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PROVIDING LIFETIME INCOME THROUGH SOCIAL SECURITY AND PRIVATE PENSIONS

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THE IMPACT OF REFORM ON WOMEN'S ECONOMIC SECURITY

Professor Karen C. Burke

PROF. BURKE: Thank you.

I would like to take up where Lea Abdnor left off and then move to the topic of my co-authored paper, which will appear in the same volume as this symposium. Lea has talked about the advantages of privatization. Since she has been frank about where she stands, let me also be frank. I have previously co-authored an article entitled *Privatizing Social Security: Eight Myths.*[46] You may disagree about whether eight is the right number, but I still regard them as myths. What Lea has proposed is a privatized system with a level of minimum guaranteed benefits. Such a system would separate the earnings-related and redistributive components of the current system. The proposed reform would preserve a minimum social safety net and overlay that with a system of personal retirement accounts. She says, let's just carve out some portion of the existing payroll tax to finance private accounts: two, three, four, five percent or maybe even more. Now, obviously, if you take a tremendous amount of money, five percent or more of payroll, and put it into the private system, let it earn stock market returns and then, as many privatizers do, discount that at a risk-free rate of return, you will come out with a tremendous money's-worth analysis. So, I think it is important to be careful about what we are comparing. We must recognize that a money's-worth analysis may not be very useful in comparing different plans with different investment portfolios.

Lea also mentioned the idea of an opt-out provision that would allow some people to choose between remaining in the current system or opting out entirely. My own guess, as a tax lawyer, is that an opt-out provision would be tremendously difficult to implement as a practical matter. But let's leave that for further consideration.

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of Minnesota Law School.

46 *See* Karen C. Burke & Grayson M.P. McCouch, *Privatizing Social Security: Eight Myths*, 74 TAX NOTES 1167 (1997).

Let me turn to the topic of my co-authored paper. We focus on how women fare under the existing Social Security system and how they would fare under a privatized system. We also offer some suggestions for reform within the existing system.

If you look at the statistics, there is currently a substantial disparity between men and women in old age in terms of economic security. Even with the existing safety net, around 13 percent of elderly women live in poverty. Without Social Security, over 52 percent of elderly women would be below the poverty line. Married couples are likely to be relatively prosperous in retirement, but survivors (typically women) fare much less well. The poverty rate for elderly unmarried women is nearly four times as high as for elderly married couples. Thus, the existing system arguably overprotects married couples and underprotects survivors.

Eugene Steuerle, in his presentation, told us a little bit about how we got to where we are now. We did not intentionally plan to underprotect survivors, but that is where we have ended up. The current system of spousal benefits is anachronistic and often provides an upside-down subsidy to those who are relatively well off. It favors one-earner couples over two-earner couples and single individuals. The disparate treatment of one- and two-earner couples is accentuated at the death of the first spouse. Assume that a one-earner couple and a two-earner couple each have equal incomes, but the two-earner couple's income is split evenly between the spouses. Under the current system, the surviving spouse in the two-earner couple actually receives less survivor protection than the surviving spouse in the one-earner couple.

Clearly, we need to ameliorate that unintended disparity. While the existing system is flawed, there are a number of proposals that would improve both equity and adequacy. I am concerned that privatizing proposals may distract us from consideration of concrete reforms such as setting a minimum survivor benefit at, let's say, 75 percent of the couple's benefit. Increased survivor benefits should be coupled with adjustments in the existing system of spousal benefits. A married couple would have somewhat lower benefits while both spouses are alive, but the survivor would have correspondingly higher benefits. Shifting benefits from couples to survivors could be accomplished in a cost-neutral manner. Such incremental reform is intended to address problems of both equity and adequacy within the existing system.

Let me make some brief comments about how women would likely fare under a privatized system. Perhaps we should ask more broadly how both men and women would fare under privatization. If you are skeptical about a naive money's-worth analysis, it is not clear that a privatized system would necessarily provide higher returns for most people, let alone women. Even assuming that some groups may benefit from privatization, how would women fare? One problem is that women tend to be lower earners. Thus, they would tend to fare less well under a system linking benefits more closely to earnings. Women benefit not only from the progressivity of the existing benefit structure but also from longevity protection.

Now when we were talking about privatized accounts earlier, we did not discuss whether annuitization of account balances should be required, nor did we ask whether annuities should be calculated on a sex-neutral basis. Also, we didn't specify whether earnings-sharing would be a feature of a privatized system. These crucial issues are addressed differently under the various proposals for partial privatization. However, let us take as one example the proposal for personal security accounts (PSAs) — the most ambitious privatization proposal described in the Advisory Council's report. The PSA proposal would allow lump sum withdrawals and would allow the individual owner of the account to leave the account to beneficiaries other than the surviving spouse. There would be no provision for sharing of earnings between spouses. Clearly, you have to look carefully at the details of particular privatization proposals to understand the potential consequences.

Perhaps there are philosophical reasons for allowing unfettered control of private accounts, but the likely outcome would be greater insecurity for women, especially survivors. Absent added protection for survivors (and divorced spouses), private accounts might simply invite financial abandonment of the economically weaker party. Of course, we could subject private accounts to a host of regulations to attempt to replicate some of the protections afforded under the current system. Then you have to ask what is the purpose of such a fundamental change and whether incremental reform might be a more promising avenue. I think that the bottom line is that most women — because they are low and intermittent earners and because they tend to live longer than men — would fare less well under a privatized system, at least one modeled on the PSA approach.

There is also a question about whether women invest as wisely as men do. Well, the broader question is do men invest wisely? Even a cursory examination of the existing literature on financial literacy is not going to leave any of us feeling very hopeful. And, even if we could improve the level of financial education, it strikes me that we are embarking on something that has tremendous risks compared to the current system.

Although the current system clearly needs to be overhauled and is arguably loaded with inequities, it has provided a remarkable degree of security for the elderly. Moreover, women as a group have benefited disproportionately from the existing system. All of us who are baby-boomers should be mindful of how much our own parents' generation has benefited from the protection afforded by Social Security. In talking about implicit liabilities under the existing system, some commentators use the example of a "sickly patriarch."[47] The sickly patriarch incurs very large expenses toward the end of his life and can't pay his medical bills. His children step in and agree to pay his bills; and the grandchildren do the same. Eventually, however, the patriarch's great-grandchildren decide they don't want to make any contribution to cover the debt that has been handed down through the generations. The problem is that the burden of any default will fall not on the patriarch, who is long gone, but rather on the great-grandchildren's own parents. We have to understand that the windfall transfer to the initial generations has already been largely incurred. We are going to have to pay that one way or another. Let's be cautious about how we proceed with fundamental reform and acknowledge that there are no painless solutions.

Thank you.

PROF. SCHWAB: Our last speaker is Diane Oakley.[****]

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[47] *See* John Geanakoplos et al., *Social Security Money's Worth, in* PROSPECTS FOR SOCIAL SECURITY REFORM 79, 87-88 (Olivia S. Mitchell et al. eds., 1999).

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