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## YALE LAW & POLICY REVIEW

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### Federal Retirement Savings Accounts Can Build Wealth, Fight Poverty, and Give American Seniors Dignity

*Michael Tubbs \**

Fifty-eight years ago, President Lyndon Johnson declared an “unconditional war on poverty in America” because too many Americans lived “on the outskirts of hope — some because of their poverty, and some because of their color, and all too many because of both.” He diagnosed poverty as our nation’s “failure to give our fellow citizens a fair chance to develop their own capacities.”<sup>1</sup>

Since then, presidents have shied away from talking about, let alone tackling, poverty with anything approaching conviction. President Reagan even joked that “the federal government declared war on poverty, and poverty won.”<sup>2</sup>

When we do talk about poverty today, we often talk about families like the one in which I grew up. I was born in Stockton, California, to an incarcerated father and a seventeen-year-old mother who worked alongside her sister and her mother just to put food on our table. *My family is the face of poverty in America.* In 2019, when the poverty rate for Black

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1. Lyndon B. Johnson, President of the United States, State of the Union Address (Jan. 8, 1964).
2. John Iceland, *Did the US Lose the War on Poverty*, WORLD ECON. F. (Jan 6, 2015), <https://www.weforum.org/agenda/2015/01/did-the-us-lose-the-war-on-poverty> [<https://perma.cc/8N3V-BAWQ>].

people reached a historic low, it was still more than twice the rate for white people.<sup>3</sup>

But we almost never talk about poverty among seniors, which is a forgotten and worsening crisis. Almost five million American seniors live in poverty; that means more seniors are living in poverty today than fifty years ago.<sup>4</sup> America comes close to leading the wealthiest countries in the world when it comes to senior poverty. We rank seventh, with about twice the senior poverty rate of Canada and Germany and five times the rate of France.<sup>5</sup>

America's senior poverty crisis is rooted in a retirement savings catastrophe. Millions of Americans have almost nothing saved for retirement,<sup>6</sup> and for the bottom half of the country's wealth distribution, the median retirement savings is worth exactly zero.<sup>7</sup> Those families don't have access to the financial products wealthier Americans take for granted: they don't have pensions, or employer-sponsored retirement accounts, or home equity, or passive income. The heads of those households are less likely to enjoy dignified rest in their old age.

It would be wrong to say that we haven't done anything to reduce poverty over the last half-century. But President Johnson's diagnosis in 1964 rings too familiar for comfort today: poverty today is still a failure within our power to change.

Just last year, President Biden successfully fought to expand the Child Tax Credit, and almost overnight millions of children were lifted out of

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3. John Creamer, *Inequalities Persist Despite Decline in Poverty for all Major Race and Hispanic Origin Groups*, U.S. CENSUS BUREAU (Sept. 15, 2020), <https://www.census.gov/library/stories/2020/09/poverty-rates-for-blacks-and-hispanics-reached-historic-lows-in-2019.html> [https://perma.cc/5J75-5H9T].
  4. ZHE LI & JOSEPH DALAKER, CONG. RSCH. SERV., R45791, POVERTY AMONG THE POPULATION AGED 65 AND OLDER 1 (2021).
  5. *Poverty Rate*, ORG. FOR ECON. COOP. & DEV. (last visited Mar. 22, 2022), <https://data.oecd.org/inequality/poverty-rate.htm> [https://perma.cc/EX5C-6RT6].
  6. Stephanie Asymkos, *1 in 4 Americans Have No Retirement Savings—And Those Who Do Aren't Saving Enough*, YAHOO MONEY (Mar. 31, 2021), <https://money.yahoo.com/retirement-savings-us-193226292.html> [https://perma.cc/N2JE-FDTA].
  7. *Survey of Consumer Finances*, BD. OF GOVERNORS OF THE FED. RSRV. SYS. (Nov. 4, 2021), <https://www.federalreserve.gov/econres/scfindex.htm> [https://perma.cc/3XKU-VJ4M].

poverty. But because of petty politics, it expired, and those same children are again living in poverty.<sup>8</sup>

That was a travesty, but it proved a vitally important point: we can end poverty if we want to. Social Security has done an enormous amount to reduce poverty among seniors, but it's simply not enough. We need new ideas that help build *wealth* as well as income.

Social Security is the most successful anti-poverty program in U.S. history. Before its establishment in 1935, half of all seniors lived in poverty.<sup>9</sup> Today, more than sixty-five million people collect Social Security,<sup>10</sup> and without it, the poverty rate among seniors would approach forty percent.<sup>11</sup> That means without Social Security, seniors would face Great Depression-era levels of poverty in 2022.

Social Security works because it's widely accessed, with ninety-seven percent of adults over sixty on track to collect it.<sup>12</sup> Second, it is fiscally responsible because employees and employers fund it, and by law, it cannot add to the deficit.<sup>13</sup> Lastly, it's progressive because it gives lower earners a higher portion of their income in benefits, and the payments are inflation-proof.<sup>14</sup>

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8. Jeff Stein, *Child Poverty Spiked by 41 Percent in January After Biden Benefit Program Expired, Study Finds*, WASH. POST (Feb. 17, 2022), <https://www.washingtonpost.com/us-policy/2022/02/17/child-tax-credit-poverty>.
  9. Benjamin Veghte, *Social Security's Past, Present and Future*, NAT'L ACAD. OF SOC. INS. (Aug. 13, 2015), <https://www.nasi.org/discussion/social-securitys-past-present-and-future> [<https://perma.cc/4KXS-HJ2C>].
  10. *Policy Basics: Top Ten Facts About Social Security*, CTR. ON BUDGET & POL'Y PRIORITIES (Mar. 4, 2020), <https://www.cbpp.org/research/social-security/top-ten-facts-about-social-security> [<https://perma.cc/D8SD-UL4L>].
  11. Kathleen Romig, *Social Security Lifts More Americans Above Poverty than Any Other Program*, CTR. ON BUDGET & POL'Y PRIORITIES (Feb. 20, 2020), <https://www.cbpp.org/research/social-security/social-security-lifts-more-americans-above-poverty-than-any-other-program> [<https://perma.cc/7WVL-RA5P>].
  12. *Population Profiles: Never Beneficiaries, Aged 60 or Older, 2020*, SOC. SEC. ADMIN. (Aug. 2021), <https://www.ssa.gov/policy/docs/population-profiles/never-beneficiaries.html> [<https://perma.cc/8N23-XJXV>].
  13. Mark Miller, *Social Security and the U.S. Deficit: Separating Fact from Fiction*, REUTERS (Nov. 1, 2018), <https://www.reuters.com/article/us-column-miller-socialsecurity/social-security-and-the-u-s-deficit-separating-fact-from-fiction-idUSKCN1N64GR> [<https://perma.cc/3HLK-Z9FE>].
  14. *Policy Basics: Top Ten Facts About Social Security*, *supra* note 10.

## FEDERAL RETIREMENT SAVINGS ACCOUNTS

But despite Social Security's success, the United States has one of the highest senior poverty rates in the wealthy world, and average benefits as a percentage of prior earnings are lower than in other advanced economies.<sup>15</sup>

There are a number of proposals in Congress to strengthen Social Security. One proposal, introduced by Congressman John Larson (D-CT), would raise taxes on the highest 0.4% of wage earners to increase benefits for new and current beneficiaries and to set a benefit floor to protect low-income workers from living in poverty while collecting Social Security.<sup>16</sup>

Proposals like that are important, but they are only part of the solution. Changes in national demographics and the labor market are undermining Social Security's operating model.

Social Security's success depends on people going to work every day, funding the benefits of today's retirees. But Americans are having fewer children and living longer, which will result in fewer workers for more beneficiaries, who collect benefits over a longer period of time.<sup>17</sup>

Beyond having enough workers in the long run to fund retiree benefits, the nature of the workforce is changing. Millennials are now the largest generation in the labor force,<sup>18</sup> and they are more likely to participate in the gig (or freelance) economy than other generations, second only to their younger cohort, Generation Z.<sup>19</sup> One analysis has found that a third of the workforce is involved in the gig economy already,<sup>20</sup> and another found that

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15. *Id.*

16. *Social Security 2100: A Sacred Trust*, OFFICE OF CONGRESSMAN JOHN B. LARSON, <https://larson.house.gov/sites/evo-subsites/larson.house.gov/files/Social%20Security%202100%20-%20Fact%20Sheet%20117th.pdf> [https://perma.cc/W7AL-UPXP].

17. Gayle L. Reznik, Dave Shoffner, & David A. Weaver, *Coping with the Demographic Challenge: Fewer Children and Living Longer*, 66 SOC. SEC. BULL. (2007), <https://www.ssa.gov/policy/docs/ssb/v66n4/v66n4p37.html> [https://perma.cc/Z79M-Y5BA].

18. Drew DeSilver, *10 Facts About American Workers*, PEW RSCH. CTR. (Aug. 29, 2019), <https://www.pewresearch.org/fact-tank/2019/08/29/facts-about-american-workers> [https://perma.cc/Z3HM-YVBE].

19. Monica Anderson, Colleen McClain, Michelle Faverio & Risa Gelles-Watnick, *The State of Gig Work in 2021*, PEW RSCH. CTR. (Dec. 8, 2021), <https://www.pewresearch.org/internet/2021/12/08/the-state-of-gig-work-in-2021> [https://perma.cc/992U-K8H5].

20. Patrick Gillespie, *Intuit: Gig Economy is 34% of US Workforce*, CNN BUS. (May 24, 2017), <https://money.cnn.com/2017/05/24/news/economy/gig-economy-intuit/index.html> [https://perma.cc/U7FU-XXRZ].

freelancers will make up the majority of the workforce by 2027.<sup>21</sup> 80% of U.S. companies are planning to significantly increase their use of freelance labor, and it is clear that the workforce soon will be virtually unrecognizable compared to the workforce of the twentieth century.<sup>22</sup>

What does the rise of the gig economy have to do with retirement security? Freelancers are less likely to have stable incomes<sup>23</sup> and more likely to improperly file taxes than full-time employees. Both factors could reduce their eventual income from Social Security.<sup>24</sup> Freelancers are also less likely to be enrolled in private retirement plans, with one survey showing less than 25% of gig workers were enrolled in such a plan.<sup>25</sup>

This dynamic amounts to an even deeper retirement crisis than the one we face today.

Though our retirement savings crisis is distressing, it is not complicated. As economist Teresa Ghilarducci has described, too few people have too little money to save; what money they do have isn't invested as well as it could be.<sup>26</sup> They don't have the resources to last them a lifetime. We can fix that by ensuring people begin saving for retirement when they

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21. *Number of Freelancers in the U.S. 2017-2028*, STATISTA (Jan. 21, 2022), <https://www.statista.com/statistics/921593/gig-economy-number-of-freelancers-us> [<https://perma.cc/26N9-5TGR>].
  22. Kristy Illuzzi, Portia Tang, *Gig Economy Trends and Impacts on Small and Medium Practices*, International Federation of Accountants (October 4, 2021), <https://www.ifac.org/knowledge-gateway/contributing-global-economy/discussion/gig-economy-trends-and-impact-small-and-medium-practices> [<https://perma.cc/E82B-3WWJ>].
  23. Elka Torpey & Andrew Hogan, *Career Outlook: Working in a Gig Economy*, U.S. BUREAU OF LAB. STAT. (May 2016), <https://www.bls.gov/careeroutlook/2016/article/what-is-the-gig-economy.htm> [<https://perma.cc/DQ33-TMYT>].
  24. Annie Nova, *Gig Economy Workers May Get Short Changed When It Comes to Social Security Checks*, CNBC (June 20, 2019), <https://www.cnbc.com/2019/06/20/gig-economy-workers-face-smaller-social-security-checks-down-the-road.html> [<https://perma.cc/C499-3YEL>].
  25. Dawn Allcot, *Social Security Taxes Far from Enough to Secure Gig Workers in Retirement*, YAHOO (Jan. 20, 2022), <https://www.yahoo.com/video/social-security-taxes-far-enough-184148882.html> [<https://perma.cc/M7G6-A9ZK>].
  26. Neal Templin, *America's Retirement System is Broken. How to Fix It*, BARRON'S (Nov. 26, 2021), <https://www.barrons.com/articles/how-to-fix-americas-retirement-problem-51637831703> [<https://perma.cc/K38C-T99N>].

## FEDERAL RETIREMENT SAVINGS ACCOUNTS

start working, save consistently, and invest smartly. That way, everyone will have fair, dignity-affirming retirement savings.<sup>27</sup>

That's the logic behind the plan Ghilarducci, a former economic advisor to Sen. Bernie Sanders (I-VT), developed with Kevin Hassett, Chairman of the Council of Economic Advisers for former President Donald Trump. Their plan would establish a federal program to provide professionally-managed retirement accounts to workers who lack access to employer-sponsored plans.

The Ghilarducci-Hassett plan calls for broadly replicating many of the core features of the federal employees' Thrift Savings Plan (TSP).<sup>28</sup> Eligible workers would be automatically enrolled into low-risk, simple investment vehicles; enrollees can choose lifecycle funds, which vary the amount of investment risk over a lifetime; and the plan's size allows low operating expenses and significant bargaining power to get into the best funds at the lowest prices.<sup>29</sup> Lower-income participants would be eligible for a federal match, thereby providing a meaningful incentive to save for workers who currently do not benefit from the retirement savings deduction enshrined in the tax code. Enrollees would have the ability to withdraw contributions during an emergency, similar to retirement plans currently available, which is important when nearly half of Americans say they do not have enough emergency money to cover a \$400 unexpected expense.<sup>30</sup>

Though the workforce for federal TSPs "skews higher-income than the population in general," Ghilarducci and Hassett contend that lower-income beneficiaries would benefit from a similar plan.<sup>31</sup>

How much would a poor family stand to earn by participating in the plan? A median household in the bottom quartile of wealth distribution earns \$29,530 in income and possesses \$1,380 in assets.<sup>32</sup> Assuming no additional savings and three percent nominal growth, that household would

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27. *Id.*

28. Teresa Ghilarducci & Kevin A. Hassett, *What if Low-Income American Workers had Access to Wealth-Building Vehicles Like the Federal Employees' Thrift Savings Plan?*, ECON. INNOVATION GRP. 12 (Mar. 25, 2021), <https://eig.org/wp-content/uploads/2021/03/Hassett-Ghilarducci-White-Paper-IWBI.pdf> [<https://perma.cc/T4NM-LHFT>].

29. *Id.* at 6.

30. *Id.* at 12.

31. *Id.* at 9.

32. *Id.* at 10.

only have \$4,500 in assets after forty years.<sup>33</sup> But by matching just three percent of earnings under a TSP model, the family's assets would grow to \$84,660 after forty years.<sup>34</sup>

Allowing lower-income Americans to enroll in a version of federal TSPs is the sort of non-ideological, bold, anti-poverty agenda that so often gets ignored in Washington, D.C.

Sometimes, it gets ignored because the idea feels too new. But we know that this concept works. Australia's retirement system requires employers to put money into an investment vehicle for nearly every employee.<sup>35</sup> Today, Australia "has achieved nearly full pension coverage of workers through mandatory employer contributions."<sup>36</sup>

Other times, cost is a central concern in Washington. Mr. Hassett, a lifelong Republican economist, is on board with the Ghilarducci-Hassett plan partly because many prospective enrollees do not pay significant taxes right now, and in the long run the federal government will recoup monies when funds are withdrawn from the account and taxes are owed.<sup>37</sup>

The bottom twenty-five percent of earners in our country have a median net worth of \$310, and the median retirement savings for the bottom half of the country is zero.<sup>38</sup> For a working person in that circumstance, \$230,000 for retirement is an unimaginable boon.

Growing up with the people I called my "three Moms" — my mother, aunt, and grandmother — none of us ever had the space to think about retirement. We were too busy worrying about how to make rent or put food on the table. What I remember most about those days is the sense of purpose my mother instilled in me — to go to school, to work hard, and to come home after. But I also remember the endless sense of struggle. To my family and so many others who went to work but were still poor, a TSP-like plan would have been so much more than a distant retirement plan. It would have changed our outlook and made us feel like there was hope at the end of the tunnel, even if the moment felt dark.

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33. *Id.* at 11.

34. *Id.*

35. Julie Agnew, *Australia's Retirement System: Strengths, Weaknesses, and Reforms*, CTR. FOR RET. RSCH. AT B.C. 5 (Apr. 2013), [https://crr.bc.edu/wp-content/uploads/2013/04/IB\\_13-5-508.pdf](https://crr.bc.edu/wp-content/uploads/2013/04/IB_13-5-508.pdf) [<https://perma.cc/L4C7-TMHZ>].

36. *Id.*

37. Ghilarducci & Hassett, *supra* note 28, at 13.

38. *Survey of Consumer Finances*, *supra* note 7.

#### **FEDERAL RETIREMENT SAVINGS ACCOUNTS**

Today, we don't need flowery language from our elected leaders, or a new declaration of war against poverty. President Biden took a bold step by enacting a Child Tax Credit that drastically slashed child poverty. Now we need him and others to recognize that leaving millions of seniors in poverty is a policy choice — and so is lifting them up.