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Gender and the American State

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Abstract and Keywords

The study of gender in American political development (APD) challenges the efficacy for advancing women's political inclusion of a liberal tradition valorizing principles of individual equality and positing a separation of the family and the state. Masked are ways in which gender roles and the family are integral to governance and state-building. Gender is both a dependent and an independent variable in APD. Shaped by institutions and policies of the state, it also shapes institutions and policies that promote women's political citizenship and expand the state's capacity for social provision—by asserting not only liberal claims of women's equality with men, but also by invoking maternalist claims based on women's difference from men, thereby challenging and altering relationships between public and private spheres.

Keywords: gender, liberalism, maternalism, citizenship, equality, political incorporation, rights, state-building, suffrage, women

Introduction

THE study of American political development (APD) is in part the study of American state-building. In this chapter, we will focus on gender relations in APD, and consider two major themes that are particularly relevant: (1) the way the American liberal heritage fosters or obstructs women's political inclusion, and (2) the way gender can be analyzed as both a dependent variable resulting from the institutions and structures of the American state and as an independent variable that is responsible for building the American state. These thematic perspectives are too frequently neglected in APD scholarship, though both are important because they bear directly on liberal rights-based narratives of political incorporation that inform much APD scholarship, and because both perspectives raise intriguing contradictions to traditional explanations of American state-building.

At the outset, it is important to recognize that sex and gender are complex concepts with multiple meanings and definitions. Currently, however, scholarship addressing gender and APD generally focuses only on sex defined as male and female, and, more specifically,

on how gender norms derived from this bimodal classification promote or inhibit women's political inclusion via political institutions and public policies. The study of gender and APD, therefore, frequently becomes a study of women's citizenship status, without problematizing—as we attempt to do here—the liberal narrative of a tradition capacious enough to embrace successive waves of inclusion. Political science scholars should also more richly and aggressively interrogate the manner in which law, policies, and institutions shape, inscribe, discipline, or destabilize gender identities and roles; and how gender factors into shaping law, policies, and institutions. While we will focus here chiefly on how our two central perspectives bear on women's relationship to American state-building and highlight some of the existing scholarship, it is important (p. 113) that work continue to explore how broader definitions of gender stand to impact the study of APD.

In addition, it is also important to recognize at the outset that gender identities *intersect* with those of race, class, religion, sexual orientation, linguistic heritage, and many other attributes (Hancock 2007). While acknowledging the importance of intersectional analysis, we also contend that many of the most salient structures, ideology, and policies of the American state have had an impact on women as a group whatever might be their race, class, and other group identities, and it is that puzzle that we address here.

The Liberal Tradition and APD

Individual Equality

When assessing gender and APD, it is imperative to note the way many scholars credit America's liberal heritage, which stresses the individual equality of people, as a powerful tool to combat discriminatory policies, thereby promoting the political inclusion of disadvantaged groups. As Karen Orren establishes, for example, common-law norms that privileged employers over workers were dismantled when the Supreme Court upheld the National Labor Relations (Wagner) Act in 1937 (Orren 1991). Similarly, Rogers Smith argues that it was only when liberal norms stressing the primacy of individual equality prevailed over inegalitarian, ascriptive norms that reformers were more successful in gaining guarantees, for example, of African Americans' political rights (Smith 1999).

When we turn to gender and APD, however, the principle of individual equality works differently for women as is evident by many episodes in the vast expanse of American political history (McDonagh 1994). While this principle was at least relatively effective for correcting the political exclusion of those stigmatized by their race or class, the same was not true for women until well into the twentieth century. This failure prompts some critics of the liberal tradition to go so far as to think liberalism is “bad” for women, while others opine that it is simply “not enough” to secure women's political inclusion. APD scholarship that focuses on gender, therefore, necessarily must confront this concern.

Separate Spheres

In addition, however, there is another principle of liberal theory that informs APD, and that is the conceptualization of the state as a public sphere that is separated from the institution of the family as located in a private sphere. This “separate spheres” ideology has a particular impact on women because many people, including politicians, often construct women as biological maternalists who bear children and as social maternalists (p. 114) who disproportionately contribute more care work to family members than men. For this reason, the political meaning of women’s social construction as maternalists immediately gives women a location in the private sphere of the home. However, the same cannot be said about the public sphere of the state. Hence, a good deal of American political history is the record of how women sought to traverse the boundary between the home and the state.

Gender and APD

Focusing on gender and APD, therefore, raises new intellectual and historical perspectives. It is not our goal to provide a comprehensive history of women in the United States. However, we will focus on key reform periods in order to highlight how the twin precepts of America’s liberal heritage, individual equality and separate spheres, posed particular problems for those seeking to improve women’s political membership in the American state. The reform periods we highlight are the founding, the Civil War era, the Progressive Era, the New Deal era, and the 1960s to 1970s civil rights era.

Gender and the Founding of the American State

Individual Equality

At the outset, let us recall that the revolutionary heritage of the American state reflects the assumption that destroying hereditary monarchies and replacing them with liberal republics based on the principle of individual equality promises to expand political inclusion. But the very same American Revolution that extended opportunities to white men did no such thing for any women, whatever their class or race advantages or disadvantages. To the contrary, by 1808, every state in the country prohibited *all* women from voting, much less from holding political office, solely because of their sex.

In the aftermath of the world’s first liberal revolution, therefore, sex became a more absolute attribute used to determine inclusion in formal political rule than it had ever been in any European monarchy. Rather than promoting greater political inclusion for women, key historical moments of liberal and republican reform—perhaps more generally modernization itself—too often constitute regressive, more absolute exclusion of women from the state as political participants on par with men. Similar patterns characterize the French Revolution and to some degree democratization in general (Landes 1988; Kelly

1984). Thus, attention to state structures as they affect gender opens the door not only to new views of APD, but also to cross-national comparisons of state-building.

(p. 115) **Separate Spheres**

There is another dimension to the founding of the American state that is important to an analysis of gender, and that is the way founders ignored the institution of coverture marriage. As codified by Blackstone, it legally defined the union of a husband and a wife as one person, namely, the husband (Blackstone 1765–1769/2002). This meant that married women lost their civil identity, which included the right to sign contracts on their own behalf, the right to their own wages, the right to their own inheritances, and the right to make decisions about the welfare and education of their children (Kerber 1998). Scholars argue that American Lockean liberalism actually perpetuated gendered roles that interpreted women's maternal identities as signifying a location solely in the home. Women, in line with the precept of "Republican Motherhood," were to foster civic virtue in the country by socializing children to be good citizens, without having the benefit of formal access to political citizenship themselves (Kerber 1980; Kann 1990).

The Civil War and Its Aftermath

Individual Equality

In the 1830s with the inception of the abolition movement, women formed groups to aid the anti-slavery cause. By the mid-nineteenth century, however, some women began to challenge their own social and legal assignments by organizing and speaking on their own behalf. In part, this first feminist social movement was prompted by women's interactions with blatant sexism as they participated in movements to abolish the institution of slavery (Flexner and Fitzpatrick 1996). When women attended the World Anti-Slavery Conference in London in 1840 as the official representatives of American anti-slavery organizations, for instance, conference organizers refused to recognize them or seat them with other official delegates. This galvanizing experience pointed to the need for addressing sex discrimination at home as well, resulting in the first feminist movement as inaugurated in 1848 at the Seneca Falls convention in New York.

In Seneca Falls, reformers sought to draw upon the American liberal heritage to achieve social, economic, and political equality with men. Their Declaration of Sentiments self-consciously paralleled the American Declaration of Independence, signaling their belief that liberal principles, more fully elaborated, could achieve gender equality. They identified policies based on male privilege as equally tyrannous as those of George III. They declared it a self-evident truth that men and women are created equal. Among the sixteen grievances enumerated were being deprived of voting rights because of their sex, being barred from educational opportunities, and unequal rights within the institution of marriage.

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(p. 116) As was the case with the American Revolution, however, women's claims of equal rights based on liberal individualism failed to help them gain political inclusion after the Civil War.

While the Fifteenth Amendment prohibited states from using race, color, or a previous condition of servitude as criteria for voting rights, it failed to prohibit states from using sex to define voting rights. In addition, for the first time, the word "male" was added to the Constitution, and in the Fourteenth Amendment, no less, that guaranteed citizenship rights. As Reva Siegel (2002) indicates, this was because framers of the Fourteenth Amendment wanted to be sure that they were not providing women or American Indian men with the same citizenship rights as African American men.

Women activists who contended that the privileges and immunities clause of the Fourteenth Amendment conferred upon them the right to vote marched in protest to the polls and sometimes faced arrest for attempting to vote. Susan B. Anthony stood trial for casting a ballot in Rochester, New York, in the 1872 presidential election. In *Minor v. Happersett* (88 U.S. 162, 1875), however, the Supreme Court declared that voting rights were not guaranteed by the Fourteenth Amendment. Thus, states retained the power to exclude women from the franchise.

Separate Spheres

Similarly, the principle of separate spheres was reinforced in the aftermath of the Civil War, not dismantled. As Amy Dru Stanley establishes, Reconstruction reformers focused on freedom and contract in the context of workers' rights but avoided applying similar principles to reconstruct the institution of coverture marriage (1998).

The ideology of separate spheres deprived women of the opportunity, for example, to pursue the same professions as men. This became clear in court cases such as *Bradwell v. Illinois* (88 U.S. 130, 1873), decided in the immediate aftermath of the *Slaughterhouse Cases* (83 U.S. 36, 1873), in *Bradwell*, the Court ruled that the right to practice law was not among the privileges and immunities of citizens of the United States as established by the Fourteenth Amendment, leaving to states the option of maintaining separate spheres.

Political Consequences

Once Congress passed the Fifteenth Amendment, woman suffrage leaders split into two rival and contesting groups. The American Woman Suffrage Association (AWSA) supported the Fifteenth Amendment, even though it left women's voting rights unprotected, and pursued a state-level campaign to secure women's voting rights. By contrast, the National Woman Suffrage Association (NWSA) opposed passage of the Fifteenth Amendment for abandoning, if not betraying women, and launched a campaign for a federal woman suffrage amendment, vowing support for any political party, even a racist one, that would promote their cause (DuBois 1999).

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(p. 117) The northern will to enforce the Civil War amendments faded, however, and southern states passed legislation, including literacy tests and poll taxes, which created ad hoc barriers to black enfranchisement without violating the letter of the Constitution (Valelly 2004). In the wake of these developments, the two branches of the suffrage movement recombined in 1890, forming the National American Woman Suffrage Association (NAWSA).

Suffrage leaders even endorsed utilitarian arguments for enfranchising women on the grounds that this would introduce into the electorate multitudes of educated American women who were citizens, which they argued would have the effect of neutralizing the voting effects of the so-called backward, less advanced, and unprepared, recent immigrant and American Indian men in the electorate. The focus of woman suffrage leaders on practical strategies to achieve a national amendment for women comparable to the Fifteenth Amendment for African American men and the personal biases of those leaders, therefore, resulted in the general exclusion of Native American women, immigrant women, and black women from their organizations and at times from their very agendas (Terborg-Penn 1998). This race- and class-based legacy of the suffrage movement would come to be mirrored in a number of later twentieth century struggles on behalf of women, where the face of the movement again was largely white and middle class.

By the turn of the century, as working-class women began to organize, some cross-class alliances were forged, for example with the Women's Trade Union League (WTUL), founded in Boston in 1903 to protect working women. By the end of the first decade of the twentieth century, women's labor organizations like WTUL were drawing upon maternalist arguments and claims that, armed with the vote, women workers could better protect themselves and improve societal conditions by changing laws (O'Farrell and Kornbluh 1995; Nackenoff 2013; Tax 1980; DuBois 1987; Lerner 1982; Orleck 1991).

The Progressive Era

Individual Equality

The attempt to use individual equality as leverage for gaining women's political rights continued in the Progressive Era. One of the most prominent proponents was Alice Paul. Inspired by the militancy of the British suffragettes, Paul and her allies were soon labeled by the public media and by other feminist groups as radicals and feminist troublemakers.

In a bold and strategic move to get women "out of the parlor and into the streets," for example, Paul and allies organized a massive suffrage parade in 1913, the day before Woodrow Wilson's inauguration, challenging conventional middle-class views of what constituted appropriate behavior for women (McCammon 2003). Riots broke out along its route as crowds of spectators, mostly men, and even policemen verbally (p. 118) and physically harassed the marchers (Lunardini 1986). This attention succeeded in garnering not only sympathy for the marchers, but support for their political cause (Bland 1971/1972).

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Paul continued to organize public protests in the following years, including pickets outside the White House, which at times included women chaining themselves to the White House fence (Graham 1983–84).

Paul's arrest, incarceration, and hunger strike contributed to her radical image, rendering the more conservative NAWSA (from which Paul had split) a model of decorum, which had the effect of enhancing support for woman suffrage among members of Congress (Lunardini 1986). To push President Wilson into support for the federal suffrage amendment, however, NAWSA leaders—Carrie Chapman Catt in particular—emphasized women's contributions to the war effort, arguing that Wilson's rhetoric about making the world safe for democracy rang hollow if women remained disenfranchised. Shortly after Catt met with Wilson, he came around to supporting the suffrage cause.

After suffrage, Paul continued her struggle for individual equal rights for women as the surest path to secure political and economic equality. In 1923, she drafted and sent to Congress the Equal Rights Amendment (ERA), stating that "Equality of Rights Under the Law Shall Not Be Denied or Abridged By the United States Or Any State On Account of Sex." Most mainstream women's groups at the time opposed this far-sighted constitutional amendment. Those who had been successful in getting states to pass protective labor legislation for women workers, sometimes in court, as with Supreme Court victories such as *Muller v. Oregon* in 1908 (208 U.S. 412), were concerned that the ERA would threaten the constitutional foundations of women's protective labor legislation. There was some cause for their worry. For example, as Justice Sutherland, writing in 1923 for the Court in *Adkins v. Children's Hospital*, argued: "In view of the great—not to say revolutionary—changes which have taken place ... in the contractual, political and civil status of women, culminating in the Nineteenth Amendment, it is not unreasonable to say that these differences [between men and women] have now come almost, if not quite, to the vanishing point" (261 U.S. 525 at 553); if women are emancipated from the old doctrine, why should they be given special protection, or subject to restraint, in contractual or civil relationships?

This ERA, introduced every year starting in 1923, was eventually passed by Congress in 1972, only to have it fail the state-level ratification process. This failure is perhaps testimony to the way liberal principles of individual equality—the ideological cornerstone of the American state—nevertheless continue, even in more recent times, to be viewed as radical and unacceptable by the public, if not also political elites, when applied to women. There are important structural and institutional reasons for this. Many women opposed woman suffrage, and not just women in the more culturally conservative states. One must ask, therefore, on what grounds would women wish to be denied the right to vote? And why would women oppose the ERA in the late twentieth century, when many view the ERA as simply a parallel guarantee of equal treatment for women as that provided by the Fourteenth Amendment for African Americans? Whether based (p. 119) on interpretations of scripture or in their investment and life experiences as full-time homemakers, there are women mobilized, to this day, such as Phyllis Schlafly's Eagle Forum, who oppose legislation promoting women's more equal representation in business, politics, and the pro-

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fessions, and who oppose other policies, including reproductive rights, that would promote individual equality for women (Mansbridge 1986; Luker 1984; McDonagh 2007). A study of gender and APD, therefore, raises perplexing questions about the adequacy of the American liberal heritage for securing women's full political citizenship, not least because this is not a goal universally endorsed by all women (Mansbridge 1986).

Transforming the Doctrine of Separate Spheres

By the early twentieth century, some women pursued a different path to equality. Rather than endorse individual equality, they turned the doctrine of separate spheres on its head. Jane Addams and other Progressive Era feminists, for example, argued that women's maternal identities and experiences were exactly what qualified women for activity in the so-called public sphere of the state (Addams 1913). That is, they valorized what women do, thereby raising an important question about the relationship between care work and full citizenship, and between home work and state work (Nackenoff 2009, 128).

Thus, when the Nineteenth Amendment prohibiting the use of sex as a criterion for voting rights was added to the Constitution in 1920, its success rested upon the way reformers combined two contradictory arguments, namely, that women should have the right to vote because they are the same as men and that women should have the right to vote because they were maternally different from men. Some scholars argue that this hybrid argument for woman suffrage worked because it was in this time period that the state itself adopted maternalist policies corresponding to the social construction of women's maternalist difference from men, such as mothers' pensions, women's protective labor legislation, child labor laws, and the Sheppard-Towner health benefits for mothers and infants (Skocpol 1992; McDonagh 2009).

The New Deal

Individual Equality

In this period, mobilization of white, working-class men, growing political importance of northern African American voters, and interests of white, southern Democrats in economic development led to a shift in the political agenda (Katznelson 2013). When the New Deal generated programs to address economic vulnerability, such programs generally did so in class- race- and gender-specific ways (Katznelson 2005; Lieberman 1998; (p. 120) Piven and Cloward 1971). Women were often relegated to less dependable state-run programs; agricultural and domestic workers, many of the latter being African American women, were excluded from coverage (Mettler 1998).

Separate Spheres

It is also the case that women's identities as located in the home had a continuing impact on women's prospects for economic inclusion, as was the case with the GI Bill (Mettler

2005). Considering Judith Shklar's primary criteria for inclusion in citizenship, the right to work and the right to vote, in 1920, women still had a very long way to go (1991). Under the Federal Economy Act of 1932, married women could be and were dismissed from civil service positions in the federal government, if their spouses were employed by the federal government. Married women lost employment opportunities in many other fields during the Depression, reinforcing what Jo Freeman has termed a tradition of institutionalized dependence (1975). Well through the 1960s it was legally permissible for newspapers to organize notices for employment by sex, categorizing secretarial jobs for women and corporate, management jobs for men (Darity and Mason 1998).

The Civil Rights Era of the 1960s to 1970s

Individual Equality: Redefining Separate Spheres as Pathological

The persistence of women's second-class citizenship prompted the second feminist movement in the late 1960s. Like the first feminist movement, it began as an offshoot of social movements seeking to improve the civil and political rights of African Americans. Women joining in the 1960s Civil Rights Revolution soon discovered its latent sexism when, for example, they were assigned the jobs of vacuuming and cleaning their headquarters rather than proactive roles in the field registering African Americans to vote (Evans 1979).

In 1960, Betty Friedan and other feminists founded the National Organization for Women (NOW) and, in 1963, Friedan published the monumental bestseller, *The Feminine Mystique*. This book challenged traditional norms limiting women to roles in the home, equating such a fate with a pathology that had "no name." What is interesting from the perspective of the Progressive Era is that the former valorization of women's maternal identities as a principle validating women's entry into the public sphere of the state was now being redefined as a pathological identity responsible for women's discrimination.

(p. 121) Individual Equality Finally Works for Women

The resonance of Friedan's scathing critique of the solely domestic options posited for middle-class American women signaled that another feminist movement was about to take off. With renewed social movement pressure, the 1960s and 1970s are replete with the passage of landmark federal legislation, and the 1970s were witness to a number of court cases that improved women's civil, economic, and political rights. Women's claims based on a principle of individual equality finally worked to secure legislation and judicial decisions.

The Equal Pay Act became law in 1963, and Title VII of the 1964 Civil Rights Act made it a federal crime to discriminate on the basis of sex in employment policies. This became the basis for court rulings that defined sexual harassment as a violation of Title VII. Title IX, which passed in 1972 as part of the Education Act, deprived educational institutions

of federal funding if they discriminated on the basis of sex in their educational programs. Notably, this legislation was interpreted to include sports programs (McDonagh and Pappano 2009). In 1971, in *Reed v. Reed* (404 U.S. 71), the Supreme Court, by disqualifying an arbitrary presumption in favor of male heirs as executors of estates, in effect ruled that the principle of coverture marriage was unconstitutional, and, in 1973, in *Roe v. Wade* (410 U.S. 113), the Court ruled that there was a constitutional right to an abortion. The right to serve on juries was another important right of citizenship from which women, who were excluded until well into the twentieth century, found redress on the basis of a principle of individual equality (Grossman 1994; Ritter 2006).

Individual Equality Is Not Enough: The Personal Is Political

These court cases and congressional legislation all affirm the liberal principle that women should be treated the same as men—of no small import, given the historical failure of liberal principles to work for women. Yet the contemporary American state lacks welfare benefits that facilitate women's participation in the labor market, such as publically funded day care and adequate family leave policies. Iversen and Rosenbluth (2010) argue that it is just such welfare benefits, however, that assist women's participation in the market, and also their participation in the state as voters and office-holders.

In addition to a weak welfare state, Elizabeth Sanders (2008) points to the very structure of the American state as a culprit that undermines women's interests and policy preferences, particularly its executive branch that fosters masculinist, war-oriented policies. When welfare state policies, in contrast, advance a view of government as an institution that promotes care work—the kind of work that women disproportionately do in the home and in the service sector of society—those policies define women's maternalism as signifying a location not only in the home, but also in the public sphere of the state. By so doing, the public associates women with a location in the state, (p. 122) thereby making it more likely that voters will support women running for political office (McDonagh 2009). The American state, while viewed as a strong military presence in the world, is far weaker in its welfare state capacity, helping to explain why the percentage of women elected to public office at the federal level is so dismal in the United States. As of 2015, no woman in the United States has ever been nominated by a major political party as its presidential candidate, and in 2015, only 19.4 percent of the House of Representatives was composed of women, thereby ranking the United States lower than 93 other nations in terms of women's political inclusion.

Bringing Woman's Domain into the Public Sphere

Gender as a Dependent Variable

We can see from the examples noted above that political institutions and public policies affected women's social, civil, and political inclusion. As Gretchen Ritter notes, the individualistic foundation of the American Constitution privatizes those activities most associated with women, namely, the family and care work. The result leaves women's distinctive identities socially constructed as maternalists located in a private sphere disconnected from the public sphere of the state (Ritter 2006). That is, the American Constitution as based on a principle of individual equality reinforces a separate spheres ideology.

Long the purview of sociologists, the family is becoming an increasingly important focus in APD scholarship. Marriage and the family are institutions generally thought to be "private," and yet it is clear both that they have played a role in state-building and that these institutions have played important roles in structuring gender relations. For example, marital status was used as a basis for citizenship for women for most of American history. They were citizens or not depending on their husbands' citizenship, eventually forcing some American women to register as enemy aliens during World War I. Married women's citizenship only became independent of their husbands' (unless a woman married someone ineligible for naturalization) when Congress passed the Cable Act in 1922 (Bredbenner 1998; Kerber 1998). Marriage, with both egalitarian and hierarchical components, is both about individual rights and also about the discipline it seeks to impose in the name of American identity and society (Cott 2000; Yamin 2012).

And it is clear that gender role expectations for the family in the United States, along with race and gender intersections, shaped governmental relief practices and policies. Early twentieth-century mothers' pensions rewarded women who performed valuable services by staying at home with their children and withheld support—in practice if not by law—from families with living fathers (Sullivan and Nackenoff 2014). Gwendolyn Mink argues that, ever since the Social Security Act, aid to dependent children was a (p. 123) policy that policed women and enforced particular moral expectations (Mink 1995). Policies supported by maternalists in this era, for example, were responsible for withholding "the tools of independent citizenship from most poor women" (Mink 1995, 8). Mettler (1998) has further argued that major New Deal policies, such as Old Age Insurance/Old Age Assistance, Unemployment Insurance, Aid to Dependent Children (ADC), and Fair Labor Standards, were administered in a way that defined white men as national citizens deserving of support from the federal government in contrast to women and minorities whose receipt of benefits were controlled by variable state agencies, leading to a second class status.

Feminists, therefore, challenge the division of private and public spheres underlying the ideology of the American state because of the discriminatory effects it has had on

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women's political inclusion. Instead, they have argued that the "personal is political" and that liberal assumptions that the basic units of society are autonomous individuals is anything but correct (Lee 2007). Feminist activists as well as political theorists concur. Carole Pateman (1988), writing about the origins of the liberal polity, argues that the social contract that creates the liberal state depends on the existence of a prior compact among men to dominate women; for men to be free and autonomous individuals, women must be excluded from the social compact and consigned instead to the marriage contract in order to do the work of caring for the family. Similarly, for Seyla Benhabib (1992) and for Christine DiStefano (1991), Hobbes's radical individuals are like mushrooms who look as if they have sprung fully grown from the earth to exemplify liberalism's masculinist assumptions, ignoring the reality that mushrooms are connected to each other underground and depend upon that interconnectedness for their growth and survival.

Other scholars have underscored how heavily liberal theory's individual is gendered, and how this implicates law and policy. Nancy Hirschmann (1989) points out that unfettered men can treat obligations as voluntary only if they are, for women, involuntary. Feminist legal scholar Catharine MacKinnon (1988, 1991) claims that law's false neutrality and objectivity places at its center the autonomous individual, unburdened by responsibilities for others; law thus valorizes the experiences of privileged males and treats women, who provide the bulk of work for the family, as demanding special privileges. For Joan Tronto (1993), all citizens require care at some point in their lives, but the liberal public sphere makes care invisible. In her view, the assignment of tasks of caregiving must become an explicit object of politics for equality to flourish. That is, the private sphere of carework must be fused with the public sphere of the state. As a study of gender and APD illustrates, however, once the boundaries of the private and public sphere begin to dissolve, it becomes more common for gender to be not merely a dependent variable affected by the state, but also an independent variable that builds the American state.

Gender as an Independent Variable

In the Progressive Era, for example, many women's rights advocates attempted to synthesize women's dual identities as individuals who are the same as men and as (p. 124) women who have different experiences and values than men by claiming that tasks in women's traditional domain of the home had been moving into the public sphere. They employed the imagery of municipal housekeeping to justify their involvement in a range of reform efforts, including the right to vote in a number of municipalities, where they could vote on matters of urban reform and education. Michael Pisapia (2010), in fact, argues that women's educational activities dating from the mid-nineteenth century to the 1930s provided political access to women in the form of early rights to participate on educational decisions at the local level and to be elected to educational administrative offices.

Some of the most powerful APD scholarship looks at gender not as a result of state structures and policies, but rather as it contributes to state creation and policy formation. In this way, gender becomes an independent variable—an impetus for political development.

Gender and the American State

Earlier in the nineteenth century, for example, organized middle-class women carved out ways of making visible political contributions as founders, volunteers, and workers in charitable and social service organizations, taking up issues such as care of dependents that were not fully inscribed in the world of male politics (Baker 1984). Later in the century, women seeking to deal with social problems through prevention embraced social scientific methods for data collection and detached observation, buttressing their claims to expertise with the language of the day—a language that was intelligible to the emerging modern administrative state (see, e.g., Baker 1984). For Kathryn Kish Sklar (1993), maternalism allowed space for turn-of-the-century female reformers to talk credibly about child welfare and the exploitation of children as well as the health of mothers and of wage-earning women.

In the Progressive Era, women pioneered reforms that established new institutions through which they gained influence. As the work of Theda Skocpol has shown, it was precisely women's maternal identities plus their agency from the so-called private sphere that secured the passage at the state level in the Progressive Era of mothers' pensions (Skocpol 1992). Maternalist feminists created and led the movement for new juvenile courts, where some women served as lawyers and judges and others as probation officers (Nackenoff and Sullivan 2014). Female reformers subsequently built upon successful strategies for social policy change in one arena to mobilize resources in related arenas, building political skills and claims to expertise.

For historian Paula Baker, women in the Progressive Era who pressed the state to seek to solve, and even prevent, social problems that were too big for charitable and voluntary action helped domesticate politics (Baker 1984). The vision of women's groups at the turn of the century was highly compatible with emerging visions of the liberal state as activist, bureaucratic, efficient, and with an emphasis on social responsibility (Baker 1984). However, Baker sees women "passing on" and giving over their voluntary work to government in the form of social policy in the progressive period. Other scholars, including Elisabeth Clemens (2006) and some of those represented in Nackenoff and Novkov (2014), especially Szymanski (2014), Pearson and Smith (2014), and Nackenoff and Sullivan (2014) find instead the persistence of various kinds of hybrid and (p. 125) complex relationships between public bureaucracies and organizations that helped create women's mission.

Importantly, maternalist feminists in the Progressive Era reconceptualized the state itself on the basis of collective and associational relationships. They employed the term "public housekeeping" to emphasize why it was imperative for the state to affirm its commitment to providing for the health and safety of all people, which included pressure for the passage of pure food and drug regulations, wholesome amusements for the young, prevention of juvenile delinquency, and regulation of industrial ills (Nackenoff 1999). As another notes, "Maternalists remind us of the inadequacy and limitations of a rights-based conception of the individual ... they would have us recognize how, as interrelated 'selves,' we can strive for a more humane relational and shared community" (Dietz 1987, 12). Thus, the new discourses created by maternalist reformers in the Progressive Era challenged

the very conception of a private sphere of the family as being separate from the public sphere of the state (Nackenoff 1999, 2014).

Organized women, many of whom had roots in the settlement movement, helped move institutions in new directions, both from outside and inside those institutions. For example, Progressive Era women pressed child-saving reforms on first state governments and then the federal government, leading to the creation of the Children's Bureau in 1912, which served as a strategic position from which maternalists sought to administer social policies (see Skocpol 1992).

In addition, some women of this generation who had developed professional skills working to address social problems, armed with college degrees, advanced degrees, and law degrees, transported their expertise into positions in the federal government. They became recognized authorities on issues having to do with women, children, families, and even labor (Pascoe 1990) and pursued the prevention of social ills and reformation of youth through specialized courts they helped create (Nackenoff and Sullivan 2014).

Some recent approaches to incorporating the family in APD scholarship underscores the independent role gender plays in APD, challenging and potentially transforming some of the most basic assumptions about democratization and state-building. Uncovering the gendered components of familialism by focusing on what Max Weber defined as patrimonialism as embodied in a hereditary monarchy, they note that this is a regime type in which the family is conceptualized as analogous to the state (McDonagh 2015). Such a state construction historically provided points of access to political rule for women and those points of access are obliterated when the family is theorized as cut off from the state. In this account, retaining a country's patrimonial legacy (its monarchy) rather than annihilating it by means of a violent revolution in the course of Western European first-wave democratization has long-term implications, both for the continued access of women to political rule and for the development of the contemporary welfare state (McDonagh 2015). In this formulation, therefore, gender via the institution of the family becomes a variable that defines the most fundamental premises of the state—that shapes the state in ways that makes that institution analogous to the family in terms of the responsibilities of the rulers to provide care work to those in need.

(p. 126) **Conclusion**

There is ample reason to question whether the liberal promise of individual equality is sufficient for securing women's political inclusion, especially given the importance of women's group differences for achieving historical gains. In some contexts, liberal principles absolutely fail to deliver civic, economic, and political incorporation for women, and, at other times, though successful, they are insufficient because they fail to address the all but intractable way women are socially constructed as biological and social reproductive laborers. Kathleen Sullivan goes so far as to argue that common-law doctrines that limited women's sphere of action, particularly within the institution of marriage, may have been a more fruitful path for gaining political inclusion than were liberal ones based on

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individual equality that challenged and supplanted common-law doctrines (Sullivan 2007). The lesson gleaned from a study of gender and APD, therefore, is that the state matters, but it is a hybrid state characterized by structures and policies that embody women's maternalist group difference as well as their individual sameness with men that most promotes women's political citizenship (McDonagh 2002, 2009, 2014).

A study of gender and APD must question the utility of a liberal heritage that both ignores the political dimensions of the private sphere and that only stresses individual equality without attention to the importance and value of group differences as positive principles for expanding citizenship. Women in the United States have frequently turned to the maternalist identities society often ascribes to them—their roles as mothers and nurturers—to achieve policy goals, political recognition, and greater equality.

A central political question, therefore, is what is the *political meaning* of women's maternalism? Does it signify a location in the home or does it also signify a location in the state itself as equal participants with men? In fact, it is when the state itself embodies maternalist characteristics associated with women by virtue of adopting policies oriented toward the care and well-being of those in need and when women's agency activates the development of public policies and the bureaucracy that administers them, that women's incorporation will be more evident (McDonagh 2009).

Similarly, a focus on gender in the context of APD scholarship illuminates the analytical limitations of dividing institutions and practices into private and public spheres in the first place. The interpenetration of organizations, including women's organizations, and the state in the building and administration of a number of social policies demonstrates that governance often relies upon hybrid institutions that combine rather than separate contrasting principles of governance and identity. Furthermore, the penultimate private institutions of marriage and the family are integral to the development of the state as well as to its everyday workings.

It should also be noted that gender has played a less central role in the study of APD than other ascriptive identities, such as race and class, even though gender has been shaped by the American state and gender has shaped the American state in turn. Research for the future might start with the question as to why this is the case. It is (p. 127) important to consider carefully why so many dimensions of gender-based inequality have been all but invisible throughout long periods of American political history, even to some of the most prominent scholars of APD. Inequality based on gender is not simply a residue from a dying era dominated by traditional gender roles. Rather, is inscribed in modern public policies and administrative practices that even sometimes erase hard-won gains achieved by women. When the role of gender in APD is neglected, so, too, is the role played by organized women and the social policies they embraced in building the contemporary American state. In the absence of strong, effective, and persistent social movement pressure to the contrary, legislatures, executives, and courts have all participated at times, including our own, in attempting to curtail or rewrite women's equal rights. The limited social welfare state that women helped create has even come under attack as a feminized state—or

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in quite recent parlance, a “nanny state,” blamed for creating a nation of dependents (Sawer 1996). Gender may be far from irrelevant in the attacks on the welfare state.

Future research would also be welcome that joins the comparative turn that many scholars in APD have taken (Lieberman 2005). How does the American case in the context of gender compare to that of other Western European democracies and developing nation-states? Answers to these questions promise to enrich our understanding both of APD and of the relationship of gender and state-building more generally.

References

- Addams, J. 1913. ‘If Men Were Seeking the Franchise.’ *Ladies’ Home Journal* 30: 21.
- Baker, P. 1984. ‘The Domestication of Politics: Women in American Political Society, 1780–1920.’ *American Historical Review* 89: 620–647.
- Benhabib, S. 1992. *Situating the Self: Gender, Community, and Postmodernism in Contemporary Ethics*. New York: Routledge.
- Blackstone, W. 1765–1769 (2002). *Commentaries on the Laws of England*. Chicago, IL: University of Chicago Press.
- Bland, S. R. 1971–1972. ‘New Life in an Old Movement: Alice Paul and the Great Suffrage Parade of 1913 in Washington, D. C.’ in *Records of the Columbia Historical Society, Vol. 71/72*. The 48th separately bound book. Washington, DC, 657–678.
- Bredbenner, C. 1998. *A Nationality of Her Own: Women, Citizenship, and the Politics of Marriage*. Berkeley, CA: University of California Press.
- Clemens, E. 2006. ‘Lineages of the Rube Goldberg State: Building and Blurring Public Programs, 1900–1940,’ in I. Shapiro, S. Skowronek, and D. Galvin, eds., *Rethinking Political Institutions: The Art of the State*. New York: New York University Press, 380–443.
- Cott, N. F. 2000. *Public Vows: A History of Marriage and the Nation*. Cambridge, MA: Harvard University Press.
- Darity, W. A. and Mason, P. L. 1998. ‘Evidence on Discrimination in Employment: Codes of Color, Codes of Gender.’ *Journal of Economic Perspectives* 12: 63–90.
- Dietz, M. 1987. ‘Context Is All: Feminism and Theories of Citizenship,’ *Daedalus* 116: 1–24.
- DiStefano, C. 1991. *Configurations of Masculinity: A Feminist Perspective on Modern Political Theory*. Ithaca, NY: Cornell University Press.
- (p. 128) DuBois, E. C. 1987. ‘Working Women, Class Relations, and Suffrage Militance: Harriot Stanton Blatch and the New York Woman Suffrage Movement, 1894–1909.’ *Journal of American History* 74: 34–58.

Gender and the American State

- DuBois, E. C. 1999. *Feminism and Suffrage: The Emergence of an Independent Women's Movement in America, 1848-1869*. Ithaca, NY: Cornell University Press.
- Evans, S. 1979. *Personal Politics: The Roots of Women's Liberation in The Civil Rights Movement & The New Left*. New York: Vintage Books.
- Flexner, E. and Fitzpatrick, E. 1996. *Century of Struggle*. Cambridge, MA: Harvard University Press.
- Freeman, J. (ed.). 1975. *Women: A Feminist Perspective*. Palo Alto, CA: Mayfield Publishing.
- Friedan, B. 1963. *The Feminine Mystique*. New York: Dell Press.
- Graham, S. H. 1983-84. 'Woodrow Wilson, Alice Paul, and the Woman Suffrage Movement.' *Political Science Quarterly* 98: 665-679.
- Grossman, J. L. 1994. 'Women's Jury Service: Right of Citizenship or Privilege of Difference?' *Stanford Law Review* 46: 1115-1160.
- Hancock, A.-M. 2007. 'When Multiplication Doesn't Equal Quick Addition: Examining Intersectionality as a Research Paradigm.' *Perspectives on Politics* 5: 63-79.
- Hirschmann, N. 1989. 'Freedom, Recognition, and Obligation: A Feminist Approach to Political Theory.' *American Political Science Review* 83: 1227-1244.
- Iversen, T. and Rosenbluth, F. 2010. *Women, Work, and Politics: The Political Economy of Gender Inequality*. New Haven, CT: Yale University Press.
- Kann, M. E. 1990. 'Individualism, Civic Virtue, and Gender in America.' *Studies in American Political Development* 4: 46-81.
- Katznelson, I. 2005. *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-century America*. New York: W. W. Norton.
- Katznelson, I. 2013. *Fear Itself: The New Deal and the Origins of Our Time*. New York: W. W. Norton.
- Kelly, J. 1984. 'Did Women Have a Renaissance?' in J. Kelly, ed., *Women, History and Theory*. Chicago, IL: University of Chicago Press, 19-50.
- Kerber, L. K. 1980. *Women of the Republic: Intellect and Ideology in Revolutionary America*. Chapel Hill, NC: University of North Carolina Press.
- Kerber, L. K. 1998. *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship*. New York: Hill and Wang.
- Landes, J. B. 1988. *Women and the Public Sphere: In the Age of the French Revolution*. Ithaca, NY: Cornell University Press.

Gender and the American State

Lee, T. M. L. 2007. 'Rethinking the Personal and the Political: Feminist Activism and Civic Engagement.' *Hypatia* 22: 163–179.

Lerner, E. 1982. 'Immigrant and Working Class Involvement in the New York City Woman Suffrage Movement, 1905–1917: A Study in Progressive Era Politics'. PhD dissertation. Sociology Department, University of California, Berkeley. University Microfilms International.

Lieberman, R. 1998. *Shifting the Color Line: Race and the American Welfare State*. Cambridge, MA: Harvard University Press.

Lieberman, R. 2005. *Shaping Race Policy: The United States in Comparative Perspective*. Princeton, NJ: Princeton University Press.

Luker, K. 1984. *Abortion and the Politics of Motherhood*. Berkeley, CA: University of California Press.

(p. 129) Lunardini, C. A. 1986. *From Equal Suffrage to Equal Rights: Alice Paul and the National Woman's Party, 1910–1928*. New York: New York University Press.

MacKinnon, C. A. 1988. *Feminism Unmodified: Discourses on Life and Law*. Cambridge, MA: Harvard University Press.

MacKinnon, C. A. 1991. *Toward a Feminist Theory of the State*. Cambridge, MA: Harvard University Press.

Mansbridge, J. J. 1986. *Why We Lost the Era*. Chicago, IL: University of Chicago Press.

McCammon, Holly J. 2003. 'Out of the Parlors and into the Streets: The Changing Tactical Repertoire of the U.S. Women's Suffrage Movements.' *Social Forces* 81: 787–818.

McDonagh, E. 1994. 'Gender Politics and Political Change,' in L. C. Dodd and C. Jillson, eds., *New Perspectives on American Politics*. Washington, DC: Congressional Quarterly Press, 58–73.

McDonagh, E. 2002. 'Political Citizenship and Democratization: The Gender Paradox.' *American Political Science Review* 96: 535–552.

McDonagh, E. 2007. 'The Next Step After Roe: Using Fundamental Rights, Equal Protection Analysis to Nullify Restrictive State-Level Abortion Legislation.' *Emory Law Review* 56: 1173–1214.

McDonagh, E. 2009. *The Motherless State: Women's Political Leadership and American Democracy*. Chicago, IL: University of Chicago Press.

McDonagh, E. 2014. 'Gender and the State: Accommodating Difference and Equality.' *Politics and Gender* 10: 271–276.

Gender and the American State

McDonagh, E. 2015. 'Ripples from the First Wave: The Monarchical Origins of the Welfare State.' *Perspectives on Politics* 13: 992–1016.

McDonagh, E. and Pappano, L. 2009. *Playing with the Boys: Why Separate Is Not Equal*. New York: Oxford University Press.

Mettler, S. 1998. *Dividing Citizens: Gender and Federalism in New Deal Public Policy*. Ithaca, NY: Cornell University Press.

Mettler, S. 2005. *Soldiers to Citizens: the G.I. Bill and the Making of the Greatest Generation*. New York: Oxford University Press.

Mink, G. 1995. *The Wages of Motherhood: Inequality in the Welfare State, 1917–1942*. Ithaca, NY: Cornell University Press.

Nackenoff, C. 1999. 'Gendered Citizenship: Alternative Narratives of Political Incorporation in the United States, 1875–1925,' in D. F. Ericson and L. Bertch Green, eds., *The Liberal Tradition in American Politics: Consensus, Polarity or Multiple Traditions*. London and New York: Routledge, 137–169.

Nackenoff, C. 2009. 'New Politics for New Selves: Jane Addams's Legacy for Democratic Citizenship in the 21st Century,' in M. Fischer, C. Nackenoff, and W. Chmielewski, eds., *Jane Addams and the Practice of Democracy: Women's Experiences Shaping Theory*. Urbana, IL: University of Illinois Press, 119–142.

Nackenoff, C. 2013. 'Uneasy Alliances: Women Workers, Maternalist Visions, and Battles over Labor and Suffrage in the Early 20th Century.' Presented at the Meetings of the Midwest Political Science Association, Chicago, April 11–14.

Nackenoff, C. 2014. 'The Private Roots of American Political Development: The Immigrants' Protective League's "Friendly and Sympathetic Touch" 1908–1924.' *Studies in American Political Development* 28: 129–160.

Nackenoff, C. and Novkov, J. 2014. *Statebuilding from the Margins: Between Reconstruction and the New Deal*. Philadelphia, PA: University of Pennsylvania Press.

(p. 130) Nackenoff, C. and Sullivan, K. 2014. 'The House that Julia (and Friends) Built: Networking the Chicago Juvenile Court,' in *Statebuilding from the Margins: Between Reconstruction and the New Deal*. Philadelphia, PA: University of Pennsylvania Press, 171–202.

O'Farrell, B. and Kornbluh, J. L. 1995. 'We Did Change Some Attitudes: Maida Springer-Kemp and the International Ladies' Garment Workers Union Author.' *Women's Studies Quarterly* 23: 41–70.

Orleck, A. 1991. *Common Sense and a Little Fire: Women and Working-Class Politics in the United States, 1900–1915*. Chapel Hill, NC: University of North Carolina Press.

Gender and the American State

- Orren, K. 1991. *Belated Feudalism: Labor, the Law, and Liberal Development in the United States*. Cambridge: Cambridge University Press.
- Pascoe, P. 1990. *Relations of Rescue: The Search for Female Moral Authority in the American West, 1874-1939*. New York: Oxford University Press.
- Pateman, C. 1988. *The Sexual Contract*. Stanford, CA: Stanford University Press.
- Pearson, S. J. and Smith, K. K. 2014. 'Developing the Animal Welfare State,' in C. Nackenoff and J. Novkov, eds., *Statebuilding from the Margins: From Reconstruction to the New Deal*. Philadelphia, PA: University of Pennsylvania Press, 118-139.
- Pisapia, M. C. 2010. 'The Authority of Women in the Political Development of American Public Education, 1860-1930.' *Studies in American Political Development* 24: 24-56.
- Piven, F. F. and Cloward, R. A. 1971. *Regulating the Poor: The Functions of Public Welfare*. New York: Pantheon Books.
- Ritter, G. 2006. *The Constitution as Social Design: Gender in Civic Membership in the American Constitutional Order*. Stanford, CA: Stanford University Press.
- Sanders, E. 2008. 'Presidents and War,' Einaudi Center Working Paper series, Cornell, rev. 2008. <https://einaudi.cornell.edu/sites/default/files/PresidentsandWar.pdf>.
- Sawer, M. 1996. 'Gender, Metaphor and the State.' *Feminist Review* 52: 118-134.
- Shklar, J. 1991. *American Citizenship: The Quest for Inclusion*. Cambridge, MA and London: Harvard University Press.
- Siegel, R. 2002. 'She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family.' *Harvard Law Review* 115: 948-1046.
- Sklar, K. K. 1993. 'The Historical Foundations of Women's Power in the Creation of the American Welfare State, 1830-1930,' in S. Koven and S. Michel, eds., *Mothers of a New World Maternalist Politics and the Origins of Welfare States*. New York and London: Routledge, 43-93.
- Skocpol, T. 1992, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*. Cambridge, MA: Harvard University Press.
- Smith, R. M. 1999. *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. New Haven, CT: Yale University Press.
- Stanley, A. D. 1998. *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation*. Cambridge: Cambridge University Press.
- Sullivan, K. 2007. *Constitutional Context: Women and Rights Discourse in Nineteenth-Century America*. Baltimore, MD: Johns Hopkins University Press.

Gender and the American State

Sullivan, K. and Nackenoff, C. 2014. 'Family Matters, Public Work: Juvenile Courts as Administrators of Progressive Era Mothers' Pensions, Compulsory School Attendance, and Child Labor Laws,' presented at the Policy History Conference, Columbus, Ohio, June 4-7.

Szymanski, A.-M. 2014. 'Wildlife Protection and the Development of Centralized Governance in the Progressive Era,' in C. Nackenoff and J. Novkov, eds., *Statebuilding from the Margins: From Reconstruction to the New Deal*. Philadelphia, PA: University of Pennsylvania Press, 140-170.

(p. 131) Tax, M. 1980. *The Rising of the Women: Feminist Solidarity and Class Conflict, 1880-1917*. New York and London: Monthly Review Press.

Terborg-Penn, R. 1998. *African American Women in the Struggle for the Vote, 1850-1920*. Bloomington, IN: Indiana University Press.

Tronto, J. 1993. *Moral Boundaries: A Political Argument for an Ethic of Care*. New York: Routledge.

Valelly, R. M. 2004. *The Two Reconstructions: The Struggle for Black Enfranchisement*. Chicago, IL: University of Chicago Press.

Yamin, P. 2012. *American Marriage: A Political Institution*. Philadelphia, PA: University of Pennsylvania Press.

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