

THE NEW AGING: INDIVIDUAL AND SOCIETAL RESPONSES

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Not only is America's population growing older, it is becoming more diverse. In the following essay, based on his Elder Law Journal Lecture, presented February 18, 2002, at the University of Illinois College of Law, Dr. Fernando Torres-Gil analyzes what he describes as the new aging. The individuals that comprise this group, including many of the baby boomers, will face many new and different challenges than today's elderly face. Dr. Torres-Gil considers how the roles and perceptions of social security, pensions, Medicaid and Medicare have changed and what those changes will mean for the new aging. He examines the decline in traditional pensions and whether or not social security privatization is really a good idea. He discusses the declining fertility rate this country has experienced over the past 100 years and what effect the growing Latino and African American population will have on future financing of Social Security and other government problems. After analyzing these various factors both individually and as a group, Dr. Torres-Gil concludes by

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emphasizing that it is time to take action now before financing the needs of a growing elderly population becomes a national crisis.

This essay examines the impending intersection of individual and population aging and draws out the subsequent implications for society and public policy. This nexus is based on the premise that we must revisit our approach to an aging society, and rethink our current solutions and responses in preparation for changing expectations among individuals and institutions. Doing so will allow for a more proactive and strategic perspective for the legal profession, public policy decision makers, and society as a whole in responding to aging over the next several decades. It will also enable us to use a window of opportunity for systematic planning. Conceptual models and an examination of historical trends, with a focus on Social Security reform, and California, as a multicultural state, are employed to draw out the implications of the politics in the New Aging.

I. Introduction: The Demographic Imperative

The United States is aging, this much is well known. The 2000 Census Bureau data reinforce public recognition that both the number of older persons, and their longevity are increasing.¹ The median age increased from 32.9 in 1990 to 35.3 in 2000 and is expected to increase to 39 or older by 2030.² Since 1900, life expectancy has increased by thirty-one years for women (from forty-eight to seventy-nine) and by twenty-eight years for men (from forty-six to seventy-four).³ In the last century, while the total U.S. population tripled (including those

1. U.S. BUREAU OF THE CENSUS, PROFILE OF GENERAL DEMOGRAPHIC CHARACTERISTICS FOR THE UNITED STATES tbl.T. DP-1 (1990), *available at* http://www.census.gov/Press_Release/www/2001/tables/dp-us-1990.PDF (on file with the Elder Law Journal) [hereinafter 1990 DEMOGRAPHIC CHARACTERISTICS]; U.S. BUREAU OF THE CENSUS, PROFILE OF GENERAL DEMOGRAPHIC CHARACTERISTICS FOR THE UNITED STATES tbl.T. DP-1 (2000), *available at* <http://www.census.gov/Press-Release/www/2001/tables/dp-us-2000.PDF> (on file with the Elder Law Journal) [hereinafter 2000 DEMOGRAPHIC CHARACTERISTICS].

2. *See* 1990 DEMOGRAPHIC CHARACTERISTICS, *supra* note 1; 2000 DEMOGRAPHIC CHARACTERISTICS, *supra* note 1; FRANK B. HOBBS & BONNIE L. DAMON, U.S. BUREAU OF THE CENSUS, 65+ IN THE UNITED STATES 2-1 (1996), *available at* <http://www.census.gov/prod/1/pop/p23-190/p23-190.pdf> (last visited Apr. 20, 2002) [hereinafter 65+ IN THE UNITED STATES].

3. 65+ IN THE UNITED STATES, *supra* note 2, at 3-1.

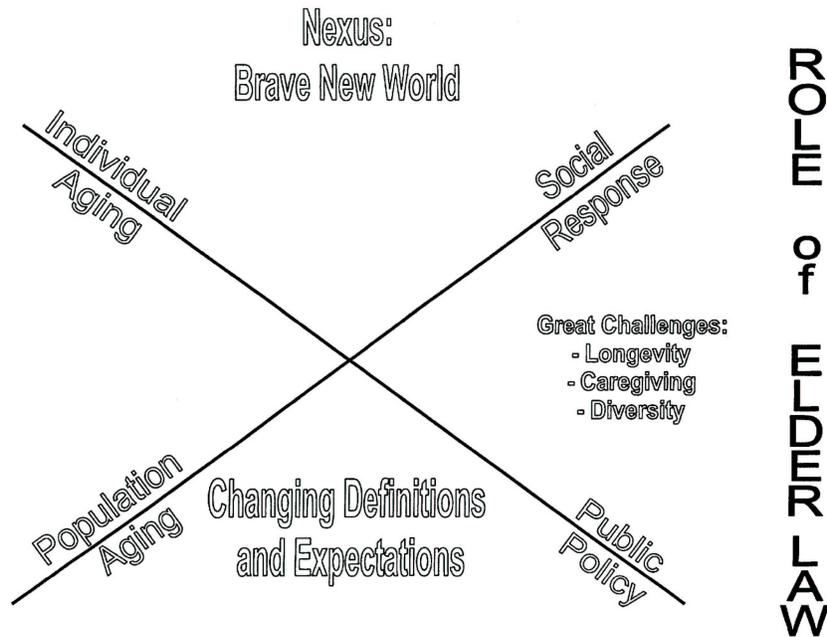
under sixty-five years of age), the elderly population increased elevenfold.⁴ The elderly population is expected to grow substantially from 2010 to 2030.⁵ Although Census 2000 found that 12.4% of the population was sixty-five and over, that proportion is expected to increase to 16.4% by 2020 and to 20.7% by 2040.⁶ Population and individual aging are reshaping the American demographic landscape. Although Census 2000 data indicate a leveling off in the growth rate of older persons (due to the lower fertility rates of the 1930s and early 1940s), that will change shortly when the baby boomers begin to reach sixty-five years of age and the projected doubling of the retiree population becomes a reality.

To understand what these demographic trends mean for elder law, it is helpful to draw on conceptual frameworks for a broader perspective and to identify the societal and public policy implications of this brave new world. Figure A shows the intersection of individual and population aging and the nexus of changing definitions and expectations. Those changes have tremendous implications for how society responds to the demographic inevitability and the public policy debates about the role of government and the private sector. A basic premise for this discussion is that we are in the midst of profound changes in how we view older persons, old age, and how we become old. These changing perceptions will alter the nature of an aging society in the coming years. Three great challenges explored through this paper will reflect those changing definitions and expectations: (1) longevity reflects increased life expectancies; (2) caregiving is about how we care for others and how we want to be cared for; and (3) diversity represents the racial and ethnic heterogeneity and differences in lifestyles.

4. *See id.* at 2-2.

5. *See id.*

6. *See* 2000 DEMOGRAPHIC CHARACTERISTICS, *supra* note 1, at tbl.DP-1; *see also* 65+ IN THE UNITED STATES, *supra* note 2, at 2-3.

Figure A**Nexus: Brave New World**

II. Discussion: The New Aging

Individual and population aging is how people, social and political institutions, and legislation reflect this nation's response to an aging society. The New Aging reflects the political response to aging and a fundamental shift in public attitudes that became apparent around 1990. The politics of aging in the year 2002 have led to an interesting and important debate over the future of Social Security, the bedrock of the New Deal. This program has become the basic income security for persons over sixty-five. Social Security is especially crucial to low-income older persons, particularly minority elderly.⁷ Yet it

7. See 65+ IN THE UNITED STATES, *supra* note 2, at 8-11.

faces fundamental changes that reflect generational tensions, concerns over the aging of the baby boomer cohort, and the use of race and diversity as political tools.⁸

A. Social Security Reform: The New Politics

“The Social Security Act of 1935 established the basic federal old-age benefits program and a federal-state system of unemployment insurance.”⁹ Social Security includes Old Age and Survivors Insurance, Disability Insurance, survivors’ benefits and Supplemental Security Income.¹⁰ The money collected from payroll taxes, which will reach \$450 billion annually by 2001, pays monthly benefits to more than 45.4 million beneficiaries, including 28.5 million retired workers, 3.3 million dependents or retirees, 6.7 million disabled workers and their dependents, and 7 million survivors of workers.¹¹ Social Security has come to symbolize a social contract and an expectation by all Americans that they will have a measure of protection from the vicissitudes of old age. However, Social Security is facing its greatest test in proposals to privatize it and to alter its basic eligibility structure.

Currently, Social Security is a social insurance program into which workers pay a portion of their payroll taxes. In 2001, the tax rate was 7.65% for workers and employers on salaries up to \$80,400.¹² Each worker has a general account, and his or her contributions are deposited into a Social Security trust fund, which in turn is used to cover current beneficiaries and to pay for administrative costs.¹³ Surplus funds are invested in federal treasury notes.¹⁴ Privatization, as currently proposed, would allow taxpayers to carve individual secu-

8. See *infra* Figure B.

9. Fernando Torres-Gil & Valentine Villa, *Social Policy and the Elderly*, in THE HANDBOOK OF SOCIAL POLICY 209, 212 (James Midgley et al. eds., 2000).

10. *Id.*

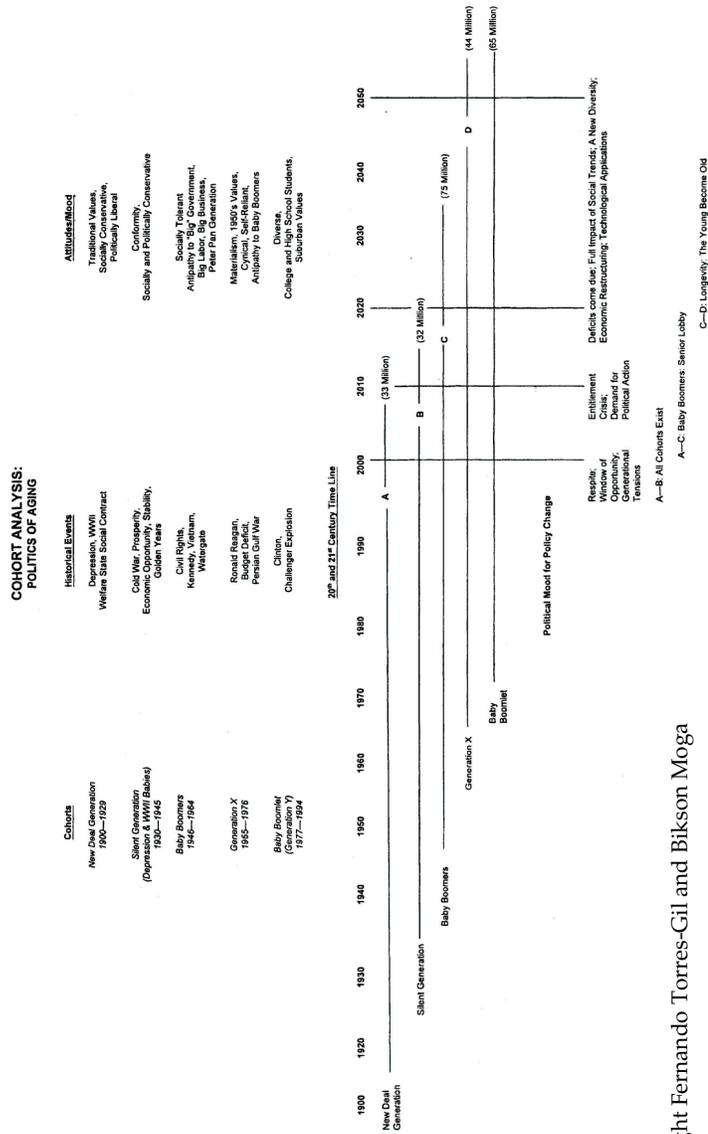
11. SOC. SEC. ADMIN., FAST FACTS AND FIGURES ABOUT SOCIAL SECURITY (June 2001), available at http://www.ssa.gov/statistics/fast_facts/2001/ff2001.pdf (on file with the Elder Law Journal) [hereinafter FAST FACTS AND FIGURES].

12. SOC. SEC. ADMIN., 2001 SOCIAL SECURITY CHANGES (2001), available at <http://www.ssa.gov/cola/cola2001.htm> (last visited Apr. 20, 2002) [hereinafter SOCIAL SECURITY CHANGES].

13. Kristen V. Campana, *Paying Our Own Way: The Privatization of the Chilean Social Security System & Lessons for American Reform*, 20 U. PA. J. INT’L ECON. L. 385, 406 (1999).

14. REPUBLICAN POLICY COMM., SENATE RECORD VOTE ANALYSIS, BUDGET RESOLUTION/SURPLUS FOR IRA RETIREMENT (Apr. 1, 1998).

Figure B
Cohort Analysis: Politics of Aging



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riety accounts out of their payroll taxes.¹⁵ This would allow workers to use a portion of their Social Security contributions for investments in the private market. Privatization would erode the social insurance nature of the current Social Security system by allowing workers to control some of those contributions and thus divert some of their payroll taxes away from current beneficiaries. Proponents of this plan argue that individuals should have the freedom to choose how their payroll taxes are invested and that the rate of return in the private market (e.g., the stock market) is historically higher than treasury interest rates, which fluctuate between three and seven percent.¹⁶ Opponents argue that Social Security is not an investment seeking rates of return but a civic commitment to provide a measure of protection to all workers, regardless of how much an individual may pay or receive.¹⁷ Furthermore, they argue that the transition costs for creating individual retirement accounts would add up to one trillion dollars, which would be needed to cover the reduction in funds going to current beneficiaries.¹⁸

The fuel for these burning debates hinges on the aging of the baby boomer cohort and the reality that, although Social Security is running big surpluses today and can cover the forty-five million disabled and retired persons now living in the United States, those surpluses will disappear and turn into annual deficits after 2038, when all of the baby boomers will have retired.¹⁹ Those future deficits, as well as funds drained out of Social Security through private accounts, could require cutbacks in benefits, increases in payroll taxes, an increase in the eligibility age, or all of the above. Along with the demographic pressures are concerns that the diminishing program dependency ratio will create a scenario where fewer workers are supporting

15. Martha N. Ozawa, *Social Security*, in THE HANDBOOK OF SOCIAL POLICY, *supra* note 9, at 187, 201.

16. See PETER OLSZAG, CTR. ON BUDGET & POLICY PRIORITIES, INDIVIDUAL ACCOUNTS AND SOCIAL SECURITY: DOES SOCIAL SECURITY REALLY PROVIDE A LOWER RATE OF RETURN, at <http://www.cbpp.org/3-11-99soc.sec.htm> (last visited Feb. 25, 2002).

17. See generally Dan Froomkin, *Social Security: The Clock Is Ticking*, at <http://www.washingtonpost.com/wp-srv/politics/special/security/security.htm> (last visited Apr. 20, 2002).

18. Jackie Calmes, *Social Security Report Opens Debate: Panel Divided on Remedies; Politicians Aren't Likely to Take Up Issues Soon*, WALL ST. J., Jan. 7, 1997, at A17.

19. *Congress: The Issue-by-Issue Outlook for 2002*, NAT'L J., Jan. 19, 2002, available at 2002 WL 7094568.

more retirees.²⁰ That ratio has dropped from 5 to 1 in 1960, to 3.3 to 1 today and could reach two to one by 2040.²¹

The interest groups opposing privatization are the old liberal coalition of labor unions, senior citizen advocacy groups, progressives, and civil rights organizations. However, in the midst of this debate, proponents of privatization, including groups such as the Cato Institute and Heritage Foundation, insurance companies, and financial planners, have focused on potentially influential allies—namely, Hispanics, African Americans, and immigrants. Proponents have raised an argument with potentially great appeal to these minorities and immigrants: as relatively young groups, they have the most to gain with the purported higher rates of return in private accounts. In recent years, conservative groups have courted the Congressional Black Caucus, the Congressional Hispanic Caucus, and leaders of minority and immigrant groups and pointed out that, as relatively young groups accounting for an increasingly larger share of the work force, and with increasing life expectancy, they should have the right to invest their funds as they wish. With this argument comes the subtle implication that minorities should not be forced to shoulder the burden of supporting an older, white retiree population. This argument is appealing for the most ideologically minded minority advocates to whom white retirees represent the source of past discrimination and injustices. This argument has crucial weaknesses. It does not account for the crucial safety nets that Social Security represents, including Disability Insurance, Supplemental Security Income, and survivors' benefits, nor for the fact that minority elderly depend on Social Security (and Old Age Survivors Insurance) to a greater extent than older whites.²² In a longer-term perspective, privatization ignores the fact that younger minorities, especially those most at risk, will need the

20. *Understanding Income Security—Between Policy and Politics*, AGING TODAY (Am. Soc'y on Aging, San Francisco, Cal.), Mar.–Apr. 1998, available at <http://www.agingtoday.org>.

21. *Id.* The dependency ratio of retirees to workers is shrinking because of increased longevity and the aging of the baby boomers. However, in 1960, the United States had the greatest nonworking population because, at that time, the majority of the baby boomers were either infants or in school. If we consider a consumer-to-worker ratio, i.e., comparing all nonworkers to workers, there was a 2.56/1 ratio in 1960. *Id.* Today, there is a 2.03/1 ratio. And in 2040, there will be a 2.15/1 ratio. *Id.*

22. See Alex A. Hendley & Natasha F. Bilimoria, *Minorities and Social Security: An Analysis of Racial and Ethnic Differences in the Current Program*, 62(2) SOC. SEC. BULL. 59–64 (1999).

full benefits and protections of the Social Security system. Regardless, privatization has potentially enormous appeal for younger members of minority groups who are concerned more with the immediate needs of survival, jobs, families, and their children. The regressive nature of the payroll tax means that lower-income persons pay a greater share of their income than higher-income individuals because of the cap on income subject to withholding. Thus, the politics of privatization have engendered several new ingredients to the recipe—namely, race, minority status, and diversity.

The outcome of these debates is not certain. President Bush has created a commission to study Social Security reform with a mandate to give workers optional personal savings accounts to invest in stocks and bonds.²³ Democrats and their allies will oppose this plan, but public opinion polls indicate that a majority of the American public, particularly younger workers, are open to some form of privatization.²⁴ Minority and immigrant groups can expect to be courted by both sides. However this debate unfolds, in a society becoming more diverse and with an increasingly diverse work force where the retiree population is still largely white and English speaking, we can expect that diversity will increasingly affect the politics of aging.

B. Conceptual Models: The New Aging Represents an Evolution of Thought, Attitudes, and Expectations

Table 1 provides a conceptual model for viewing the distinct periods of the Young Aging, the Modern Aging, and the New Aging. Each period reflects key events that have influenced specific cohorts, the roles and relationships emanating from that period, and attitudes toward the concept of age and old age. What becomes apparent in this illustration is that what we can expect for the aging of the baby boomers, for example, may be quite different than what today's generation of New Dealers view for their old age. Baby Boomers today are faced with a conundrum. They sense that, as they get older, they will want to live differently than their parents and grandparents did. Yet what they know and will rely upon for personal and financial security in their later years is based on how government and society has

23. Richard S. Dunham, *Privatizing Social Security: Despite the Slump, Support Is Solid*, BUS. WK., Aug. 13, 2001, at 41.

24. *Id.*

responded to older persons over the last sixty years. These are the very responses (e.g., defined benefit plans, Medicare, Social Security, retiree health care coverage) and societal expectations (e.g., family, caregiving, leisure, social supports) that are likely to be altered within the lifetimes of aging baby boomers.

What are the evidence and indicators that reveal what the coming generations of older persons can expect in the way of changes? How might they alter the retirement and longevity of individuals as they age in this country? And how can this inform the field of elder law as this profession seeks its niche in the demographic inevitability facing us? These are the questions the following sections attempt to answer.

Table 1
Conceptual Frameworks: The New Aging: Evolution of Thought, Attitudes, and Expectations

	Young Aging	Modern Aging	New Aging
Events	(Pre-1930) •Life Expectancy Low •Elders a Novel Commodity	(1930–1990) •The New Deal and Great Society •Entitlements and Public Benefits	(1990–2020) •Longevity •Self-reliance •Restructuring and Reform of Social and Public Benefits
Roles	•Traditional Roles	•Modernism •Individualism •Productivity	•Technology and Insecurity
Relations	•Family, Church, Community	•A Social Safety Net	•Generational Tensions •Elders No Longer Deserving Poor
Attitudes	•Respect for Elders •Hierarchical Relationships	•Ageism in Public Policy •Politics of Aging •Infatuation with Youth and Progress	•Aging of Baby Boomers •Paradigm Shifts in Attitudes and Expectations

C. Changes Afoot: Evidence and Indicators

Three major indicators will shape the changes we can expect over the next fifty years and will play a major role in the demographic profile of the nation and the public policy debates over the nexus of individual and population aging. Those indicators are longevity, diversity, and generational claims.

1. LONGEVITY

Individual and population aging are the two sides of the longevity coin. Increased life expectancy among individuals and the overall effects of increased median ages will have substantial influence on how governments and individuals prepare for and respond to their aging. Figure C shows life expectancy rates for men and women. In the year 2000, men were expected to live seventy-four years and women, eighty.²⁵ These gender differentials are not fully understood, but they clearly indicate the importance of gender in an aging society and the need to examine the needs of women as they age. The differentials directly influence sex ratios and illustrate why more women are growing older without men than vice-versa. As Figure C shows, for every 100 women over the age of eighty-five, there will be only forty-nine men alive. Comparatively, for every 100 women fifty-five years and over, there will be eighty-one men. The likelihood of women experiencing widowhood is even more dramatic: seventy-seven percent of women over eighty-five can expect to be widows, compared with thirty-two percent of women over fifty-five.

How a nation's population can be affected by its aging is shown in Figure D. For example, California, the state with the greatest number of persons age sixty-five years of age and over, will see its population profile dramatically altered as baby boomers become older. Healthy population profiles are generally viewed as pyramids, where the bulk of the populations cluster around the ages of twenty to fifty

Figure C Keeping Up with Older Adults

“Aging is about women growing older without men.”

- **Life expectancy at birth** is the average number of years that a person would live if he or she experienced the mortality rate at each year of age experienced by the actual population in a specific year.

25. CTRS. FOR DISEASE CONTROL & PREVENTION, DEATHS: PRELIMINARY DATA FOR 2000 3 (Arialdi M. Minino & Betty L. Smith eds., 2001), available at http://www.cdc.gov/hcns/data/nrst/nvsr/ivsr49/nvsr49_12.pdf.

- **The sex ratio** is the number of men per 100 women. The ratio was about 96 for the United States as a whole in 1999.

Life Expectancy in 2000:

Men	74 years
Women	79 years

Sex Ratios in 1999 for every 100 women:

55 and older	81 Men
55 to 64	92 Men
85 and older	49 Men

Likelihood of women experiencing widowhood:

55 and older	32% Women	9% Men
55 to 64	13% Women	
65 to 84	41% Women	
85 and older	77% Women	

Source: Population Profile of the United States: 1999, U.S. Census Bureau

years of age, signifying a large labor force. Smaller proportions will be found among those twenty years and younger and those fifty years and older. Thus, there will be sufficient numbers of workers to support the old and the young. These are, of course, overgeneralizations, because many persons fifty and over are still productive workers. But when this pyramid begins to resemble a rectangle, we can expect public policy debates about the capacity of a diminishing work force to support increased numbers of older persons. By 2030, for example, the California population pyramid will have many more persons over fifty and under twenty, than those between twenty and fifty. Thus, California will be forced to address the needs of a population of old and young requiring greater public services and benefits and a work force facing greater demands for productivity and being asked to shoulder the necessary additional taxes to pay for those public benefits. This changing population pyramid is emblematic of the demographic trends facing the United States and other nations, such as Japan and Italy, and poses significant challenges for public policy.

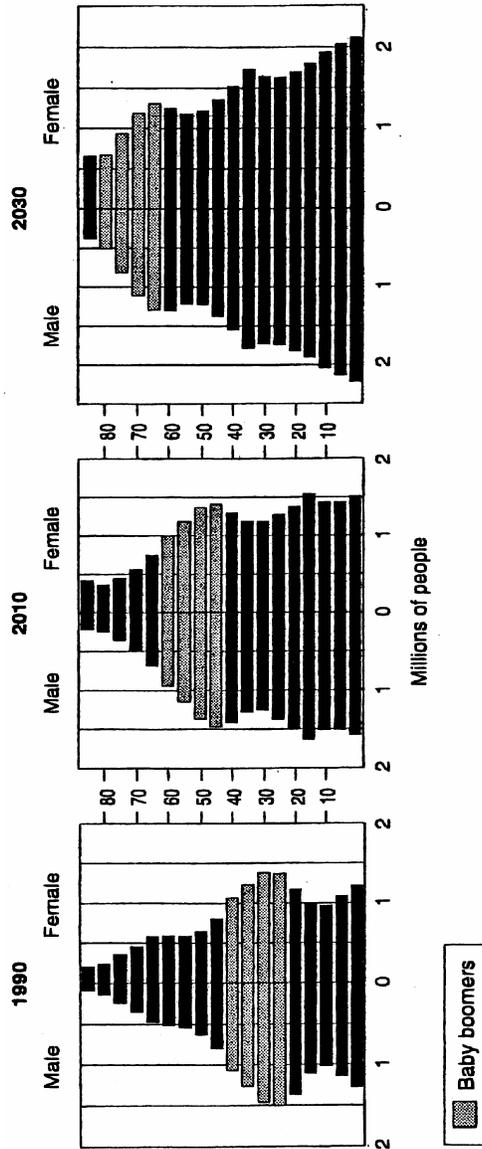
2. DIVERSITY

There is tremendous heterogeneity in the American population. Differences involve race, ethnicity, and language, as well as economic disparities and lifestyle choices. The growth of the minority population (e.g., Hispanic, Asian/Pacific Islander, African American, Native American) is well documented. This will create a much different America in the next century. For example, the proportion of non-Hispanic whites may drop from 79.9% in 1980 to 49.9% by 2080.²⁶ The diversification of the United States will also affect social and family changes. Women continue to outlive men, and the trends toward fewer children and continued geographic and social mobility will reinforce alternative lifestyles and households. More people will live alone and apart from family members, while three- and four-generation households will also be common. Single-parent families and grandparents caring for grandchildren will abound. In addition, the continued prevalence of economic disparities will haunt social policy in the next century. More people will do well, but more families will be poor as well. For example, although it is a relatively privileged group socially and economically, at least eighteen million members of the seventy-five million member baby boomer cohort are considered "at-risk" today because they do not own homes, are single women, or have low-education levels.²⁷ Thus, in the next century, the baby boomer cohort of retirees will count both the affluent and the poor among its members. Diversity will further complicate how social policy responds to the needs of an aging population.

26. *Profile of Tomorrow's New U.S.*, U.S. NEWS & WORLD REP., Nov. 24, 1986, at 32.

27. FERNANDO M. TORRES-GIL, *THE NEW AGING: POLITICS AND CHANGE IN AMERICA* 131 (1999).

Figure D
California's Aging Baby Boomers Drive a Human Tidal Wave
(Millions of people)



Source: California Department of Finance, Population Research Unit, Reports 88 P-4 and 93 P-3, printed in FAULT LINES IN THE SHIFTING LANDSCAPE: THE FUTURE OF GROWING OLDER IN CALIFORNIA-2010 17 (M. O'Hara-Devereaux et al. eds., 1999).

3. GENERATIONAL CLAIMS

The United States is facing an unprecedented situation involving distinct cohorts of age groups within its population. These generations of individuals, born around the same period and sharing historical events and life experiences, also tend to have differing views about the role of government and politics in their lives. As Figure B illustrates, the New Deal cohort includes today's elderly and the greatest proponents for Social Security and Medicare. The baby boomer cohort has greater antipathy toward big government, big business and big labor and has greatly influenced popular culture. Generation X (those currently in their twenties and thirties) and the baby boomlet cohort (those in kindergarten through twelfth grade) are today's youth and tomorrow's workers. Thus, generational claims will greatly influence social policy and aging, because each cohort may view old age differently and have different views about today's public programs for the elderly. Equally as important, members of each generation must support their elders' retirement through productivity and taxes while preparing for their own aging.

By the 1990s, generational debates became quite visible with fears of "generational warfare" and inequity.²⁸ New interest groups (e.g., the Concord Coalition, Americans for Generational Equality, the Third Millennium) argued that the elderly were receiving too many benefits at the expense of younger generations. Propelling these fears was the growing recognition that longevity and the aging of the baby boomers would put unsustainable pressures on public entitlements.²⁹ The "graying of the federal budget" had become such that, by 1994, one-third of the federal budget was spent on benefits to older Americans, even though older people accounted for only about thirteen percent of the population.³⁰ Thus, curtailing the costs of Social Security, Medicare, and Medicaid increasingly consumed the energies of elected officials at the federal and state levels. Generational claims began to exemplify a changing public and political attitude toward the programs of the Modern Aging period and set the stage for what may be major reforms in Social Security and Medicare.

28. *Id.* at 17.

29. *Id.* at 132.

30. 65+ IN THE UNITED STATES, *supra* note 2, at 8-3.

D. Politics, Policy, and Fiscal Dilemmas

The political challenges stemming from longevity, diversity, and generational claims are already apparent in the public debates around entitlement reform. The period of the Modern Aging led to the creation of a host of categorical programs to serve older persons, including Medicare, Medicaid and the Older Americans Act. Each of these programs has some form of age and income requirement that reflects political willingness to respond to the politics of aging and demands by senior citizens for some level of financial and health security. Yet these very programs are facing increased public and fiscal pressures to undergo changes, in large part because of fears that they will become unaffordable as the baby boomers age.

Longevity, diversity and generational claims are interacting with demographic, social and political forces to reshape our views of old age, how older people are viewed as a political force, and how to promote social policy for the elderly. These changes are reflected in the policy debates around Social Security and Medicare and give important clues about the future direction of social policy. Social Security continues to enjoy widespread support among all ages and cohorts, but there are growing concerns that it will be unable to pay benefits to future generations of retirees. Although Social Security trust funds held more than \$600 billion in U.S. treasury bonds in 1998, those surpluses will be insufficient for the Baby Boomers approaching retirement. By 2013, payments to beneficiaries will no longer equal incoming revenues, and the federal government will be forced to begin repaying interest and principal on treasury bonds. By 2033, the trust funds will be depleted, and new sources of revenue will be needed, although payroll taxes will still provide seventy-five percent of needed revenues at that time. Medicare is also facing severe fiscal problems and is expected to become financially insolvent by 2008. The continuing rise in health care and nursing home costs and the lack of long-term care will be a severe drain on the public and private sectors when Baby Boomers become old.

The pressures on Social Security and Medicare have led to many dramatic proposals to restructure entitlement programs and revise the social contract. For the first time in Social Security's venerable history, bipartisan support is growing for some form of privatization that includes investing trust funds in the private market and allowing individuals to use part of their payroll taxes for individual security accounts. The Bipartisan Commission to Reform Medicare is entertaining proposals to raise the eligibility age, impose means-testing, increase premiums, and move beneficiaries into managed care. State and local governments continue to consolidate and merge old-age services into agencies serving multiple populations.

How these proposals and trends will eventually unfold is uncertain. What is clear is that public attitudes toward the elderly have changed dramatically. Although the public strongly supports Social Security, Medicare and most programs for the elderly, especially the poor elderly, younger cohorts increasingly voice skepticism that they will not receive those benefits. Thus, they are more open to ideas of privatization. Public and private encouragement to save and prepare for one's own retirement is exemplified in the dramatic growth of 401(k) plans and stock market investments. The vaunted political power of the elderly no longer carries the same collective influence or pressure on politicians. The heyday of senior power may have been the passage and dismissal of the Medicare Catastrophic Coverage Act of 1988 when, within one year, the Congress passed and repealed legislation to protect seniors from the high cost of health care at the price of higher premiums for upper-income people. Since then, diversity and a public backlash to the apparent material and economic gains of the elderly has diminished public sympathy for social policies based solely on old age.³¹

III. The New Reality: Challenges to Successful Aging

What do these indicators and changes mean for the future of aging and how individuals and a society prepare for the inevitable demographic challenges? There are many implications and consequences that raise questions and answers for rethinking aging and old age.

A. Redefining Age and the Reordering of Symbols and Priorities

We are witnessing a rethinking of what it means to be old. Baby boomers, in particular, are showing that they will not settle for being old at sixty-five or at any particular age. Increasingly, individuals will see themselves as relatively young, even into their seventies and eighties. Longevity provides a luxury for pushing the boundaries of feeling older. Senior citizen centers, for example, find themselves with a clientele primarily seventy years and over and have difficulty attracting the young-old—those under seventy.³² It is quite common to see healthy and active senior citizens engaging in leisure, recreation, and active lifestyles that were uncommon in that age group even

31. Fernando M. Torres-Gil & Valentine Villa, *Social Policy and the Elderly*, in THE HANDBOOK OF SOCIAL POLICY, *supra* note 9, at 209, 218–19 (James Midgley et al. eds.), reprinted by permission of Sage Publications, Inc.

32. Mitchell S. King & Martin S. Lipsky, *Evaluation of Nursing Home Patients*, 107 POSTGRADUATE MED. 201, 215 (2002).

thirty years ago. At the same time, legislation and public policy should alter their priorities with this new definition. Most categorical programs define old as age sixty-two and sixty-five (Social Security), sixty (Older Americans Act), and even fifty (AARP), even while longevity increases and individuals resist these arbitrary ages. The proliferation of senior citizen discounts will be reconsidered when businesses find that an increasingly large portion of the customers are taking too much advantage of them.

B. Caregiving and Social Supports

A major consequence of aging is the increased numbers of persons who will require some type of caregiving and assistance with activities of daily living, or ADLs (e.g., bathing, toileting, walking).³³ Most of the care given to persons with frailties, chronic conditions, and disabilities are provided by women. As Figure E illustrates, three out of four caregivers are women, many taking care of older persons and children. This “sandwich generation” faces tremendous financial and emotional responsibilities that often drain them of their finances and health. Yet, in the New Aging, the number of potential caregivers will decline. Figure F indicates that the pool will shrink. In 1990, there were eleven potential caregivers (those ages fifty to sixty-four) compared with every person likely to need caregiving (those eighty-five years and older).³⁴ By 2050, that ratio will decline to four to one, raising questions about who fills the gaps.

Yet, unbeknownst to most of the public, there is limited public funding for caregiving. Medicaid will pay for nursing home care and some home- and community-based services, but only to the very poor, who must first spend down their assets.³⁵ Medicare will pay for home health care, but only if medically necessary, approved by a physician, and for limited days. The Older Americans Act provides social services for those over sixty, but its \$1.4 billion budget is relatively

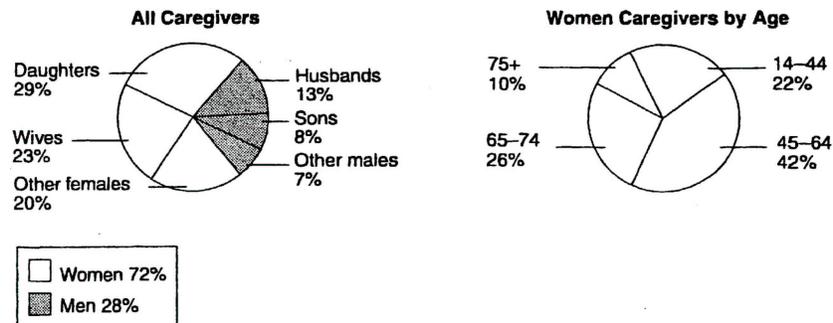
33. Maureen Armour, *A Nursing Home's Good Faith Duty "to" Care: Redefining a Fragile Relationship Using the Law of Contract*, 39 ST. LOUIS L.J. 217, 222 (1994).

34. Lindsey Peterson & Doug Stanley, *Profits Can Come at High Costs*, TAMPA TRIB., Nov. 15, 1998, at 2.

35. STAFF OF HOUSE COMM. ON WAYS & MEANS, 104TH CONG., OVERVIEW OF ENTITLEMENT PROGRAMS 906 (Comm. Print. 1996); see also U.S. Rep. Nancy L. Johnson & Katherine Ryan Sullivan, *Long-Term Care for the Elderly, Long-Term Care Financing: Federal Policy Implications, Actions and Options*, 1 QUINNIPIAC HEALTH L.J. 139, 144 (1996).

small.³⁶ The majority of the population must pay for its own home- and community-based services (e.g., home health aides, homemaker and chore workers, visiting nurses, nursing homes) out-of-pocket. With nursing homes averaging \$40,000 per year,³⁷ and home health aides \$20,000 per year (for relatively full-time care),³⁸ these costs will be a large burden on most individuals and families. To date, there are no serious legislative attempts to expand or create long-term care public financing for the baby boomers as they age.

Figure E
Most Caregivers Are Middle-Aged Women



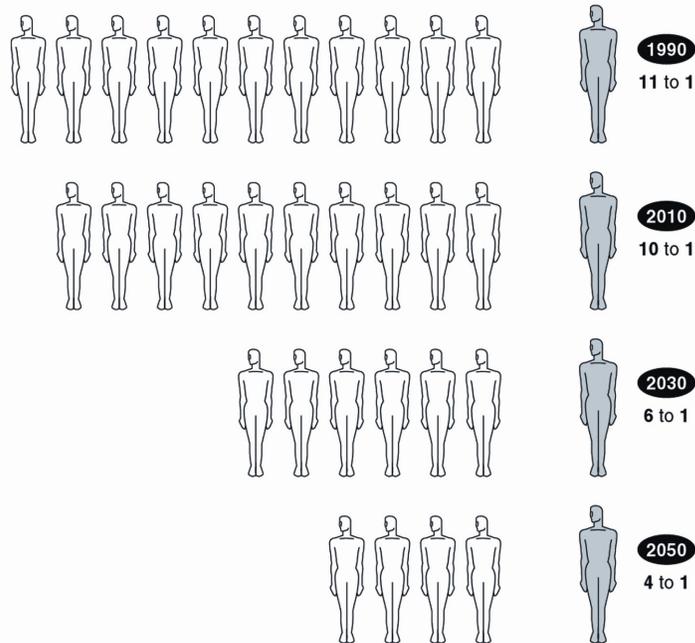
Source: Robert Wood Johnson Foundation, *Chronic Care in America: 21st Century Challenge* (Aug. 1995), printed in *FAULT LINES IN THE SHIFTING LANDSCAPE: THE FUTURE OF GROWING OLDER IN CALIFORNIA-2010* 17 (M. O'Hara-Devereaux et al. eds., 1999)

36. *Older Americans, Dangling*, N.Y. TIMES, July 31, 1992, at 26.

37. Robert Pear, *State Governors Ask Washington for Medicaid Help; A Bipartisan Plea over Cost Strain*, CHI. TRIB., Feb. 25, 2002, available at 2002 WL 2627431.

38. See Robert B. Reich, *The Great Divide*, THE AMERICAN PROSPECT, May 8, 2000, at 56.

Figure F
The Shrinking Pool of Potential Caregivers



In 1990, the ratio of the population in the average caregiving age range, ages 50 to 64, to the population aged 85 and older was 11 to 1. By 2050, there will be only 4 potential caregivers for every elderly person.

Sources: U.S. Bureau of the Census, *Statistical Abstract of the United States: 1993* (113th ed. 1993); U.S. Bureau of the Census, *Current Population Reports, P25-1092, Population Projections of the United States, by Age, Sex, Race, and Hispanic Origin: 1992-2050* (1992)

C. Financial Security, Retirement, and Living Longer

Today's retirees and the leading edge of the baby boomer cohort are becoming increasingly anxious about financing their retirement and maintaining a quality of life into their later years. In recent years, there has been a decline in traditional pensions and retiree health care

coverage. Table 2 demonstrates the dramatic shifts in financial security. Defined benefit plans, or traditional pensions, which guarantee a specific income until death, will drop in the years to come. Defined contributions, or investment income, has increased dramatically and will make up a larger portion of retirement income.³⁹ Yet, as experiences with stock market fluctuations and bankruptcies of companies whose workers rely on company stock attest, this form of retirement income can be risky. By 2029, we can expect that more persons will be forced to rely on work income, especially when Social Security and Medicare benefits are reduced. Ironically, given these fairly certain trends, savings by Americans continue to decline, as Figure G shows that historically low levels of savings are falling to new lows.

What we face with this picture is a combination of denial and anxiety. Denial by most individuals that, as they live longer, they must factor in longevity, inflation, and the reality that their retirement

Table 2
More Retirement Income Will Come from Work
(Percent of retirement income from each source)

	1992	2029
Traditional Pension		
Employer paternalism fades and old-style pensions fall	8	4
Federal Income		
Social Security and Medicare benefits reduced	19	7
Work Income		
Work income increases as Social Security and pension income declines	27	41
Investment Income		
Total income from investments holds steadily, but the 401(k) component rises as responsibility shifts to employees	46	48

Source: Fortune, 1996, *printed in* FAULT LINES IN THE SHIFTING LANDSCAPE: THE FUTURE OF GROWING OLDER IN CALIFORNIA-2010 17 (M. O'Hara-Devereaux et al. eds., 1999).

39. LAWRENCE A. FROLIK & RICHARD L. KAPLAN, ELDER LAW IN A NUTSHELL § 14.3 (2d ed. 1999).

income and savings may not be sufficient. Anxiety because most persons do not have the multiple-income sources necessary to maintain a standard of living they may have enjoyed during their working years. A combination of private savings, assets, defined benefits, and defined contributions are necessary to insure a reasonable income in retirement. Yet most individuals probably rely on their home equity or stock market appreciation to make up for gaps in savings and multiple-income sources. But what happens if home values decline or the stock market does not do well?

D. Diversification, Replacement Rates, and Culture Shock

Little-noted challenges to the future of aging in this country are the diversification of the American population, the declining replacement rates, and the culture shocks these may entail. The persistent gap between the affluent and the poor and the growing numbers of ethnic and racial groups in the work force may create a version of age and race stratification.

The United States is witnessing a unique phenomenon: the diversification of its population. Census 2000 data make this point more vivid than ever before.⁴⁰ Nearly one in every three Americans is a member of a minority group, reflecting the immigration surge of the 1990s.⁴¹ Not since the early 1900s have we seen such a dramatic growth of immigrants and minority groups. From 1990 to 2000, the nation's non-Latino white population dropped from 75.6% to 69.1%.⁴² The Latino and African American populations, which are now roughly equal, are two of the nation's largest minority groups. Latinos accounted for 9% of the U.S. population in 1990 (22.4 million) and increased to 12.5% (35.3 million) in 2000.⁴³ African Americans showed a more modest increase, from 12.1% (30 million) to 12.3% (34.6 million).⁴⁴ In the same period, the population of Asians and Pacific Is-

40. 65+ IN THE UNITED STATES, *supra* note 2, at 2-4 tbl.2-2.

41. Robert A. Rosenblatt, *Census Illustrates Diversity from Sea to Shining Sea*, L.A. TIMES, Mar. 13, 2001, at A16.

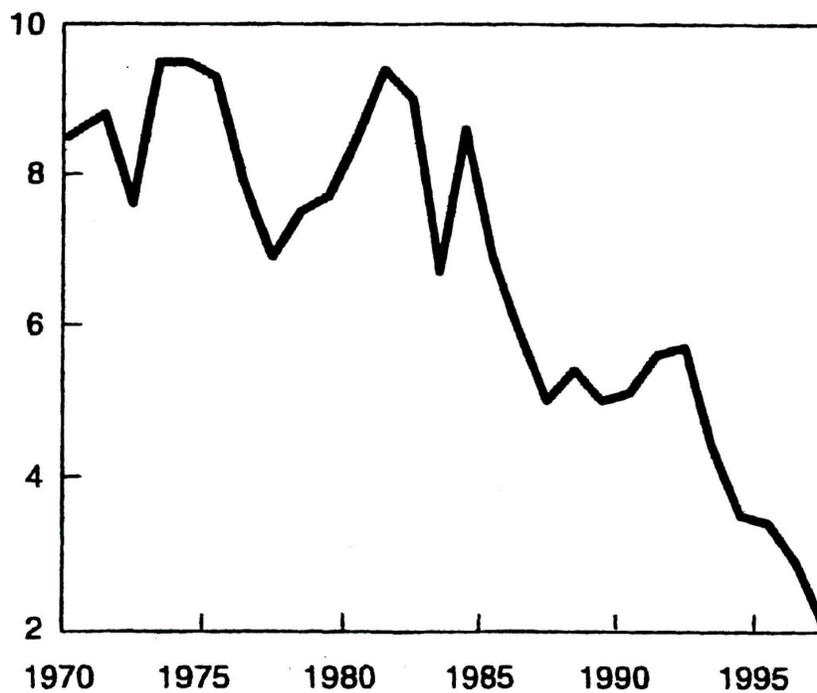
42. See JENNIFER C. DAY, U.S. CENSUS BUREAU OF THE CENSUS, CURRENT POPULATION REPORT: POPULATION PROJECTIONS OF THE UNITED STATES BY AGE, SEX, RACE, AND HISPANIC ORIGIN 25-1104 (1996); see also 1990 DEMOGRAPHIC CHARACTERISTICS, *supra* note 1; 2000 DEMOGRAPHIC CHARACTERISTICS, *supra* note 1.

43. 1990 DEMOGRAPHIC CHARACTERISTICS, *supra* note 1.

44. 2000 DEMOGRAPHIC CHARACTERISTICS, *supra* note 1.

landers increased from 2.9% to 3.7%.⁴⁵ There is greater diversity in the United States today than at any time in its history.

Figure G
Americans Do Not Save
(Saving as a percent of personal disposable income)
Percent



Source: Economic Report of the President, 1999, *printed in* FAULT LINES IN THE SHIFTING LANDSCAPE: THE FUTURE OF GROWING OLDER IN CALIFORNIA-2010 18 (M. O'Hara-Devereaux et al. eds., 1999).

Minorities, then, will account for a greater proportion of the U.S. population and will be the primary work force for an aging society.

45. *Id.*

Another way to view this is to examine the rate of replacement level fertility. Figure H points out that, in an aging society, immigrants and minorities will keep America young. The replacement level fertility of American women has declined from 4.0 in the early 1900s to 2.0 by 1990.⁴⁶ Yet, our nation's population continues to increase. Why? Simply because minorities are having more children than whites. Hispanics, in particular, have a replacement rate of 2.4, and in places like California, we can see that kindergarten through twelfth-grade school grounds are heavily populated by Latino children. In the next fifty years, children of immigrants and minorities will account for most of America's youth and be the labor force for an aging nation.

Figure H Fertility of American Women, 1998

"In an aging society, immigrants and minorities will keep the USA young."

- **Replacement Level Fertility** is the number of births per woman required to maintain the population—approximately 2.1 births per woman

• Early 1900s	4.0
• 1957	3.7
• Mid 1970s	1.8
• 1980–2000	2.0

By Race

• Hispanics	2.4
• Blacks, Asian and Pacific Islanders	2.1
• White Non-Hispanic	1.8

Source: Population Profile of the United States: 1999, U.S. Census Bureau

These trends raise important questions about the public's willingness to invest in the health, education, and training of immigrants and minority groups. While there appears to be progress in high school and college graduation rates, too many young minorities are

46. CTRS. FOR DISEASE CONTROL, LIVE BIRTHS, BIRTH RATES & FERTILITY RATES BY RACE OF CHILD: U.S. 1909–80 tbl.1-1 (1997), available at <http://www.cdc.gov/nchs/data/+1981xd.pdf> (last visited Apr. 20, 2002).

not equipped to deal with the increasingly technological and high-skill demands of industry and business. Too many are found in low-end service and retail work characterized by minimum wages, lack of health insurance and retirement benefits. Too many are found in our prisons, and too few in graduate programs. Yet it is upon these groups that we will expect to impose the taxes and expect the labor force productivity to support the entitlement programs and public benefits for a largely white and English-speaking retiree population. Minorities are also enjoying increased life expectancy, however, and they too have a stake in programs for older persons. It would be a mistake, then, to foster interracial and intergenerational conflicts. But the reality remains that it behooves an aging society to invest in its diverse younger population.

IV. Conclusion: Strategic Planning and a Window of Opportunity

There are many challenges facing an aging society as it confronts the impending nexus of individual and population aging. Redefining old age, caregiving, financial security, generational claims, and diversification are but a few of the many issues that await us as we live longer and this country becomes older. What can be done to prepare for the demographic imperative?

The aging of a population provides an unexpected opportunity in that we can foretell the future by examining demographic trends. We have a fairly good idea of what to expect in the next fifty years. We will live longer, there will be more older persons and the baby boomers will constitute the largest proportion of older persons in this nation's history. And we know that larger numbers of the next cohort of older persons will be affluent and vulnerable. However, much of the uncertainty reflects the extent to which the public sector will provide for older persons and the extent to which individuals will be personally responsible for their aging.

The debates around the privatization of Social Security, raising eligibility ages, and reforming entitlements focus on more than how we pay for them. They also focus on the willingness of the public sector to assume responsibility for the needs of older persons and their ability to engage in proactive planning. More states and municipalities are engaged in strategic planning efforts that allow them to assess their abilities to cope with the age waves and to determine how they

might restructure their programs and services.⁴⁷ Some states are consolidating programs in aging, disability, and long-term care.⁴⁸ Others are shifting public resources from nursing homes to home- and community-based services. Local and county governments must cope with the broad array of services, including transportation, housing, health care, social services, and recreation. The federal government, however, is singular in its inability to plan comprehensively.⁴⁹ The fragmentation of categorical programs and lack of coordination by federal agencies and interest-group politics make it difficult for the Congress and the executive branch to plan and respond in a strategic fashion. About the best that we can expect from the federal government in the short term may be some version of a patient's bill of rights and prescription drug coverage subsidies.

Until there is a national will to respond to the demographic imperative, individuals must assume greater responsibility for their aging. There is much we can all do. Saving, beginning in the early years and with any modest amount, can yield substantial returns if invested wisely. Taking care of one's emotional and physical health can push back the vicissitudes of old age (e.g., disability, chronic conditions, illness).⁵⁰ Adopting the habit of social interaction and support networks will help avoid the great fears of older persons: isolation and depression. Certainly, advances in bio-medical research and drug discoveries may provide "magic-bullet" solutions to Alzheimer's disease, arthritis, and incontinence. Technological advances will probably give us the assistive devices (e.g., computers, electric wheelchairs, prosthetics) and capabilities to enjoy a long life, even with disabilities and mobility limitations. All of this augurs well for the potential to enjoy an increased life span. Already, we see leisure and recreational industries catering to more active and adventuresome individuals who are in their older years.

Notwithstanding the personal responsibility we should all take to prepare for long lives, we must face the reality that a short window of opportunity exists to address the social, economic, and political di-

47. ANDREW SCHARLACH ET AL., CAL. POLICY RESEARCH CTR., STRATEGIC PLANNING FRAMEWORK FOR AN AGING POPULATION (2001), available at <http://www.ucop.edu/cprc/sb910aging1.pdf> (last visited Feb. 25, 2001).

48. *Id.*

49. Fernando M. Torres-Gil, *Reflections on Policy & Politics in the Clinton/Gore Administration: or, How to Be 'Gerontologized' in Two Easy Terms*, 10 J. AGING & SOC. POL'Y 1, 2 (1999).

50. Geoffrey Cowley, *How to Live to 100*, NEWSWEEK, June 30, 1997 at 57.

lemmas of an aging society. As the cohort analysis chart illustrates, we have between 2000 and 2010 to make the political decisions necessary to alter public attitudes, social expectations, and public programs. Although we may be redefining how we view age and old age, we still, as a nation and as individuals, base our plans on the norms and expectations of the Modern Aging period. The New Aging is a much different world, and we must adjust accordingly. This world will require us to rethink the phenomenon of aging and will impact all aspects of society and public policy. This paper has identified a few of those challenges and provides clues to how we might respond to those changes.