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FROM THEIR OASIS INTO THE MALE'S REALM: A PROJECT FOR THE NEW WOMEN'S MOVEMENT

A Thesis Submitted in Partial Fulfillment of the Honors Program and the Degree of Bachelor of Arts in Political Science

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ABSTRACT

Through an in-depth examination of the nineteenth century women's movement, this thesis seeks to discover what conditions were present in the nineteenth and early twentieth centuries that allowed for the tremendous changes in women's lives. It examines women's separate sphere through a study of the works by many nineteenth century and contemporary writers. Women's separate sphere was an effective means by which women could enter the public sphere and was instrumental in facilitating the communication between women and creating networks and coalitions for women. Determining that such qualities are lacking in contemporary times, leading to the fragmentation and stagnation of the contemporary women's movement, this thesis discusses why women distanced themselves from their separate sphere, and the consequences of this hostility towards women's separate sphere.

The ultimate goal of this thesis is to propose a solution for the demise of the women's movement. Following a description and critique of other alternative resolutions, the creation of an annual deliberative poll for women is recommended. Doing so would have a galvanizing effect on the women's movement, creating the conditions for increased communication between women and the increased political participation and political leverage of women.

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INTRODUCTION

The contemporary women's movement has become fragmented and stagnant. The fragmentation is obvious in the numerous women's groups that compete with one another over the achievement of their own particular goals. The stagnation can be seen in the persistent disparities that exist between men and women in the areas of employment,[1] economics,[2] academia,[3] politics,[4] and the law.[5] Certainly, in the last 200 years, women have made tremendous gains in terms of the increased political, employment, educational, and economic opportunities they currently enjoy. However, in 2001, women earned less than men in 165 out of 167 occupations examined by the United States Department of Labor. Such a discrepancy in income translates into women having earned 75.7 percent of what men did in 2001. While some would herald this as a great

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[1] See especially "Gender-Based Bias and Discrimination" and "Management and Organizational Mobility" in *Women and Work*, by Paula J. Dubeck and Kathryn Borman (eds.), (New Brunswick: Rutgers University Press, 1997, pp. 329-375) for a multi-authored discussion of the barriers women face in educational, managerial, and organizational settings. See also "Women, Work, and the Economy" in *Thinking About Women: Sociological Perspectives on Sex and Gender*, Fifth Edition, by Margaret L. Anderson, (Boston: Allyn and Bacon, 2000, esp. pp. 133-150) for a discussion of promotions, work environments for women, sexual harassment in the workplace, workplace culture, intersections of family and work, and policies for gender equity.

[2] See U.S. Department of Labor, Bureau of Labor Statistics, *Household Data Annual Averages, 2001*, U.S. Department of Labor, Women's Bureau (1994), *1993 Handbook on Women Workers: Trends and Issues*, Washington, DC: Government Printing Office, and U.S. Census Bureau, Current Population Survey, March 2000, Special Populations Branch, Population Division, *Poverty Status of the Population in 1999 by Age and Sex* for detailed figures on the disparities that exist between men and women in terms of wages for identical employment and in terms of poverty levels.

[3] See especially "Exploring the Campus Climate for Women Faculty," in *Subtle Sexism: Current Practice and Prospects for Change*, by Nijole V. Benokraitis, (Thousand Oaks: Sage Publications, 1997, pp. 54-71) for a detailed discussion of the difference in salary and rank of men and women, the department climate, promotion and tenure, and social and professional relationships.

[4] See "Women in Government," in *Thinking About Women*, by Margaret L. Anderson, pp. 297-301 for a discussion of and possible reasons for the few number of women who are elected to political office.

[5] See "Women and the Law," in *Thinking About Women*, by Margaret L. Anderson, pp. 295-297 for a discussion of the obstacles women face in the legal system. See also "Women in the Criminal Justice System" in *Thinking About Women*, pp. 282-287 for a discussion of gender and the courts, gender and juvenile justice, and women and prison.

success for women in the workplace and economically, others would note the relatively slight improvement from the 1951 statistic of women earning 63.9 percent of what men earned.[6] An examination of similar statistics pertaining to academia, politics, and the law demonstrates the stagnation in the progress made by women in the last forty years.

This paper seeks to examine the role the separate spheres played in the nineteenth century women's movement and the causes and consequences of the demise of women's separate sphere in order to explain the stagnation of the contemporary women's movement and to recommend a solution that could reinvigorate it.

Women's separate sphere was vital to the nineteenth century women's movement because it created the conditions for women to be isolated within their own oasis and allowed them to be different from men. Women were placed within a position to form relationships and coalitions with other women. Having this separate sphere provided the instrument for women to communicate on a broad basis and to work towards similar goals. It also provided the justification for women to enlarge their traditionally limited sphere beyond home and church activities. In the nineteenth century, women took possession of the very tool used by men to limit women's roles and rights and manipulated it to expand their roles beyond those of wife and mother and to engage in political activism.

I begin by examining the positive uses of the separate sphere ideology by focusing on early forerunners of the women's movement. By analyzing three critical United States Supreme Court cases, I then illustrate how men co-opted the separate sphere ideology as a tool to deny women their rights and privileges. Women began to

[6] U.S. Department of Labor, Women's Bureau (1994), *1993 Handbook on Women Workers: Trends and Issues*, Washington, DC: Government Printing Office.

strive to be included in the male's public sphere and ultimately were dissolved within male's realm. The effects in contemporary times are that women no longer have their distinct separate sphere, which diminishes the communication between women and their ability to work towards common goals, lessens women's critique of the social, political, and legal ills that continue to plague society, and creates the conditions for a decline or stagnation of the contemporary women's movement.

Following an examination and critique of various proposals for reinvigorating the women's movement, I argue for the creation of women-only deliberative polling. Such implementation of this mechanism would, through the recreation of the positive aspects of women's separate sphere, provide a supportive environment for the unification of women and their increased communication, intensified debate over social issues and concerns, and ultimately, the rejuvenation of the women's movement.

WOMEN'S SEPARATE SPHERE

For much of the eighteenth and nineteenth centuries, the doctrine of separate spheres or the cult of true womanhood was used quite oppressively as a tool to confine women within the home and the tasks of wife and mother. The origins of this ideology can be traced back distinctly to the industrial revolution and the emergence of the bourgeois value system. Prior to the industrial revolution, the work of both women and men was highly regarded in the economic division of labor. With a family-based economy, in which all members of the household were responsible for production, little distinction existed between the economic realm and domestic life. "In both rural and urban settings, the work of women and men was interdependent. Although the specific

tasks done by each might vary, both women and men [were] seen as contributing to the productivity of the whole."[7] With the development and growth of industrialization came a value system, which affirmed the marketplace and civil society as males' realms. Women's appropriate sphere was essentially antithetical to men's, in that women were placed within the home, with marriage and motherhood as their only options. In this way, the capitalist economic system and the patriarchal gender system shaped the roles of men and women.[8]

The cult of domesticity acted as a means to provide justification and an explanation for such separate spheres. This ideology established submissiveness, purity, piety, and domesticity as the characteristics women should possess and embrace.[9] The rationalization that this ideology provided was necessary as "separate spheres were due neither to cultural accident nor to biological determinism. They were social constructions, camouflaging social and economic service, a service, [believed by many,] whose benefits were unequally shared."[10]

Taking note of the unmistakable division of men and women into separate spheres was French author Alexis de Tocqueville. Writing in 1840, Tocqueville observed, "in America, more than anywhere else in the world, care has been taken constantly to trace clearly distinct spheres of action for the two sexes, and both are required to keep in step,

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[7] Margaret L. Anderson, *Thinking About Women*, p. 107.

[8] V. Goldner, "Feminist Theories," in *Sourcebook of Family Theories and Methods: A Conceptual Approach*, by P.G. Boss, W.J. Doherty, R. LaRossa, W.R. Schumm, and S.K. Steinmetz (eds.), (New York: Plenum Press, 1993, esp. pp. 620-629).

[9] Barbara Welter, "The Cult of True Womanhood: 1820-1860," *American Quarterly*, Volume 18, Issue 2, Part 1 (Summer, 1966), pp. 151-174.

[10] Linda K. Kerber, "Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History," *The Journal of American History*, 75: 1 (Jun., 1988) pp. 9-39.

but along paths that are never the same."[11] Such a statement by the perceptive author was an accurate reflection of the beliefs and ideals supported by many nineteenth century Americans.

From the pages of etiquette books and magazines and through the mouths of pastors delivering religious sermons, the world was described as one composed of discrete and isolated male and female spheres and two very different sexes. In 1865, writer John Ruskin clearly dichotomizes the sexes into their separate spheres as he attempts to clarify the proper characteristics and actions of men and women: "[Man] is eminently the doer, the creator, the discoverer, the defender. His intellect is for speculation and invention....The woman's...intellect is not for invention or creation, but for sweet ordering, arrangement, and decision. She must be...wise, not for self-development, but for self-renunciation."[12]

Many writers viewed women who attempted to step beyond the narrow confines of their separate sphere quite negatively. For example, the General Association of Congregational Ministers of Massachusetts educated both women and men about the dangers of women stepping outside of their religiously appropriated sphere, writing in 1837 that "when woman assumes the place and tone of man as a public reformer...her character becomes unnatural."[13] Similarly, Hannah Mather Crocker, in her 1818 book,

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[11] Alexis de Tocqueville, *Democracy in America*, First Perennial Classics Edition, (New York: HarperCollins Publishers Inc., 2000, p. 601).

[12] John Ruskin, *Of Queen's Gardens* in *Sesame and Lilies*, (New York: Thomas Y. Crowell & Co., 1865), reprinted in *Beyond Her Sphere: Women and the Professions in American History*, by Barbara J. Harris, (Westport: Greenwood Press, 1942, esp. Ch. 11).

[13] "The Pastoral Letter of the General Association of Congregational Ministers of Massachusetts," printed in *The Roots of American Feminist Thought*, by James L. Cooper and Sheila McIsaac Cooper (eds.), (Boston: Allyn and Bacon, Inc., 1973, pp. 68-70).

which describes the proper roles of women, criticized "the impropriety of females ever trespassing on masculine ground, [as] it is morally incorrect and physically improper."[14]

When wielded by individuals opposed to the expansion of women's roles and rights, the doctrine of separate spheres certainly was used as a tool to confine women to a limited role in society and deny them the rights of citizenship and those liberties and privileges that men possessed.[15] Therefore, the central part of the feminist criticism of the cult of true womanhood or the doctrine of separate spheres was that such an ideology socialized women to tolerate the demise of their prominence and roles, which was occurring in 19th century America.[16]

Due to the oppressive use of separate spheres, many found it difficult to locate the positive qualities of such an ideology. For instance, John Stuart Mill rebutted the "sexual stereotypes concerning women's nature and capacities" that emerged as a result of the separate sphere ideology.[17] He argued fervently against such practices, which caused women to believe "that their ideal of character is the very opposite to that of men; not self-will and government by self-control, but submission, and yielding to the control of others."[18]

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[14] Hannah Mather Crocker, *Observations on the Real Rights of Woman, with Their Appropriate Duties, Agreeable to Scripture, Reason and Common Sense*, (Boston, 1818), reprinted in *Up From the Pedestal*, by Aileen S. Kraditor (ed.), (Chicago: Quadrangle Books, 1968, p. 40).

[15] James L. Cooper and Sheila McIsaac Cooper (eds.), *The Roots of American Feminist Thought*, (Boston: Allyn and Bacon, Inc., 1973, p. 73).

[16] Barbara J. Harris, *Beyond Her Sphere*, esp. Ch. 11.

[17] Gail Tulloch, *Mill and Sexual Equality*, (Boulder: Lynne Rienner Publishers, Inc., 1989, p. 34).

[18] John Stuart Mill, "The Subjection of Women," in *Collected Works of John Stuart Mill, Volume XXI: Essays on Equality, Law, and Education*, edited by John M. Robson, (Routledge: University of Toronto Press, 1984, pp. 271-72).

However, the very ideology of women's separate sphere, which defined women as pious and pure and as society's "moral guardians,"[19] provided the impetus and rationale for women to expand their sphere beyond the home and church. Quite ironically, the ideology of separate spheres, which was created as a means to limit women's roles and rights, "carried within itself the seeds of its own destruction."[20]

Thus, while some might contend that the notion of separate spheres held a conservative tone, was hostile to the nineteenth century women's movement, and diminished the potential accomplishments of women outside the home and church, many women found that the ideology of separate spheres had a revolutionary possibility. By taking ownership of their separate sphere and embracing its potential, combined with accepting the fact that they were different than men, many women began to utilize their sphere and differences as tools to expand their roles and rights and to affect positive changes in society.

The public and political action taken by women was performed under the guise of exerting their sacred and social responsibilities. Women used their separate sphere and roles as caretaker and custodian of society's morals as a means to acquire more power, responsibilities, and freedom and to expand their roles beyond the home and church.[21] As Nancy Cott explains, the doctrine of women's sphere had the effect of opening up new areas of influence to women within the home, family, and church.[22]

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[19] Aileen S. Kraditor, *The Ideas of the Woman Suffrage Movement, 1890-1920*, (Garden City: Doubleday, 1971, Ch. 3-5).

[20] Ibid., p. 324, quoting Barbara Welter, "The Cult of True Womanhood."

[21] Mary P. Ryan, "The Power of Women's Networks."

[22] Nancy Cott, *Bonds of Womanhood*, p. 201.

Women, bound within their socially proscribed sphere, were seen as the custodians of society's morals, and, thus, their distinct sphere gave them a source of authority and influence within the family and the churches. Furthermore, it provided women the justification to be involved in many political and moral issues.[23] Reform activities and the expansion of women's role in society were founded in religious activities, a traditionally accepted arena for women. Operating from within their separate sphere, women became involved in the public sphere and "fashioned [for themselves] significant public roles,"[24] battling for issues such as the prevention of child labor, the abolition of slavery, and the promotion of public health. Many became empowered within the Women's Christian Temperance Union, while others fought successfully against the brutality of lynching. Women encouraged others to become members of trade unions and actively lobbied for social legislation. Many women created and joined the American Female Reform Society, an organization, which was both independent of and unconnected to any male society. The Society focused its efforts on reversing the subjection of women, which they saw emerging as a characteristic of bourgeois America.[25]

Temperance and abolitionist women asserted their right to speak publicly and to petition state and federal legislators.[26] As the first women to speak publicly against

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[23] Carroll Smith-Rosenberg, *Disorderly Conduct: Visions of Gender in Victorian America*, (Oxford: Oxford University Press, 1985, esp. Part 3).

[24] Paula Baker, "The Domestication of Politics," p. 621.

[25] Mary P. Ryan, "The Power of Women's Networks: A Case Study of Female Moral Reform in Antebellum America," *Feminist Studies* 5, no. 1 (Spring 1979) pp. 66-86.

[26] Blanche Glassman Hersch, *The Slavery of Sex: Feminist Abolitionist Women in America*, (Urbana: University of Illinois Press, 1978).

slavery,[27] Sarah and Angelina Grimke assisted in the organization of the Anti-Slavery Convention of American Women in May of 1837. Angelina Grimke was already linking the cause of females to that of slaves when she claimed, "women ought to feel a peculiar sympathy in the colored man's wrong, for, like him, she has been accused of mental inferiority and denied the privileges of a liberal education."[28] Therefore, with the various political activities women engaged in, which expanded women's sphere beyond the home and church, they "became self-consciously aware of women's subordinate position."[29]

In the Resolutions at the Seneca Falls Convention of 1848, Elizabeth Cady Stanton's words reflected the use of women's characteristics of being moral and religious superiors as the basis for reform movements, explaining "it is demonstrably the right and duty of woman...to promote every righteous cause by every righteous means and especially in regard to the great subjects of morals and religion."[30] These women understood the innovatory potential of working from within the accepted separate sphere of women, and the strategy of demanding the vote based on the notion that women and men were equal and essentially the same was discarded by suffragists. Instead, the concept that women were inherently different from men and should, thus, be given the vote as the "moral guardians of civilization and mothers of the race" was embraced as

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[27] Barbara Sinclair Deckard, *The Women's Movement: Political, Socioeconomic, and Psychological Issues*, (New York: Harper & Row, 1975, p. 253).

[28] Gerda Lerner, *The Grimke Sisters from South Carolina*, (New York: Shocken Books, 1971, p. 162).

[29] Barbara Ryan, *Feminism and the Women's Movement: Dynamics of Change in Social Movement, Ideology, and Activism*, (New York: Routledge, 1992, p. 15).

[30] Aileen S. Kraditor, *Up From the Pedestal: Selected Writings in the History of American Feminism*, (Chicago: Quadrangle Books, 1968, p. 187).

their new approach.[31] Such a method called for women to "move into the enlarged sphere which [their] great Creator has assigned [them]."[32] Jane Addams' words clearly illustrate the use of the separate sphere ideology: "If woman would fulfill her traditional responsibility to her own children....and if she would do it with the dignity and directness fitting one who carries on her immemorial duties, then she must bring herself to the use of the ballot....May we not fairly say that American women need this implement in order to preserve the home?"[33]

Lecturing for abolition, temperance, and feminism, in 1855, Lucy Stone exemplified the notion of using women's separate sphere as a strategy, proclaiming that she "[had] confidence in the Father to believe that when He gives us the capacity to do anything, He does not make a blunder. Leave women, then, to find their sphere."[34] In doing so, Stone demonstrated the tremendous possibilities afforded women when they resolved to take possession of and define their separate sphere. Women's separate sphere, which created an environment where women could form networks and communicate about social issues, "helped mobilize women and [allowed them to] gain political leverage in the larger society."[35]

Women's associations, societies, and unions caused the "distinction between private and public space" to become blurred, which "effectively removed a barricade

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[31] Aileen S. Kraditor, *The Ideas of the Woman Suffrage Movement*, Ch. 3-5.

[32] From *Resolutions at the Seneca Falls Convention*, 1848, reprinted in *Up From the Pedestal*, by Aileen S. Kraditor (ed.), (Chicago: Quadrangle Books, 1968, p. 187).

[33] Marian J. Morton, *Emma Goldman and the American Left: Nowhere at Home*, (New York: Twayne Publishers, 1992, pp. 61-62.

[34] Aileen S. Kraditor, *Up From the Pedestal*, p. 187.

[35] Estelle Freedman, "Separatism as Strategy: Female Institution Building and American Feminism, 1870-1930," *Feminist Studies* 5, no. 3 (Fall 1979), p. 513.

which so often consigned females to domestic confinement."[36] For instance, organizations such as the Women's Christian Temperance Union "attempted to combine the woman's sphere and women's rights" as a way to expand their traditional domestic concerns into "wider social concern and political action."[37] While adhering to the traditional characteristic of domesticity, these organizations "managed to forge the woman's sphere into a broadly based political movement."[38] As Paula Baker has pointed out, for many women, "the home, [a seemingly benign setting and, certainly, a socially acceptable arena,] was a basis for political action."[39]

The doctrine of separate spheres "simultaneously encouraged nineteenth-century women to stay at home—and to become involved in those civic affairs that had to do with religion, morality, and social welfare."[40] In this way, the separate sphere ideology was fundamentally paradoxical, in that men used it as an instrument to oppress women; yet, at the same time, when women took possession of their sphere, it was used as a means to liberate and empower women. Women used their separate sphere to "demolish the absolute, sexually defined barrier marking the public world of men off from the private

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[36] Ellen DuBois, "The Radicalism of the Woman Suffrage Movement: Notes Toward the Reconstruction of Nineteenth-Century Feminism," Reprinted in *Women, the Law, and the Constitution*, by Kermit L. Hall, (ed.), (New York: Garland Publishing, Inc., 1987, p. 269).

[37] Paula Baker, "The Domestication of Politics: Women and American Political Society, 1780-1920," *The American Historical Review*, Volume 89, Issue 3 (Jun., 1984), p. 638.

[38] Ibid.

[39] Ibid., p. 624.

[40] Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*, (Cambridge: The Belknap Press of Harvard University Press, 1992, p. 324).

world of women" and expanded their realm into men's public sphere as a means to "participate directly within society."[41]

While the doctrine of separate spheres was undeniably manipulated as an instrument to limit the potential and rights of women, once women took ownership of their separate sphere, embraced the fact that they were fundamentally different than men, and defined what their sphere and differences entitled them to, the possibilities became apparent for the emergence of women into the traditionally male realm of politics, economics, and other areas of society.

Such a division of separate spheres was important, not only in a political sense, but also socially. Segregating women into their private realm enabled them to continue to forge strong bonds with one another within various social clubs and organizations and allowed for the development of an exclusively female world.[42] This new world facilitated women's forging of a variety of close emotional relationships with other women, creating the opportunity for coalition building. Such associations and friendships, which were created and fostered through meetings and social gatherings, would later prove vital for the materialization of the women's suffrage movement.

Therefore, absent a completely separate sphere to emerge from, women would have lacked the legitimacy necessary to expand their roles, and many women's organizations would have been merely auxiliaries of male societies. Women's separate sphere not only provided a solid foundation to work from, but also afforded women the opportunity and acceptance to be different from men, so as not to be dissolved into the

[41] Ellen DuBois, "The Radicalism of the Woman Suffrage Movement," pp. 268-269.

[42] Theda Skocpol, *Protecting Mothers and Soldiers*, p. 328.

"man's world." As outsiders looking in on the public sphere, women were better equipped to more objectively assess the issues dealing with politics, the economy, the legal system, and society.

THE NEW DEPARTURE

Members of organizations such as the Loyal Women of the Nation, [43] National Woman Suffrage Association, and American Woman Suffrage Association[44] were unsuccessful in having the language of the Reconstruction Amendments[45] expanded to include women.[46] However, the members of the National Woman Suffrage Association, which was created through the merging of the National Woman Suffrage Association and

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[43] See especially Marjorie Spruil Wheeler, (ed.) *One Woman, One Vote: Rediscovering the Woman Suffrage Movement*, (Troutdale: New Sage Press, 1995, pp. 32,64,65,69,84,143) for a discussion of the Loyal Women of the Nation and their efforts of lobbying Congress prior to the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments. See also Joan Hoff, *Law, Gender, and Injustice: A Legal History of U.S. Women*, (New York: New York University Press, 1991, pp. 146,147,165,170,172-72,197) for a detailed account of the Congressmen's attitudes towards women's suffrage and discussion of Supreme Court Cases impacting women.

[44] See Barbara Sinclair Deckard, *The Women's Movement*, p. 262 for a discussion of the National Woman Suffrage Association and the American Woman Suffrage Association.

[45] See especially Michael Vorenberg, *Final Freedom: The Civil War, the Abolition of Slavery, and the Thirteenth Amendment*, (Cambridge: University Press, 2001, pp. 51,57,194-95) for a discussion of the evolving phraseology of the Thirteenth Amendment. See also William E. Nelson, *The Fourteenth Amendment: From Political Principle to Judicial Doctrine*, (Cambridge: Harvard University Press, 1998, pp. 46,49,137,138) for a detailed discussion of the Fourteenth Amendment, its wording, and the attitudes of Congressmen towards adding women to the enumerated groups under the protection of the Amendment. See also W. William Hodes, "Women and the Constitution: Some Legal History and a New Approach to the Nineteenth Amendment," reprinted in *Women, the Law and the Constitution*, by Kermit L. Hall, (ed.), (New York: Garland Publishing Inc., 1987, p. 10) and Judith A. Baer, "Making Moderation and End in Itself: William Nelson's 14th Amendment," 15 *L. &* Inquiry, pp. 321,335 (1990) printed in *We the People: The Fourteenth Amendment and the Supreme Court*, by Michael J. Perry, (New York: Oxford University Press, 1999, p. 73) for an illustration of Congressmen's beliefs and attitudes towards women's suffrage.

[46] See especially David L. Kirp, Mark G. Yudof, and Marlene Strong Franks, *Gender Justice*, (Chicago: The University of Chicago Press, 1986, p. 118) for a discussion of Elizabeth Cady Stanton and Susan B. Anthony's opposition to the Fourteenth Amendment. See also Susan Gluck Mezey, *In Pursuit of Equality: Women Public Policy, and the Federal Courts*, (New York: St. Martin's Press, 1992, p. 10) for an illustration of suffragists' views of the Fourteenth Amendment.

the American Woman Suffrage Association,[47] began to envision other means to attain legal and political rights. Proposing a reading of the Fourteenth and Fifteenth Amendments that was both "broad and inclusive,"[48] feminists became convinced "they were already enfranchised."[49] This new strategy of securing rights for women based on the guarantees provided by the Reconstruction Amendments came to be known as the "New Departure."[50] Such a strategy embraced the concept of affecting change through the judicial system and eventually planted the seeds for a renewed focus in subsequent years "on a separate woman suffrage amendment."[51] This shift in the strategy of suffragists also marked the Court's recognition of women's expanding power through their separate sphere. The "New Departure" activities by women instigated a movement by the Courts to co-opt the separate sphere ideology to wield as an instrument to limit women's rights and to confine them within their traditional roles.

Thus, women began to struggle within the courts to attain rights. Myra Colby Bradwell, a publisher of a Chicago legal newspaper, *suffragist*, and advocate of women's rights, was one such woman and, indeed, a pioneer, in that she the first to challenge a statute as having violated the Fourteenth Amendment based on its sex classification.[52]

After filling out an application to practice as an attorney and submitting it to the Supreme Court of Illinois, Myra Bradwell was denied entrance into the bar. Bradwell

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[47] Estelle Freedman, "Separatism as Strategy," pp. 516,519.

[48] Marjorie Spruill Wheeler, *One Woman, One Vote*, p. 84.

[49] Ibid.

[50] Ibid.

[51] Ibid.

[52] Deborah L. Rhode, *Justice and Gender: Sex Discrimination and the Law*, (Cambridge: Harvard University Press, 1989, pp. 21-22).

appealed, but the Court upheld her denial into the legal profession on the basis of sex. The Court reasoned that the words of the State of Illinois Statute and the power granted to the Court "prevent[ed] [them from] admitting women to the office of attorney at law…[as it] was never contemplated by the legislature."[53] In an obvious attempt to take back control over the separate sphere doctrine, the Court concluded, "that God designed the sexes to occupy different spheres of action, and that it belonged to men to make, apply, and execute the laws."[54]

In response to Bradwell's appeal to the United States Supreme Court in 1872, Justice Miller, speaking for the Court's majority, found that "the right to control and regulate the granting of license to practice law in the courts of a State is one of those powers, which is not transferred for its protection to the Federal government."[55] Because the privileges and immunities clause was determined by the Court to protect only the privileges and immunities of national citizenship,[56] Myra Bradwell having been denied the opportunity to become an attorney because of her sex "didn't undermine the privileges and immunities of citizenship."[57]

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[53] Deborah L. Rhode, *Justice and Gender*, pp. 21-22.

[54] Ibid.

[55] *Bradwell v. State of Illinois.*

[56] See *Slaughter-House Cases*, 83 U.S. 36; 21 L. Ed. 394; 1872 U.S. Lexis 1139; 16 Wall. 36, December, 1872, Term where the Court found that "the privileges and immunities of citizens of the United States are those which arise out of the nature and essential character of the National government…and it is these which are placed under the protection of Congress by [the privileges and immunities clause] of the Fourteenth Amendment." Because the National Government was not involved in the State's actions of denying Bradwell entrance into the bar, the Court would not intervene in such actions.

[57] David L. Kirp, Mark G. Yudof, and Marlene Strong Franks, *Gender Justice*, (Chicago: The University of Chicago Press, 1986, p. 118).

The concurring opinion of Justice Bradley was certainly more damaging than the majority's, in that it was littered with "overtly sexist language and attitudes."[58] Mirroring the sentiment of the Illinois Supreme Court, Justice Bradley believed

> the civil law, as well as nature herself, ha[d] always recognized a wide difference in the respective spheres and destinies of man and women. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization...indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood....The paramount destiny and mission of women is to fulfill the noble and benign offices of wife and mother.[59]

Such "glorification" of women's mission as wife and mother was utilized as a means "to soften any sense of unfairness in excluding women from the legal profession."[60] The words in the excerpt of the Court's opinion clearly illustrate how Justice Bradley and others were attempting to co-opt women's separate sphere as an instrument to limit women's rights and restrict their occupational roles. Additionally, the statement exemplifies how men began to define, in their own terms, the differences women possessed. Such differences were not viewed as a rationale for the expansion of women's roles and liberties, as many women had asserted, but as a source of limitations.

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[58] Joan Hoff, *Law, Gender and Injustice*, p. 165.

[59] *Bradwell v. State of Illinois*.

[60] Nadine Taub and Elizabeth M. Schneider, "Perspectives on Women's Subordination and the Role of Law," printed in *The Politics of Law: A Progressive Critique*, by David Kairys, (ed.), (New York: Pantheon Books, 1982, p. 127).

Doing so would obviously have the effect of women distancing themselves from using their separate sphere as a tool to define their differences, as such differences had again come to be described by men in a negative and oppressive manner.

Based on Justice Bradley's concurring opinion alone, separate spheres unquestionably assumed negative connotations once more, as men struggled to regain ownership of the ideology, as a means to douse the growing power of women's organizations and networks. Thus, while many women had embraced their differences and defined them in their own terms, the Courts turned women's control over their differences on its head by concluding that such differences justified "the sexes be[ing] treated differently."[61] Additionally, the fact that men had begun to regain control of the separate sphere ideology was quite clear with the Court having "invok[ed] the cult of domesticity as a legal rationale for rejecting [Bradwell's] demand."[62] The effect was the reinforcement of the separate sphere ideology, used as a means to limit women's roles and to defer women's rights.[63]

The case of Minor v. Happersett illustrates the shift in the Court's rationale for denying women rights from that of a sexist nature to one of a paternalistic and "helpful" character. Virginia Minor, president of the Missouri Women Suffrage Association, used the strategy of the "New Departure" and attempted to alter public policy by having the Court confer upon women the right to vote. In the fall of 1872, Minor had tried to vote, by first registering in St. Louis, Missouri. Yet, consistent with the Constitution of

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[61] Nadine Taub and Elizabeth M. Schneider, "Perspectives on Women's Subordination and the Role of Law,"p. 124.

[62] *Ibid., p.* 126.

[63] Ibid.

Missouri, Reese Happersett, a registering officer, had denied Minor the ability to register to vote. Consequently, Minor filed suit, claiming that the Missouri Constitution was repugnant to the United States Constitution.[64] Both the Circuit and Missouri Supreme Courts disagreed and found "that the right to restrict the right of suffrage to the male inhabitants by a State [was] clearly recognized."[65]

On appeal from the Missouri Supreme Court, Minor's case became the first to reach the United States Supreme Court of the many cases of women, including Susan B. Anthony, who attempted to vote during the 1860s and 1870s.[66] Minor was, in fact, among 150 members of the National Woman's Suffrage Association who attempted to register and vote in the elections of 1862. In this extensive campaign, the women justified their actions on the basis of the privileges and immunities clause of the Fourteenth Amendment.[67]

Knowing the rationale behind the Bradwell decision, the Court's ruling in Minor was easily predicted. Despite the Court having demonstrated a differential application of the laws by reaffirming that women, based on their sex alone, did not have the right to vote, Chief Justice Waite claimed that "sex has never been made one of the elements of citizenship in the United States. In this respect, men have never had an advantage over

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[64] Minor's attorneys, John M. Krum, Francis Minor, and John B. Henderson argued that the clause of the Missouri Constitution and registration act violated the First, Thirteenth, and Fourteenth Amendments of the United States Constitution.

[65] See *Minor v. Happersett*, Supreme Court of Missouri, St. Louis, 53 Mo. 58; 1873 Mo. Lexis 345; March; 1873, Decided.

[66] Joan Hoff, *Law, Gender, and Injustice*, p. 170.

[67] Leslie Friedman Goldstein, *The Constitutional Rights of Women*, p. 73.

women. The same laws precisely apply to both."[68] Chief Justice Waite almost seemed apprehensive and perhaps was wary of appearing "unrepublican" with his majority opinion in the Minor v. Happersett Case, which confirmed the disenfranchisement of women.[69] With the carefully chosen words of his opinion, which stressed the notion of equality of men and women, despite women lacking the right to vote, his argument did not resemble the sexist nature of Justice Bradley's concurring opinion in Bradwell. Instead, it was similar to the rationale the members of Congress used when they chose not to confer upon women the right to vote with the passage of the Reconstruction Amendments. Rather than acknowledge that women possessed less political influence, the Congressmen contented themselves believing that women had "virtual representation," as they had the ability to vote "by proxy," either through their husbands or male family members and friends.[70] Thus, both Justice Bradley's and the Congressmen's paternalistic attitudes demonstrate how the separate sphere ideology was manipulated as a means to preserve women's dependence on men—if only politically and legally.

Another case which clearly exemplifies the paternalistic attitudes that prevailed in the economic, political, and legal realms of society, which had the effect of limiting what roles and duties women were legally allowed to perform, is that of Muller v. Oregon. Men in the position of creating legislation and upholding the constitutionality of such statutes regained control of the doctrine of separate spheres and used it to "legitimize and

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[68] Leslie Friedman Goldstein, *The Constitutional Rights of Women*, p. 73.

[69] Joan Hoff, *Law, Gender, and Injustice*, pp. 172-173.

[70] William E. Nelson, *The Fourteenth Amendment*, p. 138.

reinforce women's marginal and secondary status in the workforce."[71] The State of Oregon had enacted a statute that limited the number of hours a woman could work, in mechanical establishments, factories, or laundry facilities, to ten hours per day. Joe Haselbock, the superintendent of Grand Laundry, a facility owned by Curt Muller, required an employee, Mrs. Elmer Gotcher, to work more than ten hours in one day. Having violated the statute, Curt Muller was sentenced by a trial court to pay a fine of ten dollars.

On appeal to the United States Supreme Court in 1908, Muller's attorneys were barraged by over one hundred pages of the brief submitted by Oregon State's co-counsel, Louis D. Brandies, an attorney who was later appointed to the United States Supreme Court,[72] and H.B. Adams. Brandeis and Adam's brief, which had a mere two pages of actual legal argumentation, pandered to the gender biases of the Supreme Court Justices and focused "on the physical differences between men and women, rather than their productive roles in society."[73]

The constitutionality of the Oregon State statute was affirmed by the United States Supreme Court in a unanimous decision, which "concentrate[d] on female physical

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[71] Nadine Taub and Elizabeth M. Schneider, "Perspectives on Women's Subordination and the Role of the Law," p. 127.

[72] "After practicing law for a short time in St. Louis, Missouri, Brandeis grew to be a leader of the Boston bar. He was responsible for many social and economic reforms and for savings bank insurance, an economic protection plan for workingmen. In 1912, he supported Woodrow Wilson's nomination for Presidency. Wilson nominated Brandeis in 1916. Brandeis was the first Jew ever to be appointed to this position. He was commissioned on June 1, 1916 and was sworn in on June 5, 1916. Brandeis served from 1916 to 1939 as an associate justice of the Supreme Court. He retired on Feb. 13, 1939." See: http://supreme.lp.findlaw.com/supreme_court/justices/pastjustices/brandeis.html.

[73] Hoff, *Law, Gender, and Injustice*, p. 197.

weaknesses compared to males and their procreative functions."[74] Speaking for the Court, Justice Brewer upheld Muller's conviction because

> the woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence....Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained...It is impossible to close one's eyes to the fact that she still looks to her brother and depends upon him. The two sexes differ in structure of body, in the functions to be performed by each, in the capacity for long-continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race...This justifies a difference in legislation....and rests in the inherent difference between the two sexes, and in the different functions in life which they perform.[75]

Such biological rationalization for limiting what functions and roles women could perform included the intellectual differences that they were argued to possess. "The chief distinction in the intellectual powers of the two sexes is shown by man's attaining to a higher eminence, in whatever he takes up, than can woman. If men are capable of a decided preeminence over women in many subjects, the average mental power in man must be above that of woman."[76] Such a claim, made by Charles Darwin in his popular book, *The Descent of Man and Selection in Relation to Sex*, published in 1871, was

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[74] Hoff, *Law, Gender, and Injustice*, p. 197.

[75] *Muller v. The State of Oregon.*

[76] Charles Darwin, *The Descent of Man and Selection in Relation to Sex*, (New York: Appleton, Original Edition, 1871, p. 564), reprinted in *Biological Politics: Feminist and Anti-Feminist Perspectives*, by Janet Sayers, (New York: Tavistock Publications, 1982, pp. 90-92).

repeatedly referred to as authoritative justification for the deduction that women were mentally inferior to men.

Those beliefs permeated into legislation, as well as the courts.[77] Biological ideology, which painted a world where women, by nature, were inferior, mentally and physically, to men, was instrumental in pushing women away from the desire to be considered different from men. Many women, having been determined to be psychologically and physically inferior because of their sex, would grow to resent the differences they possessed, as a result of men defining such differences and determining the limits of women's abilities based on these differences.

Thus, with the Muller Case, men had succeeded in wresting control of defining the differences women possessed. Whether women would have the ability or even desire to regain control and redefine for themselves those differences would ultimately determine the fate of the women's movement.

THE SHIFT FROM A SEPARATE SPHERE TO THE "MALE'S REALM"

How prophetic were Rev. Dr. Anna Howard Shaw's words, spoken to Emily Newell Blair a mere few months prior to her death in 1919. She clearly recognized the potential destructive effects of women no longer occupying a place of their own, which she understood as an essential tool for building relationships and networks with other women, as the means to endeavor for common goals. She also acknowledged that

[77] See especially *Goesart v. Cleary*, 335 U.S. 464 (1948), which pertains to women being denied certain job opportunities, which was justified in legislation on the basis of their sex alone. See also *Hoyt v. Florida*, 368 U.S. 57 (1961), which pertains to legislation regarding jury selection and a woman having the right to have a jury consisting of her peers (women). See also *Reed v. Reed*, 404 U.S. 71 (1971), which pertains to Oregon State legislation sanctioning the preference of males over females in the administration of estate.

women would soon lose the desire to be considered different from men and would, instead, strive to be the same as men.

Shaw, in a conversation with Blair, explained that

> you younger women will have a harder task than ours...You will want equality in business and it will be even harder to get than the vote, for you will have to fight for it as individuals and that will not get you far. Women will not unite, since they will be competitors with each other. As soon as woman has it for herself she will have entered the man's world and cease to fight as a woman for other women.[78]

Emma Goldman, writing and lecturing in the late nineteenth and early twentieth centuries, similarly recognized the potential devastating effects of women entering the "man's world." Adhering to the notion of women celebrating their differences from men, she explained that, "peace or harmony between the sexes...does not necessarily depend on...the elimination of individual traits and peculiarities. The problem that confronts us today...is how to...retain one's own characteristic qualities."[79] In allowing women to celebrate their being fundamentally different from men, Goldman envisioned the potential for a man and a woman to have the ability to "meet without antagonism and opposition."[80]

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[78] Emily Newell Blair, "Discouraged Feminists," *The Outlook*, July 8, 1931, pp. 302-3, 318-19, reprinted in *Up from the Pedestal*, by Aileen S. Kraditor, p. 339.

[79] Emma Goldman, "The Tragedy of Woman's Emancipation," reprinted in *Red Emma Speaks: Selected Writings and Speeches by Emma Goldman*, by Alix Kates Shulman, (ed.), (New York: Random House, 1972, p. 133).

[80] Ibid., p. 134.

In the 1930's, Virginia Woolf advocated for the perpetuation of women's separate sphere. She argued less for women's suffrage, because she believed the cause was too narrowly focused and concluded that it would ultimately not achieve substantial changes in women's lives. Instead, Woolf emphasized the significance of the financial independence of women and the necessity for women to have an autonomous space or "a room of one's own." Woolf believed that the improvement of women's position in society hinged mainly on their being considered different from men. She asserted that, "it is from that difference...that [women's] help can come...to protect liberty [and] to prevent war." [81]

Woolf wove this notion of women recognizing and utilizing their differences with the political activism women could engage in from within their separate sphere. The narrative in her 1938 book, *Three Guineas* describes a woman expressing her political will as an outsider looking in on the system.[82] She explains that if women "become [part] of...society, it would seem [they] would lose that difference and therefore sacrifice that help" they could provide socially and politically. [83] Women would be better able to criticize politics, education, and religion without having the potential of being dissolved and co-opted by those very institutions in "their position as outsiders" and would be free "from interested motives which [would be]...assured them by the State."[84] Woolf's description was, indeed, a reflection of her personal adherence to separatist ideals, where

[81] Virginia Woolf, *Three Guineas*, (New York: Harcourt, Brace & World, Inc., 1938, p. 158).

[82] Ibid., esp. pp. 149-150 and 171-172.

[83] Ibid., p. 158.

[84] Ibid., p. 172.

she explains, "I thought how unpleasant it is to be locked out; and I thought how it is worse perhaps to be locked in."[85]

Iris Marion Young has noted that some women, especially in the 1970s, recognized the potential ills of abandoning their separate sphere and making the transition into the public sphere. They "rejected wholly or partly the goal of entering the male-dominated world."[86] Doing so, they believed, would require women to adhere to the rules made by men, which were a source of women's subordination. Such continued adherence to a separate sphere by these women made possible the development of "autonomous women's institutions and services."[87]

Not all women, however, retained the belief that women's separate sphere was vital for the betterment of women's position in society. The desire and ability of many women to have possession of and to create a definition for their differences was diminished as a result of men having co-opted the separate sphere ideology. Nancy Whittier's conversations with women's movement veterans from the 1960s and 1970s reveal women having moved away from women's separate sphere and desiring to not be considered "different."[88] Many of the interviewees explained that "organizing protest is exhausting and often thankless work:...and sustaining a high level of participation over

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[85] Virginia Woolf, *A Room of One's Own*, (New York: Harcourt, Brace & World, Inc., 1957, p. 24).

[86] Iris Marion Young, *Justice and the Politics of Difference*, (Princeton: Princeton University Press, 1990, p. 61).

[87] Ibid., p. 162.

[88] See Nancy Whittier, *Feminist Generations: The Persistence of the Radical Women's Movement*, (Philadelphia: Temple University Press, 1995, pp. 151-53) for excerpts from such discussions. As one woman noted, for instance, "It will be nice to have a movement again."

more than a decade…is difficult."[89] Consequently, "even radical feminists were reluctant to maintain an antagonistic stance towards state government."[90] Instead, they dissolved within these institutions and "cooperated with the state administration."[91] The effects of this move into the male realm from woman's separate sphere were devastating. "Instead of being fundamentally collective actors, they [were] left to act as individuals…Instead of demanding revolutionary change, they [found] themselves working for small increments."[92]

Women no longer utilized their separate oasis as an instrument to create coalitions for reform and to objectively assess the political, legal, educational, and economic realms of society. Instead, "women…insisted on striving for integration into a male world, sexually, professionally, and politically."[93] The devastating results are that women, in contemporary times, no longer occupy, mentally and physically, a place of their own, no longer embrace the fact that they are different than men, work less to form alliances with other women, and, by moving from outsiders looking in on the system to dissolving into the males' "organization," have become less critical of injustices and biases that continue to exist within all social, political, and economic settings. Such a diminished critique of these institutions occurred as a result of women having entered the male's realm and having been co-opted by those in leadership positions. Others integrated into the institutional settings and were socialized to embrace a value system, which often

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[89] Nancy Whittier, *Feminist Generations: The Persistence of the Radical Women's Movement*, p. 152.

[90] Ibid.

[91] Ibid.

[92] Ibid.

[93] Estelle Freedman, "Separatism as Strategy," p. 521.

diminishes the potential for women's upward mobility and empowerment. Consequently, "these women [have] los[t] touch with their feminist values and constituencies."[94]

Furthermore, the political unity women shared in the nineteenth century disappeared when they rejected their separate sphere. This loss of commonality left women "to splinter into interest groups and political parties."[95] Thus, such fragmentation diminished much of the potential for political gains, because the lack of unification caused many differences among women's groups to become magnified. These amplified differences led to women segregating themselves not from men, but from other women, who were members of differing organizations. Therefore, in such settings where strength in numbers is the key to affecting change in society, women became less effective.

Estelle Freedman explains that, "when women tried to assimilate into male-dominated institutions...they lost the momentum and the networks which had made the suffrage movement possible. Women gave up many of the strengths of the female sphere, including the means to network, to create coalitions, and to communicate, without gaining equally from the man's world they entered."[96] Ultimately, what has emerged in contemporary times is the fragmentation and stagnation of the women's movement.

How members of a group, fervently dedicated to affecting great change in society can, instead, find themselves splintered and dispersed within the very institutions, organizations, and government the group was struggling against, is quite common.

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[94] Estelle Freedman, "Separatism as Strategy," p. 525.

[95] Paula Baker, "The Domestication of Politics," p. 645.

[96] Estelle Freedman, "Separatism as Strategy," p. 524.

French, British, and German bourgeoisie, excluded from "leadership in State"[97] activities, met in *salons*, coffee houses, and *Tischgesellschaften*[98] and created a "separate sphere" between 1680 and 1730. This engagement within their separate oasis gave rise to an independent opposition politics during the Enlightenment. However, as Jürgen Habermas has noted—parallel to that which occurred with women entering male's realm—once the bourgeoisie moved from their "separate sphere" and into State-sponsored politics, this independent opposition collapsed into a vague public sphere. The bourgeoisie in France, Germany, and Great Britain similarly became less critical of the persistent economic and political ills that plagued society and no longer united on a common front to acknowledge and protest against persistent inequalities and rampant abuses.

RESTORING SEPARATE SPHERE GAINS THROUGH DELIBERATIVE POLLING

"If we could first know where we are and whither we are tending, we could then better judge what to do and how to do it."[99] American women know where they are and recognize the disparities that continue to exist in the social, political, economic, and legal arenas. Whither women are tending is also known. Due to the stagnation of the contemporary women's movement, women's position in society, the political realm,

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[97] Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, (Cambridge: The MIT Press, 1989, p. 33).

[98] *Salons* were the French version of the meeting environment for critical debate, coffee houses were the British version, and *Tischgesellschaften* were the German version.

[99] *A House Divided*, Abraham Lincoln, Speech delivered in Springfield, Illinois at the close of the Republican State Convention, June 16, 1858.

economically, and before the law will undergo minimal, if any, changes. What should be done is a familiar question and has been answered in many ways.

Some suggest the establishment of separatist politics for women as a means to reinvigorate the women's movement. Estelle Freedman, for instance, recognizes the potential gains for women politically, economically, socially, and legally when working from their separate political sphere. Thus, she argues "for a continuation of separatism...because....[the] common identities and heritage as women can provide enormous personal and political strength as long as [they] claim the power to define what women can be and what female institutions can achieve."[100] Freedman advocates such a position, because she is concerned that "many feminists, [who are] faced with the isolation of personal success or dismayed by political backlash, may turn away from the separate women's politics that have achieved most of our gains in the past decade."[101] By renewing the female coalition and institution building, Freedman is confident this reestablished "female world and separatist politics will still serve the interests of women." [102]

However, women would not be emerging from the isolated arena of their private sphere and into society as they had done in the nineteenth century. Therefore, the conditions present in the nineteenth century, which aided in the accomplishments of the women's movement, would be absent. That women would have a separate political sphere would not guarantee similar positive aspects of women's separate sphere in the nineteenth century, such as coalition-building, networking, and striving for the

[100] Estelle Freedman, "Separatism as Strategy," pp. 525-26.

[101] Ibid.

[102] Ibid.

achievement of broad-based goals and the betterment of most women's lives. Additionally, possessing this separate political sphere would not assure women would communicate with one another, nor would it ensure that women would have the influence and political power to affect changes in society.

Others suggest that diverse women's groups would be more successful at achieving gains for women in society than the unification of women under the umbrella of a single organization. They believe the varied women's organizations focus on divergent issues and, as a result, comprehensive goals of a single organization would not be established, let alone strived for. Nancy Whittier explains how the new wave of radical feminist groups, while adhering to divergent ideals and struggling for differing goals, can create fundamental changes within the political, social, and legal systems and, thus, represent a women's movement. She is hopeful that "longtime feminists and newcomers to the movement, [while they] may...disagree [on various issues], [will] create the future of the struggle for women's equality and liberation."[103]

Yet, these competing interests and this fragmentation are the very symptoms, if not some of the origins, of the stagnation of the women's movement. Whittier recognizes these obstacles, noting that the contemporary sex radicals have isolated themselves from longtime lesbian feminists. She notes that, "a similar sense of isolation stems from the lack of links between movement veterans and the feminist organizations that have survived in the 1990s."[104] Absent a unifying cause or way of decreasing the sense of disconnectedness felt among women and women's organizations, they will continue to

[103] Nancy Whittier, *Feminist Generations*, p. 258.

[104] Ibid., p. 239.

struggle with one another over what the best direction is for women and over what the most pressing issues are in women's lives. Consequently, the biases and inequalities that continue to persist in society will not be addressed as women continue to struggle with one another rather than for the diminishment of the social, legal, political, and economic ills that continue to plague society.

To effectively answer the questions "what to do and how to do it," I recommend the creation of an instrument that provides for the communication between, and the unification and increased political leverage of, women. "If women are to achieve true economic and social equality, they must have an equal role in making and interpreting the laws that we all live by."[105] One way to achieve this goal is through the creation of ten additional congressional seats to be filled solely by women and with candidates selected through at-large elections. Doing so would allow women to move towards the goal of reaching full equality in the decision-making process.

Quite comparable to this argument for separate congressional seats for women candidates, are the thirty "functional constituency" seats that exist in Hong Kong. In addition to the traditional geographically determined seats, these functional constituencies represent professions and trades such as agriculture and fisheries, insurance, transport, education, legal, accountancy, medical, tourism, real estate and construction, and textiles and garment.[106] Understanding the virtues of allowing particular groups to have a voice in the legislative process, Vice-Premier of Hong Kong,

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[105] Kieth T. Poole and L. Harmon Zeigler, *Women, Public Opinion, and Politics: The Changing Political Attitudes of American Women*, (New York: Longman, 1985, p. 151).

[106] For a complete list of the functional constituencies in Hong Kong and the representatives, see: http://www.democracy.org.hk/pastweek/may24_30/fc_results.htm.

Qian Qichen has noted that, "the model based on functional constituency elections is an effective way to ensure that people in various walks of life can have balanced participation in political life."[107]

However, creating such seats for the representation of women in the United States does not guarantee that such members of Congress would continue to address women's issues after *having* been elected. A phenomenon exists where individuals enter institutions, organizations, and the government and become socialized to protect the status quo.[108] Thus, female members of Congress have the potential of becoming "entangled in opposing demands—working for women while trying to distance [themselves] from gender considerations in Congress."[109] How, then, can such a danger be eliminated—a danger which would ultimately devastate any potential gains of creating such congressional seats?

One solution is that women would be the sole electors of those running to fill such seats. Doing so would ensure these members of Congress would remain focused on the goals and interests of women, as they would need women's votes to be reelected. With the increased number of women in Congress, they would tend to "be more active and assertive" within the congressional body and would work more to create and advocate for

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[107] Chris Yeung, "Tycoon Peter Woo Backs Qian's view on Elections," *South China Morning Post*, News, Pg. 4, June 29, 2002. The goal is to expand such seats to include more private interests in addition to those based on professions and trades.

[108] See Susan J. Carroll (ed.), *The Impact of Women in Public Office*, (Bloomington: Indiana University Press, 2001, p. 110) where studies of Susan Gluck Mezey (1994) and Marilyn Johnson and Susan Carroll (1978) are discussed.

[109] Ibid.

legislation that would positively affect women's lives.[110] As Sue Thomas and Susan Welch have noted,

> the greater the proportion of legislators who are women, the more women legislators will display distinct priorities, especially in giving priority to women's, children's and family issues; the more women legislators will be successful in getting legislation relevant to women and families passed; and the more likely women are to organize into women's legislative caucuses.[111]

While this creation of additional congressional seats would definitely increase women's political leverage, such a proposition is impractical and clearly a utopian vision, as it would be unlikely to withstand constitutional challenges. This proposal would likely be challenged based on the equal protection component of the Fourteenth Amendment. Additionally, Iris Marion Young raises valid concerns regarding this form of group representation in her book, *Inclusion and Democracy*, explaining that "reserving seats for particular groups can tend to freeze both the identity of that group and its relations with other groups in the polity."[112] Focusing on the issue of only those members of the particular marginalized group being able to vote for the representatives, Young notes that "this method generates difficult problems of determining who has the right to choose these representatives."[113] Therefore, to attain the goals of increased communication

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[110] See Susan J. Carroll (ed.), *The Impact of Women in Public Office*, p. 167.

[111] Sue Thomas and Susan Welch, "The Impact of Women in State Legislatures: Numerical and Organizational Strength," printed in *The Impact of Women in Public Office*, by Susan J. Carroll, (ed.) pp. 168-69.

[112] Iris Marion Young, *Inclusion and Democracy*, (Oxford: Oxford University Press, 2000, p. 149).

[113] Ibid., p. 150.

between, and the increased political leverage and unification of, women, without the potential constitutional challenges and those concerns mentioned by Young, I propose, instead, the creation of annual deliberative polls. This revolutionary concept of deliberative polling, advocated and trademarked by James S. Fishkin in his 1995 book, *The Voice of the People*, revolves around the notion of randomly selected citizens engaging in televised "face-to-face debates," airing "competing arguments," and "voting on specific provisions."[114]

However, unlike Fishkin's proposed deliberative polls, my argument is for women as the only participants in such polling. Whereas Fishkin suggests that his model would be "representative of the entire country," a women-only deliberative poll would be highly representative of female citizens in terms of class, education, age, geographical location, race, sexuality, religion, and "every other important dimension."[115] I find this to be a vital component to my proposal as a means of ensuring women's views would not be overshadowed by men's attitudes towards the presented issues. This women-only deliberative polling would focus solely on women's political attitudes and beliefs.

Through extensive studies during a forty-year span of the differences that exist between men and women pertaining to issue orientation and party affiliation, Conway, Steuernagel, and Ahern have noted particular political dissimilarities that exist between the sexes. Women overwhelmingly "are more supportive of the view that government should provide services and assistance to those who are less fortunate" and provide

[114] James S. Fishkin, *The Voice of the People: Public Opinion and Democracy*, (New Haven: Yale University Press, 1995, p. 134).

[115] Ibid., p. 166.

solutions for affirmative action and sexual harassment.[116] Women also tend to identify more with the Democratic Party and liberal ideals, whereas men tend to support the Republican Party and their candidates. Therefore, this women-only component of the polling mechanism is crucial for ensuring women's distinct political voices are heard. Additionally, such a "segregation" of women would recreate ideal conditions for separatist politics and allow women to unify and communicate with other women instead of men, as is often the case within educational, occupational, and political settings.

To achieve a sample representative of all American women, each female citizen, registered to vote, would have an equal chance of being selected to participate in the annual televised deliberative poll. Those ultimately selected would be provided with reading materials and videos selected and compiled by a panel of nationally recognized academics to prepare them for the intense weekend of discussion and debate. The group of four hundred participants would convene in a centrally located state, such as Nebraska, arriving on a Friday. Participants would have the opportunity to first engage in group discussions about their most pressing concerns and the issues presented in the information provided. Following these debates, the participants would have the ability to voice their concerns, questions, and conclusions to international experts of the issues brought forth and state and national legislators. In doing so, these legislators would become acquainted with, or be reminded of, women's views pertaining to particular foreign and domestic policies and concerns.[117]

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[116] M. Margaret Conway, Gertrude A. Steuernagel, and David W. Ahern, *Women and Political Participation: Cultural Change in the Political Arena*, (Washington, D.C.: CQ Press, 1997, pp. 36-37).

[117] This is a loose description of what the female-only deliberative polling would look like and serves merely as a means for one to envision its potential. A national committee would ultimately be created to address all details of the poll, such as attaining a representative sample, selecting the site for the poll, making travel arrangements and incentives for participants, selecting the materials to be discussed, etc.

This medium would create the conditions for increased communication and unification among women. Additionally, having the potential of being selected for this annual event would create more politically aware citizens, as it would "have a galvanizing effect on the...interest in public affairs."[118] Consequently, many would begin to educate themselves on domestic and foreign policies, be compelled to determine what their own concerns were, and discuss "issues with family and friends."[119]

Interestingly, Fishkin's proposal for deliberative polls has antecedents in the women's separate sphere. Six women, following their failure to persuade legislators in New York to confer on women the right to vote in 1894, understood the possibility of "achiev[ing] power through discussion"[120] and recognized the potential social and political gains achieved by allowing for "serious public deliberation."[121] Operating from within their separate sphere, these women created a public space where both men and women could discuss public affairs. They formed the organization "Town Hall,"[122] which was "devoted to education and discussion,"[123] and sponsored "one of the first constructive efforts to use the mass media for serious public deliberation."[124]

Recreating this instrument of televised public deliberation, which allowed for women's increased participation in the political and social arenas in the late nineteenth

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[118] James S. Fishkin, *The Voice of the People: Public Opinion and Democracy*, p. 174.

[119] Ibid., p. 172.

[120] Ibid.

[121] Ibid., p. 135.

[122] The organization of "Town Hall" was originally known as "League for Political Education."

[123] James S. Fishkin, *The Voice of the People: Public Opinion and Democracy*, p. 135.

[124] Ibid.

and early twentieth centuries, would be an integral step in restoring separate sphere gains. The mechanism of women-only deliberative polling would be effective in realizing the goals of increasing women's political leverage, providing an outlet to improve the communication among women, and creating a means for the unification of women. "The perceived clout of women voters," as they became more politically cognizant through deliberative polling, would have the potential of raising "the overall amount of legislation that [was] introduced and passed,"[125] which would have a positive effect on women's lives. Ultimately, such actions would result in the reinvigoration of the women's movement and would draw together its splintered pieces.

[125] Sue Thomas and Susan Welch, "The Impact of Women in State Legislatures: Numerical and Organizational Strength," printed in *The Impact of Women in Public Office*, by Susan J. Carroll, (ed.) p. 168.

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