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LEGITIMATE RAPE, SLUTS, AND FEMI-NAZIS

The Republican War on Women

By Laura Flanders

Table of Contents

A Novel of the Post-Feminist Apocalypse. By the Editors.....1

Legitimate Rape, Sluts, and Femi-Nazis

The Republican War on Women.....2

By Laura Flanders

The Body as Battleground.....3

The Curious Question of Personhood.....7

Abortion as “Race Suicide”.....10

Working Women in the Gilded Age.....11

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Editors: Stefanie Ehmsen and Albert Scharenberg
Address: 275 Madison Avenue, Suite 2114, New York, NY 10016
Email: info@rosalux-nyc.org; **Phone:** +1 (917) 409-1040

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A Novel of the Post-Feminist Apocalypse

“Legitimate rape.” With these two words, Republican Congressman Todd Akin stirred up a storm of controversy, provoking a fresh round of public debate over just how backwards the Republican Party is on issues of women’s equality. The term “War on Women” was bandied about in the following months, as Democrats and Republicans alike jockeyed to position themselves for the 2012 presidential and congressional elections.

However, there is nothing particularly new about this War on Women. On the contrary, the United States has a long history of political efforts to deny and limit women’s rights. Since the 19th century, there have been concerted campaigns to infringe on women’s rights, pushed aside only with great effort by the various stages of the women’s movements, then followed by renewed attempts to unravel or at least limit the importance of any gains made in these struggles for equality. Akin’s comments, and the strong responses they elicited, set the stage for the newest round of battles over women’s bodies, their rights and places of work, and indeed the broader issue of personhood in America.

Personhood? It is a curious and yet profoundly important issue in the War on Women. What does it mean to be a person in America? If freed slaves were once considered to be three-fifth of a person, how much of a person is a woman in today’s society? What if she decides to get an abortion? And while we’re at it, how much of a person is a corporation? As the Supreme Court would have it, it seems the value of a corporation may be measured by the dollars it can spend on elections. For whom, in this context, does the American government work?

In sweeping fashion, Laura Flanders, journalist at Grit TV and author of “The Tea Party” (2010) and “Bush’s War on Women” (2005), takes the reader through the long history of struggle over women’s rights. She emerges with a devastating critique of the Republicans as a party of white men dedicated to the suppression of women in favor of an old-fashioned conception of patriarchal values. The war she chronicles is not about “one election, one candidate or one gender,” but rather “the composition of the American state and the commitments of its government.”

The War on Women is not just an election-year topic, and it is not only women who find themselves under attack, but rather all who are concerned that human rights guarantees advance and never harken back to the darkness of our past—even if a powerful minority paints this past with broad brush-strokes of nostalgia.

*Stefanie Ehmsen and Albert Scharenberg
Co-Directors of New York Office, October 2012*

Legitimate Rape, Sluts and Femi-Nazis

The Republican War on Women

By Laura Flanders

Suddenly, in mid-summer 2012, Barack Obama received a gift from a right-wing Republican. A torpid American election that had been plodding along against a dismal backdrop of high unemployment, low wages, and even lower levels of public enthusiasm turned in a flash into a frenzy over the crazed anti-abortion views of one conservative congressman, and a drowsy Democratic electorate woke up.

In less time that it took that Congressman (Todd Akin of Missouri) to realize that he had set a match to a dry election tinderbox with a comment about “legitimate rape” and women’s bodies magically “shutting down” conception after rape, liberals were drowning in a flood of emails bearing a single subject head: Republican War On Women.

A list of GOP travesties tumbled forth: in January, the Republican leader of the Susan G. Komen for the Cure breast cancer foundation decided to cut funds to Planned Parenthood for cancer screenings for low-income women. In February, House Republicans organized a hearing on access to contraception that included almost no women¹—and when Georgetown Law student and women’s health advocate Sandra Fluke protested her exclusion, conservative talk show host Rush Limbaugh called her a prostitute and a “slut.” Foster Friess, a major supporter of Republican presidential contend-

We inhabit our histories and our history inhabits us.
Angela Davis

er Rick Santorum, told an MSNBC reporter that he didn’t understand the fuss over insurance coverage for contraception. “Back in my days, they’d use Bayer aspirin for contraceptives. The gals put it between their knees, and it wasn’t that costly,” he told his stunned interviewer.²

In June, Senate Republicans blocked a Democratic bill calling for equal pay in the workplace; Republicans in both houses tied up and stopped re-authorization of the 1994 Violence Against Women Act. And all the while, in state after state, Republicans were pushing laws to force women to undergo internal medical exams before obtaining abortions—and promoting legal status and “personhood” for fetuses.

Rep. Akin’s gift was the icing on the Democratic cake. Asked on local TV whether women who became pregnant due to rape should be permitted to abort, Akin responded:

Well, you know, people always want to try to make that as one of those things, well how do you, how do you slice this particularly tough sort of ethical question. First of all, what I understand from doctors, that’s really rare. If it’s a legitimate rape, the female body has ways to try to shut that whole thing down.³

“Unreal” wrote Democratic National Committee Chair, Debbie Wasserman Schultz, in one of a

1 Elizabeth Flock, Birth control hearing on Capitol Hill had mostly male panel of witnesses, www.washingtonpost.com/blogs/blogpost, February 16, 2012.

2 Rachel Weiner, Foster Friess, Santorum backer, jokes about using aspirin as birth control, www.washingtonpost.com/blogs.

3 Huffington Post, August 19, 2012.

zillion pitch-letters to supporters. (Science reports women get pregnant from rape at about the same rate as from any other sort of intercourse.)⁴ “If we aren’t able to give Democrats the resources they need to win in November, women in America stand to lose decades of progress.”⁵

It’s the quadrennial sport: every four years, American voters are roused to don their team uniforms and cheerlead for their side as heroes vs. villains in a “historic” fight over American women’s rights and freedoms. Unless irresistible social forces push those who are elected off course, the outcome of one contest is usually only as “historic” as the next one. Nonetheless, virtually every presidential election year since Anita Hill stood before the Supreme Court in 1992 spurring 19 women to run and win seats in the House and four in the Senate has been hailed as the “year of the woman.”

Twenty years on, the same “war on women” talk is back, but so is the mistake to think that what’s at stake is just decades of “women’s progress.”

The “Republican war on women” is a great slogan for fundraising because it frightens and simplifies along partisan lines, but the assault on women’s bodies and rights isn’t happening at the fringe of American political life. It’s central. Nor is it simply a debate over just women

and fetuses, pay checks or “choice.” The seemingly wacky talk about legitimacy and “personhood” reflects a broad social unease. Far from “unreal,” it’s all too familiar.

American history doesn’t run on a quadrennial clock, but every century or so, at moments of great crisis and possibility, the country undergoes a review of the fundamentals. After independence and the creation of a national constitution came the country’s coming apart and a debate over “reconstruction” after emancipation. War, depression and public pressure in the 1930s forced a “New Deal”—Franklin Roosevelt’s expansion of government’s role in relation to citizens, corporations and the economy. Half a century of expansion chased by contraction has followed. Once again, the U.S. is grappling fundamentally with the role of government and the nature of democracy.

Ironically, presidential contests are worse than useless at grappling with such historical shifts. Post-industrial, post white supremacy, the country’s asking the perennial questions. What does it mean to be a person in America, and for which persons does American government work? It’s no surprise that women’s bodies and women’s work are under assault again. When it comes to “personhood” their bodies and their work are an obvious battleground. They always have been.

The Body as Battleground

Todd Akin hadn’t planned on becoming a summer sensation when he sat down for a Sunday morning interview on KTVI-TV in St. Louis. Akin

is what Americans call a social conservative. He’s served twelve years in the state House and ten in the U.S. Congress. He has rarely made it into the national news. After he won a three-way party primary to run against incumbent liberal Democrat, Claire McCaskill, for Senate, the National Review named him one of “Ten Re-

4 Kate Clancy, Here is Some Legitimate Science on Pregnancy and Rape, <http://blogs.scientificamerican.com>, August 20, 2012.

5 Elizabeth Flock, op. cit.

publicans to follow on Twitter.” That was about it for media attention, because, frankly, with the upsurge of conservative activism that has been going on, men like Akin are in office all over the United States.

Rep. Akin didn’t think the question posed to him that Sunday morning was “particularly tough.” Even after storm clouds of fury broke directly over his head, he didn’t seem to grasp why everyone was so riled up. Was it his choice of words? “I misspoke,” he said later that day in a statement. “I used words in the wrong way,” he told reporters the next morning. He told Mike Huckabee’s radio program that he meant “forcible rape” instead of “legitimate rape.” “Let’s be clear, rape is never legitimate. It’s an evil act.”

On his view that abortion should be banned in all instances, with no exceptions for rape or incest or the health of the mother, Akin didn’t clarify or explain; not when the “liberal media” and Democratic politicians came after him; not even after his own party’s leaders, the National Republican Senatorial Committee and the men at the top of the ticket, Mitt Romney and Paul Ryan, all urged him to pull out of the Missouri Senate race.

Even after the deadline for withdrawal passed and Karl Rove cracked a joke about his murder (“We should sink Todd Akin. If he’s found mysteriously murdered, don’t look for my whereabouts,” Rove told a private fundraiser⁶), the Missouri congressman didn’t budge. He saw no reason to. Todd Akin has held the same position for years. He’s been elected, re-elected and he’s legislated for two decades on these issues. In DC, Congressman Akin serves on the House Committee on Science.

Evangelical minister-turned-presidential candidate-turned-talk show host Huckabee spoke of

Akin’s constituency when he let rip: “In a party that supposedly stands for life it was tragic to see the carefully orchestrated and systematic attack on a fellow Republican [...]. Is this what the party really thinks of principled pro-life advocates?”⁷

The fact is, Akin and Huckabee and their ilk had every right to take offense at being brushed off by party bigwigs. On the same day that Romney and Ryan were trying to strong-arm him to drop out of his race because of his supposedly “extreme” views, the party members assembled at the Republican National Convention in Tampa FL, voted to approve their 2012 Party Platform which includes a Human Life Amendment (or HLA), asserting that “the unborn child has a fundamental individual right to life which cannot be infringed.” The HLA would effectively ban abortion with no exceptions for rape or incest, ban most types of contraception, and could arguably make a woman criminally liable for her own miscarriage. It has been official GOP party policy since 1992.

While Mitt Romney, for now, says he believes that a woman who’s been raped should not be jailed for obtaining an abortion, the man he picked for his running mate, Paul Ryan, agrees with Akin that the HLA doesn’t go far enough. Ryan opposes abortion in all situations, including rape and incest, and including when there’s a danger to the pregnant woman’s health. Ryan has been elected seven times by his Wisconsin district, never with less than 57 percent of the vote. He is the ranking Republican on the House Budget Committee, and he is one of sixty-four co-sponsors of HR 212, the so-called Personhood Amendment that would give legal standing—and rights—to a fertilized egg.

Akin’s convenient “shut it all down” fantasy probably comes from a 1999 paper that is still easily found on the website of the nation’s big-

⁶ Tim Mak, Report: Karl Rove make Todd Akin murder joke, Politico, August 31, 2012, www.politico.com/news/stories/0812/80522.html.

⁷ Huckabee: Second look at Todd Akin, August 23, 2012, <http://hotair.com>.

gest anti-choice group, the National Right to Life Committee. As for that chilling word “forcible” (as distinct from “statutory”), Akin and Ryan co-sponsored a “No Taxpayer Funding for Abortion Act,” which, among other things, sought to introduce the concept into the federal law books. Federal law prevents federal funds from paying for abortions and yet the law also contains an exception for women who are raped. Akin and Ryan sought to shrink this exception by allowing only for pregnancies arising from “forcible rape.” Under H.R. 3, a victim of “forcible rape” might just qualify for federally funded abortions. A minor—a twelve-year-old, say, raped and impregnated by her mother’s boyfriend—would not (nor would victims of incest over 18 years old). A version of this bill passed the GOP-controlled House (only after an outcry was the “forcible rape” language stripped out.)

Akin’s use of the word “legitimate” reflects the widely held view in the anti-abortion movement that women lie to avail themselves of those rape exceptions in abortion-banning laws. In South Dakota in 2006, when state Senator Bill Napoli, an outspoken supporter of criminalization, was asked to describe a circumstance in which abortion might be “legitimate” after rape, he thought for barely a moment before blurted out:

A real life description to me would be a rape victim, brutally raped; savaged. The girl was a virgin. She was religious. She planned on saving her virginity until she was married. She was brutalized and raped, sodomized as bad as you can possibly make it and impregnated. I mean that girl could be so messed up, physically and psychologically, that carrying that child could very well threaten her life.

Then too, the outburst from the heartland prompted outrage in the media and breathless talk about a “Republican War on Women.” Then too, Democrats flooded their voters with fundraising letters to the effect that women had better vote for Democrats—or lose control

over their own bodies. Democrats thereafter won the White House and majorities in both the Senate and the House. Eight million more women voted than men in 2008. Yet four years on, Americans are gearing up for another battle in “the war on women” and once again, women are feeling the hit.

“If anything in spite of all our work, things are getting worse,” says Lynn Paltrow, director of National Advocates for Pregnant Women, a policy and legal support group.

While national polls show that most Americans support birth control and oppose the criminalization of abortion, the last two years have seen a historic spike in laws restricting women’s access to reproductive health services. After the Republicans’ Tea-Party-fuelled victories in the 2010 mid-term elections, state legislatures introduced more reproduction-related bills in 2011 than ever before: 1,100 bills, one hundred and thirty five of which became law by the end of that year. The first quarter of 2012 saw an additional 944 bills doing everything from restricting access to abortion per se to attempting to cut insurance coverage.

Lawmakers in Michigan, which voted overwhelmingly for President Obama in 2008, proposed a package of bills in 2012 that would effectively make abortion inaccessible to women across the state in the name of “protecting” women from “unsafe” clinics. State Representative Lisa Brown was silenced after Republicans who control the House said she “violated decorum” by using the word “vagina” in the debate. Another representative was benched after referring to vasectomies.

“I really had no idea it would have this effect on people,” Brown told the press. “It’s an anatomically correct term for woman’s anatomy. It actually exists in Michigan statutes in three different places. This bill was about abortion. That doesn’t happen without a vagina.”

A different legislative craze has relied heavily on the word vagina. That's the drive for vaginal probes. At last count, twenty states require women to view the image of their fetus or listen to its heartbeat before obtaining an abortion (thus increasing cost, extending the process and putting legal abortion out of the reach of more women). But because many women seeking abortions haven't been pregnant long enough for their fetuses to show up on jelly-on-the-belly ultrasound scans, Virginia passed (and the state's Governor initially supported) a law that would have required invasive trans-vaginal ultrasound examinations. That's trans-vaginal—with an internal probe.

Legislators have gone to bizarre lengths to make people look at fetuses. In an effort to pass mandatory ultrasound legislation in Idaho, the bill's sponsors wheeled six pregnant women and an ultrasound machine into the state Capitol hearing room and threw up a huge monitor so that Boise lawmakers could listen and observe the scan.

Some say the good news is many of the creepiest of these initiatives have been voted down. Legislators in Idaho (next to Utah, the most solidly Republican state in the union) declined to mandate ultrasounds. In Virginia, public outrage led Republican lawmakers to make the state-mandated penetration part of their law optional.

So-called personhood amendments have gone down to defeat these past two years too. After much speculation that the vote would be close and that the amendment might possibly pass, Mississippi voters opposed a fetal "personhood amendment" to their state Constitution last fall.

Modeled on the HLA but targeted at the states for passage, the amendment's defeat had liberals gloating. "They must have figured if they could pass the thing anywhere in the country, it

would probably pass in conservative Mississippi," declared Rachel Maddow on Democratically-inclined cable channel, MSNBC.

After voters in Oklahoma, Ohio, Oregon, Mississippi (again), Montana, Nevada, Arkansas, Florida, California and Colorado declined to sign petitions in large enough numbers to even put the question on their ballots this fall, the American Civil Liberties Union cheered: "Voters have overwhelmingly rejected personhood initiatives sending messages to personhood proponents, as in: 'over.' 'Finito.' Not interested. The fat lady has sung and your idea is a loser."

Not so fast. It's not just women's reproductive rights that have been taking a hit. Election year 2012 also saw two landmark pieces of economic rights legislation brought up for renewal—and stopped in their tracks. The 1994 Violence Against Women Act has been reauthorized as a routine matter for years. The 1963 Equal Pay Act is well overdue for an update. Both were bogged down in damaging amendments and then shelved by Republicans in Congress before renewal.

At the same time, states like Wisconsin, Pennsylvania, Ohio and Texas have attempted to make new rules for voting. So-called Voter-ID laws disproportionately affect women (as the oldest and the poorest part of the population) because they are the least likely to own the government-issued photo identification those state governments would like to require for voting.⁸

When it comes to civil rights, since abortion was ostensibly legalized under Roe vs. Wade, 38 states have passed laws that create a crime for causing the death of a fetus—at least 23 of which apply the law at the earliest stages of pregnancy.

⁸ See also James P. Hare, *Steal the Vote. Voter Suppression in the 21st Century*, www.rosalux-nyc.org.

"The right's assault on women isn't just about access to abortion and birth control, it's about empowering the government to put more women in jail," says Paltrow. Paltrow and her organization have already been involved in the cases of several women who've been incarcerated on charges of "feticide" or "fetal homicide" in connection with their pregnancies. Regina McKnight served eight years in jail in South Carolina convicted of homicide by child abuse after suffering a stillbirth her accusers traced to her drug use. Her supporters estimate that McKnight is one of about 200 women who have been arrested for the crime of using drugs while pregnant.

Bei Bei Shuai spent over a year in an Indiana jail when friends were able to rescue her after a suicide attempt but doctors were unable to save her baby. Linda Pence, the lawyer representing Shuai, told *Nation* columnist Katha Pollit:

These laws say there's one law for pregnant women and another for everyone else [...]. For everyone else suicide is a mental health issue. For a pregnant woman, it's a crime. That's a violation of women's constitutional right to equal treatment under the law.⁹

The last time the U.S. saw an anti-abortion, pro-criminalization drive like this was 150 years ago, in the bitterly divided post Civil-War era

that Mark Twain dubbed the Gilded Age. At its time (as now) were economic insecurity, racial anxiety and a growing gap between rich and poor. Then and now, the assault on women's rights was combined with an assault on workers' rights and civil rights generally. Nor was it just about access to abortion and birth control; it was about social control, democracy and economics. And then and now, wrapped up in it all was the curious question of personhood.

Parties in America change. (In the 1880s, the party of reaction was the Democratic Party.) The question of personhood, however, has a long, repetitive history. At moments of political and social expansion—of political freedom after the throwing-off of British rule, or of democracy after the Civil War—the U.S. has stepped one foot forward, and the forces of reaction have taken us at least half that stride back. Women, the poor and people of color have always served as the canaries in U.S. society's coalmine. Un-enfranchised under the Constitution, un-free after independence and the Civil War: their status has always provided a sobering reality check on the rhetoric of the moment. From the "Founding Fathers" to the Tea Party, the evidence suggests we're in the next "reconstruction" right now. We don't know where it's headed, but one thing seems clear: this debate is nowhere near "finito" yet.

The Curious Question of Personhood

It is impossible to see one's own period in perspective; but on the surface, the points of resemblance between our own post-war difficulties and those which followed the Civil War are so numerous that, in going through the records and memoirs of the earlier period, one has the sense of following our own history, told in a slightly foreign language.

Lewis Mumford¹⁰

In May 1886 the U.S. Supreme Court announced its decision in a case involving a California coun-

ty and a railroad. Southern Pacific Railroad had withheld six years of property taxes claiming it was being taxed unequally compared to land-holding entities in other counties. Attorneys for the railroad used the 14th Amendment of the U.S. Constitution to justify their cause. The railroad's attorney argued:

⁹ The Nation, March 26, 2012.

¹⁰ Mumford, Lewis, *The Brown Decades: A Study of the Arts in America, 1865-1895* (New York: Dover Publications, 1955 edition), p.10.

I believe that the clause in relation to equal protection means the same thing as the plain and simple yet sublime words found in our Declaration of Independence, 'all men are created equal.' Not equal in physical or mental power, not equal in fortune or social position, but equal before the law.¹¹

Social historian and cultural critic Lewis Mumford wrote about the post-Civil War age as a period of dashed expectations. "There are occasional years when, after spring has leafed and blossomed, a long series of storms and rain destroys ones sense of the summer," he wrote. "No abstract ideal can be translated into an actual condition or institution without seeming to undergo a blight."

Ever since the adoption of the Constitution, slaves had been counted as three-fifths of a person for census purposes. After the Civil War, along with the 13th Amendment ("Neither slavery nor involuntary servitude [...] shall exist within the United States") and the 15th Amendment ("The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude"), the 14th Amendment was supposed to guarantee that freed slaves would finally count as "full persons" with full access to legal due process.

Yet corporate attorneys, with resources to spare after the boom of the war, were filing suit after suit to the effect that the 14th Amendment extended to corporations (which had historically been referred to in legal documents as "artificial persons,") the same protections as people. In its entirety the 14th Amendment reads:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof,

are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Delphin M. Delmas, the attorney representing Santa Clara County in the 1886 case, disagreed with the railroad's lawyers:

The shield behind which [the Southern Pacific Railroad] attacks the Constitution and the laws of California is the Fourteenth Amendment. It argues that the amendment guarantees to every person within the jurisdiction of the State the equal protection of the laws; that a corporation is a person; that, therefore, it must receive the same protection as that accorded to all other persons in like circumstances [...]. To my mind, the fallacy, if I may be permitted so to term it, of the argument lies in the assumption that corporations are entitled to be governed by the laws that are applicable to natural persons.

The U.S. Supreme Court ruled against Delmas and in favor of Southern Pacific Railroad, and for more than a century thereafter—right up to the 2010 decision in *Citizens United v. Federal Election Commission*—corporate lawyers have claimed the same rights for their clients as for flesh and blood people. In *Citizens United*, the Court ruled that Congress's laws limiting corporate spending in elections infringed the "free speech" rights of corporate "persons."¹²

Actual humans, meanwhile, have had a harder time availing themselves of the law's supposed protections.

"The great question, sir, is this: Am I a man? If I am such, I claim the rights of a man," declared Henry McNeal Turner, who served in the Georgia House of Representatives during the brief

11 *Santa Clara County v. Southern Pacific Railroad Co.*, 118 U.S. 394 (1886), <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=118&invol=394>. Quoted in Hartmann, Thom (2010), *Unequal Protection: How Cor-*

porations Became "People"—And How You Can Fight Back, San Francisco: Berrett-Koehler Publishers (Kindle Edition), p. 334.

12 Hartmann, op. cit., pp. 20-21.

Reconstruction years until that body voted, in 1868, to expel persons born in servitude.¹³

“The only question left to be settled now is: are women persons?” asked Susan B. Anthony after her arrest for casting an illegal vote in Rochester, NY, in the presidential election of 1872. “Being persons, then, women are citizens; and no state has a right to make any law or to enforce any old law, that shall abridge their privileges...”¹⁴

Turner was expelled and Anthony was convicted. That was the pattern thenceforth. As Supreme Court Justice Hugo Black reflected bitterly years later,

*Of the cases in this Court in which the Fourteenth Amendment was applied during the first fifty years after its adoption, less than one-half of one percent invoked it in protection of the Negro race, and more than fifty percent asked that its benefits be extended to corporations.*¹⁵

Looking back now, from our time to theirs, is not to argue simplistically that the Gilded Age is us. But the man who named that era is also reputed to have said: “History does not repeat but it does rhyme.” And 2012 rhymes with the Gilded Age—a lot.

Then, as now, the economy was in transition. While the years after the Civil War saw industry’s growth and consolidation, the years since World War II have seen the slow decline of manufacturing and of manufacturing jobs in the U.S. Then as now, the population of the USA was changing. Formerly enslaved blacks had been freed and immigrants were streaming in from Ireland, Germany and around the world. As his-

torian Eric Foner puts it, “The Civil War consolidated the national state while identifying that state, via emancipation, with the interests of all humanity and more prosaically with a coalition of diverse groups and classes.”¹⁶

Then (as now) new voting blocks were demanding new status in that national state. Then, those wanting a new place included industrialists and big bankers, and reformers including industrial workers, women and free blacks. Today, the super-rich, hedge-fund managers, financial elites, and the so-called ObamaNation—young people, people of color, and women—are battling it out. After the Civil War, factories (which had hitherto been dominated by women) were replacing small farms and the craftsman’s shop. With the expansion of the railroads, industry had new means of distribution, mechanization and mass production. In our own times, with Internet technology and globalization having decimated the industrial workforce, the service sector is the fastest growing part of the workforce (another sector previously dominated by women). Never since the Gilded Age has the gap between rich and poor gulfed bigger—or democracy appeared more up for grabs.

In 1967, Dr. Martin Luther King Jr. spoke prophetically about the matter of American choices: “There is nothing to keep us from remolding a recalcitrant status quo with bruised hands until we have fashioned it into a brotherhood.”¹⁷ The choice, he wrote, is between “chaos and community.” Then and now, the treatment of women, people of color and immigrants isn’t a detail; it was—and is—central to the advance of history.

13 Zinn, Howard; Arnove, Anthony, *Voices of a People’s History of the United States*. Seven Stories Press, 2011 (Kindle Edition), p. 196.

14 Susan B. Anthony, *On Women’s Right to Vote*, www.historyplace.com/speeches/anthony.htm.

15 Hartmann, op. cit., p. 54.

16 Foner, Eric, *A Short History of Reconstruction* (New York: Harper & Row, 1990), p. 13.

17 Dr. Martin Luther King, Jr., *Where do we Go From Here: Chaos of Community?* (1967), in: James Melvin Washington (ed.), *A Testament of Hope: The Essential Writings of Martin Luther King Jr.* (New York: Harper & Row, 1986).

Abortion as “Race Suicide”

As Michelle Alexander writes in her book, “The New Jim Crow,” the post Civil War years saw a political, rhetorical commitment to “reconstruction.” The Federal government stationed troops in the region and pledged to remake the post-slave states so that freed blacks could claim their rights. At the same time, however, Southern states got busy passing any manner of laws, against “vagrancy” and what today we might call being “unemployed while black.” At a time when former slaves were setting up their own communities and planting their own crops, those laws “essentially made it a criminal offense” to be self-employed or not working and were applied selectively to blacks, writes Alexander. Easily arrested and convicted under the new laws, “prisoners were forced to work for little or no pay.”¹⁸

In addition to the codes, southern landowners used their economic might to arm mobs and organize white militias and the Ku Klux Klan. From 1868 to 1876, most years saw 50-100 African Americans lynched. Eventually, union troops left the South and segregation returned. In the period that followed, writes Alexander “politicians competed with each other by proposing and passing ever more stringent oppressive and downright ridiculous legislation.” In Texas and the Southwest, mobs were lynching Mexicans, too. Chinese shopkeepers in San Francisco and workers on the railroads lived in fear of thugs out to get the “Yellow Peril.”

The very same period (1860-1880) saw a drive to criminalize abortion. Women had been pretty much free to abort unwanted pregnancies in the early United States. As historian James Mohr reports, in 1800, no jurisdiction in the country had statutes governing abortion. One hundred

years later, abortion was a criminal offense in every state in the union. Writes Mohr:

Between 1860 and 1880 the regular physicians’ campaign against abortion in the United States produced the most important burst of anti-abortion legislation in the nation’s history. At least 40 anti-abortion statutes of various kinds were placed upon state and territorial law books during that period; over 30 in the years from 1866 through 1877 alone. Some 13 jurisdictions formally outlawed abortion for the first time, and at least 21 states revised their already existing statutes on the subject.¹⁹

If black people by means of terror and Klan violence could remain the most exploited part of the working class, “then capitalists could enjoy a double advantage,” writes Angela Davis. They would earn “Extra profits [...] and white workers’ hostilities toward their employers would be defused.”²⁰ Better yet, if the state could be made to recede from its humanity-identified mission, as it was after the defeat of Reconstruction. If employer profits and a refusal to relinquish white power gave rise to Jim Crow, similar forces fuelled the drive to criminalize women’s reproductive choices. The criminalization drive Mohr suggests was fuelled in part by the greater visibility of abortion in the increasingly urban and industrialized society, and a rise in actual numbers of abortions. A third factor, and the one that gave the push particular vigor, was demographic and economic:

The dramatic surge of abortion in the United States after 1840 was attributed not to an increase in illegitimacy or a decline in marital fidelity, but rather to the increasing use of abortion by white, married, Protestant, native-born women of the middle and upper classes who either wished to de-

¹⁸ Alexander, Michelle *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010), p. 28.

¹⁹ Mohr, James C., *Abortion in America: The Origins and Evolution of National Policy* (New York: Oxford University Press, 1979), Kindle Location 2786.

²⁰ Davis, Angela Y., *Women Race & Class* (New York: Vintage Books, 1983), p. 190.

*lay their childbearing or already had all the children they wanted.*²¹

Feminist historian Linda Gordon quotes a preacher who feared:

*The family idea is, indeed, drifting into individualism... Now [woman] has weaned herself from the hearthstone, and her chief end is self. Pray! What has brought about these changes? By the invention of the sewing machine, by the introduction of ready-made clothing, and by that damnable sin – the avoidance of offspring, our women are no longer compelled to stay at home—the home-tether is broken... [The sin of avoiding offspring] comes from fashion, from cowardice, from indolent wealth and shiftless poverty.*²²

In an era of high immigration and black emancipation, many whites worried about “race suicide.” President Theodore Roosevelt wrote to a friend in 1902 that men unwilling to work were one threat to the nation; women another: “If the women do not recognize that the greatest thing for any woman is to be a good wife and mother, why, that nation has cause to be alarmed about its future.”²³ In a 1905 speech to Congress, he singled out the decreasing size of “native” born American families as “one of the greatest sociological phenomena of our time.” (He wasn’t, of course, referring to Native Americans.) By 1906, he was flatly

blaming childless white women for national death. “Willful sterility (is) the one sin for which the penalty is national death, race suicide.”²⁴

As far as women’s rights were concerned, organized labor was no help. While women had been the face of factory labor in the agricultural years (when the farm couldn’t spare male labor) the Civil War not only shut down the female-dominated cotton mills, but also sped up mechanization. The small farmer and the small craftsman who’d previously been the face of labor went seeking work on the assembly line. There, competition was stiff, with immigrants and freed blacks all moving that direction too. Instead of expanding their united front against exploitative bosses, most union leaders did what they could to claim the best work for their own ilk: most unions were race segregated, divided over immigration, and the vast majority wished women back into the home and out of the workplace. In the late 1880s, the nation’s largest labor organization, the American Federal of Labor (AFL) introduced a resolution at the national convention to ask the U.S. Congress: “To remove all women from government employment and thereby to encourage their removal from the everyday walks of life and relegate them to the home.”²⁵

Working Women in a Gilded Age

Today, that’s just what’s happening. Strange as it may sound, in the last few years, no group has disappeared in greater numbers than women from the U.S. labor force. When the recession began in December 2007, the official

unemployment rate for both women and men stood at 4.4 percent. Over two and a half years later, their unemployment rates finally met—at 7.7 percent. But since the start of the recovery in June 2009, men’s unemployment has dropped 2.2 percentage points, while women’s

21 Mohr, op. cit., Kindle Locations 675-683.

22 Linda Gordon, *The Moral Property of Women: A History of Birth* (Chicago: University of Illinois Press, 2002).

23 Elting E. Morison et al, eds., *The Letters of Theodore Roosevelt* (Harvard University Press, 1951), Vol. 3, p. 354.

24 *Messages and Papers of the Presidents* (New York: Bureau of National Literature and Art, n.d.), 6984.

25 Berch, Bettina, *The Endless Day: The Political Economy of Women and Work* (New York: Harcourt Brace Jovanovich, 1982) p. 41.

unemployment has essentially flat-lined. After decades of growth, for the first time since the second wave of feminism began in the 1960s, the proportion of women working for wages outside the home in the U.S. is not growing but shrinking.

The Bureau of Labor Statistics reported in early 2012 that a quarter of all new jobs in the United States would be in construction, retail and health services. Men have gained the lion's share of those jobs—even in traditionally female-dominated workplaces. Overall, as economist Bryce Covert reports, once the recession officially ended, women have won less than 20 percent of the jobs that have been added to the economy, regaining just a quarter of the jobs they lost during the crisis. Men have recovered 42 percent of lost jobs.²⁶

One reason is that women represent 57 percent of workers in the public sector (compared with 48 percent in the private sector, where the gains are). They hold a disproportionate share of state and local government jobs—exactly those levels of government that have been shedding workers by the shipload. Another reason is that women are finding it harder to find work, and they're still being paid less than men when they are working. Across the board, women earned on average 78.2 percent of what men earned in 2009 according to the U.S. Census.²⁷ Even in female-dominated workplaces, men are paid better. In a survey of 436 retail workers at national retail chains (among them Target, Old Navy and Urban Outfitters), the median gender gap between women and men was the difference between \$9.00 per hour and \$10.13 per hour. Women were also found to be less likely to receive benefits from employers, or promotions. Hit hardest were

the 53 percent of black women and 77 percent of Latina women who earned less than \$10 per hour. On that wage approximately a third of those surveyed supported at least one family member. (As for all that talk about education and training, just over 70 percent of the workers the Retail Action Project talked to had completed some college or a college degree. Those with an associate's degree had a median hourly wage of \$10 for an annual gross income of \$16,640.)²⁸

It's no better among the so-called creative class. To quote Richard Florida in *The Atlantic*:

*Women hold slightly more than half (52.3 percent) of creative class jobs and their average level of education is almost the same as men. But the pay they receive is anything but equal. Creative class men earn an average of \$82,009 versus \$48,077 for creative class women. This \$33,932 gap is a staggering 70 percent of the average female creative class salary. Even when we control for hours worked and education in a regression analysis, creative class men out-earn creative class women by a sizable \$23,700, or 49.2 percent.*²⁹

In healthcare, where women outnumber men three to one, Florida finds they earn less than half as much (\$49,877 vs. \$109,938). In law, women make up 54 percent of the workforce, and also earn less than half as much as guys (\$65,886 vs. \$137,680).

From the male-dominated world of the military comes the news that while the number of homeless veterans overall has been shrinking over the last few years, the number of homeless women veterans has doubled since 2006. According to the General Accounting Office almost two-thirds of homeless women vets were between 40 and 59 years old, over one-third had disabilities, and many supported minor

26 Bryce Covert, August 27, 2012, www.thenation.com/blog/169575/women-backslide-retail-jobs-losing-yet-another-foothold-new-economy.

27 Men's and Women's Earnings for States and Metropolitan Statistical Areas: 2009, www.census.gov/prod/2010pubs/acsbr09-3.pdf.

28 Retail Action Project, <http://retailactionproject.org/2012/01/discounted-jobs-how-retailers-sell-workers-short-executive-summary>.

29 Progress and Renewal. Stories of Urban Reinvention, www.theatlanticcities.com/jobs-and-economy/2011/11/income-disparity-women-creative-class/359.

children (and more than 60 percent of surveyed programs that serve homeless women veterans did not house children).

The dire statistics on the economy read like a novel of the post-feminist apocalypse, even without the personhood craze. As in the 1880s, while social conservatives fight for fetal rights, the people running away with the lion's share of power in U.S. democracy are the super-rich, who under the Supreme Court's decision in Citizens United were granted new status, and new ways to influence elections.

The U.S. is on track to see a record \$6 billion spent on the 2012 presidential election. The Supreme Court decision lifted limits on corporate contributions to new "Super-PACs," groups that raise and spend cash during campaigns but stand legally separate from the parties and the candidates. The top 1 percent of earners—the group that has captured ninety-three percent of the gains during the 2009-2010 "recovery"—has been source number one for SuperPAC cash, followed only remotely by organized labor and trade unions. Their priority issues: fighting efforts to raise the minimum wage or tax the super-wealthy, and certainly any expansion of that "humanity-identified" role of government.

After a brief revival in the 1960s, that "humanity-identified" role is quite possibly back on its death-bed. Congress is debating cutting taxes on billionaires while the median household income in the U.S. today sits at its lowest level since 1995 (\$50,054³⁰). A record 46.2 million Americans are officially classified as living in poverty by a 20th century standard that most 21st century statisticians call hopelessly outdated.

The Cult of Motherhood is also back. Professional lawyer turned political wife, Michelle Obama, has been refashioned as "Mom in Chief." The

wife of the Republican presidential candidate wrote in *USA Today* that there is no more "glorious crown" than the "crown of motherhood."³¹ And yet, when it comes to poor mothers, the state has all but abandoned them. In 26 states, less than one fifth of all children living in poor families are receiving cash assistance. The GOP would cut the one support six million families have left as their only reliable income: food stamps. Although every fact check has shown he's wrong, Mitt Romney and the Romney-phile SuperPACs keep repeating a lie that Obama is a socialist and his administration is out to redistribute wealth, especially to black people. Rush Limbaugh spent much of 2010 arguing that Obama's healthcare plan was a covert way to grant blacks the "reparations" that had been promised, but never granted, after emancipation. It's not true, and neither is that the point. As in the Gilded Age, "the cult of motherhood" is an effective way to divide women along class and race lines. Race-laced "reparations" rhetoric is an effective way to split the "deserving" (hard working, protestant, native born) poor from the "others": the same black, immigrant, selfish-female "others" we have known since Reconstruction.

"Personhood USA," the group pushing the "personhood amendments," is not giving up. Five Republican presidential candidates signed the group's "Personhood Pledge" in 2012. If the pledge is pushed as doggedly as the GOP's No Tax pledge has been, 100 percent of candidates could be signatories a few election cycles hence. The pledge states in part:

I stand with President Ronald Reagan in supporting 'the unalienable personhood of every American from the moment of conception until natural death,' and with the Republican Party platform in affirming that I 'support a human life amendment to the Constitution, and endorse legislation to make clear that the 14th Amendment protections apply to unborn children.'

30 USA Today, September 11, 2012.

31 Ann Romney, Three Seasons of Motherhood, USA Today, May 10, 2012

The first state to pass such an amendment will be blatantly challenging *Roe vs. Wade* and federal law. The last time we saw that, a Civil War ensued. Today's fetal personhood-pushers don't only rhyme with Gilded Age history, they quote its case law. To cite just one example, a group called Liberty Counsel entered an amicus brief in an anti-contraception case in front of the Supreme Court of Alabama recently. Citing a string of late 19th cases to make their case for criminalization they write: "At the dawn of the 20th Century, both common law and public sentiment solidly supported the concept that an unborn child was a human life from the time of conception."

What is Liberty Counsel? In their brief they describe their mission as "to preserve and protect the Judeo-Christian foundation of the country, and particularly the inalienable right to life guaranteed to all including unborn children."

Half a century ago, the 1960s ushered in an expansion of government and democracy that by dint of hard work and good organizing reshuffled American rights and freedoms. For the first time since the 1930s, American government was forced to grapple again with what historian Eric Foner called the "humanity-related" mission that federal government took on after emancipation. Reconstruction was defeated after less than twenty years. The civil rights movement pushed Lyndon Johnson into signing the 1963 Civil Rights Act, which kicked off a decade of law making, expanding rights for people of color, for women, and eventually expanding the franchise for young people. Those who hailed the election of Barack Obama as the culmination of that process weren't entirely wrong. No saint, no radical, Barack Obama's administration has fired more deadly drones,

deported more immigrants, incarcerated more people and prosecuted more whistle blowers than his predecessor. But Barack Obama's career would have been impossible were it not for the civil rights movement, affirmative action, welfare (on which his mother depended for a period), Medicare (through which his grandmother obtained healthcare) and an expansive role for government. His election in 2008 was brought about (yes, by plenty of Wall Street cash—he got the lion's share of it that year, but also) by young, Spanish speaking, black and female Americans who organized, mobilized and (when they could) voted in record numbers.

This year's election is taking place as headlines blare: white Americans are losing their numerical supremacy. By 2050 the United States is anticipated to be a minority white nation. In the dying days of the industrial economy, millions have lost their jobs, their retirement, their prospects and their way. A well-funded media have done their best to rile people up behind billionaire-bankrolled pressure groups collectively defined as "the Tea Party movement." Tea Party members talk a lot about "taking our country back" from socialists, trade unionists, "Wall Street" and the women whom the right wing long ago dubbed the "femi-nazis." They heartily defend their right to the best jobs, their right to bear arms, and their right to "shrink" their own taxes and by extension the possible functions of government. We have been down this road before. The debate the nation is embroiled in here at the opening of the 21st Century is not about one race, one election, one candidate or one gender. It's about "choice" all right. But not only women's. It's a choice about the composition of the American state and the commitments of its government.