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Gloria Steinem Keynote Address

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GLORIA STEINEM KEYNOTE ADDRESS

In March of 2008, the University of Baltimore School of Law hosted its first annual Feminist Legal Theory Conference. Gloria Steinem was invited to share her wisdom. Here is how she concluded our event.

I am honored to be here in this great room full of good minds and good hearts—all trying to make sure the law has some relationship to justice. I am really looking forward to our discussion because I think, especially with all of this extraordinary talent in this room, we should not be in a hierarchal structure with you looking at each other's backs and me looking at you. Hierarchy is based on patriarchy, which does not work anywhere, anymore.

I hope that we each might leave this room with a new idea, with a new feeling of support, and a new subversive organizing tactic. To make that happen we really need to learn from each other. I can't tell you what it means to me to be with you today. Over the last thirty-five years, I have become aware of the Latin American saying, which I cannot do for you in Spanish, that people can withstand pestilence, flood, fire, but with unjust laws, they went crazy. The only way we can remedy this and make a link between lived experience in the law is to make sure that all the social justice movements, community movements, "real lived experience kind of wisdom" has access to your ability to make general principles transferable.

Today, a third-wave feminist asked me what knowledge I could impart to her and other third-wave feminists about where they should go from here—she wanted to know what I want third-wave feminists to accomplish. My answer is that I just want you to go. It's up to you. One thing we were talking about earlier and I think it's important to say that it is not all chronological. A lot of it is experiential. For instance, there is a young woman staying with me who comes from a Christian fundamentalist family in Lubbock, Texas, who had gotten radicalized on the question of sex education in the schools, became an activist, and is now going around lecturing and organizing. She is twenty-one years old. She is a second-wave feminist because she came out of an atmosphere in which feminism wasn't present. Incidentally, she and her family are not at odds. They love each other and are educating each other. It has a happy ending in every way. She resembles or is like more women who have come from families that incorporated many feminist values and go on from that or need to

differentiate themselves from that who one might call a third-wave. In some ways, I was a third-wave person myself, looking back, because I had not experienced very severe discrimination or very severe abuse. Consequently, I didn't feel endangered by sexuality or other people who had been abused as children. So I was, as I said this morning, going around in mini skirts and a button that said "cunt power" in 1973—that is a very third-wave thing to do. So it's not all chronological. I think we need to honor each other's experiences. Perhaps the least helpful thing that second-wave feminists do to third-wave feminists, in my opinion, is expect gratitude. It's a sort of 'I walked thirty miles through the snow to school' kind of thing. I keep trying to explain to my peers that gratitude never radicalized anybody. I didn't walk about saying thank you. I got mad on my behalf. I kept saying, "Wait a minute. I'm not getting paid equally. I can't get an apartment. What's going on here?" We all have to get mad on our own behalf.

We, organizers, are always confronted with the individual cases that challenge us to bring together a wide variety of people and views in a way that actually make a solution. But, when it comes to making generally transferable principles, we need to always do this through collaboration. With sexual harassment, I recall a conference at Cornell in the summer of '72 or '73 where young women, who had been interns in summer job programs, were trying to explain to the women running the program their experiences. They invented the term "sexual harassment" to describe their experiences. After more discussions and conferences, Katherine McKenna and others were able to bring sexual harassment into a place of recognition and find legal remedies. I assure you that this led many women to remain sane and not feel that they were alone in having such experiences.

I wonder sometimes what might have happened if we had this type of partnership before *Roe v. Wade*.¹ Perhaps we would not have ended up with a really questionable, if we can use the word, "problematic" law, as Justice Ginsburg has pointed out with trimesters and so on, because what we were originally after was the decriminalization of this procedure. The word "repeal" was in the name of all the early organizations of laws that criminalized this procedure. This was to put this procedure, like other procedures, into the hands of patients and their physicians to make a determination as to when there was a viable life—either that of the fertilized egg, the fetus, or the life, of the woman herself. We have ended up with a law

¹ 410 U.S. 113 (1973).

that focuses on the fetus and not the woman. We are all reduced to wearing buttons that says 'A Woman's Life is a Human Life.' We always have the danger of the specter of the human life amendment to the Constitution, which would effectively nationalize women's bodies throughout their child-bearing years.

This is already happening to poor women, especially if they are suspected of drinking, taking drugs, or in some way damaging the fetus. The whole focus of the law came to be on the fetus and not on the woman. Maybe if we had been able to sit in this room in the early 1960s, we would not have ended up with the current dilemma.

Your wording as legal experts is important to us. I remember when Katherine McKenna, in the case of sexual harassment, talked about "welcomed sex" instead of talking about consensual sex, since consensual sex can be coerced and consent can be compelled. What a revolution is that? We need your help in more precise wording as well.

Today, I noticed a study, which I look forward to reading, by a legal scholar at Yale researching armies that do not inflict, or rarely inflict, rape as a weapon of war. The question was raised, "how is that possible?" We have on our own land, where we sit now, an example of how this is possible. After Europeans came to the North Americas, there were approximately a hundred years of off-and-on newspaper articles by Europeans remarking on how unusual it was that the seven nations of the Iroquois confederacy did not practice rape—even of their female prisoners. This seems to have been the case because female status was high, the female elders chose the male chiefs. The chiefs were always two separate chiefs—the one chief ruled by persuasion and the council method, the other chief was brought in to fight in self-defense. Women controlled their own fertility, women tended to wait until the previous child was about six before having another child. Additionally, divorce and separation, along with homosexuality were understood.

Reservations did not really take hold until the 1900s. Before that, people were more or less living together and suffrages of the era were having dinner every Sunday night with Seneca women, who were clothed in nice shammy embroidered tunics and shammy trousers, while the European women were wearing twenty pounds of skirts, tight corsets in the fashionable lentil smelling sauce and generally very restrictive clothing. Did anyone tell us this? No one ever told me this. Did anyone tell us that there was a settlement the size of London called Cohopia near St. Louis before the Europeans ever came? Did anyone tell us that two-thirds of the medicines we use now were based

in the pharmaceutical knowledge of the 500 cultures that were here or that there was vulcanized rubber? You can see I have been writing about this and I am fascinated with the truth, while being tempted severely to make a button that says, ‘the truth will set you free but first it will piss you off.’ This is what my Cherokee colleagues of the last twenty years mean by saying feminism is memory.

It was here on this land, ill egalitarian cultures, existed with almost total absence of rape. In fact, the western films about white women who suffered fates worse than death after capture by native groups turn out to have been pretty much the opposite of the truth. If you look back at the narratives of the ones who were actually interviewed, the majority wanted to stay. Women were treated better in the native cultures than the European culture. They actually wanted to stay and, as Benjamin Franklin bitterly regrets, they had to make laws against indianization because so many people wanted to leave and join a different way of life.² We have jurisprudence, conflict resolution, and kinds of behavior within history that preceded what we usually consider history. How come they don’t tell us this? Well, because 90% of these groups were eliminated, both by disease and by warfare. Yet, the Iroquois confederacy is still the longest running parliamentary body in the world. It exists in upstate New York, has its own passports, immunity from the draft, settles its own disputes, and a couple of years ago, stopped a highway from going through upstate New York based on its tribal supremacy. Obviously, there were 500 nations, each one of them was very different.

But, I think it’s interesting if we just extend our legal vision into the past to many matrilineal cultures, including the one from which we all come, in southern Africa, the Quay and the Saun.³ The patriarchal European law has been in contradiction to the matrilineal—communally owned land in Africa. In this country, land was registered in male names because of the European law. This became the largest cause of land loss of female human beings in this world. The reason why females only own one percent of the land in the world is not because they did not once own it, but because of the imposition of European-based patriarchal law. I have recently been concerned about this because I have gone to the Kalahari, where the Quay and the Saun live, and to India where the Dalits or so called “untouchables”

² See generally Vox America: Colonial Characterizations of Native Liberty, available at http://www.ratical.org/many_worlds/6Nations/EoL/chp1.html (last visited October 7, 2008).

³ The so-called bush people and colonial language, and many different groups in southern Africa who we now know by DNA trails migrated around the coastal region into Australia around the upper northeastern parts of Europe and down.

live. Dalits, the unbroken ones, who are also matrilineal and are the Native Americans of India, are trying to cope with the colonial law that has caused about a thousand tribal groups to lose land. All of them are dealing, not only with such problems as land loss and how to get their land back, but also trying to get back their own pharmaceutical knowledge. This pharmaceutical knowledge is quite profound in patent law, but is communally owned within tribes. However, in patent law, patentable knowledge requires an inventor. There are legal scholars grappling with how to develop some method to recompense for the many pharmaceuticals taken from these cultures from which they received little or no reward.

These cultures' systems of punishment have some wisdom from which we can learn. Take, for instance, one of the oldest cultures in Ghana. There, when someone commits an anti-social act, the individual is isolated. After all, we are communal creatures. We need each other and isolation seems to be a universal form of punishment. After the period of isolation is over, it is part of their penal system to bring the person back into society. There is a ritual and a long period of time where every person who knows the convicted tells him or her every good thing he or she ever did. This makes sense. We do it with children, right? It's called positive reinforcement. There is so much to gain from extending our research to cultures that either pre-existed or still exist in remnants. They can tell us about other kinds of jurisprudence, consensus building, and of governance systems that have worked out. This may not be possible in this culture, since the Quay and the Sauns have the goals of cooperation, not competition. These cultures have games like relay races in which you twirl around and throw a ball, while singing a song with the purpose that the next person can catch the ball, not so they cannot. Their government systems are devoted to conflict resolutions. These ideas are out there just awaiting us.

Of course, there are many ills that are very clear to us at the moment. This afternoon we were discussing a little bit of the truth of the global sex and labor trafficking. We are now seeing slave narratives like those here in the 1600s and 1700s. Our earlier slave narratives served to prove that slaves were human beings by challenging time's mythology that these people were inferior and could not take care of themselves. These narratives had an important and serious purpose.⁴ The personal narrative of the sex and labor trafficked human beings, who are now 85% women and children, also serves this purpose. We are just beginning to look at ways to revise our laws.

While there are federal laws that allow various ways for the United States to discipline countries permitting these practices, we have not instituted laws to guide our own law enforcement officials' conduct with respect to these situations as they arise state-by-state. It took three years for a coalition of about ninety women's groups to get a law against human trafficking in New York State. We just got it this year [2008]. Until now, police officers had no direction on how to treat this crime. So when an establishment devoted to sex slavery and the production of, in the case of white women from Russia and Ukraine, the production and sale of white babies, the officers could do nothing except put them in prison. The NY law, which is based on the Swedish model, gives services to rescue and rehabilitate the women and children, while punishing the traffickers and the pimps. It imposes the small dollar fine, I think it's a Class C felony, on the customers. That, you'll be surprised, was the hardest to get because it threatens exposure to people who are buying sex. This is an area of controversy, as you know, among people of good will, because there is a notion that legalizing prostitution is the way to regulate it. Yet, countries like Peru, Iceland, Nepal, and India show that actually doesn't work. The point is to decriminalize the women and to criminalize the traffickers and the pimps. This model has worked in Sweden and other places.

I think this is an example of how much we need each other. So, there are just so many ways in which we need each other's information and experience, and I hope that there will be many, many more conferences like this.

I am so grateful to the University of Baltimore School of Law for always being inclusive and having this glorious conference.