

---

---

# DESTINED FOR EQUALITY

THE INEVITABLE RISE OF WOMEN'S STATUS

---

---

ROBERT MAX JACKSON

*Excerpts ...*

HARVARD UNIVERSITY PRESS

CAMBRIDGE, MASSACHUSETTS, AND LONDON, ENGLAND 1998

## CITIZENSHIP: GAINING EQUALITY FROM THE STATE

During the past 150 years, the state has done an about-face. Once, it stood guard over men's advantages; now it challenges the male advantages it once defended. Once, the state granted only men the right to participate in the political process and to act as independent members of civil society. Now the state not only treats women and men the same; it also actively demands that other institutions in society stop treating men better than women.

Since, until recently, men occupied most positions of political power, government actions diminishing gender inequality seem paradoxical. Men were in a position to obstruct any improvements in women's civil rights. They held most good jobs and most positions of economic power. Men were still dominant in most families. Men also held almost all police and military power. The state comprised only members of a dominant group, men, and that dominant group controlled all significant social institutions and resources. Such a state would seem unable to conceive or carry out policies favorable to a subordinate group and likely to diminish the control of the dominant group. Yet during the past 150 years the state repeatedly did grant women greater rights and statuses. These enhanced rights directly opposed male dominance as they substantially reduced the differences between women's and men's positions in society.

Government policies favorable to women's status developed in three overlapping phases. First, in the nineteenth century, state governments sought some basic, formal, legal equalities between the sexes. This

occurred through changes in state laws and judicial interpretations that gradually gave married women independent control of inherited property. These changes also granted women control over any income they earned and gave them the right to make contracts. In the second phase, culminating during the Progressive Era, the state enacted formal political equality between the sexes by granting women the right to vote. In response, legislative attention to women's concerns increased, and a few women squeezed into political positions. Finally, in the third phase, the state loosely adopted the goal of formal economic and social equality. Since World War II, laws and court decisions have increasingly banned forms of discrimination that restricted women's economic and institutional opportunities. In recent years, women have risen to new prominence in political offices. During each phase, the state expanded the ways women and men received equal treatment under the law.

No consistent actor or interest was responsible for the overall trend toward legal and political equalization. Instead, the initiative behind the legal and political changes benefiting women sometimes emerged from within the state itself, sometimes from business interests, and sometimes from women's organizations. The progressive trend did not reflect the drift of popular opinion, nor was it the simple product of an enduring social division. Instead, the policy changes were sometimes uncontested and sometimes evoked great conflict. Equally, the trend did not simply mirror a direct shift in power from men to women. Women, as a group, found it difficult to accumulate power sufficient to force concessions from men.

Nor did these developments mean the government sought to make women and men truly equal. On the contrary, most men with political power wanted to preserve differences between the sexes. Here lies the crux of the intellectual and historical puzzle. Men have controlled the state, men with political power have seen the world through the lens of their dominant gender experiences, and they have largely devised state policies expecting to preserve the gender differences they valued and found familiar. Nonetheless, critical changes in state policies have gradually but unstoppably diminished men's advantages in law, in political participation, and in their treatment by organizations throughout society.

Theorists concerned with women's status have stressed the masculine-bias side of the paradox, largely viewing the state as an instrument

that preserves inequality. Trying to understand how gender inequality works, feminist scholars have often stressed how the state bolsters male advantages. Differing in many details, such analyses commonly characterize the state as a masculine, patriarchal entity, inevitably expressing and defending male interests. Some suggest that the state cannot avoid seeing all issues through male eyes and masculine preferences, so that laws and government policies "constitute the social order in the interest of men as a gender," to use Catharine MacKinnon's succinct description.<sup>1</sup> The results have been evident in laws that granted men valuable rights denied to women, such as suffrage. The state also has sustained gender inequality through all programs that have given men preferred access to resources such as education. Less directly, the state has bolstered gender inequality through all the policies that reinforce the "traditional" sex-role division between women's childrearing and men's employment. Some suggest the state's support for conventional civil and political citizenship rights, even when formally gender neutral, sustain gender inequality because employment allows men much greater use of these rights. Some argue that women's rising political and legal status was illusory,<sup>2</sup> while others imply that the improvements are real but all attributable directly to women's political activity. All these theories agree on one point: the state served male power because the state belonged to men.

While these ideas have considerable merit, they fail to address the other side of the paradox. Over the past two centuries, the state has adopted policies and laws that have progressively enhanced women's status. True, laws and social policies have largely reflected the ongoing system of gender inequality. Equally true, most men controlling the government have explicitly chosen to favor male interests when legislative, judicial, or administrative issues have made gender interests salient. Notwithstanding these facts, the state has also made crucial choices that favored women. These choices have influenced historical trends more, even though they may have occurred much less often. The problem to understand is why and how the state would play this progressive role even when it was an institution largely adapted to sustaining gender inequality.

The seeming contradiction of a male-dominated state adopting policies benefiting women is not the only puzzling feature of women's rising political and legal status. If we compare different periods, places, or nations, it becomes clear that many different historical paths led to

greater gender equality. Diverse, seemingly unrelated events with distinctive impinging causes have contributed to women's legal and political assimilation.

Thus, a second problem is to discover how a causal process could have given force and direction to men's legal and political concessions to women over the long run without deciding definitely when and how the changes would occur. Obviously, this question assumes that such a causal process exists, and some might deny that it does. The working assumption here is that women's legal and political status has improved in all modern societies, everywhere through similar reductions in differential treatment by the state, although the form and speed of change have varied greatly. This seems an unlikely pattern unless some common, persistent causal process is at work. Not surprisingly, no simple answer will work.

The key to the state policies that favored women's rising status rests in the multiplicity of interests and goals served by the state. When social theories discuss the state's role in directing history, they are usually referring to the state personnel who directly influence policy decisions. The modern state comprises all positions and organizations appointed, created, funded, and accountable to elected officials or to some other segment of the government.<sup>3</sup> Elected officials in legislative, administrative, or judicial posts and high-level bureaucrats in government organizations decide the state's agenda and strategies. Social circumstances and history constrain their actions, so that most manifest state goals are responses to the demands of the social environment, and most state strategies are adaptations to the limits of social, economic, and political conditions. Still, political processes such as elections, coalition building, and defining issues allow considerable room for unpredictable outcomes.

While many conditions have influenced the modern American state's policies, several general goals and concerns have dominated their historical development. The state has always defended the interests of the social strata with political influence, who directly or indirectly controlled entry to government office. Sometimes this oriented the state toward the small but well-heeled classes with money, capital, and managerial power. Sometimes the state was more concerned with the political impact of the less affluent but large classes that represented votes, such as workers. In both cases, the state represented group interests. While paying heed to the interest groups whose sup-

port controlled politicians' fates, the state has tried to keep society running smoothly by maintaining order and by preserving or creating the conditions needed for the effective functioning of other institutions. In its early days, the state focused on providing the external conditions needed for society to run: legality, public order, protecting the borders. Over time the state's responsibilities expanded to include creating and supporting an infrastructure (for example, roads, mail, education), fostering development (for example, opening new areas of the West), and managing crises. Simultaneously, the state has tried to protect itself and to expand its authority. Long-term officeholders found their personal interests bound to those of the state organization. These included lifelong politicians, many appointed officials (including the judiciary), and employed bureaucrats. They cared about the state's own fate, not just its effects. They also wanted to preserve their positions within the state.

In short, while men monopolized political power, government officials had to balance many goals and interests, some of which called for strategies inconsistent with gender inequality. Sometimes the state responded more to other interests, most importantly those of business, which could contradict those of male advantages. Sometimes state officials were more concerned with sustaining the society as a whole, for example, during wars and depressions. Sometimes politicians were more preoccupied with the state's stability and legitimacy, as when they abandoned some unpopular discriminatory practices. Sometimes, politicians were more worried about gaining or losing the support of female voters than of male voters.

The history of the major legal and political changes that eroded men's advantages suggests that three interwoven transitional processes were essential. Men's interests in preserving gender inequality declined. The state developed its own countervailing interests. Women gained increasing power to challenge the prevailing order. Together these transitional processes eroded the conditions necessary for preserving men's advantages. These transitions reflected the shift of social power into impersonal organizations dictated by the modern political and economic structures. Organizational interests gradually separated strategies preserving economic and political inequality from those needed to preserve gender inequality. This process assured that men's legal and political advantages would not survive intact, but it did not determine when or how they would fall to challenge and circumstance.

## MARRIED WOMEN'S PROPERTY RIGHTS

In the nineteenth century the state made its first great concession to women by removing married women's legal "disabilities."<sup>4</sup> Formerly, marriage gave women a legal status similar to that of children, awarding the husband control over his wife's inheritance, property, and income. The burden of these restrictions varied with women's class position. Affluent women were more affected by property rights. Working-class women were more likely to suffer from a lack of control over their incomes.

By passing laws known as the Married Women's Property Acts, state legislatures gave married women the legal right to control property and income, to make contracts, and to take legal actions through the courts independently of their husbands. These laws gave married women formal legal equality with their husbands over a wide range of economic issues and reduced their legal dependence. In practice, women only gradually gained the rights promised by these laws over a period stretching well into the twentieth century. Still, the concession of these fundamental rights was a dramatic stage in the development of women's social status.

In the era of separate spheres, people and government contended with specifying legal debts, rationalizing law, and giving daughters inheritances because new economic forms had displaced preindustrial forms organized around tenancies in land. The capitalist market economy stressed transferable property and temporary contractual relations between individuals for employment and business. As Karl Marx so aptly assessed it in the middle of the nineteenth century, land and labor became commodities, to be bought and sold under prevailing market conditions. These conditions made anachronisms of feudal laws tying fictitious perpetual families to permanent tenancies or rights.

These legal barriers from the past conflicted with the realities of social life in the nineteenth century. Affluent fathers often wished to leave property to their daughters that their husbands could not touch. Working-class women who earned a wage were not likely to think of their earnings as their husbands' property. Creditors found fault with the old laws because they could complicate efforts to pry money from debtors. Businessmen were equally concerned that the old laws could make all family property vulnerable to creditors when a man's busi-

ness failed. People had devised various routes around these laws to fit their real needs. Still, the old legal assumptions became progressively more burdensome and out of step with the capitalist economy.

It was in response to these issues that state legislatures gave women the right to control property and income independently of their husbands through the Married Women's Property Acts, which began to appear about the middle of the nineteenth century. The laws of the state of New York were representative. New York passed its first law in 1848 with the title "An act for the more effectual protection of the property of married women." It declared that "the real and personal property of any female who may . . . marry . . . shall continue her sole and separate property." Other acts, passed in 1860 and 1862, extended and clarified these rights, protecting married women's control over any property they inherited or income they earned, and giving them independent legal rights to make contracts, to sue, and to be sued.

Legislatures did not give women complete rights all at once. They repeatedly amended the new laws to expand the rights they granted women. The judiciary only gradually conceded ground to the new laws and social practices. The bond between husband and wife, compounded by women's general subordination and common deference to their husbands, also placed practical limits on women's use of these rights. Still, by the end of the nineteenth century women largely had legal control over their separate property and income.

This was a decisive break with the past, when the inferior political status of women reflected their legal and economic dependency. Men's political standing depended on their property holdings and legal relations to other property holders (for example, as tenants or retainers). The men who lacked property had legal and economic positions that resembled those characteristic of women, and they suffered similar exclusion from political processes and power.

The modern economic system clashed with these old practices. The new emphasis on transferable property, impermanent employment, and continuous reorganization focused on individuals, not on families. Just as modern corporations have a singular legal personality, when families were the essential units of economic organization, it was effective to focus all economic, political, and legal rights on the male head. As economic activity and power shifted into enterprises organized outside families, the old pattern became increasingly incompatible



with the needs of the modern economy. In the United States, this contradiction became salient when the common-law provisions for marital property started to play havoc with commercial transactions. Debt was the primary issue.

The capitalist marketplace had changed people's views about debt. Eternal debt was once considered the unfortunate fate awaiting those driven into penury by misfortune or misdeed. Now, however, commercial transactions used debt so often, they made it an ordinary part of business. As a result of periodic recessions in capitalist economies, irredeemable indebtedness threatened all businessmen. This problem led to bankruptcy laws to protect debtors from ruin.

Women's legal disabilities did not fit debt's new role in commerce. The common law exposed women's property to creditors in circumstances that seemed unfair. For example, the law could forfeit a wife's inheritance to her husband's business failure. Conversely, it sometimes shielded indebted people's property from valid creditors by tying it up in trusts for women. The legislation enhancing married women's rights was not about women's rights. Instead, it concerned men's exposure to creditors and creditors' access to legitimate restitution. It sought to preserve a man's property gained through his wife from economic catastrophe, much as bankruptcy laws might protect his home from being sold to pay his debts.<sup>5</sup> Litigation referring to the marital property reform laws in New York showed this predominantly commercial interest. In the fifty years after the laws' passage, most litigation invoking the married women's property acts concerned debtor-creditor relations, not husband-wife disputes. The spokesmen for commerce had condemned the common-law doctrine that stripped wives of legal independence because it muddled the legal obligations for debt. Women's social status did not concern them.

In this period, broader legal reforms also affected marital property. A widespread movement aimed its sights at *feudal* common law. Its spokesmen argued for rationalized, commercial law dictated by the legislature rather than by the courts.<sup>6</sup> In 1836 the New York legislature abolished the trusts that people had been using to give property to daughters on the grounds that "by introducing two classes of rights over same lands, governed by different rules, and subject to different jurisdictions . . . they rendered titles perplexed and obscure, and multiplied litigation."<sup>7</sup> The movement to rationalize law derived its idealistic rhetoric from the American Revolution. Commercial inter-

ests prompted the movement's practical motives. The reformers' critique of marital property attracted special attention from the middle classes.

The common-law disposition of marital property hindered middle-class parents who wanted to give their daughters some assets. Because their wealth was not in land, the rising commercial middle class had less interest in keeping family capital intact. Because wives could not keep separate control over their property under the common law, affluent families used trusts to transfer property to daughters. In simple terms, equity law allowed families to set up trusts for daughters. A trust granted legal title to a male trustee and an equitable title to the daughter. The terms of the trust defined her rights. These could include full rights to use and dispose of the property as she wished. The chancery court enforced the trustee's obligations. This artifice became annoyingly cumbersome as more people used it. When the movement to reform property laws abolished the legal devices that families had used to keep estates in the hands of one son, even more women inherited property. In 1846 reformers in New York abolished the state's Court of Chancery as they merged common and equity law. Thus, people were using the device of equity to transfer property to daughters at an increasing rate while the procedure's legal status became ever more ambiguous. The Married Women's Property Acts ended this discord between middle-class needs and the law. With a right to hold property separate from their husbands, daughters could inherit freely. The overuse of equity stopped.

Coincidentally, social conditions supported new beliefs favoring greater rights for women. Yet in the early debates over the changing laws few voiced concern for women's rights. The general ideal of natural rights associated with the American Revolution seemed to be the most radical idea most could tolerate. Still, ideas about women's rights had begun to win notoriety. Most people knew about the movement to educate women. When the first marital property acts were passed, at midcentury, few legislators seem to have known much about the nascent feminist movement. However, politically active women's claims for greater rights were well known in the following decades when married women's property rights were being solidified. Both movements' ideologies challenged married women's legal disabilities under the common law. Legislators found it hard to devise convincing reasons to explain why ideals of natural rights did not apply to women. These new ideas about women's rights appeared in the legislative de-

bates. They defined one side of the discussion in the news media. While practical concerns motivated most efforts to change the law, new conceptions of women's rights probably helped to dampen opposition.

Apparently, legislators found that women's common-law status was an old-fashioned cog that disrupted the legal machinery of the modern economy. Legislators abandoned women's complete legal dependency on husbands because it had the wrong form, not because such dependency was unjust.<sup>8</sup> They found that the common-law definition of marital property increasingly hindered social and economic progress.<sup>9</sup> It burdened debtor-creditor relations; it hindered women's new role as wage laborer; it was inconsistent with rationalizing the law; it encumbered parents' efforts to leave property to daughters; and it contradicted the state's ideology of republican liberty. By coincidence, the needs of the economic and political order served women's interests.

In the period of separate spheres spanning the middle of the nineteenth century, the major legal changes that benefited women fell to them as had the apple to Newton, propelled by forces they might discern but could not influence. The law served economic interests. Married women's legal disabilities did not. The law also tried to regulate and smooth the workings of kinship that extended into public life. The economic reorganization of family life conflicted with common-law property rights. No reasons remained to enforce women's legal disabilities other than a simple wish to preserve male dominance and a fear of change. These concerns slowed the legislation granting married women property rights and delayed their full application, but could not halt them.

## WOMEN'S FORMAL POLITICAL EQUALITY

Suffrage was the second outstanding legal and political change affecting women. Women gained suffrage rights after a struggle lasting more than a half-century. *How* women got the vote contrasts dramatically with the process that gave women the Married Women's Property Acts. Women received property rights from the state as a kind of institutional largesse. For the vote, they organized and agitated against the state until they had won. Yet, despite the contrasting transition processes, the reasons *why* women's rights expanded had some important similarities.

In the United States, the struggle over woman suffrage spanned

seven decades, from the Civil War through World War I. It nominally began in 1848, when those attending the Seneca Falls Convention demanded the vote for women. It ended in 1920, when the U.S. constitutional amendment for woman suffrage was finally ratified.<sup>10</sup> What started as a small band of progressive thinkers grew to a massive popular movement. The suffrage movement won women the vote after many years of agitation—lecturing, lobbying, meeting, distributing leaflets, and demonstrating in the streets. Many women fought long and sacrificed greatly for this movement. The movement, as much as its success, was an extraordinary accomplishment.

To understand their achievement fully, we must uncover what made this widespread movement possible and why it succeeded. Women had suffered political marginality for centuries. Why did their political status become such a salient issue during this period? What led so many to fight so long? And why did the state respond favorably to their demands?

Suffrage was a volatile issue in the nineteenth century, not only for women, but also for men without property, naturalized citizens, and members of minorities. In Europe, the suffrage for working-class men remained a hotly fought issue throughout the century. In the United States, working-class men received voting rights in the early nineteenth century, when most men without property were the young or old dependents of a kinsman who did have property. The permanent working class was a small minority in a nation dominated by farmers and small businessmen. In 1870 the suffrage was extended further when black American men gained the formal right to vote through the Fifteenth Amendment (although discriminatory practices and laws effectively barred most blacks from voting for almost a century). Giving the vote to working-class men removed the greatest direct impediment to woman suffrage. Men in power would not have considered giving the vote to women before working-class men. To do so would have seemed self-destructive to them, gaining nothing while inviting their own deposition. Full male suffrage was a precondition for considering woman suffrage. Because these events were recent, when woman suffrage became a topic for public debate, the right to vote was a much livelier and more ambiguous issue than today. (For many years, it probably aroused feelings similar to those voiced today when people debate the desirability of treating female and male soldiers exactly the same.)

The U.S. Congress debated and voted on woman suffrage repeatedly, starting in 1866, when the Senate considered removing the word *male* from the District of Columbia franchise bill (nine "yes" votes, thirty-seven "no" votes, six absent), and ending in 1919, when the constitutional amendment granting suffrage finally got the two-thirds majority needed to pass both chambers. All state constitutions had always restricted voting rights to men,<sup>11</sup> but the U.S. Constitution had no explicit distinctions referring to sex until the Fourteenth Amendment. While guaranteeing equal protection under law to all citizens, this amendment, a Civil War strategy, explicitly protected only *male* voting rights. This restrictive language did not reveal a rising dedication to male dominance. Instead, it showed that congressmen, for the first time, could not take men's dominance for granted. The question of women's status had become too salient. Congress could not continue to avoid the issue by assuming that women's exclusion and inferiority were obvious and universally accepted. As soon as the first mention of the word *male* as part of the Fourteenth Amendment appeared in the press, in September 1865, Susan B. Anthony and others began a barrage of petitions and visits to congressmen, ensuring that the issue was obvious to all.<sup>12</sup> The 1866 debate in the Senate on women's suffrage in the District of Columbia foreshadowed later debates right up to the Civil Rights Act of 1964, as the opponents of extending suffrage to the black population strategically championed woman suffrage and the supporters of extending suffrage, including the reputed supporters of woman suffrage, strategically opposed woman suffrage as an impediment to the more important goal of rights for the former slaves. Soon after that, in 1868, sympathetic legislators introduced the first general woman suffrage amendment into Congress. Two decades later, in 1887, Congress voted directly on a national woman suffrage amendment for the first time. (It lost, thirty-one to sixteen, in the Senate.) For the next three decades, every session of Congress held hearings on woman suffrage. These hearings acquired some ritual tones, as members of Congress and suffrage activists met every two years, with the participants only slightly changed, to exchange the same information and views. Still, they kept Congress well informed about the progress of woman suffrage and the woman suffrage movement across the nation.

Meanwhile, men expanded women's right to vote at the municipal and state levels. During the half-century conflict over woman suffrage,

over fifty popular state referenda and several hundred state legislature votes considered the issue." In 1890 Wyoming became the first state in which women enjoyed full suffrage. In 1869, while still a territory, Wyoming had granted women the right to vote by simple legislative action. It now sought to become a full member of the United States. After long debate and several sharply contested votes, Congress allowed it to retain the vote for women when it became a state. In 1893 Colorado became the first state where women won full suffrage through a popular vote (of men). After 1910, the intensity of national debate rose steadily. Before the Nineteenth Amendment won ratification in 1920, thirteen states, just over a quarter of the total, had given women suffrage through similar referenda passed by male voters. In another quarter of the states, the state legislatures had granted women the vote in presidential elections. This strategy emerged in 1913, when the Illinois legislature, one year after a popular vote had denied women general suffrage, became the first to grant women the presidential vote directly. After this strategy withstood judicial challenge, other state legislatures copied it, usually after a male popular vote had refused to confirm a woman suffrage amendment passed by the legislature. In local governments, men also extended varied municipal and special election voting rights to women.

The legislative response to woman suffrage and the response of ordinary male voters represented parallel processes. Moral passions and practical considerations each exercised influence. Both weighed the reasons for resisting suffrage against the reasons for supporting it. Woman suffrage, however, did not affect all men's interests similarly. Ultimately, woman suffrage was more a pragmatic issue for male politicians and a symbolic issue for ordinary men.

Men in government and men occupying influential positions in political parties or interest groups had significant, practical, political interests in the outcome of the suffrage issue. They recognized that suffrage gives a group a collective impact on politics that can be consequential. Yet, for ordinary people, mass democracy usually reduced the experience of voting to a symbolic act and suffrage to a symbolic issue. Ordinary men, the male electorate, thus responded to woman suffrage largely as an issue concerning their symbolic interests.

Suffrage does not really give power to individuals. It gives power to groups. The corporate character of electoral power distinguishes suffrage from the extension of legal rights that preceded it and the expan-

sion of economic rights that followed it. For individuals, suffrage is a symbolic right and voting is a symbolic act. Only those who influence the actions of many others, for example by campaigning, personally affect the outcome of a popular ballot. As individuals, we vote to reinforce our identity as a member of the polity and to express our solidarity with others who share our assessment of the issues."

With this understanding, we can separate two issues surrounding woman suffrage. First, the total impact of women's voting was a real political issue. If women were to vote differently from men, they could change the balance of political power. Second, woman suffrage was a symbolic issue concerning personal politics about gender status and the family. Voting symbolically affirmed citizenship and allegiance with like-thinking segments of the population. Symbolically, woman suffrage promised ordinary women an independent public identity comparable to that of ordinary men.

The possible political effects of woman suffrage were more salient to legislators than to ordinary men. An elected official saw his personal interests directly influenced by changing the electorate. Would it help or hinder him and his party at the polls? These concerns did not make legislators immune to the symbolic implications of the suffrage issue. Still, even as he considered the moral arguments for and against woman suffrage, the legislator was likely to think more about his constituents' biases than about his personal beliefs. Concern about such questions prompted legislators to consider, directly and self-consciously, the predictable, short-term political effects of woman suffrage.

Ordinary men's votes were more likely to stress the symbolic aspects of the suffrage issue. A vote on suffrage was not an action that aimed directly to defend or change the conditions of a man's own life. By voting on suffrage, a man testified, mainly to himself, how he thought his world should look. His interests entered this symbolic calculus, because the predictable effect of woman suffrage was to raise women's status and affirm their individual rights.

Between the calculating interests of politicians and the symbolic beliefs of ordinary men, special-interest groups occupied a middle ground. The leaders of special interests resembled politicians because they responded to the real effects of supporting or opposing woman suffrage. Yet the crucial effects on an interest group often depended on the symbolic fit between the goal of woman suffrage and the special

interests that created the group identity. When, for example, a union leadership or a church hierarchy considered its response to woman suffrage, the key issue was often how the group membership would respond to the symbolic implications of support or opposition.

These complex considerations produced diverse positions among interest groups. Southerners opposed woman suffrage because it clashed with their commitment to deny blacks the vote.<sup>15</sup> The liquor industry opposed woman suffrage because women were strongly associated with the temperance movement.<sup>16</sup> As acceptance grew near, eastern business interests opposed woman suffrage because they believed women would support further reforms to restrict economic power and protect labor. Yet xenophobes sometimes supported woman suffrage as a protection against immigrants (apparently believing that female immigrants were few or unlikely to vote). And settled men in the Western states sometimes supported woman suffrage to limit the influence of transient, wage-earning single men. A report presented at the 1907 national convention of the National American Woman Suffrage Association affirmed that in addition to the American Federation of Labor:

Other important organizations which gave official endorsement within the year are the World's Woman's Christian Temperance Union, National Purity Conference, National Free Baptist Woman's Missionary Society, Spiritualists of the United States and Canada, Ladies of the Modern Maccabees, International Brotherhood of Bookbinders, International Brotherhood of Teamsters, Patrons of Husbandry, National Grange, and the United Mine Workers of America [and] fourteen other national organizations.?

In short, certain groups spied real or symbolic advantages for themselves in supporting woman suffrage. When this happened, support of woman suffrage could become part of a group's identity. This positioning of a group would prompt men in it to vote for suffrage to maintain their symbolic ties to the group.

Thus, when we ask why men came to concede the vote to women, we must distinguish several kinds of interests that came into play. For most ordinary men, giving the vote to women was a symbolic issue. Their understanding of the symbolic issue and their position on it had complex origins. They reflected the prevailing popular beliefs about manhood, women, and equality. They also represented men's



real experiences of gender relations. For politicians, pragmatic concerns drove symbolic issues into the background whenever outcomes with the potential for substantial political effects became a real possibility. Similarly, those who led interest groups wanted to know if a position on woman suffrage could effect either their groups' interests or their political position within the interest group. They were prone to revise their interpretations of the symbolic politics to fit their current perception of interests.

Both the outcomes of state referenda on woman suffrage and the history of public commentary show that ordinary men moved steadily toward greater acceptance over time. Woman suffrage received considerable support among men right from the start. In the few referenda that took place before 1890, about one-third of the men voting supported woman suffrage. Thereafter the state referenda found support for woman suffrage from between two-fifths and two-thirds of the men voting. When referenda were repeated in states where they had failed, the number of men voting for woman suffrage averaged an increase of nearly 10 percent (although the support did decline in about one-quarter of the repeated referenda).<sup>18</sup>

Ordinary men's reaction to woman suffrage seemed ambivalent and confused over the entire history of the issue. Part of this confusion seems to have come from the obscuring overlap between gender and class inequality. Voting rights for women could be understood in two different ways. Men might emphasize their shared interests with women in their lives, or they might emphasize their competing interests. Men could see woman suffrage as an attack on role differentiation and masculine privileges within their families. Or they could see woman suffrage as extending the ability of the women and men sharing their class (or ethnic) position to act in common both with and against government. (Male unions that supported woman suffrage obviously opted for this second interpretation.) True, some men may have feared that the collective political impact of women might result in laws contrary to their interests. Certainly, this was the point of view that the liquor interests tried to stir up when they campaigned against woman suffrage. The perception that the Women's Christian Temperance Union was an organized effort of women aimed at controlling men's behavior bolstered these charges. Still, the main sources of ordinary male resistance were likely to come from vague fears. Suffrage would not give women any resources or rights that affected their rela-

tionships with their husbands. Yet some men suspected that woman suffrage augured further changes in men's and women's place in life that would turn out to be bad for men. That such changes were taking place was undeniable. (See Figure 2.1.)

The key to reducing ordinary men's resistance to woman suffrage was, therefore, not a moral conversion nor a show of force, but a practical demonstration of its limited implications. Experiments with woman suffrage showed ordinary men that women voting had little impact on people's personal lives, just as they showed politicians that they need not fear practical political costs. Women first won the vote locally. Innovative experiments occurred where special local conditions had undercut the reasons for denying women the vote and precipitating events created opportunities for woman suffrage to emerge.<sup>19</sup> Many states gave women votes only on special issues, particularly school taxes and school boards. By the early 1890s, at least twenty states allowed women to vote on schooling-related issues, with varied conditions. Occasionally the voting rights applied only to women who paid taxes.<sup>20</sup> Sometimes legislation gave women full voting rights for all local elections but not at the state level. A Kansas

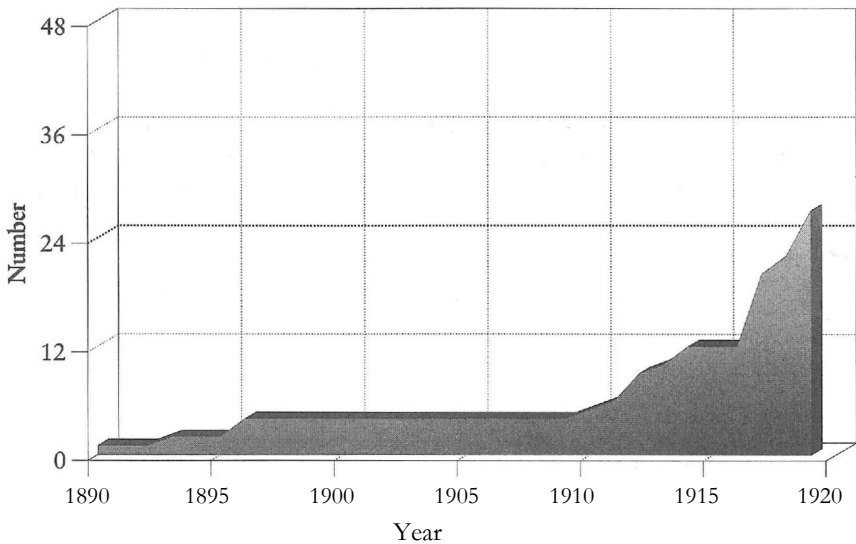


Figure 2.1. States in which women have the presidential vote, 1890-1919

experiment that gave women the municipal vote in 1887 was the most closely watched, but women got similar rights in varied places. The 1889 Senate Report from the Committee on Woman Suffrage listed twenty-two states and territories in which women had partial suffrage rights.<sup>21</sup> When a region granted women the vote, its political representatives at higher levels found their interests clearly aligned with supporting woman suffrage. The congressmen and high elected officials of states and territories with woman suffrage stood out. As early as 1871, for example, Governor John A. Campbell of Wyoming Territory was quoted as saying, "women have voted in the Territory, served on juries and held office. It is simple justice to say that the women . . . have conducted themselves in every respect with as much tact, sound judgment and good sense as men."<sup>22</sup>

A significant minority of male legislators supported woman suffrage from the beginning, and their numbers grew over time. In 1866, the first time that Congress considered woman suffrage, one-fifth of the senators present voted to allow women to vote in the District of Columbia. Deciding another aspect of women's acceptance by the state, during 1878-79 both chambers of Congress approved, by a two-to-one margin, women's appearing as lawyers before the Supreme Court. In 1882 the Select Committee on Woman Suffrage recommended passage of the woman suffrage amendment, remarking: "To deny to one-half of the citizens of the republic all participation in framing the laws by which they are to be governed, simply on account of their sex, is political despotism to those who are excluded, and 'taxation without representation' to such of them as have property liable to taxation."<sup>23</sup> In 1887 one-third of the U.S. senators who voted supported the woman suffrage amendment to the Constitution. In 1890 both the Senate and the House had long fights about woman suffrage in Wyoming. They debated whether the territory could retain woman suffrage when it became a state, because it would then become the first state in which women had full voting rights. Ultimately a majority in both chambers voted to accept the state's women as voters.<sup>24</sup>

By the time Congress passed the suffrage amendment, many of its members had simple self-interested reasons to support suffrage. Through experiment and emulation, suffrage rights for women had spread and accumulated. Men had already given women full voting rights in one-quarter of the states, the right to vote on the nation's president in half the states, and diverse special or local voting rights.

Many others seemed poised to grant women the vote. Politicians had to consider the possibility that female voters could ruin their future if they opposed suffrage.

The limited experiments with woman suffrage decisively influenced legislators by reducing their concerns about what women would do with the vote. In earlier debates over woman suffrage, legislators expressed fears about the effects of women's votes. Over time, legislators pointed more often to the results of woman suffrage experiments that showed these fears were groundless. During a congressional debate in 1915, Representative Adolph Sabath from Illinois offered this argument to sway his colleagues to accept woman suffrage: "a great many Democrats questioned the wisdom of [giving women suffrage in Illinois, but] the majority of the women demonstrated their appreciation and remained loyal to the Democratic Party which secured for them this privilege."<sup>25</sup>

The first places granting women suffrage—western states and some midwestern and eastern localities—saw themselves as pioneers. We cannot say with much certainty what distinguished these places. The common thread seems to have been circumstances that reduced resistance based on fear. One of these circumstances was the smaller number of women in many of these localities (especially in the West), which meant that their combined vote would carry less weight.<sup>26</sup> Newer political institutions also encountered less resistance from entrenched political interests. Areas in which women had become more active in public through employment, charitable work, or local cultural activities seem to have been more likely to experiment. Granting partial suffrage by limiting women to special issues or to municipal votes also restricted how much damage they could cause. To a significant degree, historical contingencies, independent of the long-term processes improving women's status, promoted experiments with women's suffrage. Local political issues and strategies sometimes made woman suffrage a viable issue.

Politicians soon realized that after it was enacted, an extension of the franchise was almost impossible to reverse. Often, some political maneuver undid an effort to give women the vote *before* it became final. A high court would declare legislative acts unconstitutional, or a governor would veto them. Once women had the vote and started using it, however, it became politically implausible to turn the clock back. It took strong support among men to give women the vote. To

have taken it back, the sentiment among men would have had to reverse itself, *and* the recently enfranchised women would have had to accept the loss of their new rights. These were unlikely developments and in practice did not happen.<sup>27</sup> Realistically, the experiments that gave women the vote were almost assured of permanence.

With time, legislators and ordinary people increasingly viewed woman suffrage as inevitable. The woman suffrage movement played a crucial role. Its never-ending campaigns for the vote outlasted all belief that the issue would die. What died instead were its opponents. As some jurisdictions gave women the vote, the direction of change became more evident. The more inescapable woman suffrage seemed, the less willing legislators were to risk becoming martyred crusaders for opposing it. By 1910 most legislators outside the South seemed to accept that woman suffrage was inevitable.

The suffrage movement planted and nurtured the seeds that grew into women's voting rights. Women's suffrage grew in social soil fertilized by a long-expanding franchise in a climate favorable to social reform. With fertile soil and a good climate, in time something will always grow. Still, only careful cultivation guarantees a good harvest when it is needed. The suffrage movement began its work when the political climate was still harsh and the state unyielding. Replicating the experience of the groups who won the franchise before them, social changes had already given women—especially those in the middle classes—more personal liberty, legal status closer to equality, and more education. By the time the climate grew moderate, they had cleared much of the worst prejudice from popular opinions and refined their agitation techniques so that they could bring women's voting rights to bloom. Without their efforts, woman suffrage might have had to wait much longer. Still, without a promising climate, no one would have tilled the soil and nothing would have ever grown.

The question remains, why did the state ultimately assent to the demand for woman suffrage? Male legislators and male voters *granted* suffrage. They were not forced to make this concession. Undoubtedly, the suffrage movement's agitation was a nuisance to men running government. The rhetoric and activity of the suffrage proponents also must have irritated many ordinary men. Yet, if becoming a nuisance was enough to win claims from dominant groups, inequality between classes, status groups, and races would have disappeared long ago.

Declining male opposition was a key to the eventual success of

woman suffrage. Resistance to woman suffrage was a complex mix of symbolic antagonism and political anxiety. These motives were played against a backdrop of rapidly changing social conditions.

Looking back from today's perspective, we might mistakenly infer that the state consistently fought to keep the vote from women. In reality, the state did not have to do anything to keep the vote from women. Or, to be more precise, the state did not have to act unless women agitating for suffrage could threaten the government's power or men (in or out of government) showed strong support for giving women the vote. Only men were in government, and only men could vote (at least initially). The issue before the state was not how to keep the vote away from women but whether (or when) to give it to them. Until legislators had strong reasons for giving women the vote, however, they needed only weak reasons to sidestep the issue.

The franchise was a constitutional issue, requiring a high level of support to win (at both the state and national levels). As only men had voting rights, this required a high level of acceptance by men. To give women the franchise, most states needed a two-thirds majority in both chambers of the state legislature and a majority popular vote. Similarly, the federal amendment needed a two-thirds majority in both houses of Congress, then affirmation by three-quarters of the state legislatures. Usually, then, substantial acceptance by men was not enough. Only overwhelming support could give women the vote. Often, even when woman suffrage suffered defeat in legislative votes or popular referenda, considerable male support was present.

The state's graceless resistance to granting woman suffrage should not lead us to infer that it had some substantial, integral reasons for its actions. A few legislators may have envisioned themselves as Knights, with fealty sworn to Men, fighting back the infidels, agreeing with U.S. Senator Garrett Davis of Kentucky, who stated in 1866: "The great God who created all the races and in every race gave to man woman, never intended that woman should take part in national government among any people." Most, however, seem to have approached the issue with less commitment and more pragmatism, spiced with odd mixtures of prejudice and confusion.

Once working-class men had received the vote, men's interests concerning woman suffrage shifted. The middle-class men who held sway in government found the inclusion of middle-class women politically less threatening than admitting working-class men. In the reforming

atmosphere of Progressive politics, women even seemed a possible stabilizing force. Ordinary men's growing acceptance of woman suffrage, shown in state referenda on the issue, suggests that they did not experience voting as a resource for preserving gender advantages.

The earlier process extending legal rights to women through the Married Women's Property Acts and the process granting them suffrage had some similar underlying causes, although their outward appearance differed markedly. Suffrage repaired women's political disabilities, which did not fit the emerging social order, just as the property acts repaired women's legal disabilities that were no longer functional. The electoral government concentrated and rationalized authority as did the market economy. Each could tolerate, even reinforce, other existing systems of inequality, but this tolerance broke down if it proved too costly. Accordingly, the state abandoned women's common-law legal disabilities because they interfered with commerce and middle-class inheritance, and it conceded the vote to women because the modern political process took away both the reason and the means to keep women out.

However, economic and political progress did not create direct institutional interests in giving women the vote comparable to the interests that favored extending property rights to women. The economic and legal system *needed* women to have property rights like those of men. So it created them. Or, to be more accurate, the system needs created strong interests in change among people with political influence. In contrast, these systems had no direct need for women to participate through voting. They did not create strong interests in extending the franchise among those with power. Yet these institutions also had no need to deny women the franchise. At first many politicians did resist woman suffrage. But to a large degree this resistance reflected their prejudices, not their real interests. They initially feared that woman suffrage threatened their political interests. Experience showed, however, that this was not the case, and their opposition shriveled. Moreover, many found that they actually had interests in defending woman suffrage. As members of the state, they could benefit from the assimilation of women, who would then cease being a source of disorder and become a new potential source of support for contending political parties.

Still, because the economy had no interest in woman suffrage and the state had only marginal interests, change largely awaited political

agitation that could convince politicians they would benefit (although some western states and some localities that first granted woman suffrage apparently did so with little or no agitation from women). In the face of this agitation, the state gradually abandoned women's political exclusion, finding that it had no interest in preserving men's suffrage monopoly, but it did have an interest in reducing social disorder, increasing state legitimacy, and incorporating potential political rivalries.

### THE LEGAL PROSCRIPTION OF DISCRIMINATION

Government actions opposing sex discrimination have produced a third major legal transformation of women's status since World War II. Legislation, judicial decisions, and executive actions combined to create a series of policies that aimed to stop discrimination against women. These policies demanded that organizations treat women and men the same under most circumstances. They applied to hiring, promoting, educating, giving services, granting divorce, judging credit eligibility, or engaging in other activities where impersonal standards seem appropriate. Previously, bureaucratic rationality and competitive opportunism had gradually induced employers and other organizations to apply more impersonal standards. These new state policies dictated that organizations must rapidly adopt impartial procedures. The rules applied to most arenas outside the family, excepting some limited domains that could somehow justify their exclusion.

Before this, most laws aimed specifically at women tried to give them *special protection*. Shielding women from the worst rigors of jobs, aiding mothers, and guarding wives against irresponsible husbands were some goals that gained legislative and judicial support. These policies did not try to reduce the difficulties facing women's efforts to get ahead. Instead, they tried to ameliorate some unavoidable ill effects that modern societies visited on women.<sup>28</sup>

The policies erected against sex discrimination, however reluctantly granted, constituted a much different response by the state. By opposing institutional resistance to women's assimilation, they placed the forces of the state (or, to be precise, some of these forces some of the time) directly on women's side. Through antidiscrimination legislation, the state has eased and speeded women's assimilation by the economy. From the perspective of gender inequality, the state, though



controlled entirely by men, again helped women to overcome a primary source of male gender advantage. Apparently, a conjunction of related conditions prompted the state actions proscribing discriminatory policies by organizations throughout society. The popular opposition to treating women equally in economic and political life had lost its pervasiveness and force. Women's economic assimilation had gone so far that neither employers nor the state could successfully ignore the issue. Sex discrimination by employers and institutions produced conflict, sparked disorder, and squandered resources without giving much in return. The state's actions acknowledged and completed women's advancing assimilation. Although women did not vote markedly differently from men, politicians competing for support had to consider the possible impact of their actions on the female electorate and the women who had penetrated political life. Feminist protest activity, when it occurred, highlighted all the other conditions while adding its own threats of disorder and bad publicity.

During the first half of the twentieth century, federal policies emphasized benign neglect, broken by hesitant efforts to help women when wartime production needed their labor (for example, the War Labor Board authorized equal wages for female workers in 1942).<sup>29</sup> During the 1960s and 1970s, policy accelerated quickly. It first defended equal pay for the same job; it then added legal remedies to punish and inhibit discrimination; it soon adopted active requirements that employers help women through affirmative action plans.

By the mid-1960s women's endeavors in arenas outside the home had extended considerably beyond that of earlier periods, more than most people realize even today. In 1964, when Lyndon Johnson was elected president, before feminist and women's liberation movements appeared, women composed more than one-third of the labor force, more than two-fifths of graduating college students, and cast almost half the votes for president. Even when their husbands were in the upper half of the male income distribution, about one-third of married women had jobs. The men who conceded the need to require equal pay for women were facing a different economic and social environment from their forebears.

The Equal Pay Act of 1963 nominally initiated the series of modern government policies prohibiting discrimination against women. The Equal Pay Act declared that "no employer . . . shall discriminate . . . between employees on the basis of sex."<sup>30</sup> It aimed to end the most

direct, flagrant pay inequities suffered by women. It has special importance both because it laid the groundwork for women's inclusion in the Civil Rights Act and because it preceded the rise of modern feminism.

National equal pay legislation has a history in the United States reaching back to World War I. As part of the war effort in 1918, the railroads were ordered that "when they do the same class of work as men," women's pay "shall be the same as that of men."<sup>31</sup> The war did not have much affect on sex segregation, so most women still worked as office clerks, and wage equalization had limited impact.<sup>32</sup> Shortly after the war, Montana and Michigan became the first states to pass equal pay laws. Then the issue seemed to slumber.<sup>33</sup>

World War II brought another surge to the equal pay efforts as women joined the war production effort. Unions enrolled women and negotiated for equal pay, because they did not want their male members' wages placed in jeopardy from the competition. Unions in the United States have always favored equal pay for any group that began to threaten the jobs of their members, despite earlier disregard or disdain. The more women who held jobs, the more male unions supported equal pay. The National War Labor Board supported equal pay while resolving disputes. It also allowed employers to increase wages without the board's approval if their goal was to equalize men's and women's rates. They wanted labor to be productive and stable. Equal pay seemed a sensible support for these goals. Discriminatory pay rates commonly seemed a short-sighted effort on the part of some employers to get higher profits.

The effort to gain a national equal pay statute reflected a classic political standoff. The bill's long path to acceptance by Congress, largely unseen by the public, stretched from the end of World War II to its passage in 1963.<sup>34</sup> On one side was the resolute but politically weak support for the equal pay bill. The Women's Bureau, a federal agency, continuously advocated the measure, acting as the voice of women who had risen in labor, business, and politics. These women and their supporters had the advantage of absolute commitment. No matter how many setbacks they suffered, they did not give up. Still, appeals to reason and carefully nurtured, fragile political alliances were long their main resources. Against them stood a politically potent but strategically irresolute opposition. Organized employers opposed an equal pay statute, but without vigor. Only smaller firms with many female

employees acted particularly concerned. Between these two sides, organized labor vacillated from support to opposition to support. With neither enough support to pass it nor enough opposition to kill it, Congress kept the bill in limbo for two decades.

While Congress held equal pay legislation in purgatory, states paved the way for its acceptance. In the two decades between World War II and the passage of the Federal Equal Pay Act, states steadily adopted equal pay laws. Between 1942 and 1962, the number of states that prohibited employers from paying women less than men rose from two to twenty-two, as shown in Figure 2.2.<sup>35</sup> Thus, the national equal pay law marked the culmination of a pattern of state lawmaking that had already succeeded in almost half the states. In this and other respects, the history of equal pay legislation resembles a low-key version of the woman suffrage legislation.

The effects of both the national and the state laws seem to have been more symbolic than practical. Most employers hired women for different jobs than men. While the laws generally prohibited employers from paying men and women differently if their jobs were similar, they said nothing about employers arbitrarily using women and men

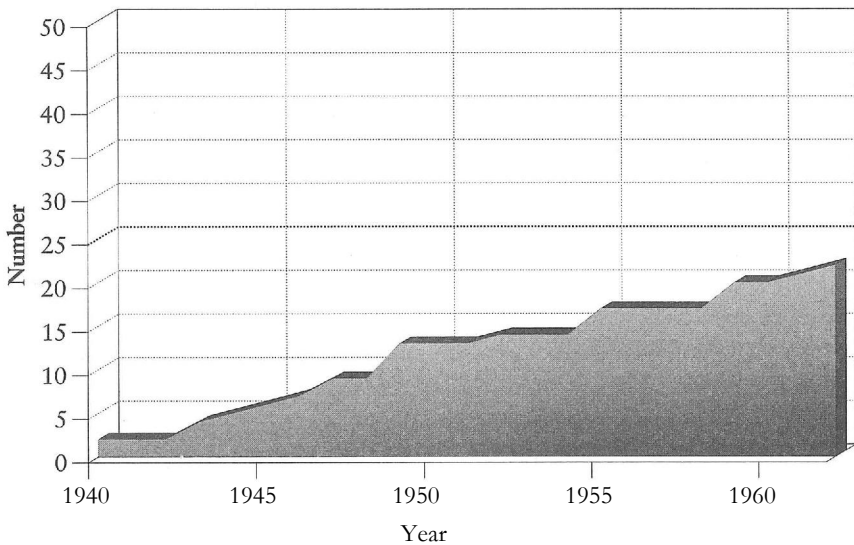


Figure 2.2. States with equal pay laws, 1940-1962

for different jobs. As a result of extensive job segregation by sex, the laws therefore applied only to a minority of jobs. Still, the laws' passage recognized women's permanent, large role in the economy and gauged the declining opposition to women's full economic assimilation. If more powerful laws had not soon followed, the equal pay laws might have acquired greater significance in the give and take of judicial interpretation.

If the Equal Pay Act was more symbolic than practical, its symbolism was potent. The Equal Pay Act declared it was not legitimate to treat women and men differently solely on the basis of sex. This was a fundamental alteration of the accepted rules governing actions within the economy. As it was, equal pay laws set the stage for conflicts over hiring and promotion discrimination. By forcing employers to pay women the same as they paid men holding the same job, it focused women's efforts on getting access to *men's* jobs.

Against this backdrop, the Civil Rights Act of 1964 became a vehicle for modernizing forces to shove aside some prejudiced debris of past discrimination. Women were added late to Title VII of the Civil Rights Act, which outlawed employment discrimination.<sup>36</sup> Title VII declared it an unlawful employment practice" for employers on the basis of sex (or other social characteristics)

(1) to fail ... to hire . . . or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment . . . or (2) limit, segregate, or classify his employees in any way which would . . . tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee.<sup>37</sup>

Although the impetus behind the Civil Rights Act did not aim to aid women, their inclusion was symptomatic and consequential. Women's addition to the bill smacked of historical coincidence, having started, in part, as a conservative strategy to use ridicule against federal assistance to blacks.<sup>38</sup> They tried to make the bill *more* liberal so that it would become unpalatable to legislators in the middle of the political spectrum. Competing interpretations have disagreed about what motivated various participants in this convoluted process, but the initial political motives are not really crucial. Ultimately, women would not have stayed in the final bill unless a significant portion of Congress supported it. More important, without favorable conditions, women's inclusion in the bill would not have had the remarkable effects that followed.

The Civil Rights Act proved a deft strategy, even if unintended, for allowing the state to challenge discrimination while sidestepping direct political conflict. The act established an abstract ideal that was usually easy to defend, but it also pushed the discrimination issue into the administrative and judiciary branches. The act gave oversight to a bureaucratic body, the Equal Employment Opportunity Commission (EEOC). At first the EEOC did not consider sex discrimination a priority. However, the act gave private citizens the power to complain to the commission and to sue discriminating employers. These new rights allowed working women to take the initiative. In 1966 the EEOC's continued reluctance to condemn and pursue sex discrimination brought influential professional and business women (and some supportive men) together in the National Organization for Women (NOW). They led the legal and political assault on the commission. Political action, including demonstrations and electoral threats, made the EEOC more responsive. Legal suits forced the judiciary to decide what employment practices were legal, practical, or fair. Employees, professional groups, feminist organizations, and unions filed complaints and legal suits in all directions. Title VII of the Civil Rights Act offered women a sword of justice to use against discrimination. They picked it up and starting swinging.

Two conditions enabled the Civil Rights Act to become an influential weapon against sex discrimination. First, many women had the dedicated careers, good education, and organizing capacity that let them launch discrimination suits and become a visible political threat. Second, the judiciary, largely shielded from base concerns with political jostling, could and did choose to carry through the implications of women's economic assimilation.

Continued lobbying and protests by women's groups convinced the administration of President Lyndon Johnson that more was to be gained than lost by giving some visible support. Johnson had added teeth to the employment discrimination clauses of the Civil Rights Act by issuing an executive order (having the force of law) compelling all government agencies and contractors to take affirmative actions to end discrimination. When first issued in 1965, this order applied only to racial and religious discrimination. In 1967, after two years of prodding by women's groups, the president pursued political expediency and expanded the order to include sex. During the same years, NOW had repeatedly chastised the EEOC for failing to rule against discriminatory job advertising. After the president revised his execu-

tive order on affirmative action to include women, NOW vigorously assailed the commission, balancing public demonstrations with legal maneuvers. A suit filed by NOW in U.S. district court won judicial support for compelling the EEOC to fulfill its duties. As a result, the commission finally barred the expression of sex preferences in job advertising.<sup>39</sup>

After policies against employment discrimination embraced the principle that sex discrimination was unacceptable, political parties and politicians sought to ensure their standing by supporting further legislation. The resulting laws expanded the drive against inequality beyond employment, banning sex discrimination in other institutional spheres. In 1972 Title IX of the Education Amendments Act prohibited sex discrimination by an educational institution receiving federal government aid. This act placed most colleges and universities in jeopardy, and hundreds found themselves called to court on the issue. Other laws sought equal treatment for women by banks, credit agencies, police, landlords, and housing agencies. All of this legislation built on and elaborated the Civil Rights Act. It emphasized ending unequal treatment of women outside the family. Discriminatory actions that were once accepted prerogatives of employers and others with organizational authority have become illegal and risky. As a result, much of the direct, overt discrimination that was once commonplace has disappeared.

During the 1970s the judiciary reinforced legislative and executive strategies by adopting a suspicious attitude toward formerly acceptable laws and practices that discriminated by sex, although judges' decisions showed their usual resistance to sudden change.<sup>40</sup> To be realistic, the judiciary is primarily a conservative force in American society. It is meant to be. Precedent has great weight in judicial action because the legitimacy of law depends on consistent and predictable interpretation. Yet the judiciary sometimes seems to take a special part in allowing some social changes to occur. This possibility always exists because judicial interpretations must consider the practical demands of social life as well as the history of legislation and judicial precedent.

While most judicial decisions generated by sex-discrimination disputes were not bold or innovative, they affirmed that discrimination had become illegal and would be punished. The courts ruled against many employers and institutions who resisted suits and challenged the new laws. By reinterpreting old laws and precedents, the courts also improved women's treatment through case law. The U.S. Supreme

Court's 1973 ruling on abortion in *Roe v. Wade* has received the greatest public attention. In other cases, the Supreme Court used the equal protection clause of the Fourteenth Amendment to argue that laws could not treat the sexes differently without some reasonable and substantial grounds.<sup>41</sup> Usually, differential treatment was ruled acceptable only if shown necessary to achieve the goal of an otherwise legitimate law. While this position still allowed some unequal treatment, it substantially departed from the past by rejecting laws that arbitrarily treated the sexes differently.

One other crucial condition eased the introduction of policies against sex discrimination. No powerful groups nor large population segments adamantly opposed women's economic assimilation.<sup>42</sup> Opposition existed, but it was not potent. Some employers grumbled about government intervention and higher wages. Many ideologically conservative groups, especially religious organizations, bemoaned the disappearing "traditional" family. Some male occupations whined about losing their masculine preserves. And the usual voices that raise dire predictions when faced with change, warned of a dark future. Yet similar complaints have accompanied most social changes, including such varied events as the adoption of the motor car and the introduction of income taxes. Every significant social change causes some people discomfort even if it benefits the majority, provoking some to voice irritation and others to resist the change. The resulting social friction produces some political heat and may slow the momentum of change, but it usually does not divert it.

Notably, no group mounted a significant effort to repeal or undo government policies against sex discrimination. The depth of resistance to change is often hard to measure. Here, our best indicator may be the rapid accommodation. Universities and professional schools dismantled the barriers to women in a rush. Large corporations adopted equal pay, hiring, and promotion policies without enthusiasm, but they resisted only occasionally and halfheartedly.

One study highly critical of affirmative action, called *Invisible Victims*, describes what happened clearly, if unenthusiastically.

Corporate and political elites appear to have yielded with minimal resistance to quotas imposed by judges or federal agencies. More than that: corporations and government agencies have initiated their own affirmative action quota procedures . . .

A fusion of economic and bureaucratic interests can be seen in the contemporary acceptance of affirmative action procedures."<sup>43</sup>

Affirmative action policies were extraordinary in that they went beyond establishing a formal right to equal treatment. They dictated standards and practices intended to force employers actively to remedy past discrimination. While these policies may have fallen well short of imposing equal opportunity, they did prompt significant changes in hiring and promotion practices. Although the state was explicitly treating the sexes (and races) differently through affirmative action policies, these policies were consistent with the long-term trend toward reducing sex differentials. As applied to women, affirmative action laws were a temporary strategy to reduce discrimination by organizations other than the government. Although affirmative action laws distinguished by sex, they specifically sought to reduce differential (discriminatory) treatment by sex.

The backlash against affirmative action programs in recent years might seem to raise questions about the acceptance of equal opportunity. On a closer look, this pessimistic interpretation seems unwarranted. While many people have become disgruntled with the perception that women and minorities sometimes get unfair preferential treatment, opinion polls show that most people still believe that the government should ensure that such people get fair treatment." Even the strongest opponents of affirmative action are generally careful to declare their support for outlawing discrimination. Thus California's Proposition 209, which asked voters to end affirmative action in 1996, did so by embracing the proscription of discrimination. From a long-term historical perspective, having conservative forces emphatically backing a direct and unambiguous law against discrimination represents a much more important change than opposition to affirmative action, always understood to be a transitional policy.

When affirmative action policies first emerged, the rejection of discrimination had not yet become a consensual value in the United States, but politicians were beginning to view sex-discrimination policy as just another issue demanding calculated political strategy, signaling considerable change in the political environment. Fifty years earlier, few politicians would have contemplated policies against sex discrimination in these terms. By the 1960s, conditions had changed.

When proposed new policies faced neither powerful opposition nor massive support, the state could treat issues affecting women's assimilation as ordinary business. As the state adopted and broadened policies against sex discrimination, neither moral fervor nor political des-



peration dictated its actions. Activists dedicated to moral renewal had not grasped state power. Women's advocates had not routed state officials or sent politicians scurrying for places to hide. Instead, sex discrimination had become one among many national issues that called for politicians to calculate the implications of alternative strategies. What economic effects would a policy have? What interest groups might shift their votes or support in response to a politician's position on the issue? What implications did the issue have for the ever-shifting coalitions among politicians?

Often state actors were more concerned with a proposed policy's potential effects on institutions than with women's rights. Policies seeking to reduce sex discrimination can be thought of as remedies for social injustice. They also can be considered as correctives to an incomplete application of bureaucratic rationality. From the viewpoint of organizational needs, applying the same rules to all people simplifies administration while reducing discord. Women trying to gain rights and opportunities that men already have interpret their goal as a search for *equity*. From the state's perspective, the goal is essentially one of *administrative rationality*.<sup>45</sup>

A look at changes that took place in factories earlier in this century may clarify this perspective. In the nineteenth century, foremen in production plants commonly had the power to hire, punish, and fire at will. As growing firms introduced an organizational hierarchy to administer their operations, the foreman's powers dwindled. He had to conform to rules denying him discretion. Hiring and firing decisions became management's prerogative, usually administered by a personnel office. The foreman lost most of his power to inflict punishments on workers. Foremen, too, were workers. Managers did not want to give them too much freedom. They could harm production or create costly conflicts with workers. The threat increased as workers' capacity for collective rebellion grew. Firms responded by introducing rule-governed standards of equity to guide workers' treatment. These standards diluted foremen's authority and diminished their discretion. Although the managers had much more sympathy and shared interests with the foremen, they found foremen's unregulated exercise of authority too costly.

From the state's managerial perspective, institutions discriminating against women sometimes have resembled foremen mishandling workers. When discriminatory organizations could arbitrarily decide,

for example, who would get financial credit or how to spend educational money, they gave the state problems similar to those that foremen gave large firms. The modern state—enormous, remote, and bureaucratic—has had little to gain from preserving the right of employers, businesses, schools, government bureaucrats, the police, or others to discriminate against women. Letting organizations have this power created conflict and disorder. The vast machinery of the state and economy then worked less efficiently and less smoothly. Congressional committees that have invited representative feminists to testify have usually turned the issues into technical, administrative ones.<sup>46</sup> They did not invite the witnesses to question the state's goals or to supply moral education. They only admitted that the feminists might possess experience, knowledge, and skills that could help them devise effective strategies to reach their legislative goals.

Like the restrictions managers placed on foremen, the restrictions that the state placed on organizational discrimination were responses to a mixture of pressures from above and below. The history of corporations shows that they sometimes took the initiative in curbing foremen's power. They often did this to reduce functional organizational difficulties they associated with such conditions as size and distance. Corporations imposed other restrictions to defend against actions by organized labor. Similarly, although feminist protest began the process that yielded some government policies opposing discrimination, the state also launched some of its beneficial actions independently. This combination of initiatives from both above and below reflected the underlying causes promoting change.

State officials repeatedly found that unregulated, often irrational, discrimination was more trouble than it was worth. Just as businesses found it expedient to protect workers from foremen, government found it expedient to protect women from discriminatory organizations. This motive helps to explain why men in government sometimes knowingly supported policies that favored women; they sometimes gave this support although they could have opposed the policies without fear of political reprisals. Examples include the legislators who passed the Equal Pay Act of 1963 and judges who accorded legitimacy to women bringing discrimination suits. For example, the Equal Pay Act of 1963 explicitly argues that "wage differentials based on sex" lower wages, prevent optimal use of labor resources, induce labor disputes, obstruct commerce, and allow unfair competition by firms.

Under wartime conditions, the state laid motives bare when it explicitly opposed discrimination; it wanted to maximize production and minimize disruption. The federal government's first direct actions against employment discrimination occurred during World War I. These policies were repeated on a larger scale during World War II. Straightforward goals motivated these early (temporary) efforts to restrict some forms of employment discrimination. The state had an overwhelming interest in having women employed and reducing industrial strife during a war effort. To protect this interest, it prohibited employers from discriminating in ways that undermined these policies. In part, when the government launched policies against sex discrimination in the 1960s and 1970s, it was making a peacetime extension of the wartime policies. Facing similar, if less extreme, conditions, the government applied the same reasoning.

For the state, discrimination had become a more worrying practical problem because of accumulated changes in women's circumstances. Women had an increasing capacity to challenge discrimination and to hurt the political interests of those in power. Thus, policies opposed to discrimination arose from complementary forces. Because women were playing a much greater role in the economy, state officials gave women's treatment more consideration when they sought to create a dependable, productive, smooth-running economy. Because economic activity enabled more organized political activity by women, politicians also became more reluctant to risk political backlash from angry women.

Concessions to women's interests by the government and by male politicians also reflect women's rising political assimilation, made possible by the changes in the two earlier periods which gave women formal legal and political equality. By the third historical phase, women began to exhibit a new, more extensive political status. The more that women function as political actors, the more responsive the state becomes. Women's role in political and governmental activities has grown notably. Between 1960 and 1988 women's representation in the major party presidential nominating conventions rose sharply. Women went from 11 percent to 52 percent of Democratic delegates and from 15 percent to 37 percent of Republican delegates.<sup>47</sup> By adopting sex quotas for convention delegates, the major parties created a quasi-legal device to increase women's manifest political equality. Women's share of congressional seats has increased more slowly,

going from twelve elected to the House in 1970 to fifty-one in 1996; a record nine women held Senate seats in 1996. Still, women's vote has become a major concern for national-level politicians in the last decade. And, of course, in 1984 for the first time a major party had a female candidate for the office of vice-president.

Women's presence in state and local government also grew significantly. Within a few years after gaining full formal electoral equality with men through the Nineteenth Amendment in 1920, women gained about 150 seats in state legislatures. They stayed at that level until World War II. Their numbers grew slowly through the 1940s and 1950s to around 350, then stopped rising during the 1960s. Since then, women's presence in state legislatures has grown markedly, reaching 1,539 in 1996, or about 21 percent of the total legislative seats.<sup>48</sup> Women also won more positions in local government. In cities with a population over 30,000, female mayors jumped from 1 percent to 17 percent between 1971 and 1991; by 1989 they made up 10.5 percent of the mayors in all municipalities over 2,500, numbering 731.<sup>49</sup> By 1989 women were also the chief financial officers for about one-half of the county boards and one-third of the cities in the United States.<sup>50</sup> Women have become mayors of major cities such as Chicago and San Francisco.

Although women are still a small minority in government posts, their political visibility has grown considerably in recent decades. Women have been experiencing a progressive assimilation into the political process similar to their assimilation into the occupational hierarchy. Women's rising political activism played an important role in the state's adoption of policies against discrimination. As women became more politically organized, few politicians wanted to invite women's opposition unnecessarily. By the late 1960s the public protests of feminist groups—marches, sit-ins, demonstrations—gained considerable attention from the news media. They made women's rights a salient political and public issue.

How much women's political activism influenced outcomes is difficult to judge. Some important government actions against discrimination, such as the Equal Pay Act of 1963, preceded the rise of modern feminism. Realistically, women's organization and campaign for rights were not threatening to state power and, through the 1970s, rarely were threatening to politicians' reelection chances (the "gender gap" in voting became a bigger issue in later years, but by then the male-

dominated state had already made its major moves against sex discrimination).

People often attribute the policies against discriminations to political protests and changing popular beliefs. According to the simplest idea, and perhaps the most popular, women secured bargaining power through their collective protests. Because of women's political agitation, male-dominated government had little choice to do other than concede their claims. By the end of the 1980s this view of history had become widespread enough that the mass media often presented it as proven fact, as in these examples from *U.S. News & World Report* and *Time*.

[T]he feminism of the '60s . . . toppled barriers to equality in employment while raising the consciousness even of those who were not politically active.<sup>51</sup>

[F]eminism is a victim of its own resounding achievements. Its triumphs—in getting women into the workplace, in elevating their status in society and in shattering the "feminine mystique" that defined female success only in terms of being a wife and a mother—have rendered it obsolete . . . in its original form.<sup>52</sup>

Notwithstanding their importance, however, the effectiveness of feminism and popular beliefs depended on how strongly the modern state was committed to preserving male prerogatives. Modern feminism has unquestionably been an exceptional social movement, and popular ideas about women's roles have certainly changed dramatically.<sup>53</sup> Still, if the state had been committed to preserving men's ascendancy, feminist protest and changing beliefs about women in the 1960s and 1970s would have been inadequate to produce a turnabout in government policies. Similarly, no one seriously claims that American men began the 1960s fully committed to male dominance, then abandoned their biases to support egalitarian policies because they found feminist rhetoric irresistibly persuasive.

A study of efforts to gain laws benefiting women's interests suggests that a congruence between favorable state disposition, general public acceptance, and feminist agitation was key. Interestingly, its authors, Joyce Gelb and Marian Palley, had hoped to show a different result. They identify and compare several apparently outstanding feminist successes (the Equal Credit Opportunity Act of 1974, the Pregnancy Disability Act of 1978, Title IX of the Education Amendment of 1972) and several defeats (the Equal Rights Amendment, the Comprehensive

Child Development Act of 1971, and the Hyde Amendments restricting government funds for abortions and the like). Initially, they contend that "feminists can claim primary credit for a series of successes in the adoption and implementation of policies." But, they soon have to qualify this assessment. Feminists have had some remarkable successes. Yet the research found these successes limited to issues that "extend rights now enjoyed by other groups . . . to women and which appear to be relatively delineated or narrow in their implications, permitting policy makers to seek advantage with feminist groups and voters with little cost or controversy."<sup>54</sup> According to Gelb and Palley, the successes and failures followed a pattern that suggests several preconditions to success.<sup>55</sup> The issue must have broad support among the public and among pressure groups. The issue must be narrowly defined and incremental so that it does not arouse opposition or divide its supporters. The feminist supporters must show that they legitimately represent significant interests. And they must seem ready to compromise and work within the system's rules.

These prerequisites suggest that bids to change policies in favor of women prevailed only when the goals already had wide backing and avoided any serious challenge to the prevailing system of gender relations. In the successful campaigns, feminists mainly supplied information, offered rational arguments, and made restrained pleas. They stressed general norms of equity independent of gender inequality or feminist theory. Feminists won measures consistent with the direction of policy development within the state. Indeed, Congress passed the Equal Pay Act of 1963 and the Civil Rights Act of 1964, two of the most important legislative innovations benefiting women, before modern feminism began to organize.

Apparently the state was willing to oppose gender discrimination because it served no important interests that concerned the political process. Most of the opposition to antidiscrimination laws was motivated by prejudice against women and change, but a prejudice that was no longer joined to any significant interests. Some employers and occupational groups in special niches still profited from women's disadvantages. Yet so many women were already employed that continued discrimination against them had little economic value for businesses. So many middle-class men had wives or daughters pursuing careers that continued support for employment discrimination was often domestically risky. By the 1960s women were able and willing to

organize politically in support of antidiscriminatory legislation. Their organizational efforts both created political interests in support of their cause and aroused a worrisome level of disorder through agitation. Thus, from the state's perspective, most discrimination against women had become a source of unrest, economic irrationality, and potential political damage with no counterbalancing interests to defend it.

Laws barring discrimination against women recognized and smoothed women's assimilation into the economy and other organizational settings. This transition was already under way, but these laws helped it proceed faster with less upheaval. The state's actions created an environment in which all organizations could start to absorb women into better positions. Organizations avoided the need for each to endure a long process in which they slowly responded to women's frustrated campaigns. The organizations were also largely sheltered from resistance by male employees.

#### THE POLITICAL AND LEGAL ASSIMILATION OF WOMEN

Several decades ago the British sociologist T. H. Marshall advanced a now famous proposition about the state in his innovative essay "Citizenship and Social Class." Liberal democracies, he argued, expand equality through citizenship. He proposed that the government protects economic inequality by offsetting it with citizenship rights. Marshall concerned himself with working-class men. His ideas, however, also fit the improvements in women's legal and political status surprisingly well.

Using England as his primary example, Marshall argued that liberal capitalist societies had broadened the status of citizenship (as applied to free, adult males) in three phases. These phases followed each other, roughly, in successive centuries. In the eighteenth century, the government gave working-class men formal legal equality—all men would be equal before the law. In the nineteenth century, the state extended to all men the rights to vote and to hold political office. In the twentieth century, the state assembled a patchwork of social rights to make what we now call the welfare state. The welfare state guaranteed all citizens varied social goods, sometimes called entitlements, such as education, unemployment insurance, and old-age security. Marshall considered these three enhancements of working-men's rights to be distinctive

aspects of modern citizenship: civil (or legal) citizenship, political citizenship, and social citizenship.

These three phases of expanding citizenship that Marshall distinguished for working-class men resemble the sequence of improvements in women's legal and political status. In the United States, the state first acted to diminish married women's legal disabilities in the *era of separate spheres*. It removed formal political disabilities by granting women the right to vote in the *era of egalitarian illusions*. In the recent *era of assimilation*, the state forcefully combatted women's economic and social disabilities with policies against sex discrimination. The most important state actions advancing women's status broadened their citizenship.

Modern states have grown powerful by extending citizenship. These rights tied people directly to the political order. They impeded private political power exercised and sustained through ties of personal dependency. While the state embraced political inequality by extending its power over all, it eroded political distinctions among its citizens. Each phase in citizenship's growth built up new rights from many policy decisions responsive to varied state aims. In time, these rights coalesced. Initially the state purged legal inequities to fit the legal apparatus to modern commerce, to get legislative control over the judicial system, and to rationalize state bureaucracies' operations. Then, by extending suffrage the state increased its legitimacy, diminished social unrest, and disarmed hungry rising groups (by absorbing their leadership potential). While creating the welfare state, the government smoothed over the social disorder created as traditional social supports fell victim to progress. The government also diffused class conflict, enhanced its legitimacy, and increased its authority.

Over the past two centuries, state activity in the United States has developed in a comprehensible way. At first the nation's government most closely resembled a simple instrumental state representing narrow, dominant interests. Anglo-Saxon men with at least moderate property held all the power and controlled a small state apparatus. Today the government more closely resembles an executive state: autonomous, institutional, facing diversified flexible interests. The polity contains disparate groups, with complicated, overlapping interests. The state is huge and cumbersome. It often can defy powerful social groups more easily than it can discover effective strategies to reach a public



goal. During the long transition from the early mechanistic state to the late executive state, the Progressive Era reforms self-consciously tried to create a trustee state. As the range of competing interests became more diverse, an anxious, declining, old middle class and a confident, ambitious, new middle class tried to shield state activities from the grip of either capitalist or working-class interests. Although the reformers' claims for a disinterested state may have been an ideological ploy, this period did create a significantly more autonomous and active state.<sup>56</sup>

The changing character of state activities helps to show how and why gender inequality became disembedded from the state, which represented political and legal inequality. The state expanded women's citizenship status as it incrementally disengaged from the system of gender inequality. Like working-class men, women first received legal citizenship, then political citizenship, and then civil or social citizenship. During the mid-nineteenth century, in the era of separate spheres, the state gave married women the right to own property independently. It also granted women the right to their income if anyone should agree to employ them. And it awarded to women the right to make contracts if anyone wished to join them in a contract. No one had any obligation to offer these opportunities to women. Still, these legal changes gave some women the opportunity to take jobs and enter commerce.

The suffrage legislation during the era of egalitarian illusions gave women the capacity to vote. It did not force political parties to promote women or oblige government to respect women's needs. Still, with the vote, women could influence elections and prompt the state to adjust policy more to their interests.

In the modern era of assimilation, laws against discrimination demand that opportunities and rewards be equally available to women. These laws apply to jobs and other services or positions provided by organizations. Even if equal opportunity is fully realized, laws against discrimination do not assure women they will have achievements or social positions equal to men's. Still, it prevents men and institutions from using flagrant discriminatory processes to thwart greater equality.

During each period of change, women's legal and political status transformed in ways that increased the formal equality between the sexes. Formal equality exists when governing rules or laws say or

imply that groups will receive the same treatment. This condition differs from manifest equality, which occurs when groups experience the same benefits or restrictions from the law. The difference between formal and manifest inequality is important but often misunderstood. Manifest equality falls short of formal equality when the law's guardians neglect its dictates or when the law allows people with social advantages more access to its promises than it allows others. The additions to women's formal legal equality did not immediately secure them an equal increase in manifest equality. The expansion of formal equality at each stage, however, did make manifest equality increasingly plausible and probable.

Critics sometimes have questioned the importance of the legal and political assimilation of women. They have stressed that the changes in women's formal rights did not produce a rapid, dramatic change in most women's manifest status. Such criticisms have slighted the long-term practical value of legal and political rights. These rights expanded the opportunities for women and improved their bargaining positions, both individually and collectively. With each generation, more women could use these opportunities. As more women exercised these rights to become active members of the polity and market economy, women achieved a better position to gain further concessions.

Thus, over the past 150 years, the state gradually changed laws and policies to give women the right to take part in the economy and government, without ever guaranteeing them equal property, jobs, or political influence. Through these changes, the state shifted the weight of its intervention away from resistance to women's advance, tipping the scales toward supporting women's efforts to expand their opportunities and achievements.

Women's rights improved in phases that resembled the stages of citizenship rights that T. H. Marshall first identified for working-class men. This similarity seems to have resulted from two reinforcing patterns: interaction between the expansion of male and female citizenship and a parallel logic of development. In part, the rights granted men during each phase in the history of male citizenship diffused to women. Certainly, the progress of citizenship rights for working-class men influenced what rights were at issue for women. When the state granted a right to working-class men, it became salient to social critics, legislators, and women activists. Feminist ideology repeatedly strove to give middle-class women rights equal to or greater than those en-

joyed by working-class men. Feminist claims stressed property and education in the mid-nineteenth century, then voting rights, and recently economic and social rights. Yet it also seems that the historical sequence of legal and political claims shows some integral relationship among the rights, leading one to another. It seems unlikely that any group could successfully claim political rights without first having legal equality. Similarly, a group's quest to protect its economic status seems much more hopeful if the group already has favorable legal and political statuses. If the citizenship rights that emerge in each phase become plausible only after people have the rights gained in the earlier phases, then a group will not get the rights in any other order without some special circumstances. Because of this inherent relationship between stages, groups usually will get citizenship rights through a similar sequence, even if the historical process giving one group expanded citizenship rights does not directly affect the process through which other groups get similar rights. This integral logic does seem to explain the sequence in which working-class men's citizenship grew. For women, the logic of the sequence was reinforced because men's earlier successes served as signposts that directed efforts to improve women's social status.

When viewed from a detached historical perspective, through its repeated extension of citizenship rights, the American state has sustained a remarkably progressive long-term record of changes affecting women's status. Over the past 150 years, it has gradually diminished the differences in its treatment of the sexes. Despite this progressive trend, the state only occasionally favored women in its policy decisions. The state commonly seemed a committed institutional defender of male privilege, because it was persistently reluctant to adopt egalitarian policies. Most legislation in each period conformed to existing expectations about women's status and rights. State decisions and policies unquestioningly assumed and accepted male dominance because it was so pervasive. Under these conditions, state officials adapted their policies to gender inequality as unthinkingly as they adapted them to human mortality or the climate. State policies reflected a routine conformity to the commonplace, a simple acceptance of ordinary differences between women and men. Usually, government officials' commitment to male dominance was irrelevant. Most did believe that conventional sex roles were appropriate, and would defend them if sex roles became a salient issue. State influence on sex

roles and women's status rarely became an issue, however, unless feminist agitation challenged it. Otherwise, state support for prevailing sex roles was so ordinary that state officials and the public rarely even recognized it.

While the state's usual acceptance of sex inequality was unexceptional, the state's contribution to sex inequality's decline was truly remarkable. Realistically, we should be surprised that state actions advanced women's interests. The pervasiveness of male dominance made it implausible that the state would repeatedly reduce women's legal and political disadvantages. Yet over the long term the state granted women legal equality, political equality, and a guarantee of equal treatment by other institutions. Indeed, in each period the state made some of its early policy concessions to women while facing little or no organized effort for women's causes. Examples of this pattern included the early Married Women's Property Acts, the first states to give women the vote, and the initial antidiscrimination legislation of the 1960s. By adopting policies favoring gender equality, the state seemingly contradicted the reasonable expectation that a state will always protect the interests of dominant groups.

In fact, increasing male indifference was a primary cause of the state's willingness to alter women's legal and political status. Each significant improvement in women's rights did of course have to overcome resistance from men. But, if weighed against the possibility of a truly adamant opposition, male resistance at each stage was notably weak. When nineteenth-century state legislatures passed laws enlarging married women's legal rights, no male backlash occurred. During the half-century that women sustained the suffrage movement they were frustrated by groundless forebodings, political intransigence, and plain pigheadedness. Calculated resistance to their goals was uncommon, however. When women's suffrage rights appeared on state ballots, a significant and progressively increasing proportion of men voted favorably. Modern feminist demands met considerable derision from journalists and politicians. Nonetheless, laws and policies prohibiting discrimination against women did not prompt defenders of male interests to offer substantial resistance or even notable protest. Since the middle of the twentieth century, men answering opinion polls have consistently shown almost as much support for government policies treating women equally as have women.

When equalizing policies did incite serious opposition, the oppo-

were more likely to focus on safeguarding the family or marketplace freedom than on stopping the spread of gender equality. Opposition linked to these goals was almost as likely to attract women as men.

While perhaps only a few men enthusiastically greeted all the changes that improved women's status, progressively fewer men faced significant real threats to their interests from these changes. Without such interests, male opposition depended on prejudice and custom. As men's interests ceased to be at issue, they, particularly powerful men, became increasingly indifferent to changes enhancing women's status. This gave the state and other institutions the freedom to reap benefits from supporting women's assimilation without fearing reprisals.

Over time, state officials were subject to fewer potential costs if new policies reduced gender inequality. They were shielded by the remoteness of the state, the obscurity of the issues, and the tentativeness of ordinary men's opposition to new policies. The state, like economic organization, was becoming increasingly remote from the system of gender inequality. This separation governed the history of legal and political concessions to women. In each case, the government had become remote enough from gender inequality that conceding the right to women had no direct implications for the structure or functioning of the state. Moreover, most decisions were about incremental changes in formal rights. As few of these policy decisions clearly implied a significant loss for men, politicians could adopt the changes without straining their commitments to male advantages. When a policy seemed more significant, as in the case of suffrage, the transition was more difficult, but led to the same end.

State interests recognized gender inequality as a fact, not a goal (although state officials' prejudices against women often belied this distinction). Most of the time, the state assumed men's dominance but did not display a committed interest in preserving it. State policies adapted to preexisting inequality may have retarded progress toward equality (this is difficult to judge), but the state took few actions *aimed* at preventing women's rising status.

Changes in the organization of the state seem to have reduced its unquestioned commitment to male interests or to the interests of any specific group. Gender inequality did not serve the institutional interests of the state. Beyond their personal prejudices, politicians' interests in preserving women's inferior status derived largely from fears of

political costs that they or their party might suffer from disenfranchised men. Policies and laws diminishing gender distinctions adapted state actions to emergent state interests. They reflected the organizational concentration of political power. As status inequality became disembedded from positional inequality, the prejudices that had governed decisions supporting gender inequality gave way to the practical calculations of political interest and problem solving. Once passed, legislation and policies improving women's circumstances were highly resistant to retreat.

With time, politicians had to consider the potential political costs of opposing improvements for women. Initially, while the polity excluded women, their political response was irrelevant. After women's assimilation had gone far enough to draw them into the political process in significant numbers, considerations changed. To the degree that women's political behavior seemed distinctive from that of men, politicians had to consider the possible costs of alienating women.

As the dominant pattern of state activity changed, so did the critical interests leading the state to enact policies favoring women, a disadvantaged group. Over the long run, the state's actions affecting women's status have gone from serving business, to impartial balancing of competing claims, to strategic advocacy for greater equality. During the era of separate spheres, a largely instrumental state gave women property rights because the classes controlling commerce decided this legal rationalization served their interests. During the era of egalitarian illusions, a struggling trustee state increased the state's independence from industrial class conflict by giving women political rights while it also reduced disorder and stabilized existing social patterns. During the era of assimilation, a relatively autonomous, institutional state adopted policies against sex discrimination that increased state legitimacy and gained political advantages from an active women's movement.

Class interests permeate the state policy transformations that benefited women. In each of the three phases, middle-class women benefited more than working-class or poor women. In each phase, middle-class women gained a class privilege. The Married Women's Property Acts allowed middle-class women the rights to own property and to form contracts already held by working-class men. Women's suffrage gave middle-class women (along with other women) the right to vote that working-class men had gained in the first half of the

nineteenth century. As applied to women, the antidiscrimination legislation of recent decades has assured women of middle-class origins that they can enter middle-class careers. They are not condemned to the same occupations as the offspring of the working classes.

These class interests received some voice in the political debates surrounding these issues in each period, but they were never the dominant justifications used. Although isolating the importance of class interest is difficult, it seems to have influenced both middle-class women's agitation for rights and middle-class men's willingness to concede those claims. Seemingly, middle-class men's shared class interest with middle-class women, reinforced by ties of kinship, was more important than middle-class men's shared gender interest with working-class men.

Others writing about the relationship between the state and gender inequality have largely depicted the state and the men who directed it as acting consistently to protect men's advantages. In this literature, women's legal and political gains appear as victories attributable to effective organization by women or expressions of a general moral shift.

In contrast, this analysis has stressed why and how a male dominated state has progressively conceded greater legal and political equality to women over the past 150 years. Women's agitation for more rights and more participation was an important ingredient to this process. Equally important, however, were the state's development of interests distinct from and sometimes inconsistent with those of men's gender interests and the general decline of men's interests in preserving women's exclusion from these rights.

Ultimately, the logic of modern state organization has simply proved inconsistent with the needs for maintaining gender inequality. Some crucial decisions were independent of women's efforts and some were concessions to women's campaigns. Whatever the precipitating events to specific changes, the state slowly but progressively withdrew from policies that treated the sexes differently. Eventually, the accumulation of these decisions disengaged the state from the preservation of gender inequality. Since women would require years to translate new rights into political power, those wielding power could grant concessions safely, knowing their own fate did not depend on the state's concessions. After the state had largely abandoned the principle of treating men and women differently and once women had become a

significant political force, the state even began to root out gender discrimination in other institutions actively.

Because gender inequality was inherently inconsistent with the logic of the modern state's development, the state repeatedly resolved policy issues in ways that favored women's status. Most men running the state were prejudiced against women and did not wish to diminish men's advantages. Yet few had such a great commitment to gender inequality that they would risk serious damage to the state, the economy, or their political status in order to defend male dominance. Each time the state improved women's rights, it was responding to other changes that were already under way, changes beyond the state's control. The state's response was partially an effort to guide and complete these externally driven events. The state repeatedly found itself caught in a whirlwind of social change that it did not initiate, often could not understand, but could not ignore.

Changes in state policies toward women ground forward like a rusty gear linked with a ratchet. Each twist forward might take time and effort, but once it happened the ratchet engaged the new position. The gear would not slip back.