

Sapiro, Chapter 9
Law and Policy, Government and the State

1. Government and law control people's lives authoritatively
 - a. Regulates all other aspects of people's lives
 - b. Political scientists assert that government engages in the "authoritative allocation of values" - of goods, services, and intangibles such as legitimacy.
 - c. Unlike many other institutions, the law has the power to coerce and enforce its will.
 - d. The courts interpret the law; other branches of the law enforce it.
 - e. The next arm of interpretation is enforcement: The creation of institutions like the EEOC has helped the government specialize in enforcement of civil rights actions.

2. If government reflects people's desires, does the law treat women equitably?
 - a. A liberal/enlightenment focus on human rights has resulted in several important documents and legislative changes over the past 200 years.
 - i. The Declaration of Independence (1776) granted freedoms only to white male citizens.
 - ii. The Declaration of Sentiments and Resolutions (1848) passed in Seneca Falls applied the ideas of the Declaration of Independence to women. However, it was a resolution, not a passing of laws, and was widely ignored or castigated.
 - iii. Women achieved suffrage nationwide in 1920 in the US.
 - iv. Feminists have engaged in steady efforts to pass an equal rights amendment from 1923 to 1980.

 - b. Common law, the underpinning of our system:
 - i. Our government has its roots in English common law - women operate under the "coverture" or cover of their male owners; a woman's existence is not separate from her husband's
 - ii. except, as Blackstone writes in the Commentaries (1765), "in some instances in which she is separately considered; as inferior to him, and acting by his compulsion." Sapiro adds that these instances are primarily when a woman commits a crime.

 - c. There is a pattern to how women's rights have evolved in the last 200 years
 - i. The effect of enlightenment enfranchisement of working men was that it became increasingly irrational to deny women the right to vote.
 - ii. Slow, steady labors have produced "one step forward, one step back" progress for women.
 - iii. In the nineteenth century, interpretations emphasized importance of maintaining "separate spheres" and of the will of men in determining whether or not women should vote.

 - d. Legislative achievements:
 - i. Most states passed married Women's Property Acts (beginning in 1840s). Little publicized but very important for the economic security they gave women.
 - ii. 19th Amendment - protecting women's right to vote *throughout* the country - was ratified in 1920.
 - iii. But abortion and contraception became increasingly illegal, and the government found other ingenious ways to keep women down (removing their citizenship if they married foreigners, for example).
 - iv. Women are still only partly citizens because of their exclusion from certain

obligations. Among the obligations of citizenship - taxation, jury duty, military service - women were subject only to taxation until they received suffrage, and are still exempt from the draft. In addition, in the military women are still excluded from the main routes to senior leadership: armor, infantry, and field artilleries.

- e. Period of greatest legal progress was 1960s to 1970s, when several key pieces of legislation were passed:
 - i. 1963 Equal Pay Act (equal pay for same job)
 - ii. 1964 Civil Rights Act (barred sex discrimination at work, was eventually enforced by the EEOC)
 - iii. 1978 Pregnancy Discrimination Act
 - iv. Title IX (allocates equal funding for women's sports programs in institutions that receive federal funding)
 - v. 1974 Equal Credit Opportunity Act
 - vi. ERA was passed by Congress in 1972 but never adopted because not enough states ratified it in time.

3. Women's Policy Issues

- a. What makes an issue a "women's issue"? Ghettoization?
- b. Child care - ghettoized as women's issue - because men are reluctant to pay costs of women's participation in the paid work force.
- c. Because women's labor tends to be unpaid or underpaid, women are likely to be negatively affected by public policy decisions.

4. Women, Crime, and Justice

- a. The justice system doesn't treat men and women equally; women are less likely to commit violent crimes and felonies.
- b. Men commit domestic violence and rape, yet women tend to be blamed for these crimes and underserved by the justice system in prosecuting them.
- c. Women criminals have been considered through the lens of gender - excused if they are middle or upper class.
- d. Prostitution.
- e. Homicide - battery-induced self-defense; murder/battery of family members.
- f. Women are unlikely to be judges, lawyers, and police officers.

5. Women in politics

- a. "The higher, the fewer" applies here.
- b. Authority is gendered; voters may doubt women's competence.
- c. Incumbency, the high cost of campaign funding, and "warrior bias" militate against women (idea, for example, that President is "Commander in Chief.")
- d. The size of the "gender gap" is always contingent on current issues.
- e. Now that women have reached a critical mass in some bodies, especially local and state institutions, they are able to caucus and make policy.

- 6. Summary: lots of progress, but a long way still to go towards having women thought of as genderless (as men are) as competent, and represented in the proportion in which we exist in the population (52%).