

Equalizing Parental Leave for Sole-Parent Families in the United States

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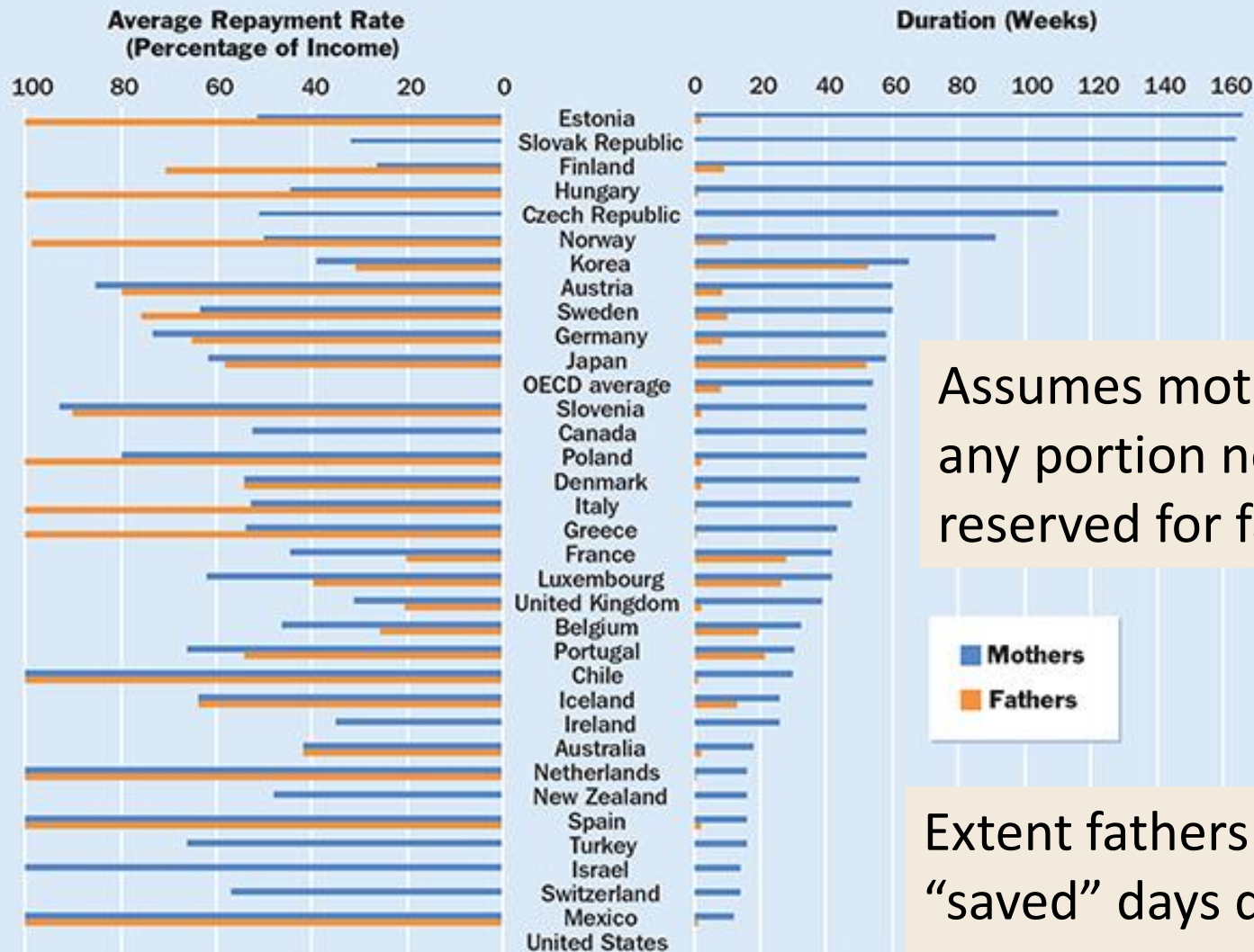
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Multiple “equality” principles

- Sex-based equality – sharing of caretaking responsibilities between mothers and fathers
 - Assuming and facilitating mothers will take longer leaves – reflecting both biological and social differences
 - Now sometimes with modifications to encourage fathers to take more leave
 - “formal” equality structure
- Family-based equality—equal treatment of single-parent versus two-parent families



Paid Parental Leave Entitlements in OECD Countries in 2015



Assumes mothers will use any portion not specifically reserved for fathers

Extent fathers actually use “saved” days depends on norms, protections, pay

SOURCE: See AEI-Brookings, *Paid Family and Medical Leave: An Issue Whose Time Has Come*



U.S. Legally-Mandated Parental Leave Schemes

Unpaid Parental (and Family) Leave – FMLA (1993)

- Each parent has a right to 12 weeks; individual & nontransferable
- BUT only if work for a relatively large employer; meet hour and longevity requirements that exclude 40% of private EEs

Paid Parental (and Family) Leave – No federal law

- 8 U.S. states + DC – more than 25% of U.S. population
- 60-100% of regular pay, up to a cap around median wage
- Each parent – 4-12 weeks (recent states – 12 weeks)
- Birth mother also usually 6-8 more weeks for medical effects of pregnancy and child birth



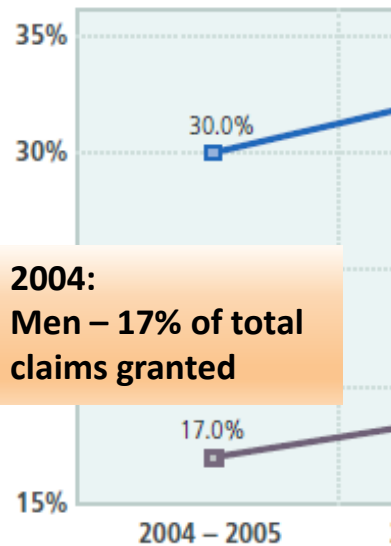
California – bonding claims

PAID FAMILY LEAVE FOR NEW CHILDREN

The number of men in California taking paid family leave to bond with new children has doubled.

■ Men ■ Women

Figure 3. Percentage of PFL



Source: California Employment Development Department

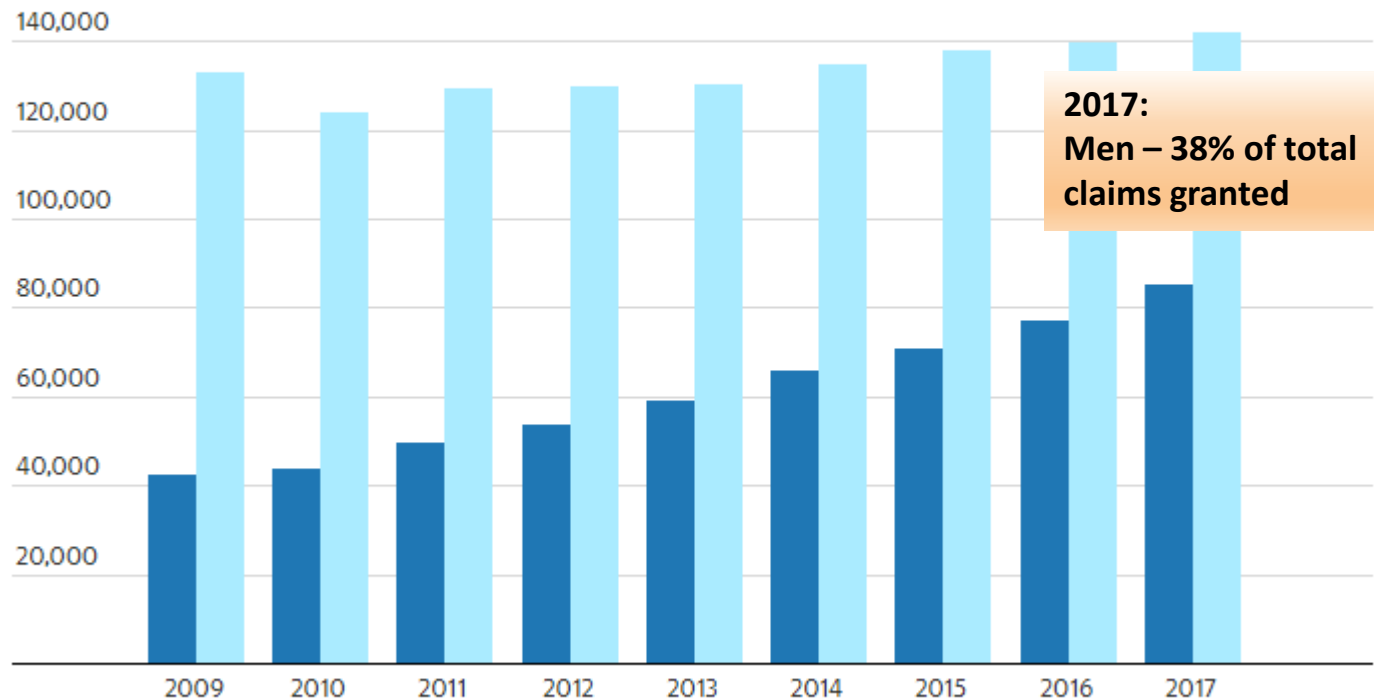
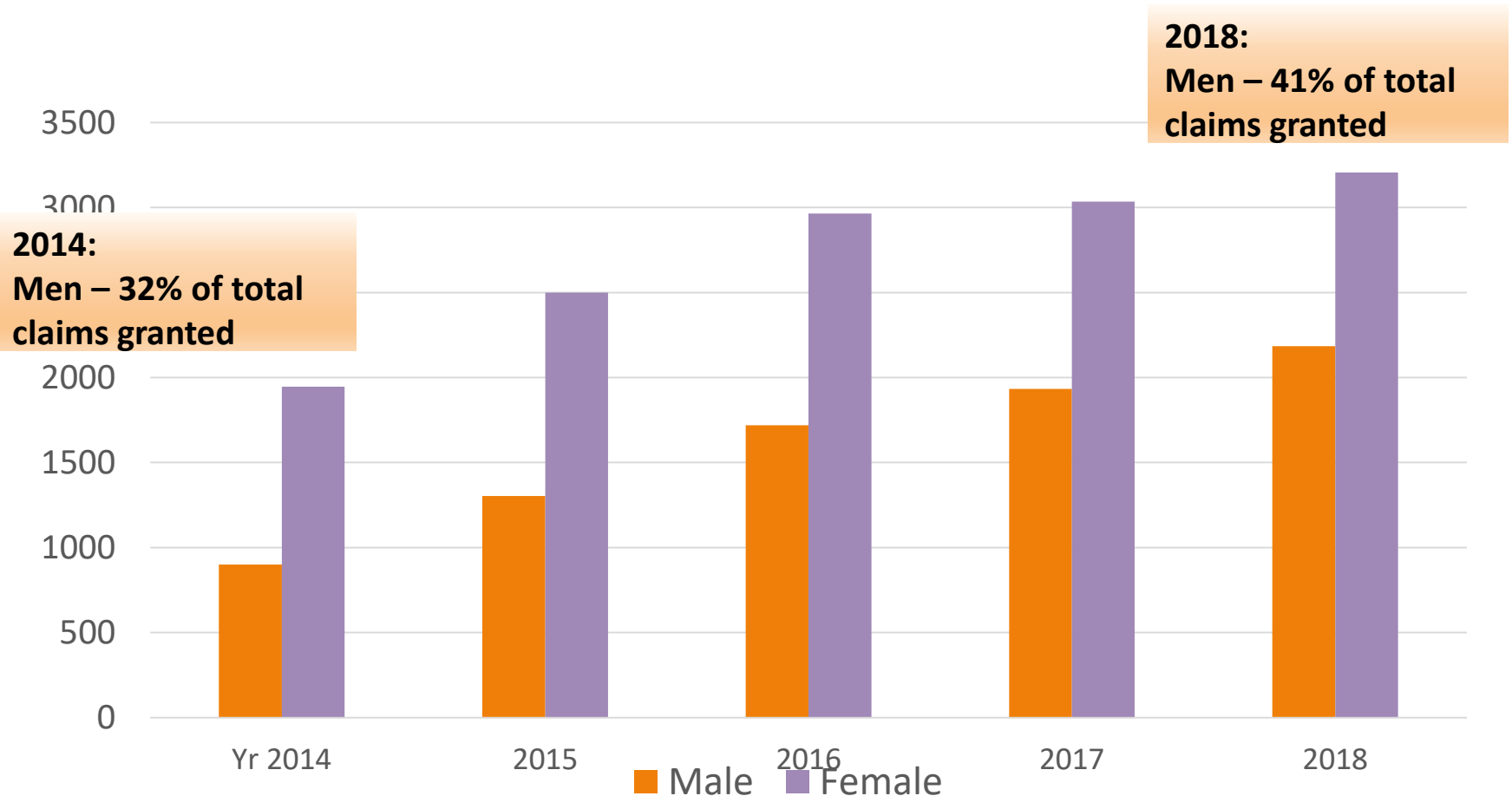


Chart: Phillip Reese • Source: California Employment Development Department • [Get the data](#)

Sources: Applebaum, E. & Milkman, R. (2012); CA <http://www.sacbee.com/site-services/databases/article197759334.html>

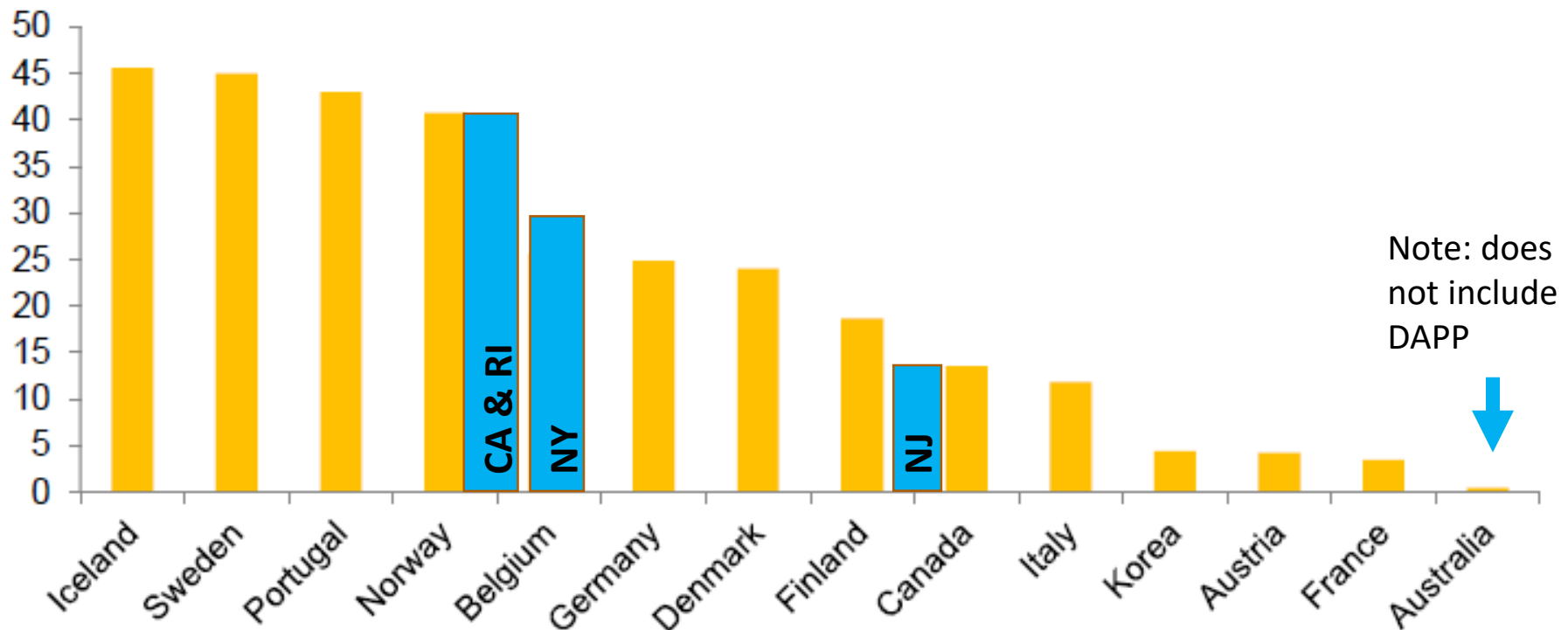


Rhode Island – bonding claims



Source: Data from Rhode Island Dep't of Labor and Training – Annual TCI reports; data from agency

% of total recipients of publicly-administered paid parental leave who are men



Source: OECD Family Database (2016), Use of childbirth-related leave by mothers and fathers, retrieved: <https://www.oecd.org/els/family/PF2-2-Use-childbirth-leave.pdf>, viewed 30 June 2017

Source for chart: WGEA, Towards a gender balanced parental leave



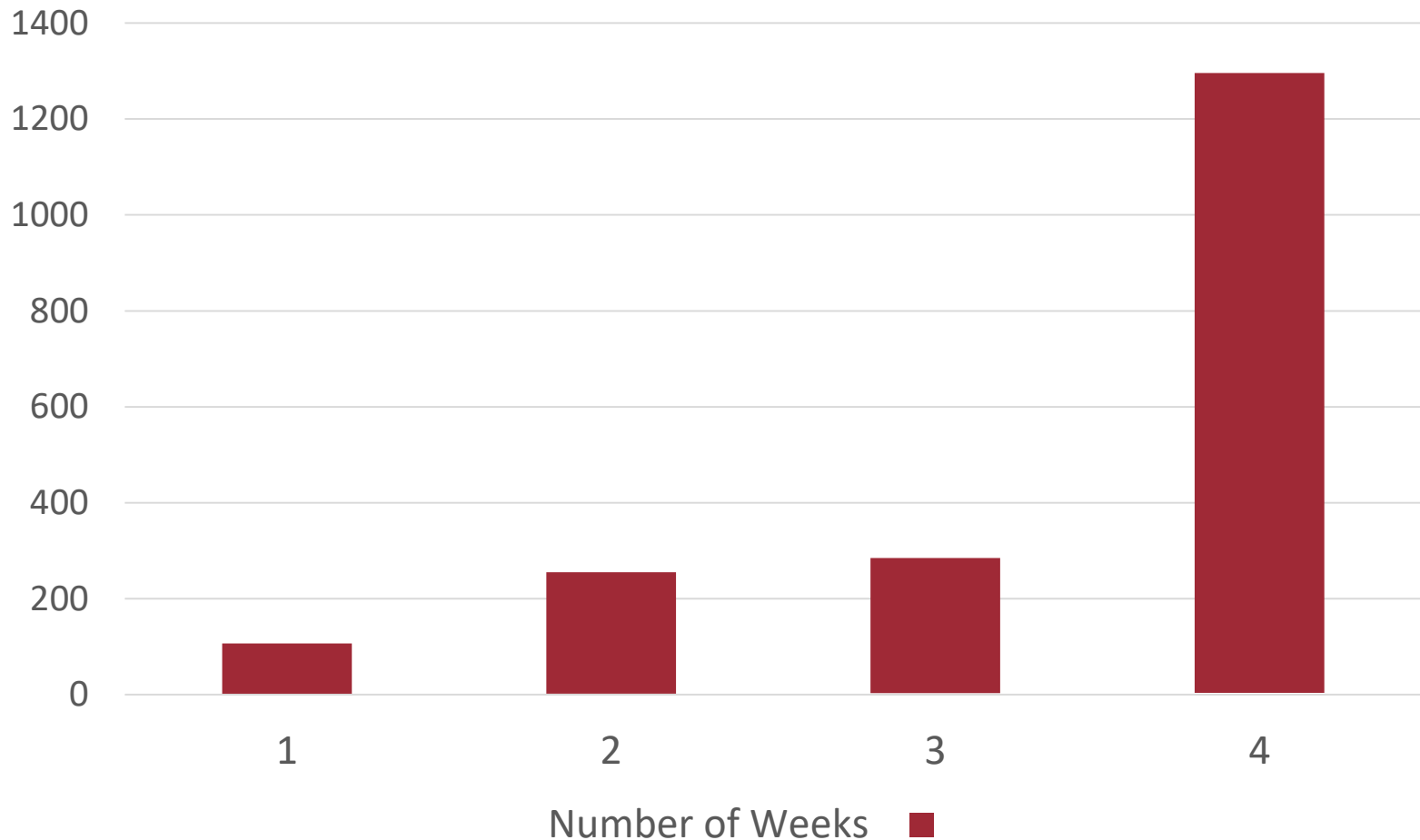
California PFL – duration of benefits



Source: Bedard & Rossin-Slater, The Economic and Social Impacts of Paid Family Leave in California: Report for the California Employment Development Department (2016)



Rhode Island – Duration of Men's Bonding Claims



Source: Data from Rhode Island Dep't of Labor and Training – Annual TCI reports; data from agency



Multiple “equality” principles

- Sex-based equality – sharing of caretaking responsibilities between mothers and fathers
 - Promising beginning for the US laws
- Family-based equality—equal treatment of single-parent versus two-parent families

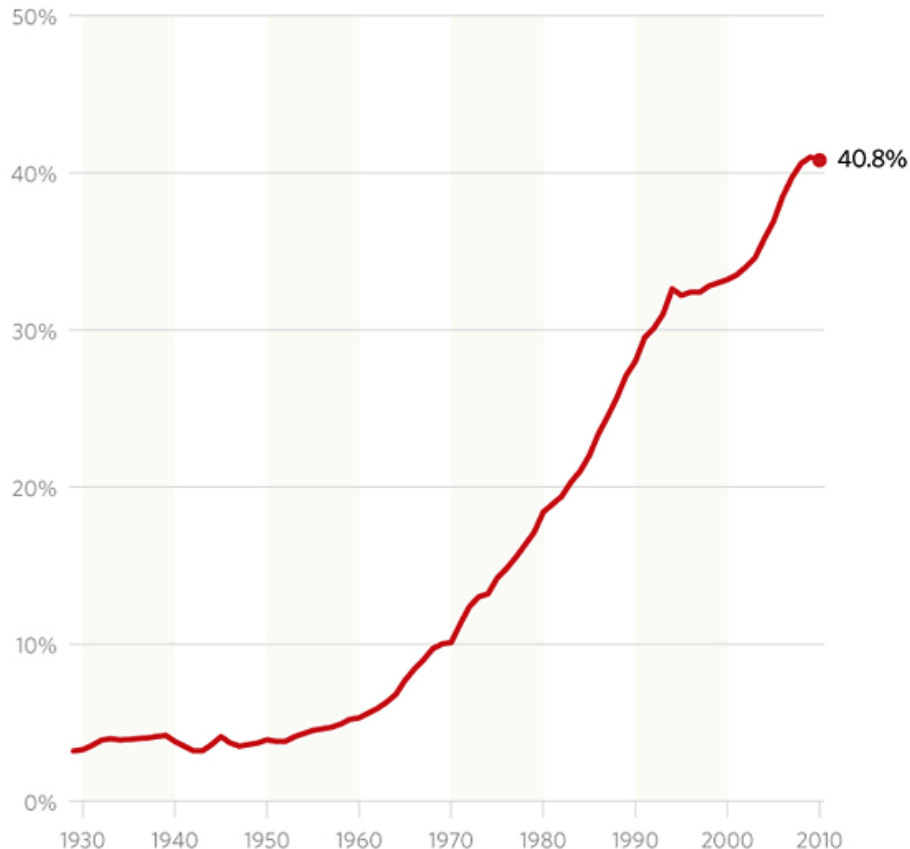


Rapid rise in non-marital birthrate


CHART 3

Growth of Out-of-Wedlock Childbearing in the United States, 1929-2010

PERCENTAGE OF CHILDREN BORN OUT OF WEDLOCK



Source: U.S. Government, U.S. Census Bureau, and National Center for Health Statistics.

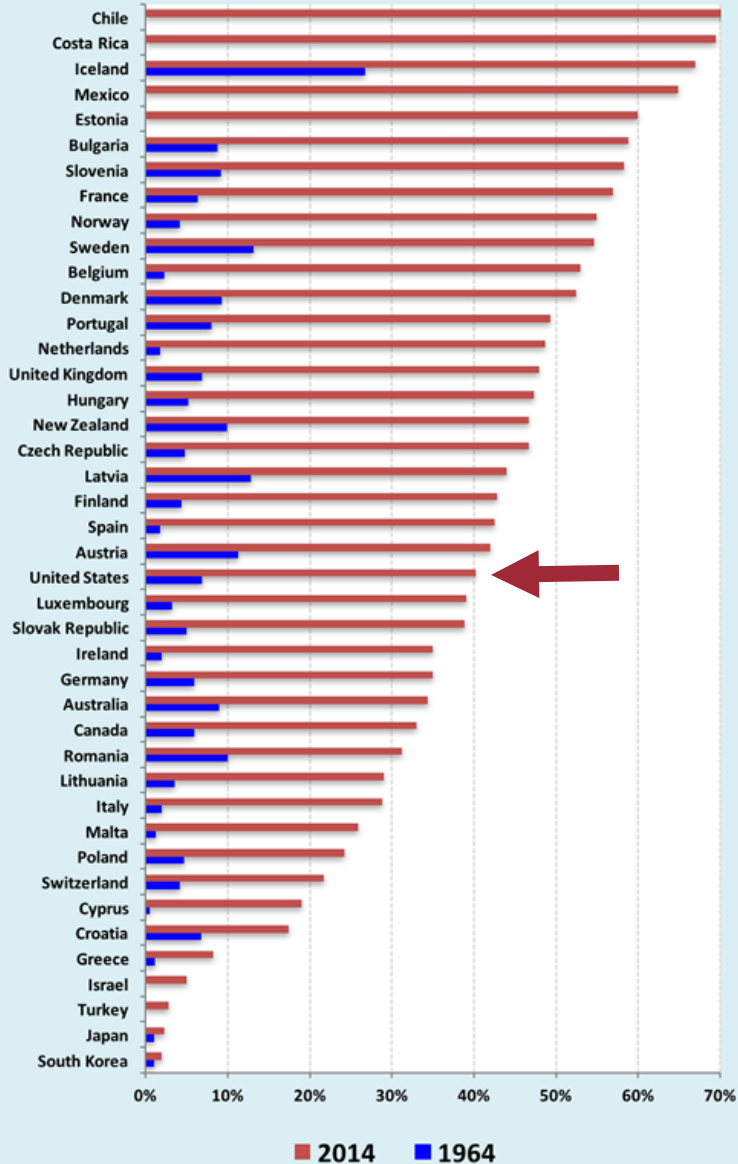
SR 117  heritage.org

Has stayed at about 40%
for the past decade

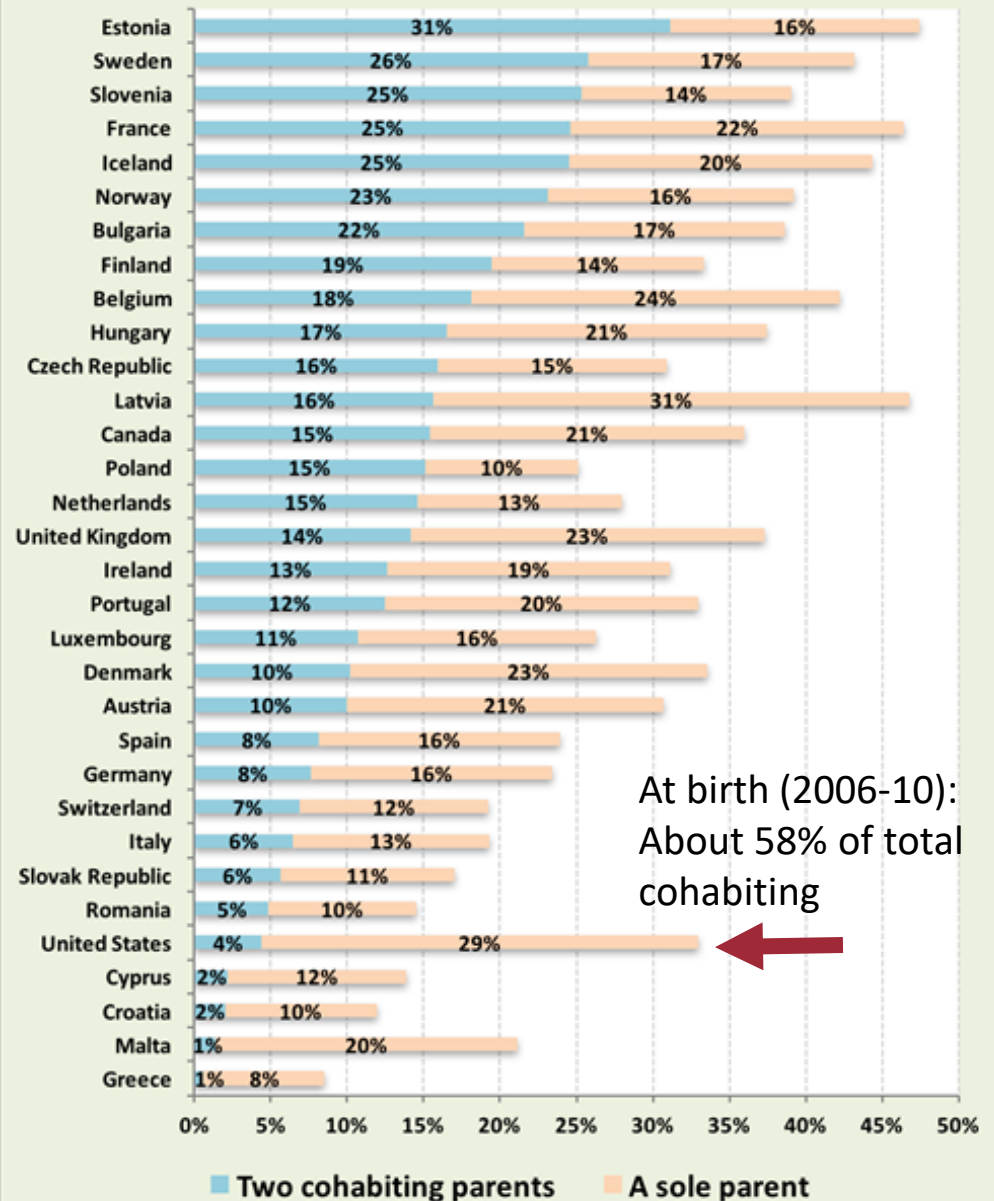


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Percent of Births Out of Wedlock: 1964 and 2014

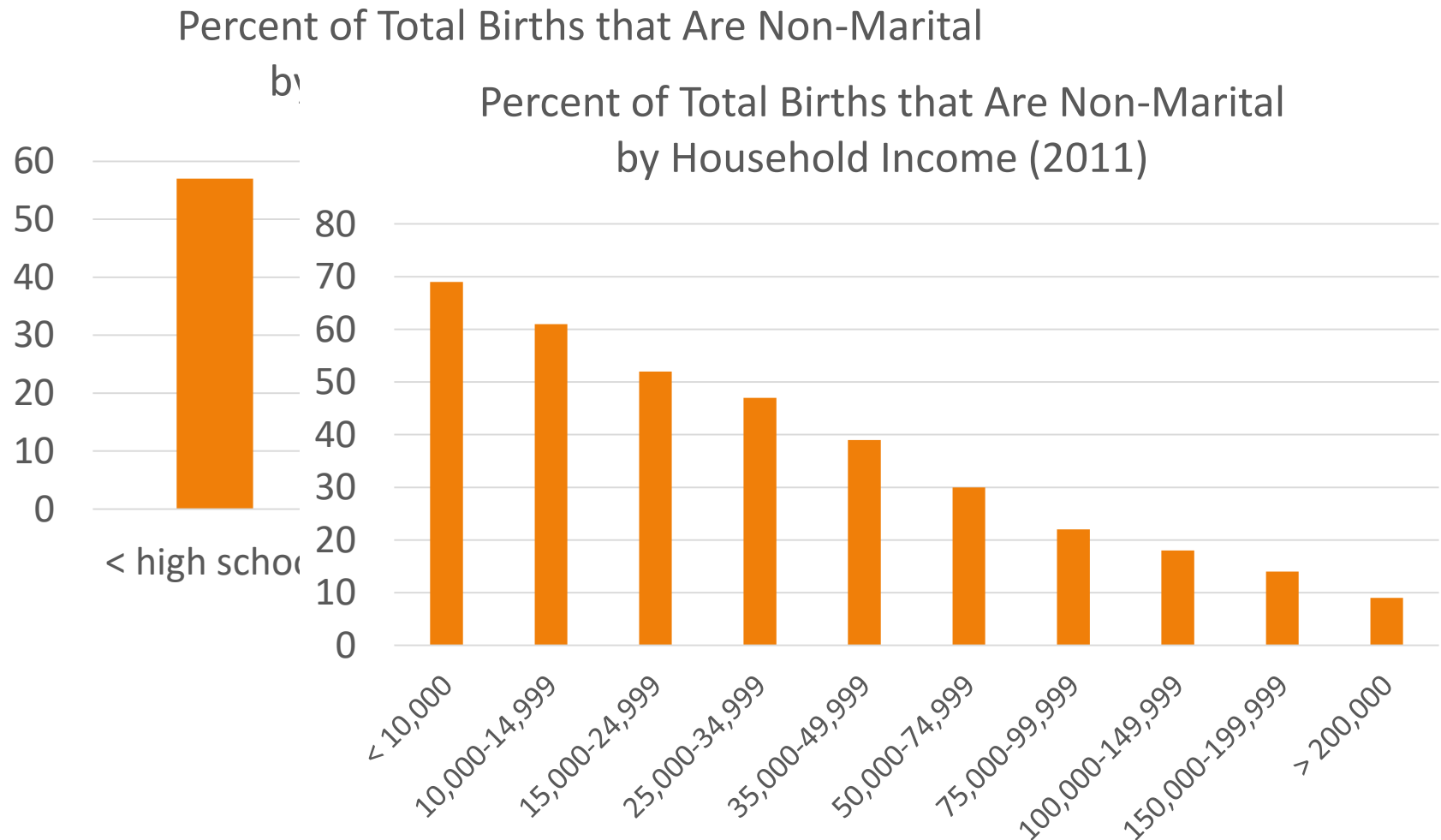


Percent of Children Living with Two Cohabiting Parents vs Sole Parent: 2014

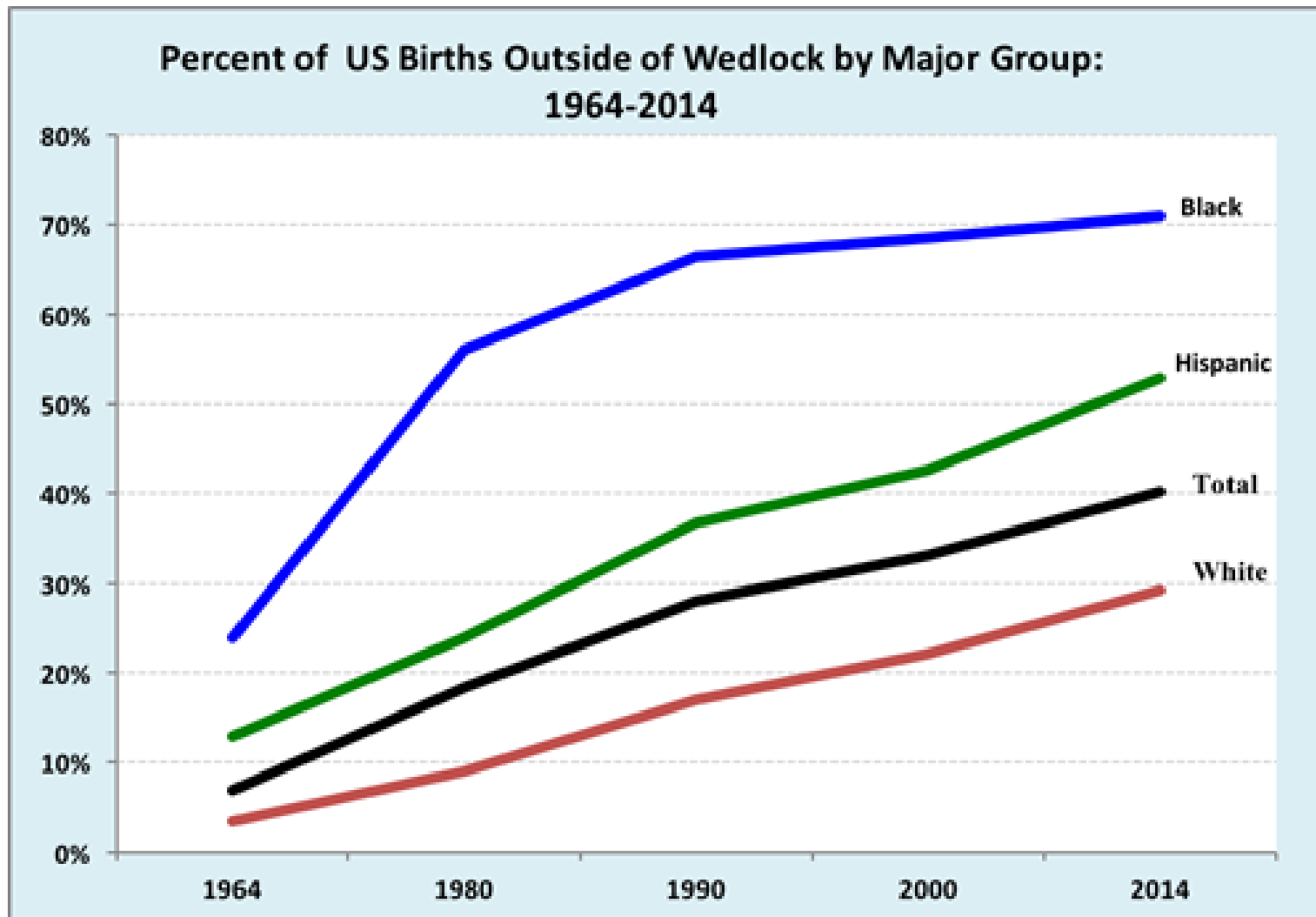


At birth (2006-10):
About 58% of total
cohabiting

Large disparities by education & income



And large disparities by race

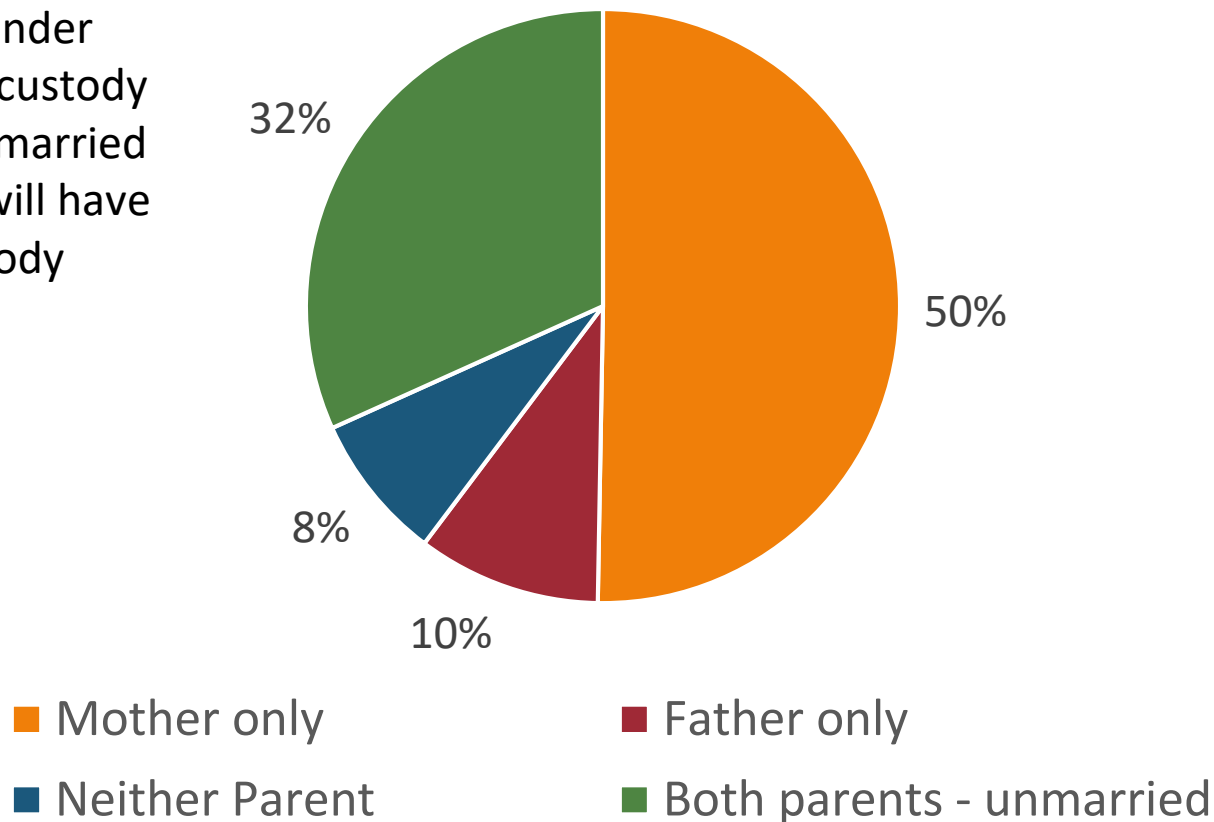


Data from US Nat'l Center for Health Statistics; graphics from Chamie, Out-of-Wedlock births Rise Worldwide

And (different) sex discrimination

Children Under 1 Not Living With Both Married Parents

Default under most US custody law – Unmarried mother will have sole custody



Better equalizing leave

- Where two involved parents, want to encourage sharing newborn and infant care
- But, where only one involved/custodial parent, allow extended benefits period? And/or transfer to a different family member providing care?
 - 1/3 of children under 1 living with “mother only” are in a home that includes one or both grandparents
- Consider how it interacts with leave policy – FMLA currently capped at 12 weeks
- Examples from other countries on modifications for single-parent families?



Questions, comments, suggestions?

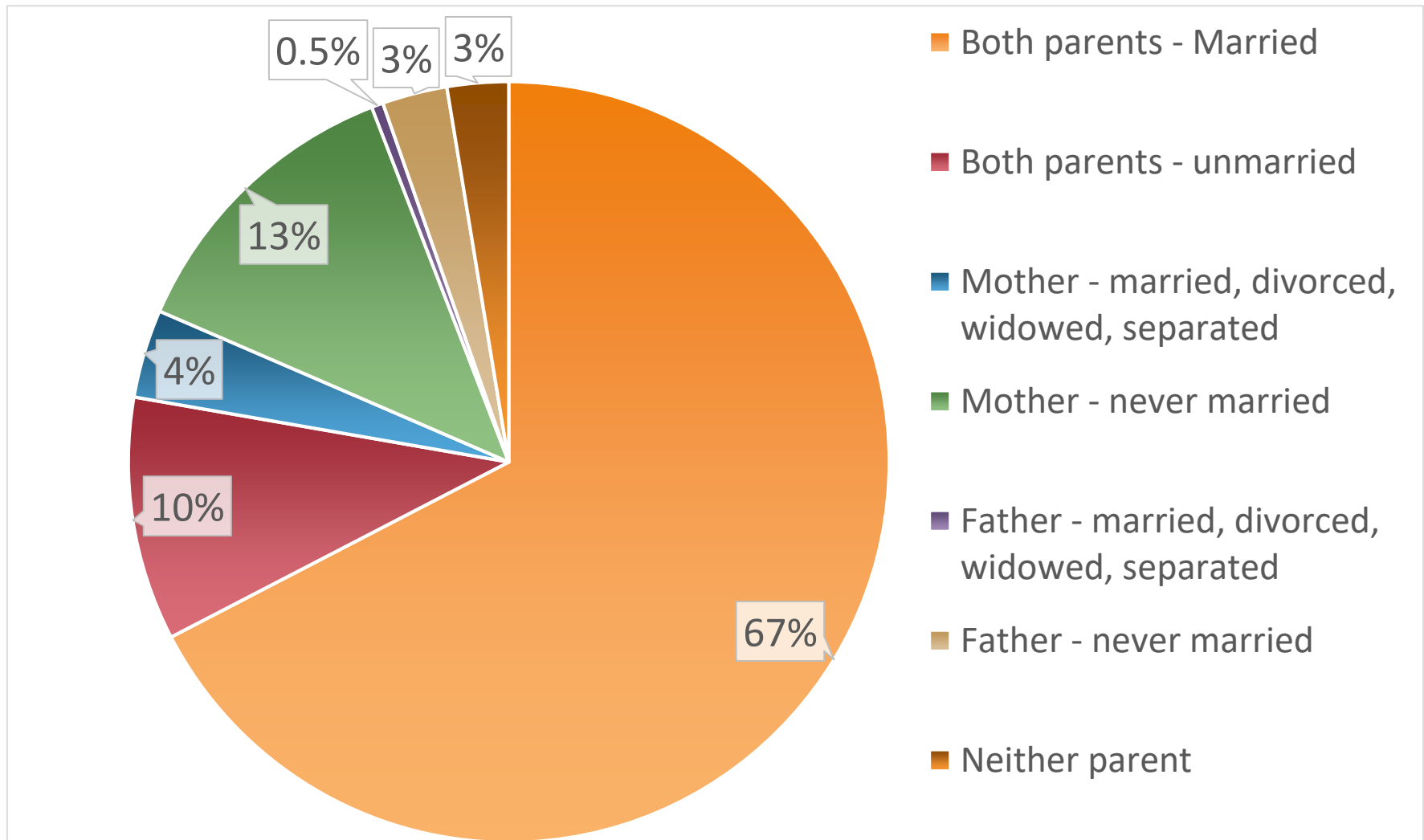
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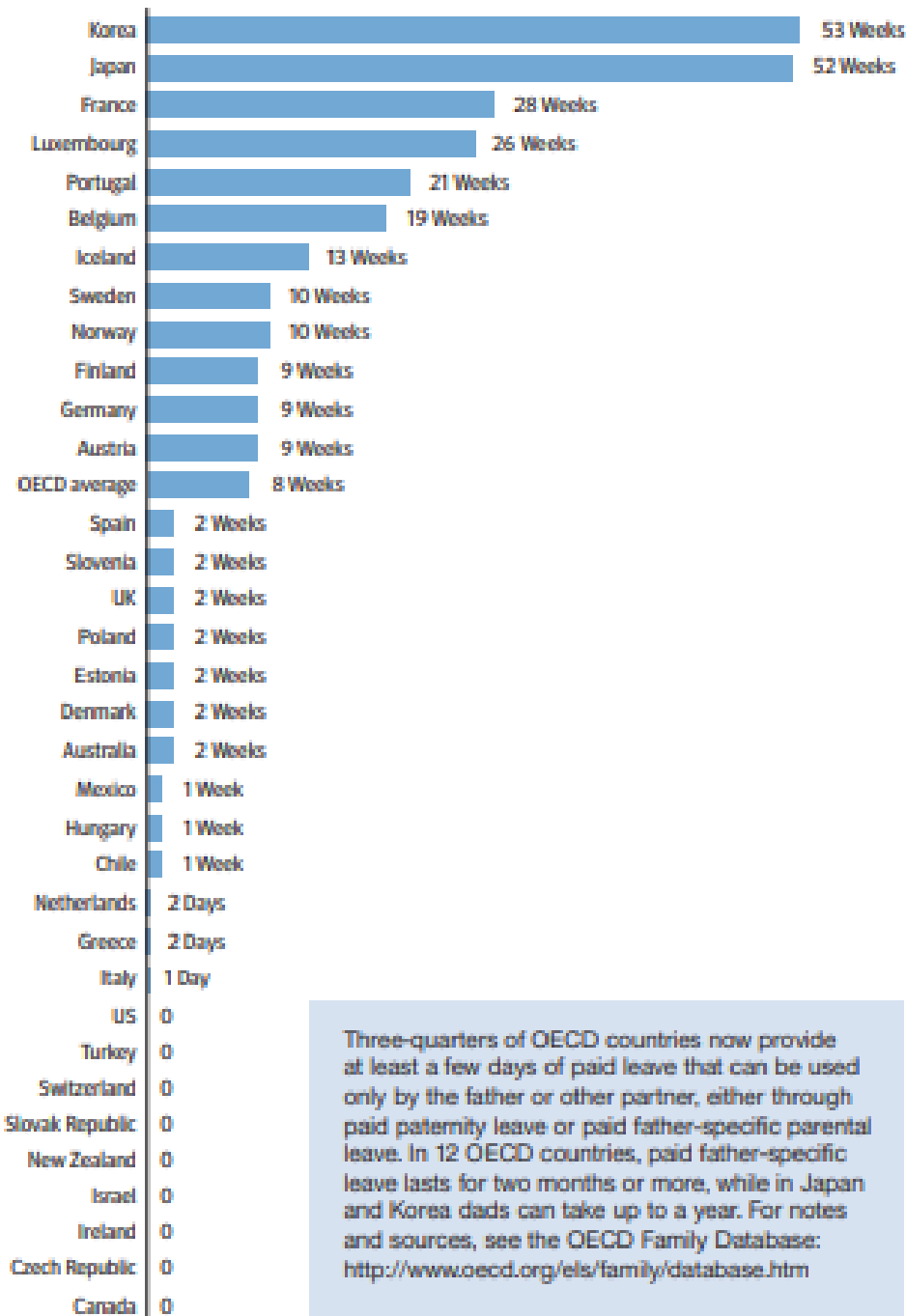
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Living arrangements – Children under 1





Weeks (or days) of paid parental leave that can be taken only by fathers, 2015

Source: OECD Family Database; graphic from: OECD Policy Brief, Parental Leave: Where Are the Fathers?

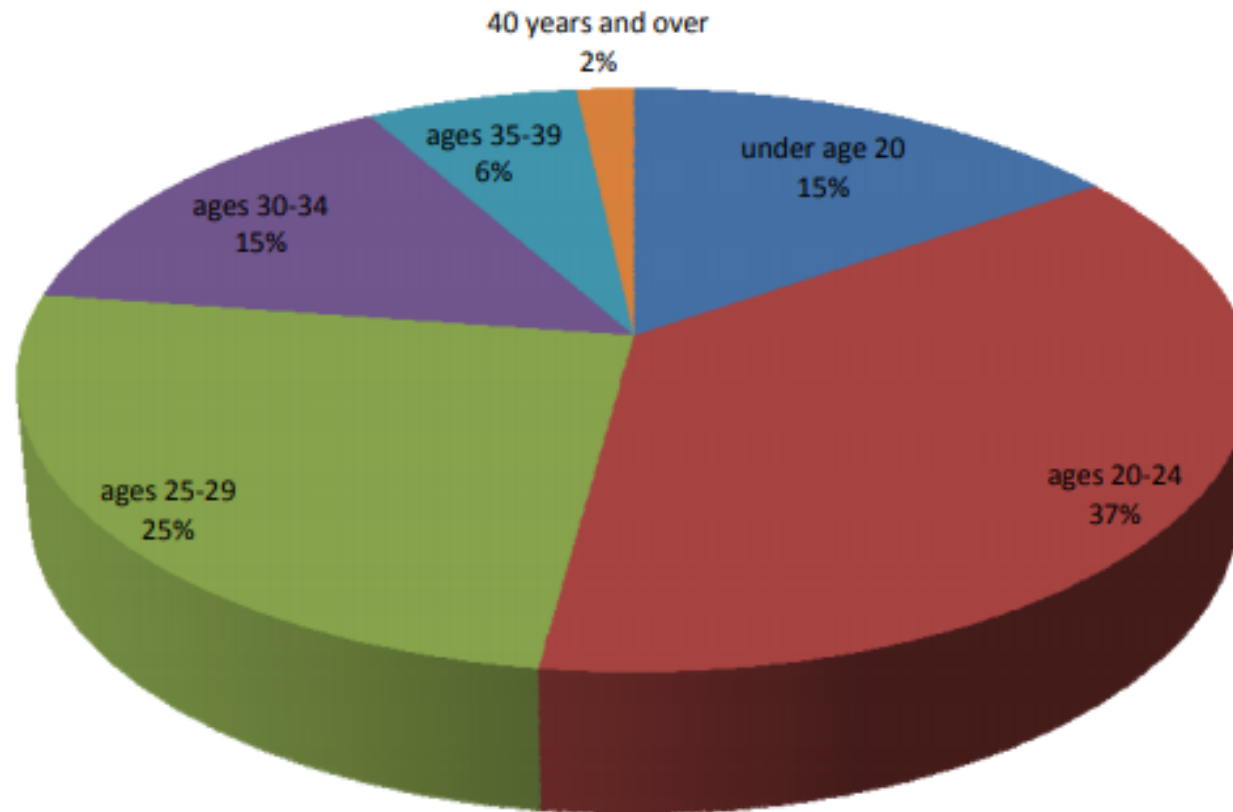


Access to employer-provided leave

17% of all civilian workers have paid family leave

- Lowest 10% of wage earners: 5%
 - Lowest 25% of wage earners: 8%
 - 2d 25% of wage earners: 16%
 - 3rd 25% of wage earners: 20%
 - 4th 25% of wage earners: 28%
 - Highest 10% of wage earners: 30%
- 89% of all civilian workers have unpaid family leave
 - 42% of workers have short-term disability benefits
 - Ranges from 33% for lowest decile to 47% for highest
 - Paid leave – most commonly 5-8 weeks

Figure 4. Percentage Distribution of Nonmarital Births, by Age of Mother, 2013



Source: U.S. Department of Health and Human Services, National Center for Health Statistics, "Births: Preliminary Data for 2013," *National Vital Statistics Reports*, vol. 63, no. 2 (May 29, 2014, Table 6).

Men challenging unequal leave policies

Inspired Life

CNN journalist Josh Levs forced his employer to give new dads paid leave. Now he wants others to speak up, too

SEARCH

The New York Times

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Cflus, Powerful and Unseen, Is a Gatekeeper on Major Deals



Washington Governor Signs First State Net Neutrality Bill



Nordstrom Family's Buy the Retailer Is Rejected

BUSINESS DAY

By

Attitudes Shift on Paid Leave: Dads Sue, Too

By NOAM SCHEIBER SEPT. 15, 2015



Josh and Abbie Levs. Mr. Levs and CNN settled his lawsuit against fathers. Bryan Meltz for The New York Times

U.S. sues Estée Lauder for allegedly discriminating against new dads

by Julia Horowitz @juliakhorowitz

August 31, 2017: 1:25 PM ET

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And large disparities by race

Of unmarried women,
% cohabiting at birth:

Total: 58%

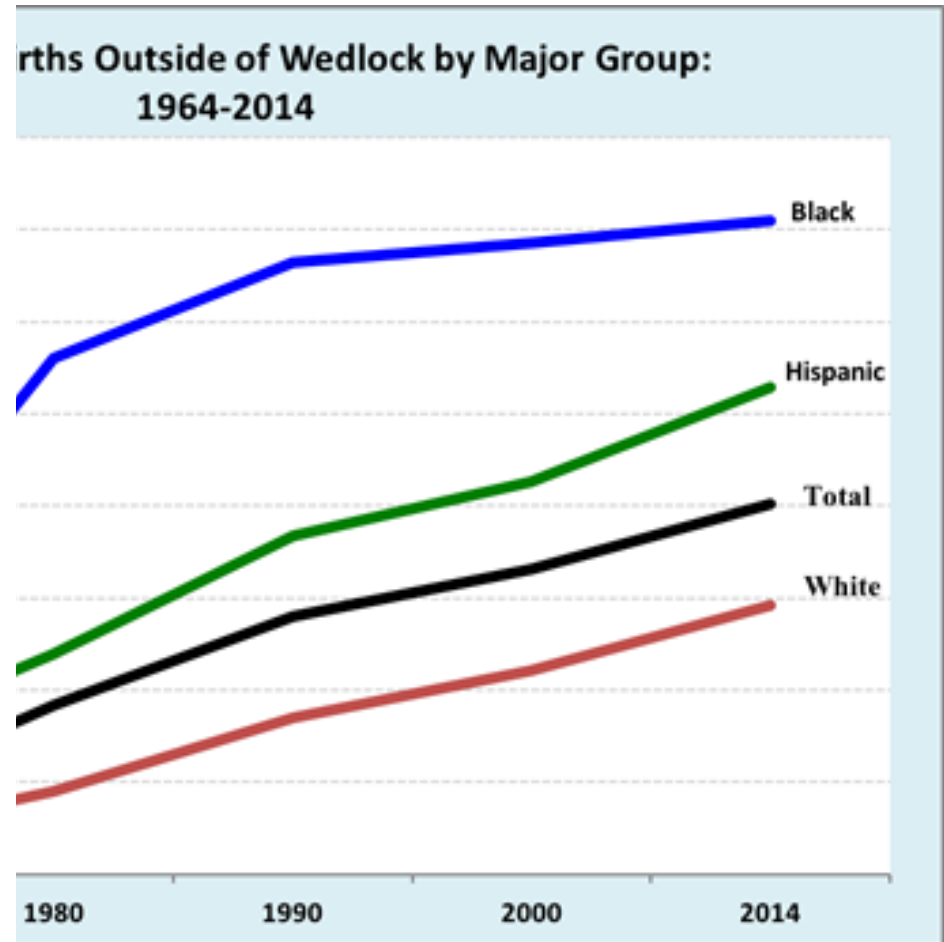
White, non-Hispanic: 68%

Hispanic: 68%

Asian: 45%

Black, non-Hispanic: 35%

Child Trends, Data Bank, Births to Unmarried Women (2014)



Factors to design

- Who is eligible?
 - Distinct standards for mothers versus fathers?
 - Distinct standards for primary carer versus secondary carer?
 - Different rules for single-parent families? Adoptive? Same-sex?
 - Category or tenure of prior employment?
- Length of leave? Intermittent? Simultaneous permitted?
- Rate of income replacement?
 - Portions paid at lower rate or unpaid?
- Extent of job-security?
 - Guarantee of prior or comparable position?
 - Ability to effectively enforce any such guarantee? Address discrimination more generally?
- Financing mechanism? Who bears costs?
- Administrative mechanism?



EEOC, First Annual Report to Congress (1967)

“The prohibition against sex discrimination is especially difficult to apply with respect to the female employees who become pregnant. In all other questions involving sex discrimination, the underlying principle is the **essential equality of treatment.... The pregnant female, however, has no analogous male counterpart** and pregnancy necessarily must be treated **uniquely.**”

- Could it be treated worse? Exclusion from disability policies? Or grounds for termination?
- Could it be treated better? Maternity leaves where general disability leaves were not provided?



Treated worse?

Gilbert v. GE (1976) – leads to two different legislative responses

- California (1978) – 4 month maternity leave (for period where woman is “disabled on account of pregnancy, childbirth, or related medical conditions”)
- US Pregnancy Discrimination Act (1978) –
 - Defines sex discrimination to include pregnancy, childbirth and related medical conditions, and
 - “women affected by pregnancy **shall be treated the same** for all employment related purposes, including receipt of benefits under fringe benefits programs, **as other persons not so affected but similar in their ability or inability to work...**”



Treated better?



California Federal Savings & Loan v. Guerra (1987)

Lillian Garland lost her job after maternity leave

- Sued under the California law that provided 4-month maternity leave
- Employer defense – California law was pre-empted by PDA

Supreme Court permits –
BUT FMLA takes a purposefully
different approach

Now followed by the states





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https://www.ny.gov/programs/new-york-state-paid-family-leave



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