

## Duquesne Law Review

---

Volume 59

Number 1 *A Century Since Suffrage: How Did We Get Here? Where Will We Go? How Will We Get There?*

Article 3

---

2021

### Foreword: A Century Since Suffrage: How Did We Get Here? Where Will We Go? How Will We Get There?

Rona Kaufman

Follow this and additional works at: <https://dsc.duq.edu/dlr>



Part of the [Law Commons](#)

---

#### Recommended Citation

Rona Kaufman, *Foreword: A Century Since Suffrage: How Did We Get Here? Where Will We Go? How Will We Get There?*, 59 Duq. L. Rev. 1 (2021).

Available at: <https://dsc.duq.edu/dlr/vol59/iss1/3>

This Front Matter is brought to you for free and open access by the School of Law at Duquesne Scholarship Collection. It has been accepted for inclusion in Duquesne Law Review by an authorized editor of Duquesne Scholarship Collection.

# Foreword: A Century Since Suffrage: How Did We Get Here? Where Will We Go? How Will We Get There?

Rona Kaufman\*

“Until we are all free, we are none of us free.”<sup>1</sup>

One hundred years have passed since (white) women attained the right to vote.<sup>2</sup> In the century since the Nineteenth Amendment was ratified, American women have transitioned from an existence as mere objects of history to becoming active subjects of history. In 2019 and 2020, many programs and conferences were organized to celebrate the achievements of America’s women and commemorate the 100th anniversary of women’s suffrage. The Section on Women in Legal Education<sup>3</sup> hosted a program at the January 2020

---

\* Rona Kaufman, Associate Professor of Law, Duquesne University School of Law. I thank the Executive Committee and members of the Women in Legal Education Section of the American Association of Law Schools for planning our January 2020 main program: *A Century Since Suffrage: How Did We Get Here? Where Will We Go? How Will We Get There?* I thank the professors who gave their time and energy to review all proposals for the conference. I thank the professors who submitted proposals for the conference and those who were selected for making our panel presentations interesting and for spurring an inspiring conversation among those in the audience. I thank Danielle Mrdjenovich and Julia Siracuse, Editors of the Duquesne Law Review, and Jan Levine, Faculty Advisor of the Duquesne Law Review, for inviting the WILE to publish the articles from our conference in this Symposium Issue and for their patience and grace throughout the process. I thank Alyssa Henderson and Jarek Sulak for their research assistance. And, I thank my daughter, Naomi Kitchen, for inspiring me to continue to fight for women’s equality and to remember that until all women are free, no woman is truly free.

1. Emma Lazarus, *A Quote from Epistle to the Hebrews*, THE AM. HEBREW (1883) (transcript available at <https://jwa.org/media/quote-from-epistle-to-hebrews>).

2. U.S. CONST. amend. XIX; Ellen Katz et al., *Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act Since 1982*, 39 U. MICH. J.L. REFORM 643 (2006). The Nineteenth Amendment promises that no woman will be disenfranchised from the vote on the basis of her sex. U.S. CONST. amend. XIX. As Nan Hunter notes, “the organizations, strategies, and concepts of law discussed throughout were pervasively racialized. Foundationally, the Nineteenth Amendment itself had little impact on Black women in southern states who were disenfranchised by Jim Crow laws in 1920 and remained so for many years thereafter. Their inability to benefit from the Amendment was well known at the time.” Nan D. Hunter, *In Search of Equality for Women: From Suffrage to Civil Rights*, 59 DUQ. L. REV. 125, 127–28 n.2 (2021) (citation omitted).

3. See generally Karen Syma Czapanskiy, *1992: A Year of Women, Bravery, and Growth*, 80 UMKC L. REV. 751 (2012); Ruth Bader Ginsburg, *Presentation of AALS Section on Women in Legal Education Ruth Bader Ginsburg Lifetime Achievement Award*, 104 CALIF. L. REV. 575 (2016); Ruth Bader Ginsburg, *In the Beginning . . .*, 80 UMKC L. REV. 663 (2012); Marilyn J. Ireland, *Women’s Entry into the Law Teaching Profession: Cracking the Door Open*, 80

American Association of Law Schools (AALS) Annual Meeting titled, *A Century Since Suffrage: How Did We Get Here? Where Will We Go? How Will We Get There?*<sup>4</sup> Professors from law schools across the country submitted their proposals. A committee comprised of women in legal education reviewed the professors' proposals and selected those who would be invited to present their papers, published in this Symposium Issue of the *Duquesne Law Review*. The following distinguished women law professors were selected:

- Nan Hunter, Scott K. Ginsburg Professor of Law, Georgetown University Law Center;
- Lolita Buckner-Inniss, Senior Associate Dean for Academic Affairs, University Distinguished Professor, Robert G. Storey Distinguished Faculty Fellow, and Professor of Law, SMU Dedman School of Law;
- Leslie Gielow Jacobs, Justice Anthony M. Kennedy Professor of Law & Director of the McGeorge Capital Center for Law & Policy at the University of the Pacific, McGeorge School of Law;
- Diane Klein, University of La Verne College of Law; and
- Danaya Wright, University of Florida Levin College of Law, Clarence J. TeSelle Endowed Professor of Law.

---

UMKC L. Rev. 695 (2012); Linda Jellum & Nancy Levit, *Reflections of Women in Legal Education: Stories from Four Decades of Section Chairs*, 80 UMKC L. REV. 659 (2012); Rona Kaufman, *Ruth Bader Ginsburg Lifetime Achievement Award Remarks*, 21 GEO. J. GENDER & L. 541 (2020); Elizabeth Nowicki, *An Unexpected Chair*, 80 UMKC L. REV. 813 (2012); Judith Resnik, *Hearing Women*, 65 S. CAL. L. REV. 1333 (1992). The Women in Legal Education Section of the AALS was established in 1973, at a time when the number of women in legal education remained small and when their voices were marginalized. Today, the Women in Legal Education Section is the largest affinity group of the AALS. It has a distinguished history of engaging in important conversations surrounding equality and women's role in legal education. Past chairs of the section include some of the most esteemed women of the legal profession. In 2014, the Section established the Ruth Bader Ginsburg Lifetime Achievement Award to recognize women who have had distinguished careers of teaching, service, and scholarship for at least twenty years and who have impacted women, the legal community, the academy, and the issues that affect women through mentoring, writing, speaking, activism, and by providing opportunities to others. Ruth Bader Ginsburg was the first awardee. Thereafter, the award has been bestowed upon Catherine MacKinnon, Herma Hill Kay, Marina Angel, Martha Albertson Fineman, Tamar Frankel, Robin West, and Kimberlé Crenshaw.

4. *Annual Meeting 2020*, AALS, <https://am.aals.org/past/am20/> (last visited Feb. 12, 2021).

Their presentations each examined specific aspects of the so-far-100-year-old movement for women's equality. They provided diverse perspectives on the movement for women's equality including: arguments against state rescission of the Equal Rights Amendment,<sup>5</sup> an analysis of the degree to which white women's *becoming* was in furtherance of the oppression of Black women,<sup>6</sup> exploration of how infringements on women's rights are justified under the guise of protection of religious liberty,<sup>7</sup> and an analysis of the history of women's fight for political, economic, and reproductive equality.<sup>8</sup> I served as Chair of the Women in Legal Education Section in 2020 and had the privilege of moderating this extraordinary panel of presenters. I am now once again privileged to introduce their important work, published in this Symposium Issue.

It seems appropriate to introduce this Symposium Issue by recalling the lived experiences of women, or more often the experiences not lived by women, just a century ago. In 1920 no women served in Congress,<sup>9</sup> no women were state governors,<sup>10</sup> no women were appointed members of a presidential cabinet,<sup>11</sup> no women held leadership positions in corporate America.<sup>12</sup> In 1920, few women

---

5. See Danaya C. Wright, "An Atrocious Way to Run a Constitution": *The Destabilizing Effects of Constitutional Amendment Rescissions*, 59 DUQ. L. REV. 12 (2021).

6. See Diane Klein, *Their Slavery Was Her Freedom: Racism and the Beginning of the End of Coverture*, 59 DUQ. L. REV. 106 (2021).

7. See Leslie Gielow Jacobs, *Protecting Women's Rights by Keeping Religious Liberty in Its Lane*, 59 DUQ. L. REV. 54 (2021).

8. See Hunter, *supra* note 2, at 128 n.3.

9. *History of Women in the U.S. Congress*, CTR. FOR AM. WOMEN & POL., <https://cawp.rutgers.edu/history-women-us-congress> (last visited Mar. 8, 2021).

10. *History of Women Governors*, CTR. FOR AM. WOMEN & POL., <https://cawp.rutgers.edu/history-women-governors#:~:text=%20%20%20%20Name%20%28Party-State%29%20%20,succeeded%20g%20...%20%2027%20more%20rows%20> (last visited Mar. 8, 2021).

11. Compare Robert McNamara, *Frances Perkins: The First Woman to Serve in a Presidential Cabinet*, THOUGHTCO., <https://www.thoughtco.com/frances-perkins-biography-4171543> (Sept. 17, 2019) (noting that in 1933, Frances Perkins was the first woman to be appointed to a cabinet position as Secretary of Labor), with Deena Zaru, *Biden Cabinet Picks Feature Record Number of Women and Women of Color*, ABC NEWS (Jan. 23, 2021, 1:47 PM), <https://abcnews.go.com/Politics/biden-cabinet-picks-feature-record-number-women-women/story?id=75380370> (highlighting that there are currently twelve women nominated for Cabinet level positions).

12. Cindy A. Schipani et al., *Women and the New Corporate Governance: Pathways for Obtaining Positions of Corporate Leadership*, 65 MD. L. REV. 504, 506–15 (2006); see also Susan Caminiti & Jennifer Reese, *America's Most Successful Businesswoman*, FORTUNE MAG. (June 15, 1992), [https://archive.fortune.com/magazines/fortune/fortune\\_archive/1992/06/15/76533/index.htm](https://archive.fortune.com/magazines/fortune/fortune_archive/1992/06/15/76533/index.htm) (detailing Linda Joy Wachner's rise to CEO of a Fortune 500 company and her adeptness as a leader).

were lawyers,<sup>13</sup> doctors,<sup>14</sup> or professionals of any sort.<sup>15</sup> In 1920, no woman served on the Supreme Court<sup>16</sup> or any other federal court in the country.<sup>17</sup> In 1920, no law school or medical school was led by a woman.<sup>18</sup> In 1920, women, including those who worked for pay, controlled a miniscule percentage of America's overall wealth.<sup>19</sup> Neither did women gain acclaim in the arts.<sup>20</sup> It is no wonder that in 1920 women were virtually absent from public life, for at the time, women rarely had any autonomy or legal personhood.<sup>21</sup>

---

13. Cynthia Grant Bowman, *Women in the Legal Profession from the 1920s to the 1970s: What Can We Learn from Their Experience About Law and Social Change?*, 61 ME. L. REV. 1, 3–4 (2009). In 1920, eighty-four women were law students at the top twelve law schools; upon graduation, they were unable to secure jobs as lawyers due to then-lawful sex discrimination. *Id.*; *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130 (1873) (upholding Illinois's refusal to allow a woman to practice law on the basis of her role according to the law of the creator over a constitutional challenge); *see also* Audrey Wolfson Latourette, *Sex Discrimination in the Legal Profession: Historical and Contemporary Perspectives*, 39 VAL. U. L. REV. 859 (2005) (providing an in-depth discussion of the history of women in law).

14. Carolyn M. Moehling et al., *Shut Down and Shut Out: Women Physicians in the Era of Medical Education Reform* (Apr. 2019), <https://ostromworkshop.indiana.edu/pdf/piep2019/moehling-niemesh-thomasson.pdf> (noting that in 1920, women comprised 10% of doctors in Boston and 8% of doctors in Minneapolis).

15. Women's Bureau, *History: An Overview 1920–2020*, U.S. DEPT OF LABOR, <https://www.dol.gov/agencies/wb/about/history> (last visited Mar. 8, 2021). During World War I, the number of women in industry increased greatly and the range of occupations open to them was extended, even though they remained concentrated in occupations such as domestic and personal service, clerical occupations, and factory work. *Id.* In 1920, women were about twenty percent of all persons in the labor force. *Id.*; *see also* Schipani et al., *supra* note 12, at 506–15.

16. Linda Greenhouse, *Sandra Day O'Connor: A Different Kind of Justice*, N.Y. TIMES (Oct. 9, 1981), <https://www.nytimes.com/1981/10/09/us/sandra-day-o-connor-a-different-kind-of-justice.html>. In 1981, Sandra Day O'Connor was the first woman appointed to the Supreme Court. *Id.*

17. Mary L. Clark, *One Man's Token Is Another Woman's Breakthrough? The Appointment of the First Women Federal Judges*, 49 VILL. L. REV. 487, 487 (2004).

18. Herma Hill Kay, *Women Law School Deans: A Different Breed, or Just One of the Boys?*, 14 YALE J.L. & FEMINISM 219, 221–22 (2002). The first woman to become Dean of an ABA-approved law school was Miriam Theresa Rooney. *Id.* at 240. In 1919, Barbara Armstrong became the first woman law professor when she was hired to teach at Berkley's Law School. Herma Hill Kay, *The Future of Women Law Professors*, 77 IOWA L. REV. 5, 8 (1991). It was not until 1951 that the first African-American woman law professor, Sybil Marie Jones Dedmond, was hired. *Id.* at 9. Margaret Hope Bacon, *Ann Preston—Pioneer Woman Doctor*, WOMEN IN MED. MAG., <http://www.womeninmedicinejournal.com/profile-of-women-in-medicine/ann-preston-pioneer-woman-doctor> (Dec. 11, 2016, 10:39 PM). In 1866, Ann Preston became the first female dean of a medical school. *Id.*

19. *See generally* Claudia Goldin, *The Changing Economic Role of Women: A Quantitative Approach*, 13 J. INTERDISC. HIST. 707 (1983).

20. *Expatriates*, in INTIMATE CIRCLES: AMERICAN WOMEN IN THE ARTS (2003) (available at <http://brbl-archive.library.yale.edu/exhibitions/awia/esexpat.html>). There were women who rose to a level of fame in the arts but had to leave America to be liberated. Gertrude Stein was the most prominent of these expatriates. *Id.*

21. Saru M. Matambanadzo, *Embodying Vulnerability: A Feminist Theory of the Person*, 20 DUKE J. GENDER L. & POL'Y 45, 48–49 (2012).

Women had neither the right to control their bodies,<sup>22</sup> nor their destiny.<sup>23</sup> Women were rarely the main characters in the stories of their lives. Rather, theirs were the lives of the supporting character, centered around serving parents, husband, children, and home.<sup>24</sup> Though women worked, the great bulk of their work was unpaid.<sup>25</sup> Even when they engaged in paid labor, law and social norms often continued to prevent women from achieving autonomy commensurate with that exercised by men.<sup>26</sup>

The struggle for women's equality was long and arduous. Professor Leslie Gielow Jacobs, in her article *Protecting Women's Rights by Keeping Religious Liberty in Its Lane*, notes that "[i]t took a century after the Equal Protection Clause became a part of the Constitution, and fifty years after women got the right to vote, for the Court to interpret it to require equal treatment of men and women."<sup>27</sup> As Professor Jacobs's legal analysis demonstrates, women's equality continues to face an uphill battle in the courts.

22. Maria T. Vullo, *People v. Sanger and the Birth of Family Planning Clinics in America*, 9 JUD. NOTICE 43, 43–44 (2013).

23. Reva B. Siegel, *She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family*, 115 HARV. L. REV. 947, 979 (2002).

24. See *Frontiero v. Richardson*, 411 U.S. 677, 684–85 (1973); Siegel, *supra* note 23, at 979.

25. Jonathan Gershuny & Teresa Attracta Harms, *Housework Now Takes Much Less Time: 85 Years of US Rural Women's Time Use*, 95 SOC. FORCES 503, 504 (2016).

26. See Arianne Renan Barzilay, *Labor Regulation as Family Regulation: Decent Work and Decent Families*, 33 BERKELEY J. EMP. & LAB. L. 119, 126–27 (2012). For well into the twentieth century, the law made clear that men had far more legal rights in a marriage than women:

In 1966, the United States Supreme Court put a modern gloss on William Blackstone's conventional phrasing of the doctrine of coverture saying that, a '[h]usband and wife are one—and that one is the husband.' In fact, the Supreme Court did not give 'constitutional impetus' to eliminating male control over marital property until 1981, when it decided *Kirchberg v. Feenstra*.

Kelly Fasbinder, *International Women's Human Rights: United States Stalling Progress from CEDAW into CIL*, 61 WAYNE L. REV. 691, 706 (2016) (alteration in original). Indeed, men maintained absurd amounts of control of their wives' property and earnings, denying women their deserved full autonomy:

For centuries the common law of coverture gave husbands rights in their wives' property and earnings, and prohibited wives from contracting, filing suit, drafting wills, or holding property in their own names. During the nineteenth century, however, statutes enacted in the United States and England gave wives the capacity to enter into legal transactions and granted them rights in their property and earnings. Yet the married women's property acts and earnings statutes did not fully emancipate wives from the common law of marital status.

Reva B. Siegel, *The Modernization of Marital Status Law: Adjudicating Wives' Rights to Earnings, 1860–1930*, 82 GEO. L.J. 2127, 2127 (1994). Nor did women find respite in social norms, as "norms sometimes come closer to defining economic rights because they implicitly recognize actual enforcement costs (Posner 1997), and many scholars (for example, Becker 1991; Cheung 1972; Ellickson 1991; Posner 1997) have noted the importance of culture and custom in defining rights." Rick Geddes et al., *Human Capital Accumulation and the Expansion of Women's Economic Rights*, 55 J.L. & ECON. 839, 841 n.7 (2012).

27. Jacobs, *supra* note 7, at 60.

Today, in addition to many other legal arguments, protection of religious liberty is increasingly being used to justify deprivations of women's rights.<sup>28</sup>

Despite continuing challenges to women's equality, today, twenty-four women are United States Senators and 118 women are members of the House of Representatives.<sup>29</sup> Nine states and Puerto Rico are led by Women governors.<sup>30</sup> Forty-one Fortune 500 Companies are led by woman CEOs.<sup>31</sup> Women deans lead thirty-five percent of law schools.<sup>32</sup> Women graduate from college, master's programs, medical schools, law schools, and PhD programs at rates equal to or higher than those of men.<sup>33</sup> These achievements are not limited to white women. Despite facing obstacles and challenges well above and beyond those faced by white women,<sup>34</sup> Black women, Native American women, and other women of color are also accomplishing feats that a century ago were inconceivable in thought and impossible in practice.<sup>35</sup> The election of Kamala Harris as the first woman Vice President of the United States<sup>36</sup> and the nomination of Deb Haaland as the first Native American woman to be appointed

28. *Id.* at 69.

29. *History of Women in the U.S. Congress*, *supra* note 9.

30. *History of Women Governors*, *supra* note 10.

31. Jill Griffin, *Women Are Advancing to Fortune 500 CEO's: 5 Proven Ways to Join Them*, FORBES (Jan. 7, 2021, 3:02 PM), <https://www.forbes.com/sites/jillgriffin/2021/01/07/women-are-advancing-to-fortune-500-ceos-5-proven-ways-to-join-them/>.

32. Karen Sloan, *More Minority Women Ascend to Law Dean Jobs*, THE NAT'L L.J. (Jan. 10, 2019, 4:39 PM), <https://www.law.com/nationallawjournal/2019/01/10/more-minority-women-ascend-to-law-dean-jobs/?slreturn=20210023141143>. For a discussion concerning how women deans led law schools, see Kay, *Women Law School Deans: A Different Breed, or Just One of the Boys?*, *supra* note 18. Our own Duquesne University School of Law is currently being led by its second woman dean, April Mara Barton.

33. *Degrees Conferred by Race and Sex*, NAT'L CTR. FOR EDUC. STAT., <https://nces.ed.gov/fastfacts/display.asp?id=72> (last visited Jan. 24, 2021).

Across all racial/ethnic groups, female students earned the majority of certificates, associate's degrees, and bachelor's degrees. For example, the shares of bachelor's degrees earned by female students were 64 percent for Black students, 61 percent for American Indian/Alaska Native students, 60 percent for Hispanic students, 59 percent for students of [t]wo or more races, 56 percent for White students, and 54 percent for Asian/Pacific Islander students.

*Id.*

34. Hunter, *supra* note 2, at 130 n.9 (citing SUZANNE M. MARILLEY, *WOMAN SUFFRAGE AND THE ORIGINS OF LIBERAL FEMINISM IN THE UNITED STATES, 1820–1920*, at 178 (1996)).

35. See, e.g., Sloan, *supra* note 32; see also *History of Women of Color in U.S. Politics*, CTR. AM. WOMEN & POL., <https://cawp.rutgers.edu/history-women-color-us-politics> (last visited Mar. 8, 2021).

36. Lisa Lerer & Sydney Ember, *Kamala Harris Makes History as First Woman and Woman of Color as Vice President*, N.Y. TIMES, <https://www.nytimes.com/2020/11/07/us/politics/kamala-harris.html> (Jan. 20, 2021).

to a cabinet-level position,<sup>37</sup> while not suggestive that we live in a post-racial America,<sup>38</sup> are visible reminders that women of color are breaking through one glass ceiling after another as never before.<sup>39</sup> Today, nineteen law schools have minority women as their deans.<sup>40</sup> Twenty-six Black women will serve in the 117th Congress.<sup>41</sup> President Biden's cabinet will include more women of color than any before.<sup>42</sup>

Still, until recently, the struggles faced by women of color—both those distinct from and those shared with white women—were rarely focused upon, often even in feminist circles.<sup>43</sup> Worse, some feminist gains were in furtherance of other women's continuing oppression. White women's early property rights were acquired and used for the specific purpose of perpetuating the enslavement of Black women. Professor Diane Klein, in her article, *Their Slavery Was Her Freedom: Racism and the Beginning of the End of Coverture*, confronts these ugly truths.<sup>44</sup> Professor Klein explores the inextricable link between the liberation of white women and the enslavement of Black women.<sup>45</sup> While recognizing that white women lacked many freedoms themselves and that their fight for equality

---

37. Juliet Eilperin et al., *With Historic Picks, Biden Puts Environmental Justice Front and Center*, WASH. POST (Dec. 17, 2020, 7:28 PM), <https://www.washingtonpost.com/climate-environment/2020/12/17/deb-haaland-interior-secretary-biden/>.

38. See Gregory S. Parks & Jeffrey J. Rachlinski, *Implicit Bias, Election '08, and the Myth of a Post-Racial America*, 37 FLA. ST. U. L. REV. 659 (2010) (arguing that the United States did not become post-racial by the election of President Obama).

39. See, e.g., Marco della Cava, *'Work Harder Than Everyone': Kamala Harris' Background Resonates with Other Women of Color Making History*, USA TODAY, <https://www.usatoday.com/story/news/politics/elections/2020/08/22/kamala-harris-background-resonates-trailblazing-women-color/3387348001/> (Aug. 23, 2020, 2:01 PM).

40. Ayanna Alexander, *Black Women Law Deans to Be Honored for Antiracism Efforts*, BLOOMBERG L. (Nov. 13, 2020, 12:14 PM), <https://news.bloomberglaw.com/social-justice/black-women-law-deans-to-be-honored-for-antiracism-efforts>.

41. *By the Numbers: Black Women in the 117th Congress*, CTR. AM. WOMEN & POL., [https://cawp.rutgers.edu/sites/default/files/resources/higher\\_heights\\_black\\_women\\_in\\_congress\\_fact\\_sheet\\_12.30.pdf](https://cawp.rutgers.edu/sites/default/files/resources/higher_heights_black_women_in_congress_fact_sheet_12.30.pdf) (last visited Jan. 29, 2021).

42. See Zaru, *supra* note 11. There are eight women of color nominated for cabinet level positions in the Biden administration. *Id.*

43. Hunter, *supra* note 2, at 130. While it is true that women of color were often excluded from feminist circles, it is simultaneously true that many of the women who fought and continue to fight for women's equality have also fought and continue to fight for racial equality. Gloria Steinem, a feminist icon since the civil-rights movement, remains deeply committed to fighting for sex equality in full—for all women, regardless of race and with due concern and awareness about the racialized sexism and sexualized racism that women of color face. Her relationships with fellow feminists, Flo Kennedy and Wilma Mankiller, are an example of how the feminist movement can be inclusive of women of all races, colors, creeds, and religions. See GLORIA STEINEM, *MY LIFE ON THE ROAD* (2015). Well before Gloria Steinem was making headlines, other feminists were fighting for the rights of both women and Blacks. Sarah Grimke is one of the more famous suffragette/abolitionists.

44. Klein, *supra* note 6, at 106.

45. *Id.* at 107, 118.



was met with fierce opposition, Klein confronts dark aspects of white women's quest for equality.<sup>46</sup> Specifically, Klein reminds us that among the first laws to liberate white women, the Married Women's Property Acts, the "rights of free white women" were advanced "at the expense of Black women."<sup>47</sup> Klein discusses the "forgotten" truth that the first "property" white women were permitted to own was Black slaves.<sup>48</sup> At the time, it was common to gift property or place it in trust for the benefit of one's children.<sup>49</sup> Lucky daughters were often gifted fertile Black woman slaves.<sup>50</sup> White daughters could rent or sell their slaves as well as the children of their slaves.<sup>51</sup> Thus, the true story of white women's freedom and certain aspects of first wave feminism is deeply linked to the enslavement and torture of Black women.

Professor Nan Hunter, in her article *In Search of Equality for Women: From Suffrage to Civil Rights*, also discusses the experiences of Black women during first wave feminism, noting that "Black women struggled in addition with exclusion from all public and private spaces marked as white, not least among them large parts of the women's rights movement itself."<sup>52</sup>

Therefore, while it is clear that the fight for equality since suffrage has been fraught, it is also clear that women's gains over the last century have been formidable. The quality of women's lives, the autonomy that they experience, and the power they yield has increased exponentially in the century since suffrage. However, women continue to confront the consequences of patriarchal, sexist, and misogynistic social, economic, and legal systems that continue to deprive them the right to the wage they earn, their bodily integrity, their physical safety, their reproductive autonomy, and an equitable share of power. Women are less likely than men to be paid for their work.<sup>53</sup> When they are paid, they are paid less than men

---

46. *Id.* at 106–08, 118.

47. *Id.* at 107, 110.

48. *Id.* at 107–08, 118.

49. *Id.* at 109, 117–19.

50. *Id.* at 108–09, 112, 118. For a fictionalized tale of the life of first-wave feminist and abolitionist Sarah Grimke and Hetty, the slave she was gifted as a child, see SUE MONK KIDD, *THE INVENTION OF WINGS* (2014).

51. Klein, *supra* note 6, at 112, 118.

52. Hunter, *supra* note 2, at 130.

53. See ARLIE HOCHSCHILD WITH ANNE MACHUNG, *THE SECOND SHIFT: WORKING FAMILIES AND THE REVOLUTION AT HOME* (2012). "[W]omen spend 37% more time doing unpaid care work than men . . . . Over a year, that means women are working more than 95 extra 8-hour-days for no pay . . . ." Catherine Clifford, *Global Wealth Inequality Is Founded on Sexism*, *Says Oxfam International*, CNBC (Jan. 19, 2020, 7:06 PM), <https://www.cnbc.com/2020/01/17/global-wealth-inequality-is-founded-on-sexism-oxfam-international.html>; see also Gus Wezerek & Kristen R. Ghodsee, *Women's Unpaid Labor Is*

for the same work.<sup>54</sup> Women of color experience the wage gap to a greater degree.<sup>55</sup> Women are more likely than men to be raped,<sup>56</sup> sexually assaulted,<sup>57</sup> harassed,<sup>58</sup> and suffer violence at the hands of an intimate partner.<sup>59</sup> Women of color experience violence against them on the basis of their sex at higher rates than white women.<sup>60</sup> Women control significantly less of the nation's wealth than men.<sup>61</sup> Women of color control less of the wealth than white women.<sup>62</sup> Though Hillary Clinton emphatically declared in 1995 that “human rights are women’s rights . . . [a]nd women’s rights are human rights,”<sup>63</sup> for many American women, the right to be recognized as fully human has yet to be realized.<sup>64</sup> Today, in the United States of America, a nation often characterized as the most free on earth, girls and women are bought and sold in a barely hidden multi-billion dollar industry in which they are systematically raped, drugged, and tortured.<sup>65</sup> Today, in the United States of America,

Worth \$10,900,000,000,000, N.Y. TIMES (Mar. 5, 2020), <https://www.nytimes.com/interactive/2020/03/04/opinion/women-unpaid-labor.html>.

54. Kristin S. Wilkerson, *Bridging the Gap: Achieving Pay Equity Between Men and Women*, 42-APR WYO. LAW. 16, 17 (2019).

55. *Id.* at 16–17.

56. Natasha McKeever, *Can a Woman Rape a Man and Why Does It Matter?*, 13 CRIM. L. & PHIL. 599, 608 (2019).

57. Lara Bazelon & Bruce A. Green, *Victims’ Rights from a Restorative Perspective*, 17 OHIO ST. J. CRIM. L. 293, 324–26 (2020).

58. John Gramlich, *10 Things We Learned About Gender Issues in the U.S. in 2017*, PEW RSCH. CTR. (Dec. 28, 2017), <https://www.pewresearch.org/fact-tank/2017/12/28/10-things-we-learned-about-gender-issues-in-the-u-s-in-2017/>.

59. Sharon G. Smith et al., *The National Intimate Partner and Sexual Violence Survey: 2015 Data Brief—Updated Release*, CDC 1, 2–3 (2018), <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>.

60. *Where We Stand: Racism and Rape*, NAT’L ALL. TO END SEXUAL VIOLENCE, [https://www.endsexualviolence.org/where\\_we\\_stand/racism-and-rape/](https://www.endsexualviolence.org/where_we_stand/racism-and-rape/) (last visited Mar. 8, 2021).

61. Danaya C. Wright, *The Demographics of Intergenerational Transmission of Wealth: An Empirical Study of Testacy and Intestacy on Family Property*, 88 UMKC L. Rev. 665, 672 (2020).

62. See Palma Joy Strand & Nicholas A. Mirkay, *Racialized Tax Inequity: Wealth, Racism, and the U.S. System of Taxation*, 15 NW. J. L. & SOC. POL’Y 265, 270 (2020); Katherine Richard, *The Wealth Gap for Women of Color*, CTR. GLOB. POL’Y SOL. (Oct. 2014), <http://www.globalpolicysolutions.org/wp-content/uploads/2014/10/Wealth-Gap-for-Women-of-Color.pdf>.

63. Hillary Clinton, Remarks at the United Nations Conference on Women (Sept. 5, 1995) (transcript available at <https://china.usc.edu/hillary-clinton-remarks-un-conference-women-1995>) (omission in original); *Hillary Clinton Declares “Women’s Rights Are Human Rights”* (WQED broadcast Sept. 8, 1995) (available at <https://www.pbs.org/weta/washington-week/web-video/hillary-clinton-declares-womens-rights-are-human-rights>).

64. See generally CATHARINE MACKINNON, ARE WOMEN HUMAN?: AND OTHER INTERNATIONAL DIALOGUES (2006).

65. Carmen Niethammer, *Cracking the \$150 Billion Business of Human Trafficking*, FORBES (Feb. 2, 2020, 7:04 AM), <https://www.forbes.com/sites/carmenniethammer/2020/02/02/cracking-the-150-billion-business-of-human-trafficking/?sh=5770e1774142>. The global human trafficking industry is estimated to be a \$150 billion/year industry. *Id.*;

girls and women are incarcerated at higher rates than ever before, stealing mothers from their children and leaving them more vulnerable to sexual assault, drug abuse, crime, poverty, and their own incarceration.<sup>66</sup> Today in the United States of America, more pregnant women are incarcerated than in any other nation.<sup>67</sup> Today, in the United States of America, one out of three girls will be sexually assaulted.<sup>68</sup> One in nine girls is sexually abused by an adult, thirty-four percent by a family member.<sup>69</sup> In 2021, in the United States of America, one in four women will experience severe violence perpetrated by an intimate partner,<sup>70</sup> and approximately 1,600 of them will be killed as a result.<sup>71</sup> Women in America have not yet achieved equality. Women do not have access to safety, economic power, political power, professional success, or reproductive freedom equal to that experienced by men. Women are not equal to men and the law continues to justify the deprivation of such equality.<sup>72</sup> In the century since suffrage, women have achieved a great deal—but, we

Cara Kelly, *13 Sex Trafficking Statistics That Explain the Enormity of the Global Sex Trade*, USA TODAY, <https://www.usatoday.com/story/news/investigations/2019/07/29/12-trafficking-statistics-enormity-global-sex-trade/1755192001/> (July 30, 2019, 8:11 AM). Profits from global sex trafficking are estimated to be \$99 billion and sex trafficking through illicit massage parlors alone are estimated to yield \$2.5 billion in profits in the United States. *Id.*

66. Lindsey Linder, *Expanding the Definition of Dignity: The Case for Broad Criminal Justice Reform That Accounts for Gender Disparities*, 58 U. LOUISVILLE L. REV. 435, 438–42 (2020).

67. “[T]he United States has the highest rate of female incarceration in the world. Between 1980 and 2014, the number of women in American prisons and jails rose from 26,378 to approximately 215,000, an increase of over 800%.” Wesley Smithart, *Pregnant in Captivity: Analyzing the Treatment of Pregnant Women in American Prisons and Immigration Detention Centers*, 71 ALA. L. REV. 867, 870 (2020). Moreover, the World Health Organization estimates that 24,000–60,000 pregnant women are incarcerated worldwide. Molly Skerker et al., *Improving Antenatal Care in Prisons*, WHO (Aug. 31, 2015), <https://www.who.int/bulletin/volumes/93/10/14-151282/en/>. “Exactly how many . . . [incarcerated] women are pregnant is unknown, but studies from the early 2000s suggested that over 9,000 pregnant women are incarcerated [in the United States] each year.” Cara O’Connor, *A Guiding Hand or a Slap on the Wrist: Can Drug Courts Be the Solution to Maternal Opioid Use?*, 109 J. CRIM. L. & CRIMINOLOGY 103, 112 (2019). See generally Jennifer G. Clarke & Rachel E. Simon, *Shackling and Separation: Motherhood in Prison*, 15 [J]AMA J. ETHICS 779 (2013); see also *First of Its Kind Statistics on Pregnant Women in U.S. Prisons*, JOHNS HOPKINS MED. (Mar. 21, 2019), <https://www.hopkinsmedicine.org/news/newsroom/news-releases/first-of-its-kind-statistics-on-pregnant-women-in-us-prisons> (conducting a study of twenty-two prisons and finding that 1396 women were pregnant at intake).

68. *Nearly One in Three Teenage Girls Has Experienced Sexual Assault or Other Violence, New NWLC National Survey Shows*, NAT’L WOMEN’S L. CTR. (Apr. 19, 2017), <https://nwlc.org/press-releases/nearly-one-in-three-teenage-girls-has-experienced-sexual-assault-or-other-violence-new-nwlc-national-survey-shows/>.

69. *Children and Teens: Statistics*, RAINN, <https://www.rainn.org/statistics/children-and-teens> (last visited Jan. 30, 2021).

70. *National Statistics*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE, <https://www.ncadv.org/statistics> (last visited Feb. 9, 2021).

71. *When Men Murder Women*, VIOLENCE POL’Y CTR. 1, 3 (2020), <https://vpc.org/studies/wmmw2020.pdf>.

72. See Jacobs, *supra* note 7, at 95.

have yet to even begin to taste true equality. This Symposium Issue serves as a reminder of how far we have come, how difficult the road has been, how much we have to celebrate, and, just as importantly, how much more we must fight to achieve true equality.