

CONSERVATIVE PRAXIS AND WOMEN IN THE INFANTRY

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ABSTRACT

On December 3, 2015, former Secretary of Defense Ash Carter decided to fully integrate the military among the sexes. Liberals and Democratic Party leaders, of course, lauded the decision. Conservatives and Republicans, however, have not. That being so, this Essay analyzes Secretary Carter’s decision under a traditional conservative lens, ultimately arguing that conservative rancor over Secretary Carter’s alleged “social engineering” in fully integrating the military among the sexes has ideologically missed the mark.

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I. INTRODUCTION

On December 3, 2015, U.S. Defense Secretary Ash Carter announced that the U.S. Department of Defense (DoD) would open all combat jobs in the military to women.¹ With the stroke of a pen, women could not only apply to serve in conventional infantry and armor units in the military but in more elite units in the DoD like the U.S. Navy SEALs and the Army Green Berets as well.² President Obama lauded the decision, noting that the DoD was “taking another historic step forward by opening up . . . military positions, including combat roles, to women.”³ Other liberal politicians—especially female

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1. Memorandum from Ash Carter, U.S. Sec’y of Def., on Approval of Final Implementation Plans for the Full Integration of Women in the Armed Forces (Mar. 9, 2016) [hereinafter Ash Carter Memorandum].

2. See *id.*; see also Dan Lamothe, *In Historic Decision, Pentagon Chief Opens All Jobs in Combat Units to Women*, WASH. POST (Dec. 3, 2015), https://www.washingtonpost.com/news/checkpoint/wp/2015/12/03/pentagon-chief-to-announce-how-womens-roles-in-the-military-will-expand/?utm_term=.610e9eaeceb29.

3. Office of the Press Sec’y, White House, *Statement by the President on Women in the U.S. Military*, OBAMA WHITE HOUSE ARCHIVES (Dec. 3, 2015),

Democratic Party politicians who had previously served in the military—agreed.⁴

Many conservatives, however, did not. In fact, conservative commentators vigorously opposed the policy decision, deriding it as “a historic mistake,”⁵ arguing that integration of women into elite military units was “impossible, barring a vast change in . . . physical standards,”⁶ and characterizing Secretary Carter’s decision as one of improper “social engineering.”⁷ Conservative politicians also expressed concern, albeit along different lines. As a natural consequence of Secretary Carter’s decision, they argued, Congress might necessarily have to reform the Selective Service Act to require women to register for the draft.⁸ The U.S. Senate even went so far as to pass a bill that would require women to do so, but it was defeated in the House.⁹

Following President Trump’s election in 2016, the debate over “women in the infantry”¹⁰ continued as Democratic Party commentators expressed concern that President Trump would nominate a De-

<https://obamawhitehouse.archives.gov/the-press-office/2015/12/03/statement-president-women-us-military> [<https://perma.cc/6VK8-UNXP>].

4. See Marina Koren, *What the Female Veterans in Congress Think About Women in Combat*, ATLANTIC (Dec. 4, 2015), <https://www.theatlantic.com/national/archive/2015/12/congress-women-military-combat/418785> [<https://perma.cc/5NX9-HJ7M>] (“Of course women can serve in combat.” (quoting Sen. Tammy Duckworth (D-IL))); *id.* (“This change is long overdue.” (quoting Rep. Tulsi Gabbard (D-HI))).

5. David French, *Pentagon Makes ‘Historic Mistake’—Opening All Combat Jobs to Women*, NAT’L REV. (Dec. 3, 2015, 2:49 PM), <http://www.nationalreview.com/corner/427973/pentagon-makes-historic-mistake-opening-all-combat-jobs-women-david-french/> [<https://perma.cc/NZC4-GJNG>].

6. Aaron MacLean, *Progress Comes to the Military*, WASH. FREE BEACON (Dec. 4, 2015, 5:00 AM), <http://www.freebeacon.com/national-security/progress-comes-to-the-military> [<https://perma.cc/L4HY-WC2R>]; see also Thomas E. Ricks & Andrew Swick, *The GOP’s Stance on the Train Tracks of History Against Women in the Military*, FOREIGN POL’Y (Sept. 22, 2016), <http://foreignpolicy.com/2016/09/22/the-gops-stance-on-the-train-tracks-of-history-against-women-in-the-military/> [<https://perma.cc/86XA-EXDC>] (discussing the Republican Party platform calling for a roll back of the Obama Administration’s policies regarding women in the military).

7. See, e.g., Rowan Scarborough, *Trump Adviser Says Military Needs Counterrevolution, Reverse Social Engineering Policies*, WASH. TIMES (Nov. 13, 2016), <http://www.washingtontimes.com/news/2016/nov/13/military-needs-counterrevolution-reverse-social-en/> [<https://perma.cc/A6U9-C2C5>] (highlighting Republican Congressman Duncan Hunter’s argument that the “defense secretary should move quickly to reverse a number of social engineering policies adopted in the Obama years that have cut down on the warrior mentality” (internal quotations omitted)).

8. Austin Wright, *Republicans Raise Alarm About Women in Combat*, POLITICO (Dec. 3, 2015, 6:05 PM), <http://www.politico.com/story/2015/12/pentagon-women-in-combat-republican-reaction-216412> [<https://perma.cc/DWZ6-YNB6>].

9. See Amy McCarthy, *Unequal Law, Unequal Burden: The All-Male Selective Service Act, Civilian Rights, and the Limits of Military Deference in Modern Supreme Court Jurisprudence*, 45 FLA. ST. U. L. REV. 137, 138 (2018).

10. Scarborough, *supra* note 7.

fense Secretary who would reverse Secretary Carter's policy.¹¹ In fact, President Trump's eventual nominee, retired Marine General Jim Mattis, had even previously "questioned whether women [could] handle the 'atavistic primitive world' of the infantry."¹² More tellingly, the 2016 Republican Party platform "reiterate[d their] support for . . . [women's] exemption from direct ground combat units and infantry battalions"¹³ and impliedly decried the fact that Secretary Carter's decision had "sacrificed [military readiness] on the altar of political correctness."¹⁴

As a result of the political discord emanating from Secretary Carter's decision, this Essay evaluates whether conservatives are right to question females' opportunities to serve in traditionally male-only combat roles.¹⁵ Part II of this Essay begins by providing a brief overview of women's historical service in the military and conservative arguments against women's inclusion into traditionally male-only combat roles. In Part III, this Essay outlines the foundations of the military ethic and traditional conservative thought and discusses conservative thought's relevance to the "women in the infantry" debate. Finally, in Part IV, this Essay argues that conservatives' rancor over gender integration in the military has ideologically missed the mark.

11. See Andrew Tilghman, *Will Donald Trump's Pentagon Reverse Obama's Women-in-Combat Rules?*, MIL. TIMES (Nov. 13, 2016), <https://www.militarytimes.com/news/2016/11/13/will-donald-trump-s-pentagon-reverse-obama-s-women-in-combat-rules/> [<https://perma.cc/D8PK-9YFL>].

12. Rebecca Kheel, *Mattis's Views on Women in Combat Takes Center Stage*, HILL (Jan. 12, 2017, 6:00 AM), <http://thehill.com/policy/defense/313871-mattis-to-face-questions-over-women-in-combat-and-lgbt-troops-at-confirmation> [<https://perma.cc/GA39-G4LD>]. Now-Secretary of Defense Mattis, however, testified in his confirmation hearing that he has no plans to roll back women's advancements in the military. See Justin Fishel, *Mattis: 'No Plan' to Roll Back Women's Advancements in Military*, ABC NEWS (Jan. 12, 2017, 12:47 PM), <http://www.abcnews.go.com/Politics/mattis-lans-roll-back-womens-advancements-military/story?id=44736326> [<https://perma.cc/83Y5-RR7C>].

13. REPUBLICAN PLATFORM 2016, at 43 (2016), <https://prod-cdn-static.gop.com/static/home/data/platform.pdf> [<https://perma.cc/HTB7-VZ7C>]. On this point, the Republican platform went on to explain that it "oppose[d] anything which might divide or weaken team cohesion," warning "against modification or lessening of standards," and "reject[ed] the use of the military as a platform for social experimentation." *Id.* at 44.

14. *Id.* at 44.

15. More specifically, this Essay utilizes a conservative framework of rights grounded in the philosophy of Edmund Burke. See *infra* Section III.B.

II WOMEN'S EVOLVING OPPORTUNITIES TO SERVE IN THE MILITARY AND THE "COMBAT" EXCLUSION

A. *A (Brief) History of Women's Opportunities to Serve in the Military*

The military is historically a male-dominated institution,¹⁶ and the debate over what opportunities women ought to have in the military has been going on for decades.¹⁷ However, while women have historically served in various roles in the military as far back as the Revolutionary War,¹⁸ the U.S. government denied women the opportunity to even enlist in the military until 1948—the year Congress first passed the Women's Armed Services Integration Act (WASIA).¹⁹

Under the WASIA, however, "integration" only went so far. After all, while the Act aimed to integrate the Armed Forces among the sexes, Congress chose to do so in a relatively minimal fashion. In fact, the Act limited women's opportunities to serve in the military to just two percent of positions in the Armed Forces and banned them from serving in "combat [positions]."²⁰ Perhaps content with that status quo, Congress refrained from expanding women's opportunities to serve in more roles in the military for decades.²¹ In the wake of the Vietnam War, however, Congress renewed the debate to expand women's opportunities in the military for a number of reasons. First, because the modern women's rights movement "sparked the mobilization of an opposing movement intent on preserving women's existing roles,"²² and second, because the military began more aggressive-

16. Patricia M. Shields, *Sex Roles in the Military*, in *THE MILITARY: MORE THAN JUST A JOB?* 99, 106 (Charles C. Moskos & Frank R. Wood eds., 1988).

17. See, e.g., *id.*; G. Sidney Buchanan, *Women in Combat: An Essay on Ultimate Rights and Responsibilities*, 28 *HOUS. L. REV.* 503 (1991); Jeffrey S. Dietz, *Breaking the Ground Barrier: Equal Protection Analysis of the U.S. Military's Direct Ground Combat Exclusion of Women*, 207 *MIL. L. REV.* 86 (2011); Pamela E. Kirby, *Female Soldiers—Combatants or Noncombatants?*, 100 *MIL. L. REV.* 165 (1983) (book review).

18. See, e.g., Linda Grant De Pauw, *Women in Combat: The Revolutionary War Experience*, 7 *ARMED FORCES & SOC'Y* 209, 209 (1981) ("During the American War for Independence tens of thousands of women were involved in active combat.").

19. Women's Armed Services Integration Act of 1948, Pub. L. No. 80-625, 62 Stat. 356 (1948) (repealed 1967).

20. *Id.* Moreover, "combat" was a term that Congress had difficulty defining, ultimately leaving the final decision about what roles were formally "combat" roles (and hence, unavailable to women) to the respective service secretaries. See JEANNE HOLM, *WOMEN IN THE MILITARY: AN UNFINISHED REVOLUTION* 118-19 (rev. ed. 1992).

21. Jill Elaine Hasday, *Fighting Women: The Military, Sex, and Extrajudicial Constitutional Change*, 93 *MINN. L. REV.* 96, 107 (2008).

22. *Id.* at 108.

ly recruiting women following the abolition of the draft, citing the need for more volunteers.²³

The first modern political and popular debates about women's potential service in combat began in the 1980s and centered on two issues. First, politicians against allowing women to serve in combat raised concerns about the primacy of a woman's domestic, familial role.²⁴ Second, politicians raised concerns that allowing women to serve in combat roles would necessitate their registration for the draft.²⁵

In the ensuing years, however, women who volunteered to serve in the military had numerous opportunities to demonstrate their competency in combat. In 1989, women led combat units in Panama during Operation Just Cause.²⁶ Then, in 1990, women commanded a Navy ship.²⁷ And from 1990 to 1991, women entered combat in Operation Desert Storm—an operation in which over 40,000 women were deployed to serve in various combat roles.²⁸

As a consequence of these increasing opportunities for women to serve in combat, female servicemembers began changing the way American society viewed military women and their role in combat.²⁹ Because women had begun successfully proving themselves in such roles, the nation's political leaders consequently began expanding women's opportunities to serve in more military occupational specialties. In 1994, for example, then-Defense Secretary Les Aspin went so far as to issue his Direct Ground Combat Definition and Assignment Rule Memorandum, which opened all combat aviation positions to women and directed the Army and Marine Corps to study the potential for opening more assignments to women.³⁰

As the United States went to war in Afghanistan and Iraq in 2001 and 2003, respectively, women had the opportunity to prove themselves in combat yet again. Importantly, because of the nonlinear nature of those conflicts, American women served in real ground com-

23. *Id.*

24. *See, e.g.*, 117 Cong. Rec. 35,785 (1971) (statement of Rep. Emanuel Celler) ("Women represent motherhood and creation. Wars are for destruction.").

25. Hasday, *supra* note 21, at 109.

26. Dietz, *supra* note 17, at 96; *see also* Shannon Schwaller, *Operation Just Cause: The Invasion of Panama, December 1989*, U.S. ARMY (Nov. 17, 2008), https://www.army.mil/article/14302/operation_just_cause_the_invasion_of_panama_december_1989 [<https://perma.cc/GJQ5-MSH3>].

27. Dietz, *supra* note 17, at 96.

28. *Id.*; Women in Military Serv. for Am. Mem'l Found., Inc., *Persian Gulf War*, GEORGE MASON UNIV., <http://chnm.gmu.edu/courses/rr/s01/cw/students/leeann/historyandcollections/collections/photopages/phespersgulf.html> [<https://perma.cc/ZN8E-5GR2>].

29. Dietz, *supra* note 17, at 97.

30. Memorandum from Les Aspin, U.S. Sec'y of Def., on Direct Ground Combat Definition and Assignment Rule (Jan. 13, 1994).

bat on more occasions than ever before.³¹ Thus, just as political reforms followed in the wake of Operation Desert Storm, political leaders began considering expanding women's opportunities in the military even further.³²

In 2010, Congress formally initiated the effort to open ground combat roles to women when its Military Leadership Diversity Commission recommended that the armed services eliminate combat exclusion policies.³³ Then, in February 2012, the Pentagon eliminated the 1990s-era policy that banned women from positions collocated with ground combat units and opened up battalion-level positions in units engaging in ground combat.³⁴ Soon after, in January 2013, then-Chairman of the Joint Chiefs of Staff, General Martin Dempsey, ultimately recommended to then-Defense Secretary Leon Panetta that "[t]he time has come to rescind the direct combat exclusion rule for women and to eliminate all unnecessary gender-based barriers to service."³⁵ Finally, in December 2015, Secretary Carter formally approved the complete integration of women into combat roles.³⁶

B. Arguments Against Gender Integration in Combat Roles

Conservative-exclusionist arguments against women serving in combat roles are generally made in a utilitarian or consequentialist manner and tend to fall into one of three categories.³⁷ First, exclusionists tend to argue that for the purposes of combat, women are

31. Martha McSalley, *Women in Combat: Is the Current Policy Obsolete?*, 14 DUKE J. GENDER L. & POL'Y 1011, 1015 (2007) (noting that in Iraq and Afghanistan, women "are vulnerable to being injured, killed, or captured; they are being shot at in ambushes and hit by improvised explosive devices (IEDs); they are employing their weapons and killing the enemy").

32. See, e.g., Valorie K. Vojdik, *Beyond Stereotyping in Equal Protection Doctrine: Reframing the Exclusion of Women from Combat*, 57 ALA. L. REV. 303, 329 (2005); Megan Eckstein, *Timeline: Women in Combat Roles*, USNI NEWS (Sept. 22, 2015, 9:44 AM), <https://news.usni.org/2015/09/21/timeline-women-in-combat-roles> [<https://perma.cc/4UKM-8RW8>].

33. Eckstein, *supra* note 32.

34. *Id.*

35. Memorandum from Gen. Martin E. Dempsey, Chairman of the Joint Chiefs of Staff, on Women in the Service Implementation Plan to U.S. Sec'y of Def. (Jan. 9, 2013).

36. Ash Carter Memorandum, *supra* note 1.

37. See, e.g., Carla Crandall, *The Effects of Repealing Don't Ask, Don't Tell: Is the Combat Exclusion the Next Casualty in the March Toward Integration?*, 10 GEO. J.L. & PUB. POL'Y 15, 27-40 (2012) (citing three arguments against women serving in combat roles; namely, that women's inclusion would be detrimental to unit cohesion and effectiveness; that it would undermine unit discipline, order, and morale; and that women "[s]imply [d]on't [b]elong"); Michael Fumento, *A Weighty Argument Against Women in Combat*, AM. CONSERVATIVE (Sept. 1, 2016), <http://www.theamericanconservative.com/articles/a-weighty-argument-against-women-in-combat/> [<https://perma.cc/2HB3-C3PA>] ("The military is not a democracy, and its purpose isn't to provide equal opportunity. It is highly discriminatory, based not on skin color or religion but ability.").

generally weaker than men, and consequently cannot perform combat tasks as well.³⁸ Second, exclusionists argue that women's inclusion into ground combat units would be detrimental to unit cohesion and morale.³⁹ Finally, exclusionists point out that American society is simply "not prepared to accept women as killers, targets, or captives."⁴⁰

Exclusionists often point first to women's weaker nature as the primary reason for women not being allowed to serve in ground combat roles. After all, the difference between the average upper-body strength of men and that of women is "very large . . . [as w]omen have only one-half to two-thirds the upper-body strength of men."⁴¹ In addition to strength, cardiovascular measurements also show that women are generally less capable than men.⁴² Consequently, conservative-exclusionists argue that "integrating women into combat [must] mean lower standards for men and women" alike.⁴³

Second, exclusionists argue that even if some women are physically capable of serving in ground-combat units, women's inclusion into intense ground-combat units would impair overall unit cohesion and morale.⁴⁴ As one commentator illustratively argued, "[c]onfining men and women of that age in combat or training environments and expect[ing] there to be no sexual interaction is naïve."⁴⁵ Consequently, the "band of brothers" line of conservative exclusionists envision that ground-combat units would "quickly degenerate[] into a snarling pack of primates when the brothers begin to compete amongst themselves for the sexual attention of a much smaller number of women."⁴⁶

38. See, e.g., KINGSLEY BROWNE, CO-ED COMBAT: THE NEW EVIDENCE THAT WOMEN SHOULDN'T FIGHT THE NATION'S WARS 21-22 (2007) (arguing women's lack of physical strength and stamina makes them unsuited for ground combat).

39. See, e.g., Crandall, *supra* note 37, at 32-33 (outlining arguments that permitting women to serve in combat roles will lead to a breakdown in discipline that "will manifest itself in the form of harassment and violence").

40. Dietz, *supra* note 17, at 114.

41. BROWNE, *supra* note 38, at 21.

42. PRESIDENTIAL COMM'N ON THE ASSIGNMENT OF WOMEN IN THE ARMED FORCES, REPORT TO THE PRESIDENT, at C-12 (1992).

43. Mike Fredenburg, *Putting Women in Combat is an Even Worse Idea Than You'd Think*, NAT'L REV. (July 15, 2015, 4:00 AM), <http://www.nationalreview.com/article/420826/women-in-combat-military-effectiveness-deadly-pentagon> [<https://perma.cc/YU5-7FN4>].

44. Vojdik, *supra* note 32, at 335-36.

45. Daniel L. Davis, *The Truth About Women in Ground Combat Roles*, NAT'L INT.: SKEPTICS (Jan. 14, 2016), <http://www.nationalinterest.org/blog/the-skeptics/the-truth-about-women-ground-combat-roles-14904> [<https://perma.cc/WK5S-8YLG>].

46. David Frum, *The Truth About Women in Combat*, DAILY BEAST (Mar. 1, 2013, 4:30 AM), <http://www.thedailybeast.com/articles/2013/03/01/the-truth-about-women-in-combat.html> [<https://perma.cc/VU5J-6L6Q>].

Finally, conservative-exclusionists argue that war is an inherently masculine enterprise.⁴⁷ That attitude is particularly evinced by the U.S. Marine Corps' recruiting slogan famously used until 1976: "We're looking for a few good *men*."⁴⁸ Moreover, exclusionists often express concern that allowing women to serve in more combat roles threatens their ability to perform their natural, family caretaking role.⁴⁹

In order to begin formulating a response to these arguments, however, we must choose a framework for our analysis. That is where Part III begins.

III. THE MILITARY ETHIC AND CONSERVATISM

In its theories of man, society, and history, its recognition of the role of power in human relations, its acceptance of existing institutions, its limited goals, and its distrust of grand designs, conservatism is at one with the military ethic.

—Samuel Huntington⁵⁰

Conservative thought is uniquely apropos to the issue of women in combat because, as Samuel Huntington astutely pointed out, "conservatism is basically similar to the military ethic."⁵¹ Indeed, while "inherent contrast and conflict exist between the military ethic and liberalism . . . inherent similarity and compatibility exist between the military ethic and conservatism."⁵² If Huntington is right, then, conservative philosophy ought to be considered in light of the ongoing debate over women's opportunities to serve in traditionally male-only combat roles. Consequently, this Part seeks to sketch out exactly what constitutes the military ethic, what traditional conservative philosophy is, and why conservative thought provides a useful compass in guiding the military's direction.

47. See Valorie K. Vojdik, *The Invisibility of Gender in War*, 9 DUKE J. GENDER L. & POL'Y 261, 266 (2002) ("The military is a quintessentially masculine institution that historically excluded women.").

48. Crandall, *supra* note 37, at 38 (emphasis in original).

49. See, e.g., Jude Eden, *The Problems of Women in Combat—From a Female Combat Vet*, W. JOURNALISM (Jan. 26, 2013, 4:19 PM), <http://www.westernjournalism.com/the-problems-of-women-in-combat-from-a-female-combat-vet/> [<https://perma.cc/KN4D-T8D6>] ("I know of one divorced Marine who left her two sons . . . while she deployed. . . . What if she'd been killed . . . ?").

50. SAMUEL P. HUNTINGTON, *THE SOLDIER AND THE STATE: THE THEORY AND POLITICS OF CIVIL-MILITARY RELATIONS* 93 (1957).

51. *Id.* Most importantly for our purposes, Huntington finds strong similarities in the military ethic and the conservatism of Edmund Burke—not the "meaning given this term in popular political parlance . . . to refer to the laissez-faire, property-rights form of liberalism as exemplified . . . by Herbert Hoover." *Id.* Huntington also articulates why the military ethic is distinct from the ideologies of liberalism, fascism, and Marxism. See *id.* at 90-93.

52. *Id.* at 94.

A. Foundations of the Military Ethic, Articulated

The military ethic is . . . pessimistic, collectivistic, historically inclined, power-oriented, nationalistic, militaristic, pacifist, and instrumentalist in its view of the military profession. It is, in brief, realistic and conservative.

—Samuel Huntington⁵³

This Section turns its attention to the military ethic. And, as will be the case throughout this Part, we are fortunate to have readily available resources from scholars whose wisdom and erudition reach far beyond this author's own, and upon which we shall draw.⁵⁴

It is worth beginning to discuss the military ethic by first looking at the military's understanding of human nature. In Samuel Huntington's seminal work on civil-military relations, *The Soldier and the State*, Huntington identifies the military's view of human nature essentially as "see[ing] violence rooted in the permanent biological and psychological nature of men."⁵⁵ Consequently, when confronted with the nature of good and evil in man, the military ethic "emphasizes the evil."⁵⁶ Put yet another way, "[t]he man of the military ethic is essentially the man of Hobbes."⁵⁷

Huntington also notes that "[t]he uncertainty and chance involved in the conduct of war and the difficulty of anticipating the actions of an opponent make the military man skeptical of the range of human foresight and control."⁵⁸ Hence, while the U.S. military's doctrine ar-

53. *Id.* at 79.

54. As Bernard of Chartres is said to have humbly noted, we are merely like "dwarfs perched on the shoulders of giants. . . . [W]e see more and farther than our predecessors, not because we have keener vision or greater height, but because we are lifted up and borne aloft on their gigantic stature." *THE METALOGICON OF JOHN OF SALISBURY* 167 (Daniel McGarry trans., Univ. of Cal. Press, 1955) (1159).

55. HUNTINGTON, *supra* note 50, at 63.

56. *Id.*

57. *Id.* For Hobbes, "people are motivated solely by egotism and hedonism. They pursue pleasure and avoid pain for themselves; they have no sympathy with the pains and pleasures of others. To have and hold what they desire, people seek power over others: servants, serfs, slaves, and subjects." Trudi C. Miller, *The Duality of Human Nature*, 12 *POL. & LIFE SCI.* 221, 222 (1993); *see also* DEP'T OF DEF., JOINT PUBLICATION 1: DOCTRINE FOR THE ARMED FORCES OF THE UNITED STATES, at I-2 (2013) [hereinafter JOINT PUBLICATION 1] ("Thomas Hobbes stated that man's nature leads him to fight for personal gain, safety, or reputation. Thucydides said nearly the same thing in a different order, citing fear, honor, and interest as the common causes for interstate conflict.").

58. HUNTINGTON, *supra* note 50, at 63; *see also* MARTIN E. DEMPSEY, AMERICA'S MILITARY—A PROFESSION OF ARMS WHITE PAPER 5 (2012), <http://www.jcs.mil/Portals/36/Documents/Publications/aprofessionofarms.pdf> [<https://perma.cc/LQ5J-MYRX>] ("Today, much of the Joint Force is employed in environments involving ill-structured problems and against adaptable, thinking adversaries who exploit opportunities at every turn").

ticulates a number of abstract principles of war,⁵⁹ it ultimately emphasizes the limits of reason.⁶⁰

Further, Huntington goes on to note that “[t]he existence of the military profession depends upon the existence of competing nation states[, and t]he responsibility of the profession is to enhance the military security of the state.”⁶¹ In order to fulfill that responsibility, Huntington identifies two key principles that define the military ethic. First, because the military’s responsibility is to “enhance the military security of the state” by prosecuting its wars, Huntington argues that the military ethic “is basically corporative in spirit. It is fundamentally anti-individualistic.”⁶² In so stating, Huntington recognizes a principle famously articulated by Aristotle: man is, after all, a social and political animal.⁶³ Naturally, then, “[the] military practice is group practice. The military art is deeply concerned with the performance of the human group under stress.”⁶⁴

Second, Huntington argues that because the military profession “has accumulated experiences which make up a body of professional knowledge,” the military ethic “places unusual value upon the ordered, purposive study of history.”⁶⁵ “In the military[’s] view, man learns only from experience”⁶⁶—those of his own, and those that have come before him. To quote Liddell Hart, history is “universal experience.”⁶⁷ Notably, however, the military forthrightly denies viewing history through any particular ideological or theoretical lens.⁶⁸ This makes sense—given the military’s view of human nature, any overarching theory of progress (for the military man) is impossible.⁶⁹ Nevertheless, the military student of history is constantly looking back

59. See JOINT PUBLICATION 1, *supra* note 57, at I-3 (“War is socially sanctioned violence to achieve a political purpose. War historically involves nine principles, collectively and classically known as the principles of war.”).

60. *Id.*

61. HUNTINGTON, *supra* note 50, at 63.

62. *Id.* at 63-64. This is fundamentally so because “[t]he discharge of this responsibility requires cooperation, organization, [and] discipline.” *Id.* at 63.

63. See ARISTOTLE, POLITICS bk. I, at 3 (Benjamin Jowett trans., Barnes and Noble 2005) (c. 330 B.C.E.) (“Hence it is evident that the state is a creation of nature, and that man is by nature a political animal. And he who by nature and not by mere accident is without a state, is either a bad man or above humanity . . .”).

64. DEPT OF DEF., THE ARMED FORCES OFFICER 14 (2006).

65. HUNTINGTON, *supra* note 50, at 64.

66. *Id.*

67. B.H. LIDDELL HART, THE REMAKING OF MODERN ARMIES 172 (1927).

68. HUNTINGTON, *supra* note 50, at 64.

69. *Id.*

on experience, assiduously searching for principles “which may be capable of future application.”⁷⁰

Finally, the military ethic is inherently meritocratic.⁷¹ It eschews both democratic forms of decisionmaking and hereditary aristocratic forms of advancement. Rather, as a neoclassical profession, military officers act under a single rule: “Do what advances the common good.”⁷²

Ultimately, Huntington finds the personification of the military ideal (and hence, the military ethic) in the United States Military Academy at West Point.⁷³ Among other observations, he notes that at West Point:

The post is suffused with the rhythm and harmony which comes when collective will supplants individual whim. West Point is a community of structured purpose, one in which the behavior of men is governed by a code, the product of generations. There is little room for presumption and individualism. The unity of the community incites no man to be more than he is. In order is found peace; in discipline, fulfillment; in community, security.⁷⁴

In the next Section, we turn to the conservative philosophy of Edmund Burke. In this way, we can more effectively proceed to answering our ultimate question: Can conservative principles and the military ethic make room for women in the infantry?

B. Foundations of Burke’s “Conservatism,”⁷⁵ Articulated

A complete definition of conservatism is hard to come by, and may not even exist—at least in a form reducible to the scope of this Es-

70. *Id.* Importantly, the military understands this tenet as applying to individuals and institutions alike. See, e.g., DEMPSEY, *supra* note 58, at 4 (“[W]e are defined by our . . . life-long commitment to . . . maintaining our professional abilities through continuous improvement, individually *and* institutionally.” (emphasis added)).

71. See, e.g., George F. Will, *The Military Meritocracy*, NEWSWEEK (Feb. 10, 1991, 7:00 PM), <http://www.newsweek.com/military-meritocracy-205496> [<https://perma.cc/U9WR-CNDF>] (asserting “today’s military is a more severe meritocracy than most corporations,” and that “[m]ilitary life aspires to resemble professional sports in one particular [context]—concentration on performance”).

72. ROBERT E. ATKINSON, JR., THE LIMITS OF MILITARY OFFICERS’ DUTY TO OBEY CIVILIAN ORDERS: A NEO-CLASSICAL PERSPECTIVE 45 (2015), <http://ssi.armywarcollege.edu/pdf/files/PUB1285.pdf> [<https://perma.cc/ZF84-KEE3>].

73. HUNTINGTON, *supra* note 50, at 465.

74. *Id.*

75. My use of “scare” quotes here is, of course, intentional. After all, American liberals and conservatives alike have laid claim to Edmund Burke’s writings at one time or another. For one liberal claim, see generally Isaac Kramnick, *The Left and Edmund Burke*, 11 POL. THEORY 189 (1983). Notwithstanding such liberal claims, this Essay assumes Burke’s conservative political identity. See Bruce Mazlish, *The Conservative Revolution of Edmund Burke*, 20 REV. POL. 21, 21 (1958) (articulating Burke’s impeccable conservative credentials).

say.⁷⁶ Nonetheless, Professor Huntington has fortunately “lit the way” for us, so to speak, by identifying one strand of conservative thought that he believes effectively mirrors the military ethic—that of Edmund Burke.⁷⁷

Just as we approached our understanding of the military ethic, we can begin understanding Burke’s conservatism by articulating his general view of human nature. For Burke, human nature was “both rational and passionate, as well as both social and individualistic.”⁷⁸ And because Burke understood that individuals were incapable of surviving without society, he also believed that human nature was essentially made up of the social emotions that both inclined man toward society and bound him to it.⁷⁹

Given Burke’s understanding of human nature as both rational and passionate, we can also readily comprehend his deep suspicion of rational principles fabricated in the abstract. Perhaps Burke himself best articulated that suspicion in his condemnation of the abstract egalitarian ideals fueling the French Revolution:

I love a manly, moral, regulated liberty as well as any gentlemen . . . and perhaps I have given as good proofs of my attachment to that cause, in the whole course of my public conduct. . . . But I cannot stand forward, and give praise or blame to any thing which relates to human actions, and human concerns, on a simple view of the object, as it stands stripped of every relation, in all the nakedness and solitude of metaphysical abstraction.⁸⁰

According to Burke, the best way to build a better society was not by contemplating abstract designs, but by reflecting on one’s own tradition, custom, and experience.⁸¹ As Burke saw it, history was “the

76. See, e.g., GEORGE HAWLEY, RIGHT-WING CRITICS OF AMERICAN CONSERVATISM 6 (2016) (“The lack of fixed, universally accepted definitions is a problem when using terms like conservative . . .”); Thomas Sowell, *The Evolution of the Term ‘Conservative’*, NAT’L REV. (Sept. 16, 2010, 12:00 AM), <http://www.nationalreview.com/article/246682/evolution-term-conservative-thomas-sowell> [https://perma.cc/57SR-KN3Y] (“As for conservatism, it has no specific political meaning, because everything depends on what you are trying to conserve.”).

77. The one, true, father of conservative thought. See, e.g., Mazlish, *supra* note 75, at 21 (discussing the consequence of Burke’s “tergiversations” as “turn[ing] traditionalism into a self-conscious and fully-conceived political philosophy of conservatism”); see also HUNTINGTON, *supra* note 50, at 93 (noting that Burke’s conservatism was specifically akin to the military ethic).

78. Lauren Hall, *Rights and the Heart: Emotions and Rights Claims in the Political Theory of Edmund Burke*, 73 REV. POL. 609, 610 (2011).

79. *Id.*

80. EDMUND BURKE, REFLECTIONS ON THE REVOLUTION IN FRANCE 5 (Dover ed. 2006) (1790).

81. See *id.* at 29 (“All the reformation we have hitherto made, have proceeded upon the principle of reference to antiquity; and I hope, nay I am persuaded, that all those which possibly may be made hereafter, will be carefully formed upon analogical precedent . . .”);

gradual revelation of a supreme design—often shadowy to our blinking eyes, but subtle, resistless, and beneficent.”⁸² Importantly, however, the notion that tradition and history serve as a guide for society did not require Burke to defend writ large against all societal change. Rather, Burke readily allowed for such change (albeit incrementally), and especially for changes “to the peccant part,” which were “to be effected without a decomposition of the whole civil and political mass, for the purpose of originating a new civil order”⁸³

Finally, just as Burke despised abstract social designs, he was also suspect of purely democratic and aristocratic forms of government. Burke so despised the democracy of the French Revolution, in fact, that he went so far as to claim that “[i]f I had but one hour to live, I would employ it in decrying this wretched system, and die with my pen in my hand to mark out the dreadful consequences of receiving an arrangement of Empire dictated by the despotism of Regicide to my own Country”⁸⁴ Likewise, with respect to aristocratic governance, Burke once bluntly stated: “I am no friend to aristocracy, in the sense at least in which that word is usually understood.”⁸⁵ Rather, Burke favored a more Aristotelian, republican hierarchy in governance—at least with respect to the practice of government, if not so much for Aristotle’s proposed supremacy of theory.⁸⁶

C. *Aligning the Foundations of Burke’s Conservatism with the Foundations of the Military Ethic*

Having described the fundamentals of the military ethic and Burke’s conservatism, this Section addresses our penultimate question: was Huntington right to assert the military ethic is “at one”

id. at 32 (“By adhering in this manner and on those principles to our forefathers, we are guided not by the superstition of antiquarians, but by the spirit of philosophic[al] analogy.”).

82. RUSSELL KIRK, *THE CONSERVATIVE MIND: FROM BURKE TO SANTAYANA* 36 (1953).

83. BURKE, *supra* note 80, at 19. Burke also emphasized the importance of allowing for change. See *id.* (“A state without the means of some change is without the means of its conservation. Without such means it might even risk the loss of that part of the constitution which it wished the most religiously to preserve.”).

84. Edmund Burke, *Four Letters on the Proposals for Peace with the Regicide Directory of France*, in BURKE, *SELECT WORKS* 259, 276-77 (E.J. Payne ed., Oxford Clarendon Press 1892).

85. EDMUND BURKE, *THOUGHTS ON THE CAUSE OF THE PRESENT DISCONTENTS* 20 (F.G. Selby eds., 1951).

86. See, e.g., Francis P. Canavan, *Edmund Burke’s Conception of the Role of Reason in Politics*, 21 J. POL. 60, 60 (1959) (noting that Burke agreed with Aristotle in practice, but not theory); see also Donald C. Bryant, *Edmund Burke: A Generation of Scholarship and Discovery*, 2 J. BRIT. STUD. 91, 109 (1962) (finding commonality between Burke and the work of philosophers like Aristotle, Cicero, and St. Thomas Aquinas).

with Burke's conservatism?⁸⁷ In at least four ways, the answer is a resounding "yes."

First, we find a natural kinship between Burke's and the military's view of human nature. For the military, human nature is inherently bad. After all, in order to do its job effectively, it must "plan for the worst," and "[h]ope for the best."⁸⁸ Similarly, Burke was acutely sensitive to human beings' imperfectability—understanding, as he was, of human beings' competing rational and passionate impulses.

Second, Burke and the military are alike in that they share a hearty respect for history. For the military, history functions as a map, guiding the way for future conduct.⁸⁹ For Burke, history, tradition, and custom function as part of a contract—one with "those who are living, those who are dead, and those who are [yet] to be born."⁹⁰ Importantly, not only do Burke and the military share a common respect for history, but also a common understanding of its applicability to the present. Here, Burke and the military ethic equally disdain abstract, theoretical interpretations.⁹¹ Rather, both Burke and the military favor a more practical understanding of history,⁹² each with a healthy respect for the unique facts and circumstances of respective historical events. Consequently, Burke and the military both roundly reject abstract designs in favor of more pragmatic, practical approaches to problem-solving.⁹³

87. See *supra* note 50 and accompanying text.

88. Much like the principles of Lee Child's famous (but unfortunately, fictional) protagonist in his *Jack Reacher* series. See LEE CHILD, *JACK REACHER'S RULES* 5 (2012).

89. See HUNTINGTON, *supra* note 50, at 64 ("History is valuable to the military man only when it is used to develop principles which may be capable of future application."). The value the military places on history is perhaps best embodied by now-Secretary of Defense, Retired Marine General James Mattis. See, e.g., Jena McGregor, *The Avid Reading Habits of Trump's Secretary of Defense, James 'Mad Dog' Mattis*, WASH. POST (Dec. 1, 2016), https://www.washingtonpost.com/news/on-leadership/wp/2016/11/23/the-avid-reading-habits-of-trumps-potential-secretary-of-defense-james-mad-dog-mattis/?utm_term=.5e35f1fce796 ("Mattis . . . is . . . frequently noted for being an avid reader steeped in history . . .").

90. See BURKE, *supra* note 80, at 95-96 ("Society is indeed a contract. . . . It is to be looked on with other reverence; because . . . [i]t is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection. . . . [I]t becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born.").

91. For the military's approach to the study of history, see HUNTINGTON, *supra* note 50 and accompanying text. For Burke's approach, see BURKE, *supra* note 80 and accompanying text.

92. Compare Robert M. Hutchins, *The Theory of the State: Edmund Burke*, 5 REV. POL. 139, 139 (1943) ("No statesman ever insisted more often or more stoutly that he was a practical man than Edmund Burke."), with HUNTINGTON, *supra* note 50, at 64 ("[T]he military ethic . . . [R]ejects monistic interpretations [of history and] emphasizes the importance of force as contrasted with ideological and economic factors.").

93. E.g., HUNTINGTON, *supra* note 50, at 63 ("The uncertainty and chance involved in the conduct of war and the difficulty of anticipating the actions of an opponent make the

Third, Burke and the military recognize human beings' inherently social nature. For Burke, individuals were incapable of surviving without society, and human nature was essentially made up of the social emotions that both inclined man toward society and bound him to it.⁹⁴ For the military, social organization and hierarchy are of the utmost importance to achieving success.⁹⁵

Finally, we find uncanny similarities between the way Burke preferred to structure society and the way the military is structured as an institution. Given his more republican leanings, Burke understood that one of the great foundations of law was equity.⁹⁶ However, Burke was also quick to make clear: "all men have equal rights; but not to equal things."⁹⁷ Likewise, the military profession is similarly structured in a kind of Aristotelian and meritocratic hierarchy—dedicated as it is to the common defense—"which rests on the deeper foundation of both American constitutional law and neo-classical political theory: the common good."⁹⁸

IV. WOMEN AS COEQUAL "GUARDIANS OF THE REPUBLIC"

With the penultimate question disposed of, we can at long last reach the heart of our inquiry: Can conservatives in the mold of Edmund Burke make room for women in the infantry? This Part seeks to show why that answer must be made in the affirmative.

As a starting point, it is worth noting that the Preamble to our Constitution reminds us that our government, much like the government Burke and the military prefer, is a republic—"a government devoted to advancing the common good, of which the common defense and the general welfare are inseparable parts."⁹⁹ Given that understanding, we can perhaps ask our question in a way that frames the issue more clearly¹⁰⁰: if ours is a republic where all have equal rights, but not to equal things, should the opportunity to serve in traditionally male-only combat roles function as a "right" or a "thing?"

military man skeptical of the range of human foresight and control."); Hutchins, *supra* note 92, at 139 ("On almost every page of his writings [Burke] proclaims his distaste for theory and abstraction.").

94. See Hall, *supra* note 78 and accompanying text.

95. See HUNTINGTON, *supra* note 61 and accompanying text.

96. See Hutchins, *supra* note 92, at 140 (identifying Burke's notion that "[o]ne of the great foundations of law is equity").

97. BURKE, *supra* note 80, at 57. Most importantly, Burke explicitly noted that all men have "a right to justice." *Id.*

98. ATKINSON, *supra* note 72, at 2-3.

99. *Id.* at 46.

100. And, importantly, the way Burke would have understood it.

We can begin unpacking this question by taking stock of a rather unfortunate truth, first articulated by Thucydides and echoed by the likes of Plato, Aristotle, and Huntington: the growth of nations tends to excite fear in others, making war inevitable.¹⁰¹ Hence, republics throughout history also recognize a fundamental corollary: For the Republic to thrive, it must establish a military of Guardians—and those Guardians must win.¹⁰²

Establishing a military, however, is no simple panacea. After all, given the gravity and magnitude of the military profession's responsibilities,¹⁰³ our Republic must answer a series of derivative questions.¹⁰⁴ First among them, who might those Guardians be? Concomitantly, what qualities should they have?¹⁰⁵ Where might we find them? And how ought we best cultivate their abilities to facilitate their success?¹⁰⁶ With Burke's conservatism as our guide, we can prescriptively answer these questions by looking back at our own military's history, tradition, and custom.

101. See ARISTOTLE, *supra* note 63, at 12 ("And so, in one point of view, the art of war is a natural art of acquisition, . . . an art which we ought to practise against wild beasts, and against men who, though intended by nature to be governed, will not submit; for war of such a kind is naturally just."); MARCUS AURELIUS, *MEDITATIONS* bk. II, at 15 (Martin Hammond trans., Penguin Classics ed. 2006) ("[L]ife is warfare . . ."); HUNTINGTON, *supra* note 50, at 65 ("If the causes of war are in human nature, the complete abolition of war is impossible."); PLATO, *THE REPUBLIC* bk. II, at 49-50 (A.D. Lindsay trans., Everyman's Library ed. 1976) ("Then if we are to have enough for pasture and ploughland, we must take a slice from our neighbours' territory. And they will want to do the same to ours . . . [So] let us only notice that we have found the origin of war in those passions which are most responsible for all the evils that come upon cities and the men that dwell in them." (interlocutor's responses omitted)); THUCYDIDES, *HISTORY OF THE PELOPONNESIAN WAR* bk. I, at 43 (Charles Forster Smith trans., Harv. Univ. Press ed. 1956) ("The truest explanation [for the cause of the Peloponnesian War] . . . I believe to have been the growth of the Athenians to greatness, which brought fear to the Lacedaemonians and forced them to war.").

102. See, e.g., HUNTINGTON, *supra* note 50, at 73 ("The military profession exists to serve the state. To render the highest possible service the entire profession and the military force which it leads must be constituted as an effective instrument of state policy.").

103. See, e.g., MICHAEL WALZER, *JUST AND UNJUST WARS: A MORAL ARGUMENT WITH HISTORICAL ILLUSTRATIONS* 316 (5th ed. 2015) ("[Military officers take on immense responsibilities . . . unlike anything in civilian life, for they have in their control the means of death and destruction. The higher their rank, the greater the reach of their command, the larger their responsibilities.").

104. Not coincidentally, these questions also happen to strike at the very heart of our current inquiry.

105. On this point, perhaps Plato himself said it best: "Still, we must have [the Guardians] gentle to their fellows and fierce to their enemies." PLATO, *supra* note 101, at 51. Moreover, Plato remarked, "[t]hen he who is to be a good and noble guardian of our city will be by nature philosophical and spirited, and quick and strong." *Id.* at 53.

106. This last question concerning Guardians' cultivation almost certainly exceeds the scope of this Essay. For one helpful resource, however, see STEPHEN E. AMBROSE, *DUTY, HONOR, COUNTRY: A HISTORY OF WEST POINT* 322-33 (Johns Hopkins Paperbacks ed. 1999) (discussing the modern curriculum at the U.S. Military Academy at West Point).

A. *Pro: Women as Coequal Guardians*

At the outset of this Section (as we did near the outset of this Part), we must yet again acknowledge a few historical and philosophical truths about women in the military. First, the military profession is emphatically a male-dominated institution.¹⁰⁷ Second, we must note that as a properly conservative institution, the military is simply not the place for abstract “social engineering.”¹⁰⁸ No, sir.¹⁰⁹ Notwithstanding these two points, however, we can formulate a thoroughly conservative argument for women to at least have the opportunity¹¹⁰ to serve in traditionally male-only combat roles.

First, opening traditionally male-only combat roles to women is, of course, a change. As we have also recognized, however, Burkean-minded conservatives readily allow for societal change, and particularly for changes to the “peccant” part.¹¹¹ Thus, in order to determine whether this change is addressed to the peccant¹¹² part of our society, we must look to the principles undergirding our Republic itself.

Most importantly, we know that ours is a republic dedicated to fostering the common good.¹¹³ Bearing that crucial principle in mind, it is safe to say that our Republic clearly benefits by obtaining and fostering the best possible Guardians that it can—whatever their gender and whatever role that Guardian can best fulfill.¹¹⁴ After all, if

107. See Shields, *supra* note 16 and accompanying text. Currently, women comprise approximately fifteen percent of the current active-duty force. See McCarthy, *supra* note 9, at 148.

108. See Scarborough, *supra* note 7 and accompanying text; discussion *supra* Sections III.A-B.

109. BURKE, *supra* note 80, at 48.

110. Importantly, an opportunity serves as no guarantee. See *Opportunity*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/opportunity> (last visited Sept. 23, 2017) (defining “opportunity” as “a good *chance* for advancement or progress” (emphasis added)).

111. See BURKE, *supra* note 80, at 29; see also text accompanying note 81.

112. See *Peccant*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/peccant> (last visited Sept. 23, 2017) (defining “peccant” as “guilty of a moral offense” and “violating a principle or rule”).

113. See ATKINSON, *supra* note 72 and accompanying text; see also THE FEDERALIST NO. 57, at 316 (James Madison) (Robert Ferguson ed. 2006) (“The aim of every political constitution is, or ought to be, first, to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society . . .”).

114. On this point, it is worth noting a fundamental truth known as far back as Plato’s own time, but one that has since seemed to have been forgotten: men and women alike share the opportunity and burden of serving as proper Guardians of the Republic. See PLATO, *supra* note 101, at 149 (“[T]o this community of women with men in education . . . they must both remain in the city and go out to war . . . and as far as possible take their full share in everything, and that by so doing their actions will be most desirable and not contrary to the natural relations of male and female or their natural community.”).

we deliberately deprive ourselves of allowing potentially capable Guardians the opportunity to flourish, we all suffer.¹¹⁵

Finally, Secretary Carter's decision to open up all combat roles to women comes in a manner completely consistent with Burke's desire for change to proceed in an incremental fashion. Slowly, but surely, our Republic has learned from its own experience and has consequently afforded women ever-expanding opportunities to serve in more and more roles in the military.¹¹⁶ Given that history, then, Secretary Carter's decision to fully integrate the military looks much less like a sweeping, earth-shattering edict, and much more like a historically and empirically informed nudge in the right direction. Under those conditions, we can be sure that Burke would likewise have approved.

B. Addressing the Contra—Why Conservatives Might Be Wrong

When we began, this Essay articulated three primary arguments against women's inclusion into traditionally male-only combat roles. Namely, those arguments are: (1) on the whole, women tend to be physically weaker, and hence, less capable of handling the "atavistic primitive world" of the infantry;¹¹⁷ (2) women's inclusion into traditionally male-only roles would be detrimental to unit cohesion; and finally, (3) American society was simply not prepared to accept women serving in such roles. This Section will address each in turn.

First, we can dispose of the argument that women ought to be excluded on the basis of natural gender differences by pointing out a readily apparent non sequitur. In fact (and logic), just because *many* women happen to be physically weaker than men, we need not make the incorrect logical deduction that *all* women are physically incapable of doing the job. As we noted above—if any are capable of flourishing in the role of a Guardian, all ought to have the opportunity. Likewise, requiring lower standards for women's entry in such roles does not necessarily follow, either. Through our own wisdom and ex-

115. See *id.* at 51 ("Then . . . because the work of our guardians is the most important of all, it will demand the most exclusive attention and the greatest skill and practice." (internal quotation marks omitted)). For one further example (albeit, one arising in a separate context), commentators have also described the many benefits that flowed from desegregation and expanded opportunity for African Americans. See, e.g., Gavin Wright, *The Stunning Economic Impact of the Civil Rights Movement*, BLOOMBERG VIEW (Feb. 13, 2013, 11:17 AM), <https://www.bloomberg.com/view/articles/2013-02-13/the-stunning-economic-impact-of-the-civil-rights-movement> [<https://perma.cc/2U3L-US6R>] (citing studies finding "that Southern school integration increased blacks' graduation rates, test scores, earnings and adult health status, while reducing the probability of incarceration"). A move in pursuit of the common good, indeed.

116. See discussion *supra* Section II.A.

117. See *supra* note 11 and accompanying text.

perience, we can certainly discern a neutral standard for entry into such roles, regardless of gender.¹¹⁸

Second, we can counter the argument that women's inclusion into traditionally male-only combat roles is detrimental to unit cohesion by reminding exclusionists of two points. First, we can point to the intensely meritocratic nature of the military profession.¹¹⁹ For the military, we know that if an individual is the best person for the job, then that individual ought to do it. Rightly, the profession of arms can afford nothing less. Second, we can look back at our own experience. Given the nonlinear nature of our recent conflicts in Iraq and Afghanistan, women have fought alongside men on more occasions than ever before—and proved themselves successful.¹²⁰

Finally, with respect to society's uneasiness in allowing women to depart from their more domestic, familial roles, we know that this position is nothing more than a simple misapprehension of American views.¹²¹ Rather, what our Republic demands, and what it ultimately must do, is to provide the right environment for human beings to flourish and become fully realized. Indeed, as renowned American historian David McCullough so eloquently observed, "[W]hat most of us [Americans] want—as most people everywhere want more than anything—is to be useful. This and to feel we belong to something larger than ourselves."¹²²

V. CONCLUSION

The role of the Guardian of the Republic is complex and challenging, but there is none more important to our society. In this Essay, we have discussed the history and magnitude of traditionally male-only Guardian roles, ultimately concluding that relegating such roles solely to the masculine gender is no preordained truth. Rather, we have identified that denying women even the *opportunity* to flourish

118. Or simply use the already existing standard applicable to males trying out for such roles.

119. See Will, *supra* note 71 and accompanying text.

120. More recently, women have further proved themselves by graduating from the U.S. Army's grueling Ranger School. See, e.g., Scott Neuman, *First Female Soldiers Graduate from Army Ranger School*, NPR: THE TWO-WAY (Aug. 21, 2015, 12:17 PM), <http://www.npr.org/sections/thetwo-way/2015/08/21/433482186/first-female-soldiers-graduate-from-army-ranger-school>.

121. See, e.g., Karen Oppenheim Mason & Yu-Hsia Lu, *Attitudes Toward Women's Familial Roles: Changes in the United States, 1977-1985*, 2 GENDER & SOC. 39, 39 (1988) ("Despite speculation that a backlash against feminism occurred . . . data show a significant increase in profeminist views of the wife and mother roles among both women and men.").

122. DAVID MCCULLOUGH, *THE AMERICAN SPIRIT: WHO WE ARE AND WHAT WE STAND FOR* 38 (2017).

in such roles is quite clearly a “peccant” part of our society. As famed Roman Emperor Marcus Aurelius reminds us:

Just as you yourself are a complementary part of a social system, so too your every action should complement a life of social principle. If any action of yours, then, does not have direct or indirect relation to the social end, it pulls your life apart and destroys its unity. It is a kind of sedition, like an individual in a democracy unilaterally resigning from the common harmony.¹²³

Surely Emperor Aurelius, Burke, the military, and all of us as Americans can agree: the time to allow our men and women alike to flourish as true Guardians of the Republic is now.

123. AURELIUS, *supra* note 101, at 88.

