

## Introduction

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This book addresses a basic problem: a commitment to gender equality and to the equal citizenship of women and men features in the constitutional, statutory, and common law of many countries, as well as in international law and human rights instruments. Yet there remains a palpable and, in some cases, stark gap between formal commitments to the equal rights and responsibilities of men and women and against discrimination and subordination based on sex and the gendered realities of women's lives. Few would deny that women around the globe – and the societies in which they live – have made enormous progress toward the goals of gender equality and equal citizenship, but neither would most claim that those goals have been fully realized in life as well as in law. There continues to be ambivalence about and resistance to equality as well as legal, political, and social obstacles to attaining it.

This book takes stock of the progress toward and remaining impediments to the goals of securing gender equality and the equal citizenship of women and men. It develops strategies for securing such goals and identifies new questions, theories, and perspectives to help shape further inquiries about both gender equality and equal citizenship. It brings together an interdisciplinary group of distinguished scholars in law, political science, and women's studies to investigate several dimensions of women's equal citizenship.

Why use the language of equal citizenship to guide this inquiry about gender equality and the persistence of inequality? Why not simply talk about gender justice? Quite simply, citizenship remains the common language for expressing “the highest fulfillment of democratic and egalitarian aspiration.”<sup>1</sup> Even more so, the term *equal citizenship* conveys a society's goals of equal status for all members of society and its ideals of inclusion, membership, and belonging.<sup>2</sup> In his classic work on the evolution of modern citizenship, sociologist T. H. Marshall referred to “an image of an ideal citizenship against which achievements can be measured and towards which

<sup>1</sup> Linda Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton, NJ: Princeton University Press, 2006), at 1.

<sup>2</sup> On the importance of “belonging,” see Kenneth L. Karst, *Belonging to America: Equal Citizenship and the Constitution* (New Haven, CT: Yale University Press, 1998).

aspirations can be measured.”<sup>3</sup> Many decades after Marshall’s famous exposition, “political and legal thought today are suffused with talk of citizenship.”<sup>4</sup> Even as feminist scholars have criticized the limits of his categories of citizenship rights – civil, political, and social – and suggested that debates over citizenship are in a “post-Marshallian age,” they continue to find useful the notion that citizenship “acts as a yardstick against which progress can be measured.”<sup>5</sup> Our book is written in this spirit of assessment and aspiration.

Both gender equality and equal citizenship – indeed, citizenship itself – are fundamental *and* contested concepts.<sup>6</sup> On the one hand, they are both fundamental terms in law and in politics in many contemporary societies, but on the other, their meaning, scope, and the proper ways in which to secure them are the subject of dispute. One common understanding of gender equality is gender neutrality or equal treatment (for example, treating like cases alike). Yet ample feminist criticism has illuminated that formal equality may be necessary, but not sufficient, for women achieving a more substantive kind of equality – for example, one that accounts for gender difference and the relics of past discrimination. When gender-neutral laws replace a gendered legal regime, such gendered laws leave their traces. Gender-neutral law may have a gendered impact and fail to address structural obstacles to substantive equality and equal citizenship.

So, too, citizenship is a concept with multiple and contested meanings. Speaking about citizenship as membership may intend, for example, to distinguish *citizens* from *aliens*, and to look at political boundaries and who does and does not have the formal status of citizenship in a particular nation-state.<sup>7</sup> Discussions of citizenship instead may intend an “inward-looking” focus, comparing the relative status of, and relations among, “presumed” members of a society.<sup>8</sup> The rhetoric of “second-class citizenship” often serves to indict the gap between the ideal of full citizenship and the reality of unequal citizenship for certain groups in society. Undeniably, the ideal of citizenship – accompanied by the indictment of second-class citizenship – has been a lodestar in women’s struggle for rights in the United States and elsewhere.<sup>9</sup> In this volume, we employ the notion of *equal citizenship* as a standard that encompasses not only formal citizenship in a particular bounded place, but also a more substantive, or aspirational, conception of citizenship. This conception includes the complete rights, benefits, duties, and obligations that members of any society expect to share and aspires to goals of inclusion, belonging, participation, and civic membership.

<sup>3</sup> T. H. Marshall, *Citizenship and Social Class* (Cambridge: Cambridge University Press, 1950), at 29.

<sup>4</sup> Bosniak, *Citizen and the Alien*, at 1.

<sup>5</sup> Barbara Hobson and Ruth Lister, “Citizenship,” in Barbara Hobson et al., eds., *Contested Concepts in Gender and Social Politics* (Northampton, MA: Edward Elgar, 2002), at 36; see also Ruth Lister, *Citizenship: Feminist Perspectives*, 2nd ed. (New York: New York University Press, 2003).

<sup>6</sup> For an illuminating comparative look at “citizenship” as a contested concept, see Hobson and Lister, “Citizenship,” at 23–54.

<sup>7</sup> Bosniak, *The Citizen and the Alien*, at 1–2.

<sup>8</sup> *Ibid.* (distinguishing “boundary-focused citizenship” from an “inward-looking framework.”)

<sup>9</sup> Lister, *Citizenship*, at 5.

## Introduction

3

What, then, follows if gender equality and the equal citizenship of women are common political and constitutional values? We identify several dimensions of equal citizenship including constitutional citizenship, democratic citizenship, social citizenship, sexual and reproductive citizenship, and global citizenship. This method reveals the multiple factors that shape status and standing in society and foster or impede the ability of persons to fully participate in society.

Given citizenship's potential for exclusion as well as inclusion, we stress at the outset that certain guarantees of gender equality are not confined only to citizens, but apply more broadly to persons within a territory. This volume examines the import of those commitments. At the same time, the volume also explores the rights and obligations of citizenship in specific national contexts. One such context is gender equality and equal citizenship within the United States and strategies for securing them. We also include comparative examination of the United States and other nations and look at citizenship struggles in a number of countries. Moreover, this volume also addresses the increasingly relevant concept of global citizenship. By this, we intend not only the impact of globalization on national citizenship, but also how international law and international human rights norms about sex equality cross national borders and provide benchmarks for advocacy efforts by women's groups and international organizations.

In the remainder of this introduction, we elaborate on our contention that gender inequality persists and that assessing progress made toward and obstacles remaining to the goals of gender equality and equal citizenship, and offering strategies to reach those goals, is an important project. We then explicate our use of the concept of equal citizenship as a framework and yardstick for guiding that investigation. In doing so, we situate our project in the broader debate about the strengths and weaknesses of the concept of citizenship to express ideals of equality, inclusion, and belonging. We then identify the several dimensions of citizenship that our contributors explore.

## The Persistence of Gender Inequality

If our project invites the question, why *citizenship*, so, too, might it invite the question, why *gender* equality, or even, why *gender*? The recent election of Senator Barack Obama as the first African-American president of the United States – alongside the near-success of Senator Hillary Clinton in gaining the Democratic nomination and the selection of Governor Sarah Palin as a vice-presidential candidate on the Republican ticket – prompted commentary about whether the United States had finally arrived at a post-race and post-gender society in which it could close “a chapter in American history.”<sup>10</sup> This volume is predicated on the belief that gender, like race, remains a salient category in society, politics, and law.

<sup>10</sup> A comment to this effect about the significance of the election was made, e.g., by William Bennett in election night media coverage: “I hope it closes a chapter in American history. The great stain. Obviously you don't change American history. The notion that some people say, well, if you're born black in this country there's just things you're limited from doing, this is the biggest job of all. Think

Citizenship itself, as historical research readily reveals, has always been a “deeply gendered” concept, bound up with the exclusion of women as full citizens.<sup>11</sup> Even today, as national constitutions and statutes and international human rights documents declare the formal equality of men and women and the language of citizenship is increasingly gender-neutral, the gendered history of citizenship – its “gendered historical template”<sup>12</sup> – continues to shape the law and practice of citizenship. Focusing on gender helps to reveal these lingering effects of this earlier gendered law and the limits of formal gender equality. Defining citizenship as a “gendered keyword” in contemporary politics, feminist scholars Barbara Hobson and Ruth Lister speak of the need for a feminist project of “re-gendering citizenship” so that the yardstick it uses is no longer skewed in a way that favors a “false universalism created in a masculine image.”<sup>13</sup>

Training a lens on gender equality as it relates to citizenship is productive because gender equality and difference remain at the center of contemporary legal challenges, policy debates, and governmental and public initiatives in the United States and around the globe. Gender equality can be affected by public initiatives, legal norms, institutional culture, and private conduct. A perennial debate is whether fundamental differences between men and women warrant different roles in public and private life and explain or justify economic, social, and political inequality. In some views, gender equality is an appropriate goal in the realm of political self-government and public life but an inappropriate one in the realm of the family and the rest of civil society. Women themselves differ over these issues. When sex equality becomes an official public value, one that government affirms and promotes, new challenges arise from the evident tension between this and other fundamental values such as freedom of religion. These conflicts present new challenges, as they seem to pit the quest for women’s equality against an interest in preserving strong families, cultural integrity, and religious values, and even against women’s own choices. Thus, gender inequality persists in basic institutions of civil society, such as the family, the workplace, educational entities, and public institutions, such as elected office. This persisting inequality leads many (including contributors to this volume) to conclude that major structural transformation is necessary to bring about women’s full civic participation.

Struggles for equality, and the challenges they pose to existing frameworks, are evident in the judicial, legislative, and executive arenas. Consider workplace discrimination as one example of such a contemporary gender struggle. If, as liberal political theorist Judith Shklar argued, the right to work, along with the right to vote, is a pillar of citizenship,<sup>14</sup> then this aspect of women’s equal citizenship remains

of what you can say to children now. Every child of every race.” “Awaiting America’s Decision,” *The Situation Room*, Nov. 4, 2008.

<sup>11</sup> Lister, *Citizenship*, at 1; see also Stephen T. Leonard and Joan C. Tronto, “The Genders of Citizenship,” 101 *Am. Polit. Sci. Rev.* 33 (2007).

<sup>12</sup> Hobson and Lister, “Citizenship,” at 24.

<sup>13</sup> *Ibid.*, at 36.

<sup>14</sup> See Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, MA: Harvard University Press, 1991).

## Introduction

5

elusive for many women. The U.S. Supreme Court has taken on basic issues of gender equality in the employment discrimination context in several recent cases, reflecting the continuing prevalence of sexual harassment, wage discrimination, and retaliation against women who try to enforce their statutory rights. Sometimes, the Court's interpretations of antidiscrimination laws themselves exacerbate the underlying problem of inequality, as when the Court, in the recent case of *Ledbetter v. Goodyear Tire & Rubber Co.*, interpreted the statute of limitations for pay discrimination in a way that foreclosed a discriminatory wage claim brought by a woman who had experienced years of unequal pay.<sup>15</sup> This led Justice Ruth Bader Ginsburg, a chief architect of the successful equal protection challenges brought in the 1970s to sex-based laws, to take the fairly unusual step of reading an oral dissent, in which she both indicated that it was now up to Congress to act to counter the Court's erroneous ruling and spoke directly to the female workers whose quest for equality would be harmed by the Court's ruling.<sup>16</sup> The ruling in *Ledbetter* triggered the introduction of fair pay legislation in Congress to overturn the Court's ruling, which was the first bill Obama signed into law as president.<sup>17</sup> Obama linked the bill to America's "founding principles" about equality and the pursuit of happiness, as well as to the need for just laws that help people "make a living and care for their families and achieve their goals."<sup>18</sup> He has also pledged to support other measures designed to improve workplace equality for women.<sup>19</sup>

Work-family, or work-life, conflict provides a second example of gender's continuing relevance. While men's participation in family caregiving and housework has increased, a stark gender gap remains. The Court, in upholding the Family and Medical Leave Act against a state sovereign immunity challenge, observed that "stereotypes about women's domestic roles are reinforced by parallel stereotypes presuming a lack of domestic responsibilities for men," resulting in a "self-fulfilling cycle of discrimination that forced women to continue to assume the role of primary family caregiver" and often led employers to deny men accommodation offered to women.<sup>20</sup> Other biological and social differences between men and women also reinforce inequality. In effect, work-family conflict remains, in the United States and elsewhere, if not a "woman's problem," then a problem with particular impact on women.

<sup>15</sup> *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007).

<sup>16</sup> Oral opinion of Justice Ginsburg at 4:25, *Ledbetter*, at 2162, available at [http://www.oyez.org/cases/2000-2009/2006/2006\\_05\\_1074/opinion](http://www.oyez.org/cases/2000-2009/2006/2006_05_1074/opinion) (accessed April 9, 2009) ("Initially, you may not know that men are receiving more for substantially similar work. . . . If you sue, only when the pay disparity becomes steady and large enough to enable you to mount a winnable case, you will be cut off at the Court's threshold for suing too late.")

<sup>17</sup> Lilly Ledbetter Fair Pay Act of 2009, 111 P.L. 2; 123 Stat. 5 (signed Jan. 29, 2009).

<sup>18</sup> The White House Blog, [http://www.whitehouse.gov/blog\\_post/AWonderfulDay/](http://www.whitehouse.gov/blog_post/AWonderfulDay/) (Jan. 29, 2009).

<sup>19</sup> Barack Obama, *Change We Can Believe In: Barack Obama's Plan to Renew America's Promise* (New York: Three Rivers Press, 2008), at 165 (noting support for an increase in the minimum wage and paid family leave).

<sup>20</sup> *Nevada Department of Resources v. Hibbs*, 538 U.S. 721 (2003).

Political representation is a third example of persistent gender inequality. Though gender issues of this sort span the globe, the events and campaigns of the 2008 United States presidential election provide a vivid and instructive illustration. Clinton's bid for the Democratic nomination, while ultimately unsuccessful, reenergized feminists and caused many people to grapple with the role of gender in politics and as an aspect of leadership. The battle between Clinton and Obama for women's votes also reopened debates about essentialism and revealed divides among women on the basis of other, often complicated identity categories. Explaining the disappointment, and even anger that some women felt when Clinton lost the nomination to Obama, Susan Faludi wrote of "second place citizens" and the frustration that 88 years after women's suffrage advocates secured the right to vote, women still hit the glass ceiling in reaching the highest political office.<sup>21</sup> At the same time, women's votes ultimately clinched Obama's victory, as many of them perceived him to speak directly to their economic concerns.<sup>22</sup> The problem of political representation and of ambivalence about women in positions of political power is pervasive: women are underrepresented in the law-making bodies of the world's states. There is still a "political empowerment gap" between men and women, measured in terms of "political decision-making at the highest levels."<sup>23</sup>

Reproductive rights serve as our final example of the continuing struggles over gender equality. Despite national and international declarations about such rights, such rights remain controversial and fragile. For example, in 1992, the Court, in *Planned Parenthood v. Casey*, which affirmed women's constitutional right to decide whether to terminate a pregnancy within certain constraints, observed that the "ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives."<sup>24</sup> Yet, in 2007, in *Gonzales v. Carhart*, the Court upheld the Federal Partial Birth Abortion Ban Act, even without an exception for women's health. It adopted a paternalistic view of women's decision-making capacity, drawing on unsubstantiated claims about how women's maternal nature causes them to regret their decisions to end a pregnancy and how doctors might withhold information from them about the procedure.<sup>25</sup> In a strongly worded dissent, Justice Ginsburg reminded the Court of its prior acknowledgment of the centrality of reproductive decision making to women's

<sup>21</sup> Susan Faludi, "Second-Place Citizens," *New York Times*, Aug. 26, 2008, at A1. Some commentators, though, have argued that Obama is a "unisex" president, incorporating a "feminine" managerial style that emphasizes communication, inclusion, consensus, and collegiality. Frank Rudy Cooper, "Our First Unisex President?: Black Masculinity and Obama's Feminine Side," 86 *Demv. L. Rev.* 633 (2009) (reviewing news stories).

<sup>22</sup> Institute for Women's Policy Research, "Women's Vote Clinches Election Victory: 8 Million More Women Than Men Voted for Obama; Gender Gap Large in Key Battleground States Where African American Women Make Their Voices Heard," PR Newswire, Nov. 6, 2008.

<sup>23</sup> Richard Hausmann et al., *The Global Gender Gap Report* (World Economic Forum, 2008), at 4.

<sup>24</sup> 505 U.S. 833, 856 (1992).

<sup>25</sup> *Gonzales v. Carhart*, 550 U.S. 124, 159–60 (2007).

## Introduction

7

“dignity and autonomy,” “personhood,” “destiny,” and equal participation in the nation, while criticizing the Court’s acceptance of the “antiabortion shibboleth” about women’s “fragile emotional state” reflecting “long-discredited” “notions about women’s place in the family and under the Constitution.”<sup>26</sup> Legal scholar Reva Siegel warns that the use of this “woman-protective argument,” relying on stereotypes about women’s capacity and maternal nature, to justify abortion restrictions is spreading.<sup>27</sup> Beyond abortion rights, other aspects of reproduction – such as unequal access to contraception and fertility treatments, pregnancy discrimination, and workplace discrimination against mothers – also pose challenges to women’s equality.

Persistent gender gaps in gender equality are reflected not only in U.S. legal challenges, but in international human rights initiatives and reports. The United Nations, which includes advancing women’s equality among its Millennium Development Goals, issued a 2007 report identifying gender inequality in the domains of the household, the workplace, and the political sphere as a persisting problem and contended that fostering gender equality in these three arenas would yield a “double dividend” in terms of improving the lives of women *and* of children.<sup>28</sup> This report echoed, and built on, previous gender and development reports on problems of sex inequality such as women’s disproportionate poverty, their disproportionate contribution of work in the home, unequal bargaining power between husbands and wives in the home, the toll of domestic violence on women and their children, and the lesser investment in female than in male children. Likewise, similar conclusions were reached by the most recent Global Gender Gap Report, issued by the World Economic Forum, which seeks to quantify “the magnitude of gender-based disparities” and to design measures to promote gender parity. The report found, for example, a persistent gap between women and men in “economic participation,” as well as in “political empowerment.”<sup>29</sup>

These examples of the salience of gender show the importance of continuing to document instances of gender inequality and to theorize about how to address them.

## The Citizenship Framework

Equal citizenship provides the framework – or yardstick<sup>30</sup> – that guides this volume’s inquiry about gender equality. A conventional conception of citizenship is of one’s formal (or technical) status within a bounded nation state: “the legal recognition, both domestic and international, that a person is a member, native-born or

<sup>26</sup> *Carhart*, at 183–86 (Ginsburg, J. dissenting).

<sup>27</sup> Reva B. Siegel, “The New Politics of Abortion: An Equality Analysis of Woman-Protective Abortion Restrictions,” 2007 *U. Ill. L. Rev.* 991.

<sup>28</sup> United Nations Children’s Fund, *The State of the World’s Children 2007: Women and Children – The Double Dividend of Gender Equality* (New York: UNICEF, 2006), available at <http://www.unicef.org/> (accessed April 9, 2009).

<sup>29</sup> Hausmann et al., *Global Gender Gap Report*, at v, 4, 7.

<sup>30</sup> Hobson and Lister, “Citizenship,” at 36.



naturalized, of a state.”<sup>31</sup> But what does the status of member entail? Marshall, for example, defines citizenship as “a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed.”<sup>32</sup> This reference to “full” membership provides an opening to investigate not just formal assertions of equal status but also more substantive questions about whether community members truly have the same rights and opportunities, or participate on equal terms. “Equal citizenship,” according to Linda Bosniak, “is understood to entail enjoyment of various kinds of rights – civil rights, political rights, social rights, and cultural rights – . . . rights [all] described in the language of citizenship.”<sup>33</sup>

The notion of second-class citizenship illustrates the disaggregation between citizenship as a formal status and citizenship as entailing more substantive rights and a broad principle of inclusion.<sup>34</sup> The rhetoric of avoiding second-class citizenship featured centrally in the struggles for women’s rights and in other battles to extend such rights and recognition. It continues to animate courts and policy makers. In the majority opinion in *United States v. Virginia*, Justice Ginsburg tapped into the language of citizenship to frame the harm of the Virginia Military Institute’s long-standing male-only admissions policy: “neither federal nor state government acts compatibly with equal protection when a law or official policy denies to women, simply because they are women, full citizenship stature – equal opportunity to aspire, achieve, participate in and contribute to society based on their individual talents and capacities.”<sup>35</sup>

It is useful, when considering citizenship as a nonunitary, evolving concept, to return to Marshall’s formulation of citizenship, which continues to shape the modern citizenship framework. Marshall divided citizenship into three parts:

*Civil, political and social.* The civil element is composed of the rights necessary for individual freedom – liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice. . . . By the political element I mean the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body. . . . By the social element I mean the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society.<sup>36</sup>

<sup>31</sup> See Shklar, *American Citizenship*, at 4.

<sup>32</sup> See T. H. Marshall, *Class, Citizenship, and Social Development: Essays by T. H. Marshall* (Garden City, NY: Doubleday, 1964), at 84.

<sup>33</sup> Linda Bosniak, “Citizenship and Work,” 27 *N.C. J. Int’l L. and Comm. Reg.* 497, 500 (2001–2002).

<sup>34</sup> *Ibid.*

<sup>35</sup> *United States v. Virginia*, 518 U.S. 515, 532 (1996).

<sup>36</sup> See Marshall, *Class, Citizenship, and Social Development*, at 71–72.



## Introduction

9

Marshall argued that these dimensions of citizenship develop sequentially – civil, then political, then social rights. This may not hold true in all contexts, but it is certainly the case that different aspects of citizenship do not necessarily develop in tandem with one another. The history of women's rights in the United States is a testament to the fact that groups can earn citizenship status, and even a subset of citizenship-based rights, while being deprived of others. Advocates for women's rights were repeatedly told by courts and policy makers that not all citizens were created equal – that women's unique physical characteristics and social role justified differential treatment in a wide range of areas despite their claims to equal citizenship.

This history illustrates what feminist citizenship scholars have called the “gendered historical template of citizenship.”<sup>37</sup> Women (at least “free” women, who were not enslaved) were generally not denied the legal status of “citizen” solely on the basis of their sex in this country. However, women who married noncitizens were stripped of their citizenship until the passage of the Cable Act in 1922, while men suffered no similar deprivation.<sup>38</sup> Marriage had other dramatic effects on women's citizenship: married women were long deprived of civil law rights regarding property ownership and contract. All women were denied political rights such as suffrage – rights that we now understand to be essential components of full participation in society. American women obtained civil citizenship, in Marshall's terms, in part through the enactment of the married women's property acts which gradually removed the legal disabilities of coverture over the course of a century, as well as through and other legal developments.<sup>39</sup> Political citizenship came through the Nineteenth Amendment in 1920 and access to jury service later in the twentieth century.<sup>40</sup>

Programs such as mother's pensions and other public assistance for mothers and children might be viewed as a form of social rights; however, they were cast more as “welfare” (with the stigma that term has invoked) rather than as social insurance or an entitlement.<sup>41</sup> The quest for women's social citizenship through paid work began in earnest in the 1960s and 1970s, when women mobilized a right-to-work movement that brought down many formal barriers to entering the workplace.

<sup>37</sup> Hobson and Lister, “Citizenship,” at 24.

<sup>38</sup> Linda Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998), at 42 (pointing out that the act had “severe limitations” and “loopholes”).

<sup>39</sup> Under these principles, married women essentially had no *legal* identity. They thus were prohibited from owning property, including their own wages; entering into contracts; suing or being sued, and so on. See generally Richard H. Chused, “Married Women's Property Law: 1800–1850,” 71 *Geo. L. J.* 1359 (1983).

<sup>40</sup> See generally Reva Siegel, “She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family,” 115 *Harv. L. Rev.* 947 (2001–2002). An equal right to jury service was not cemented until 1994, when the Supreme Court ruled that gender-based peremptory challenges violated the Equal Protection Clause. See *J.E.B. v. T.B.*, 511 U.S. 127 (1994).

<sup>41</sup> Linda Gordon, *Pitied, But Not Entitled: Single Mothers and the History of Welfare* (New York: The Free Press, 1994), at 105–06, 181.

The same rolling pattern of women's rights and participation can be observed in other nations as well. Furthermore, as contributors to this volume elaborate, the struggle for realization of social citizenship continues. Marshall's focus, for example, on the working *man* did not contemplate such issues as accommodating pregnancy in the workplace, reconciling the demands of paid work with the responsibilities of caregiving, or conceptualizing social rights to address the universals of human dependency and vulnerability.<sup>42</sup>

This volume builds on and suggests the limitations of Marshall's framework. In doing so, it is informed by feminist literature on citizenship.<sup>43</sup> There has been a clear resurgence of interest in citizenship in recent years, but modern feminists are not of one mind on whether to rely on the citizenship framework to gauge women's progress toward equality or to argue for specific rights or protections.<sup>44</sup> Even though we embrace the citizenship framework, characteristic feminist criticisms warrant acknowledgment and are instructive.

Many feminists have been wary of the citizenship framework because citizenship itself is such a gendered concept. Our brief review of women's rights struggles in the United States confirms that citizenship was contoured differently and unequally for them. The ideal of the good citizen itself has a gendered history. The ideal male citizen and the ideal female citizen were not one and the same; each aspired, or was held, to a different set of expectations.<sup>45</sup> The gendered citizenship ideals persist today. As Stephen Leonard and Joan Tronto observe, "the quality of our democracy will depend on which of the *genders* of citizenship we choose for ourselves and expect of each other."<sup>46</sup>

A persistent feminist critique of citizenship is that to the extent citizenship embodies not just a bundle of rights, but a series of expectations and preconditions, those expectations are less likely to be met by women than by men.<sup>47</sup> Judith Shklar has argued that citizens are individuals who vote and earn. Yet women, despite retaining formal citizenship status, were long deprived suffrage and continue to have unequal access to paid work. Although the gendered aspects of citizenship have certainly dissipated somewhat, current notions of citizenship arguably continue to frame aspirations and ideals about the prototypical man who, among other characteristics, engages in paid, rather than unpaid, work. Moreover, a frame that focuses on the right to earn and to vote as pillars of citizenship leaves out a vital domain of human life explored in this volume: family.<sup>48</sup>

In emphasizing independence and self-sufficiency, this traditional frame diverts attention from dependency and vulnerability. The gendered allocation of care work

<sup>42</sup> See Joanna Grossman, Chapter 10, and Martha Fineman, Chapter 11.

<sup>43</sup> E.g., Lister, *Citizenship: Feminist Perspectives*; Hobson and Lister, "Citizenship"; Marilyn Friedman, ed., *Women and Citizenship* (Oxford: Oxford University Press, 2005).

<sup>44</sup> Lister, *Citizenship: Feminist Perspectives*, discusses some of these feminist criticisms.

<sup>45</sup> See, e.g., Leonard and Tronto, "Genders of Citizenship."

<sup>46</sup> See *ibid.*, at 44.

<sup>47</sup> Shklar, *American Citizenship*.

<sup>48</sup> See contribution by Mary Lyndon Shanley, Chapter 15.