

How the 100-Year Life Challenges the Legal Model of the Human Life Cycle

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Many areas of the law rely, explicitly or implicitly, on a three-stage model of the human life cycle. According to this familiar construct, the first stage is childhood, the second is adulthood, and the third is old age. Childhood ends with high school graduation, and old age begins with retirement. In their book, Lynda Gratton and Andrew Scott point out that increasing longevity will challenge the three-stage life cycle, as human beings who expect to live for a century begin to reshape their lives accordingly.¹ In this chapter, I consider the related topic of how the prospect of the 100-year life might – and should – change assumptions about the life cycle that are now built into the law.

The three-stage model of the life cycle plays an organizing role in the law; it is a simplifying construction, a set of unwritten assumptions about the life course, that helps impose order and make rules possible.² Like any model, it relies on averages and generalities. And so, according to the law, childhood ends at age eighteen (voting) or twenty-one (drinking), for instance, even though adolescents vary in their maturity levels. The world of work begins at about age sixteen (when child labor laws no longer apply), even though some people (think child actors or college graduates) begin work earlier or later. Old age begins at age sixty-seven, with the full retirement age for Social Security, even though many older adults enjoy fine health and work into their seventies and eighties.

The three-stage model of the life cycle plays both a descriptive and a prescriptive role in the law. Those whose lives fit neatly into the three stages find themselves protected by law; those whose lives diverge may be excluded from legal protections

¹ LYNDY GRATTON & ANDREW SCOTT, *THE 100-YEAR LIFE: LIVING AND WORKING IN AN AGE OF LONGEVITY* (2016).

² To take another example, consider the rules of family law, which define a parent as an immediate biological forbear or a formal adopter. These rules describe many people who provide the close and continuous care that human children require, but they exclude others: The rules of parenthood are, first and foremost, *legal* tools that demarcate the powers of adults with respect to children. See Anne Alstott, Anne Dailey & Douglas NeJaime, *Psychological Parenthood*, 106 MINN. L. REV. 2363 (2022).

and benefits.³ Teen parents, for example, pose a paradox for the law, because they are simultaneously entitled (under federal constitutional law) to govern their own children while being subject to the control of their own parents (or the state).⁴ Adult children pose another legal puzzle: Federal tax benefits for children generally end when children turn seventeen or eighteen, even though one-third of young adults between eighteen and thirty-four now live with their parents.⁵ Early retirees face a financial disadvantage, even when poor health or economic catastrophe forecloses their work options. And retirement law sometimes treats work and retirement as mutually exclusive, denying older people the ability to work while also taking retirement benefits.⁶

In this chapter, I show that social and economic changes have already undermined the three-stage model of the life cycle, and that those changes will likely accelerate as society comes to terms with the prospect of the 100-year life. The result is that the law's rules are increasingly inaccurate, as a descriptive matter, and unjust, as a normative matter.

Today, adolescence extends into the twenties for many young people, who spend years in and out of higher education and living with their parents. Marriage and work, the major institutions that once defined adulthood, have morphed as well. More and more people never marry; those who do often have several marriages. Blended families and single parenthood have become common, and many people have children in their thirties and forties and beyond. The stable workplace has given way to gig jobs, midlife unemployment, and precarious service jobs.

Even in old age, life has changed. Today, affluent workers enjoy good health and wide opportunities into their seventies and beyond, while ordinary workers face poor

³ Another legal punishment takes the form of exclusion from the three-stage model. Sometimes, exclusion and punishment are deliberate and explicit. For instance, the Fair Labor Standards Act (limiting child labor) and the Social Security Act (creating a federal retirement system) exempted farm workers and domestic workers, groups that were disproportionately Black. See Phyllis Palmer, *Outside the Law: Agricultural and Domestic Workers under the Fair Labor Standards Act*, 7 J. POLICY HIST. 416 (1995); Social Security Act of 1935 § 210. These legal omissions denied these workers the protected spheres of childhood and retirement and left them with a version of the cradle-to-grave employment that dated from slavery.

⁴ Maya Manian, *Minors, Parents, and Minor Parents*, 81 MO. L. REV. 127 (2016); Kendra J. H. Fershee, *A Parent Is a Parent, No Matter How Small*, 18 WM. & MARY J. WOMEN & L. 425 (2012).

⁵ Jonathan Vespa, *Jobs, Marriage and Kids Come Later in Life*, US BUREAU OF THE CENSUS, <https://www.census.gov/library/stories/2017/08/young-adults.html>.

⁶ Private pensions may not permit current workers, even if past age sixty-five, to claim benefits while also drawing a salary. *FAQs about Retirement Plans and ERISA*, US DEP'T OF LAB., <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/retirement-plans-and-erisa-for-workers.pdf>. The Social Security rules reduce benefits for some retirees who continue to work. The current version of the earnings test reduces benefits only for early retirees and compensates with a higher benefit after full retirement age. See *Retirement Earnings Test*, SOCIAL SECURITY ADMINISTRATION, <https://www.ssa.gov/policy/docs/program-explainers/retirement-earnings-test.html>.

health and shrinking employment options, often in their fifties. Social Security's rules, designed for an earlier era, increasingly reward the life patterns of the highly paid and penalize the life patterns of low earners.⁷

The 100-year life will further upend the three-stage life cycle and likely demand a new model – a new set of descriptive and prescriptive propositions about the life course. And the model adopted will influence how Americans experience the new, longer life cycle. One set of laws might consign people to live out extra years in pain and penury, while another set might help most people enjoy longer years of health and vitality. And so, even though predictions about the 100-year life involve some speculation, it is the kind of speculation that we should undertake. The power of the law will distribute rewards and punishments according to the model of the life cycle we choose.

In this chapter, I expand on these ideas using examples drawn from three areas of law: higher education, family and inheritance, and retirement. For each, I document why the three-stage model is inaccurate and why that inaccuracy produces objectionable results. And I will speculate about the issues the law should address in anticipation of the 100-year life.

1.1 HIGHER EDUCATION AS A LIFELONG TRANSITION MECHANISM

The three-stage life cycle frames higher education as once-in-a-lifetime career preparation. On this model, late adolescents obtain their degrees and then use them in a career lasting decades. But Lynda Gratton and Andrew Scott point out that the 100-year life is likely to change the higher education system, as long-lived adults make multiple transitions among jobs over their lifetimes.⁸

The once-in-a-lifetime norm is not written in law, and so middle-aged and older people can, in theory, return to school and change careers. But the US system of higher education finance is built on the once-in-a-lifetime norm. Two-thirds of students seeking a bachelor's degree take out loans, even at state universities, and the average borrower graduates with more than \$30,000 in debt.⁹ Among all student debtors, 20 percent owe more than \$60,000.¹⁰ Students who earn graduate degrees take on far more debt: On average, those earning medical degrees now graduate with nearly \$250,000 in student debt, and those earning law degrees graduate with \$150,000.¹¹

⁷ ANNE L. ALSTOTT, *A NEW DEAL FOR OLD AGE* (2016) (chapters 2 and 3).

⁸ See GRATTON & SCOTT, *supra* note 1.

⁹ *Loans for Undergraduate Students and Debt for Bachelors Degree Recipients*, NATIONAL CENTER FOR EDUCATION STATISTICS (last updated May 2023), <https://nces.ed.gov/programs/coe/indicator/cub>.

¹⁰ Kadija Yilla & David Wessel, *Five Facts about Student Loans*, BROOKINGS INST. (2019), <https://www.brookings.edu/blog/up-front/2019/11/12/five-facts-about-student-loans>.

¹¹ *Trends in Graduate Student Loan Debt*, NATIONAL CENTER FOR EDUCATION STATISTICS (Aug. 2, 2018), <https://nces.ed.gov/blogs/nces/post/trends-in-graduate-student-loan-debt>.

These price tags deter a second round of higher education, and the tuition cost is only part of the expense. Living costs for late adolescents are relatively low, because they tend to be single, live in cheap, shared housing, and (in many cases) have access to parental resources. By contrast, midlife students are more likely to have children of their own, to own homes, and to shoulder other obligations (e.g., caring for aging parents). To secure another round of higher education, these students would have to save or borrow enough to fund tuition plus all these costs.

All this would not be a problem if higher education could continue to be a once-in-a-lifetime task undertaken in early adulthood. But the prospect of the 100-year life should prompt us to ask whether we should, instead, see higher education as one (of many) lifelong transition mechanisms.

The Great Recession and, most recently, the COVID-19 pandemic have illustrated the economic shocks that can decimate whole industries without warning. More gradual, longer-term trends toward the outsourcing and mechanization of jobs also point toward the need for transition mechanisms.

If later-in-life access to higher education is to be made real, then hard questions about education finance must be addressed. At a minimum, tuition costs should be held in check, and financial aid should be readily available to older workers, even though they have shorter working periods in which to repay their debt. More ambitiously, the states (perhaps supported by federal funds) could radically reduce tuition at state colleges and universities.

Stepping back, the larger issue is whether we ought to take seriously the idea of *higher education as a social risk-sharing device* rather than a once-in-a-lifetime private purchase. Seen in that light, midlife college tuition might properly be included in a social insurance scheme of some kind. And this requires a more thorough reimagining of the risks of a (very long) working life.

The twentieth-century Social Security system continues to insure most US workers (and their families) against three big economic risks: disability, retirement, and early death. The unemployment insurance system insures against short-term unemployment. But there is no universal, public program for workers who fall victim to economic shocks and find that their skills are simply worth little in the marketplace.

Reimagining the role of higher education in our social insurance system is a big agenda but an important one, and the prospect of the 100-year life intensifies the need to undertake it.

1.2 SERIAL MONOGAMY AND LASTING PARENTHOOD

Families have changed remarkably since the mid twentieth century. At that time, most people married in young adulthood and remained married to the same partner through old age. Children came along when their parents were young adults and were expected to be self-sufficient and well into their own adulthood once parents

reached old age. These patterns were remarkably consistent across social classes from World War II until the 1970s.¹²

These patterns fit the three-stage model of the life cycle. The first stage is one's own childhood; the second is the childrearing years; and the third is retirement and old age, when children are long gone. In this model, marriage marked the longest-lasting and most important relationship in any lifetime; a lasting marriage anchored the nuclear family and defined one's economic and social life.¹³

This model of the family strongly influenced family law and inheritance law, which treated – and continue to treat – the spousal relationship as primary. Divorce in the US was relatively rare until the late twentieth century. Beginning in the 1970s, as divorce rates rose, legal reformers took as their major task to recognize and protect mothers by providing alimony and child support. Intestacy laws also aimed to protect spouses, with typical laws giving priority to spouses over children in inheritance.¹⁴

Along similar lines, Social Security enacted rules to protect spouses, awarding a spousal benefit equal to half the higher earner's own benefit. Medicaid rules, too, presumed a close and lasting spousal bond: The notorious asset rules treat a couple's assets as entirely shared – and require the couple to spend down its assets before claiming assistance for a spouse who needs, say, nursing home care.

These laws remain on the books even though family patterns have dramatically changed in two general ways.¹⁵ First, there is far more diversity in family patterns and in the content of family life across life stages. Many adults never marry; among those who do, divorce is common. Cohabitation is common and widely accepted in every age group. Children live with married and unmarried parents, with step-parents, and with grandparents.¹⁶

Second, for many people, the spousal relationship has become secondary to the parent–child relationship. More and more people never marry, and more have children outside marriage. Lifelong marriage is becoming rare, while serial marriage and blended families have become quite common. At the same time, the parent–child bond has been strengthened. Today's parents tend to be emotionally closer to their children, to remain connected into the children's adulthood. And more and

¹² Anne L. Alstott, *Updating the Welfare State: Marriage, the Income Tax, and Social Security in the Age of the New Individualism*, 66 TAX L. REV. 695 (2013).

¹³ *Id.*

¹⁴ See, e.g., Uniform Probate Code (UPC) § 2-102 (providing for 100 percent inheritance by the spouse if all of the decedent's descendants are also the spouse's descendants, and roughly one-half if there are unshared descendants). See also UPC § 2-301 (protecting spousal inheritance in case of a premarital will).

¹⁵ In their chapter in this volume, Naomi Cahn, Claire Huntington, and Elizabeth Scott provide a detailed review of changing demographics and implications across a wide range of family laws.

¹⁶ See Alstott, *supra* note 12, at 708–720.

more young adult children remain financially dependent on their parents well past age eighteen.¹⁷

And so, the law is outdated already, even before we confront the 100-year life. The rules of family law, at least arguably, should provide default rules that reflect the social practices and intentions of most people. Meeting that aspiration is more difficult now than in the twentieth century, because family patterns are more variable. Even so, we could redesign key components of the law to better mirror current patterns. Consider three examples that illustrate the adverse consequences of the current mismatch between actual lives and the law's imagined three-stage model.

First, millions of grandparents rear their grandchildren for long periods.¹⁸ These arrangements can encounter legal trouble across several fronts. One issue concerns custody, when absent parents return and want "their children" back. When the law privileges parents' biological tie over grandparents' on-the-ground parenting work, the result is that children can be separated from their loving caregivers, despite the adverse effects of such separation.¹⁹ Another issue concerns parental permissions for medical treatment and education; the law does not readily or automatically substitute grandparents even when they are doing the day-to-day work. Still another issue concerns retirement and survivor benefits: Grandparents may claim a "parent's" benefit to supplement their retirement benefit, but only if the child's parents are dead or officially disabled – a condition often not met even when parents are de facto absent.

Second, intestacy laws are badly out of step with many lives.²⁰ The law tends to ignore even long-term cohabitants, who cannot (in many states) claim a share of the estate or make healthcare decisions for their partner.²¹ At the same time, the law tends to (over)privilege some formal marriages, awarding the surviving spouse a hefty share of the estate, even if (say) a later-in-life marriage and both spouses would prefer to see their own children (from prior relationships) inherit. Medicaid treats all formally married couples as joint owners of all assets, even if one or both spouses have children from a past relationship. Social Security, too, ignores cohabitation and adult children and privileges formal marriage.

Third, child support obligations often end, by statute, when children are eighteen, even though most children attend some kind of postsecondary education and

¹⁷ Karen L. Fingerman, *Millennials and Their Parents: Implications of the New Young Adulthood for Midlife Adults*, 1 *INNOVATION IN AGING* (2017).

¹⁸ Eli Rapoport et al., *Family Well-Being in Grandparent- versus Parent-Headed Households*, 146 *PEDIATRICS* (2020).

¹⁹ The facts of the famous case *Painter v. Bannister* illustrate the problem; the result in that case, which rules for the grandparents, remains legally contestable. 140 N.W.2d 152 (Iowa 1966).

²⁰ See Naomi R. Cahn & Amy Zietlow, "Making Things Fair": An Empirical Study of How People Approach the Wealth Transmission System, 22 *ELDER L.J.* (2015).

²¹ See *Common Law Marriage by State*, NATIONAL CONFERENCE OF STATE LEGISLATURES, <https://www.ncsl.org/research/human-services/common-law-marriage.aspx>.

many live at home well past eighteen. The law varies across states, but in a number of states, parents are not legally obligated to contribute to a child's college expenses. The result is that a custodial parent often cannot count on a noncustodial parent to contribute.

Savvy families can contract around some of these issues. A guardianship agreement can grant day-to-day authority to grandparents (but only if parents consent). A will can specify the decedents' desired outcome; most states, for instance, permit a (postmarital) will to disinherit a spouse entirely. Divorcing parents typically have the option (though not the obligation) to formalize an agreement about child support after age eighteen.

But default rules are powerful, because very few people realize that they need to opt out and manage to do so. And the most vulnerable people are least likely to know about the importance of contracting around adverse default rules.²²

It is far from clear how the 100-year life will affect trends in family life, but it seems unlikely that a longer lifespan will somehow return us to mid twentieth-century patterns. A longer life may well magnify trends toward serial relationships: People with (say) ninety years of healthy, active life to anticipate might routinely opt for two, three, or more marriages or marriage-like relationships.²³ A longer lifespan plus evolving reproductive technology could radically alter the life cycle related to childbearing and childrearing as well. Even today, it is common for people in their forties to have babies, and the technology exists to extend into the fifties and beyond.

Freed from the "biological clock," and anticipating a much longer lifespan, women and men might undertake radically new patterns of career and childbearing. Some might wait until their forties or fifties to start a family, establishing secure careers beforehand. Others might spread out childbearing, having (say) one child in one's thirties and another in one's fifties. Still others might do the childrearing part first, having children while young and relying on long years later to establish careers. This is all speculation, yet we ought to take care that the law does not impede the evolution of family life – and productive innovations.

1.3 THE NEW INEQUALITY OF OLD AGE

In the mid twentieth century, the three-stage life cycle was also reasonably descriptive of old age. Until relatively recently, the experience of old age was not so very different for the rich and for the poor. Through the mid twentieth century, the great majority of people of all income classes aged in a similar way. Most men died in

²² For an analysis of default rules in family law, see Margaret Brinig, *Penalty Defaults in Family Law: The Case of Child Custody* (Feb. 2005), University of Iowa Legal Studies Research Paper No. 05-08; Adrienne D. Davis, *Regulating Polygamy: Intimacy, Default Rules, and Bargaining for Equality*, 110 COLUM. L. REV. 1955 (2010).

²³ See GRAYTON & SCOTT, *supra* note 1.

their sixties of heart attacks and strokes, and most women followed in their seventies.²⁴

Since then, longevity has marched upward. In 1940, a sixty-five-year-old could expect to live another thirteen years. By 2008, a sixty-five-year-old could expect to live another nineteen years, a gain of six years.²⁵ But gains in longevity have not been equally distributed, and the result is that the mid twentieth-century model fits the lived experience of fewer and fewer Americans. The longevity gap between high- and low-earning men at age fifty is now thirteen years – meaning that, of all men who reach age fifty, the richest fifth can expect to live thirty-nine more years, while the poorest fifth can expect to live only twenty-six more years.²⁶

Inequality in old age isn't just a matter of lifespan. Lifelong advantage and disadvantage cumulate, and we see disparities across measures of well-being and opportunity. Lower-earning workers face job instability, with frequent periods of un- and underemployment. They are more likely to hold physically demanding jobs, including low-paid and stressful jobs in the service sector.²⁷ As a group, they are more likely to suffer hypertension, obesity, diabetes, early stroke, and heart disease.²⁸ And they are more likely to reach their early sixties unable to perform physical jobs and with limited skills for transitioning to new work.²⁹

Higher earners, by contrast, tend to enjoy robust health and stable jobs. Their white-collar jobs give them a high degree of autonomy and do not require physical work. Financially secure, these healthy older people have reinvented old age, often rejecting “retirement” in favor of new careers, travel (before COVID-19), and entrepreneurship. Indeed, sociologists coined the term “Third Age” to describe the new vitality of this group in their sixties and seventies and even eighties. With longer lives and better health, many older people no longer retire in the classic sense and, instead, reinvent themselves with new careers, travel, and entrepreneurship.³⁰

²⁴ CENTERS FOR DISEASE CONTROL, NATIONAL VITAL STATISTICS REPORTS, VOL. 61, NO. 3 (Sep. 24, 2012), at 46, http://www.cdc.gov/nchs/data/nvsr/nvsr61/nvsr61_03.pdf.

²⁵ *Id.* (By 2008, women had gained eight years of life after age sixty-five, while men had gained just six.)

²⁶ NATIONAL ACADEMIES OF SCIENCE, ENGINEERING, AND MEDICINE, *THE GROWING GAP IN LIFE EXPECTANCY BY INCOME* 3 (2015).

²⁷ David M. Cutler, *Declining Disability among the Elderly*, 20 HEALTH AFFAIRS 11–27 (Nov./Dec. 2001).

²⁸ Mauricio Avendano & M. Maria Glymour, *Stroke Disparities in Older Americans: Is Wealth a More Powerful Indicator Than Income and Education?* 39 STROKE 1533 (2008).

²⁹ Vicki Freedman et al., *Behavioral Adaptation and Late-Life Disability: A New Spectrum for Assessing Public Health Impacts*, 104 AM. J. PUB. HEALTH e88, e92 tbl.3 (Feb. 2014) (finding that 73 percent of Medicare enrollees in 2011 with incomes of \$60,000 or more were either fully able or had successfully accommodated a disability, and finding, by contrast, that only 42 percent of those with incomes less than \$15,000 and 48 percent of those with incomes between \$15,000 and \$30,000 fell into that high-functioning category).

³⁰ See Phyllis Moen & Donna Spencer, *Converging Divergences in Age, Gender, Health, and Well-Being: Strategic Selection in the Third Age*, in HANDBOOK OF THE SOCIAL SCIENCES 127 (2005). See also Phyllis Moen, *Midcourse: Navigating Retirement and a New Stage of Life*, in

Inequality in old age has a financial dimension as well. Retirement savings (setting aside Social Security entitlements for the moment) are strikingly unequal. Low-earning workers (and many middle earners) reach retirement with few pension rights and little personal savings. Only half of retirees now have any pension income at all.³¹ Workers with private pensions often have sufficient retirement income (together with Social Security) to retire comfortably, but workers without private pensions often do not.³²

At the same time, the changes in family life described in Section 1.2 have begun to affect older Americans, with additional inequalities based on family structure. Individuals in (roughly) the bottom half of the income distribution are less likely to marry, more likely to divorce if they do marry, more likely to cohabit, and more likely to be single parents. At the high end of the income spectrum, by contrast, people still marry at high rates, remain married for longer periods, and tend to have children with their spouse (rather than a blended family with children from multiple parental relationships).³³

These growing inequalities mean that the three-stage model of the life cycle no longer describes life for many, even most Americans. And it means that the old model cannot readily be replaced with a single, newer version. The last third of the life cycle plays out very differently depending on one's socioeconomic background. Roughly speaking, lower earners need a model that cushions the financial impact of job instability and unemployment, anticipates early disability, and permits dignified retirement relatively early in one's sixties. The life cycle for higher earners, in sharp contrast, should recognize their greater opportunities, better health, and relative job stability.

To illustrate how the outdated model of the life cycle challenges legal design for old age, consider two policy problems. First is the design of Social Security. As I have documented in other work, Social Security was designed to be progressive, but its progressive redistribution is premised on outdated assumptions.³⁴ More specifically, the designers of the program had the luxury of designing a one-size-fits-all system in which workers varied only along one dimension – earnings – and otherwise lived similar lives.

HANDBOOK OF THE LIFE COURSE 269 (Jeylan T. Mortimer & Michael J. Shanahan eds., 2003); see generally Shin-Kap Han & Phyllis Moen, *Clocking Out: Temporal Patterning of Retirement*, 105 AM. J. SOC. 191 (1999).

³¹ Virginia P. Reno & Elisa A. Walker, *Social Security Benefits, Finances, and Policy Options: A Primer*, NATIONAL ACADEMY OF SOCIAL INSURANCE (2013), at 8, http://www.nasi.org/sites/default/files/research/2013_Social_Security_Primer_PDF.pdf.

³² Virginia P. Reno & Joni Lavery, *Social Security and Retirement Income Adequacy*, National Academy of Social Insurance Brief No. 25 (2007), at 8, https://www.nasi.org/wp-content/uploads/2009/11/SS_Brief_025.pdf.

³³ Andrew J. Cherlin, *The De-institutionalization of American Marriage*, 66 J. MARRIAGE AND FAM. 848 (2004); Alstott, *supra* note 12.

³⁴ ALSTOTT, *supra* note 7.

The result is that Social Security's rules now redistribute in complex and inconsistent ways.³⁵ All else equal, the retirement program favors (among others) steady work, low earnings, formal marriage, traditional gender roles in marriage, and long lives.³⁶ The retirement program disfavors (among others) the unmarried, temporary work, unemployment, two-earner married couples, and short lives.³⁷

Is Social Security still progressive overall? The answer is not obvious. Studies that lump in disability benefits with survivors' and retirement benefits find that Social Security is modestly progressive.³⁸ But disability and survivors' benefits are especially progressive, because lower earners are more likely to die early or experience disability. The retirement system standing alone is far less progressive.³⁹ What is clearer is that the progressivity of the Social Security retirement program is declining as retirees who lived in the mid twentieth century give way to Baby Boomers and their successors, who live very different lives.⁴⁰

Reforms to bolster progressivity will be complex and demanding. The moving pieces include the retirement age, the disability system, and the spousal benefit. For instance, the system could be designed to allow lower earners to retire at an early age with little or no penalty while expecting better-off workers to work longer. A higher retirement age puts additional pressure on the disability system (which today need not address people over age sixty-seven). And the spousal benefit might be replaced with a variety of family accommodations, including an optional survivor benefit (not limited to spouses) or a caregiver's benefit available to single as well as married people.⁴¹

The 100-year life is a useful prompt to action. If current trends continue, the last third or so of one's century of life may look very different, depending on one's cumulative advantage or disadvantage. And so there is likely to be no "retirement" in the mid twentieth-century sense of a lockstep stage of life, recognizable to and lived by all.

³⁵ C. Eugene Steuerle, Karen E. Smith & Caleb Quakenbush, *Has Social Security Redistributed to Whites from People of Color?* Urban Institute Brief No. 38 (2013), at 2, <http://www.urban.org/UploadedPDF/412943-Has-Social-Security-Redistributed-to-Whites-from-People-of-Color.pdf>.

³⁶ C. Eugene Steuerle, Adam Carasso & Lee Carasso, *How Progressive Is Social Security and Why?* URBAN INSTITUTE (2004), <http://www.urban.org/publications/311016.html>.

³⁷ *Id.*, at 1–2.

³⁸ Social Security Administration researchers report that old age, survivors, and disability insurance, taken as a whole, is "modestly progressive on a lifetime basis." Andrew G. Biggs, Mark Sarney & Christopher R. Tamborini, *A Progressivity Index for Social Security*, SSA Issue Paper No. 2009-01 (2009), <http://www.ssa.gov/policy/docs/issuepapers/ip2009-01.html>.

³⁹ Congressional Budget Office, *Is Social Security Progressive?* (Dec. 15, 2006) (finding that retirement benefits are less progressive than OASDI as a whole; the progressivity of the benefits formula is offset, but not entirely, by the shorter lives of low earners, which would reduce the value of the life annuity).

⁴⁰ See Biggs et al., *supra* note 38 (finding that "progressivity has declined in recent decades" and that progressivity will decline for cohorts retiring in the 2010s).

⁴¹ *Id.*

1.4 CONCLUSION

The prospect of the 100-year life should prompt us to recognize and reform the three-stage model of the life cycle across areas of law. The 100-year life poses both new pitfalls and new opportunities, and the law will play a critical mediating role. A casual observer might suppose that the forces that create the 100-year life and shape its course are natural, not man-made. But the law can, and does, strongly shape health and the economy, and so we can envision a better – and a worse – version of the 100-year life.

The dangers are clear enough. Current trends, if unchecked, will usher in a 100-year life riven with inequalities. For low-income populations, the extra years will be hard ones: Even today, these workers disproportionately suffer early disability, frequent unemployment, and chronic disease. They reach old age often unable to keep working physically but also unable to retire financially. The prospect of, say, ten or twenty additional years in such conditions is a bleak one.

But the law could also usher in a brighter scenario. With reforms in health care, in social insurance, and in antipoverty efforts (just to take a few examples), the law could attack the causes of these inequalities. Measures to improve access to higher education throughout the life course could increase social mobility and resilience to economic changes. And a redesigned social insurance system could do far better to cushion remaining inequalities by directing greater benefits to low earners and those with disabilities while redistributing them from the advantaged class that enjoys long lives, good health, and ample work options.