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Women's Rights: Then and Now



Dear United States of America,

The historical development of women's rights offers the most profound case study in how foundational constitutional architecture can be leveraged to cure its own original blind spots. When Thomas Jefferson drafted the Declaration of Independence in 1776, proclaiming that "**all men are created equal**," the phrase was not a universal legal baseline, it was a literal distinction.

The founding era was dominated by statesmen and politicians whose vision of governance was deeply entangled with an eighteenth-century code of aristocratic chivalry. Yet, this very chivalry served as the foundation for profound legal conquest. Under the deeply entrenched English common law doctrine of **coverture**, a married woman was **civiliter mortuus** – civilly dead. Her legal identity was entirely absorbed by her husband: she could not own property, execute contracts, or control her own earnings.

The profound brilliance of the American legal tradition, however, lies in its foundational texts, which established philosophical standards so lofty that they practically invited future generations to demand their full realization. The initial feuds over women's rights were private, epitomized by Abigail Adams's famous 1776 plea to her husband, John Adams, to "**Remember the Ladies**" and to be more generous than his ancestors. John Adams's response – a chuckling dismissal warning of the "**Despotism of the Petticoat**" – perfectly encapsulated the era's legal reality. The fierce Federalist pragmatism and the French-inspired idealism of the Founders simply did not extend across the gender divide. The "gentlemanly" protection of women was, in legal terms, a brutalist erasure of their civil existence.

The first major structural assault on this paternalistic downfall utilized the very jurisprudence of the American founding. At the **1848 Seneca Falls Convention**, early advocates drafted the **Declaration of Sentiments**. By deliberately mirroring the structure, cadence, and language of Jefferson's 1776 Declaration, they cleverly weaponized the nation's foundational ethos against its patriarchal legal reality. They forced a legal feud into the public square, demanding that the unalienable rights to liberty and the pursuit of happiness apply to all citizens – men and women. The mid-nineteenth century subsequently saw the slow dismantling of **coverture** through state-level legislative action, notably the **Married Women's Property Acts**.

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Yet, these statutory victories, while crucial, were fragmented. True equality required structural and most importantly constitutional transformation. The post-Civil War era birthed bitter political rivalries, even among former allies, as suffragists fought furiously against the drafting of the Fourteenth and Fifteenth Amendments, which explicitly introduced the word "male" into the Constitution and prioritized racial empowerment over gender equality. It took decades of relentless advocacy, civil disobedience, and political maneuvering to secure the ratification of the Nineteenth Amendment in 1920, which finally granted women the fundamental mechanism of democratic consent.

However, political agency did not immediately translate to comprehensive legal equality. For decades afterward, state and federal statutes remained riddled with permissible gender-based discriminations, often upheld by a judiciary paternalistically deferring to the "natural and proper timidity and delicacy" of women, as notoriously stated by the Supreme Court in ***Bradwell v. Illinois (1873)***.

The modern revolution in American women's rights is a testament to the power of strategic appellate litigation within an adversarial system. In the 1970s, visionary legal architects — most notably **Ruth Bader Ginsburg** — began systematically dismantling the remaining scaffolding of gender discrimination. Rather than seeking a wholly new constitutional amendment, they brilliantly utilized the Fourteenth Amendment's Equal Protection Clause. By successfully arguing that arbitrary gender classifications offended the fundamental guarantee of equal protection under the law, these advocates forced the Supreme Court to adopt "intermediate scrutiny" for sex-based classifications. Decisions like ***Craig v. Boren (1976)*** firmly established that the state could no longer rely on archaic, "chivalric" gender stereotypes to dictate legal rights.

For the international lawyer, the American trajectory of women's rights is awe-inspiring. It demonstrates that the United States legal system is not a static museum of eighteenth-century prejudices. Instead, through centuries of fierce litigation and legislative battles, advocates harnessed the original, idealistic promises of the statesmen who founded the nation to dismantle the very foundations those same gentlemen had constructed. The US legal system is characterized by a magnificent, if sometimes agonizingly slow, capacity for self-correction. The system's ultimate triumph is its enduring capacity to bend toward equality.

Yours, with great admiration and transatlantic devotion,

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