

WOMEN & PUBLIC POLICY

*A Revolution
in Progress*

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with chapters by
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For all the Conways
M.M.C.

For my mother, Janet Ahern
D.A.

For my husband, Scott Walker, and our son, Sky,
truly a revolutionary in progress
G.S.

Preface

This book is an introduction to the subject of women and public policy. The unifying theme of its ten chapters is the impact of cultural change on both women's roles in American society and patterns of public policy as they affect women and their families. While gender is not the only social characteristic of importance (class, race, and age, for instance, are also influential), we believe it warrants specific inquiry. Commonalities exist in women's lives.

It is our hope that this book will be of interest to a variety of audiences, including students of public policy and women's studies. Although each chapter contains discussions of relevant court cases, laws, and executive orders, no prior knowledge of the policy process or of women's issues is assumed on the part of the reader.

Chapter 1 presents working definitions of culture and public policy. The relationship between public policy and cultural change, particularly in regard to the increasing participation of women in the work force, receives special attention. The discussion centers on the policy-making process and the impact of policy silences on that process. Consideration is also given to three models of the policy process that are useful in stimulating systematic and critical analysis of the issues raised in subsequent chapters.

Chapter 2 is an examination of the impact of educational policy on women. An overview of the cultural and historical context of educational policy is followed by a discussion of the status of women in education, patterns of discrimination against women, and Title IX and its implementation.

Chapter 3 explores the question of why women's views have been relatively absent from public debate in the health policy area. Considerable attention is given to the context of women's lives—including marriage, childbearing, and employment—and how it affects women's access to health care. Factors affecting women's access to private health insurance and the dependence of many women and their families on Medicaid and Medicare receive special emphasis. The chapter also examines public policy concerning reproductive issues.

The subject of Chapter 4 is equal employment opportunity policy—specifically, issues of implementation and the key issues in employment

policy, including occupational segregation, Title VII, sexual harassment, and comparable worth. Also examined is the central issue of the effects of federal equal employment opportunity policy on women's employment patterns.

Chapter 5 focuses on issues of economic equity in the policy areas of credit discrimination, housing, and retirement income. A brief history of the Equal Credit Opportunity Act is followed by an analysis of its impact. The "four A's" of housing—availability, adequacy, affordability, and accessibility—are discussed in the context of women's lives; the problems of single-parent households and of elderly women are highlighted. Also examined is the problem of acquiring adequate income for retirement; particular attention is given to issues concerning women's access to social security and employer-provided pensions and tax-deferred personal pension plans.

In Chapter 6, Robert Jerry considers the case for gender-neutral insurance. A discussion of technical issues and terms is followed by an examination of the use of gender as a rating criterion for life insurance, retirement annuities, and health and disability insurance. Attention is given to federal and state regulations concerning gender discrimination in insurance.

In Chapter 7 Earlean McCarrick places women and family law in a cultural context, with a focus on the areas of marriage and divorce. Among the topics covered are marital property law, a married woman's domicile and legal surname, marriage and criminal law, marriage and social security benefits, alimony, federal retirement benefits, and child custody and child support.

The subject of Chapter 8 is women and the issue of child care; special attention is given to the question of whether the needs of women and children can be separated. Also included is a detailed discussion of child care and an examination of the Family and Medical Leave Act of 1993.

In Chapter 9 McCarrick provides an overview of women and the criminal justice system. The chapter includes a discussion of women as criminals and women as victims of crime. It also represents detailed analyses of current policies on rape and spousal abuse.

Chapter 10 explores questions such as how far the government can and should go in encouraging cultural change. The three models of the policy-making process discussed in Chapter 1 are assessed in terms of their utility for the study of women and public policy.

Effort has been taken to make the material in this volume accessible to students. With the exception of the concluding chapter, each chapter begins with a vignette offering a glimpse into the life of one woman. These examples are intended to personalize the material for students and may be used by the instructor as a starting point for class discussion. At the end of

each chapter is a list of suggested readings, including current books and important journal articles. The wide range of material covered includes cultural studies and works on feminist theory, as well as public policy sources. Chapters 2 through 9 include chronologies of the major events discussed in the chapter. They are intended as summaries for students' convenience.

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Women and Public Policy

In 1776 Abigail Adams wrote a letter to her husband, John Adams (a leader in the American Revolution and second president of the United States), in which she made the following request:

In the new code of laws which I suppose it will be necessary for you to make, I desire you would remember the ladies and be more generous and favorable to them than your ancestors. Do not put much unlimited power into the hands of the husbands. Remember, all men would be tyrants if they could. If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation.¹

She hoped (in vain) that the legal status of women would be improved and that political rights would be conferred on them by the new government. In 1993 Hillary Rodham Clinton was appointed by her husband, Bill Clinton (the forty-second president) to head the administration's task force on health care reform. An established attorney and a children's rights advocate, she serves in the administration as an unpaid volunteer. It is one of the few times since their marriage that she has earned less than her husband.

DEFINING CULTURE

Cultural changes in the ways women live their lives constitute one of the major revolutions of the twentieth century. These changes have caused Americans to rethink who they are, both as individuals and as members of the community. The role of government in determining the quality of life in modern society (frequently labeled "public policy") is a controversial

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but ubiquitous factor that has to be considered in any effort to understand women's lives.

This book addresses the impact of public policy on women's lives and the impact of changes in women's lives on public policy. Many changes in women's lives are either a direct or an indirect result of public policy, and many of the changes in how public policy is made, including which issues should be the subject of public policy, are linked to cultural changes in women's lives. Abigail Adams lived in a patriarchal society in which males had legal and economic power over women and cultural expectations regarding the proper roles for women and men were clearly defined. Consequently, women who wanted a public policy that would lead to greater equality between women and men had to rely ultimately on the good graces of men to bring about change. Hillary Rodham Clinton has more opportunities to impact public policy directly. Like her husband, she received a quality education and achieved success in her chosen career. Because she and her husband view their marriage as a partnership, they share responsibility for the care of their daughter, and thus can combine family and professional responsibilities.

Since culture is a dominant theme in this book, a discussion of its significance for women and public policy is in order. "Culture" is a complex term that is not easily defined. It can be used in contexts so broad as to render it of little use to those seeking to understand the way of life of a group of people.² Culture can be defined as "a core of traditional ideas, practices, and technology shared by a people."³ When we speak of culture, we are referring to the products of human activity.⁴ A focus on culture assumes that much of what matters to a woman—her identity or sense of self, her beliefs, attitudes, and values—is learned through interaction with the people and institutions she encounters throughout her life. A cultural approach to public policy emphasizes the impact of factors such as class, life-style, religion, ethnic identification, and race on women's understanding of the political significance of their gender, a perception frequently referred to as their "gender consciousness."⁵ In the words of three prominent students of American politics, "culture counts."⁶ This is not to say that factors such as economic influences are unimportant. But the emphasis of this book is less on the economic effects of class than on how, and to what extent, a particular set of life circumstances affects a woman's perception of who she is, how she got there, what she wants to do with her life, and what she wants for herself and her family. Women living at the time of Abigail Adams and women living at the time of Hillary Rodham Clinton have different interpretations of what it means to be a woman.

Individuals become part of their culture in a number of ways. The learning process takes place in the family, the school, the workplace, the

place of worship, and the community. Many individuals learn political values indirectly—which is another way of saying that they learn politically relevant attitudes, such as that toward authority—in their home and their school. Ethnic background, race, or religion may be important in helping some individuals develop a sense of who they are. For women, development of a sense of identity that includes gender has been an important step in bringing the interests they share as women into the public policy arena.

Culture is dependent on social groups for its creation and its transmission.⁷ At any given time, within the dominant culture there are frequently a number of subcultures with varying degrees of meaning for those who constitute them. Many of the people involved in the women's movement of the 1960s, for example, advanced ideas about the "proper" role of women that contrasted sharply with those of the dominant culture.

A number of contemporary trends illustrate the connection between cultural change and public policy. Clearly, the emergence of women as an electoral force and the increasing number of women who are seeking and winning election to public office reflect women's changing status in American culture—as a result of this change, they have exerted a greater impact on public policy. The emergence of women in politics was not a single cataclysmic event but rather reflected a series of changes in expectations about what women would and could do with their lives and the acceptability of certain actions, such as voting and running for and holding political office. The 1992 elections are a case in point. Women cast 54 percent of the votes in the presidential election,⁸ and a record number of women sought and attained House and Senate seats. A comparison of the results of the 1990 and 1992 elections reveals that the proportion of women in state legislatures increased from 18 percent to 21 percent, and the proportion of state executive offices held by women increased from 18 percent to 22 percent.⁹ The media frequently referred to 1992 as the "Year of the Woman," but this phrase is misleading. Women did not simply wake up on January 1, 1992, and collectively proclaim: "This is our time!" The groundwork for the "Year of the Woman" had been laid as a result of the changes that have taken place in women's lives in the past twenty years (including an increase in their educational and employment opportunities), along with the organizational efforts of such groups as Emily's List, the National Women's Political Caucus, and the Women's Campaign Fund.

Title IX of the Higher Education Amendments of 1972, for example, opened up a number of opportunities for women and resulted in their increased involvement in athletics and the professions. The Equal Pay Act of 1963, the Supreme Court's 1973 ruling in *Roe v. Wade*, and the Preg-

nancy Discrimination Act of 1978 have all redefined what it means to be a woman in American society.

Sexual harassment, domestic violence, reproductive rights, and child care have become part of the public policy agenda because of the changes in women's roles and women's increasingly strong political presence.

The twentieth century has witnessed unprecedented changes in women's lives.¹⁰ Perhaps the most significant change, from a cultural and public policy perspective, has been the entry into the work force of married women with small children. In the middle of the twentieth century, less than 20 percent of these women worked outside the home. By 1991, this figure had increased to almost 60 percent.¹¹ Before 1980, African-American women were more likely than white women to be part of the work force. In 1980, the proportions of the two groups in the work force were approximately the same.¹² It was not until 1985, however, that a majority of married women with preschool-age children were employed outside the home. The impact of this trend is magnified by the fact that more than one-third of the married women with children under the age of three are now likely to be working full time. Only a decade ago, less than a quarter of these women had full-time employment.¹³

There are many reasons for this trend, and they demonstrate the connection between cultural change and public policy. Economic necessity and the desire for self-fulfillment are the major reasons married women with young children work outside the home. Employment is an empowering experience both personally and politically, but it has also created demands on government. The sheer number of women in the work force, along with their mobilization as a political force, has led to calls for action on issues as diverse as family leave, sexual harassment, pay equity, and reproductive health. In the fictionalized 1950s, June Cleaver always had time for Ward, Wally, and the Beaver. Many of the children whose family lives were very different from that of the Cleavers wished for a home in which Mother, in an attractive dress, pearls, and high-heeled shoes, was always available to lend a sympathetic ear and offer a glass of cold milk and a snack.

Today, June Cleaver has been replaced by Roseanne Connor. Television viewers sympathize with Roseanne's efforts to keep her family together while she and her husband struggle to earn enough to support their children and themselves. The Connor children (Becky, Darlene, and D. J.), unlike Wally and the Beaver, pour their own milk and snack on leftover carryout pizza. June did not have to worry about finding someone to care for Wally and the Beaver if they became ill. Care of the home and the children were her responsibility. Nor did she have to worry about juggling family and career. Her family was her career, and if she had any doubts about her life and where it was going, they were not shared with

her family or her viewers. Roseanne, in contrast, has held a number of low-paying, "pink-collar ghetto" jobs, including shampoo "girl" and waitress. She is struggling to start her own business and relies on an extended family of sister, mother, and female friends to help her. Her husband shares in the care of the home and children, but she is the one more frequently seen loading the washing machine and running the vacuum cleaner. As Roseanne Connor has replaced June Cleaver in the culture, the issues that are important in the "typical" woman's life have moved from the private to the public arena.¹⁴ The changes in women's lives have increased the demands on government to address many issues. The intersection of cultural change and public policy has a long history, which is the subject of the next section.

A BRIEF HISTORY

The impact of cultural change on public policy has led to creation of the specific notion of political and legal rights that define an individual. According to Anne Schneider and Helen Ingram, the "social construction of target populations" (their term for the "cultural characterizations or popular images of the persons or groups whose behavior and well-being are affected by public policy") can remain the same for extended periods or can be subject to continual change.¹⁵ Because public policy has largely been based on traditional ideas of women's roles, it has served to reinforce women's subordinate status.¹⁶ The patriarchal male has, in many instances, been replaced by the patriarchal state. Nancy Fraser has argued that women's continued dependency on welfare is ensured because they are not given the opportunity to develop job skills; they are forced to rely on the state for housing, food, and medical care for themselves and their children.¹⁷

But public policy can empower women and lessen their dependency on men or on the patriarchal state. Women's acquisition of political and legal rights has been the result of two distinct women's political movements, each of which had two phases. In the first phase of the first women's movement (the first six decades of the nineteenth century), women demanded basic rights. Perhaps best known is the wide range of policy demands contained in the Declaration of Rights issued by the Seneca Falls Convention in 1848. This phase culminated in the unsuccessful drive to include guarantees of legal and political rights for women in the post-Civil War amendments to the United States Constitution, which conferred the legal rights of citizenship, including the right to vote, on black males.¹⁸

The second phase of the first women's movement, which was domi-

nated by disputes about both the issue agenda that should be pursued and the most appropriate means for seeking policy change, culminated in the ratification of the women's suffrage amendment to the Constitution in 1920.¹⁹ Women have acquired other rights as a result of court decisions and the enactment of federal and state laws during the nineteenth and twentieth centuries.

From 1920 to 1960, activism was limited because there was little public interest in or support for a policy agenda of particular relevance to women. The extensive changes that took place in American society during those years, however, gave rise to a second women's movement during the 1960s, a movement that is still strong in the 1990s.²⁰ The first phase of this second movement consisted of raising women's political and social consciousness about policy problems and the denial of women's basic rights. As a result of their observations of the effectiveness of political action in racial minorities' pursuit of civil rights and economic equality during the 1950s and 1960s and the participation of many women in both the civil rights and the anti-war movements, women became increasingly aware of the denial of their basic rights and of the effectiveness of collective action in bringing about political and social change.²¹ Books such as Betty Friedan's *The Feminine Mystique* gave expression to the dissatisfaction of many women with the roles assigned them by modern American society.²²

Early in his presidential term, John F. Kennedy appointed an Advisory Commission on the Status of Women. In its report issued in October 1963, the commission recommended several policy changes, including the removal of restrictions on married women's control over property owned by them, increased opportunities for women to participate in politics by holding appointive and elective office, and the establishment of equal employment opportunity as a federal government policy. The commission recommended that equal employment opportunity be implemented to the extent possible through an executive order of the president, which would make the policy applicable to employees of the federal government and companies having contracts with it. The commission expected compliance with the executive order to be voluntary, however, and the recommendation specified no enforcement mechanisms.²³ The commission's recommendation made no mention of other problems confronted by women in modern society, such as access to adequate and affordable day care for the children of working mothers.

Two major policies affecting employed women were enacted into law during this period. First, a bill mandating equal pay for equal work, which had been regularly introduced in Congress since 1948, was passed in 1963.²⁴ Second, Title VII of the 1964 Civil Rights Act was amended to prohibit gender discrimination in employment. In an effort to kill the act,