

ON THE COLUMBIA JOURNAL OF GENDER AND LAW'S FUTURE ROLE

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Providing gender equity and equality in organizations is an important route to major improvements in status and opportunity. In the last ten years, statutory reforms, caselaw, and private changes in attitude have reduced many institutional inequalities—with far more to be done.

We need to take a broader view of “gender problems.” Implicated in such a view will be the more intractable sociological problems of individuals in one-on-one relationships or community situations, of single parenthood and of child rearing in nontraditional and traditional families, of the continuing intergenerational effects of poverty, poor education and cruel childhoods, and of heritage-based views of man-woman characteristics and affinities, particularly in terms of real equality of opportunity. That so many are in prison, for example, is a critical aspect of gender issues for the future.¹

These issues include those affecting the status of men as well as of women. Reducing welfare has not, for example, solved many of the problems of substantial numbers of men, women, and children. Men’s institutional and other problems need further work; women’s and children’s welfare does not exist in an island cut off from conditions for men.

In case after case, husbands or boyfriends have apparently resented efforts of women they live with to improve their position, even striking out physically to keep them in check. Perhaps the reverse is true. Perhaps this phenomenon is also true in the stunting of children’s ambition and in depriving them of love and affection, creating a perpetual handicap. Women’s and children’s welfare may then depend upon how men feel about themselves and why, and how their situation can be changed. And, of course, the reverse is true.

The legal problems are hardly resolvable without considering economic, psychological and sociological issues. Interdisciplinary work is essential.

With so many men (and now increasingly women) in prison, do we need to reconsider conjugal visits and home visits so that family relationships and those with the community are not unnecessarily stunted and destroyed? We know that unless there is a good deal of love and

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¹ See e.g., Mark Mauer, *Felon Voting Disenfranchisement: A Growing Collateral Consequence of Mass Incarceration*, 12 Fed. Sent. Rep. 248 (2000).

affection for youngsters and a secure family life, the probability of their growing up imbued with altruism and a sense of responsibility for their fellows is substantially reduced. We have to be careful, for example, in sentencing or in enforcing our laws on the homeless to avoid separations of parents from children who depend upon them for the love and affection that will reduce the likelihood of a new generation of criminals or homeless.²

What can, or should, be done about different views of women's or men's place in the social structure by new immigrant families (or even second or third generation Americans) or those with different religious and "inherited" views of gender? In our heterogeneous society, how much legal pressure should be imposed to homogenize these views toward more general American views of equality of the sexes or rights of children? Would such legal pressure for equalization infringe upon First Amendment rights of religion? How? What, if anything, should the law do about these matters?

Are the rights and legally supportable claims of the "poor" being fairly adjudicated? While substantive gender rights may be increasing, the right to a sufficiently compensated lawyer when and where needed is increasingly attenuated—even in capital cases.³

On the international level, there will be increasing pressure to protect men's, women's and children's rights and opportunities by treaty and the growth of international law; through international tribunals such as the International Criminal Tribunal for the Former Yugoslavia on matters such as rape, and the International Criminal Tribunal for Rwanda on genocide; through national and international courts such as the European Court of Human Rights on killings by state agents or "torture" of children by parental beatings, or the Inter-American Court of Human Rights on "disappearances;"⁴ by private persons and non-governmental agencies opposing child labor on products brought into the United States; and by governmental pressure to improve women's rights and eliminate slavery, as by action of the United States State Department in Afghanistan and the Sudan. Gender issues are more and more recognized as "one world" issues.

There is plenty of room for the *Columbia Journal of Gender and Law* to contribute to better law and an improved society in the next century.

² See generally Jack B. Weinstein, *The Effect of Sentencing on Women, Men, and the Community*, 5 Colum. J. Gender & L. 169 (1996). Disenfranchisement of hundreds of thousands of minority persons is but one aspect of our harsh criminal laws.

³ See Jack B. Weinstein, *Notes on Adjudicate Justice in a Diverse Mass Society*, 8 J.L. & Pol'y 385 (2000).

⁴ Examples of the action of all these international tribunals at work will be found in the Aspen Institute Justice and Society Program, International Human Rights Update, Fall 1999.