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## WOMEN'S RIGHTS





long to hear that you have declared [independence]— and by the way in the new Code of Laws which I suppose it will be necessary for you to make I desire you would Remember the Ladies, and be more generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could. If perticuliar care and attention is not paid to the Laidies we are determined to foment a Rebellion, and will not hold ourselves bound by any Laws in which we have no voice, or Representation.

So wrote Abigail Adams in a letter dated March 31, 1776, to her husband, John. Then serving in the (obviously all-male, all-white) Continental Congress, John Adams later was elected the second president of the infant nation.

His response to his wife mocked her and the “Despotism of the Peticcoat.” Suffice to say that, although Abigail was not amused, she did not prevail in her desire to ensure that the founders consider the position of women in the new republic. Neither did she impact its participation in slavery, which she found abhorrent.

#### PERSEVERANCE

The women’s movement in 19th-century America was closely aligned with the effort to abolish slavery. Lucretia Mott and Elizabeth Cady Stanton, both active abolitionists, met at the 1840 World Anti-Slavery Convention in London, where women delegates were refused seats. Eight years later, along with abolitionist and former slave Frederick

## ONE HUNDRED YEARS OF WOMEN’S SUFFRAGE: MISSION ACCOMPLISHED?

BY KATHLEEN BALTHROP HAVENER



Douglass, they attended the Seneca Falls Convention, “to discuss the social, civil, and religious condition and rights of woman.” Stanton and others presented two prepared documents, the Declaration of Sentiments and an accompanying list of resolutions, to be debated and modified before a call for signatures. A heated debate arose about women’s right to vote. Mott vehemently urged that this push for women’s suffrage be removed from the proposed resolutions. Douglass, the only black attendee at Seneca Falls, strenuously encouraged its inclusion. The suffrage resolution remained, and 100 of approximately 300 attendees signed the document, mostly women. By 1851, only three years after Seneca Falls, at the National Women’s Rights Convention, the issue of women’s suffrage had become a central tenet of the movement for women’s rights.

In 1872 Susan B. Anthony presented herself at the polls and voted in the presidential election between Ulysses S. Grant and newspaper publisher Horace Greeley. She was arrested, charged, and tried for violating state law. Her defense was that her right to vote was enshrined in the 14th Amendment, ratified in 1868, which provides in pertinent part, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.” Anthony was, of course, a citizen under the 14th Amendment because she was “a person” born within the United States.

The judge was Ward Hunt, a newly appointed justice of the U.S. Supreme Court, who was the justice responsible for the federal circuit court in which the trial was held. Justice Hunt

forbade Anthony from speaking in the trial and did not permit the jury to deliberate, instead instructing them that she was guilty. On the final day of the trial, Justice Hunt made the mistake of asking Anthony if she had anything to say. Anthony responded with what historian Ann D. Gordon has called

**The 1913 demonstration was the first large-scale political protest in the United States.**

and six-year-old Herbert Avery, ending with a “bountiful camp supper” and games among the trees. Mrs. F.C. Scheuch hosted a tea to honor her houseguests from as far away as Nashville. The attendees were charmed by the decorations, including tiny yellow birds perched on the edges of their water glasses.



“the most famous speech in the history of the agitation for woman suffrage” (*The Trial of Susan B. Anthony*, Federal Judicial Center, 2005). Repeatedly ignoring Justice Hunt’s orders to stop talking and sit down, she decried what she called “this high-handed outrage upon my citizen’s rights,” and the larger injustice of denying women the right to vote. When Justice Hunt sentenced Anthony to pay a fine of \$100, she announced that she would never pay it. Justice Hunt then decreed that Anthony would not be jailed for failing to pay the fine, thus foreclosing any appeal to the Supreme Court.

### **BABY STEPS**

Readers of the Sunday paper in Missoula, Montana, on August 10, 1913, if they perused the society page, were treated to a charming collection of vignettes recounting the recent goings-on in their community. Greenough Park was the scene of a picnic to celebrate the joint birthday celebrations of 81-year-old Joel Moss

The bottom left of the page highlighted a remarkable journey by Miss Jeannette Rankin, a well-known suffragist born near Missoula. She had motored all the way from Montana to the nation’s capital to participate in a women’s suffrage demonstration, collecting signatures along the way in favor of the passage of an equal suffrage amendment. The demonstration Rankin had traveled so far to attend, held on March 3, 1913—the eve of Woodrow Wilson’s inauguration—was reportedly the first large-scale protest for political purposes in the United States, with half a million spectators lining the route from the Capitol to the White House.

Fifteen months after the society page marked Rankin’s visit to Washington, in November 1914, Montana men voted 53 percent to 47 percent to recognize non-Indigenous women’s right to vote in that state. Montana was the tenth state to do so.

In 1916 Rankin became the first woman ever elected to the U.S. Congress.

In January 1917, two months before Rankin was sworn in to take her seat in the House of Representatives, a dozen women, including Alice Paul and Lucy Burns—the organizers of the march four years earlier—met in Lafayette Square across from the White House to begin a protest aimed at guaranteeing women’s right to vote. The

Tennessee became the 36th state to ratify the Amendment on August 18, 1920. It became the law of the land eight days later when certified by Secretary of State Bainbridge Colby, thus guaranteeing that “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.”



**The 19th Amendment did not secure any rights for women other than voting.**

“Silent Sentinels,” as they were called, are credited by some historians with the first picketing of the White House. They merely stood, holding signs asking, “How Long Must Women Wait For Liberty?” and “Mr. President, What Will You Do for Woman Suffrage?” Paul was arrested and incarcerated, went on a hunger strike, was force-fed, and was threatened with commitment to an insane asylum, all of which brought attention and gained sympathy for the cause of women’s suffrage.

When a resolution proposing the 19th Amendment was introduced for the first time on the floor of the House of Representatives, on January 10, 1918, Rankin opened the debate. Although it passed the House, it failed in the Senate, and Congress did not pass the Amendment until June 4, 1919, after Rankin’s term had expired. Its passage ended the protest of the “Silent Sentinels.”

### **NOT YET**

At a meeting of the Executive Committee of the National Women’s Party on September 10, 1920, a few weeks after the 19th Amendment became law, the party’s co-founder Alice Paul declared,

It is incredible to me that any woman should consider the fight for full equality won. It has just begun. There is hardly a field, economic or political, in which the natural and accustomed policy is not to ignore women.

Paul’s concern was prophetic. For the 19th Amendment did not secure any rights for women other than voting. Not until the Civil Rights Act of 1957 would women have the right to serve on federal juries. It wasn’t until 1973 that all 50 states passed similar legislation. Worse, although black women were critical to the

success of the suffrage movement, they had certainly been relegated to an inferior place throughout it, and black women’s ability to exercise their right to vote was not protected until the Voting Rights Act was passed in 1965. Black women also founded the “Me Too” movement—20 years before hashtags were hashtags, Harvey Weinstein was a household name, and Facebook and Twitter were national platforms.

Nancy Weiss Malkiel, in her book *Keep the Damned Women Out: The Struggle for Coeducation* (Princeton University Press, 2016), argues that Ivy League colleges ultimately began admitting women undergraduates—most not until in the late 1960s and early 1970s—not to offer educational advantages to a previously excluded portion of the population, but rather to boost their position in the unending competition for the best male applicants, who were increasingly seeking co-educational opportunities. Yale University President Kingman Brewster Jr., speaking at a 1967 alumni event, said “our concern is not so much what Yale can do for women but what can women do for Yale.” Princeton University’s president in the same year told the board of trustees that Princeton was “beginning to become comparatively less attractive to some applicants whom we would like to have because of lack of girls here.”

Right now, in 2020, federal law prohibits discrimination in places of public accommodation based on race, religion, and other categories, but not based on sex, including sexual orientation or transgender status. Title VII of the Civil Rights Act prohibits discrimination in employment based on sex (including—as of

June 15, 2020—discrimination based on sexual orientation and transgender status, *see Bostock v. Clayton County, Georgia*, 590 U.S. \_\_\_, 2020 WL 3146686 (U.S. June 15, 2020). Title IX accomplishes the same end in education. But gender-based discrimination is not covered in other federal laws barring discrimination in places of public accommodation, public facilities, or by recipients of federal funds. *See, e.g.*, 42 U.S.C. § 2000a (places of public accommodation), § 2000b (public facilities), § 2000d (federally

2020, the U.S. House of Representatives voted 232–182 to pass H.J. Res 79, a joint resolution to remove the original time limit assigned to the ERA. Senator Ben Cardin (D-MD) and Senator Lisa Murkowski (R-AK) have introduced a companion joint resolution in the U.S. Senate, but Majority Leader Mitch McConnell has not permitted a vote. So it is still the case that, although many state constitutions and state and federal laws protect women’s equal rights, the U.S. Constitution does not.

- Nine of the nation’s 50 state governors are female.
- American women spend almost twice as much time as men on unpaid domestic work (<https://tinyurl.com/yaxooabh>).

These numbers are surprising against the backdrop of the U.S. population: 50.8 percent are female (<https://tinyurl.com/ycegh4q7>). More women than men have been awarded college degrees since the early 1980s (<https://tinyurl.com/yc3khqku>). And although women have been nearly half of law school graduates for two decades, the Law360 Glass Ceiling Report in 2019 confirmed that they continue to be underrepresented at all levels of law firms (<https://tinyurl.com/y7y4nba8>). Those numbers shrink as women try to advance in firms. Less than 20 percent of equity partners in large law firms are women (<https://tinyurl.com/y6w39go6>).

We have more reason to be concerned. The National Academy of Sciences concluded in proceedings in March 2020 that “there has been dramatic progress in movement toward gender equality, but, in recent decades, change has slowed, and by some measures, has stalled entirely” (<https://tinyurl.com/ybmk4a3q>).

The 25-year-old Violence Against Women Act, passed during the first Clinton administration, expired in 2019. A bill to reauthorize it (H.R. 1585) passed the House by a vote of 263–158 on April 4, 2019. The reauthorization has been stalled in the Senate, apparently because it is opposed by the National Rifle Association (NRA). An NRA spokesperson has characterized the reauthorization as “a smokescreen for its real



**Among Fortune 500 companies, there were more CEOs named James than CEOs who were female in 2018.**

assisted programs). Any existing protections against gender discrimination in stores, restaurants, clubs, and the like are based on state laws or municipal ordinances.

Until her death in 1977, suffragist Alice Paul advocated tirelessly for the passage of the Equal Rights Amendment (ERA), which she helped to draft in the wake of the ratification of the 19th Amendment. The Equal Rights Amendment states: “Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.” It was introduced in every session of Congress from 1923 until it passed in 1972. In January 2020, Virginia became the 38th state to ratify the ERA. On February 13,

### STALLED

Just one window into the phenomenon? In 2018, among the Fortune 500 companies, there were more CEOs named James than CEOs who were female (<https://tinyurl.com/y8susjen6>).

Here are a few more facts and figures:

- This year, only 7.4 percent of Fortune 500 companies are led by females (<https://tinyurl.com/y8susjen6>).
- Only 21.7 percent of corporate managing board members are women (<https://tinyurl.com/y8fn4jqy>).
- In the current Congress, 23.7 percent of the voting members are women (<https://tinyurl.com/y7p8u9gy>).

goal—banning firearms ownership” (<https://tinyurl.com/y9d97sr3>). The NRA opposes the reauthorization because it would curtail gun ownership for domestic partner abusers, closing what has long been known as the “boyfriend loophole.” The Republican opposition persists, although almost half of female homicide victims in the United States are murdered by current or former male partners, and domestic violence victims are far more likely to be killed by their abuser if their abuser can obtain a gun (<https://tinyurl.com/yxxhmkxq>).

In 2006, the World Economic Forum ranked the United States third in the world for economic gender equality. By 2016, the nation had fallen to 26th. By 2018—only two years later—out of 149 nations, the United States was ranked 51st in gender equality. In 2020, the U.S. has dropped to number 53. For comparison, Canada is 19th and Mexico is 25th (<https://tinyurl.com/qqldvyy>).

The ratio of American women’s employment to men’s increased at all education levels from 1970 until the mid-1990s but has not risen significantly since then at any education level (<https://tinyurl.com/ybmk4a3q>).

The gender pay gap persists as well. Although the gap between men’s and women’s pay narrowed significantly between 1970 and 1990, the progress toward pay equity has slowed dramatically since then. A woman still makes on average 81 cents to a man’s dollar (<https://tinyurl.com/yd6zpznk>). A black woman makes only 62 cents and a Latina only 54 cents to a white man’s dollar (<https://tinyurl.com/ycx7cgrm>).

## BACK TO THE DRAWING BOARD

Before Monday, May 25, 2020, this was a very different article (not only because it only existed in my brain and I had not put pen to paper or finger to keyboard except for background research). Had I written this piece on time, it would have been genuinely celebratory of the giant leap that the 19th Amendment represented, but also plainly acknowledged how far we have yet to go.

The future of women’s advancement, like its past, is in the hands of women of color.

The troubling events of spring and early summer have made this an increasingly difficult article to write.

On May 25, three Minneapolis police officers snuffed out the life of George Floyd while a fourth officer stood by. Multiple bystanders took cell phone video of the nearly nine-minute ordeal while the police officers knelt on Floyd’s neck and back. He begged them to let him breathe, and finally called for his (deceased) mother as he died.

As I write this, we have witnessed two weeks of protests roiling across the country, in

more than 140 cities in all 50 states, and around the world on every continent except Antarctica. We watched the U.S. president’s peculiar and frightening response. Lafayette Square, across from the White House, a space recognized for decades by the U.S. Supreme Court as a “public forum,” was cleared by U.S. Park Police and National Guard troops using “pepper balls”—a form of tear gas that the government denied was tear gas. D.C. Mayor Muriel Bowser planned and executed the painting of “BLACK LIVES MATTER”—importantly followed by a depiction of the D.C. flag—in a mural covering the two blocks of 16th Street NW that lead directly to the White House—in letters so large they can be seen from space—and renamed those two blocks “Black Lives Matter Plaza.”

It is, by all appearances, an inflection point. America will be different after these two weeks.

Like the future of the nation, the future of women’s rights in it and contributions to its growth depend on our recognition of and inclusion of women of color in every aspect of the nation’s future. In particular, in law and politics, white women ignore women of color at their peril. The future is female. But the future of women’s advancement, like its past, is in the hands of women of color. May none go unrecognized any longer. ■



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