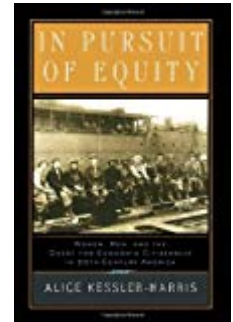


**Alice Kessler-Harris.** *In Pursuit of Equity: Women, Men, and the Pursuit of Economic Citizenship in 20th-Century America.* Oxford: Oxford University Press, 2001. 374 pp. \$35.00, cloth, ISBN 978-0-19-503835-4.



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## Gender Roles, Gendered Rights

Alice Kessler-Harris has spent her career documenting the impact of Americans' beliefs about gender on American institutions. In *Out to Work: A History of Wage-Earning Women in the United States* (1982), she revealed how women workers' occupations, benefits, and union membership were shaped by deeply ingrained beliefs about proper gender roles among employers, government, and unions. In her 1995 co-edited volume, *Protecting Women: Labor Legislation in Europe, the United States and Australia, 1880-1920*, Kessler-Harris broadened her scope, examining how protective labor law for women reflected broader gendered societal debates about the family, citizenship, and social welfare. In her latest work, *In Pursuit of Equity: Women, Men and the Quest for Economic Citizenship in 20th Century America*, Kessler-Harris expands upon her studies of labor, gender, and citizenship to present a masterful narrative and analysis of the intersections between gender and the welfare state in modern America. The book integrates a remarkably wide range of historical and theoretical scholarship,

spanning welfare state theory and history, labor history, gender theory and history, and studies of citizenship.

In keeping with new theoretical and historical literature on the welfare state, Kessler-Harris conceives of the modern American welfare state broadly. Her study includes not only standard social entitlement programs, such as public assistance or social insurance, but income tax laws, anti-discrimination laws, and, true to her background in labor history, protective labor laws, labor standards, and unemployment compensation. Her narrative takes readers from the earliest 20th-century welfare state interventions--laws limiting women's hours on the job, in *Muller v. Oregon* (1908)--through the establishment of the Fair Labor Standards Act, Social Security, the creation and modification of income tax law regarding marriage, the passage of title VII of the Civil Rights Act of 1964, and the creation of the Equal Employment Opportunity Commission in the late 1960s. Together, Kessler-Harris suggests, these laws and programs were vehicles by which the state provided entitlements and opportunities to

men and women citizens over the course of the twentieth century.

In describing these features of the American welfare state, Kessler-Harris seeks to reveal how policy debates reflect cultural and social beliefs and practices. She listens in on the policy debates and judicial reasoning of a wide range of actors including labor leaders, bureaucrats, government commissions, feminist groups, businesses and business groups, judges and elected politicians. In the process she uses a remarkable range of court documents, governmental hearings and records, and private papers. Attuned to the nuance and subtlety of political argument, Kessler-Harris demonstrates persuasively that "Policies that appear neutral on their face emerge from deeply embedded belief systems that accentuate particular politics" (p. 14).

The "deeply embedded belief systems" that the author exposes are gender belief systems. With this focus, Kessler-Harris follows in the footsteps of American and international feminist scholars who have demonstrated the salience of gender ideology in the creation of public policy. Her innovation lies in her unique articulation of this relationship. Kessler-Harris refers to the gendered system of beliefs held by policy makers as "the gendered imagination." This term evokes both the personal, subjective nature of gender ideology, and its power to create symbolic public imagery (pp. 5-6). Kessler-Harris illuminates how policy makers and the public held deeply rooted beliefs about the proper roles of men and women in the workforce and the family, and how these should translate into public policies.

The book's power derives from the author's ability to demonstrate the effects of the gendered imagination upon a wide variety of public policies, among a broad range of political actors, and through decades of changes in American life. Though it was central in many important public policy debates, the gendered imagination did not remain unchallenged or unchanged over time. As

policy makers, lobbies, and the public debated the fairness and equity of new social programs, labor laws, and other public policies, they answered in ways that exhibited both persistence and change in their beliefs about men, women, and their public and private rights and responsibilities.

Kessler-Harris locates the origins of the twentieth-century gendered imagination in the debates over late-nineteenth and early twentieth-century labor legislation. Examining a range of judicial decisions and legislative debate, Kessler-Harris reveals that the law envisioned men as primary breadwinners supporting families, and that their rights to work were central to maintaining their masculine sense of independence and autonomy. Conversely, the law viewed women as wives and mothers; their economic rights, such that they were, consisted of a right to be supported by a male breadwinner and protected by the state from any harm to or interference in that role by employment. This early consensus on gender, work, and rights was quite broad. Although a few equal rights feminists objected to it, the consensus extended from such influential women reformers and bureaucrats as Julia Lathrop to labor unions, employers, the courts, and even to male and female employees themselves.

This early agreement on men's and women's rights regarding work and family became vitally important in crafting some of the most important legislation of the New Deal and the twentieth century. Through unemployment insurance, the federal government created a program directly aimed at supporting workers and rewarding them with benefits based on work. With this premium placed on work, Kessler-Harris argues, federal policy makers took care to define who was considered a worker. "Gender," she shows, "was a major constituent in that definition" (p. 94). The American Federation of Labor and federal policy makers tailored the definition of "worker" so as to preserve male workers' dignity and their ability to support themselves and their families. In the

process policy makers consciously excluded a majority of women--and minorities--who were presumed to be irregular workers and/or supported by a male head of household.

Rewarding and supporting male-breadwinners was also the guiding principle in crafting old age insurance, or Social Security. While other historians such as Linda Gordon have already shown how gender influenced the origins of Social Security, Kessler-Harris sheds new light on the issue by focusing in on the rhetoric of masculinity behind the program. To garner support for a new and untested program, Social Security advocates portrayed it as a way to honorably help the working man help himself and his family after he retired from employment. Women, according to Kessler-Harris, did not even figure into the debate over which jobs would be covered--they were just considered too tangential to the labor force to matter. Even when policy makers created the Survivor's Insurance program for widows in 1939, they were not attempting to privilege or protect women. Rather, Survivor's Insurance was a strategy to spend the accumulating Social Security surpluses in a way that would be popular and seen as "fair" to working men: it allowed the Social Security Board to say it was helping working men support their families even after their deaths.

The gendered imagination behind Social Security was challenged, however, in time. Taking the narrative up to the present, Kessler-Harris shows how the rhetoric of Social Security as a "fair" entitlement to workers proved irresistible to the millions of women entering the labor market after World War II. They demanded to be served fairly by the system, overturning provisions which provided lower benefits to married women workers. In this case, Kessler-Harris reveals how a program aiming to provide equity and support to male breadwinners, and treating women as family-bound dependents, could not survive unchanged in the face of a workforce increasingly filled with female breadwinners.

Yet other laws established on the basis of the gendered imagination of the early twentieth century persisted relatively unchanged. The federal income tax system was created, like Social Security, to achieve "fairness" for male heads of households rather than for all individual Americans. The key lay in how policy makers defined the taxpayer. "Though the tax was technically on individuals," Kessler-Harris writes, "Treasury officials believed that families with equal incomes should pay equal taxes, regardless of how the income was derived," and thus taxed households rather than individual members of a married couple (p. 173). This system prevented wealthy men from putting income or assets in their wives' names, and thus avoiding taxes. But it penalized women earners who earned less income than their husbands but who paid taxes at a higher rate because their income was added to their husbands' to determine the tax rate. Like Social Security, a system based on presumptions about female dependency and the male ability to support the home was challenged over time. But unlike Social Security, the challenges did not succeed: today federal income taxes are still calculated differently for married households, demonstrating the remarkable persistence of the early twentieth-century gendered imagination.

In the final chapters of the book, Kessler-Harris draws the reader up to the 1960s and 1970s, and to the issue of job discrimination based on sex. Here, the early twentieth-century gendered imagination was dealt its greatest blow. Kessler-Harris recreates the fierce debate among feminists and federal policy makers over whether or not treating women differently than men at work should be viewed as discrimination. Many women on the President's Commission on the Status of Women in 1962 declined to view women's differential treatment as discrimination, preferring to invoke "difference" as a prerogative for protecting women from long hours or overwork. After 1963, other women such as legal advocate Pauli Murray, Congressional Representatives Martha Griffiths

and Edith Green, and the National Organization for Women jettisoned protections for women based on "difference" and argued that any differential treatment of women in the labor force was discriminatory. Kessler-Harris shows how the perhaps cynical decision of Southern legislators to place "sex" in the 1964 Civil Rights Act in order to prevent its passage had the unintended consequence of reinforcing the arguments of Murray and NOW. Feminists arguing to place sex discrimination on par with racial discrimination as a question of protecting individual equal rights won out.

With this achievement, Kessler-Harris argues, women came closer than ever before to reaching "economic citizenship" on par with men. With legal backing and enforcement from the initially reluctant Equal Employment Opportunity Commission, women now approached "the achievement of an independent and relatively autonomous status that mark[ed] self-respect and provide[d] access to the full play of power and influence that define[d] participation in a democratic society (pp. 12-13). When sex discrimination was defined as differential treatment of men and women in the labor market--and became illegal--many of the barriers that the gendered imagination had erected came under attack. Women could no longer be barred from employment based on their status as real or potential mothers, their presumed "feminine" preferences, or generalized assumptions about their strength, skills, or abilities. Equal rights rhetoric and law envisioned women not through the old gendered imagination--as primarily entwined in familial roles--but as individual actors in the labor market. Accorded with the right to work at a job of their choice, women since the 1970s have also begun to achieve the "customary and legal acknowledgment of personhood, with all that implies for expectations, training, access to and distribution of resources, and opportunity in the marketplace" ( pp. 12-13).

One of the most interesting parts of this discussion of the ascension of an individual equal rights approach to employment concerns its effects on the lives of poor and minority women. In part of chapter six, Kessler-Harris points out that the achievement of the right to work served some women better than others. The law freed up women workers from social and cultural assumptions about women's obligations and special needs with regard to family. But in reality, of course, women still had to struggle to balance work with family obligations: most worked a "second shift" at home. The women who were best able to benefit from the new anti-discrimination laws were women who could afford to privately pay for their family obligations. Middle-class and well-paid working-class women, especially those who were married, tended to have the resources and supports--funding for childcare or networks of family--to take advantage of new work opportunities. But low-income women who did not have resources for child care, or who lived in isolated, unsafe neighborhoods lacking child care, were not able to take advantage of new employment opportunities. These disadvantaged women, Kessler-Harris points out, may well have benefited from retaining the gendered imagination that recognized some women's familial and community obligations and barriers. Low-income women's dilemma in this respect is clearly revealed in the current debate over the re-authorization of the 1996 welfare reform. Rather than increasing spending for child care or safe housing, President George W. Bush's proposal increases hourly work requirements, leaving low-income women struggling to surmount the familiar and community barriers alone.

While Kessler-Harris limits her commentary on the work-family dilemma to poor women, the astute observation may well extend to women of the working and middle classes, too, and to men who now balance both work and family responsibilities. After all, the flip side of Alice Kessler-Harris' story of how women came to gain economic

citizenship as individual workers in America is the story of how more and more people, women and men alike, have begun to work more hours per week and more weeks per year than at any point in modern history. For many Americans today, even those of the married middle class, the decision to work may well be a matter of necessity (albeit relative) rather than choice. The "right" to work is just as much an obligation to work, especially for the poor. Though this route to economic citizenship has brought employment-based benefits such as Social Security, unemployment insurance, and fair legal protections on the job to many, it has made the ability to care for family, home and community more difficult for most.

One way to remedy this dilemma would be to pursue the rights of citizens to care for families at the same time as pursuing the right to work. But Kessler-Harris is not hopeful about this possibility. She correctly points out that "women have not generally achieved public power for their caring roles" (p. 13). And if the argument for rights based on family roles has not worked for women, it seems unlikely that it could work for men. Still, it may yet be worthwhile to try to think both historically and presently about strategies for broadening the basis of economic citizenship to include caring. The welfare rights movement of the late 1960s and early 1970s, for example, demanded that caring be viewed as economically valuable. In addition, since the 1970s, there have been efforts by feminist economists to include unpaid caring labor as part of the calculation of Gross Domestic Product. And currently, there is growing support among diverse constituencies for extending and enhancing provisions for caring such as the modest Family and Medical Leave Act. In the end, Kessler-Harris may be correct in her assessment that "[I]n modern democratic societies prevailing beliefs in the sanctity of the market make access to it the only practical route to empowerment as citizens" (p. 13). But hard-pressed Ameri-

can citizens juggling work and family may hope the future holds something more.

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