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The Legal Revolution in American Women's Rights—and the Problems that Remain
Talk by Sonia Pressman Fuentes
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Myron Taylor Hall
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Good afternoon.

At two meetings in June and October of 1966, a total of forty-nine men and women, of whom I was privileged to be one, founded an organization that, along with legislation, revolutionized this country and is well on its way to revolutionizing the rest of the world. The organization was called NOW, the National Organization for Women, and nine of us founders remain alive today.

But before telling you more about NOW's founding, we need to go back and discuss what led up to it.

I date the beginning of the legal revolution in women's rights in this country to 1961 when President Kennedy established the President's Commission on the Status of Women, with Eleanor Roosevelt as chair, to review, and make recommendations for improving, the status of women. In 1963, that commission issued its report called *American Women*.

On November 1, 1963, President Kennedy established a committee and council to facilitate carrying out the recommendations of the President's commission.

That was also the year when Congress passed the Equal Pay Act, which became effective in 1964. That law required equal pay for equal or substantially equal work without regard to sex.

In 1964, Congress passed another act, Title VII of the Civil Rights Act of 1964, which took effect on July 2, 1965, and was enforced by the Equal Employment Opportunity Commission (EEOC). Originally, the EEOC had jurisdiction only over Title VII, which prohibited discrimination in employment based on race, color, religion, sex, and national origin

by covered employers, labor unions, and employment agencies. Thereafter, the EEOC also got jurisdiction over enforcement of the Equal Pay Act, and prohibitions in employment against age discrimination and against persons with physical or mental disabilities.

Title VII was much broader than the Equal Pay Act. It prohibited discrimination not only in pay but in all terms and conditions of employment, including advertising for employees, pre-employment inquiries, testing, job qualifications, hiring and firing, promotions, and medical and pension benefits.

After I graduated from the University of Miami (Florida) School of Law in 1957, when 3% of this country's law school graduates were women, I went to work for the federal government in Washington, D.C., because at that time the federal government was hiring women lawyers, while private law firms and corporations generally were not.

After working for the Department of Justice and the National Labor Relations Board (NLRB), in October 1965, three months after it had commenced operations, I joined the EEOC as the first woman attorney in its office of the general counsel.

There, I found myself in a brand new job at a brand new agency with responsibility for fighting employment discrimination, including that based on gender. At that time, few Americans were aware that there was such a thing as gender discrimination. When I mentioned "women's rights" in my early speeches, the response was laughter. Words like "sex" or "gender discrimination," and "women's rights" hadn't yet entered the nation's vocabulary. Furthermore, just as violence was the weapon used against those who advocated equality for African Americans, ridicule was the weapon used against those who advocated equal rights for women.

What was our country like in 1965?

Basically, men and women lived in two different worlds. By and large, a woman's place was in the home. Her role was to marry and raise a family. If she was bright, common wisdom had it that she was to conceal that brightness. She was to be attractive--but not too attractive. She was not to have career ambitions, although she could work for a few years before marriage on jobs considered appropriate for women. These included typist, clerk, secretary, bookkeeper, saleswoman, school teacher, telephone operator, librarian, and nurse. Other jobs were considered men's jobs. These included engineer, airline pilot, superintendent of schools, university professor, police chief, mayor, governor, and President of the United States.

It was expected that a woman would be a virgin when she married. When she had children, she was to raise her boys and girls differently so they could assume their expected roles as adults. If she divorced, which would reflect poorly on her, she might be awarded alimony and child support---although it was unlikely that she would actually receive the monies for more than a few years. If she failed to marry, she was deemed an "old maid," relegated to the periphery of life.

Married women could work outside the home only if dire household finances required it. Under no circumstances were they to earn more money than their husbands.

Women were not to be opinionated or assertive. They were expected to show an interest in fashion, books, ballet, cooking, sewing, knitting, and volunteer activities. Political activities were acceptable as long as they were conducted behind the scenes.

Of course, not all women wanted, or were able, to fit into this pattern, and there were always exceptions. But most women did what they were told because society exacted a high price from deviants.

Men, on the other hand, were the decision-makers and activists. They were the heads of their households, and their wives and children were expected to defer to their wishes.

Men were expected to take the initiative in dating, to have sexual experiences before marriage, to propose marriage, to bear the financial burden for the entire family, and to have little or nothing to do with running their households and raising their children.

It was assumed that they would be insensitive, uncaring, and inarticulate---and interested in activities such as sports, drinking, gambling, extramarital affairs, and making money.

Most men did what they were told, too.

This picture of our society was true for most of the population. There were, however, other dynamics at play in minority communities. For example, historically, more African American women than men attended college.

In 1965, not only was most of the country uninterested in gender discrimination, so were most of the EEOC's commissioners, officials, and staff. At that time, there were about a hundred permanent employees at the Commission's headquarters. Most had come there to fight discrimination against African Americans and they did not want the Commission's staff and resources diverted to issues of gender discrimination. After all, the agency had been created in response to the movement for civil rights for African Americans. There had been no similar movement immediately before 1965 for women's rights. After women got the right to vote in 1920, for about forty years, most women forgot about the struggle for women's rights. Perhaps they thought that the right to vote would bring with it all other rights. But that did not happen.

The country and the EEOC were, however, in for a shock. In the Commission's first fiscal year, about 37% of the complaints filed alleged gender discrimination. These complaints raised a host of new issues that were more difficult than those raised by the complaints of race

discrimination. Could employers continue to advertise in classified advertising columns headed "help wanted--male" and "help wanted--female"? Did employers have to hire women for jobs traditionally considered men's jobs? Could airlines continue to ground or fire stewardesses when they reached the age of thirty-two or thirty-five or married? What about state protective laws that prohibited the employment of women in certain occupations, limited the number of hours they could work and the amount of weight they could lift, and required special benefits for women, such as seats, restrooms, and rest and lunch breaks? Did school boards have to keep teachers on after they became pregnant? (What would students think if they saw pregnant schoolteachers? Wouldn't they know they'd had sexual intercourse?) Did employers have to hire pregnant women or allow employees who became pregnant to continue working? Did employers have to provide the same benefits on retirement to men and women even though women as a class outlived men?

Although the EEOC was responsible for issuing guidelines and decisions that explained what Title VII meant, the commission did not know how to resolve these issues.

The issues that were most fiercely fought involved classified advertising, airline stewardesses, and state protective legislation.

In the area of gender discrimination, the EEOC moved very slowly and conservatively, or not at all. I found myself increasingly frustrated by the unwillingness of most of the officials to come to grips with the issues, and to do so in ways that would expand employment opportunities for women.

I became *the* staff person who stood for aggressive enforcement of the gender discrimination prohibitions of the act, and this caused me no end of grief. At the end of one

day, I left the EEOC building with tears streaming down my face. I didn't know how I had gotten into this position of battling for women's rights against men who had power when I had none.

Through my work, I developed a network of support outside the EEOC. I came in contact at various government agencies with other mid-level staffers who were concerned with improving the rights of women. Together, we formed an informal network of support and information-sharing. I would pass on to this network information on women's rights cases that were developing at the EEOC, which they would then pass on to Marguerite Rawalt, a distinguished attorney and feminist. She, in turn, would relay this information to her network of feminist attorneys in private practice. These attorneys would then represent the complaining parties in precedent-setting gender discrimination lawsuits.

In 1966, a writer came to the EEOC. She had become famous through writing a book published in 1963 called *The Feminine Mystique*, which dealt with the frustrations of women who were housewives and mothers and did not work outside the home. Now, she was interviewing EEOC officials and staff for a second book. Her name was Betty Friedan.

When we met, Betty asked me to reveal problems and conflicts at the Commission. I invited her into the privacy of my office and I told her, with tears in my eyes, that the country needed an organization to fight for women like the NAACP (National Association for Colored People) fought for its constituency.

In June 1966, at the third National Conference of Commissions on the Status of Women in Washington, D.C., Betty and a small group of women planned an organization that subsequently became NOW. Its purpose, as written by Betty on a paper napkin, was "to take the actions needed to bring women into the mainstream of American society, now, full equality for women,

in fully equal partnership with men." By the end of the day, everyone at the conference who wanted to join had tossed \$5 into a war chest and now had twenty-eight founders.

Another twenty-one founders, men and women, of whom I was one, were added that October at an organizing conference in Washington, D.C.

Most of us did not know each other. One of the realities of those days was that there was no national network whereby women and men interested in women's rights could come to know each other and work together. What we had in common was a frustration with the status of women and a determination to do something about it. The concept of women's rights was an idea whose time had come.

After its founding, NOW embarked upon an ambitious program of activities to get the EEOC to enforce Title VII for women. It filed lawsuits, petitioned the EEOC for public hearings, picketed the EEOC and the White House, and generally mobilized public opinion.

I became involved in an underground activity. I took to meeting privately at night in Washington with three other government lawyers devoted to women's rights. At those meetings, I discussed the inaction of the Commission that I had witnessed during that day or week with regard to women's rights, and then we drafted letters from now to the Commission demanding that action be taken in those areas. To my amazement, no one at the Commission ever questioned how now had become privy to the Commission's deliberations.

As a result of pressure by now, the EEOC began to take seriously its mandate to eliminate sex discrimination in employment. It conducted hearings and began to issue decisions implementing women's rights.

It prohibited sex-segregated advertising columns and, with narrow exceptions, required that all jobs, including jobs as flight cabin attendants, had to be open to men and women alike. It

ruled that a woman could not be refused employment because of the preferences of her employer, co-workers, clients, or customers, or because she was pregnant or had children. A woman who needed time off in connection with pregnancy, childbirth, or after the birth of a child was entitled to the same time off and benefits that her employer provided for employees in general who requested time off for illness or other reasons.

Laws that restricted women's employment were superseded by Title VII. Laws that required benefits for women could be harmonized with Title VII by providing the same benefits to men.

Men and women doing substantially equal work were entitled to equality in pay and other benefits, including pension and retirement benefits. They also had the right to be free of sexual harassment on the job.

Men also used the remedies provided by Title VII, although to a much lesser extent. They complained when they were excluded from traditionally female jobs, such as nursing.

The EEOC for the first time in this country began the collection of statistics from employers on their employment of women in various categories of employment.

NOW was the first organization formed to fight for women's rights in the mid-'60s, but it was followed by many others. Traditional women's organizations, which had initially refused to join the struggle, did so later, and new organizations were formed. Unions, most of which were initially hostile to women's rights, became involved in the struggle. Unions were in fact later in the forefront of the pay equity struggle, the fight to secure equal pay for women for work of comparable worth or value to that of men.

Various levels of government also became more active: executive orders were issued by presidents, federal and state laws and municipal ordinances were passed, and court decisions issued.

New government agencies were created to fight discrimination, such as the Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor. The OFCCP implements executive orders that require contractors and subcontractors of the federal government to take affirmative action to hire and promote women or risk the loss of millions of dollars in government contracts.

Discrimination based on gender or marital status in the sale and rental of housing and in the granting of credit was prohibited.

Title IX of the education amendments of 1972 prohibited educational institutions, from preschools through colleges and universities, that received federal funds from discriminating on the basis of gender against students and all employees, including administrative personnel and faculty members. Most people think Title IX only applies to sports, where it requires equality in expenditures for male and female students. But athletics is only one of the areas addressed by the law. Others include: access to higher education, career education, employment, learning environment, sexual harassment, standardized testing, STEM---science, technology engineering and math--courses, and education for pregnant and parenting students.

Legislation in 1972 gave the EEOC the power to enforce its orders in the courts. The Pregnancy Discrimination Act of 1978 codified the EEOC's guidelines on pregnancy and leave in connection with pregnancy, which I had drafted for the commission in 1972. In 1991, for the first time, women were given the right to secure monetary damages for sexual harassment and other intentional gender discrimination. About two weeks after taking office, President Clinton signed the family and medical leave act, requiring employers to provide their employees with up to twelve weeks of unpaid, job-protected leave each year in connection with the birth or adoption

of a child; the serious illness of a child, spouse, or parent; or the inability of the employee to work because of a serious health condition.

Due to all this activity, the American public became aware that there was a new national priority: equal rights for women.

Where are we today?

Our society has undergone massive change. Women are now found in large numbers in professional schools and in the professions, and, to a much lesser extent, in executive suites and legislatures.

Women now work at a host of technical and blue collar jobs previously closed to them.

In 1976, women were admitted to West Point and our other military academies, a development that was unthinkable before the women's movement. The percent of women in the military rose from less than 2% in the 1960s to about 20% today and the variety of their assignments has increased considerably. There are currently more than 400,000 women serving in the armed forces.

Over 750 colleges and universities have women's and gender studies programs.

The effects of Title VII have spilled over to every area of our society. Laws have changed women's rights with regard to abortion, divorce, alimony, child custody, child support, rape, jury service, appointments as administrators and executors of estates, sentencing for crimes, and admission to places of public accommodation, such as clubs, restaurants, and bars. Our spoken language has changed, and much work has been done on the development of gender-neutral written language in laws, textbooks, religious texts, and publications of all sorts.

Women are now being included in clinical research studies, and we are learning that women and men react differently to different medications, that there are gender differences in the

vulnerability to disease, and that even where diseases strike both sexes, they often follow different courses.

Eighteen years after the founding of NOW, Geraldine Ferraro made history by being the first woman on a national party ticket for vice president, and, nine years after that, Janet Reno became the first woman Attorney General in the U.S.

In January 2007, women again made history when Nancy Pelosi became the 60th speaker of the House of Representatives and the first woman in that position. I had the privilege of working for her in 1988.

Women appear to have finally broken through what minority leader Pelosi called the “marble ceiling“ in Congress. Women in both the House and Senate have moved up to positions of power in the leadership and as the heads of key committees and subcommittees.

The late Eli Ginzberg, former chairman of the National Commission for Manpower Policy, said that the increase in the number and proportion of women who work was the single most outstanding phenomenon of the twentieth century.

The changes in women’s status we have seen in the last almost fifty years have been mind-blowing and way beyond anything those of us who founded NOW had in mind.

But many problems, both in the U.S. and abroad, especially in developing nations, continue to plague us.

I’ve made a list of some of the major problems that face women today in the U.S.

1. The continuing gender wage gap. In 2011, women earned 77 cents for every dollar men earned in 2011.
2. Continuing efforts to whittle down Roe v. Wade and women’s reproductive rights, such as the introduction and passage of laws at state levels requiring women to have

transvaginal ultrasounds before they are allowed to have an abortion and conferring personhood on a fetus. As of this past March, twenty states already had laws dictating rules for such ultrasounds.

3. In spite of the Affordable Health Care Act, it is projected that roughly thirty million non-elderly Americans, many of them women and girls, will still be uninsured.

For self-employed individuals and small business owners, including women, the costs of health insurance will remain prohibitive.

Governor Romney has promised that if he wins the election, he will overturn the health care act but will keep some of its features.

4. The absence of laws mandating paid sick and parental leave. The U.S.. Is the only industrialized nation in the world that doesn't mandate paid maternity leave.

5. We need a law mandating that employers make reasonable accommodations for the needs of pregnant women such as they are required to make for employees with mental or physical disabilities. Such legislation, the Pregnant Workers Fairness Act, was introduced in the Senate last month.

6. Inadequate and inappropriate maternal and infant health care--the U.S. ranks 50th among the nations of the world with regard to maternal deaths. With regard to child mortality, out of the 43 developed nations in the world, the U.S. ranks 41st.

In the area of maternal and infant health, we need to continue to promote breast feeding and the greater use of midwives, cut back on inducing labor, and stop performing unnecessary caesareans.

7. The lack of affordable and competent child care;

8. Violence against women. There is an epidemic of gender-based violence and sexual assault, including murder. Every 2 minutes someone in the U.S. is sexually assaulted. Among the shocking statistics is that one out of every four or five women undergraduate college students is raped or is the victim of an attempted rape while she is in college. Only about 5% report these rapes.
9. Sexual assaults in the military. There are 19,000 estimated sexual assaults against men and women in the military every year. One in three military women is sexually assaulted compared to one in six civilian women.
10. Sexual assaults suffered by Native American women. One in three Native American women has been raped or has experienced an attempted rape, according to the Justice Department. This rate of sexual assault is more than twice the national average.
11. Teenage pregnancies. The teen birth rate in the U.S. is higher than in every other developed country--three times higher.
12. The treatment of women in prison. In federal correctional facilities, 70% of guards are male and correctional officials have subjected female inmates to rape, other sexual assaults, sexual extortion, and groping during body searches.

In addition, women in prison have been denied essential medical resources and treatment, especially during times of pregnancy and chronic or degenerative diseases.
13. The treatment of women and their children in family courts. Women report injustices in family law cases, especially battered mothers trying to protect their children from abusive fathers who aggressively litigate against them.
14. The lack of comprehensive sex education in our schools;

15. The failure to adequately address discrimination based on sexual orientation and gender identity. We've made some progress in that almost half the states and the District of Columbia have laws that prohibit discrimination based on sexual orientation in private employment, and some of them also prohibit such discrimination based on gender identity. But while there is a federal executive order prohibiting employment discrimination based on sexual orientation in the federal government, there is no federal law prohibiting employment discrimination based on sexual orientation and gender identity. A federal law that would prohibit discrimination based on sexual orientation or gender identity by both public and private employers, the Employment Non-discrimination Act, has been introduced in every Congressional session since the 103rd Congress. Currently, the 112th Congress is meeting.

16. Poverty, hunger, and homelessness, which are interrelated, of course.

We live in the wealthiest nation in the world, yet 15% of Americans--over 47 million people--and 1 in 5 children live in poverty. Over half of these over 47 million people are women.

The figures for hunger are similar to those for poverty. In 2010, over 50 million people in America --1 in 6 of our population, including more than 1 in 5 children-- were living without enough nutritious food for a healthy life. Among African Americans and Latinos, nearly 1 in 3 children is at risk of hunger.

There are over 643,000 people experiencing homelessness on any given night in the U.S. Among industrialized nations, the U.S. has the largest number of homeless women and children. Homeless families comprise about a third of the total U.S. homeless population.

17. Trafficking of persons is a worldwide problem of immense proportions. It is estimated that 27 million people around the world are victims of modern slavery, called human trafficking. Human trafficking is considered to be one of the fastest growing criminal industries in the world. The United States is a source, transit, and destination country for men, women, and children--both U.S. citizens and foreign nationals--who are subjected to forced labor, debt bondage, involuntary servitude, and sex trafficking. The number of human trafficking victims in the U.S. reaches into the hundreds of thousands.

18. While women have increased their numbers and range of duties in the military, in all the services except the Coast Guard, servicewomen are restricted from serving in certain positions and units, such as combat branches. This past May, the first lawsuit of its kind was filed against the Pentagon on behalf of two female Army reservists who allege their careers were stymied by the exclusion of women from combat units.

Furthermore, women in the armed forces don't have the same health care that is available to civilian executive branch employees and federal prisoners. A woman in the armed services is entitled to an abortion if her life is in danger but not in cases of rape and incest. The Shaheen amendment to the National Defense Authorization Act to change this was approved by the Senate Armed Services Committee this past summer but may face opposition in the House of Representatives and in conference.

19. The inadequate representation of women in political life, including as senators and representatives in the U.S. Congress--only 17% representation in each of the two houses--and on the state and local levels as legislators, mayors, and governors. The Inter-Parliamentary Union ranks the United States 72nd worldwide with regard to female representation in national legislatures.

No woman has yet served as President, Vice President, or Majority Leader of the Senate.

20. Discrimination against women in academia. The higher in terms of faculty rank, the higher in terms of recognized responsibility, the higher in terms of salary, prestige and status--the fewer are the women.

21. Women in law. In 2011, women made up about 47% of law students and about 32% of all lawyers. Only 23% of all federal judgeships and 27% of all state judgeships were held by women. In a survey of the 50 best law firms for women, 12% of the firms had women managing partners.

22. Bias against women undergraduates at universities by science professors. A recent study found that both male and female science professors at American universities regard female undergraduates as less competent than male students with the same accomplishments and skills. Thus, these professors were less likely to offer the women mentoring or a job. If they did offer women a job, it was at a lower salary.

23. Sex segregation in public schools. In recent years, there has been a growing trend of separating students on the basis of sex. There is no evidence, however, that single-sex education contributes to better outcomes than gender equitable coeducation. Sex segregation in schools is likely to increase gender discrimination and sex stereotyping, is a wasteful use of scarce education resources, and may be violative of the Constitution and Title IX of the education amendments of 1972.

24. Women remain under-represented in the justice system--as prosecutors, judges, and police officers. Data shows that where women are present in the police force, the reporting of sexual assault increases.

25. The inadequate representation of women among those who run our top corporations and serve on corporate boards. Only 4% of the CEOs in Fortune's top 1,000 companies are women.

26. The inadequate representation and unequal pay of women as actors, writers, directors, and producers in the entertainment industry--tv, movies, and theater.

27. The failure to ratify the Equal Rights Amendment to our Constitution and to sign the CEDAW treaty, the international bill of rights for women.

The rest of the world has some of the same problems and some additional ones. I've also made a list of some of the major problems women face in other parts of the world, especially in developing countries.

1. Violence against women is a worldwide problem. One out of every three women worldwide will be physically, sexually, or otherwise abused during her lifetime, with rates reaching 70% in some countries. This violence and abuse includes rape, including rape used as a weapon of war, domestic violence, acid burnings and shootings, especially of female students whose only crime is seeking an education, bride burnings, dowry deaths, honor killings, female genital mutilation, kidnapping women, public floggings, abortions of female fetuses, and female infanticide.

2. Women make up the vast majority of the world's poor. Over 75% of the one billion people living in extreme poverty are women and girls. Only 1% of the world's landowners are women.

3. Pressure on girls to drop out of school.

4. Inadequate health care for girls and women.

5. Malnutrition. Globally, malnutrition claims more than 2.6 million young lives each year, and it kills as many as 10,000 mothers a year.
6. HIV-AIDS. At the end of 2010, it was estimated that out of 34 million adults worldwide living with HIV/AIDS, half are women. Globally, HIV/AIDS is the leading cause of death among women of reproductive age.
7. Forced marriages and child marriages.
8. Lack of access to modern contraceptive techniques and safe abortions in developing countries. Each year, 222 million women in the developing world want to avoid pregnancy but don't have access to modern contraceptives. Each year, 47,000 women die in developing nations due to unsafe abortions.
9. High rates of maternal mortality. Worldwide, 1,000 women die every day in childbirth or from pregnancy-related complications that would be preventable with skilled clinicians, drugs, and equipment.
10. Women with disabilities. About 15% of the world's population---one billion people--live with disabilities. Girls and women with disabilities frequently face significant barriers in access to education and training, in participating in social life and development, in employment and paid work, in physical access to health services, and in accessing adequate housing and services. Girls and women with disabilities are two to three times as likely to be the victims of violence than those without disabilities, and women with disabilities are more likely to be institutionalized than men with disabilities.

We have with us here today an expert in the field of women with disabilities, a Cornellian, Myra Kovary, who is the coordinator of the International Network of Women with Disabilities. Myra, would you stand up?

So, while we women have come a long way in the forty-eight years since the Equal Pay Act became effective--we still have a very long way to go.

I'd like to conclude my remarks as Senator Ted Kennedy concluded his at the Democratic convention in 1980: "The work goes on, the cause endures, the hope still lives, and the dream shall never die."

Thank you.

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