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## Introduction

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# Introduction

BY CAROLYN S. BRATT\*

On July 19, 1998, America will celebrate the 150th anniversary of the Seneca Falls Convention. Almost three hundred women and men including Lucretia Mott,<sup>1</sup> Elizabeth Cady Stanton<sup>2</sup> and Frederick Douglass<sup>3</sup> met on that July date in 1848 at Seneca Falls, New York, for a two-day discussion of the “social, civil and religious rights of woman.”<sup>4</sup> At the conclusion of the meeting, sixty-eight women and thirty-two men signed their names to a *Declaration of Sentiments*<sup>5</sup> and this country’s organized women’s rights movement began.

The *Seneca Falls Declaration of Sentiments* identified and enumerated the grievances of American women at the midpoint of the nineteenth century.<sup>6</sup> It set the agenda, and it has served as the blueprint, for the women’s rights movement in this country for almost one hundred and fifty years. At the time of its issuance, the most controversial provision of the *Declaration* was its call for women’s suffrage. Lucretia Mott

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<sup>1</sup> Born in 1793 on Nantucket Island, Massachusetts, Lucretia Mott became a teacher, a Quaker minister and an abolitionist. It was under her tutelage that Elizabeth Cady Stanton began a life-long quest to secure equality of rights for women. ELEANOR FLEXNER, *CENTURY OF STRUGGLE* 71-72 (1975).

<sup>2</sup> Born in 1815 in Johnstown, New York, Elizabeth Cady Stanton was an abolitionist, author of the *Declaration of Sentiments*, and, along with Susan B. Anthony, the organizer of the National Woman Suffrage Association. *Id.* at 72, 74-75, and 155.

<sup>3</sup> Thought to have been born into slavery in 1817, Frederick Douglass became an abolitionist leader and publisher of an abolitionist paper *The North Star* in Rochester, New York. *Id.* at 76.

<sup>4</sup> THE HISTORY OF WOMAN SUFFRAGE (Elizabeth Cady Stanton ed., 1881) quoted in FLEXNER, *supra* note 1, at 74.

<sup>5</sup> FLEXNER, *supra* note 1, at 77.

<sup>6</sup> The *Declaration of Sentiments* was the product of the collaborative efforts of Jane Hunt, Martha Wright, Mary Ann McClintock, Lucretia Mott, and Elizabeth Cady Stanton. *Id.* at 74.

feared that including such a demand would make the *Declaration's* signatories look "ridiculous."<sup>7</sup> Henry B. Stanton, the husband of Elizabeth Cady Stanton, left town during the convention because he objected to the presentation of a resolution calling for women's suffrage.<sup>8</sup> Among Elizabeth Cady Stanton's friends and acquaintances, only Frederick Douglass supported her plan to include a call for women's right to the elective franchise in the resolutions submitted to the convention.<sup>9</sup> It took seventy-two years to secure the vote for women,<sup>10</sup> and only one woman who attended the Seneca Falls Convention lived to vote under the nineteenth amendment to the United States Constitution.<sup>11</sup> The irony of the controversy surrounding the decision to seek the vote for women is that today suffrage for women is the only resolution adopted by the Seneca Falls Convention that everyone agrees has been completely achieved.

The *Declaration of Sentiments* was the earliest, systematic, public articulation in the United States of the ideas that fuel the quest for women's economic, political, social, and legal equality to this day. In recognition of the enduring importance of this conference to women *qua* women, a group of researchers at the University of Kentucky came together early last summer to discuss an appropriate and meaningful way to celebrate the sesquicentennial of the Seneca Falls Conference. As direct beneficiaries of the women's rights movement, these researchers wanted to make their own contribution to that centuries long struggle. They decided to create a symposium issue for the *Kentucky Law Journal* that examines contemporary aspects of problems that were first identified in the *Seneca Falls Declaration of Sentiments*.<sup>12</sup>

Other law reviews will no doubt publish essays and articles, or even symposia, on the sesquicentennial of the American women's rights movement. In all likelihood, however, this symposium issue will make a unique contribution: one-half of the contributors are trained in academic disciplines other than the law. All of the contributors subscribe to the

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<sup>7</sup> *Id.* at 76.

<sup>8</sup> *Id.* at 75.

<sup>9</sup> *Id.* at 76.

<sup>10</sup> The Nineteenth Amendment, ratified on August 26, 1920, provides: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex." U.S. CONST. amend. XIX, § 1.

<sup>11</sup> FLEXNER, *supra* note 1, at 76.

<sup>12</sup> Reprinted in this issue at 84 KY. L.J. 713 (1995-96) [hereinafter *Declaration of Sentiments*].

proposition that a unidimensional assessment of the current status of American women can not adequately capture the complexities of the issues involved in the continued unequal treatment of women in this country. The contributors all shared the understanding that the most intractable problems women face are found at the intersections of gender, race, and class. Therefore, each legally trained author was paired with a scholar who was trained in another academic discipline. In either companion or co-authored articles, they then explored facets of an issue that they identified as important to the achievement of women's quest for full equality.

Those who attended the Seneca Falls Convention and subscribed to its *Declaration of Sentiments* understood that the struggle for economic equality<sup>13</sup> was of central and enduring importance to the goal of full social, political, and legal equality for women. They knew that the relative economic well-being of woman determined her ability to exercise her legal guarantees of civil and political equality.<sup>14</sup> Ann R. Tickamyer,<sup>15</sup> a sociologist, and Susan L. Waysdorf,<sup>16</sup> a law professor, use their companion articles to explore various dimensions and manifestations of the economic plight of contemporary American women.

The *Declaration of Sentiments* expressly drew attention to the inequities in employment that women confronted. It provided that "He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but a scanty remuneration."<sup>17</sup> Patricia Cooper,<sup>18</sup> a labor historian, examines the public discourse about women and work since the nineteenth century while a companion article

<sup>13</sup> There are numerous provisions in the *Declaration of Sentiments* that address aspects of the lack of distributive justice for women. For example, "He has taken from her all right in property, even to the wages she earns." *Declaration of Sentiments*, *supra* note 12, at 713, ¶ 7.

<sup>14</sup> I am reminded of an a popular aphorism that succinctly sums up crucial nature of economic equality. "Beggars can't be choosers."

<sup>15</sup> Ann R. Tickamyer, *Public Policy and Private Lives: Social and Spatial Dimensions of Women's Poverty and Welfare Policy in the United States*, 84 KY. L.J. 721 (1995-96).

<sup>16</sup> Susan L. Waysdorf, *Fighting for Their Lives: Women, Poverty, and the Historical Role of United States Law in Shaping Access to Women's Health Care*, 84 KY. L.J. 745 (1995-96).

<sup>17</sup> *Declaration of Sentiments*, *supra* note 12, at 714, ¶ 11.

<sup>18</sup> Patricia Cooper, "A Masculinist Vision of Useful Labor" *Popular Ideologies About Women and Work in the United States, 1820 to 1939*, 84 KY. L.J. 827 (1995-96).

by Mary O'Melveney,<sup>19</sup> a labor lawyer, explores the issue of affirmative action and gender in the employment context. Susan J. Scollay, a professor of educational administration, and Carolyn S. Bratt, a law professor, contribute a co-authored article<sup>20</sup> on the limitations of reasoned discourse and data-based argumentation as a catalyst for the attainment of gender equity for women employees of American colleges and universities.

The lack of meaningful educational opportunities for women at the time the *Declaration of Sentiments* was promulgated was reflected in its provision that "He has denied her the facilities for obtaining a thorough education, all colleges being closed against her."<sup>21</sup> Today, although the doors to the academy are open to women as students, not all women who pass through them benefit equally from those educational opportunities. Darlene C. Goring,<sup>22</sup> a law professor, and Beth L. Goldstein,<sup>23</sup> an educational anthropologist, use companion articles to report on a qualitative investigation they undertook of gender and race issues that arise in law school academic support programs.

The propounders of the *Declaration of Sentiments* also knew that a large measure of woman's oppression flowed from what we now refer to as the "socialization" of girls and women. They insightfully complained that, "He has endeavored, in every way that he could, to destroy her confidence in her own powers, to lessen her self-respect, and to make her willing to lead a dependent and abject life."<sup>24</sup> In a co-authored article,<sup>25</sup> Louise Everett Graham, a law professor, and Geraldine Maschio, a theater management professor, examine how cinematic images of women lawyers are a window into contemporary cultural notions about what women

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<sup>19</sup> Mary K. O'Melveney, *Playing the "Gender" Card: Affirmative Action and Working Women*, 84 KY. L.J. 863 (1995-96).

<sup>20</sup> Susan J. Scollay & Carolyn S. Bratt, *Reflections on the Limitations of Rational Discourse, Empirical Data, and Legal Mandates as Tools for the Achievement of Gender Equity in American Higher Education*, 84 KY. L.J. 903 (1995-96).

<sup>21</sup> *Declaration of Sentiments*, *supra* note 12, at 714, ¶ 12.

<sup>22</sup> Darlene C. Goring, *Silent Beneficiaries: Affirmative Action and Gender in Law School Academic Support Programs*, 84 KY. L.J. 941 (1995-96).

<sup>23</sup> Beth L. Goldstein, *Little Brown Spots on the Notebook Paper: Women as Law School Students*, 84 KY. L.J. 983 (1995-96).

<sup>24</sup> *Declaration of Sentiments*, *supra* note 12, at 714, ¶ 16.

<sup>25</sup> Louise Everett Graham & Geraldine Maschio, *A False Public Sentiment: Narrative and Visual Images of Women Lawyers in Film*, 84 KY. L.J. 1027 (1995-96).

ought to be. Terry Birdwhistell,<sup>26</sup> the University of Kentucky Archivist, contributes oral histories of two women law school graduates (one black and one white) that shed light on how individual women both internalize and reject societal messages concerning appropriate female behaviors and roles.

Clearly, the subtext of the *Declaration of Sentiments* was that if women gained “admission to all the rights and privileges which belong to them as citizens of the United States,”<sup>27</sup> a fundamental alteration of American society would occur. In her contribution to this symposium,<sup>28</sup> Lynn Hecht Schafran, Director of the National Judicial Education Program, explores how women’s increasing participation in the legal profession has contributed to the on-going process of reshaping the law to reflect women’s concerns and experiences. The companion article<sup>29</sup> of Penny Miller, a political scientist, assesses the uneven impact women have had on Kentucky’s political culture. In a co-authored article,<sup>30</sup> Joan C. Callahan, a philosopher, and Dorothy E. Roberts, a law professor, demonstrate, in the context of reproduction-assisting technologies, how a feminist social justice approach would alleviate the continued failings of contemporary liberal theory to adequately address the inequities women experience because of issues of gender, race, and class.

The *Declaration of Sentiments* is a truly extraordinary document authored by a small group of women who exhibited amazing prescience. At the time it was promulgated, the *Declaration* was a forceful and insightful exposition of the grievances of women living in that male-dominated, male-normed society. One hundred fifty years later, its words and ideas continue to resonate with all those who read it. Nonetheless, the drafters were not omniscient. They did not recognize all the facets of women’s second class citizenship, and they could not predict all the possible permutations of women’s oppression. The final two companion articles in this symposium explicate one such example of the limitations of *Declaration of Sentiments* — its failure to address issues of securing

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<sup>26</sup> Terry Birdwhistell, “Some Kind of Lawyer”: *Two Journeys from Classroom to Courtroom and Beyond*, 95 KY. L.J. 1075 (1995-96).

<sup>27</sup> *Declaration of Sentiments*, *supra* note 12, at 714, ¶ 17.

<sup>28</sup> Lynn Hecht Schafran, *Women Shaping the Legal Process: Judicial Gender Bias as Grounds for Reversal*, 84 KY. L.J. 1153 (1995-96).

<sup>29</sup> Penny M. Miller, *Staking Their Claim: The Impact of Kentucky Women in the Political Process*, 84 KY. L.J. 1163 (1995-96).

<sup>30</sup> Joan C. Callahan & Dorothy E. Roberts, *A Feminist Social Justice Approach to Reproduction-Assisting Technologies: A Case Study on the Limits of Liberal Theory*, 84 KY. L.J. 1197 (1995-96).

justice and equality for women that transcend national borders. Kathi L. Kern,<sup>31</sup> an historian, examines the first meeting of the International Council of Women convened in 1888 by the National Woman Suffrage Association to acknowledge the fortieth anniversary of the Seneca Falls Convention. Margaret Plattner,<sup>32</sup> a lawyer who attended the 1995 United Nations Fourth World Conference on Women in Beijing, China, reports on the international struggle to secure women's rights as human rights.

The symposium closes with two student pieces. The wage disparities between women and men identified in the *Declaration of Sentiments* have not been eradicated by the prohibitions in the Equal Pay Act of 1963<sup>33</sup> and Title VII of the Civil Rights Act of 1964<sup>34</sup> against pay differentials based on the sex of the employee. Neither statute reaches to sex-segregated occupations where wage differentials are most acute because of the historic undervaluation of women's work. Rhonda J. Blackburn analyzes the efficacy of the Fair Pay Act of 1994 as a tool for closing the one hundred fifty year-old gap between women's and men's compensation.<sup>35</sup> Kendra Samson's contribution to this symposium also explores a facet of employment discrimination that has not been adequately addressed by the courts.<sup>36</sup> She argues that Title VII permits the imposition of individual liability on agents of an employer when they engage in prohibited acts of sex discrimination.

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<sup>31</sup> Kathi L. Kern, "The Cornerstone of a New Civilization": *The First International Council of Women and the Campaign for "Social Purity"*, 84 KY. L.J. 1235 (1995-96).

<sup>32</sup> Margaret Plattner, *The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women, Beijing, China*, 84 KY. L.J. 1249 (1995-96).

<sup>33</sup> 29 U.S.C. § 206(d) (1988).

<sup>34</sup> 42 U.S.C. § 2000e-2(a)(1) (1988).

<sup>35</sup> Rhonda J. Blackburn, Note, *Comparable Worth and the Fair Pay Act of 1994*, 84 KY. L.J. 1277 (1995-96).

<sup>36</sup> Kendra Samson, Note, *Does Title VII Allow for Liability Against Individual Defendants?*, 84 KY. L.J. 1303 (1995-96).