

# EQUALITY OF RIGHTS AND FEMINIST POLITICS

NORMA BASCH

Mary Frances Berry. *Why ERA Failed: Politics, Women's Rights and the Amending Process of the Constitution*. (Bloomington, IN: Everywoman: Studies in History, Literature and Culture, 1986). ix + 148 pp. Notes, appendices, index. \$17.95.

Judith Friedlander, Blance Wiesen Cook, Alice Kessler-Harris, and Carroll Smith-Rosenberg (eds). *Women in Culture and Politics: A Century of Change*. (Bloomington, IN: Indiana University Press, 1986). xvii + 394 pp. Notes. \$39.50, \$12.95 (paper).

Joan Hoff-Wilson (ed.). *Rights of Passage: The Past and Future of the ERA*. (Bloomington, IN: Indiana University Press, 1986). xx + 140 pp. Notes, appendix, bibliography, index. \$22.50, \$6.95 (paper).

In the twentieth century, the course of American feminism as an organized political movement has been inextricably bound up with conflict over separatism and assimilation. Although the collective identity of the women's movement rested on perceptions of women's otherness, the pursuit of legal and political equality encouraged affirmations of sameness. Feminists muted tensions in the heat of political campaigns but were unable to contain them in the aftermath of victories or defeats. Thus at two distinct junctures, the 1920s and the 1980s, tensions erupted into full-scale conflict.

The successful campaign for suffrage in the first two decades of the century gave way to contention over the Equal Rights Amendment in the 1920s. Whereas the ideological diversity of the women's movement between 1910 and 1920 had been a hallmark of its strength, it loomed in 1925 as a fundamental source of its weakness. Divided on the issue of protective labor legislation for women, confronted with an inhospitable political climate, and lacking energy and direction, the First Women's Movement ground to a halt. In the words of Florence Kelley, it was "like a semi-paralyzed centipede."

Recent post-mortems on the defeat of the ERA, the subject of two of the above books, point to marked similarities in the state of the women's movement and the political environment in the 1980s.

After a surge of extraordinary vitality in the 1960s and the 1970s—surely few movements in the twentieth century can claim to have touched as many lives—organized feminism seems mired once again. If the ERA was the political symbol of the Second Women's Movement, its defeat may very well reflect the demise of the second wave of feminism. Contemporary feminists, once united in support of the ERA, seem no less divided between separatist and assimilationist approaches than their counterparts in the 1920s. As one might expect, the divisions underpin feminist scholarship in law and society, history, and politics.

To label the conflict as separatism versus assimilation is to reduce its complexities to two crude abstractions. Feminism has historically pursued the dual objectives of legitimating women's equality with and differences from men. Yet an important wing of recent feminist scholarship celebrates the attributes of an alternative feminine subculture and places a strikingly new emphasis on differences. It identifies itself as relational feminism and takes its cues from Carol Gilligan's *In a Different Voice*. If, as Gilligan asserts, an ethos of care informs the moral decisions of girls as opposed to an abstract, legalistic ethos in those of boys, there is little reason for women to emulate a presumably male ethos. In jurisprudence this translates into rejecting the whole competitive, rights-oriented model of male justice for a more caring, cooperative model of female justice. Clearly, such a stance diverges from a commitment to accord women all the individual rights that liberal governments have traditionally accorded to men and from the pursuit of equality of rights. The analytical tensions and ambiguities in these two stances provide a common thread in the three disparate works under consideration.

As befits a United States Civil Rights Commissioner, Mary Frances Berry assumes the propriety of a rights-oriented legal model for women; her belief in it is implicit in her dismay at the breadth and depth of the opposition. In testifying on the ERA before the House Judiciary Committee, she points out that congressmen focused on whether the amendment would violate familial values rather than on whether it would extend the time-honored principle of equality of rights to women. Berry, then, is all too familiar with one dilemma at the heart of the ERA and its divisive effects. As her title indicates, *Why ERA Failed* aims to identify specific problems in the campaign for ratification with an eye toward developing successful strategies for the future.

Berry astutely points out that any amendment that is perceived as making a major substantive change in American life—as is surely the case with the ERA—needs to be viewed by voters as carrying vital remedies that are beyond the reach of existing laws and institutions. Secondly, its proponents have to convey the necessity of its passage with such urgency as to make state legislators fear the political consequences of failing to support it. This trans-

lates into a series of discrete, state-by-state campaigns that need to be mounted simultaneously with a sustained national campaign. Finally, proponents must be prepared for the full vehemence of the opposition. With hindsight it becomes clear that the campaign for the ERA failed in all of these requirements. Proponents were misled by early victories, perpetually on the defensive with the opposition, and did too little too late in the states.

Berry, who devotes half of her book to the history of other amendments, might have documented successful patterns of ratification more concisely, but her coverage serves to highlight intrinsic difficulties in the amendment process. Readers are likely to find her state-by-state analysis and chronology of the ERA in the second half of the book far more interesting. She outlines how liberal state and Supreme Court decisions supported the opposition's argument that the ERA was unnecessary. Furthermore, Berry outlines losses for women in the wake of the ERA's defeat, such as a weakening commitment to comparable worth, declining enforcement of Title IX of the Education Amendments of 1972, and state restrictions on abortions funded by Medicaid.

*Rights of Passage* focuses on the same territory from multiple angles of vision. As editor, Joan Hoff-Wilson has assembled a highly readable collection of short essays, many of which appeared in the *Newsletter* of the Organization of American Historians. They are divided into three sections: historical assessments of the ERA in the 1920s, strategic and cultural analyses of its failure in the 1970s and 1980s, and speculations on the future.

The first section goes a long way to illuminate the early contours of a debate that extends over more than fifty years of American history. Amelia Fry draws a sympathetic portrait of Alice Paul, underscoring her precocious and persistent dedication to the passage of the amendment, and reminding us that Paul, no less than her opponents, came from a tradition of progressive reform. Kathryn Kish Sklar draws an equally sympathetic portrait of Florence Kelley and meticulously fills in the historical context in which women overwhelmingly opposed the ERA in the 1920s. Sklar, moreover, alerts us to salient political distinctions in the opposition to the ERA then and now by pointing out that in the 1920s organized resistance came largely from the forces of the progressive left, while in the 1980s it came largely from the forces of the conservative right.

The essays on the contemporary campaign tend to focus on the tactics of the opposition; they were, after all, enormously effective. Jane DeHart-Mathews and Donald Mathews delineate how the subjective experiences of antiratification women were shaped into charges that reflected a widespread sense of personal vulnerability and caused women to relate federal equal rights with an ideology that threatened their very identity as women. Janet Boles stresses the opposition's ability to control completely the scope of public

discourse and thus extend that discourse well beyond the issues in the amendment. Nonetheless, she speculates that the discourse itself benefitted women on both sides because it mobilized them politically. Berenice Carroll explores the ramifications of militant direct action, a tactic that NOW never supported but that was pursued by the women who chained themselves to the railings of the Illinois state capitol without any apparent effect on Illinois legislators. Nevertheless, she argues that the real purpose of such tactics is their positive, long-term influence on supporters and the legacy they leave for future feminists. Elizabeth Pleck concludes on a note of hope that the women's movement is both chastened and strengthened in its defeat.

*Rights of Passage* should enjoy considerable popularity in women's studies courses and with general readers. For scholars, however, its real significance is in the degree to which it illuminates the tensions between separatist and assimilationist models of feminist politics and jurisprudence. Hoff-Wilson's introductions to each section are important in this regard because they expose the problem of fusing a feminist politics with the concept of equality of rights and comprise a thoughtful defense of relational feminism. She suggests that feminist opposition to the ERA in the 1920s, which emerged from the social justice wing of the Progressive Party, represented a collective approach to legal reform over an individualistic one, and that in defending cooperative, "relational" values, women were drawing on their own feminine culture rather than adopting the competitive, rights-oriented values of the dominant male culture. Thus she views feminist opponents of the ERA in the 1920s as anticipating the radical efforts of modern relational feminists to come to terms with biological and social differences between women and men in a way that equal rights advocates do not. One cannot help but note that the rhetoric of relational feminism has curious affinities at times with that of Phyllis Schlafly, and Hoff-Wilson is not oblivious to the dangers of romanticizing women's sphere. Yet she claims that until pro-ERA women attend to and understand an ideology that she believes has important things to say about women's collective identity, they will never succeed in the ratification of the amendment.

*Women in Culture and Politics*, a collection that is international in focus and multidisciplinary in approach, spans some two centuries of Western history and culture, ranges far beyond the interplay of law and society, and except for a few observations, is beyond the scope of this review. The book displays very little topical coherence despite the editors' assertions to the contrary. That is not to say that it is devoid of unity or to demean its overall importance. It is a collection that invites the careful scrutiny of feminist scholars precisely because of its broadly comparative perspective and the high quality of the articles. Furthermore, it eloquently il-

lustrates women's attempts to legitimize both their equality with and differences from men.

The crosscurrents of separatism and integration present in the volume flow thematically all the way from Genevieve Fraisse's insights on the origins of nineteenth-century French feminist theory, through Françoise Pique's analysis of the phrase "bourgeois feminism" in the Third Republic, to Yasmine Ergas's discussion of the civil status of Italian women in the 1970s. Françoise Basch draws on Theresa Malkiel's fictional *Diary of a Shirtwaist Striker* to document Malkiel's efforts to integrate the woman question with her participation in the Socialist Party of America. But as Basch notes, the goals of women as women never neatly coalesced with the political line of any party, and forced to choose, women moved alternately between separatism and integration.

Perhaps the most moving account of the dilemma of choosing between separatism and integration, if indeed one can call it a choice, is Judith Friedlander's essay on "M." It is a parable on sameness and otherness. "M" was a Polish Jew who saved herself and her daughter from the gas chambers with the remark that where she came from it was said that Jewish women were built with slits running horizontally. That remark and her blond hair enabled her to pass as a Pole and to achieve freedom as an individual by affirming her sameness, but only at the expense of renouncing her collective identity as a Jew and a woman.

There are, of course, no answers to these feminist or human dilemmas. Yet it may be naive to assume the inherent superiority of feminine otherness, dangerous to rely on it, and even immoral to cling to it. I greatly appreciated Claudia Koonz's warning about the moral and political perils of placing too much faith in separatism. As Koonz points out, Nazi women preserved an alternative subculture replete with shared values, images of virtue, and a powerful sense of solidarity, all of which served the Nazi Party well. For Koonz this is compelling evidence that there are no natural or social proclivities toward morality in so-called feminine belief systems. This refreshing statement may indicate a new and very promising direction in feminist scholarship, and one, I think, that is long overdue.

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