

Michigan Journal of Gender & Law

Volume 9 | Issue 1

2002

Whatever Happened to G.I. Jane?: Citizenship, Gender, and Social Policy in the Postwar Era

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Recommended Citation

Melissa E. Murray, *Whatever Happened to G.I. Jane?: Citizenship, Gender, and Social Policy in the Postwar Era*, 9 MICH. J. GENDER & L. 91 (2002).

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WHATEVER HAPPENED TO G.I. JANE?:
CITIZENSHIP, GENDER, AND SOCIAL POLICY
IN THE POSTWAR ERA

*Melissa E. Murray**

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* J.D., Yale Law School, 2002.

The author wishes to thank Renee Applegate, Lizabeth Cohen, Charlton Copeland, Derek Dorn, Joshua Hill, Laura Kalman, Linda Kerber, Joe Landau, Doreen Murray, Arun Rao, Judith Resnik, Gretchen Ritter, and Reva Siegel for their encouragement and insightful comments. The author also gratefully acknowledges Charlotte Gillingham, Nicole Haaning, and the staff of the *Michigan Journal of Gender & Law* for their outstanding editorial assistance.

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INTRODUCTION

In the landmark 1979 case *Personnel Administrator of Massachusetts v. Feeney*, the United States Supreme Court upheld a state law granting employment preferences to veterans over challenges that the law contravened the Equal Protection Clause of the Fourteenth Amendment by unlawfully discriminating against women.¹ Although the majority conceded that “the preference operate[d] overwhelmingly to the advantage of males,”² the Court found that it was not unconstitutionally discriminatory because it had been “consistently offered to ‘any person’ who was a veteran.”³ Certainly, “[t]he substantial edge granted to veterans . . . may reflect unwise policy,” but there was no demonstration that the law reflected “a purpose to discriminate on the basis of sex.”⁴

Feeney has long been understood as a paradigmatic example of the difficulty of demonstrating that gender-neutral statutes are unlawfully discriminatory. However, the case is also revealing in that it underscores the manner in which certain types of benefits are considered entitlements and have been removed from undue scrutiny in legal and policy discussions. While the *Feeney* Court briefly acknowledged that the preference did “overwhelmingly” advantage men, no mention was made of the utility of pegging employment benefits to participation in a traditionally male institution like the military. Indeed, the Court observed that the wisdom of such a program was ultimately a “legislative and not a judicial responsibility.”⁵ The Court’s deference to the plain meaning of the statute, however, did not delve into the policy implications of the decision. Although the statute was gender-neutral and the preference had been available to all *veterans*, the truth of the matter was that most

1. 442 U.S. 256, 281 (1979).

2. *Id.* at 259.

3. *Id.* at 279.

4. *Id.* at 281. It should be noted that Justice Thurgood Marshall, in his dissent from the majority opinion, observed that “[b]ecause less than 2% of the women in Massachusetts are veterans, the absolute-preference formula has rendered desirable state civil service employment an almost exclusively male prerogative.” *Id.* at 283 (Marshall, J., dissenting).

5. *Id.* at 272.

veterans were *men*, leaving women and male non-veterans shut out of the important employment advantages the preference afforded.

With the exception of the *Feeney* case, veterans' preferences have been largely unchallenged as vehicles of government largesse. This may be, in part, because they carry the cache of a benefit to which the beneficiary is *entitled*, rather than simply a dole provided by the government. By enlisting in the military, veterans begin to accrue an entitlement interest in the benefits. It is this human capital investment, and the status of military service as a traditional arbiter of citizenship, that "entitles" veterans to benefits like employment preferences when their military service is over. To be sure, military service should be rewarded; however, many of the benefits associated with military service are offered at the expense of non-veterans—usually women—in the manner detailed in Helen Feeney's landmark legal challenge.

The relationship between benefits, status, the activities upon which benefits are predicated, and the scope of such government largesse has not gone unnoticed. In the 1970s, political scientists and scholars of social welfare structures began analyzing the "marking" of social welfare benefits based on their beneficiary constituencies and the institutions and activities with which they were associated. Focusing on the extant New Deal social welfare programs enacted under the Social Security Act of 1935,⁶ these scholars identified a relationship between gender and work in shaping the lexicon of social welfare status. For example, Barbara Nelson observed that the welfare state was a "two-channel" system where programs in which women were the chief beneficiaries (Aid to Families with Dependent Children⁷ being the obvious example) were stigmatized as "dependent," while programs like Social Security, which were predicated on long-term economic participation and were chiefly male in beneficiary distribution, were classified as "entitled."⁸ While these studies were important in that they revealed the gendered nature of social welfare allocation and the implications of such a disparity for citizenship models, they did not push further into other social welfare avenues. For example, contemporary social welfare programs predicated on other types of service—like military benefits—were not considered "welfare" programs, and thus, were not incorporated into the analytical framework that these scholars pioneered.

6. Pub. L. No. 271, 49 Stat. 627 (1935) (codified at scattered sections of 42 U.S.C.).

7. Social Security Act, 42 U.S.C. §§ 601–619 (1988).

8. Barbara J. Nelson, *The Origins of the Two-Channel Welfare State: Workmen's Compensation and Mothers' Aid*, in *WOMEN, THE STATE, AND WELFARE* 123 (Linda Gordon ed., 1990).

As the *Feeney* case suggests, military service has been a key activity in the distribution of government benefits to a base of citizens who are primarily male. Nevertheless, military benefits programs have escaped the type of scrutiny to which the Social Security welfare programs were subjected because they are generally not considered to be “social welfare” in the manner of the New Deal programs. This is ironic given that the privileging of military service in the distribution of governmental largesse is not confined to employment preferences, but rather, has implicated higher education, home ownership, and entrepreneurship. The quintessential example of this is the GI Bill of Rights,⁹ which afforded enormous employment, educational, and financial benefits to veterans following World War II.

Predicated solely on military service, GI Bill benefits were seen as the logical entitlement of those who had served their country during World War II. Far from being removed from social welfare policy, the GI Bill, like the Social Security programs, was instrumental in shaping the postwar economy and society by reinforcing traditional gender norms in its distribution of benefits. Like the social welfare programs of the New Deal, the GI Bill was structured and framed around the concepts of sustained economic participation and military participation, both generally understood to be male institutions. Far from being isolated, the concepts of economic work and military participation are inextricably intertwined with our views of independence, citizenship status, beneficiary status, and gender. With these commonalities in mind, the GI Bill should be seen as consistent with, and an important component of, the New Deal social welfare legacy.

In this Article, I argue that the GI Bill is consistent with the social welfare policies of the New Deal period, in particular the Social Security Act of 1935, and so should be examined within the analytical framework established by scholars like Linda Gordon and Theda Skocpol in their studies of the Social Security Act’s social welfare programs. Although the Bill is gender-neutral on its face, it was framed by normative assumptions about military participation and work that ensured that it was socially understood to benefit male veterans.

Despite its remarkable accomplishments, the GI Bill cannot be divorced from its social understanding, and like the programs of the Social Security Act, must be viewed within this normative context. By recontextualizing the GI Bill as a form of social welfare policy with important gender and status implications, this Article will consider the manner in which gender, economic participation, and military participation figure

9. The Serviceman’s Readjustment Act of 1944, Pub. L. No. 346, 58 Stat. 284 (1944).

prominently in the marking of benefits and the understanding of social welfare measures.

In Part I of this Article, I review the Great Depression and the importance of work as a status-conferring vehicle in the national consciousness. In Part II, I then consider prevailing interpretations of New Deal legislation, particularly the Social Security Act of 1935 and its gendered origins. Part III will address the GI Bill's origins as a vehicle for promoting economic and social stability through work-centered programs in the period following demobilization. In Part IV, I examine the Bill's provisions and their applicability to women veterans. I then place the GI Bill within the socio-political context of the postwar era and in the continuum of New Deal social welfare policy in order to determine the Bill's impact on the intersection of work and gender. Finally, I review the effects of the GI Bill on the postwar economy and society, and consider a new research agenda to assist in unpacking the complicated relationship between work, the military, citizenship, gender, and public policy in the postwar era.

I. THE ADVENT OF THE GREAT DEPRESSION: THE IMPORTANCE OF WORK IN THE NATIONAL CONSCIOUSNESS

The Great Depression challenged commonly-held beliefs about work and social welfare policy. The previous generation's laissez-faire policies, which suggested that individual deficiencies rather than social and economic forces were to blame for poverty, poor health, and any other disadvantageous situation,¹⁰ fell out of favor during the Depression as so many were affected by the economic turmoil of the stock market crash.¹¹ Suddenly, workers who had consistently maintained their status as wage-earners were unemployed and struggling.¹²

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10. This shift in thinking made the push for mothers' pensions more acceptable, as it was noted that the lapse in breadwinning was the responsibility of men, not women or children. Because children had no influence over the household's wage-earning, provisions for their care were deemed acceptable. See Gwendolyn Mink, *Welfare Reform in Historical Perspective*, 26 CONN. L. REV. 879, 883 (1994).
 11. SHERYL R. TYNES, TURNING POINTS IN SOCIAL SECURITY: FROM "CRUEL HOAX" TO "SACRED ENTITLEMENT" 43 (1996).
 12. JAMES T. PATTERSON, AMERICA'S STRUGGLE AGAINST POVERTY: 1900-1994 54 (1994).

A. The Ideal of Wage-Earning

The events that followed the stock market crash of 1929 took a toll on the national psyche, particularly that of male wage-earners. From the nation's infancy to the Depression, work had been closely linked to the core American values of independence and citizenship.¹³ Indeed, Benjamin Franklin advised readers desiring to be their own masters to "[b]e industrious and FREE."¹⁴ Values that were key to the concept of American citizenship—*independence, industriousness, productivity*—were inextricably linked to one's status as a worker. Inevitably, the image of the ideal worker was primarily male. Although women of color and women of the lower social strata often worked outside of the home, the ideal of white womanhood prescribed homebound care-giving, rather than external economic participation, as the realm of "worthy" female citizens. Indeed, even members of the Supreme Court acknowledged the gender divide inherent in the public and private spheres. In his concurrence to *Bradwell v. Illinois*,¹⁵ Justice Bradley observed that:

[T]he civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood.¹⁶

In the view of Justice Bradley and many of his contemporaries, the role of women as citizens was confined to their domestic duties—childbearing and childrearing and the maintenance of the home. In contrast, men were expected to "protect" and "defend" the home (and the women and children contained within) by taking up arms and providing economic sustenance through their citizenship roles as soldiers and workers. In this way, the citizenship obligations of men and women were strikingly separated. The male citizenship calculus required sus-

13. JUDITH N. SHKLAR, *AMERICAN CITIZENSHIP: THE QUEST FOR INCLUSION* 63–101 (1991).

14. *Id.* at 72 (quoting Benjamin Franklin).

15. 83 U.S. 130 (1872).

16. *Id.* at 141 (Bradley, J., concurring).

tained economic participation and, when needed, military participation. Women, conversely, were acknowledged as citizens in a derivative fashion through their roles as wives and mothers to male citizens.

During the Depression, the anxiety of losing the independence and status that a job afforded was “keenly felt” by male workers,¹⁷ in part because it signaled a change, however unconscious, in citizenship status. The loss of dignity and the sense of failure that accompanied unemployment at the beginning of the Depression was heightened by the fact that “it was not until 1933 that the public finally grasped that unemployment was a national calamity”¹⁸ and not just a temporary disturbance attributable to the individual worker. Despite the recognition that unemployment was a national problem rather than an individual character deficiency, work continued to be an important arbiter of social and citizenship status and, thus, figured prominently in the New Deal relief prescription.

B. The Early New Deal's Emphasis on Work Relief

Roosevelt's New Deal created “alphabet agencies” and social welfare programs designed to combat the social problems engendered by the Depression. Many of the innovative programs created in the New Deal were predicated on a quid pro quo involving work—the government created jobs and work projects and able-bodied men were paid a relief wage for their service. The quid pro quo intentionally reflected the nation's attachment to the status conferred by work and its discomfort with a relief “dole.” Harry Hopkins, the head of the Federal Emergency Relief Agency (FERA) observed: “Give a man a dole and you save his body and destroy his spirit. Give him a job and pay him an assured wage and you save both the body and the spirit.”¹⁹ Hopkins's sentiments echoed those of many Americans, including the newly unemployed who preferred work relief to outright public assistance.²⁰ President Roosevelt agreed: “Under no circumstances . . . shall any actual money be paid in the form of a dole”²¹ Instead, federal work relief programs like the Civilian Conservation Corps (CCC) and the

17. SHKLAR, *supra* note 13, at 94.

18. *Id.* at 95.

19. PATTERSON, *supra* note 12, at 59.

20. *Id.* at 53 (noting that an accountant had asserted that he would “rather stay out there in the ditch the rest of my life than take one cent of direct relief.”).

21. Robert H. Bremner, *The New Deal and Social Welfare, in FIFTY YEARS LATER: THE NEW DEAL EVALUATED* 69, 70 (Harvard Sitkoff ed., 1985).

Works Progress Administration (WPA) allowed the government to administer social welfare in a manner that “preserve[d] not only the bodies of the unemployed . . . but also their self-respect, their self-reliance and courage and determination.”²² It did not matter to many displaced workers that the work offered would have been considered suitable only for minorities or the truly desperate in the period preceding the Depression.²³ What *did* matter was that these jobs allowed workers to maintain their identity and status as sustained wage-earners and viable citizens.

Inherent in the rhetoric of work relief was the notion that the intended beneficiary was a male worker who desired—indeed, *needed*—the opportunity to continue to be a sustained participant in the workforce. With so few jobs available, it was understood that there would be little possibility of a woman leaving the home to take a job that otherwise would have gone to a displaced male worker. Accordingly, the work relief programs piloted during the first phases of the New Deal did little to incorporate women into the employment model. The WPA made only one family member eligible for the program, ensuring that the male breadwinner would participate in the program.²⁴ The CCC accepted only men, causing grumbles from women that there was no “she-she-she” program in place.²⁵

In short, the unemployment crisis of the Depression, though national in scope, was understood to be a male problem because men were socially understood to be workers and providers. Because traditional notions of a male provider prevented women from seeking work relief, the only social welfare avenue available to women specifically was the state-sponsored mothers’ pensions.²⁶ Established by maternalistic policymakers during the Progressive Era, mothers’ pensions were aimed at widowed or abandoned mothers as a stopgap measure that would allow them to remain in the home to care for their children.²⁷ The mothers’ pensions underscored traditional views of women’s role in the nation—to rear productive citizens. The logic was simple: if mothers were forced into the workforce by economic necessity, then future generations

22. *Id.* at 73 (quoting Franklin D. Roosevelt).

23. PATTERSON, *supra* note 12, at 53 (quoting an unidentified white male worker) (“I’d do anything if only I could get a job . . . even cleaning cuspidors, or doing any other Nigger work.”).

24. See Susan Ware, *Women and the New Deal, in FIFTY YEARS LATER: THE NEW DEAL EVALUATED* 113, 124 (Harvard Sitkoff ed., 1985).

25. *Id.*

26. *Id.* at 125.

27. LINDA GORDON, *PITIED BUT NOT ENTITLED: SINGLE MOTHERS AND THE HISTORY OF WELFARE 1890–1935* 37 (1994).

would suffer the moral and physical consequences of the absence of constant maternal care.

II. THE NEW DEAL AND THE SOCIAL SECURITY ACT OF 1935

A. *The Provisions of the Social Security Act*

The Social Security Act of 1935 was to be the New Deal's social welfare legacy—a program that privileged the American ideals of individualism, hard work, earned relief, and economic security. Of its ten original titles, the first, second, fourth, and ninth are most connected to a discussion of gender, citizenship, and social policy. Title I created Old Age Assistance (OAA), a state and federally-funded public welfare program.²⁸ The second title created what is known in modern parlance as “Social Security,” the contributory pension system known then as Old Age Insurance (OAI).²⁹ OAI was financed by a payroll tax and was administered by the federal government. The Act's ninth title created an unemployment insurance program (UEI) that was funded by a payroll tax paid by employers.³⁰ Finally, Title IV elevated the mothers' pensions programs that existed on the state level to the status of a program jointly financed by the state and federal governments.³¹ Reflecting its aim of allowing widowed and abandoned women to remain in the home with their children, the program was re-named Aid to Dependent Children (ADC) upon its integration into the Social Security Act.³²

Recent scholarship has focused on the manner in which the Social Security Act's various programs distributed benefits and the target audience to whom the programs were directed.³³ Much of the scholarship

28. Social Security Act of 1935, 42 U.S.C. § 301 (1994).

29. Social Security Act of 1935, 42 U.S.C. § 401 (1994).

30. Social Security Act of 1935, 42 U.S.C. § 502 (1994).

31. Social Security Act of 1935, 42 U.S.C. §§ 401–433 et seq. (1994).

32. ADC was essentially the nationalization of the state-sponsored mothers' pensions that had been popular during the Progressive Era. Put forth by maternalistic policy-makers, the mothers' pension evoked the language of the Civil War veterans pensions in a conscious attempt to equate motherhood with military service as a citizenship-conferring exercise. *See generally*, THEDA SKOCPOL, *PROTECTING SOLDIERS AND MOTHERS: THE POLITICAL ORIGINS OF SOCIAL POLICY IN THE UNITED STATES* (1992)(finding that early American social welfare efforts were pensions aimed at mothers and veterans).

33. *See, e.g.*, Kathleen M. Keller, *Federalizing Social Welfare in a World of Gender Difference: A History of Women's Work in New Deal Policy*, 8 S. CAL. REV. L. & WOMEN'S STUD. 145 (1999); Mink, *supra* note 10.

suggests that the Social Security Act created a two-tiered approach to welfare provision: an elevated entitlement track where beneficiaries earned their right to benefits through sustained economic participation in the workforce, and a dependent track where benefits were distributed according to the recipient's need.³⁴ Scholars like Linda Gordon have gone further and asserted that "[t]he Social Security Act created the contemporary meaning of 'welfare' by setting up a stratified system of provision in which the social insurance programs [OAI and UEI] were superior both in payments and in reputation, while public assistance was inferior—not just comparatively second-rate but deeply stigmatized."³⁵ This stigmatization stemmed primarily from the differentiation of male wage-earning from the home-bound domestic work of women. By participating in the workforce, or by contributing to the national productivity through self-employment, male workers were true economic citizens, useful to the nation and economically independent. Women, in contrast, were confined to a subordinate class of citizenship by virtue of the fact that they were not expected, nor were they encouraged, to participate in the economy in the same manner as men. Instead, their economic citizenship was "covered" by the economic participation of their male heads of household in the same way that their legal rights were "covered" by their husbands' legal status through the law of coverture.³⁶ Instead of having citizenship rights that accrued through their own efforts, women's citizenship was a derivative enterprise that was dependent on their social and economic attachment to a male citizen. The evolution of OAI reflects this view of women's citizenship status.

Given the traditional belief that sustained wage-earners were men, it was understood that the social insurance programs of the Social Security Act were aimed at men, and not women. If women were to benefit from these programs, it would be derivatively, through their attachments to male beneficiaries.

The 1939 amendments of the Social Security Act reflected this view. The most notable change wrought by the amendments was the inclusion of women in the OAI program. However, this inclusion was not done through the recognition of women as workers in their own right; indeed, many of the employment sectors where women were represented were not included in the OAI scheme when the amendments

34. Nelson, *supra* note 8.

35. GORDON, *supra* note 27, at 4–5.

36. For a history of the law of coverture, *see*, for example, NORMA BASCH, *IN THE EYES OF THE LAW: WOMEN, MARRIAGE, AND PROPERTY IN NINETEENTH-CENTURY NEW YORK* (1982).

were debated.³⁷ Instead, women and their dependent children were integrated into OAI, thereafter known as Old Age and Survivor's Insurance (OASI), through their ties to a deceased worker. In this way, widows and surviving children of OASI beneficiaries were allowed to receive the benefits that had accrued to the deceased wage-earner.³⁸ Thus, the 1939 amendments underscored a critical normative assumption of the OAI program: women were not understood to be breadwinners and providers in their own right, but rather were socially understood to be dependents of breadwinners. The changes made by the 1939 amendments reflected society's view that men were able to assert political citizenship claims (and the concomitant entitlement to benefits) through their status as workers, while women were left to assert their citizenship through their dependent (and subordinate) status as wives and mothers.³⁹

It is worth noting that the chief aim of the 1939 amendments was to strengthen the OAI program by embedding it in the national consciousness. In order to do this, the drafters of the amendments sought to expand the recipient base. Among the proposals for expanding the program was an option to include domestic laborers (the majority of whom were women) within the program's ambit, as well as a plan to afford women benefits on the basis of their household labor contributions.⁴⁰ The resistance of southern congressmen who sought to maintain labor discipline over African-American workers doomed the first proposal, while the second was dismissed because there was little support for granting household labor the same status as extra-domestic paid labor.⁴¹ The message was clear: housework was not on par with extra-domestic paid labor, but rather, was subordinate to it. By including women in OASI as the dependent and derivative beneficiaries of male workers, Congress accomplished its end in strengthening the Social Security program, but it further entrenched the view that male citizens were providers for their dependent women and children.

37. See GORDON, *supra* note 27, at 5. "[I]n 1935, Social Security excluded the most needy groups from all its programs. . . . These exclusions were deliberate and mainly racially motivated, as Congress was then controlled by wealthy southern Democrats who were determined to block the possibility of a welfare system allowing blacks freedom to reject extremely low-wage and exploitive [sic] jobs as agricultural laborers and domestic servants." *Id.*

38. Keller, *supra* note 33, at 175.

39. See Alice Kessler-Harris, *Designing Women and Old Fools: The Construction of the Social Security Amendments of 1939*, in U.S. HISTORY AS WOMEN'S HISTORY 87, 91-92 (Linda K. Kerber, Alice Kessler-Harris, & Kathryn Kish Sklar eds., 1995).

40. For a discussion of the proposed amendments to the Social Security Act, see Keller, *supra* note 33, at 173-77.

41. Kessler-Harris, *supra* note 39, at 101-03.

B. Aid to Dependent Children—Privileging Domestic Caregiving

In contrast to the novelty of the social insurance programs, Aid to Dependent Children (ADC) was a remnant of the legacy of state-provided mothers' pensions of the Progressive Era.⁴² Although the New Deal would alter the structure of the pensions by providing grant-in-aid directly to states administering the program,⁴³ ADC, a non-work oriented program, was never intended to be a major plank of social welfare reform, which was consistent with the terms of the New Deal. From the outset, New Deal policymakers emphasized that their goal was economic recovery⁴⁴ (and the economy was understood as a uniquely masculine arena). Because women were not seen as economic actors in their own right, there was no need to create federal economic relief programs for women. The state-sponsored mothers' pensions, which were intended to allow widowed or abandoned mothers to remain at home with their children, were simply subsidized by the federal government.⁴⁵ In this way, ADC reinforced the view that most women were dependent, home-bound caregivers whose economic needs were either covered by wage-earning male labor or by the federal government through non-work-oriented welfare programs.

42. GORDON, *supra* note 27, at 37–39.

43. OAI a contributory program that served primarily male beneficiaries, was a federally administered program. Some have suggested that putting certain programs under federal control indicates the importance of the program in the national domestic policy and, more importantly, the importance of its beneficiaries in the scope of domestic policy. See Sara Sun Beale, *Federalizing Hate Crimes: Symbolic Politics, Expressive Law, or Tool for Criminal Enforcement?*, 80 B.U.L. REV. 1227, 1268 (2000); Judith Resnik, *Trial as Error, Jurisdiction as Injury: Transforming the Meaning of Article III*, 113 HARV. L. REV. 924, 969 (2000) (discussing the "importance" of federal cases in contrast to "ordinary" litigation). In this way, ADC, a federally-funded, state-administered program could be construed as having less national importance than OAI.

44. See NEW DEAL THOUGHT xv–xxxvi (Howard Zinn ed., 1966).

45. See Sonya Michel, *A Tale of Two States: Race, Gender, and Public/Private Welfare Provision in Postwar America*, 9 YALE J.L. & FEMINISM 123, 128 (1997).

III. THE GI BILL IN THE CONTEXT OF NEW DEAL SOCIAL WELFARE POLICY

A. Preparing for Demobilization

The American entry into World War II effectively ended the Depression and the work relief programs of the New Deal. Following mobilization, there was no need for the Civilian Conservation Corps (CCC) and the Works Progress Administration (WPA) because war was the ultimate public works project.⁴⁶ Nevertheless, almost as soon as the war started, political leaders were concerned with the domestic policy of demobilization.⁴⁷ Businesses, for example, were concerned with the transition of veterans from the military back to civilian life and the burden this would place on the economy and the labor force.⁴⁸

Their concern was animated by historical events. The first was the long-standing view that disgruntled veterans were a serious threat to domestic stability. The 1931 Bonus March, staged by angry World War I veterans lobbying for a loan of fifty percent of the amount owed to them under a 1924 military benefits law, fostered this view.⁴⁹ Further, the role that unemployed veterans had played in the rise of Fascism and Nazism in Europe also contributed to American views that protective measures should be considered to help facilitate the transition of veterans back into the fabric of society.⁵⁰

Although President Roosevelt firmly believed that veterans should not be held superior to the rest of the nation's citizens,⁵¹ the first demobilization legislation *did* privilege veterans above other citizens, especially women. The Selective Training and Service Act of 1940 established a peacetime draft for adult male citizens and an employment restoration program to promote voluntary enlistment.⁵² Understanding that most citizens still suffered from what John Kenneth Galbraith

46. See EDWARD BERKOWITZ & KIM MCQUAID, *CREATING THE WELFARE STATE: THE POLITICAL ECONOMY OF TWENTIETH-CENTURY REFORM* 151 (1992).

47. KEITH W. OLSON, *THE G.I. BILL, THE VETERANS, AND THE COLLEGES* 3 (1974).

48. See MICHAEL BENNETT, *WHEN DREAMS CAME TRUE: THE G.I. BILL AND THE MAKING OF MODERN AMERICA* 12-13 (1996).

49. See DAVIS R.B. ROSS, *PREPARING FOR ULYSSES: POLITICS AND VETERANS DURING WORLD WAR II* 12-19 (1969).

50. OLSON, *supra* note 47, at 4.

51. BENNETT, *supra* note 48, at 84.

52. Selective Training and Service Act of 1940, Pub. L. No. 783, §§ 2, 3, 8, 54 Stat. 885 (1940).

termed "Depression Psychosis,"⁵³ legislators recognized that most men would be reluctant to give up a paying job to join the military (often at lower pay) without some sort of adequate compensation for relinquishing their hard-won jobs. Given the importance placed on work and employment as a gauge of status and self-worth, few measures could adequately compensate for being forced to abandon one's job to enlist in the armed forces. Thus, instead of simply offering enlisted men a pension for conscripting, the Selective Training and Service Act also assured them that their jobs would be waiting for them upon their return from war.⁵⁴ As I will discuss in more detail later, this provision was enormously problematic for the women who would temporarily replace the male workforce during World War II and then be abruptly dismissed from service upon demobilization.⁵⁵

By privileging the male worker as a long-term economic participant and devaluing women workers as temporary laborers who could be slotted in and out of the workforce, the Selective Training and Service Act amplified traditional views of men as the nation's workforce. Although World War II would be a time of tremendous advancement for women in terms of their ability to participate in traditionally male institutions, this advancement was tempered by the understanding that women's forays into these institutions were temporary measures acceptable only at a time of profound national crisis. When the crisis was over, women would be expected to return to the home and their traditional gender roles.

B. The GI Bill: Facilitating Sustained Wage-Earning and Privileging the Citizen-Soldier

In addition to the re-employment provisions of the Selective Training and Service Act, the government was also considering additional measures to smooth the process of demobilization. With the lobbying and drafting efforts of veterans' interest groups like the American Legion, and the support of Roosevelt himself,⁵⁶ Congress enacted the

53. Ross, *supra* note 49, at 34 (citing JOHN KENNETH GALBRAITH, *AMERICAN CAPITALISM* (1952)).

54. Select Training and Service Act § 8.

55. See *infra* Part IV.B.

56. Theda Skocpol, *The G.I. Bill and U.S. Social Policy, Past and Future*, 14 *SOC. PHIL. & POL'Y* 95, 104-07 (1997) [hereinafter Skocpol, *G.I. Bill*] (noting that the Roosevelt administration's desire to link veterans' benefits to the emerging welfare state coincided with the American Legion's efforts to secure more comprehensive veterans' benefits).

Servicemen's Readjustment Act of 1944—popularly referred to as the GI Bill of Rights or the GI Bill—on June 22, 1944.⁵⁷

The terms of the GI Bill were expansive and were intended to alleviate the anticipated demand for jobs upon demobilization. Under the auspices of allowing veterans to continue educational or vocational training interrupted by their mobilization, the Act provided such training for anyone who had served at least ninety days of active duty between September 16, 1940 and the end of the war.⁵⁸ In addition to the payment of tuition and books, the Act also provided a stipend of fifty dollars per month for veterans without dependents and seventy-five dollars per month for those with dependents.⁵⁹

The Act's remaining titles were equally generous. Title III provided loans for "the purchase or construction of homes, farms, and business property" at a four percent interest rate,⁶⁰ a better value than the prevailing rates within the mortgage industry.⁶¹ Title IV provided employment counseling and assistance for returning veterans, while Title V provided generous unemployment benefits.⁶² The investment in individual human capital that the GI Bill signaled was remarkable in its scope and breadth. By 1948, just over twenty percent of the federal budget had been allocated to the payment of veterans' benefits.⁶³

As the provisions of the Act and the circumstances surrounding its drafting suggest, the GI Bill focused on compensating veterans for opportunities lost during their military service, preserving economic stability, and reintegrating soldiers into the workforce. All of the benefits, therefore, were aimed at providing the returning soldier with new

57. Servicemen's Readjustment Act of 1944 (G.I. Bill), Pub. L. No. 346, 58 Stat. 284 (1944) (codified as amended in scattered sections of the U.S. code).

58. *Id.* at 287–88.

59. *Id.* at 289.

60. *Id.* at 291–93.

61. *See id.* at 292.

62. *Id.* tit. IV, ch. V. The unemployment provisions, providing \$20 a week in unemployment benefits for a maximum of 52 weeks, were hotly contested prior to enactment. Fearful of encouraging sloth and subordinating the ideal of sustained wage-earning, Congress had been reluctant to provide any sort of benefit that could be seen as an incentive to forego paid work. With intensive lobbying by veterans' groups and redrafting to limit the availability of these provisions, the unemployment provisions were finally accepted. However, the controversy over the unemployment provisions exemplifies how deeply entrenched was the ideal of the sustained wage-earning citizen in the American consciousness. *See* BENNETT, *supra* note 48, at 149–53.

63. GRETCHEN RITTER, *GENDER AND CITIZENSHIP AFTER WORLD WAR II* 34 (May 2001) (unpublished manuscript, on file with author).

opportunities (greater accessibility to higher education and homeownership), providing alternatives to immediate re-entry to the workforce, and developing the skills necessary to be a long-term participant.

Although it was framed in terms of rewarding service, the GI Bill was also consistent with the New Deal social insurance programs' emphasis on sustained wage-earning. The education and vocational training provisions were intended to help veterans develop new skills or continue training interrupted by war in order to augment their ability for sustained wage-earning. These provisions, however, were also intended to delay the re-entry of veterans into the labor force by channeling them to college or vocational schools because labor capacity would outpace available jobs.⁶⁴ The home mortgage and small business loans were intended to accelerate the ability of veteran wage-earners to realize the fruits of their sustained wage-earning and, indirectly, to spur growth in housing markets outside of the traditional cityscape, thus creating new jobs and economic growth.⁶⁵ Predicated on military service, the Act gave returning veterans the opportunity to increase their ability to be successful long-term participants in the peacetime economy.

The Act's emphasis on wage-earning echoed the gendered nature of the Social Security Act programs. By creating a benefits program designed to facilitate the transition back to the workforce, and by predicating those benefits on participation in an institution that was almost entirely male, Congress, however unintentionally, ensured the social understanding of the GI Bill as an entitlement program directed towards men.⁶⁶

C. World Turned Upside Down—Women as World War II Workers

The intense commitment to sustained wage-earning in the social welfare legislation discourse of the New Deal and World War II was ironic. During the New Deal, work relief programs and the work-predicated programs of the Social Security Act of 1935 were socially understood to be male programs because of the gendered nature of work. In World War II, however, this understanding was complicated

64. See BENNETT, *supra* note 48, at 12–13, 201.

65. See *id.* at 277–310.

66. Indeed, in an article describing the newly-enacted G.I. Bill, Brigadier General Frank T. Hines referred to the Act's intended beneficiaries as "servicemen" or "men," indicating that the presence of women in the armed forces did little to dispel the notion that veteran status was masculine in character. See Frank T. Hines, *Education and Rehabilitation of Returning Veterans With Special Reference to the Provisions of Public Laws 16 and 346*, 18 J. Educ. Soc. 73 (1944).

by the fact that the war saw the increased participation in the labor and military forces of a group typically marginalized from direct economic and military participation. During the war, women were actively involved in the war effort through their labor force and military participation. Despite these wartime changes, the traditional assumption of women as homebound caregivers remained consistent.⁶⁷ Rather than being seen as long-term economic participants, women were viewed as *temporary* additions to the workforce and the military.⁶⁸ The fact that women were being encouraged to become involved in an institution that had heretofore been male in character was mitigated by the fact that their participation was consistently characterized as a temporary measure aimed at boosting wartime production.⁶⁹ As temporary workers, women were not considered among the intended beneficiaries of legislation designed to further long-term economic engagement, like the GI Bill. Even more discouraging was the Selective Training and Service Act, which required employers to discharge temporary female workers in order to restore returning veterans to their pre-war employment.⁷⁰

1. Workers in the Paid Labor Force

The mobilization of male workers into the armed forces left a void in the economy that required immediate attention. With most of the able-bodied men enlisted, the nation began transitioning women into the labor force. A *Mobile Press Register* advertisement commissioned by "patriotic" businesses, in conjunction with the War Manpower Commission, implored women to lend their labor to the war effort: "There is an acute shortage of workers. . . . Practically all available man-power has been exhausted, so the solving of the problem rests with the women."⁷¹ The urgency of the plea was not lost on American women, nor was the

67. WILLIAM HENRY CHAFE, *THE AMERICAN WOMAN: HER CHANGING SOCIAL, ECONOMIC, AND POLITICAL ROLES, 1920-1970* 178 (1972).

68. Susan M. Hartmann, *Women, War, and the Limits of Change*, NAT'L F., Fall 1995, at 17.

69. See MAUREEN HONEY, *BITTER FRUIT: AFRICAN AMERICAN WOMEN IN WORLD WAR II* 12 (1999).

70. Lucinda M. Finley, *Transcending Equality Theory: A Way Out of the Maternity and the Workplace Debate*, 86 COLUM. L. REV. 1118, 1176 (1986); Ruth Milkman, *Gender at Work: The Sexual Division of Labor During World War II*, in *WOMEN'S AMERICA* 446, 449 (Linda K. Kerber & Jane Sherron DeHart eds., 4th ed. 1995).

71. Patricia G. Harrison, *Riveters, Volunteers and WACS: Women in Mobile During World War II*, in 15 *HISTORY OF WOMEN IN THE UNITED STATES* 422, 423 (Nancy F. Cott ed., 1993).

urgency of their own economic situations. For many, the enlistment of the home's wage-earner resulted in a lower household income, as military pay was often lower than civilian pay.⁷² Although many women were genuinely motivated by patriotic impulses (not to mention the coercive advertisements that declared work in the civilian labor force the female analog of military service), many were also forced into work to make up for the income shortfall in their households.⁷³ Either way, the transformation of the economy was dramatic: the number of women employed in the labor force swelled from 10.8 million in March 1941 to 18 million in August 1944.⁷⁴

The advent of war did not dramatically influence the influx of women of color into the labor force. African-American women had long been part of the labor force, particularly in low-wage and domestic positions. The war, however, was a watershed event for women of color in that the range of available employment opportunities widened considerably. This is not to say that the war was a uniformly positive experience for women of color. Although economic opportunities expanded for all women, discrimination was rampant, and hiring and firing practices often privileged white women.⁷⁵ Social norms also worked against women of color. Employers were reluctant to include women of color in the work environment, and in some cases, white women were vehemently opposed to the forced interaction that would result from allowing women of color into the work place.⁷⁶

Segregation by industry was also common in the war period. Although African-American women were frequently turned away from employment in clerical and administrative fields,⁷⁷ they made great strides in other fields.⁷⁸ The same sort of occupational segregation occurred in the armed forces, where women of color were given menial, unskilled tasks like kitchen duty and cleaning.⁷⁹ As in the antebellum

72. Susan M. Hartmann, *The Home Front and Beyond: American Women in the 1940s* 38, 78–79 (1982).

73. *Id.* at 79; Judy Barrett Litoff & David C. Smith, *U.S. Women on the Home Front in World War II*, 57 *HISTORIAN* 349, 353–56 (1995).

74. Marc Miller, *Working Women and World War II*, in 15 *HISTORY OF WOMEN IN THE UNITED STATES* 402, 402 (Nancy F. Cott ed., 1993).

75. Karen Tucker Anderson, *Last Hired, First Fired: Black Women during World War II*, 69 *J. AM. HIST.* 82, 83–84 (1982).

76. *Id.* at 89.

77. HONEY, *supra* note 69, at 7.

78. For example, the Los Angeles aircraft industry was well-known for its advancement of African-American women. Anderson, *supra* note 75, at 87.

79. HONEY, *supra* note 69, at 8.

period, the wartime economy relegated women of color to the lowest rungs of the labor hierarchy.⁸⁰

Despite the advertisements urging women to do their part and pitch in, the traditional ideal of the home-bound woman and the wage-earning man was never fully eliminated—even in war. The involvement of women was seen as a necessary, but temporary, evil of a wartime economy.⁸¹ Indeed, many employers emphasized that this foray into the paid labor force should not come at the expense of domestic work. Women were expected to shoulder the twin burdens of running a home and being a breadwinner. A Eureka advertisement noted the dual role: women were “running a house for Dad O’Rourke of a morning, and making gas masks on Eureka’s 4–12 shift.”⁸²

In addition to promoting a dual role, the rhetoric of the period tried to balance wartime needs with gender norms by emphasizing the subordinate and supportive aspects of women’s work. “Advertisers identified women’s work as female military service, equivalent to the service men were rendering overseas. But rather than viewing women as equally entitled to and qualified for the jobs normally held by men, advertisements portrayed female war workers as indispensable helpmates”⁸³ rather than workers in their own right.

2. The Expanding “Home Front”

The social understanding of women’s wartime participation was heavily centered around traditional gender roles that positioned men as providers and women as helpmates. The emerging vernacular of the “home front” exemplifies the idea of women workers as helpmates, rather than as independent economic actors. Historically, the home and hearth had been the dominion of women, while the external, public

80. *See id.*

81. Maureen Honey, *The Womanpower Campaign: Advertising and Recruiting Propaganda during World War II*, in 15 *HISTORY OF WOMEN IN THE UNITED STATES* 326, 327 (Nancy F. Cott ed., 1993). *See also* HARTMANN, *supra* note 72, at 23 (noting that it was understood that women were undertaking traditionally male jobs out of necessity rather than out of an impulse to make inroads into the paid labor force). Indeed, their motivation was heralded as truly feminine and womanly: “In the public image, women took war jobs to bring their men home more quickly and to help make the world a more secure place for their children.” *Id.*

82. Honey, *supra* note 81, at 327.

83. *Id.* at 329–30.

sphere had been the place of men.⁸⁴ During World War II, however, the concept of the home shifted from the physical structure of the domestic sphere to *any* place that women were present, including traditional places of male work. With the arrival of temporary women workers, the workplace was feminized and incorporated into an all-encompassing “home front.” Rather than characterizing women as independent economic participants, the wartime rhetoric of the “home front” extolled the traditional ideal of the woman supporting a working wage-earner by creating a pleasing and productive domestic space—only this time, the domestic space was a factory, not the home. In this case, Rosie the Riveter was laboring in a wartime factory in order to assist GI Joe with the *real* work of the day—winning the war and securing democracy.

This shift in the conception of domestic work suggests that the expansion and feminization of the “home front” altered the basic concept of work itself. With women occupying positions in the labor force, one might conclude that these jobs were no longer status-conferring, as they had been when they were held by men. Instead, they were viewed as akin to the same domestic work that women had always performed in the home: subordinate, non-status-conferring work executed for the benefit and support of men. Popular culture echoed this shift. Women’s magazines and employee job manuals, emphasizing the similarities between housework and war work, featured articles and instructions noting that operating a drill press was like squeezing orange juice and that cutting plane parts from a pattern was no different than cutting a dress.⁸⁵ By devaluing women’s wartime work as a derivative of traditional domestic work, contemporary culture ensured that women workers would not be seen as economic actors with the same citizenship status and entitlements as men.

Women, historically discouraged from maintaining employment outside of the home, could never live up to the ideal of the male worker. Their participation in the production efforts of the war was a temporary event spawned by extenuating circumstances, not the sustained participation that allowed one to assume the status of a citizen-worker and all of the benefits that such status entailed. In this way, the shifting view of the home front punctuated the unequal status of women workers. As far as the national consciousness was concerned, women were still safely ensconced in the home—the “home” had simply expanded to incorporate far more than the traditional hearth.

84. For a discussion of the distinction between the public and private spheres in legal discourse, see Jill Elaine Hasday, *Federalism and the Family Reconstructed*, 45 *UCLA L. REV.* 1297 (1998).

85. Milkman, *supra* note 70, at 449.

3. Military Service, Work, and Citizenship

The expansion of the “home front” to incorporate traditionally male places of work also had enormous citizenship implications. Military service, like paid work, had always been an important arbiter of male citizenship; however, with the advent of women into the paid workforce, the importance of military service as a citizenship-conferring vehicle was heightened. With the wartime feminization of traditionally male employment, the ideal of “work” being a sustained activity in the paid labor force became complicated. If the “home front” included the entire domestic wartime economy and its female workers, then only those activities *beyond* the expanded “home front” could truly be “work” in the status-conferring, citizenship sense. In essence, the feminization of the workforce made the worker/citizen-soldier the new ideal. Military service coupled with peacetime paid work now connoted the ideal of male citizenship. Thus, women were doubly disadvantaged—by the legal regime which made their labor participation temporary and by normative assumptions that raised the citizenship stakes to almost unattainable heights.

4. Women in the World War II Military

Although the military was seen as the preeminent form of male work during World War II, the war was ironically the first conflict in which women’s service branches took part as enlistees in their own right.⁸⁶ As military wives and daughters, cooks, nurses, and prostitutes, women had historically been associated with the armed forces in subordinate, service-oriented positions.⁸⁷ In World War I, civilian women served in the military, but were denied the same benefits as enlisted men.⁸⁸ On May 28, 1941, Representative Edith Nourse Rogers introduced the bill to create a Women’s Army Auxiliary Corps (WAAC) as an effort to elevate and recognize the contributions of women who had served in World War I, and “to prevent a similar ‘tragedy’ during

86. See Jeanne Holm, *Women in the Military: An Unfinished Revolution* 21–25 (1992).

87. ILENE ROSE FEINMAN, *CITIZENSHIP RITES: FEMINIST SOLDIERS & FEMINIST ANTI-MILITARISTS* 95 (2000); Janann Sherman, “They either need these women or they do not”: Margaret Chase Smith and the Fight for Regular Status for Women in the Military, 54 *J. MIL. HIST.* 47, 48–49 (1990).

88. LEISA D. MEYER, *CREATING GI JANE: SEXUALITY AND POWER IN THE WOMEN’S ARMY CORPS DURING WORLD WAR II* 11 (1996).

World War II.”⁸⁹ The auxiliary status of the WAAC was crucial to the enactment of the legislation in March 1942 because few legislators were willing to afford women in the military the same status as their male counterparts. As auxiliaries, female units were *of* the military but not *in* the military.⁹⁰ This hybrid status allowed the armed forces to exert some control over the female units, while preventing them from assuming the benefits of full military status.⁹¹ Ultimately, however, this hybrid arrangement complicated the status of women in the armed forces, as well as the military ideal of uniformity.⁹² In an effort to achieve “one category of people” in the army,⁹³ Public Law 110 eliminated the Women’s Auxiliary and created the Women’s Army Corps (WAC) on July 1, 1943.⁹⁴ Similar divisions in other branches of the armed services followed.

The introduction of women into the armed forces challenged traditional gender roles and conceptions of female and male work. Opponents of the measure feared that including women in the military—a bastion of masculine citizenship—would drive “‘an opening wedge’ in breaking down ‘traditional American opposition to removing women from the home.’”⁹⁵ WAAC proponents like Representative Rogers attempted to downplay these fears by emphasizing that military women would be shouldering “feminine” tasks like clerical and administrative work, cooking, and cleaning—tasks that diverted male soldiers from combat and other traditionally male military activities.⁹⁶

This rhetoric was familiar and comforting to the public; it was, after all, the same kind of language used to recruit women into the civilian workforce.⁹⁷ By assuring the public and the military that female enlistees

89. *Id.*

90. 87 Cong. Rec., 4531–32 (1941). See also MEYER, *supra* note 88, at 20.

91. MEYER, *supra* note 88, at 32.

92. *Id.* The armed forces’ culture of uniformity emphasized collective identity and shared goals above individual aspirations. More particularly, in the debate over whether to award full military status to the Women’s Army Corps, officials sought to consolidate control of women’s branches and reinforce the Army ideal of “one category of people.” *Id.*

93. *Id.*

94. Pub. L. No. 110, 57 Stat. 371 (1943).

95. MEYER, *supra* note 88, at 25 (quoting *Catholics v. WAAC’s*, TIME, June 15, 1942, at 39).

96. *Id.* at 21.

97. See MAUREEN HONEY, CREATING ROSIE THE RIVETER: CLASS, GENDER, AND PROPAGANDA DURING WORLD WAR II 47–54 (1984) (noting that the “Womanpower” campaign emphasized that women’s participation in the war effort was needed for the support of men fighting in the war, a timely twist on the traditional theme of a woman in the home supporting a breadwinning male provider).

would not be performing true military work, but rather subordinate “female” tasks, WAC proponents made the idea of female military participation more palatable, but ultimately differentiated the work done by women as being “un-military” when compared to the work done by men. In this vein, Women Air Service Pilots (WASPs) were forbidden to carry male passengers or to share a cockpit with male pilots.⁹⁸ Moreover, women were not allowed to supervise their male counterparts—although the Marine Corps circumvented this rule by allowing women to issue orders to men so long as the order was construed as coming from *her* male superior.⁹⁹ As in the case of women in the civilian workforce, women’s military work was characterized as essentially the same sort of work that women had traditionally performed in the home. Given that military work stood apart from other types of work during World War II, it is telling that even in this privileged arena, women’s work was viewed as an extension of their traditional caregiving role.

In addition to the differentiation of women’s military work, there was an ongoing effort to assure the public and male veterans that female enlistees were not intended to be long-term military personnel. Instead, their participation was couched in terms of adventure-seeking and glamour.¹⁰⁰ Their involvement, therefore, was understood to be fundamentally different from the serious business of defending the democratic way of life. Indeed, the differentiation of women’s service was echoed by Congress, which in considering a 1942 amendment to the Naval Reserve Act, changed the title of the bill to read: “An act to expedite the war effort by releasing officers and men for duty at sea and their replacement by women in the shore establishments of the Navy.”¹⁰¹ Assuming that women had enlisted for adventure and excitement or to fill low-level personnel positions, Congress did not credit them with valuing the leadership and statesmanship experience that military service often conferred.¹⁰² Instead, their foray into the military was understood

98. Linda K. Kerber, *No Constitutional Right to be Ladies* 264–65 (1998).

99. HARTMANN, *supra* note 72, at 38.

100. HOLM, *supra* note 86, at 93.

101. Sherman, *supra* note 87, at 56.

102. It should be noted that military service is often used as a critical arbiter of statesmanship, leadership, and in many cases, political viability. Many of the nation’s leaders—from George Washington to George H.W. Bush—have served in the military. In contrast, the political career of President Clinton was dogged with charges that his avoidance of military service in Vietnam suggested larger character and leadership flaws. See, e.g., Pete Belli, *Of Draft Dodgers, War Heroes, Presidents*, HERNANDO TIMES, Nov. 21, 1996, at 2; *Vietnam Trip is Closure for Clinton*, S. BEND TRIB., Nov. 18, 2000, at A13. Cf. Steven Girardi, *Vet Status Not a Must in Politics*, TAMPA TRIB.,

to be an opportunity to *temporarily* escape the confines of their domestic lives. Even this explanation was problematic, however. By desiring to escape domestic life—even if it was for a short time—servicewomen were suspect. The desire to leave the hearth and the traditional gender role with which it was associated to take part in a traditionally male endeavor was cast in terms of loose morals and heightened sexual accessibility.¹⁰³ In this way, the desire to serve was seen as patriotic and selfless for men, but foolish and self-serving (sexually and otherwise) for women.

Thus, the confluence of the social understanding of women's military participation and the actual military work that they performed fostered a view of female enlistees as distinct from the patriotism of male servicemen. Moreover, because their role was seen as temporary and ancillary to the military work of men, female enlistees were prevented from being characterized as long-term workers or soldiers. The public conception of women's civilian war work mirrored the public view of their military status in that their work was not seen as status-conferring in the male calculus. Rather, by enabling male workers to perform their role of protecting the homefront, women's military work was only status-conferring in the traditional female citizenship model. As historian Susan M. Hartmann aptly notes, "[M]ilitary women experienced the expansion of woman's sphere, but within parameters that assaulted as little as possible prewar realities or attitudes."¹⁰⁴ Like the workplace, women's military service was feminized and cast as derivative of and subordinate to the work of male servicemen.

5. Privileging Male Combat

The role of the military as a chief arbiter of male citizenship is due in part to the idea that the soldier puts his life at risk in defense of his country.¹⁰⁵ This idea, like the ideal of wage-earning, has been consistent in the history of the United States. On the first anniversary of the Declaration of Independence, one of the toasts offered to the infant nation

June 29, 1998, at 1 (noting that military service was an important litmus test for the political viability of prospective candidates in the pre-Clinton era).

103. MEYER, *supra* note 88, at 34.

104. HARTMANN, *supra* note 72, at 48.

105. Linda K. Kerber, "May all our Citizens be Soldiers, and all our Soldiers Citizens": *The Ambiguities of Female Citizenship in the New Nation*, in *ARMS AT REST: PEACEMAKING AND PEACEKEEPING IN AMERICAN HISTORY* 1, 4 (Joan R. Challinor & Robert L. Beisner eds., 1987) (citing J.G.A. Pocock, *THE MACHIAVELLIAN MOMENT: FLORENTINE POLITICAL THOUGHT AND THE ATLANTIC REPUBLICAN TRADITION* 90 (1975)).

proclaimed, “[m]ay only those Americans enjoy freedom who are ready to die for its defense.”¹⁰⁶ In *Fishgold v. Sullivan Drydock & Repair Corporation*,¹⁰⁷ the Supreme Court acknowledged that an element of sacrifice was present in military service that warranted legislative protections for servicemen.¹⁰⁸ By leaving “private life” to serve and defend, veterans earn an entitlement to post-service benefits.¹⁰⁹ In their praise of the newly-enacted G.I. Bill, the American Legion echoed this sentiment noting: “[I]t isn’t that this new law . . . will repay a man for the fighting and sacrificing which he did. Not at all. Money can’t repay that kind of a debt.”¹¹⁰ Thus, one’s entitlement to the fruits of citizenship hinge in part on one’s ability to make the ultimate sacrifice for the nation.¹¹¹ This view, alongside the ideologies of work and gender as citizenship and status-conferring vehicles, were at work in the drafting of early veterans’ pensions as well as in the drafting of the GI Bill. Supporters of the Act argued that its provisions were warranted to compensate for the enormous effort and sacrifices that enlisted servicemen expended during World War II and “to restore them, as nearly as possible, to the position they might have held if they had not been called to serve America.”¹¹² Inherent in this logic was the idea that the work performed by servicemen was commensurate with the vast benefits received under the GI Bill. What was understood as work, however, was gender-specific, much like it had been in the domestic sphere. Just as the feminization of the “home front” had enormous implications for what could be considered “work” in the status-conferring sense, the presence of women in the

106. KERBER, *supra* note 98, at 240.

107. 328 U.S. 275 (1946).

108. *Id.* at 285 (“This legislation is to be liberally construed for the benefit of those who left private life to serve their country in its hour of great need.”).

109. *Id.* at 284.

110. Donald G. Glascoff, *G.I. Joe’s New Horizon*, AM. LEGION MAG., Aug. 1944, at 14, 14.

111. It should be noted that passage of the Nineteenth Amendment, affording female citizens the right to vote, did not result in the eligibility of women for military conscription. This is in stark contrast to the male model where voting, perhaps the ultimate expression of citizenship, is linked to military service. Jacob Katz Cogan, Note, *The Look Within: Property, Capacity, and Suffrage in Nineteenth-Century America*, 107 YALE L.J. 473, 482–83 (1997). This might show favorable treatment of women within the citizenship framework, or the difference in conscription may only serve to underscore the distinction between male and female citizenship that existed at the nation’s inception and continued to hold sway even after women were granted suffrage.

112. David Camelon, *I Saw the GI Bill Written*, AM. LEGION MAG., Sept. 1949, at 47.

military arena had implications for what types of military work could be understood as status-conferring and benefits-entitling.

The military excluded women from combat, its primary function.¹¹³ Consequently, the symbolism of combat—and the sacrifice of laying down one's life for one's country—embodied the experience of male soldiers in a way that was distinct from the experience of enlisted women. The fact that *all* male enlistees were trained for combat fostered the view that male service involved this extreme sacrifice and, therefore, was worthier than female service. However, the idea that *all* male enlistees were *engaged* in combat is blatantly false. Though all servicemen were trained for combat, only twelve percent actually participated.¹¹⁴ Another twenty-five percent remained stateside, never seeing an actual theatre of war.¹¹⁵

Outside of actual combat, there were very few military jobs that were inherently male or female. Using such criteria as physical strength required by the job, necessary training time, and whether or not the job was “‘traditionally’ acceptable for women,” the Army cut the 628 non-combat positions for men down to 406 positions that were then made available to women.¹¹⁶ The artificial differentiation between “military jobs” performed by enlisted men and “non-military” jobs done by enlisted women separated the sexes and resulted in the devaluation of women's work.¹¹⁷ The same distinctions that had been used to characterize external labor-participation as male and status-conferring and domestic care-giving as female were also used during World War II to distinguish between male and female military work. As one scholar noted:

Defining all jobs that women performed within the military as noncombat served to preserve the Army's definition of ‘soldier’ as male and having combat potential, regardless of the actual jobs performed by that soldier. A ‘woman soldier’ . . . in contrast, had no potential for combat and was thus not eligible for the elevated status that being a ‘warrior’ conferred.¹¹⁸

By differentiating the (similar) service of men and women in such a way, the military maintained the fiction that the armed forces were “predominantly composed of ‘fighting’ men” and made more pro-

113. See Christopher Horrigan, Comment, *The Combat Exclusion Rule and Equal Protection*, 32 SANTA CLARA L. REV. 229, 229–30 (1992)(defining the combat exclusion principle).

114. MEYER, *supra* note 88, at 71.

115. *Id.*

116. *Id.* at 76.

117. *Id.* at 85.

118. *Id.*

nounced the distinction between female military work and male military work.¹¹⁹

IV. WOMEN AND THE GI BILL

While there is little extant data providing detailed accounts of the distribution of GI Bill benefits to female veterans,¹²⁰ most military historians agree that few women took advantage of the Bill's benefits.¹²¹ Although some anecdotal information tells of women and minorities using their benefits to pursue further education,¹²² more precise information concerning the difficulties that African-American servicemen encountered in trying to redeem their benefits suggests that it may have been difficult for traditionally subordinated groups to take advantage of the Act's provisions.¹²³ Moreover, throughout the war effort, enlisted women had been derided as sexually available and deviant.¹²⁴ One could argue that these public views about women veterans may have made some women reluctant to disclose their veteran status in the postwar period.

Regardless of whether obstacles were formally erected to prevent women veterans from taking advantage of their military benefits, the provisions of the GI Bill and the culture in which it was enacted suggest that though the Act was gender-neutral on its face, its distribution of benefits was heavily skewed towards men.¹²⁵ Despite the gains made by women during the war effort, the privileges and status afforded to

119. *Id.*

120. See JUNE A. WILLENZ, *WOMEN VETERANS: AMERICA'S FORGOTTEN HEROINES* 50 (1983).

121. *Id.* See also HARTMANN, *supra* note 72, at 105 (noting that when the GI Bill's education program ended in 1956, 6,472 women had been among the 2,232,000 veterans educated under the GI Bill, a proportion approximating their representation in World War II service).

122. See, e.g., WILLENZ, *supra* note 120, at 79-84; *The GI Bill: The Law that Changed America* (PBS television broadcast, June 22, 1994).

123. The local administration of some GI Bill benefits (like the unemployment compensation benefit) resulted in the denial of those benefits to African-American veterans. David H. Onkst, "First A Negro . . . Incidentally A Veteran": *Black World War Two Veterans and the G.I. Bill of Rights in the Deep South, 1944-1948*, 31 J. Soc. Hist. 517, 519-23 (1998).

124. MEYER, *supra* note 88, at 33-50.

125. BENNETT, *supra* note 48, at 202 (noting that the GI Bill "didn't directly benefit many women" as only 2.9% of veterans attending college under the GI Bill were women; however, more women were attending college than ever before).

veterans—like the benefits conferred through social security—were socially understood to apply almost exclusively to men.¹²⁶

A. Numerosity

There is no mention in the GI Bill's legislative history of haggling over whether or not to afford GI Bill benefits to women veterans. Indeed, the first title put forth by the American Legion for the legislation was "A Bill of Rights for GI Joe and GI Jane,"¹²⁷ suggesting that women were at least nominally considered within the legislation's ambit. Despite the inclusion of women in the Act's title, the truth of the matter is that the Act benefited far more men than women and was focused on enhancing the beneficiary's ability to be a sustained wage-earner, a role socially understood to be masculine in character.

The disjunction between the Act's intent and its reality stems, in large part, from the fact that only two percent of World War II enlisted personnel were women.¹²⁸ In short, the number of women military personnel that would be eligible for benefits was negligible. Thus it is probable that few legislators or lobbyists even conceived of a need to specifically consider the needs of women veterans in the terms of the legislation. Moreover, the military's culture of uniformity, with its emphasis on collectivity above individuality, would have discouraged a gender distinction among veterans.

Though gender-neutral on its face, the fact that ninety-eight percent of those eligible would be male, coupled with the Bill's aim to devote considerable resources to the prospect of enhancing one's capacity for long-term worker status, guaranteed that the social understanding of the GI Bill would be one of privileging male citizens. Moreover, the benefits conferred under the GI Bill were understood to be entitlements—veterans had *earned* the benefits through their service to the nation in the same way that workers had earned social security income through their long-term participation in the workforce. Such entitlements were understood to be male in character because they were usually associated with male activities like work or military service.

126. Indeed, in discussing the provisions of the GI Bill, Brigadier General Frank T. Hines, then Administrator of Veterans Affairs and Administrator of Retraining and Reemployment, consistently referred to veterans as "men" and focused on the work-enhancing provisions of the legislation. See Hines, *supra* note 66, at 73–80.

127. The name was later shortened to "The GI Bill of Rights." See Skocpol, *supra* note 56, at 106.

128. Sherman, *supra* note 87, at 76.

Despite the fraction of female veterans who were eligible for benefits, the GI Bill was a characteristically male program.

B. The GI Bill and the Selective Training and Service Act in Tandem

In addition to the skewed gender distribution of benefits, the GI Bill, in tandem with other military/economic legislation, reinforced traditional gender roles in the post-war period and effectively negated many of the advances made by women during the war. As previously discussed, the terms of the employment restoration provisions of the Selective Training and Service Act guaranteed that the feminized “home front” would contract upon demobilization as women were forced to surrender their wartime employment to returning veterans. Not only were returning veterans entitled to the jobs that they had previously held, they were also entitled to re-enter the workforce at the positions that they would have been in had their employment not been interrupted.¹²⁹ This benefit was consistent with the thinking behind the GI Bill because it gave the returning veteran the advantages that, in theory, he would have enjoyed had he not enlisted.

In essence, the logic that accompanied the drafting of the Selective Training and Service Act was still in mind when Congress turned to the issue of demobilization and veteran readjustment. In both cases, Congress sought to compensate for the economic and physical sacrifices that the veterans had made upon enlisting. There was no need to consider the fate of women veterans and workers in drafting adjustment legislation, as it was understood that women workers and veterans had not made the same economic and physical sacrifices. Further, it was assumed that the readjustment of women in the postwar period would simply involve a return to the home and their pre-war gender roles.¹³⁰ Regardless of military or wartime work participation, the ultimate benefit that would accrue to women in the postwar period was the chance to return to the home and the economic protection of wage-earning men—an opportunity secured for them by the service of male citizen-soldiers.

129. Selective Training and Service Act of 1940, Pub. L. 783, § 8, 54 Stat. 885, 890-92 (1940).

130. Milkman, *supra* note 70, at 449; Hartmann, *supra* note 68, at 17.

C. Gender and the GI Bill

As previously noted, the fact that only two percent of the veterans eligible to receive GI Bill benefits were women had considerable implications for the social understanding of the legislation. Moreover, the casting of female enlistees as adventure-seekers suggested that many of the two percent would be uninterested in pursuing further training in the postwar period. With all of these factors in mind, it is probable that policymakers were more concerned with the needs of the constituency who would most likely take advantage of the Bill's provisions—male veterans.

The Bill's titles, focused on education, home mortgage and small business loan assistance, unemployment insurance, and Veteran's Administration (VA) hospital benefits, underscored its purpose in facilitating the re-entry of male workers into the labor force, and (whether conscious or unconscious) neglected the needs of women veterans. For example, the terms of the education provisions specified a narrow seven-year bandwidth in which the educational benefits had to be used, making it difficult for women, many of whom returned home to start families, to take advantage of this opportunity.¹³¹ If some thought had been given to the needs of female veterans, drafters might have included measures allowing for the deferral of educational benefits until a later date. Similarly, the home mortgage and small business loans were unlikely to be used by women individually as it was assumed that men would handle the financial aspects of the household, including the financing of homes and businesses.¹³² The Veteran's Hospital benefits were attractive, but VA hospitals were often ill-equipped to handle the health needs of women.¹³³

131. See WILLENZ, *supra* note 120, at 50.

132. See MEYER, *supra* note 88, at 182 (noting that few women took advantage of the Bill's loan provisions). Moreover, if African-American veterans had difficulty taking advantage of the loan provisions of the G.I. Bill, it stands to reason that women may also have been the subject of discrimination in the lending industry. On a more practical level, the provisions of the Bill did not guarantee that lenders would actually extend loans. Instead it provided that the federal government would act as underwriters and guarantors of low-interest loans. Thus, there was considerable discretion at the local level as to how loans would be dispersed. David Onkst has argued persuasively that this prevented many African-American veterans from using the loan provisions. Onkst, *supra* note 123, at 522. I argue that these elements of local control similarly disadvantaged women, who were also constrained by normative assumptions about their ability to contract and participate in the economic realm. For more on women veterans' use of the loan provisions, see MEYER, *supra* note 88, at 182.

133. Karen Lee Scrivo, *Battling for Benefits*, NAT'L J., Dec. 9, 2000, at 3810, 3811.

The most striking aspect of the Bill, in terms of its gender inequity, was the manner in which it differentiated survivor and dependent benefits and status for servicemen from those of servicewomen. The disparity was consistent with the Social Security Act where, in order to claim their benefits, women had to prove that they were independent of a male breadwinner, or, if they were married, that their spouses were at least partially dependent on their income.¹³⁴ Similarly, the state civil service preferences, which granted preferences in civil service employment to veterans, often allowed the surviving spouses and parents of male veterans to take advantage of veterans' preferences, regardless of their own military service.¹³⁵ Postwar legislation prevented the surviving husbands of servicewomen from availing themselves of the same opportunity.¹³⁶

The veterans' benefits structure, of which the GI Bill was a part, ensured that the gender dynamic that placed men in the role of the breadwinner while women were resigned to dependent status remained firmly in place. In *Mitchell v. Cohen*,¹³⁷ the Supreme Court, in considering the scope of the Veterans' Preference Act of 1944, offered thoughts on the status of preferences for the dependents of ex-servicemen: "[T]he Act establishe[d] preference eligibility for the unmarried widows of deceased ex-servicemen. . . . But the preference rights thereby granted are derivative in nature. . . . The widows of ex-servicemen are in a special category which cannot be compared . . . with any group of individuals who performed part-time military duties."¹³⁸

The opinion's language makes clear the nature of the gender norms in play at the time of the drafting and enactment of the World War II

134. See *Weinberger v. Wiesenfeld*, 420 U.S. 636 (1975) (holding that the gender-based generalization that men are more likely than women to be the primary supporters of their families cannot suffice to justify rights to survivors' benefits under the Social Security Act); See also *Califano v. Goldfarb*, 430 U.S. 199 (1977) (holding that the gender-based distinction specifying that Social Security Act survivors' benefits are payable to widowers of covered female wage-earners only if they were receiving at least half of their support from their wives violates due process and equal protection).

135. See, e.g., *Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 263 (describing the contested Massachusetts civil service preference which granted preferences to surviving spouses and parents of veterans).

136. See KERBER, *supra* note 98, at 251-52; ROSS, *supra* note 49, at 194 (describing Senator La Follette's support of extending preferences to the husbands of servicewomen in the Veterans' Preference Act of 1944—a proposal that was quickly dismissed); Steven Lim, *The Effect of Veterans' Reemployment Rights, Veterans Laws, and Protective Labor Laws on the Status of Women Workers in the World War II Period*, 2 HOFSTRA LAB. & EMP. L.J. 301, 310 (1985).

137. 333 U.S. 411 (1948).

138. *Id.* at 420-21.

veterans' benefits programs. Although women were actively involved in the war effort on both the civilian and military ends, their service was not status-conferring in the same manner as that of men. As in the case of the 1930 Social Security Amendments, women were not bearers of entitlements in their own right, but rather were cast as the holders of derivative benefits accrued solely through their attachment to ex-servicemen.

Certainly, the fact that so few women were eligible for veterans' benefits played a large role in entrenching this view. However, the fact that dependent husbands of ex-servicewomen were not able to take advantage of the benefits that their wives had accrued indicates that the GI Bill and other veterans' benefits programs played a strong role in furthering the ideal of the male provider and the dependent homebound female caregiver, which the Social Security Act had made part of the social welfare lexicon only five years before.¹³⁹

D. The GI Bill and Postwar Culture—Reinforcing Gender Norms

As previously discussed, the GI Bill reinforced the gender norms and roles that had long been present in American culture and had been legally entrenched with the enactment of the Social Security Act of 1935. In this way, the GI Bill cannot be interpreted solely as legislation for the provision of military benefits, but rather must be understood as a larger manifestation of the gender and citizenship norms that were in play at the time of its drafting and in the postwar era.

1. Gender Norms in Popular Culture

Despite the erosion of gender and work norms during World War II, demobilization saw the contraction of the "home front" and a return to the social stability represented by traditional gender ideals.¹⁴⁰ One popular advertisement featured a female factory worker before a judge, begging for mercy in the case against her son who has been arrested for vandalism.¹⁴¹ The message to women was clear: with the war

139. In a series of cases in the 1970s, the Supreme Court struck down the gender discriminatory provisions of several federal benefits programs, thereby allowing male dependents to take advantage of the entitlements accrued by their wives. *See* Califano v. Goldfarb, 430 U.S. 199 (1977); Weinberger v. Wiesenfeld, 420 U.S. 636 (1975); Frontiero v. Richardson, 411 U.S. 677 (1973).

140. Honey, *supra* note 81, at 335.

141. *Id.* at 337.

over, there was no need to maintain one's participation in the labor force. Instead, women were *needed* back at the hearth in their traditional role as mothers responsible for the careful rearing of productive citizens. Ironically, even in the face of such guilt-ridden advertisements, many women did maintain some sort of external employment in the postwar period. However, this participation was primarily in lower-status and lower-paying pink-collar jobs that were reserved almost exclusively for women.¹⁴²

Nevertheless, this steady growth of women in the paid labor force (albeit in traditionally female jobs) was countered by rampant popular images that placed women squarely in traditional domestic roles. Women's magazines like *McCall's* and *Ladies Home Journal* wove the leitmotifs of femininity, togetherness, and domesticity throughout their features.¹⁴³ The burgeoning television industry was also an effective outlet for fostering the ideal of the homebound, caregiving mother. The 1950s saw the advent of such television staples as *The Ozzie and Harriet Show*, *Leave it to Beaver*, and *The Donna Reed Show*, all of which featured suburban mothers who cared for their homes and imparted meaningful moral instruction to their children.¹⁴⁴

Even contemporary haute couture complied with the shift back to traditional gender roles. Christian Dior's much-heralded "New Look" featured long, sweeping skirts, elaborate hats, and more feminine silhouettes. In part, the "New Look" was a backlash against the strict rationing of silk and other materials during the war. However, the emphasis on feminine shapes and styles was also a backlash against the masculinized wartime role of women workers and the androgynous garb with which it was associated.¹⁴⁵

142. Linda K. Kerber, *Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History*, 75 *J. AM. HIST.* 9, 30 (1998).

143. CHAFE, *supra* note 67, at 206.

144. See JOANNE MEYEROWITZ, *NOT JUNE CLEAVER: WOMEN AND GENDER IN POSTWAR AMERICA, 1945-1960* 1 (1994). See also SUSAN J. DOUGLAS, *WHERE THE GIRLS ARE: GROWING UP FEMALE WITH THE MASS MEDIA* 43-47 (1994). It should be noted that the portrayal of traditional gender roles in postwar culture was complicated by external economic events. The postwar period saw the genesis of an increasingly materialistic consumer culture dependent on the extra household income furnished by women's extra-domestic paid work. Women were told, on the one hand, that their chief vocation was to remain in the home. However, the maintenance of the home now depended on newly-developed appliances and household products that could only be purchased with excess household dollars. See CHAFE, *supra* note 67, at 206. See also DOUGLAS, *supra*, at 51-56.

145. *THE ST. JAMES FASHION ENCYCLOPEDIA: A SURVEY OF STYLE FROM 1945 TO THE PRESENT* 102 (Richard Martin ed., 1997).

In addition to the desire to return to the pre-war status quo, the mounting campaign against Communism in American postwar culture also fueled the movement to reinstate traditional gender norms. As Susan Douglas wryly observes, “[i]f the United States was going to fight off contamination from this [Communist] scourge . . . then *our* women had to be very different from *their* women.”¹⁴⁶ Since Soviet women were portrayed as holding masculine jobs and consigning their children to state-operated childcare facilities, the only choice for American women was to remain at home with their children.¹⁴⁷ By staying home and overseeing the rearing of their children, American women could ensure that the next generation would be instilled with the virtues of a free and democratic nation.¹⁴⁸ In essence, the ideal of the Republican mother was resurrected to offset the threat of Communism in the postwar period.

Despite the media’s portrayal of women and the threat of Communism, many women were maintaining some kind of extra-domestic economic participation, but popular culture portrayed only one standard: the ultra-feminine, pearl-bedecked housewife creating a pleasing home for her children and hard-working husband. The images of the female factory worker and veteran began to fade away as the traditional image of the homebound caregiver once again became the female standard.¹⁴⁹

2. Gender Norms in the Legal Regime

Alongside these popular culture developments were more sweeping policy developments. The social welfare programs of the New Deal had laid a strong foundation for traditional gender roles in the 1930s, which was built upon by the Selective Training and Service Act and the GI Bill. Under the Selective Training and Service Act, factories let women

146. DOUGLAS, *supra* note 144, at 47.

147. *Id.*

148. *Id.* Indeed the negative impact of working mothers on their children was an oft-repeated advertising theme of the postwar period. Honey, *supra* note 81, at 337. Popular culture also reinforced this theme. The 1945 film *Mildred Pierce* featured Joan Crawford as a driven, single mother running a restaurant. Unfortunately, Pierce’s devotion to her business comes at the expense of her daughter, Veda. Showered with material goods, Veda lacks the love and attention of her mother, and becomes spoiled and dissolute. The film’s climax occurs when Veda murders her lover (who is also her step-father) and pins the blame on her mother—the implication being that by eschewing her domestic obligations in favor of earning a living, Mildred Pierce is guilty of *something*. MILDRED PIERCE (Warner Brothers 1945).

149. See Joanne Meyerowitz, Beyond the Feminine Mystique: A Reassessment of Postwar Mass Culture, 1946–58, 79 J. AM. HIST. 1455, 1478–79 (1993).

go at nearly double the rate of men and female lay-offs were greatest in the higher-paying industries that had traditionally employed men.¹⁵⁰

The GI Bill's most striking role in bolstering traditional gender norms was in the educational context. In the postwar period, the overwhelming majority of those seeking GI Bill educational benefits were male veterans.¹⁵¹ The sheer numbers of GI's seeking higher education in the postwar period overburdened many universities.¹⁵² To deal with the increase, Quonset huts and other temporary classroom and dormitory spaces flourished across the nation's colleges and universities.¹⁵³ In addition to the constraints on facilities, there were constraints on the available admissions slots. With so many male GI's returning to the classroom, the prospect of female students gaining entry dimmed further. Some institutions even imposed "plus factors" for veteran status when considering candidates for admission.¹⁵⁴ With the overwhelming majority of veterans being men, such preferences ensured that women would be further marginalized in terms of access to higher education.¹⁵⁵

Ironically, the GI Bill ushered in an era of democratization in higher education, from which women were largely excluded. In the past, higher education was socially understood to be available only to those of the upper echelons of the social structure. "In providing educational support to all veterans who qualified and chose to use it and to the institutions they attended, the GI Bill of Rights sparked a tremendous expansion in higher education"¹⁵⁶ in that class constraints were removed and a new class of citizens were afforded access to higher education. "Because most soldiers were men they gained the lion's share in this 'democratization of higher education.' And, the lingering attitudes about women's place meant that even as college became more accessible

150. HARTMANN, *supra* note 72, at 91-92.

151. This was due in part to the fact that male veterans composed the overwhelming majority of those eligible for GI Bill benefits, as well as the lingering cultural views that higher education was wasted on women who, ultimately, would spend their lives caring for a home and children. By the time the provisions of the GI Bill expired in 1952, roughly 2.25 million veterans had taken advantage of the educational provisions. Only 64,000 of the degree earners were women. See Michael D. Haydock, *The GI Bill*, AM. HIST., Oct. 1996, at 52-58.

152. *The GI Bill: The Law That Changed America*, *supra* note 122.

153. Haydock, *supra* note 151, at 52-58.

154. See, e.g., Reports of the Deans and of the Librarians of the Law School for the Academic Years 1944-1946, BULLETIN OF YALE UNIVERSITY, at 22 (1946).

155. Hartmann, *supra* note 68, at 18.

156. BENNETT, *supra* note 48, at 238.

to young people in general, families continued to support the higher education of sons over daughters."¹⁵⁷

A subtler, but equally damning, policy shift was made in the tax code. In 1948, Congress adopted the income-splitting joint return. This change favored "traditional married couples in which the wife did not work outside the home, as here the benefits from income shifting between husband and wife were greatest."¹⁵⁸ Thus, the tax code actually penalized households that did not conform to traditional gender roles by providing a tax boon to those families in which women assumed the traditional gender role.

CONCLUSION

The periods that preceded and followed World War II were important in redefining the American social welfare state. As Bruce Ackerman has noted, the shift from the laissez-faire politics characterized by the *Lochner* era to the welfare state of the New Deal was one of epic proportions.¹⁵⁹ With this shift, however, came important decisions regarding citizenship status and gender norms. Prior to the New Deal, the relationship between citizens (i.e. male workers) and the state was one of separation and detachment.¹⁶⁰ With the advent of the Depression and the need for government programs to combat rampant unemployment, the traditional model of the "independent" citizen-worker was drastically altered. As political scientist Gretchen Ritter has observed, this reconceptualization of men's role with regard to the state was also a reconsideration of men's position in relation to women and women's relationship to the state.¹⁶¹

The Social Security Act of 1935, its amendments, and the veterans' benefits programs of the postwar era effectively accomplished this end. Instead of predicating male citizenship on one's ability to contract and work independent of state involvement, the new ideal of the male citizen was centered around one's ability to be a long-term economic participant and, in wartime, on one's ability to participate in military work. In contrast, women's citizenship continued to be construed in a derivative fashion with regard to a woman's attachment to a man.

157. HARTMANN, *supra* note 72, at 105–06.

158. Elizabeth Cohen, *Citizens and Consumers in the Century of Mass Consumption*, in PERSPECTIVES ON MODERN AMERICA: MAKING SENSE OF THE TWENTIETH CENTURY 145, 157 (Harvard Sitkoff ed., 2001).

159. See BRUCE ACKERMAN, *WE THE PEOPLE: TRANSFORMATIONS* 26–27 (1991).

160. See Ritter, *supra* note 63, at 24.

161. *Id.* at 29–30.

The entrenchment of these traditional gender roles obviously had strong ramifications for the formation of social policy—particularly in the distribution of benefits and the configuration of citizenship status. Just as the distinction between work-predicated and non-work-predicated social welfare programs created a two-channel social welfare system, the distribution of benefits along the two tracks created a two-channel model of citizenship.¹⁶² Male citizenship was uncompromised because the *quid pro quo* associated with work and military service created an entitlement to government benefits. Any benefits received under the Social Security program or the GI Bill were “earned” by the beneficiary through years of investment in the workforce or through dedicated military service. The history of work and military participation, coupled with low numbers of women employed in industries that accrued Social Security benefits or serving in the military, guaranteed that these programs would be socially understood as male.

In contrast, programs where women were heavily represented were not predicated on “work” in the male calculus, but rather on a historically subordinate form of work—housework and childrearing in the domestic sector. Such work could not be benefits-entitling because it was generally done in support of the family’s chief bread-winning activities. That is, it was work done by women at home while their husbands supported the family through extra-domestic paid labor. In the social welfare calculus, benefits conferred under programs like ADC simply supplanted the role of the breadwinner for widowed or abandoned women. In this way, such benefits could never be seen as entitled, but instead, as the derivative benefit of one for whom the state had assumed the role of husband and provider.

The conferral of benefits is clearly one indicator of citizenship status. As Linda Kerber has described, early notions of American citizenship were male-dominated and patrilineal.¹⁶³ Through their participation in the economy (work), politics (voting), and defense of the nation (military service), white men were the ideal citizens entitled to the full panoply of government benefits. In contrast, women’s citizenship was more amorphous and considered derivative of either her father’s or her husband’s citizenship status.¹⁶⁴ As Kerber has noted, the major citizenship obligation of a woman was the preservation of the

162. See Nelson, *supra* note 8, at 145.

163. See KERBER, *supra* note 98, at 36.

164. *Id.* at 36–49.

citizenry through the rearing of the next generation.¹⁶⁵ In this way, programs like ADC (funded by the federal government through income and payroll taxes from workers) preserved the derivative status of women's citizenship by ensuring that benefits were conferred through a dependent rather than entitled posture.

With the coming of war and the concomitant demands on the labor force and the military, women were poised to make strong inroads into these traditionally male institutions. However, any gains were temporary, as legal and cultural forces ensured that the traditional gender equilibrium would be restored upon demobilization. Again, there is nothing in the legislative history of the GI Bill to suggest that the marginalization of women and the reinforcement of traditional gender roles and normative citizenship values was intentional. Nevertheless, benign intentions may have malignant results. The fact that women were underrepresented in the military ensured that their needs would not weigh as heavily as that of male veterans during the drafting of the Bill. More importantly, the fact that such a generous income transfer was predicated upon work and service in a heavily gendered institution ensured that only a fraction of women would be privy to the Bill's largesse.

Thus, the GI Bill fits neatly into a continuum of social welfare policy that is punctuated by a concern for the welfare of soldiers, workers, and mothers—although, not necessarily through the same social welfare vehicles. With the GI Bill, the social welfare continuum that began with the Civil War veterans' pensions and the mothers' pensions of the Progressive Era came full circle as the two key arbiters of male citizenship—work and military service—intersected. The GI Bill and other veterans' benefits programs bolstered the two-tiered model of citizenship first established by the early veterans' and mothers' pensions and entrenched by the work-predicated programs of the Social Security Act of 1935. In this modern social welfare model, traditional gender roles continued to hold sway—men were extra-domestic providers and protectors, while women fulfilled their obligations within the "home front."

As scholars of the Social Security Act have noted, looking beyond the intent of social welfare programs to the social implications of these programs can yield profound insights into the manner in which normative values and policy objectives intersect. The GI Bill is no exception. Lauded as the "law that made modern America," the GI Bill has been credited with expanding the American middle class through increased access to higher education, home ownership, and entrepreneurship.

165. Linda K. Kerber, *The Paradox of Women's Citizenship in the Early Republic: The Case of Martin v. Massachusetts, 1805*, in *TOWARD AN INTELLECTUAL HISTORY OF WOMEN: ESSAYS* 261, 268 (1997).

However, the GI Bill has influenced modern America in more troubling ways. By entrenching traditional gender ideals of the male citizen soldier/worker/provider and the homebound female caregiver, the GI Bill contributed to a social welfare structure that entitled male veterans to important economic opportunities denied to non-veteran women. Historian Doris Kearns Goodwin mused that if women war workers had been made eligible for the G.I. Bill instead of “being thrown out of work and then becoming a generation that really didn’t move forward until the next generation, think of the social revolution that might have prevailed.”¹⁶⁶ Rather than ushering in a social revolution, the GI Bill and other postwar policy initiatives, signaled a retrenchment from the progress women made during the war. In so doing, the GI Bill deeply reinforced the social welfare structure of the New Deal that positioned men as entitled citizens and women as their dependents. †

166. *Remembering the G.I. Bill* (PBS *NewsHour with Jim Lehrer* television broadcast, July 4, 2000), available at http://www.pbs.org/newshour/bb/military/july-dec00/gibill_7-4.html.

