

# **Random Destiny**

How the Vietnam War Draft Lottery  
Shaped a Generation

**Wesley Abney**

**Series in American History**



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*If history were taught in the form of stories, it would never be forgotten.*

Rudyard Kipling



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# Introduction

The United States and its allies fought a war in Southeast Asia, primarily from 1965 to 1973, with the goal of preventing a takeover by communist North Vietnam of Western-backed South Vietnam, as well as stopping the possible further spread of communism in the region. Of the 8.7 million men who served in the armed forces worldwide during those years, the U.S. committed 3.4 million to the struggle in Southeast Asia,<sup>1</sup> of whom about 58,000 were killed and 300,000 wounded.<sup>2</sup> In the course of the conflict, the U.S. military dropped over 7 million tons of bombs (three-and-a-half times the total used during World War II),<sup>3</sup> widely employed a highly flammable petroleum gel known as napalm, and sprayed large areas of the jungle terrain and croplands with concentrated herbicides such as Agent Orange. Rough estimates of civilian casualties in South Vietnam during the years of American involvement range from 300,000 to over 400,000.<sup>4</sup> Daily television coverage brought home to the American public these horrors of the battlefield, and many others, more so than in any previous war. As the conflict dragged on, it became increasingly unpopular, especially among those who were at risk of being drafted to join the fight. In 1973, after achieving no more than a stalemate despite all of their efforts, American forces withdrew. In 1975, the North overran the South and reunified the country as a one-party socialist state. Of the neighboring “domino” nations, Laos was taken over by the Pathet Lao communists in 1975,<sup>5</sup> and Cambodia remained embroiled in war and genocide until 1991,<sup>6</sup> but other nations in the region remained out of communist control.

The war in Vietnam was the last conflict in which the U.S. used conscription to augment its military forces. The young men who came of draft age during the war, since dubbed the Vietnam Generation, numbered over 26 million.<sup>7</sup> Of those, about 1.86 million were drafted,<sup>8</sup> almost 7 million volunteered,<sup>9</sup> often as an alternative to being drafted, and over 16 million stayed out of the armed forces. Doubts about serving in the military, in particular during this controversial war, caused the majority of that generation to seek ways of avoiding the draft. The Selective Service System offered numerous legal deferments and exemptions, depending on factors such as educational standing, marital status, paternity, occupation, religious scruples, or simply failing to meet the fitness requirements. Most young men motivated by a desire to stay clear of the military took the necessary steps to procure draft immunity as allowed by the system, while others refused to comply with the law and faced criminal charges or fled the country. Either way, they often found that those choices profoundly influenced the entire course of their lives.

The goal of this book is to demonstrate how the lives of young men of the Vietnam Generation, and in particular those who did not serve, were impacted by decisions made early in life when facing the draft and the likelihood of combat duty.<sup>10</sup> According to a survey taken shortly after the war, sixty percent of draft-age men who did not see combat in the war took active steps to avoid it.<sup>11</sup> Much of the book consists of brief recollections by such men regarding the choices they made and the consequences which followed. The stories have been collected since 2007 on a website designed for that purpose, at a remove of forty years or more from the war and the draft, when the long-term effects of those youthful actions have become evident.

This book focuses primarily on responses to the draft lotteries held in 1969 through 1972, although the draft had been in effect throughout the war, and troop strength in the region had already peaked by the time of the first such lottery in December, 1969. This focus is due in part to the inherent drama of the event which often decided a young man's draft fate overnight, rather than the previous process which could drag on for years. Also, the cultural fluke of the lotteries has fascinated statisticians and social scientists ever since, prompting numerous studies, including the effect of a man's draft number on long-term political attitudes,<sup>12</sup> educational attainment,<sup>13</sup> economic status,<sup>14</sup> criminal behavior and college enrollment,<sup>15</sup> next generation labor market,<sup>16</sup> likelihood of parents' voting,<sup>17</sup> and long-term career outcomes.<sup>18</sup> These and many other draft-related research studies provide a multi-faceted measurement of generational impact, while the individual stories included here serve as personal examples of the statistically identified trends.

Any discussion about the war in Southeast Asia is still likely to stir lingering resentments, over fifty years after American troops joined the fight. Some are still angry about the war and its human cost; some are still bitter at the war protesters or the politicians who eventually pulled the plug. Perhaps in another thirty years, when the Vietnam Generation is finally gone, taking those emotions with us, the war will become but a historical memory, like wars before it.

This work is not intended to downplay the sacrifices of those who served our country in the military, nor to impugn the patriotism or motives of the draft avoiders and resisters. Rather, the purpose is simply to show how the circumstances of the war and the draft personally affected millions of lives during a time of great upheaval in America. Fortunately, it appears the intervening years have been kind to many of the Vietnam Generation--most of the men who submitted their memories for this project seem to have made their own peace with who they were and what they did, all those years ago.

## Notes

<sup>1</sup> Department of Veterans Affairs, Office of Public Affairs, "America's Wars." [http://va.gov/opa/publications/factsheets/fs\\_americas\\_wars.pdf](http://va.gov/opa/publications/factsheets/fs_americas_wars.pdf)

<sup>2</sup> National Archives, Military Records, "Statistical information About Casualties of the Vietnam War." <https://archives.gov/research/military/vietnam-war/casualty-statistics.html>

<sup>3</sup> Michael Clodfelter, *Vietnam in Military Statistics: A History of the Indochina Wars 1792-1991* (Jefferson, N.C.: McFarland & Company Inc., 1995), 225.

<sup>4</sup> Rudolph J. Rummel, *Statistics of Democide: Genocide and Mass Murder since 1900* (Charlottesville, VA: Center for National Security Law, School of Law, University of Virginia, 1997), Table 6.1A, lines 107-117. <https://www.hawaii.edu/powerkills/NOTE5.HTM>

<sup>5</sup> *The World Factbook: East & Southeast Asia, Cambodia* (Washington DC: Central Intelligence Agency, 2017). <https://www.cia.gov/library/the-world-factbook/geos/cb.html>

<sup>6</sup> *The World Factbook: East & Southeast Asia, Laos* (Washington DC: Central Intelligence Agency, 2017). <https://www.cia.gov/library/the-world-factbook/geos/la.html>

<sup>7</sup> Lawrence M. Baskir and William A. Strauss, *Chance and Circumstance: The Draft, the War and the Vietnam Generation* (New York: Alfred A. Knopf, 1978), 5.

<sup>8</sup> Selective Service System, "Induction Statistics." <https://sss.gov/About/History-And-Records/Inductions-Statistics>. This figure includes men drafted between August, 1964 and February, 1973.

<sup>9</sup> Department of Veterans Affairs, "America's Wars." 8.7 million total servicemembers less 1.8 million draftees. Some men of the Vietnam Generation served prior to August, 1964.

<sup>10</sup> See Appendix for discussion of methodology.

<sup>11</sup> Baskir and Strauss, *Chance and Circumstance*, 7.

<sup>12</sup> Robert S. Erickson and Laura Stoker, "Caught in the Draft: The Effects of Vietnam Draft Lottery Status on Political Attitudes," *The American Political Science Review* 105, no. 2 (2011), 221-37. <http://www.jstor.org/stable/41495063>. This study examined men who graduated from high school in 1965 and faced the 1969 lottery when emerging from college and losing draft deferment. The authors concluded that the experience of drawing a low number and facing the likelihood of military service in Vietnam "provoked a cascade of changes in basic partisan, ideological and issue attitudes," which persisted for decades.

<sup>13</sup> David Card and Thomas Lemieux, "Going to College to Avoid the Draft: The Unintended Legacy of the Vietnam War," *The American Economic Review* 91, no. 2 (2001), 97-102. <http://www.jstor.org/stable/2677740>

<sup>14</sup> Joshua D. Angrist, "Lifetime Earnings and the Vietnam Era Draft Lottery: Evidence from Social Security Administrative Records," *The American Economic Review* 80, no. 3 (1990), 313-36. <http://www.jstor.org/stable/2006669>

<sup>15</sup> Ilyana Kuziemko, "'Dodging Up' to College or 'Dodging Down' to Jail: Behavioral Responses to the Vietnam Draft by Race and Class" (paper presented at the Law, Economics, and Organization Workshop, Yale Law School, October 30, 2008).

<https://www.law.yale.edu/system/files/area/workshop/leo/document/Kuziemko.pdf>

<sup>16</sup> Sarena Goodman and Adam Isen, "Un-Fortunate Sons: Effects of the Vietnam Draft Lottery on the Next Generation's Labor Market" (2015-12-30). FEDS Working Paper No. 2015-119. <https://ssrn.com/abstract=2709572>

<sup>17</sup> Tiffany C. Davenport, "Policy-Induced Risk and Responsive Participation: The Effect of a Son's Conscription Risk on the Voting Behavior of His Parents," *American Journal of Political Science*, 59 (2015), 225–241. doi:10.1111/ajps.12117.

<sup>18</sup> Douglas H. Frank, "As Luck Would Have It: The Effect of the Vietnam Draft Lottery on Long-Term Career Outcomes," *Industrial Relations: A Journal of Economy and Society*, 51 (2012), 247–274. doi:10.1111/j.1468-232X.2012.00676.x

## Chapter 1

# The draft: a brief history

Societies large and small have been warring with one another since the advent of mankind. Often the combatants in these struggles have been procured by compulsory service laws. Early historical records of conscription date back to the reign of Hammurabi, who conquered much of Mesopotamia during his rule as King of the Babylon city-state from 1792 B.C. until 1750 B.C. The Babylonian empire employed a system of conscription known as *Ilkum*, by which eligible men served in the army in time of war and provided other labor in time of peace.<sup>1</sup> Hammurabi's well-known legal code, developed by about 1754 B.C., refers to conscripts as "men of the levy," who could be granted land in exchange for their service.<sup>2</sup>

Modern mass conscription in the West arose during the French revolution with the enactment of the Jourdan-Delbrel law in 1798, making military conscription mandatory for single French men aged 20 to 25 years. This "levée en masse," based on a Constitutional principle of patriotic duty to the state, generated the Grand Army of citizen-soldiers which powered the ongoing conquests of Napoleon Bonaparte.<sup>3</sup>

In the United States, the federal government did not establish a draft until 1862. President James Madison proposed a national draft to procure 40,000 troops during the War of 1812 but was stymied by Congress, where Rep. Daniel Webster made an impassioned speech opposing the plan.

Is this, sir, consistent with the character of a free government? Is this civil liberty? Is this the real character of our Constitution? No sir, indeed it is not...[t]he people of this country have not established for themselves such a fabric of despotism. They have not purchased at a vast expense of their own treasure and their own blood a Magna Charta to be slaves. Where is it written in the Constitution, in what article or section is it contained that you may take children from their parents, and parents from their children, and compel them to fight the battles of any war in which the folly or the wickedness of the government may engage it?<sup>4</sup>

During the American Civil War, both sides in the conflict passed conscription laws to raise troops: the South in April 1862; the North in 1862 with a state-administered system, and then with the national Enrollment Act of

1863. Both programs were plagued by inequities, including a loophole in the federal system allowing draftees to hire substitutes or simply pay a commutation fee,<sup>5</sup> and favoritism in the Confederate system which exempted the planter class and “huge categories of minor officials, clerks, teachers, lawyers, newspapermen, druggists, officers of militia, and literally dozens of other callings.”<sup>6</sup> The draft authorized by the Enrollment Act took place in New York City in July, 1863, triggering four days of widespread rioting, mostly by working-class whites angered by the draft and resentful of more affluent men who could afford to hire substitutes or buy exemptions. By the second day, the disturbance morphed into a racial rampage, arising from tensions fostered by the ineligibility of most blacks for the draft, and potential job competition from freed slaves following the Emancipation Proclamation of January 1863. The uprising was only brought under control after the state militia and federal troops were recalled from war duty, by which time an estimated 120 people had been killed and at least 2,000 wounded. Property damage, including the destruction of the draft headquarters and other public buildings, churches, the mayor’s home and an orphanage for black children, totaled in the millions.<sup>7</sup> The porous nature of the Enrollment Act is illustrated by the fact that of the 255,373 men drafted, 86,724 avoided military service by payment of commutation, and another 117,986 furnished substitutes, such that only 50,663 original draftees actually served.<sup>8</sup>

In May, 1917, six weeks after the U.S. had entered World War I, President Woodrow Wilson signed the Selective Service Act of 1917, which authorized a draft including a national lottery, allowed certain deferments, prohibited substitutions or purchase of exemptions, and established community boards to administer the program.<sup>9</sup> Numerous court challenges to the law ensued, and by the end of the year were consolidated for hearing before the U.S. Supreme Court, which issued its decision known as the *Selective Draft Law Cases* on January 7, 1918. Although the U.S. Constitution does not specifically grant to the government the power to impose compulsory military service (as scornfully noted by Daniel Webster), the Court found such authority implicit in the language of Article I, Section 8 which grants Congress the power “To declare War” and “To raise and support Armies.” The Court thus upheld the constitutional basis for conscription, also rejecting the plaintiffs’ several other legal arguments, including a contention that the law violated the Thirteenth Amendment’s prohibition against involuntary servitude.<sup>10</sup> The draft system inducted 2.8 million men during the war,<sup>11</sup> comprising 59.4% of the total participants.<sup>12</sup>

The World War I draft law expired in 1918 as the war ended. However, a joint Army and Navy Selective Service Committee appointed a group of officers to devise a comprehensive plan for a future draft, and their work eventually resulted in the Selective Training and Service Act of 1940.<sup>13</sup> This Act was the first to

establish a draft while the U.S. was still at peace, coming over a year before the attack on Pearl Harbor, although by the time it was signed into law by President Franklin Roosevelt on September 16, 1940, numerous conflicts had already developed around the world, including Germany's invasion of France.

Although the constitutional validity of conscription in wartime had been resolved by the Supreme Court in 1918, the new proposal for a peacetime draft generated further controversy. During the debate over the law, some in Congress argued that a draft "...in peacetime is abhorrent to the ideals of patriotic Americans and is utterly repugnant to American democracy and American traditions."<sup>14</sup> However, a federal appeals court upheld the legality of a peacetime draft in 1941, stating that "[w]e are not precluded from preparing for battle, if battle must come, until such time as our preparation would be too late."<sup>15</sup>

This new version of the draft required registration of all men between the ages of 18 and 45, with selection determined by a national lottery, and led to the induction of 10.1 million soldiers,<sup>16</sup> or 62.7% of the total participants in World War II.<sup>17</sup> The law also established the Selective Service System ("SSS") as an independent agency.<sup>18</sup> Lieutenant Colonel Lewis B. Hershey, who had been instrumental in planning the new system, was promoted to Brigadier General in October, 1940, and appointed as head of the agency by Roosevelt effective July 31, 1941, a post he would hold until February 1970.<sup>19</sup>

The 1940 law was repealed as of March 31, 1947,<sup>20</sup> but the next year Congress reauthorized a system of conscription,<sup>21</sup> again in peacetime but during gathering tensions as the Cold War began between the Soviet bloc and the U.S. and its allies. A Soviet-backed communist coup replaced the post-war government in Czechoslovakia in February 1948, and the Soviets began the blockade of West Berlin in June 1948, the same week the new U.S. draft law took effect. The draft system was again renewed with small amendments in June 1951, after the outbreak of the Korean war escalated the need for U.S. troops.<sup>22</sup> The renewed draft calls led to the induction of another 1.5 million men,<sup>23</sup> making up 26.7% of the 5,720,000 total participants during the Korean War.<sup>24</sup>

Following the end of the war in Korea and a return to peace, the draft system remained in place and the SSS remained active, with periodic renewals by Congress typically at four-year intervals. By the time the law was set to expire in 1967, American military involvement in Vietnam had climbed, and the draft system had come under increasing criticism, spurring large public demonstrations. Critics of the system in Congress cited three main issues: imprecise standards for deferments which varied among the 4,000 different local draft boards around the country according to their own broad discretion; a perception of unfairness based on race and class, particularly regarding deferments for college students; and the oldest-first order of call among the 19 to 26-year-olds<sup>25</sup> who

were eligible for the draft. In July 1966, President Johnson appointed a National Advisory Commission on Selective Service (NACSS), headed by former assistant U.S. Attorney General Burke Marshall, to conduct a thorough study and recommend reform.<sup>26</sup> Shortly afterwards, the House Armed Services Committee also set up a draft study, this one headed by former Army general Mark Clark.<sup>27</sup> The reports of these two studies by February 1967 agreed that a draft was still needed and that the age-order of call should be reversed to take the youngest men first. However, the reports conflicted on several important points. The Marshall Commission recommended implementing a random lottery system, eliminating nearly all student deferments, and establishing regional SSS offices to oversee the local draft boards and thus make draft classifications more uniform. The Clark report disapproved of the lottery and wanted to preserve student deferments and local board autonomy.<sup>28</sup> In a message to Congress in March 1967, the President acknowledged the “danger of inequities...when the numbers of men needed are relatively small in relation to the numbers available.” He agreed with reversing the age-order of call (but did not implement that change); as to the issues of undergraduate student deferments and restructuring of the SSS, he called only for further study.<sup>29</sup> Congress proceeded to pass a four-year extension of the draft law with few changes, and also blocked the President’s authority to drop undergraduate deferments or implement a lottery.<sup>30</sup>

After Richard Nixon succeeded Johnson as President in 1969, Congress granted his request to amend the law to allow a draft lottery.<sup>31</sup> The first lottery was held on December 1, 1969, when the reversal of the oldest-first order of call also took effect. Meanwhile Nixon established yet another study group, the President’s Commission on an All-Volunteer Armed Force, also known as the Gates Commission. Its 1970 report concluded that an all-volunteer force (“AVF”) was preferable to the long-term tradition of mixing volunteers and conscripts.<sup>32</sup> Faced with recurring, massive protests against the war and the draft, Nixon was anxious to implement the AVF as soon as possible, but the continuing level of American troops in the war forced him to seek a further extension of the draft when the law was up for renewal again in 1971.<sup>33</sup> Congress granted an extension of two years only, and called for revamping the membership of the local draft boards so as to better reflect the demographics of each district.<sup>34</sup> The last draft calls were issued in December 1972, and Secretary of Defense Melvin Laird announced the end of the draft on January 27, 1973, before the statutory authority to induct expired on June 30.<sup>35</sup> During the course of the Vietnam war, the SSS inducted 1.8 million men,<sup>36</sup> making up 21.3% of the total armed forces participants.<sup>37</sup> American military forces have relied entirely on volunteers since that time.

Conscription in the United States, during its various incarnations between 1862 and 1973, generated significant controversy in the streets, in academia,

and on Capitol Hill. The debate concerning the draft revolved around two central dynamics. The first issue was how to reconcile the basic concept of involuntary service with the country's core values of liberty and individual choice. The second was how to reconcile an egalitarian ideal of universal service by all, as a patriotic duty, against the need to exempt certain categories of men so as to minimize disruption to civilian society and facilitate the ongoing development of the domestic economy and resources.

The social justification for putting compulsory service above the ideal of individual freedom was stated by President Lyndon Johnson in his message to Congress on Selective Service in 1967. "The knowledge that military service must sometimes be borne by--and imposed on--free men so their freedom may be preserved is woven deeply into the fabric of the American experience."<sup>38</sup> Indeed, as early as 1783, George Washington advocated compulsory service in the militia, speaking of the reciprocal duty owed by a citizen to his country. "It may be laid down as...the basis of our system, that every Citizen who enjoys the protection of a free Government, owes not only a proportion of his property, but even of his personal services to the defence of it..."<sup>39</sup> This notion of a civic duty of service was later reflected in the language of the 1940 draft law, which declared that "in a free society the obligations and privileges of military service should be shared generally."<sup>40</sup> But despite the patriotic underpinnings of service to country, society's unease with forced military service lingered on and helped to bring about the eventual end of the draft.

More pervasive than the question of whether conscription should be allowed in a free society was the question of how to make conscription fair within the eligible group. Starting with the Selective Service Act of 1917, as its name implies, the federal government recognized a need to select certain individuals for military service from the eligible pool of registrants, while deferring or exempting others. This need arose from two factors: first, the need to maintain the domestic economy, foster scientific and technological advances, and preserve the social order despite the demands of war; and second, the demographic reality that the number of draft-age young men was more than the military required.

Devising a just system for such selective service, with its life or death consequences for those affected, proved elusive. The question of who serves when not all serve, as posed by the title of the Marshall Commission report,<sup>41</sup> has no easy answer. What standards should be set to determine mental and physical suitability for service? What age group should be eligible, and in what order of priority? What grounds should be available for deferments or exemptions: family status, educational endeavors, civilian occupation, religious scruples?<sup>42</sup> Within each possible group, where should specific lines be drawn?

The pattern of fitness standards, deferments and exemptions varied over the years, partly as a function of the armed forces' fluctuating need for troops. As the Vietnam era began, SSS regulations provided deferments or exemptions for high school and undergraduate college students, certain graduate students, conscientious objectors for civilian or non-combat military duty, farmers, other necessary workers important to the national interest, family men living with children or other relatives whose absence would create a hardship for the dependents, sole surviving sons, ministers, divinity students, and certain officials.<sup>43</sup>

Even after such categories and standards were established, the issue of oversupply still remained, hence the need for additional culling of the available pool, via fluctuating monthly draft calls and wartime lotteries. Particularly following demobilization after the Korean war, lower draft calls and the rising demographic wave of the baby boom combined to drastically reduce the number of men needed for duty relative to the available pool.

The number of men inducted annually dropped from 472,000 in 1953, the year the war in Korea ended, to 152,000 in 1956, and then down to 87,000 by 1960.<sup>44</sup> Meanwhile the prime draft-age group of men aged 19 to 25 grew from 8 million in 1958 to 12 million in 1964.<sup>45</sup> During this time, the main focus of the SSS shifted from military procurement to human resource planning. In his 1965 agency report to Congress, Director Hershey described the dual functions of the SSS: to supply "militarily available registrants to the Armed Forces," as well as the "equally important responsibility" of influencing some young men to enter and remain in study, in critical occupations, and in other activities essential to the national interest, by deferring them from military service. As examples of this process known as "channeling," he cited young engineers, scientists, technicians, teachers, physicians and dentists who were steered into those fields by available student deferments and then occupational deferments.<sup>46</sup> He described the draft system as "the club of induction" which could drive men "out of areas considered to be less important to the areas of greater importance,"<sup>47</sup> and told Congress in 1960 that inducting soldiers, previously the primary function of the SSS, "is now only a collateral, almost, you might say, a byproduct of its operation."<sup>48</sup> Despite the SSS's ongoing mandate to register and classify every draft-age man, many simply had no further role in the grand scheme, even without a deferment or exemption. President Johnson's 1967 message to Congress noted that even with higher troop demands for the war, the military required only 50 percent of the total age group, and only a third or less of that number would need to be involuntarily inducted.<sup>49</sup>

By 1970, amid declining troop levels in Vietnam and continuing criticism of the draft as unfair, the government belatedly realized that the SSS practice of channeling by use of draft deferments had become outmoded. Nixon eliminat-

ed future agricultural, occupational and paternity deferments in April of that year,<sup>50</sup> and in September of 1971 the draft law extension from Congress finally ended (prospectively) the long-debated deferments for undergraduate college students.<sup>51</sup> Curtis Tarr, the new Director of SSS, officially discontinued channeling by July of 1970. "More men will be treated in exactly the same way...the philosophy of channeling men into essential occupational pursuits is no longer followed."<sup>52</sup> Tarr noted that when WWII conscription took a large percentage of American young men for military duty, it was necessary to defer some of them in order to fill vital jobs in defense industries, schools and community services. "Now, however...[o]nly a small share of those available to serve in the armed forces are required to do so, leaving a much larger manpower pool from which the agencies performing these essential services may draw."<sup>53</sup>

A different idea for utilizing those not needed for active military duty was the concept of universal service, by which nearly everyone of eligible age would be required to serve the nation in some capacity. The notion of service by all ran directly counter to the belief that no one should be forced into service, but embodied the potential for spreading the burden of patriotic national service in an egalitarian and useful way.

The idea of universal service began as a plan to require all draft-age males to participate in compulsory military training, followed by active duty, or active reserve, or inactive status subject to draft call as needed. By 1916, such universal service was being advocated by civilian and military leaders including Theodore Roosevelt, Gen. Leonard Wood and Gen. John Pershing, referencing similar programs already in place in Germany, France and Japan. Claiming that such a widespread compulsory system was "essentially democratic," its supporters in Congress nearly passed an enabling bill in February 1917, but when the U.S. entered the war in April, the idea was shelved and omitted from the draft law passed in May of that year.<sup>54</sup> As evidenced by its name, the later Universal Military Training and Service Act of 1951 contained a provision that would have obligated all eligible males to perform 12 months of military training and service as part of a National Security Training Corps, but only if triggered by future legislation (which never occurred).<sup>55</sup>

The idea of universal national service was later broadened to include non-military service, as described in a speech delivered by Secretary of Defense Robert McNamara in May 1966. Shortly afterwards, Sen. Jacob Javits of New York introduced a resolution in Congress proposing such service in several programs, including the Peace Corps, VISTA, the Public Health Service, the Agency for International Development, and various other designated social welfare agencies. A National Service Conference of representatives from universities, student organizations and private foundations, held in May 1966, recommended including non-military options in compulsory national ser-

vice, noting a need to expand manpower for programs designed to combat poverty, illiteracy and disease. However, opponents of such alternative service argued that most young people would choose non-military assignments, depriving the military of needed manpower, while flooding the civilian programs with reluctant conscripts.<sup>56</sup> In any event, no universal compulsory service was ever mandated by Congress.

Until the draft expired in 1973, a critical rite of passage for every American male was the requirement to register for the draft upon reaching the age of eighteen.<sup>57</sup> By law, every man had to report to the local draft board within the next five days and fill out an SSS Registration Card (SSS Form 1).<sup>58</sup> The penalty for failure to register was a prison term of up to five years and a fine of up to \$10,000.<sup>59</sup> The draft board issued a selective service number to each registrant. Shortly afterwards, the man would receive a Classification Questionnaire (SSS Form 100) from his draft board requesting information needed to place him in the appropriate draft classification. Based on answers provided on that form, the board would then issue what they considered to be the proper category via a Notice of Classification (SSS Form 110).<sup>60</sup> The law presumed that the registrant was available for induction (I-A) unless he could meet the burden to show eligibility for a deferment.<sup>61</sup> Any man who disputed his classification could appeal within the next thirty days, by requesting a personal appearance before the local board.<sup>62</sup> If unsuccessful, he could then pursue his claim with the state appeal board,<sup>63</sup> and finally, on rare occasions, to the national appeal board, if a member of the state board cast a dissenting vote.<sup>64</sup> Draft categories during the Vietnam war (with some variations) were as follows.<sup>65</sup>

<b>Class</b>	<b>Description</b>	<b>Regulation</b>
<b>I-A</b>	Available for military service	1622.10.
<b>I-A-O</b>	Conscientious objector available for noncombatant military service only	1622.11
<b>I-C</b>	Member of the armed forces, Coast Guard and geodetic survey and PHS	1622.13
<b>I-D</b>	Member of reserve component or student taking military training	1622.13
<b>I-O</b>	Conscientious objector available for civilian work contributing to the maintenance of the national health, safety or interest	1622.14
<b>I-S</b>	High school or college student deferred by statute	1622.15
<b>I-Y</b>	Qualified for military service in time of war or national emergency	1622.17
<b>I-W</b>	Conscientious objector performing civilian work contributing to the maintenance of the national health, safety or interest	1622.16
<b>II-A</b>	Deferred for civilian occupation (except agriculture and activity in study)	1622.22

<b>II-C</b>	Deferred because of agricultural occupation	1622.24
<b>II-D</b>	Deferred because of study preparing for the ministry (added 1971)	1622.27
<b>II-S</b>	Deferred because of activity in study	1622.25, 26
<b>III-A</b>	Deferred by reason of fatherhood or extreme hardship to dependents	1622.30
<b>IV-A</b>	Registrant who has completed service, or sole surviving son	1622.40
<b>IV-B</b>	Officials deferred by law	1622.41
<b>IV-C</b>	Aliens	1622.42
<b>IV-D</b>	Minister of religion or divinity student	1622.43
<b>IV-F</b>	Not qualified for any military service	1622.44
<b>IV-G</b>	Registrant exempt from service during peace, sole surviving son or brother	1622.45
<b>IV-W</b>	Conscientious objector who has completed alternate service	1622.46
<b>V-A</b>	Registrant over the age of liability for military service	1622.50

The SSS adopted the local board model of operation in 1917, such that all draft-age males would be classified for induction or deferment by small groups of volunteers, usually three to five, who composed each of the over 4,000 local boards around the country.<sup>66</sup> This localized system was touted by Director Hershey as the fairest method of selection, whereby a man's draft future would be determined by his own neighbors. However, by the 1960s, a more mobile and urbanized society had rendered this design obsolete, especially in the cities, where the neighborhood offices tended to consolidate in fewer locations, and the board members generally had no personal knowledge of the young men they were charged to classify.<sup>67</sup>

These little groups of volunteers also did not reflect the characteristics of the men whose futures they decided, or society at large. As of 1967, local board members were all male, 96.3% white, with an average age of 58. Almost half had been on a board for 10 years or more, and two-thirds had previously served on active military duty. They were better educated than the population at large, and 70% had white-collar jobs. Blue-collar workers were significantly under-represented compared to the overall job market.<sup>68</sup> Prodded by Congress, the SSS made incremental progress over the next few years in diversifying board membership. By the end of 1971, minority membership had risen to 14%, including blacks, Native Americans, Hispanics and Asian-Americans. New rules also required retirement at age 65 or after 20 years' service.<sup>69</sup>

The local board system also came under heavy criticism by 1967 for their strikingly inconsistent and often incorrect practices. For example, some local boards properly reclassified men when deferments expired; some did not. Many men were improperly classified as deferred under class II-A (civilian occupation), even for occupations which did not qualify under the national

standard. Different boards used different criteria to determine whether a student was considered full-time and therefore eligible for II-S (student deferment), and whether enrollment in a trade or vocational school, as opposed to a four-year college program, supported II-S status.<sup>70</sup>

In 1972 the national headquarters finally took effective measures to make the process of classification consistent across the country. Announcing the “abandonment of the concept” that each local board should follow its own interpretation of the rules, the SSS established the new principle of a “single, national interpretation of the law,” based on binding regulations and detailed procedural directives.<sup>71</sup> Thus ended more than 30 years of near-total autonomy at the local level, less than a year before the draft expired.

The draft system could never have held a favorable public perception during most of the Vietnam years, given that it was inextricably linked to the unpopular war which made it necessary. However, it could have been rendered more equitable, and less a focal point of dissent, had the Selective Service, lawmakers and the White House recognized by the early 1960s that post-WWII demographic changes had rendered the old system obsolete. Rather than keeping up the pretense that all young men aged 19 to 26 were subject to universal military service (a myth sustained by the continuing patchwork of various exemptions and supposedly temporary deferments), the government could have: admitted that only a fraction of eligible young men were actually needed for induction; implemented a random selection process to choose that unlucky minority; drafted the younger men first, before most were established in families and careers; imposed national standards for classification to curb the discretion of local boards; and eliminated most deferments and the practice of channeling which heavily skewed the system against the less affluent. When presented with this blueprint for reform by the Marshall Commission in 1967, the President and Congress opted instead to continue the status quo, leaving the draft system vulnerable to ongoing censure. Not until 1970-71, with troop levels dropping and the concept of an all-volunteer force moving toward reality, did meaningful change finally arrive. Thus, the draft remained a flashpoint of controversy throughout most of the Vietnam era, until the AVF finally superseded it, shortly before American involvement ended.

## Notes

- <sup>1</sup> Hervé Reculeau, "Ilkum," *The Encyclopedia of Ancient History*, ed. R.S. Bagnall, K. Brodersen, C.B. Champion, A. Erskine, S.R. Huebner (London: Wiley-Blackwell, 2012). <http://onlinelibrary.wiley.com/doi/10.1002/9781444338386.wbeah24103/full>
- <sup>2</sup> Hammurabi, King of Babylon, *The Oldest Code of Laws in the World*, Sec. 33, trans. C.H.W. Johns (Edinburgh: T & T Clark, 1903). <http://www.gutenberg.org/ebooks/17150>
- <sup>3</sup> Rupert Smith, *The Utility of Force: The Art of War in the Modern World* (New York: Alfred A. Knopf, 2007), 3.
- <sup>4</sup> Daniel Webster, *The Writings and Speeches of Daniel Webster* (Boston: Little, Brown & Company, 1903), vol. 14, 61. <http://www.unz.org/Pub/WebsterDaniel-1903v14-00055?View=PDF>
- <sup>5</sup> 37<sup>th</sup> Cong. Sess.3, 12 Stat. 731, March 3, 1863.
- <sup>6</sup> Joint Army and Navy Selective Service Committee, *American Selective Service* (1939), 12, quoted in Buel W. Patch, "Conscription in the United States." *Editorial Research Reports 1940*, vol. II (Washington DC: CQ Press, 1940), 69-84. <http://library.cqpress.com/cqresearcher/cqresrre1940081400>
- <sup>7</sup> James M. McPherson, *Ordeal by Fire: The Civil War and Reconstruction* (New York: Alfred A. Knopf, 1982), 360.
- <sup>8</sup> E.H. Crowder, *Second Report of the Provost Marshal General to the Secretary of War on the Operations of the Selective Service System to December 20, 1918* (Washington DC: U.S.G.P.O., 1919), 376. [https://archive.org/stream/secondreportpro01deptgoog/secondreportpro01deptgoog\\_djvu.txt](https://archive.org/stream/secondreportpro01deptgoog/secondreportpro01deptgoog_djvu.txt)
- <sup>9</sup> Buel W. Patch, "Conscription in the United States." *Editorial Research Reports 1940*, vol. II (Washington DC: CQ Press, 1940), 69-84. <http://library.cqpress.com/cqresearcher/cqresrre1940081400>
- <sup>10</sup> Selective Draft Law Cases, 245 U.S. 366 (1918).
- <sup>11</sup> Selective Service System, "Induction Statistics." <https://www.ss.gov/About/History-and-Records/Induction-Statistics>
- <sup>12</sup> Department of Veterans Affairs, Office of Public Affairs, "America's Wars." [https://www.va.gov/opa/publications/factsheets/fs\\_americas\\_wars.pdf](https://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf)
- <sup>13</sup> Lloyd B. Dennis, "Draft Law Revision." *Editorial Research Reports 1966*, vol. I (Washington DC: CQ Press, 1966), 431-69. <http://library.cqpress.com/cqresearcher/cqresrre1966062200>
- <sup>14</sup> *Ibid.*
- <sup>15</sup> *U.S. v. Lambert*, 123 F.2d 395, 396 (3d Cir. 1941).

- <sup>16</sup> Selective Service System, "Induction Statistics."
- <sup>17</sup> Department of Veterans Affairs, "America's Wars."
- <sup>18</sup> George Q. Flynn, *The Draft 1940-1973* (Lawrence, KS: University Press of Kansas, 1993), 19.
- <sup>19</sup> George Q. Flynn, *Lewis B. Hershey, Mr. Selective Service* (Chapel Hill, NC: University of North Carolina Press, 1985), 74, 152.
- <sup>20</sup> An Act to Establish an Office of Selective Service Records, Pub. L. 80-26 (1947). <http://legisworks.org/congress/80/publaw-26.pdf>
- <sup>21</sup> Selective Service Act of 1948 (Elston Act), Pub. L. 80-759. [https://www.loc.gov/rr/frd/Military\\_Law/Morgan-Papers/Vol-I\\_PL-759.pdf](https://www.loc.gov/rr/frd/Military_Law/Morgan-Papers/Vol-I_PL-759.pdf)
- <sup>22</sup> Universal Military Training and Service Act of 1951, Pub. L. 82-51. <https://www.gpo.gov/fdsys/pkg/STATUTE-65/pdf/STATUTE-65-Pg75.pdf>
- <sup>23</sup> Selective Service System, "Induction Statistics."
- <sup>24</sup> Department of Veterans Affairs, "America's Wars."
- <sup>25</sup> The draft law allowed induction as of age 18 and six months. P.L. 82-51 § 1(d). However, the SSS priority system effectively prevented anyone under age 19 from being inducted. 32 C.F.R. § 1631.7(a).
- <sup>26</sup> Lyndon B. Johnson, "Executive Order 11289--National Advisory Committee on Selective Service," July 2, 1966. <http://www.presidency.ucsb.edu/ws/?pid=105698>
- <sup>27</sup> Flynn, *The Draft 1940-1973*, 198.
- <sup>28</sup> "Congress Extends Selective Service Law for Four Years, but Rejects Proposals for Comprehensive Draft Reform." *CQ Almanac 1967*, 23rd ed., 09-261-09-280 (Washington DC: Congressional Quarterly, 1968). <http://library.cqpress.com/cqalmanac/cqal67-1314194>
- <sup>29</sup> Lyndon B. Johnson, "Special Message to the Congress on Selective Service," March 6, 1967, 3. <http://www.presidency.ucsb.edu/ws/?pid=28685>
- <sup>30</sup> Military Selective Service Act of 1967, Pub. L. 90-40. <https://www.gpo.gov/fdsys/pkg/STATUTE-81/pdf/STATUTE-81-Pg100.pdf>
- <sup>31</sup> Selective Service Amendment Act of 1969, Pub. L. 91-124. <https://www.gpo.gov/fdsys/pkg/STATUTE-83/pdf/STATUTE-83-Pg220.pdf>
- <sup>32</sup> President's Commission on an All-Volunteer Armed Force, Thomas S. Gates, chair, *The Report of the President's Commission on an All-Volunteer Armed Force* (Washington DC: U.S.G.P.O., 1970). <http://www.rand.org/content/dam/rand/pubs/monographs/MG265/images/webS0243.pdf>

<sup>33</sup> Flynn, *The Draft 1940-1973*, 251.

<sup>34</sup> An Act to Amend the Military Selective Service Act of 1967, Pub. L. 92-129, (1971). <https://www.gpo.gov/fdsys/pkg/STATUTE-85/pdf/STATUTE-85-Pg348.pdf>

<sup>35</sup> Kristy N. Kamarck, *The Selective Service System and Draft Registration: Issues for Congress* (CRS Report No. R44452) (Washington DC: Congressional Research Service, 2016), 10-11. <https://fas.org/sgp/crs/misc/R44452.pdf>

<sup>36</sup> Selective Service System, "Induction Statistics."

<sup>37</sup> Department of Veterans Affairs, "America's Wars."

<sup>38</sup> Johnson, "Special Message to the Congress," 1.

<sup>39</sup> George Washington, *The Writings of George Washington from the Original Manuscript Sources, 1745-1799*, vol. 26 (Washington DC: U.S.G.P.O., 1938), 389. <https://catalog.hathitrust.org/Record/000366819/Home>

<sup>40</sup> Selective Service Training and Service Act of 1940 (Burke-Wadsworth Act), Pub. L. 76-783. <http://www.legisworks.org/congress/76/publaw-783.pdf>

<sup>41</sup> National Advisory Commission on Selective Service, Burke Marshall, chair, *In Pursuit of Equity: Who Serves When Not All Serve?* (Washington DC: U.S.G.P.O., 1967). <https://babel.hathitrust.org/cgi/pt?id=uiug.30112104130361;view=1up;seq=38>

<sup>42</sup> Although the terms "exempt" and "deferred" were often used interchangeably, they denote different levels of availability for conscription. Exemptions included groups who were not available for service even in time of war, such as ministers and divinity students (IV-D), certain officials (IV-B), and certain aliens (IV-C). Deferments were considered temporary, and men placed in Class II deferments, such as student (II-S), or workers in essential activities (II-A), were subject to having their status re-opened each year. 32 C.F.R. § 1622.21; Selective Service System, *Semi-Annual Report of the Director of Selective Service for the Period July 1 to December 31, 1967* (Washington DC: U.S.G.P.O., 1968), 8. <https://babel.hathitrust.org/cgi/pt?id=uc1.b4236980;view=1up;seq=16>

<sup>43</sup> Selective Service System, *Annual Report of the Director of Selective Service for the Fiscal Year 1965* (Washington DC: U.S.G.P.O., 1967), 17-18. <https://hdl.handle.net/2027/osu.32435021426689>

<sup>44</sup> Flynn, *The Draft 1940-1973*, 139.

<sup>45</sup> *Ibid*, 169.

<sup>46</sup> Selective Service System, *Annual Report for the Fiscal Year 1965*, 18.

<sup>47</sup> Lawrence M. Baskir and William A. Strauss, *Chance and Circumstance: The Draft, the War and the Vietnam Generation* (New York: Alfred A. Knopf, 1978), 16.

<sup>48</sup> Flynn, *The Draft 1940-1973*, 140.

- <sup>49</sup> Johnson, "Special Message to the Congress," 2.
- <sup>50</sup> Richard M. Nixon, "Executive Order 11527--Amending the Selective Service Regulations," April 23, 1970. <http://www.presidency.ucsb.edu/ws/?pid=60484>
- <sup>51</sup> Pub. L. 92-129.
- <sup>52</sup> Selective Service System, *Semi-Annual Report of the Director of Selective Service for the Period January 1 to June 30, 1970* (Washington DC: U.S.G.P.O., 1970), 7. <https://babel.hathitrust.org/cgi/pt?id=osu.32435021426614;view=1up;seq=13>
- <sup>53</sup> *Ibid.*
- <sup>54</sup> Patch, "Conscription in the United States."
- <sup>55</sup> Dennis, "Draft Law Revision."
- <sup>56</sup> *Ibid.*
- <sup>57</sup> The registration requirement continued until March, 1975 when it was revoked by President Gerald Ford (Proclamation 4360). <http://www.presidency.ucsb.edu/ws/index.php?pid=23818>. It was reinstated effective July 2, 1980 by President Jimmy Carter (Proclamation 4771), and remains in effect today. <http://www.presidency.ucsb.edu/ws/?pid=44697>
- <sup>58</sup> 32 C.E.R. § 1622.10 (1968).
- <sup>59</sup> Pub. L. 90-40.
- <sup>60</sup> 32 C.E.R. § 1623.1(b) (1967).
- <sup>61</sup> 32 C.E.R. § 1622.10, 1623.2 (1967).
- <sup>62</sup> 32 C.E.R. § 1624.1(a), 1626.2 (1967).
- <sup>63</sup> 32 C.E.R. § 1626.1-1626.61 (1967).
- <sup>64</sup> 32 C.E.R. § 1627.3 (1967).
- <sup>65</sup> Selective Service System, *Semi-Annual Report of the Director of Selective Service for the Period July 1 to December 31, 1969* (Washington DC: U.S.G.P.O., 1970), 37. The additional category of I-H was added in 1971 after the lottery was instituted, as a "holding" class for those men whose lottery number ("Random Selection Number" or RSN) was higher than the induction cut-off number established for their year of eligibility. 32 C.E.R. § 1622.18 (1972).
- <sup>66</sup> The Selective Service Act of 1917. Pub. L. 65-12. <http://www.legisworks.org/congress/65/publaw-12.pdf>
- <sup>67</sup> Marshall, *In Pursuit of Equity*, 20.

<sup>68</sup> Ibid., 19.

<sup>69</sup> Selective Service System, *Semi-Annual Report of the Director of Selective Service for the Period July 1 to December 31, 1971* (Washington DC: U.S.G.P.O., 1972), 27-28. <https://babel.hathitrust.org/cgi/pt?id=osu.32435021426606;view=1up;seq=26>

<sup>70</sup> Marshall, *In Pursuit of Equity*, 26-27.

<sup>71</sup> Selective Service System, *Semi-Annual Report of the Director of Selective Service for the Period July 1 to December 31, 1972* (Washington DC: U.S.G.P.O., 1973), 2. <https://babel.hathitrust.org/cgi/pt?id=osu.32435021426580;view=1up;seq=16>

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