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## Family dissolution and public policies in the United States: Social provisions and institutional changes since the 1980s

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Britta Grell

## **Family Dissolution and Public Policies in the United States**

Social Provisions and Institutional Changes  
since the 1980s\*

March 2011

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- No. 1 Britta Grell  
Unemployment Compensation in the United States. Provisions and Institutional Changes since the 1980s. SP I 2011-202
- No. 2 Britta Grell  
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- No. 3 Britta Grell  
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## Abstract

As a consequence of changing patterns of family formation and dissolution in the western world, national welfare institutions confront new demands to accommodate such issues as disproportionate poverty risks among single-mother families, increased requirements for non-parental child care arrangements, and the regulation of child maintenance and support. This paper documents and analyzes the most important social and legal provisions and changes in the United States since the 1980s with implications for the well-being of separated parents and their children, starting with alimony reform legislation to maternity and parental leave programs. It concludes that compared to Germany the institutional and financial support of low-income custodial parents, the majority of whom are women, is still rather limited. While family-friendly policies – most of them based on employment and the tax system – have been expanded since the 1980s, the US welfare systems provides less financial and legal assistance to vulnerable families with children.



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# 1 Introduction

A tenet of modern social policy in the United States as in most other developed countries is the preservation of two-parent families. Family law and most public policies still consider marriage as the preferred legal status for adults living together and raising children despite the fact that divorce has been eased and that the traditional, or nuclear, family reached its all-time high in the 1960s. Since then, as result of long-term cultural and economic transformations – such as changing gender roles, increased employment opportunities for women, and a growing social acceptance of non-marital unions – household composition and families structures in the United States have undergone remarkable changes (cf. Cherlin 2004). The most noticeable trend is the steady drop in the proportion of married couples with own children. Even more than in Germany, female-headed families have become an increasingly significant household type. While part of this development is due to the rise of never-married mothers, the vast majority of both female and male single parents are either divorced or separated.

As a consequence of this marked decline of the “male breadwinner model” and the spread of family dissolutions, welfare state institutions are confronted with new needs and demands such as disproportionate risks of poverty among lone-mother families, a higher demand for non-parental child care arrangements, or the regulation of maintenance and child support. While governments in other affluent countries with a similar large share of single parents have responded to this challenge with an explicit commitment to a broad range of family-friendly measures (parental leave policies, universal children allowances and benefits, advanced maintenance payments etc.), the United States so far have moved into another direction. In accordance with a strong principle of federalism and a philosophy of limited public intervention in “private matters”, there is no federally coordinated and integrated support system ensuring the adequacy of resources in different types of families and enabling parents to better balance work and care obligations. Some policy innovations in favour of “vulnerable families” have come from state governments, while at the federal level policy makers have mainly focused on the tax system as a means of compensating family for the high costs of childrearing. Furthermore, in some industries, family-friendly working arrangements and social benefits have become an increasingly important tool to recruit highly qualified employees or to bind them to the company. Most low-income workers with children, however, remain excluded from these employment-based benefits. Instead, they have to rely on an uneven patchwork of various means-tested public assistance programs.

This paper documents the most important public and legal provisions in the United States with implications for temporary or long-term single parenthood. It does so by starting with a brief account of changes in family and household compo-



sition since the 1980s. The second part of the paper deals with divorce-related issues such as alimony provisions and child support to custodial parents that can buffer some of the negative financial consequences associated with family-break-ups. The third section gives a more general account of family policies in order to understand the role of government in the United States in supporting the economic security of families as well as work and family reconciliation. As the most relevant policies we identified child-conditioned tax benefits and different forms of income support for families (in-kind benefits and cash transfers) to offset some of the economic burdens of raising children; non-parental child care provisions, and maternity or parental leave programs, allowing parents to take job-protected time off from work for family reasons such as the birth of a child or child illness, and helping especially mothers of younger children to stay attached to the labor force.

## 2 Changes in Household and Family Composition

Compared to Germany, demographic developments and fertility are not as much of a policy issue in the United States. Progressive aging of the US population is seen as a major challenge, but the current near replacement-level fertility rate of 2.1 makes the United States an outlier among developed countries (Statistisches Bundesamt 2010). While Germany, with a much lower replacement rate of 1.4, has instituted deliberate pro-natalist policies to increase the number of births, particularly among college-educated women, legislators and policy makers in the United States are much more concerned about the negative consequences of non-marital childbearing. The background for these concerns is the steep rise of out-of-wedlock births and especially teen pregnancy rates (71.5 per 1,000 women in 2007) which are among the highest in the industrialized world (Guttmacher Institute 2010). In the United States, teen pregnancy has long been seen as one of the most pressing social issues and has triggered intense political debate focussing on moral as well as on economic questions (cf. Ellwood and Jencks 2004). It is viewed to be the cause of many poverty-related problems, including unemployment, poor health, school dropout rates and an increase in juvenile crime, particularly in African American and Hispanic families which are much more likely to be fatherless than White families.<sup>1</sup> It is estimated that as much as 80 percent of unwed teen mothers end up needing

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<sup>1</sup> In 2007, 35 percent of all Black children 0 to 2 years and 42 percent of Black teens (12 to 17) lived with a sole adult parent, compared to 10 percent of Hispanic children (0 to 2) and 22 percent of Hispanic teens. White children and teens are much less likely to live in single-parent households: 6 percent of all toddlers and 17 percent of all teens (Kreider and Elliott 2007: 18).

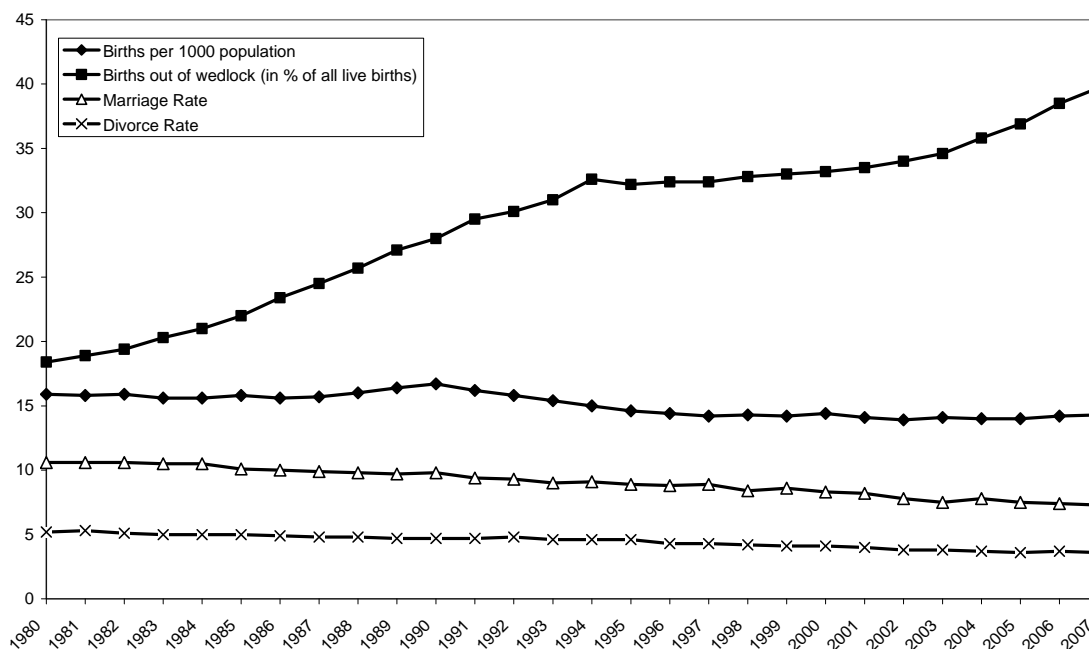
public assistance. Compared to 30 years ago, pregnant teens are also far less likely to be married (*Ibid.*).

In general, non-marital childbearing in the United States has increased dramatically during the latter half of the 20<sup>th</sup> century, changing the context in which American children are raised. Nearly 85 percent of these households are headed by a female. As shown in Figure 1, the proportion of all children born to unmarried parents more than doubled between 1980 and 2007 (from less than 20 to almost 40 percent). Unmarried parents differ from married (and divorced) parents in ways that have important implications for their long-term economic well-being and family stability. Existing data indicate that most unmarried parents are in their twenties, have a high-school degree or less; many have children by more than one partner, and a high fraction of fathers have some history of incarceration (*cf.* Carlson and Högnas 2010). Interestingly, whereas non-marital childbearing and cohabiting of parents have become much more common in many other developed nations as well, the United States stand out in the extent to which this phenomenon is associated with socioeconomic disadvantages and relationship instability.

In contrast to out-of-wedlock births, which skyrocketed during the observation period 1980 – 2007, divorce and marriage rates show very little alteration. After a soar in the 1960s and 1970s, the divorce rate in the United States leveled off in the 1980s, and actually fell slightly in the 1990s and 2000s (see Figure 1), indicating a stabilization of the institution of marriage. It is unclear, however, what has caused this development and whether this recent trend is a new sustained equilibrium or just a temporary lull. With respect to factors affecting marriage and union stability the most influential research in the United States has followed classical economic models deriving from the work of Gary Becker (summarized in Becker 1991), assuming that one of the major functions of marriage is to provide material security, particularly for the bearing and raising of children. Accordingly, higher female education levels and earnings, making women economically more independent from men, and decreasing male earning power (especially among Blacks) are associated with lower marriage rates and higher levels of single-parent parenthood (*cf.* Ellwood and Jencks 2004; McLanahan 2009). One argument particularly popular amongst conservative policy makers in the United States is that external economic support for single adults and parents will make marriage less common. If a single parent can focus on care and household production and still get money from public assistance programs or other sources, the advantages of marriage diminish. Generous welfare benefits, which are not work-conditioned, are therefore viewed with great scepticism because of their alleged negative impact not only on employment but also on marriage decisions. This widely spread anxiety about “welfare dependency” is reflected in most major US social policy reforms of the past decades targeted at the poor as will be shown later in this paper. Given the large racial and ethnic differences in economic well-being and marriage patterns in the United States public

policies promoting “two-parent healthy families” and “personal responsibility” have much more than in most European welfare states not only a clear class and gender dimension but also a lurking racial subtext (cf. Fraser and Gordon 1994).

Figure 1: Birth, Marriage and Divorce Rates 1980-2007



Sources: US Census Bureau (various years)

### 3 Alimony and Child Support

In the United States, the federal government has only very limited power to regulate marriage and divorce. Divorce law is determined at the state level. Every state has its own regulations, laws and legal practice to deal with problems of child custody and other questions of maintenance after a family break-up (cf. Buehler 1995; Katz 2003; Jasper 2008). Nevertheless, state discretion is restricted by federal directives and some legal provisions such as fundamental decisions of the Supreme Court. Accordingly, it is unconstitutional to discriminate against “illegitimate” children, or against men in divorce and child custody proceedings. Because of the fiscal responsibility to provide a safety net to poor children, the federal government also requires states to establish local agencies to help enforce child support orders in all welfare cases and at the request of the custodial parent. Other federal policy initiatives have used financial incentives by providing additional grants to those states that conduct marriage promotion programs or adopt other policies to strengthen two-parent families (cf. Ooms 2001; Haskins and Sawhill 2009: 257ff.).

#### 3.1 Spousal Support

By international standards, state divorce laws in the United States are quite liberal. This means that the formal requirements for getting married and dissolving a marriage are comparatively low. Over the past thirty years, changes in divorce law have significantly increased the ease of getting a divorce. California has been a pioneering state in this respect. In 1969, Ronald Reagan signed a bill creating unilateral divorce in California, which permits divorce upon application by either spouse, replacing old regulations which typically required either the consent of both spouses or a demonstration of marital fault. Most states followed California’s lead. By 1974, no-fault divorce had passed in 45 states, by 1985 all 50 states had adopted such laws.<sup>2</sup> Some earlier studies (Weitzman 1985; Morgan et al. 1992) claim that these legal changes had negative economic consequences for the female spouses, leaving many more divorced women with inadequate child support and no alimony payments from their former husbands.<sup>3</sup> Under traditional divorce law, the economic

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<sup>2</sup> Some state and local jurisdictions, however, have retained traditional fault grounds for divorce, while incorporating some form of no-fault provisions in their divorce law (cf. Jasper 2008).

<sup>3</sup> Sociologist Lenore Weitzman, in her 1985 book *The Divorce Revolution*, concluded that a woman’s standard of living in the first year after a no-fault divorce dropped 73 percent, while a man’s rose 42 percent. While these estimates might be exaggerated, a large body of empirical research supports the general argument that divorce reduces the economic wellbeing.

aspects of a divorce were closely linked to the determination of fault such as adultery, abandonment, felony, or other similarly culpable acts. When fault divorce was replaced, spousal support lost some of its foundations. Today state statutes regulating alimony are based on the general ideal of gender equality, implying that both spouses should become equal and independent social and economic actors after the divorce (cf. Katz 2003: 94ff.).

Most states have established guidelines for the legal practice, including a list of criteria, which are supposed to be factored into alimony payments agreements, such as the length of marriage, age and health of the parties, distribution of property, educational level, economic achievement and earning capacities of each party (cf. McCoy 2005; American Bar Association 2010a). But only a few states provide detailed or binding directives regarding the amount and duration of spousal support payments. Texas, for example, has rather well-defined regulations: Here spousal support can only be claimed after ten years of marriage, support payments are restricted to a maximum of two years after the separation, and are capped at 20 percent of the gross-income of the spouse with the obligation to pay (Ibid.). In almost all states, there is a trend towards time limits for spousal support payments, based on the belief that women, in principle, are no longer in need of special protection and should achieve economic self-sufficiency after a divorce as soon as possible. According to the American Bar Association (2010b), today only 15 percent of all divorces in the United States involve spousal payment agreements. Research on spousal support indicates similar award rates for the 1980s and 1990s, somewhere between 10 and 20 percent in most states (Buehler 1995: 110).

### 3.2 Child Support

In the United States as in Germany, most children live with the mother after a family dissolution. According to the US Census Bureau, nearly 75 percent of all child custody awards are made to the mothers, and only about 10 percent to the fathers. The rest of the child custody awards involve some sort of joint custody arrangements (Grall 2007: 2). It is usually the non-custodial parent who has to pay child support to the custodial parent, the primary caretaker with whom the child legally resides.

In contrast to alimony provisions, there is an over-arching federal government framework for child support payments and their enforcement. Federal regulations require uniform application of child support guidelines throughout a state, but each state can determine its own methods of calculating support (cf. Buehler 1995; Lerman and Sorensen 2003). Before the 1980s, when the first states adopted child support guidelines, large administrative and juridical discretion restrained efficient

policies, leaving many custodial parents either with only inadequate or without any child support at all. In 1988, Congress passed the „Family Support Act“, requiring all states to establish presumptive guidelines as well as quantitative standards for determining child support award amounts.

Pursuant to federal regulations, state guidelines must at a minimum satisfy the following requirements: They must take into consideration all earnings and income of the absent parent; they must be based on specific descriptive and numeric criteria and result in the computation of the support obligation; and they must provide for the children’s health care needs. Quantitative guidelines were intended to provide more uniformity in awards across income levels and for families with similar income levels, closer correspondence of child support awards to the actual costs of raising children, and increased well-being for children (Christensen and Rettig 1991: 21). Three basic approaches to setting child support awards have emerged at the state level: cost sharing, income sharing, and taxation approaches. The most common child support calculation model is the “income shares model” (applied in 33 states), which considers the income of both parents and the number of children. The foundation of the income shares model is the tenet that a child should receive the same proportion of parental income that would have been received by the child if the parents had not divorced. The second most common model, the “percentage income model” (applied in 13 states), is very similar to the regulations in Germany. The percentage of income model sets support as a percentage of the non-custodial parent’s income, either gross or net, and considers the number for children (25 percent of the income has to be paid for one child, 33 percent for two children, 40 percent for three children etc.). It is assumed that each parent will expend the designated proportion of income on the child, with the custodial parent’s proportion spent directly (cf. US House of Representatives 2004: 8-22; American Bar Association 2010c).

In contrast to Germany, the state does not fill in if non-custodial parents refuse or fail to pay child support. Single mothers or fathers in financial need cannot apply for „maintenance advance“ (Unterhaltsvorschuss).<sup>4</sup> If they apply for welfare assistance (TANF), they must sign their child support rights over to the state. The federal and state governments, however, have devoted considerable resources to strengthen child support enforcement over the last three decades. In 1975, the federal-state „Child Support Enforcement Program“ was created to locate absent parents, establish paternity and obligations, and enforce payment orders. By law, these services are available to all families that need them. In the 1980s, federal legislation mandated states to expand their own enforcement activities. The 1996 welfare reform law contained provisions that further strengthened state child support collection. Since then each state must operate a child support enforcement program meeting federal requirements in order to be eligible for TANF block grants (Lerman

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<sup>4</sup> The only exception is the state of Wisconsin.

and Sorensen 2003: 591f.). Enforcement measures include interception of income tax refunds of non-paying parents, deductions from earnings, and revocation of driving licenses. Some states have even displayed “wanted lists” of parents who owe child support in post offices or on the Internet. The amount of child support collections by federal and state governments increased from 1,7 billion in 1982 to 26,5 billion in 2008 (US House of Representatives 2004: 8-6; US Census Bureau 2010). Of the current 15.8 million child support cases served by government agencies, about 60 percent are either receiving public assistance or formerly obtained assistance (US Department of Health and Human Services 2008: viii). Child support collected for families not receiving public aid goes to the family, while most of the child support collected on behalf of “welfare families” goes to federal and state governments to offset welfare payments. Some states, however, pass-through a small portion of the child support collections to custodial parents receiving social assistance.

Table 1: Trends in Child Support Awards and Payments to Custodial Mothers 1981–2007

All Custodial Mothers					Poor Custodial Mothers		
	% Received Child Support	% with an Award	% Received among Those Due	Mean Annual Payments Received per Mother (in 2007 \$)	% Received Child Support	% with an Award	% Received among Those Due
<b>1981</b>	34.6	59.2	71.7	No information available	19.3	39.6	61.4
<b>1991</b>	37.6	55.8	76.3	3.011	24.1	38.9	70.4
<b>2001</b>	41.0	63.0	74.7	3.192	26.4	47.7	68.4
<b>2007</b>	37.4	56.9	77.5	3.355	31.3	55.6	66.0

Sources: US Census Bureau (various years)

Despite all the massive efforts to improve legislation and enforcement efforts, the share of custodial parents who actually receive financial support for their children has not grown much over the past three decades (see Table 1). Even today, a large number of custodial parents do not have any legal agreement for child support, and even those who do often obtain only partial and sporadic payments (Scoon-Rogers and Lester 1995; Grall 2000 and 2009). Only custodial mothers with very low-

incomes were much more likely to receive child support in the 2000s than in the 1980s. One possible cause underlying these results are public policies, introduced in the 1990s, forcing poor single mothers to establish paternity of their children as a precondition for public assistance receipt. Another factor could be the dramatic shift in the marital status composition of single-parent families, away from divorced and separated mothers toward never-married mothers (see section 2), which according to recent research findings affected all custodial mothers more than poor custodial mothers (cf. Sorensen and Hill 2004; Grall 2009) As these studies indicate, never-married middle-class women seem to be less interested in having a legal agreement with regard to child support.

## 4 Public Policies in Support of Families

Tax-based social policies constitute what Christopher Howard (1997) has called the “hidden welfare state” of the United States. The tax system has always been more than just a means of collecting revenues to support federal and state spending programs; it is also used to promote consumption and investment patterns and other behaviour that are considered socially desirable, and to help selected groups of tax payers such as families with children. In the United States, the largest federal tax subsidies for individuals are tax breaks for homeownership that favour middle- and high-income households.<sup>5</sup> Since the mid-1980s, however, the federal income tax system has also played an increasingly important role as an instrument of social policies, providing income support to low-income families, including those who do not pay federal income tax (cf. Sammartino et al. 2002; Berube et al. 2005; Lower-Basch 2008).

### 4.1 Tax Privileges for Families with Children

In general, there are three aspects of the federal tax code which privilege households with children over single households: First of all, as in Germany income tax rates are related to marital and family status. Second, taxpayers may claim personal

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<sup>5</sup> In 2008, federal tax deductions for mortgage interest on owner-occupied homes amounted to \$88.5 billion. They are among the three homeownership subsidies that top the list of tax breaks and exceed total spending by the Federal Department of Housing and Urban Development (Tax Policy Center 2008a).



exemptions for themselves, their spouse, and for dependent children in order to lower their taxable income before calculating tax obligations (tax deductions). Third, families with children might be also entitled to special tax credits which reduce tax liabilities and are partially refundable, depending on earned income and working status. Generally, tax deductions are most valuable for high-income households.<sup>6</sup> Non-refundable credits generally have the same value for all tax units whose income tax liability exceeds the credit, but have no value for the large number of households in the United States who, due to their low income, owe no income taxes at all. In 2007, over half of all families with children in the United States had no federal income tax liability (Tax Policy Center 2008b). By contrast, refundable tax credits are the only form of tax expenditure that can provide the same subsidy for all households.<sup>7</sup> Since the 1980s, federal legislation in the United States has introduced new child-conditioned tax credits and expanded already existing schemes to make them more valuable for low-income families with children.

### Income Tax Treatment of Different Household Units

The Economic Recovery Tax Act of 1981, passed under the Reagan administration, represented a fundamental shift in the course of federal income tax policy. It provided for the largest tax cuts ever enacted in US history. Before the 1981 legislation, there were 15 different tax brackets for individual income, ranging from a 14 percent tax rate for the lowest income group to a 70 percent tax rate for the very rich. As of 2008, the federal income tax code in the United States had only six different tax brackets for individual income, ranging from 10 to 35 percent. It distinguishes between four filing classifications: single, married filing jointly (or qualified widow or widower), married filing separately, and head of household. An individual's tax liability depends upon two variables: the taxable annual income, and the individual's filing status, determining which tax rates and which standard deduction amounts apply to a specific tax return. In general, married couples filing jointly and heads of households (defined as an unmarried or married single parent maintaining the home for a dependent child) are privileged towards one-person households, because their tax brackets are wider than those for unmarried individuals (see Table 2). In 2009, heads of household faced the lowest average effective tax rate (11.2 percent) because of their relatively low incomes (Johnson and Rohaly 2009: 17).

Whether a particular couple filing jointly receives a "marriage bonus" depends primarily on the division of income. Couples in which spouses have similar incomes are more likely to incur a "marriage penalty" than "traditional" couples in which

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<sup>6</sup> A \$100 deduction, for example, saves \$35 for someone in the 35 percent top income tax bracket, but only \$10 for someone in the 10 percent bracket.

<sup>7</sup> All three types of tax benefits may contain income limits or phase in or out in order to further target their distributional effects.

one spouse earns most of the income, because combining incomes in joint filing can push both spouses into higher tax brackets. Couples in which one spouse earns all of the couple's income almost always receive a "marriage bonus", because joint filing shifts the higher earner's income into a lower tax bracket (cf. Tax Policy Center 2008c). In the 1990s, it was estimated that 42 percent of all couples incurred a "marriage penalty" of close to \$1,200 per year on average, while 51 percent received a "marriage bonus" of \$1,140 on average (US Congressional Budget Office 1997: 13). Marriage-related provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 have improved the situation of married couples by raising the standard deduction for couples to twice that for single filers (see further below) and by setting the income ranges of the 10 and 15 percent tax brackets for couples to twice the corresponding ranges for individuals (see Table 2). In 2008, married couple filing jointly faced lower effective tax rates than singles and those married individuals filing separately in all income groups but the top quintile, and, on average, received net subsidies in the bottom quintile (Johnson and Rohaly 2009: 16).

Table 2: 2008 Individual Federal Income Tax Brackets and Tax Rates

Marginal Tax Rate	Single	Married Filing Jointly or Qualifying Widow(er)	Married Filing Separately	Head of Household
10%	\$0 - \$8,025	\$0 - \$16,050	\$0 - \$8,025	\$0 - \$11,450
15%	\$8,025 - \$32,550	\$16,050 - \$65,100	\$8,025 - \$32,550	\$11,450 - \$43,650
25%	\$32,550 - \$78,850	\$65,100 - \$131,450	\$32,550 - \$65,725	\$43,650 - \$112,650
28%	\$78,850 - \$164,550	\$131,450 - \$200,300	\$65,725 - \$100,150	\$112,650 - \$182,400
33%	\$164,550 - \$357,700	\$200,300 - \$357,700	\$100,150 - \$178,850	\$182,400 - \$357,700
35%	\$357,700 and more	\$357,700 and more	\$178,850 and more	\$357,700 and more

Source: US Internal Revenue Service 2010

### Tax Deductions for Spouses and Dependents

In the United States, taxpayers have the choice of either claiming some expenses (mortgage interest, charitable contributions, local and state taxes paid, high medical expenses etc.) as itemized deductions or claiming a standard deduction. In either case, taxable income is decreased by the amount of the allowed deduction. The deduction reduces tax liability by the amount of the deduction times the filer's mar-

ginal tax rate, and is thus worth more to taxpayers in higher tax brackets. In 2009, the standard deduction for singles and married individuals filing separately was \$5,700, \$8,350 for heads of household, and \$11,400 for married individuals filing jointly (OECD 2009: 474).

In addition, taxpayers are also allowed a personal exemption and exemptions for dependents, including spouses and children who are either under the age of 19 or students under the age of 24. In 2009, each personal exemption lowered the taxable income by \$3,650 (Ibid.). The exemption phases out for high-income taxpayers (phase-out beginnings in 2009 were \$250,200 for married couples filing jointly and \$166,800 for singles). Accordingly, in 2009, a middle-class married couple with two dependent children filing jointly and claiming the standard deduction did not have to pay any personal income tax on the first \$26,000 of income. With 19 percent, the effective tax rate of such a family (annual gross income around \$80,000) is relatively low, when compared to other countries such as Germany, where it is around 32 percent (Laurin 2006: 8).

After a family dissolution, only one parent can claim the dependency exemption for common children. In the absence of any written agreement stating otherwise, this is usually the right of the custodial parent or the parent who provides more than half of the child's financial support. Unlike with alimony payments, child support payments are not tax deductible to the parent who makes them, nor are they treated as taxable income of the parent who receives them.

### Child-Conditioned Tax Credits

Parents in the United States can also utilize three further federal tax benefits to offset some of their costs for raising and educating children. Each of these tax credits has a different historical background and its own set of eligibility criteria which have been changed several times since they were first enacted. The last major legislation in the observation period, leading to a further expansion of these pro-family tax policies, was the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) enacted in 2001.

- The „**Federal Child and Dependent Care Credit**“ (CDCTC) is the oldest tax credit program in the United States in support of families with minor children (it was first introduced in 1954; the last modifications were enacted in 2008). Families can claim the CDCTC for the expenses incurred for child care (for children under 13), if both parents are either working, full time in school or seeking employment. The amount of qualified expenses is limited to \$3,000 per child and up to \$6,000 for two or more children. In 2009, the tax credit was 35 percent of these expenses for families with an annual gross income of \$15,000 or less, and declined to 20 percent of expenses for families with an annual gross income above

\$43,000.<sup>8</sup> Prior to the EGTRRA, maximum allowable expenses were limited to \$2,400 per child, and the maximum credit was 30 percent of qualified expenses. For poor families this kind of income support is of no or only limited help. First of all, those households who owe no income taxes cannot benefit from the program because the CDCTC is not refundable. Second, low-income families who are eligible rarely qualify for the maximum benefit and might be better off with steady income streams such as cash benefits or child care subsidies to help them to cover the comparatively high monthly out-of-pocket payments for child care (see section 4.3). In 2007, the credit provided \$3.5 billion in tax credits to 6.5 million families (Internal Revenue Service 2007).<sup>9</sup> Most benefits went to middle- and upper-middle-income households: While the top quintile of income earners received 41 percent of the benefits, the bottom quintile obtained only 4 percent (Rohaly 2007: 2).

- In 1998, Congress introduced the **„Child Tax Credit“** (CTC) for families with children under 17, regardless of the parental employment status. This scheme allows for a maximum annual tax credit of \$1,000 per child (it can be claimed for up to three children). The credit is reduced by 5 percent of adjusted gross income over \$110,000 for married couples and \$75,000 for single parents. Since enactment of the EGTRRA, the CTC is partially refundable for those families who are unable to claim the full amount of the credit due to zero or low income tax payments. Currently, low-income households may claim a refundable credit of up to 15 percent of their earnings exceeding \$12,550. In 2007, the CTC distributed about \$45 billion to 31 million families (Burman and Wheaton 2007). Prior to 2001, very few low-income households were able to take advantage of the CTC. In 2007, still only 8.2 percent of families with eligible children in the lowest quintile of the income distribution received any benefits from the credit, compared to nearly all families in the middle income quintile. On top of that, many low-income families who receive the credit get less than its full \$1,000 value per child because their income falls in the phase-in range (Tax Policy Center 2010).
- The most important tax benefit for low-income families is the **„Earned Income Tax Credit“** (first introduced in 1975, largely expanded in the 1990s, and the last time increased in 2001). Today, also childless workers can claim the EITC, but the benefits for them are much lower than for employed parents. This refundable tax credit offsets income taxes owed by low or moderate income workers and,

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<sup>8</sup> In 2009, the maximum tax credit for a two-parents family with two children and an annual gross income below \$15,000 was \$2,100; for a family the same size with an income above \$43,000 the maximum credit was \$1,200. The average amount received by eligible families in 2007 was \$529.

<sup>9</sup> More than half of all states offer additional dependent care tax benefits; in 15 states those tax credits are refundable.

and if the credit exceeds the amount of taxes owed, provides a lump sum payment to those who qualify. To qualify, taxpayers must meet certain working and income requirements and file a tax return. Working families with children that have annual earnings below about \$35,000 to \$48,000 are generally eligible. Also, lower-income working people without children that have incomes below \$13,000 (\$18,000 for a married couple) can receive a smaller EITC.<sup>10</sup> The EITC phases out at 226 percent of the federal poverty level for a single parent with two children; for a married couple with two children the credit phases to zero at an income of 185 percent of poverty (Center on Budget and Policy Priorities 2009). In order to qualify children must be under 18 or under 23 if they are students. Workers without children must be at least 25 years old to claim the credit. In the tax year 2007, some 25 million working families and individuals received the EITC (about 80 percent of all eligible households, which is – compared to other social benefits – an extremely high take-up rate). According to estimates, the EITC, in combination with similar state or municipal programs,<sup>11</sup> helps about 6.6 million families escape poverty (Blank 2010). In 2008, the costs of the federal program amounted to almost \$47 billion (Center on Budget and Policy Priorities 2009).

While the EITC is known as the most important anti-poverty program in the United States and has been expanded massively during the 1990s, the value of the other tax subsidies for families with children are considered by international standards as relatively modest (cf. Meister and Ochel 2003; Gornick and Meyers 2005). In addition, as currently structured and utilized, a disproportionately large share of child-conditioned tax benefits goes to higher- and middle-income income families, limiting the potential distributional effects of these tax policies.

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<sup>10</sup> In 2009, the maximum tax credit for working parents with three or more children was \$5,657; for a single parent with one child it was \$3,043, and for a non-married worker with no children the maximum credit was worth \$457. The average annual tax credit for families with children was \$2,488 (Center on Budget and Policy Priorities 2009).

<sup>11</sup> In 2008, 24 states had their own EITCs. These state plans generally mimic the federal structure on a smaller scale, with individuals receiving a state credit equal to a fixed percentage – generally between 15 and 30 percent – of what they are eligible to receive from the federal credit. A few small local EITCs have been enacted in San Francisco, New York City and Montgomery County, Maryland (Center on Budget and Policy Priorities 2009).

## 4.2 Child Allowances and Other Forms of Income Support

While tax benefits in favour of families with children have been increased over the past three decades, the US system has never provided any family or child allowances, defined as universal cash benefits given to families with children regardless of parental income, such as the German “Kindergeld” or “Erziehungsgeld”. Furthermore, the emphasis of available income support programs for the poor has changed from low-income families on welfare to low-income families in which the parents work (cf. Zedlewski et al. 2006; Lower-Basch 2008; Weaver 2009). In the North American “make work pay” context, the presumption and fear is that cash benefits will generate welfare dependency and poverty traps by undermining parental employment incentives. Federal legislation passed in the 1990s fundamentally reformed the old cash support system for nonworking adults who were caring for children, and created a system of time-limited, work-conditioned public transfers under the auspices of the states (cf. Blank 2010). „Temporary Assistance to Needy Families” (TANF) replaced the old welfare program “Aid to Families with Dependent Children” (AFDC). In addition, much of the spending within the TANF program was shifted from cash benefits to services such as child care, transportation and other forms of work support.<sup>12</sup> Today, besides the EITC, four programs – TANF, food stamps, Medicaid and the State Children’s Health Insurance Program, and child care subsidies – form the core of the support system for low-income families. Since all of these programs have evolved from different roots and were not planned as an integrated system, families face a vast array of eligibility rules and standards with regard to work status, children’s ages and income levels.

### From AFDC to TANF

Until the enactment of the Personal Responsibility and Work Reconciliation Act (PRWORA) in 1996, families with dependent children and very low or no income and assets were entitled to public assistance, paid as monthly cash transfers.<sup>13</sup> There were two main state-federal welfare cash programs for families: AFDC, designed for lone-mother families, and AFDC-UP for “unemployed parents”. Benefits levels, set by states, have varied widely by state and over time, but have tended to be low by international standards. In no state and year have AFDC benefits been sufficient to raise family incomes above the poverty line (Waldfogel et al. 2001: 39). Families receiving AFDC, however, were automatically eligible for food stamps, Medicaid and

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<sup>12</sup> In 2006, only 35 percent of all TANF expenditures were spent on cash assistance (US House of Representatives 2008c: 7-17).

<sup>13</sup> Most eligibility requirements for AFDC and its successor program TANF such as the income and asset levels are determined by the states.

also for child care subsidies, if the female head of the household was working, involved in work-related activities or seeking employment.

In 1996, the welfare reform bill PRWORA replaced ADFC with TANF and ended the guarantee of federal aid for poor mothers and their children (cf. US House of Representatives 2008c 7-1ff.). Setting a five-year lifetime on the receipt of public assistance, TANF demands that the head of the household – typically, a female caretaker – finds employment within two years of receiving benefits. In addition, Congress gave states the flexibility to set shorter time limits, impose stricter work requirements and sanctions, and change any other program rule as long as these follow the general goal of PRWORA to promote employment, self-sufficiency and marriage. By 2002, states were required to show that at least 50 percent of their TANF recipients were working or participating in work-related activities. PRWORA marked the final departure from maternalistic traditions of the American welfare state, from policies that treated widows, divorced and unmarried women with children differently from other groups by providing them special protection from market risks (cf. Orloff 2006). Since the general shift from welfare to employment, poor single mothers do not have any longer the option to withdraw from paid work or to bridge longer periods of personal crisis – following, for example, a separation or divorce – with social assistance benefits. Subject to state TANF rules, single mother on welfare can still claim some „maternity protection“. In most states, mothers with children under 12 months can be dismissed from work requirements, in 12 states the age limit of children is 3 months, in six states no exceptions for mothers are officially provided, not even for expectant mothers or mothers of new-born babies (cf. Rowe and Murphy 2009). Single mothers receiving TANF are also required to cooperate with child support enforcement efforts such as establishing paternity and locating absent fathers who owe payments.

Due to a combination of increased work incentives and opportunities, stricter program rules and diversion policies, the number of welfare recipients has dropped dramatically from 12.2 million in 1995 to less than 4 million in 2010 (US Department of Health and Human Services 2010). Particularly, less educated single women with children increased their participation in paid employment, by a staggering 15.4 percentage point between 1996 and 2000 (Lerman 2005). Today, about 20 percent of all TANF participants combine income from employment with the receipt of welfare benefits. In 2007, monthly cash payments to families averaged \$372, the average monthly food stamp assistance for TANF families amounted to \$275 (US Department of Health and Human Services 2008: x).

## Food Stamps

Unlike TANF and most means-tested benefit programs in the United States, which are restricted to particular categories of individuals, the federal Food Stamp Pro-

gram (Supplemental Nutrition Assistance Program/SNAP) is still an entitlement program and broadly available to almost all individuals and families with low incomes. Generally, all households with incomes below 130 percent of the federal poverty level (\$18,310 for a family of three in 2009) are eligible (see for a more detailed description Grell 2010a). More than 75 percent of all food stamps recipients, however, are in families with children (Rosenbaum 2010: 1). In 2009, the maximum monthly benefit for a single-parent with two children was \$526 (Ibid.: 2).

Pregnant women and mothers with children under the age of five can also apply for assistance from the Special Supplemental Nutrition Program for Women, Infants and Children, known as WIC (cf. US Department of Agriculture 2010). WIC is a federally funded program, introduced in 1972, providing vouchers or checks for supplemental nutritious foods such as juice, milk, cereals, or fruits, to pregnant women, new mothers, and their young children. The eligibility requirement is a family income below 185 percent of the federal poverty level (FPL). If a person participates in other benefit programs, or has family members who participate in SNAP, Medicaid, or TANF, they automatically meet the eligibility requirements, but WIC is no “entitlement”. Participation and benefits are limited by the amount of funding. In 2008, a monthly average of 8.3 million women, infants, and children received WIC benefits. The average value of a WIC food package was \$39 a month (US House of Representatives 2008: 15-5).

### **Medicaid and the State Children’s Health Insurance Program**

Medicaid, created in 1965, and the State Children’s Health Insurance Program (SCHIP), enacted in 1997, are key state-federal programs for providing health insurance and health care to low-income households in the United States. Medicaid is the only means-tested entitlement program that varies income eligibility limits by age and family status. In most states, children under the age of six are covered if they live in families with incomes up to 133 percent of the FPL, and children age 6 to 18 are covered in families with incomes up to 100 percent of the FPL. The median eligibility threshold for working parents is up to 67 percent of the FPL (Kaiser Family Foundation 2009). SCHIP was designed by Congress with the intent to cover uninsured minor children in families with incomes that are modest but too high to qualify for Medicaid. The median income eligibility limit in SCHIP is 235 percent of the FPL (Ibid.). While children’s health coverage has grown stronger over time, millions of their parents remain uninsured, since, in most states, eligibility limits for parents remain extremely low. Families who receive TANF are also no longer automatically eligible for Medicaid. In 2008, Medicaid provided health coverage and services to approximately 49 million individuals. The number of children served by SCHIP was 7.4 million (US Census Bureau 2008).



## Child Care Subsidies

Federal child care assistance in the United States has two principal components: tax provisions and block grant funding to states. The block grant provisions differ in eligible population, type of care paid for, amount of assistance, delivery mechanism, and virtually every other policy dimension. Child care subsidies for low-income families were first introduced in 1988 with the Family Support Act (FSA), when they became an entitlement for those welfare recipients who were working or attending job training programs, and for those families who had left the AFDC program for employment (for up to one year). With the passage of the Child Care Development Block Grant (CCDBG) in 1990, child care subsidies became also available to low-income families not on welfare (cf. Zedlewski et al. 2006). In 1996, PRWORA eliminated the entitlements to child care subsidies for welfare families and consolidated many of the major federal child care programs into an expanded CCDBG (see Table 3).

Today, families must meet the following criteria for the receipt of child care assistance: Children must be under the age of 13, parents must be both working or in a TANF-approved job preparation program and their income must be at or below 85 percent of the state's median income for families of their particular size. Only two states, Mississippi and Texas, have set their financial criteria as generously as the 85 percent limit (Schulman and Blank 2008). Often, TANF recipients and so-called "welfare leavers" are given first priority. The vast majority of assisted families (87%) receive vouchers or certificates that parents can use at the care provider of their choice. Others are able to take advantage of child care slots that government agencies have contracted in predetermined licensed care settings (Matthews 2009). In almost all states and counties, parents who are not on welfare have to make co-payments, ranging from 1 to 17 percent of income (Schulman and Blank 2008). Large variations in benefit structures, generosity and administration have led to uneven results: In Rhode Island, approximately 40 percent of all eligible households actually receive child care subsidies. In most other states, the proportion is much lower, usually, well below 20 percent (Herbst 2008: 1039). As of early 2009, 18 states had waiting lists and another state had stopped accepting applications. Nearly 400,000 children were on the waiting lists in the 16 states that track those numbers state-wide (Ibid.). Therefore, access to subsidies remains limited, although government expenditures for child care have almost tripled since the 1990s. Even families meeting all the requirements in their respective states have no guarantee of assistance. Overall, it is estimated that only 15 to 25 percent of all income-eligible families receive child care subsidies (cf. Herbst 2008; Forry 2009). Whereas most state governments responded to the 1996 "welfare reform" with large investments in their child care systems, using federal and their own funds, to facilitate the transition of single mothers from welfare to work, expenditures for child care assistance and subsidies

have declined in many places since the beginning of the last recession in 2001 (Matthews and Ewen 2008; Blank 2010).

The question whether low-income families with children in the United States were better off in the 1980s or in the 2000s with regard to government support is difficult to answer. The broad shift from welfare benefits as an entitlement to a work-conditioned safety net could be characterized as “extension amidst retrenchment” (cf. Shaver 1998). While federal and state spending on the “working poor” and their children has increased since the 1990s, mainly due to the expansion of the „Earned Income Tax Credit“ and Medicaid/SCHIP enrolment, parents with unstable working patterns and severe barriers to full-employment are in a much more difficult situation today than 30 years ago. Increasingly, studies show that the number of single mothers who are neither working nor on welfare has grown significantly over the past ten years (cf. Blank 2007). What is more, the safety net for low-income working families is fragmentary and uneven as indicated by participation rates in the four key work support programs – EITC, Medicaid/SCHIP, food stamps and child care subsidies. According to a comprehensive study of the Urban Institute only 5 percent of low-income families and even only 7 percent of very poor families (those within the income eligibility range for all programs) receive all four work supports and benefits (Zedlewski et al. 2006: 37).

### 4.3 Child Care Services

Given the comparatively high labor market participation of mothers with little children, longer working hours and employment-focused social policies, parents in the United States are even more than their German counterparts in need of high quality and reliable child care provisions, especially for pre-school children. The US child care system for younger children is marked by large variations in state regulations and different standards in licensing requirements (cf. Gornick and Meyers 2005; Kamerman and Gatenio-Gabel 2007). Unlike in Germany, there are no federal or state statutory entitlements to a kindergarten place.

Non-parental child care provisions in the United States include a wide range of part-day and full-day programs having an education and/or social welfare focus and covering different needs (cf. Whitebook and Sakai 2004; US House of Representatives 2008b). More than 60 percent of all pre-school children in the United States spend an average of 37 hours per week in non-parental care (National Association of Child Care Resource & Referral Agencies 2009: 1). Provisions range from employer-provided child care<sup>14</sup> to centre-based care provided by non-profit organizations and

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<sup>14</sup> According to surveys 9 percent of all employers and 21 percent of larger employers with more than 1,000 workers provide child care at or near the worksite (Galinsky et al. 2009: 20f.).

individual arrangements (neighbors, friends and nannies). The most usual forms of provisions outside the home for children up to the age of three years are private, giving way gradually to publicly-funded pre-kindergarten and kindergarten programs, usually provided by the school districts, as children mature. One trend since the 1980s is, that a higher percentage of pre-school children is cared for in organized facilities. At the same time, relatives, particularly grandparents, remain crucial as child care providers, especially in Afroamerican, Asian and Hispanic families.

Child care costs vary strongly and are linked to a number of factors such as the age of children, the quality of child care facilities, or the place of residence. Families spend between \$4,500 and \$14,600 per year on full-day care for small children (up to the age of three); for four-year-olds the costs vary between \$3,380 and \$10,700. Accredited child care facilities and day-centres charge even more (National Association of Child Care Resource & Referral Agencies 2009: 4). Families have to pay most for child care in New York State (on average \$8,530 for the full-time care for a four-year-old). According to data provided by the US Census Bureau American families invest on average between 7 and 10 percent of their annual income in child-care provisions; low-income families pay on average 18 percent, and single parents almost 30 percent of family income on child care (Johnson 2005).

Primarily in order to help „families with children at risk“, the federal government and the states have introduced dozens of special child assistance programs over the past decades. In recent times, states increasingly take the lead in developing early intervention and educational services for young children, some of them focused on children from economically disadvantaged families (cf. Kamerman and Gatenio-Gabel 2007). The most important and largest public programs are „Head Start“<sup>15</sup> for three- and four-years-old and the state-run pre-kindergarten and kindergarten programs for older pre-school children. Overall, approximately 56 percent of American children aged 3-6 years are enrolled in pre-primary school programs (OECD 2006: 427). Most school districts offer free half- or full-time-day kindergarten to all 5-years-old as part of formal primary schooling.<sup>16</sup>

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<sup>15</sup> Head Start is a national half-day care program, first introduced in 1965. It promotes school readiness by enhancing the social and cognitive development of children through the provision of educational, health, nutritional, social and other services. Eligibility for Head Start services is largely income-based (100% of the FPL), though each locally-operated program has its own eligibility criteria.

<sup>16</sup> In most states kindergarten is the first year of formal schooling. Currently, only 14 states require children to attend at least half-day kindergarten (Education Commission of the States 2010).

Table 3: The Most Important Public “Child Care Assistance Programs”

Program	Expenditures (Federal/State Funding)	Number of Children That Benefit from the Program
State-Run Pre-Kindergarten Programs	\$4,6 billion (2008)	1,5 million (3–4 years old) in 38 states
State-Run Kindergarten Programs	\$9,2 billion (2008)	3,6 million (5–6 years old)
Head Start und Early Head Start	\$6,9 billion (2008)	900.000 (3–4 years old) 60.000 (0–3 years old)
Child Care and Development Block Grant	\$5,0 billion (2008)	1,7 million (under the age of 13)
Temporary Assistance for Needy Families	\$ 3,3 billion (2008)	700.000 (under the age of 13)

Source: US Department of Health and Human Services 2009a and c; Matthews 2009

#### 4.4 Parental Leave Policies

By international standards, the United States are exceptional when it comes to parental leave benefits: There is no national policy to provide parents with paid leave after the birth of a child. In 1993, Congress passed the Family and Medical Leave Act (FMLA), a labour law requiring employers to allow workers to take up to 12 weeks leave each year to care for a newborn, newly-adopted, or foster child; a child, spouse, or parent with a serious health condition; or a serious health condition of the employee, including maternity-related disability (cf. Levine 2008).<sup>17</sup> But the range of this deliberately gender-neutral policy, which also aims at childless workers, is limited: First, it does not cover all workers. The FMLA only applies to companies with more than 50 employees, and here only to full-time employees (with more than 24 working hours per week) who have worked for the same employer for at least 12 months. And second, while the law provides for job protection and the continuation of health insurance, employers are not required to offer pay during the leave.

Starting in the 1980s, some states and cities pioneered family-friendly leave policies that go beyond federal provisions (National Conference of State Legislatures

<sup>17</sup> The United States lack federal regulations for paid sick leave. In 2006, only 58 percent of all employees had access to paid sick days (Hartmann 2007: 2).

2008; Ray 2008).<sup>18</sup> 13 states have enacted legislation with more generous protections for working mothers and fathers. More recently, three state governments introduced their own family leave programs. California's Paid Family Leave Program is the most advanced (cf. Milkman 2008). Since 2004, all employers and businesses in California, regardless of size, are mandated by law to offer at least six weeks of paid leave to all workers, regardless of their employment status. The prescribed minimum wage-replacement rate is set at 55 percent of the net income (with a maximum of \$959 per week). Two other state legislatures joined the Californian initiative in 2009, by introducing similar programs.

Table 4: State Paid Family Leave Programs

	California	New Jersey	Washington
Length of Leave	6 weeks	6 weeks	5 weeks
Target Group	All employees (family leave)	All employees (family leave)	Only parents (parental leave)
Wage Replacement Rate	55% (2009: max. \$959 per week)	66% (2009: max. \$546 per week)	\$250 per week (lump sum)
Job Protection	No	No	No
Restrictions for Part-Time Workers or Employees of Small Companies	No	No	No

Source: Fass 2009: 8

In the United States, working women are also protected by the federal Pregnancy Discrimination Act. Passed in 1978 as an amendment to the sex discrimination section of the Civil Rights Act, it provides that women who are pregnant or affected by pregnancy-related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations. Before the enactment of this legislation, women could be easily fired after informing an employer of their pregnancy, or after taking maternity leave (cf. Gornick and Meyers 2005). Today,

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<sup>18</sup> In 1993, when federal parental leave legislation was passed, 23 states already had introduced unpaid maternity leave programs, and 11 states had unpaid parental leave programs. Most of these programs date back to the late 1980s and allowed working mothers and fathers to take between 4 and 18 weeks off from work to care for new-born or sick children.

women are not only protected against arbitrary lay-offs, but employers are legally bound to provide the insurance, leave pay, and additional support that is offered to any other employee with medical leave or disability. Five states (California, Hawaii, New York, New Jersey and Rhode Island) have gone even further and mandated „Temporary Disability Insurance (TDI) Programs” (Fass 2009). These additional insurance programs provide up to 12 weeks of benefits for individuals who must take time off to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new child. Similar to unemployment insurance benefits, they are financed by employee’s contributions and are administered by the state. Benefits are between 50 and 66 percent of the weekly pay (up to a cap).

While the FMLA and a growing number of state programs provide important workplace protection for millions of American workers and recognize the growing needs of balancing family and work obligations, a substantial lack in coverage and problems of affordability remain important policy issues. First of all, it is estimated that only half of all workers are both covered and eligible under federal provisions (Ibid.: 5). Second, without continued pay many low-income working mothers and fathers are facing strong financial barriers that might keep them from staying at home to take care of young children or needy relatives. Studies on the effects of the FMLA found that only a small share of all eligible workers – between 3,2 and 17,1 percent – took advantage of family leave provisions in the late 1990s (US Department of Labor 2007a: 35622). According to the literature, the most crucial factor driving the low participation rates in family and parental leave schemes is that too many employers do not offer paid time off. Despite various reforms, that have improved the availability of family-friendly benefits, in 2007, only 8 percent of all workers in the private sector had access to paid family leave; in the public sector the share was 16 percent (US Department of Labor 2007b: 28; Employee Benefit Research Institute 2008).

## 5 Major Statutory Changes since the 1980s

Compared to Germany and other rich OECD countries, the institutional, regulatory and legal framework of family policies in the United States is rather fragmented with no overall federal coordination and oversight. Variation across states in programs in support of vulnerable families with children, especially single-mother households, is even more pronounced than in other policy fields. Furthermore, many employer-based family-friendly benefits or programs are “voluntary” in the sense that they are based on specific labour-management agreements and not the result of

legal requirements and regulations. The following account of statutory changes since the 1980s focuses on the major federal legislative initiatives and provisions related to the risk of family dissolution (alimony and child support payments) and to the more general “economic risk” of family formation (special income support and social services for families with children).<sup>19</sup>

## The 1980s

### *Provisions Related to Alimony and Child Support*

Prior to the 1960s, it was officially only possible for an “innocent spouse” to obtain a divorce on the basis of the fault of a “guilty partner”. By the middle of the 1980s, divorce laws in all states had been liberalized: By 1986, a dozen state legislatures had passed laws making “irretrievable breakdown” of the marriage the sole ground for divorce. By 1988, all states had introduced at least some provision for no-fault divorces, typically based on separation for a specified period, generally between six months and three years (cf. Bala 1987). About half of all states had also adopted legislative provisions for “rehabilitative spousal support”, allowing the courts to limit alimony payments to the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment (Ibid.). These legal changes, together with the US Supreme Court ruling in 1979, that gender based support legislation was a violation of the Equal Protection Clause, further weakened the traditional system of alimony payments that usually had ordered support in favour of an “innocent and dependent wife”.

While the liberalization of state divorce laws between the late 1960s and 1980s lowered the prospects of female spouses to receive alimony payments after divorce, significant legal and programmatic efforts were made to improve the child support collection process. In 1975, the Social Security Act had been amended to allow for the creation of the „Child Support Enforcement Program“, establishing a parent locator service, state operational guidelines, and a plan for periodic review of cases. During the 1980s, Congress passed three bills extending and strengthening the information-gathering and enforcement powers of state child support agencies: the Omnibus Reconciliation Act of 1981, the Child Support Enforcement Amendments of 1984 (Public Law 98-378), and the Family Support Act of 1988. All states were required to develop mandatory income withholding procedures as well as expedited processes for establishing and enforcing support orders (such as income tax refund interceptions and property liens.) In addition, states were allowed to report delinquent parents to consumer credit agencies. In 1988, the Family Support Act required the courts to use state guidelines when establishing support amounts. The same act also contained several provisions to strengthen enforcement on welfare cases. It set

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<sup>19</sup> If not otherwise stated, the following account is based on Kamerman and Kahn 1997; Bogenschneider 2000 and Employee Benefit Research Institute 2009.

standards for state establishment of paternity, and required all states to develop and put in place automated tracking and monitoring systems, or face federal penalties (cf. Institute for Research on Poverty 2000).

### *Other Family Policies*

The Family Support Act (FSA) was also the most important piece of federal legislation passed in the 1980s affecting other aspects of income support for low-income female-headed households. Under the 1988 legislation, all states had to establish and operate a „Job Opportunity and Basic Skills Program” (JOBS) for mothers receiving AFDC. For the first time, a federal law required women with children on welfare to participate in community work or job-related training programs in exchange for their benefits. At the same time, state welfare agencies had to provide supportive services to these women. The FSA also entitled mothers with little children on welfare seeking employment and “self-sufficiency” automatically to child care subsidies, Medicaid benefits and food stamps to ease the transition from welfare to work (cf. Moffitt 2003: 296ff.).

For working parents there were hardly any legal improvements enacted in the 1980s. While the value of the “Child and Dependent Tax Credit”, first introduced in 1954, was slightly increased by the Economic Recovery Tax Act of 1981, the number of beneficiaries declined in the late 1980s by about one third, from 9 to 6 million between 1988 and 1989. The reason behind this remarkable decrease of eligible parents was another provision of the FSA that lowered the maximum age of qualifying children to 13 years (US House of Representatives 2008a: 13-42ff.). The “Earned Income Tax Credit” even lost in value during the 1980s, since the benefits were not adjusted to inflation between 1978 and 1987 (this was changed by the Tax Reform Act of 1986).

All legislative initiatives to improve child care services and to enact a federal parental leave policy failed because of strong opposition from the Republican majority in Congress that supported the austerity measures of the Reagan administration. Only at the state level, demands for more support of working parents resulted in the first provisions for unpaid parental leave.

## **The 1990s**

### *Provisions Related to Alimony and Child Support*

The 1990s saw no drastic changes in family and divorce legislation. Under growing conservative influence, Congress, however, not only passed the welfare reform bill in 1996 that again strengthened child support enforcement efforts, but also the Defense of Marriage Act. This law was primarily a response of the federal government to decisions of some states and municipalities to guarantee same-sex couples the same rights as heterosexual couples. The federal act limited the entitlement to Social Se-



curity benefits to surviving spouses in heterosexual partnerships, and declared that no state, no court or any local government could be forced to treat homosexual couples the same as other couples, even if they are allowed to marry in some cities and states.

In 1998, the Deadbeat Parents Punishment Act for the first time introduced federal criminal penalties for wilful failure to pay past-due child support by creating two new categories of federal felonies with penalties of up to two years in prison.

### *Other Family Policies*

The 1990s saw a number of social reform activities, most of them devoted to the principle “to make work pay”. First, Congress expanded the federal grants to states for the pre-school programs Head and Early Head Start and to subsidize child care costs of gainfully employed parents (through the creation of the “Child Care and Development Block Grant” in 1990). Second, Congress enacted substantial extensions and increases of the “Earned Income Tax Credit” which benefitted mainly larger families through various legislative amendments between 1990 and 1993. Third, the passage of the Family and Medical Leave Act in 1993 introduced the first federal parental leave policy. Fourth, the “welfare reform” of 1996 increased again the federal grants for child care assistance to low-income families. And finally, the Taxpayer Relief Act of 1997 created the „Child Tax Credit“ for families with minor children, regardless of the parental employment status. At the same time, welfare reform provisions severely restricted the access to monthly cash benefits for non-working and also for working parents by setting a five-year lifetime on the receipt of public assistance.

### 2000 – 2007

During the years of the Bush administration, there were no noteworthy changes in family and divorce laws, and the federal government did little to strengthen income support measures for low-income families. The tax cuts enacted in 2001, 2003 and 2005 brought some tax relief to high- and median-income households with children (cf. Burman et al. 2005). The most important legislative initiative in favour of needy families was a modification of the “Child Tax Credit” in 2002 that made the credit partially refundable. Overall, the trend of the 1990s to improve the “work-based safety net” for employed parents was not continued. The years 2000 until 2007 were rather a period of partial withdrawal from former government’s commitments, as indicated by the decreased funding for child care assistance programs for low-income families.

## 6 Summary and Hypotheses

Alimony and child support provisions in the United States provide only limited financial protection to low-income custodial parents, the majority of them being women, after a separation or marital dissolution. Under reformed state divorce legislation, guided by the principle of gender equality, post-divorce spousal payment agreements have become less frequent since the 1970s, so that most women need to increase their labour force attachment and working hours after divorce to avoid a drastic fall in financial living standards. The economic vulnerability of women and children is reinforced by insufficient child support payments. While both federal and state initiatives to enforce child support obligations have been successfully expanded since the 1980s, low-income custodial parents whose former partners fail to pay child support, are not, as in Germany, entitled to „advanced maintenance payments“ (Unterhaltsvorschuss) from the government.

Compared to Germany, the US welfare state also provides less direct income support to families with children, but, overall, family policies in the United States – most of them based on employment – have been expanded to some degree over the past three decades. Tax benefits are the most important instrument used to compensate families for childrearing costs. The largest expansions of family-friendly tax credits took place in the 1990s and 2000s. Since then, they have become a major source of income transfers to low-income working families mainly due to increased federal cash payments for the refundable portions of the EITC and the “Child Tax Credit”.

Employer-based family-friendly benefits such as family leave have also become somewhat more generous over time. Due to the absence of any national policy covering all workers and granting wage replacement during leaves, many families with low earnings and unsteady job tenures, however, remain excluded from these improvements. Compared to Germany, only a rather small proportion of working mothers and fathers in the United States has access to paid family leave. It seems that paid leave, allowing working parents to look after a new-born or sick child without any financial penalties, is still a privilege of a rather small group of highly qualified employees (academics and professionals) and/or those workers benefiting from collective labor agreements.

Without any universal family or child allowances as in other countries, low- and medium-income families are also left with the problem of relatively high out-of-pocket payments for professional non-parental child care, especially for pre-school children. Although public policies have tried to address this problem by increasing government funding for child care assistance programs, services and subsidies are available for only a fraction of all income-eligible households.

## Hypotheses for the micro analyses

### Group-specific

1. Given the decreasing importance of alimony payments, women's weaker position in the labour market and the gender gap in earnings should lead to substantial post-divorce income disparities between women and men.
2. In the United States, the economic consequences of a family dissolution will vary by state and by employment and custody status. They will be most severe in the group of custodial parents who do not receive any child support.
3. Less educated lone-mothers and those with other barriers to full employment should have a particular hard time to offset the economic fallout from divorce by intensifying their labor market participation.

### Over time

1. There will be an overall increase in the economic well-being of female-headed households with children in the United States after the 1990s, but:
  - a. It will be concentrated in higher-income quintiles.
  - b. It will be more sensitive than in the past to changes in unemployment rates.
2. Households headed by women without substantial labour force attachment will do significantly worse in the United States after the passage of the "welfare reform" in 1996.

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## Appendix

Table 5: Most Important Legislation Affecting Family Policies and Benefits (1980–2007)

	<b>Alimony Provisions/ Child Support</b>	<b>Tax Policies</b>	<b>Child Care Provisions</b>	<b>Income Support (Cash Transfers)</b>
<b>1980s</b>	<p><b>Omnibus Reconciliation Act 1981</b></p> <p><b>Child Support Enforcement Amendments 1984</b></p> <p><b>Family Support Act 1988</b> (all three laws from 1981, 1984 and 1988 reinforced and standardized child support enforcement regulations at the state level)</p> <p><b>1988:</b> By this year, almost all states had introduced no-fault divorce laws</p>	<p><b>Economic Recovery Act 1981</b> (increased the “Child and Dependent Care Tax Credit”)</p> <p><b>Tax Reform Act 1986</b> (adjusted the EITC to inflation)</p> <p><b>Family Support Act 1988</b> (curtailed the „Child and Dependent Tax Credit“ by lowering the maximum age of the qualifying child)</p>	<p><b>Family Support Act 1988</b> (offered AFDC-recipients child care assistance to ease the transition from welfare to work)</p>	<p><b>Family Support Act 1988</b> (introduced working requirements for mothers with young children to the AFDC-program)</p>

Table 5 continued

	Alimony Provisions/ Child Support	Tax Policies	Child Care Provisions	Income Support (Cash Transfers)
1990s	<p><b>Defense of Marriage Act 1996</b> (defined marriage as a legal union exclusively between one man and one woman)</p> <p><b>Personal Responsibility and Work Opportunity Reconciliation Act 1996</b> (introduced stricter child support enforcement regulations in welfare cases)</p> <p><b>Deadbeat Parents Punishment Act 1998</b> (obligor parents who have willingly failed to pay child support orders can be jailed up to six months)</p>	<p><b>Child Care and Development Block Grant Act 1990</b> (expanded the EITC and the “Child and Dependent Care Tax Credit”)</p> <p><b>Omnibus Budget Reconciliation Act 1993</b> (expanded the EITC)</p> <p><b>Taxpayer Relief Act 1997</b> (adoption of the “Child Tax Credit”)</p>	<p><b>Child Care and Development Block Grant Act 1990</b> (expanded federal funding to subsidize child care costs of low-income parents)</p> <p><b>Family and Medical Leave Act 1993</b> (required large employers to offer 12 weeks of unpaid family leave)</p> <p><b>Federal Budget Act 1994</b> (expanded federal funding for the Head Start program)</p> <p><b>Personal Responsibility and Work Opportunity Reconciliation Act 1996</b> (expanded federal funding for child care subsidies to welfare recipients and leavers; ended entitlement to child care assistance)</p>	<p><b>Personal Responsibility and Work Opportunity Reconciliation Act 1996</b> (introduced time limits and stricter working requirements; ended the entitlement to cash assistance)</p>

Table 5 continued

	<b>Alimony Provisions/ Child Support</b>	<b>Tax Policies</b>	<b>Child Care Provisions</b>	<b>Income Support (Cash Transfers)</b>
2000 - 2007		<p><b>Economic Growth and Tax Relief Reconciliation Act 2001</b> (expanded the "Child Tax Credit" and the EITC for married couples)</p> <p><b>Jobs and Growth Tax Relief Reconciliation Act 2003</b> (expanded the "Child Tax Credit" and increased benefits for married couples)</p> <p><b>Working Families Tax Relief Act 2004</b> (authorized additional tax breaks for married couples)</p>		<p><b>Deficit Reduction Act 2005</b> (reauthorized the TANF program and added stricter work requirements)</p>

Source: compilation by author

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