF funds have been poured into various marriage

increases in drinking and smoking, and problem behavior); Greg J. Duncan & P. Lindsay Chase-Lansdale, Welfare Reform and Children's Well-Being, in The New World of Welfare, 391, 402-03 (Rebecca M. Blank & Ron Haskins eds., 2001); Martha Zaslow, et al., How Are Children Faring Under Welfare Reform?, in Welfare Reform: The Next Act 82 (Alan Weil and Kenneth Feingold, eds. 2002) (finding that this may be due to decreased parental supervision and/or increased child care responsibilities for teenagers who must care for their younger siblings).

159. See Zaslow, supra note 158, at xxii.


162. Id. at 17 (clarifying that the share of a state's single mothers did not correlate with child maltreatment rates).

163. See Beimers & Coulton, supra note 160, at 1118.

164. See Duncan & Chase-Landsdale, supra note 158, at 393, 404; see also Nat'l Ctr. for Children in Poverty, Children in Low Income Families Fare Better with Work Supports (2003).

165. See Beimers & Coulton, supra note 160, at 1118.

promotion programs that engage in activities such as advertising, counseling, and education. The major study of marriage promotion programs directed at unwed parents found no effect on relationship quality or whether the parents stayed together or got married. The economic well-being of children was also unchanged, although there were some improvements in their behavior. While poor women share the same values regarding marriage as more affluent women, external forces make it harder and riskier for them to marry. Marriage promotion programs do not address the primary reasons why some poor women do not get married, such as the lack of marriageable men due to high unemployment and incarceration. Thus far, there is no statistically significant link between TANF receipt and the reduction in teenage parenthood. Although teenage birth rates are falling, they began decreasing before TANF, and seem to be unaffected by welfare reform. In contrast to the positive decrease in teenage birth rates, post-TANF birthrates among single women between the

167. See Falk, supra note 44, at 19-20; Kominos, supra note 166, at 927-28; Julie Nice, Promoting Marriage Experimentation: A Class Act?, 24 WASH. U. J.L. & POL’Y 31, 34 (2007). In addition, while TANF makes two-parent families eligible for benefits, it imposes a 90% work participation rate, which essentially restores the old marriage penalty under AFDC. Id. at 36.


169. Id. at xvi. A study of a similar program aimed at low-income married couples showed some short-term psychological benefits, although after twelve months, there was no impact on “the likelihood that parents were still together or spouses’ reports of infidelity or the quality of their coparenting relationships.” Anne Hsueh, et al., The Supporting Healthy Marriage Evaluation: Early Impacts on Low-Income Families (Feb. 2012), at ES-9 http://www.ncdsv.org/images/HHS_SupportHealthyMarriageEvalEarlyImpactsOnLowIncomeFamilies_2-2012.pdf.

170. See Daniel T. Lichter, et al., Welfare Reform and Marriage Promotion: The Marital Expectations and Desires of Single and Cohabiting Mothers, 78 SOC. SERV. REV. 2, 20 (2004) (enumerating factors including “[l]ow education, limited economic resources, the presence of coresidential children from previous relationships, and shortages of potential marriage partners (i.e., men who are employed, drug and crime free, and faithful”); see also Kominos, supra note 166, at 933, 945; Nice, supra note 167, at 37-38.


ages of eighteen and twenty-nine have actually risen.\footnote{173} Marriage rates are up for some low-income groups and down for others, but the proportion of married women overall continues to decline.\footnote{174} Thus, researchers have concluded that TANF has achieved “mixed progress on family structure objectives.”\footnote{175} Moreover, it is clear that the work objectives and the family objectives of TANF often conflict, making it difficult for states or families to achieve significant improvements in both areas simultaneously.

IV. A NEW VISION FOR WELFARE

TANF is a failure. TANF is neither alleviating poverty nor transitioning families to self-sufficiency. “This program is miserly, discriminatory, degrading, and expensive to administer.”\footnote{176} At best, it is providing desperately needed income support to a small number of poor families for a short period of time. This is not insignificant, but it is not enough, especially since TANF is perpetuating the myth of the welfare queen and the stigma that attaches to her. In turn, this harms all poor people, not simply TANF recipients, by reducing public support for poor relief programs and increasing distrust of the poor. Further, all Americans suffer when the causes of inequality are masked by rhetoric and are allowed to perpetuate.

When welfare reform was passed, some liberal observers were cautiously optimistic that the welfare queen would be replaced by the new reality of the working poor.\footnote{177} Nevertheless, the reappearance of the welfare queen in the 2012 presidential campaign has dashed these hopes.\footnote{178} Due to this state of affairs, now is the time to consider new strategies for helping poor families and putting the welfare queen to rest. The goal should not be to reduce welfare rolls; rather, it should be to reduce poverty. The discussion should not be about poor people refusing to work, but about supporting the low-wage worker. How can we revise TANF to create viable opportunities for poor families?

\footnotetext[173]{See Lerman, \textit{supra} note 130, at 43.}
\footnotetext[174]{\textit{Id.} at 45.}
\footnotetext[175]{\textit{Id.} at 46.}
\footnotetext[176]{See \textit{HANDLER & HASENFELD, supra} note 3, at 317.}
There is near unanimity among experts that states should be allowed under TANF to focus on outcomes such as employment entry, job retention, and poverty reduction rather than the bean-counting task of calculating work participation rates. An outcomes-based focus would require states to locate or create job opportunities for welfare recipients in today's tight economic market and would also eliminate TANF's arbitrary time limits in favor of supporting education and training programs that can lead to jobs that pay a living wage. Further, the work-first approach would be transformed into a work-support approach, in which welfare mothers receive all the supports that make work possible, such as child care, transportation, uniforms, health insurance, and the like. Reforming TANF to boost employment will cost money, and thus, almost all welfare experts agree that TANF needs increased funding. There should be a federal benefit floor and less variation among states in eligibility criteria. All of these suggestions would go far to improve support for low-income families.

In 2011, and again in 2013, Representative Gwen Moore, a Democrat from Wisconsin and former welfare recipient, introduced legislation to amend TANF that encompasses these, and other, recommendations. The RISE Act (Rewriting to Improve and Secure an Exit Out of Poverty Act), would provide permanent funding to TANF that is adjusted for inflation and child population growth, as well as establish a contingency fund for states to access during economic downturns. The Act would help welfare mothers who want to work find and maintain jobs by providing federal reimbursement to states for creating subsidized employment. The RISE Act would also revise the work participation requirements to permit education and training so that women can obtain stable jobs with the potential for advancement. Child care subsidies would be guaranteed and child support payments would flow directly to families rather than be captured by the states. Caring for disabled family members would count

179. See generally ELIZABETH LOWER-BASCH, CTR. FOR LAW & SOC. POL’Y, GOALS FOR TANF REAUTHORIZATION 2-3 (2013); see also TANF WORK REQUIREMENTS, supra note 43, at 4.
183. Id. § 5.
184. Id. § 6.
185. Id. § 15.
Full family and lifetime sanctions would be eliminated, as would exclusions for ex-prisoners with drug convictions.\textsuperscript{187} The RISE Act would require states to provide assistance sufficient to meet the basic needs of recipients, such as food, clothing, shelter, utilities, household goods, and personal care items.\textsuperscript{188} In short, the RISE Act would be a dramatic improvement over TANF.

An alternative approach, also designed to support low-income mothers, was introduced in April 2012 by Representative Pete Stark as the Women's Option to Raise Kids (WORK) Act.\textsuperscript{189} The WORK Act would provide cash assistance to mothers with children ages three and under who choose to stay at home with their children.\textsuperscript{190} The WORK Act was a direct response to Governor Romney's defense of his wife after a Democratic strategist said on TV that Ann Romney "had not worked a day in her life." Governor Romney countered, "All moms are working moms."\textsuperscript{191} Of course, this contradicted his own prior statements that poor women should work outside the home in order to enhance their own dignity.\textsuperscript{192} In sponsoring the WORK Act, Pete Stark, a California Democrat and sponsor of the WORK Act, stated that "I think we should take Mr. Romney at his most recent word and change our federal laws to recognize the importance and legitimacy of raising young children. That's why I'm introducing the WORK Act to provide low-income parents the option of staying home to raise young children without fear of being pushed into poverty."\textsuperscript{193} The bill died, but the point was made.\textsuperscript{194}

\textsuperscript{186} Id. \textsect{6}.
\textsuperscript{187} Id. \textsect{7}.
\textsuperscript{188} Id. \textsect{12}.
\textsuperscript{190} Id.
\textsuperscript{192} See Klein, supra note 191, at 2.
\textsuperscript{193} Id.
\textsuperscript{194} See Ryan Grim, Work Act Would Give Low-Income Moms the Same Options as Ann Romney (For 3 Years), HUFFINGTON POST, Apr. 18, 2012, http://www.huffingtonpost.com/2012/04/18/work-act-low-income-moms-ann-romney_n_1434384.html. Democratic Reps. John Lewis (Ga.), Gwen Moore (Wis.), Barbara Lee (Cal.), Jim McDermott (Wash.), Lynn Woolsey (Cal.), Jan Schakowsky (Ill.) and Rosa DeLauro (Conn.) were co-sponsors of the WORK Act.
\textsuperscript{195} See GOVTRACK, http://www.govtrack.us/congress/bills/112/hr4379 (last visited
The RISE Act and the WORK Act reflect competing views among feminists on how best to support single mothers. Within feminism, there is a tension over whether gender equality is best served if the state supports single mothers in the workplace or compensates them for the caregiving work they perform in the home.\(^{196}\) In the former view, work is the most emancipating option for women, although as Dorothy Roberts points out, for women of color, the workplace has long been a source of oppression.\(^{197}\) By contrast, in the latter view, the state has a responsibility to support caregiving because dependency is both universal and inevitable.\(^{198}\) Yet this approach may reinforce gendered notions of a woman's role while subjecting poor families to increased state regulation.\(^{199}\) To break this dichotomy, Roberts argues that "feminists can do both,"\(^{200}\) and that poor women of color should have the same choices to work or stay home that middle-class women have.\(^{201}\) The problem with this suggestion is that today, many middle-class women feel they do not have a choice to work. They must do so given the declining value of wages, rising costs, and dropping employment rates among middle-class men. In turn, this makes the notion of "choice" for poor women politically unpalatable to the middle-class.

Thus, a realistic but transformative ideal would be to eliminate TANF and replace it with a system that supports low-income families while comporting with the American work ethic.\(^{202}\) This ideal would be based on remedying the structural determinants of poverty, rather than blaming welfare recipients for poverty.\(^{203}\) TANF has proven that a one-size-fits-all program does not work given the range of families that need economic support.\(^{204}\) There are roughly three groups that a new family support policy

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196. See Roberts, supra note 123, at 1035.

197. Id. at 1037.


199. See Roberts, supra note 123, at 1039-40.

200. Id. at 1040.

201. Id. at 1041.


204. See supra Part III.
would need to accommodate. First, there are single parents ready and willing to work who may need assistance in obtaining and keeping a job. States need to train and match these workers with jobs that are available and needed in their local economies, and create community-based jobs where there are none. For this group—as with other working poor families—improvements to the low-wage job market are essential. First and foremost, low-wage workers should earn a living wage that is sufficient to lift the family out of poverty. Currently, a minimum wage worker who is employed full-time for fifty-two weeks (meaning no sick leave or vacation) earns $15,080 annually. If that worker were the sole earner for a four person family, her income would only be sixty-six percent of the poverty threshold. Raising the minimum wage is one way to move towards a living wage. Additionally, the EITC, the Child Tax Credit (CTC), and unemployment assistance are existing programs tied to employment whose benefits could be increased, as well as expanded, to cover more low-wage workers. At the same time, we need to expand existing in-kind programs such as housing subsidies and Medicaid to ensure that low-wage workers can maintain the stability necessary to participate in the workplace. In addition, to support parents and ensure the success of their children, we need mandated and paid parental leave, including paid leave to care for sick dependents, in addition to quality child care, and universal pre-kindergarten. Currently, only one in six eligible families receive child care subsidies due to a lack of funding, which is hampering the ability of parents to work.

205. See Blank, supra note 153, at 185.
207. This number is computed by taking the minimum wage of $7.25 and multiplying it by an eight hour day for fifty-two weeks.
209. For instance, policy analysts suggest that the CTC minimum income threshold should be lowered to zero so that extremely poor families can participate (you currently need to earn at least $3,000 in a year to qualify); the CTC should be fully refundable to give the full benefit of the credit to the lowest-income families, and the CTC provisions should be adopted permanently. See Results: The Power to End Poverty, Child Tax Credit!!!, https://www.results.org/issues/us_poverty_campaigns/economic_opportunity_for_all/child_tax_credit_at 3.
210. In kind programs are generally more popular with the public than cash assistance. See HANDLER & HASENFELD, supra note 3, at 72.
211. See TANF WORK REQUIREMENTS, supra note 43, at 10.
Second, there are parents who face significant barriers to work; this group constitutes forty to forty-five percent of the welfare caseload.\textsuperscript{212} Some of these women may be able to transition into work with adequate support, such as alcohol and drug treatment programs, mental health counseling, and vocational training and education. In addition, an expansion of existing disability programs can cover some of this population. In particular, SSI could be reformed to allow some forms of temporary or part-time work, rather than discouraging any work among the disabled. "The current public U.S. disability system for low-income people does not recognize that ‘disability’ is a dynamic process rather than a static classification."\textsuperscript{213} Thus, experts advocate for partial disability support for people with disabilities that limit work but do not preclude it and temporary support for people with short-term disabilities.\textsuperscript{214} Third, there are some parents who may never be able to work at all due to the severity of the barriers they face. This cohort should be able to receive cash assistance for their children in an amount equal to a minimum wage earner’s EITC and CTC benefits. In short, our anti-poverty policy should tailor assistance to the work prospects of parents, make work possible, make work pay, and support those who cannot work.

\section*{Conclusion}

The welfare queen has starred in poverty discourse since the 1970s. Her tattered throne sits at the intersection of class, race, and gender, and she is used as a rhetorical tool to blame individuals for poverty rather than to examine and reform structural aspects of our society and economy. When welfare was reformed in 1996, welfare recipients were required to work, raising the hope that the stereotype of the welfare queen would be put to rest. Yet in the 2012 presidential campaign, Governor Mitt Romney resurrected the welfare queen and accused President Obama of weakening TANF work requirements. In their battle to prove who was tougher on the poor, neither candidate confronted the truth about TANF. In reality, it is a small program that provides meager benefits to a shrinking pool of applicants. It does little to lift families out of poverty. It does a lot to stigmatize the poor. Instead of the work-first tactic of TANF, we need work-support strategies that will support low-income families and recognize our interdependence. America succeeds when we all succeed.

\begin{footnotes}
\item[212.] See Blank, \textit{supra} note 153, at 185.
\item[213.] \textit{Id.} at 190.
\item[214.] \textit{Id.}
\end{footnotes}