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LESSONS LEARNED FROM THE SUFFRAGE MOVEMENT

“Aye.” And with that one word, Tennessee Delegate Harry Burn changed his vote to one in favor of ratification of the Nineteenth Amendment after receiving a note from his mother stating “Hurrah and vote for suffrage don’t forget to be a good boy”¹

***116** With Burn’s vote on August 18, 1920, Tennessee became the thirty-sixth state to ratify the Nineteenth Amendment of the U.S. Constitution, paving the way for its adoption.² The Nineteenth Amendment protects the female citizens’ constitutional right to vote.³ Prior to its passage, only a few states permitted women to vote in state and/or local elections.⁴

In 2020, we celebrate the Centennial of the Nineteenth Amendment’s passage. This anniversary provides a time to reflect upon lessons learned from the suffrage movement including that (1) voting rights matter; (2) inclusive movements matter; and (3) voting rights matter for, but cannot solely achieve, gender equality.

Voting Rights Matter

As early as the spring of 1776, Abigail Adams requested of her husband John Adams, “[a]nd by the way in the new Code of laws ... I desire you would Remember the Ladies.”⁵ John Adams responded to Abigail that her proposal was laughable because “we know better than to repeal our Masculine systems.”⁶ And, as we know, the masculine systems were not repealed and the U.S. Constitution did not address the equal rights of women, white or enslaved, nor did it provide for the equal rights of African Americans, male or female.

From the founding of this country through to the second half of the Nineteenth Century, women were either enslaved, such as African American and Native American women, and treated as property rather than the humans they were, or, if not enslaved but married, had their rights conscripted by coverture. As Blackstone explained regarding married women, “[b]y marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and cover, she performs everything”⁷ The wife had no legal identity outside of her husband’s for the civil law and no power to redress injuries in the civil judicial system without her husband. Others could not sue her without her husband as a defendant. Because the husband was liable for his wife’s transgressions, the husband had the power of restraining her (or their children) by corporal punishment. Such sanctioning of domestic violence is reflected in the 1874 North Carolina Supreme Court case stating, “If no permanent injury has been inflicted, nor ... dangerous violence shown by the husband, it is better to draw the curtain, shut out the public

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gaze, and leave the parties to forget and forgive.”⁸

The women’s suffrage movement, working with the abolitionist movement, sought to change the status of women and African Americans by focusing on voting rights. An important moment of the suffrage movement was the adoption of The Declaration of Sentiments by the Seneca Falls Convention on women’s suffrage in July 1848.⁹ The Declaration lists many of the results of tyranny by man over woman including: lack of a right to vote, submission to undemocratic laws, lack of rights, no representation in legislative bodies, civil death upon marriage, no property rights, morally irresponsible because not punishable in criminal law, subject to physical punishment and domination by husband, preferential treatment to husband in divorce and custody, taxation without representation, limited access to profitable employment, limited access to education and college, subordinate position in church and state, and undermining of her confidence and self-respect.¹⁰ To rectify these, the Declaration states that women should be given the “rights and privileges which belong to them as citizens of the United States”¹¹ because without it “women do feel themselves aggrieved, oppressed, and fraudulently deprived of their most sacred rights.”¹²

Ida B. Wells-Barnett, an African American journalist and civil rights leader, argued forcefully for the importance of voting rights to dignity and civil rights. Wells-Barnett used voting as a “strategy of resistance to lynching and racism” to show that each individual African American was “worthy of respect and that as a group, they merited recognition in the body politic.”¹³ Wells-Barnett stated, “[w]ith no sacredness of the ballot there can be no sacredness of human life itself for if the strong can take the weak man’s ballot when it suits his purpose to do so, he will take his life also.”¹⁴ Wells-Barnett further stated that “African Americans have a ‘sacred duty’ to ‘use their political strength’ against segregation and racial injustice.”¹⁵

One key lesson from the suffrage movement is that voting rights matter. Suffragists fought for voting rights to *117 obtain representation in the government and laws and policies that would provide equality to women. They knew that voting permits citizens to curtail government’s overreach into a citizen’s liberty and permits them to fully access their citizenship rights and responsibilities.¹⁶ Today, modern-day voting rights litigants echo these sentiments. They argue that when their vote is suppressed, they lose their right to influence the government’s laws and policies and are excluded from full membership in society.¹⁷

Inclusive Movements Matter

Because of unequal rights for women and the continued enslavement of African Americans, “nineteenth-century American feminists made suffrage and the abolishment of slavery their twin goals, intent on reforming a country that owed fairness and freedom to all women.”¹⁸ But “the two civil rights movements born as siblings, out of abolitionism--one dedicated to achieving full equality for black citizens, the other for women--had a tense, ambivalent relationship.”¹⁹ Leading up to the 1865 ratification of the Thirteenth Amendment, which abolished slavery, and the 1870 ratification of the Fifteenth Amendment, granting African American men the right to vote, suffragists believed that universal suffrage for African Americans and all women was imminent.²⁰ Leaders of the abolitionist movement supported women’s suffrage. But, when the right to vote came in sight for African American men after the Civil War, the abolitionist leaders recognized that “the nation could not swallow two immense reforms at once, and the black man’s very life depended upon his ability to protect himself with the vote.”²¹ Frederick Douglass justified the position of prioritizing African American male voting rights over women’s voting rights because “[w]omen were not despised by society as black people were.”²² And while this was true for Black women too, Douglass said it was true because they were black, not because they were female.²³ Elizabeth Cady Stanton and Susan B. Anthony were outraged by Douglass’ change of position to seek one group’s rights over another. Their anger turned ugly and they urged women’s suffrage over African American men’s suffrage by using “vile racist rhetoric.”²⁴

This rift between these two important civil rights movements and the decision to deride or subordinate the other leaves a terrible legacy. Following this rift, women’s suffrage leaders set about healing the divide with the abolitionist movement leaders. By 1873, suffrage leaders and Frederick Douglass, who was still an ardent supporter of women’s rights, were again working together to achieve women’s suffrage.²⁵ However, the tension between race and gender rights resurfaced at critical moments leading up the adoption of the Nineteenth Amendment. Specifically, at times the suffrage movement leaders prioritized white women’s voting rights over non-white women’s voting rights in order to appease racist chapters within their own

organizations.²⁶

The suffrage movement drove home the lesson that when rights are at issue, groups may battle between each other and try to subordinate one group in an effort to further another. These strategies might appear to the dominant group to provide short-term wins, but they often leave legacies of long-term losses for the dominant and subordinated groups. For instance, after the passage of the Nineteenth Amendment, white women got and were able to exercise the right to vote; African American women, however, were unable to *exercise* their vote-- as were African American men - because of ongoing racial violence and intimidation. As a result, not all women achieved true voting rights with the Nineteenth Amendment.

Voting Rights and More Needed for Gender Equality

As stated above, even though the Nineteenth Amendment granted women the *right* to vote, not all women were permitted to *exercise* that right. Native American and Asian American women faced citizenship bans for many years.²⁷ African American citizens, both *118 men and women, were subject to racial violence and intimidation for attempting to exercise their right to vote. In a speech at the 1964 Democratic National Convention, Fannie Lou Hamer, an African American woman and member of the Mississippi Freedom Democratic Party, argued against the voter suppression of and state-sanctioned violence against African-Americans exercising their right to vote.²⁸ She spoke of how she and other African Americans were excluded from the Democratic Party through intimidation and violence.²⁹ She recounted the story of how, after she had struggled and then succeeded in registering to vote in 1962 in Mississippi, her boss told her “If you don’t go down and withdraw your registration, you will have to leave.”³⁰ She went on to tell how her life was threatened when sixteen bullets were shot into a house.³¹ She was forced to leave her job to exercise her right to vote.

In 1965, Congress passed the Voting Rights Act protecting African American men and women and other racial minorities from discriminatory voting practices.³² Even with that law in place, African Americans--both men and women--were still subject to tactics of voter suppression.³³ As NPR reported, “in 2016, 4 percent of registered voters did not vote because of “registration problems” Many would-be voters face a range of barriers: voter ID laws, registration difficulty or criminal records.”³⁴ We know from census data that only 61.4% of U.S. citizens voted in the 2016 national election.³⁵ In general, “[n]onvoters are more likely to be poor, young, Hispanic or Asian-American. Some research also indicates they are more likely to align with the Democratic Party.”³⁶ While we do not know the reasons for each person’s nonvoting, one thing is clear: voters and nonvoters have different positions on policies.³⁷ Because voting “ultimately influences which policies elected officials enact and whose interests candidates ignore and acknowledge,”³⁸ policies supported by nonvoters will be less likely to be enacted. So, if persons who would vote for gender and racial equality are nonvoters due to voter suppression and other reasons, it is less likely laws and policies will be put in place to achieve that equality.

While all women may have been granted the ability to exercise their voting rights, voting rights themselves are not the same as full rights to dignity or citizenship. The Nineteenth Amendment does not guarantee equal rights, like the proposed Equal Rights Amendment would.³⁹ Here’s one example of this issue. Although jury service is a citizen’s obligation and right, it was one from which African-Americans and women were excluded even after the passage of the Fifteenth and Nineteenth Amendments.⁴⁰ In 1961, the Supreme Court in *Hoyt v. Florida* upheld the Florida law that exempted women from mandatory jury service, stating that unlike men, who were mandated to serve, women were “the center of home and family life” and therefore, should not be forced to participate in public, civic life.⁴¹ This is despite the fact that serving on a jury is the quintessential right and exercise of citizenship.⁴² Denying women this opportunity limits the exercise of their citizenship.⁴³ Fortunately, in 1975, the Supreme Court repudiated *Hoyt* and struck down a statute that exempted women from mandatory service.⁴⁴ Thereafter, in 1994, the Court classified peremptory strikes of jurors based on gender as unconstitutional.⁴⁵ Although women had the right to vote, it took over half a century for women to be able to fully exercise their citizenship right to serve on juries.

The example of jury service leads to the question of the current status of women’s full freedom and dignity. Strides have been made since the passage of the Nineteenth Amendment to protect all women’s rights. The Supreme Court interpreted the Fourteenth Amendment of the U.S. Constitution to include protection against *119 intentional gender-based discrimination.⁴⁶ Additionally, laws protecting against gender discrimination have been passed. Here are a few examples: divorce and custody

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laws have eradicated vestiges of coverture; federal laws protect against discrimination on the basis of sex and race in employment, housing, and education; and protective order laws exist in all states addressing intimate partner violence.

But even with voting rights and the legislative strides discussed above, pervasive issues of gender discrimination in our society remain. For example, 1 in 4 women continue to be subjected to severe intimate partner violence.⁴⁷ The gender pay gap persists. Latina women earn 58% of what white men earn; Black women earn 65% of what white men earn; white women earn 82% of what white men earn; and Asian-American women earn 87% of what white men earn.⁴⁸ The problem of mass incarceration is increasingly impacting women. The female prison and jail population growth rate is twice as high as that of the male prison population.⁴⁹ African American women are imprisoned twice as often as white women.⁵⁰ As the #SayHerName campaign shows, African American women are subject to over-policing and unjustified police violence.⁵¹ The #MeToo movement shows that sexual harassment persists across all job classifications affecting women's access to full employment.⁵² And women's access to reproductive justice continues to be targeted.⁵³

Therefore, as we celebrate the Centennial of the Nineteenth Amendment, let's reflect on the strides for greater equality for all women. And let's not forget the suffrage movement's lessons that voting matters, inclusive movements matter, and voting rights and more is needed for women's full freedom and dignity. Moving forward, greater gender equality will be obtained through voting for elected officials who will create and enact policies and laws focused on gender equality; engagement of nonvoters so they become voters for gender equality; and many more inclusive grass-roots movements like #SayHerName and the ever-diversifying #MeToo Movement that target societal change for gender and race equality.

Footnotes

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¹ ELAINE WEISS, *THE WOMAN'S HOUR: THE GREAT FIGHT TO WIN THE VOTE* 306 (2018).

² <https://www.archives.gov/education/lessons/woman-suffrage>.

³ **U.S. Const. amend. XIX** ("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. Congress shall have power to enforce this article by appropriate legislation.")

⁴ Hunter Schwarz, *Where Women Could Vote in 1919*, *The Washington Post* (Jan. 16, 2015), <https://www.washingtonpost.com/blogs/govbeat/wp/2015/01/16/where-women-could-vote-in-1919/>.

⁵ BONNIE J. MORRIS AND D-M WITHERS, *THE FEMINIST REVOLUTION: THE STRUGGLE FOR WOMEN'S LIBERATION* 13 (2018) (citing Alice Rossi, ed., *The Feminist Papers: From Adams to Beauvoir* (New Hampshire: UNEP, 1988)).

6 *Id.*

7 1 WILLIAM BLACKSTONE. COMMENTARIES ON THE LAWS OF ENGLAND 422-45 (1765).

8  [State v. Oliver, 70 N.C. 60, 61 \(1874\).](#)

9 KATHERINE T. BARTLETT, DEBORAH L. RHODE, AND JOANNA L. GROSSMAN, GENDER AND LAW: THEORY, DOCTRINE COMMENTARY 12, 13 (6th ed. 2013).

10 1 HISTORY OF WOMAN SUFFRAGE 70 (Elizabeth Cady Stanton, Susan Brownell Anthony, & Matilda Joslyn Gage eds., 1889).

11 *Id.*

12 *Id.*

13 PATRICIA A. SCHECHTER, IDA B. WELLS-BARNETT & AMERICAN REFORM 1880-1930 173 (2001).

14 *Id.* at 172-173.

15 *Id.* at 173.

16 Richard Briffault, [Three Questions for the “Right to Vote” Amendment](#), 23 Wm. & Mary Bill Rts. J. 27, 30 (2014).

17 James A. Gardner, [Liberty, Community and the Constitutional Structure of Political Influence: A Reconsideration of the Right to Vote](#), 145 U. PA. L. REV. 893, 900-01 (1997).

18 BONNIE J. MORRIS AND D-M WITHERS, SUPRA NOTE 5, at 13.

19 WEISS, *supra* note 1, at 132.

20 *Id.* at 132. It should be noted that religious restrictions were abolished earlier, with Maryland being the last state to do so when, in 1828, it permitted white Jewish men to vote. <https://interactive.aljazeera.com/aje/2016/us-elections-2016-who-can-vote/index.html>.

21 WEISS, *supra* note 1, at 133.

22 *Id.* at 134. As a case in point, see the access to power Tennessee Delegate Harry Burn's mother had in the ratification vote for the Nineteenth Amendment identified in the introductory quote to this article.

23 *Id.*

24 *Id.* at 135.

25 *Id.* at 136.

26 *Id.* at 138.

27 <https://www.nationalgeographic.com/culture/topics/reference/19th-amendment-womens-suffrage-voting/>. In 1947, legal barriers to Native Americans right to vote are removed. <https://interactive.aljazeera.com/aje/2016/us-elections-2016-who-can-vote/index.html> In 1952, McCarran Walter Act passed permitting Asian Americans, men and women, to vote. <https://interactive.aljazeera.com/aje/2016/us-elections-2016-who-can-vote/index.html>

28 <https://timeline.com/hamer-speech-voting-rights-d5f6ddc7470a>.

29 <https://timeline.com/hamer-speech-voting-rights-d5f6ddc7470a>.

30 <https://timeline.com/hamer-speech-voting-rights-d5f6ddc7470a>; <https://www.tolerance.org/professional-development/fannie-lou-hamers-testimony-at-the-1964-democratic-convention-transcript>

31 <https://timeline.com/hamer-speech-voting-rights-d5f6ddc7470a>; <https://www.tolerance.org/professional-development/fannie-lou-hamers-testimony-at-the-1964-democratic-convention-transcript>.

32  [52 U.S.C. §10101 \(2019\)](#) *et. seq.* (protecting racial minorities from discriminatory voting practices).

33 *See generally* Gilda R. Daniels, *Unfinished Business: Protecting Voting Rights in the Twenty-First Century*, 81 *GEO. WASH. L. REV.* 1928, 1930 (2013).

34 <https://www.npr.org/2018/09/10/645223716/on-the-sidelines-of-democracy-exploring-why-so-many-americans-dont-vote>.

35 https://www.census.gov/newsroom/blogs/random-samplings/2017/05/voting_in_america.html.

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36 <https://www.npr.org/2018/09/10/645223716/on-the-sidelines-of-democracy-exploring-why-so-many-americans-dont-vote>.

37 <https://www.npr.org/2018/09/10/645223716/on-the-sidelines-of-democracy-exploring-why-so-many-americans-dont-vote>.

38 <https://www.npr.org/2018/09/10/645223716/on-the-sidelines-of-democracy-exploring-why-so-many-americans-dont-vote>.

39 The Equal Rights Amendment states that “Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.” <https://www.equalrightsamendment.org/>.

40  [J.E.B. v. Alabama ex rel. T.B., 511 U.S. 127, 131 \(1994\)](#).

41  [Hoyt v. Florida, 368 U.S. 57, 62 \(1961\)](#).

42 Andrew G. Ferguson, *The Joy of Jury Duty: Why Americans Should Stop Complaining and Learn to Appreciate this Constitutional Obligation*, THE ATLANTIC (May 3, 2013) <https://www.theatlantic.com/national/archive/2013/05/the-joy-of-jury-duty/275444/> (stating jury service is “an invitation to participate in the American experiment of self-government.”).

43 *Id.*

44  [Taylor v. Louisiana, 419 U.S. 522, 537 \(1975\)](#).

45  [J.E.B., 511 U.S. at 145](#).

46 *See, e.g.*  [Frontiero v. Richardson, 411 U.S. 677 \(1973\)](#).

47 https://www.speakcdn.com/assets/2497/domestic_violence2.pdf

48 Lydia O’Connor, *The Wage Gap: Terrible for All Women, Even Worse for Women of Color*, The Huffington Post (April 12, 2016) https://www.huffpost.com/entry/wage-gap-women-of-color_n_570beab6e-4b0836057a1d98a?guccounter=1&guce_referrer=aHR0cHM6Ly93d-3cuZ29vZ2x1LmNvbS8&guce_referrer_sig=AQAAAA016VbsQ6YeXDN-TiPuclq9dEIOG1u3_XzzWXxTBV6a9r8KnfSDWJ1yq13MUybnNu1zogW76n-z2msevaHn_TMh2vD-

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⁴⁹ <https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>.

⁵⁰ <https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>.

⁵¹ <http://aapf.org/shn-campaign>.

⁵² <https://theconversation.com/only-1-in-4-women-who-have-been-sexually-harassed-tell-their-employers-heres-why-theyre-afraid-97436>.

⁵³ <https://www.axios.com/abortion-restriction-states-passed-laws-8326c9aa-6631-4bd1-b02b-c6ba6cd0a335.html>.

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