1837

Letter XII: Legal Disabilities of Women

Sarah M. Grimké

Concord, 9th Mo., 6th, 1837
My Dear Sister,

There are few things which present greater obstacles to the improvement and elevation of woman to her appropriate sphere of usefulness and duty, than the laws which have been enacted to destroy her independence, and crush her individuality; laws which, although they are framed for her government, she has had no voice in establishing, and which rob her of some of her essential rights. Woman has no political existence. With the single exception of presenting a petition to the legislative body, she is a cipher in the nation; or, if not actually so in representative governments, she is only counted, like the slaves of the South, to swell the numbers of law-makers who form decrees for her government, with little reference to her benefit, except so far as her good may promote their own. I am not sufficiently acquainted with the laws respecting women on the continent of Europe, to say anything about them. But Prof. Follen, in his essay on "The Cause of Freedom in our Country," says, "Woman, though fully possessed of that rational and moral nature which is the foundation of all rights, enjoys amongst us fewer legal rights than under the civil law of continental Europe." I shall confine myself to the laws of our country. These laws bear with peculiar rigor on married women. Blackstone, in the chapter entitled "Of husband and wife," says:

> By marriage, the husband and wife are one person in law; that is, the very being, or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband under whose wing, protection and cover she performs everything. For this reason, a man cannot grant anything to his wife, or enter into covenant with her; for the grant would be to suppose her separate existence, and to covenant with her would be to covenant with himself; and therefore it is also generally true, that all compacts made between husband and wife when single, are voided by the intermarriage. A woman indeed may be attorney for her husband, but that implies no separation from, but is rather a representation of, her love.

Here now, the very being of a woman, like that of a slave, is absorbed in her master. All contracts made with her, like those made with slaves by their owners, are a mere nullity. Our kind defenders have legislated away almost all our legal rights, and in the true spirit of such injustice and oppressions, have kept us in ignorance of those very laws by which we are governed. They have persuaded us, that we have no rights to investigate the laws, and that, if we did, we could not comprehend them; they alone are capable of understanding the mysteries of Blackstone, &c. But they are not backward to make us feel the practical operation of their power over our actions.

> The husband is bound to provide his wife with necessaries by law, as much as himself; and if she contracts debts for them, he is obligated to pay for them; but for anything besides necessaries, he is not chargeable.

Yet a man may spend the property he has acquired by marriage at the ale-house, the gambling table, or in any other way that he pleases. Many instances of this kind have come to my knowledge; and women, who have brought their husbands handsome fortunes, have been left, in consequence of the wasteful and dissolute habits of their husbands, in straitened circumstances, and compelled to toil for the support of their families.

> If the wife be indebted before marriage, the husband is bound afterwards to pay the debt; for he has adopted her and her circumstances together.

The wife's property is, I believe, equally liable for her husband's debts contracted before marriage.

> If the wife be injured in her person or property, she can bring no action for redress without her husband's concurrence, and his name as well as her own: neither can she be sued, without making her husband a defendant.

This law that "a wife can being no action," &c., is similar to the law respecting slaves. "A slave cannot bring a suit against his master, or any other person, for an injury – his master, must bring it." So if any damages are recovered for an injury committed on a wife, the husband pockets it; in the case of the slave, the master does the same.

> In criminal prosecutions, the wife may be indicted and punished separately, unless there be evidence of coercion from the fact that the offense was committed in the presence, or by the command of her husband. A wife is excused from punishment for theft committed in the presence, or by the command of her husband.

It would be difficult to frame a law better calculated to destroy the responsibility of woman as a moral being, or a free agent. Her husband is supposed to possess unlimited control over her; and if she can offer the flimsy excuse that he bade her steal, she may break the eighth commandment with impunity, as far as human laws are concerned.

> Our law, in general, considers man and wife as one person; yet there are some instances in which she is separately considered, as inferior to him and acting by his compulsion. Therefore, all deeds executed, and are done by her during her coverture (i.e., marriage,) are void, except it be a fine, or like matter of record, in which case she must be solely and secretly examined, to learn if her act be voluntary.

Such a law speaks volumes of the abuse of that power which men have vested in their own hands;. Still the private examination of a wife, to know whether she accedes to the disposition of property made by her husband is, in most cases, a mere form; a wife dares not do what will be disagreeable to one who is, in his own estimation, her superior, and who makes her feel, in the privacy of domestic life, that she has thwarted him. With respect to the nullity of deeds or acts done by a wife, I will mention one circumstance. A respectable woman borrowed of a female friend a sum of money to relieve her son from some distressing pecuniary embarrassment. He husband was from home, and she assured the lender, that as soon as he returned, he would gratefully discharge the debt. She gave

her note, and the lender, entirely ignorant of the law that a man is not obliged to discharge such a debt, actually borrowed the money, and lent it to the distressed and weeping mother. The father returned home, refused to pay the debt, and the person who had loaned the money was obligated to pay both principal and interest to the friend who lent it to her. Women should certainly know the laws by which they are governed, and from which they frequently suffer; yet they are kept in ignorance, nearly as profound, of their legal rights, and of the legislative enactments which are to regulate their actions, as slaves.

> The husband, by the old law, might give his wife moderate correction, as he is to answer for her misbehavior. The law thought it reasonable to entrust him with this power of restraining her by domestic chastisement. The courts of law will still permit a husband to restrain a wife of her liberty, in case of any gross misbehavior.

What a mortifying proof this law affords, of the estimation in which woman is held! She is placed completely in the hands of a being subject like herself to the outbursts of passion, and therefore unworthy to be trusted with power. Perhaps I may be told respecting this law, that it is a dead letter, as I am sometimes told about the slave laws; but this is not true in either case. The slaveholder does kill his slave by moderate correction, as the law allows; and many a husband, among the poor, exercises the right given him by the law, of degrading women by personal chastisement. And among the higher ranks, if actual imprisonment is not resorted to, women are not unfrequently restrained of the liberty of going to places of worship by irreligious husbands, and of doing many other things about which, as moral and responsible beings, they should be the sole judges. Such laws remind me of the reply of some little girls at a children's meeting held recently at Ipswich. The lecturer told them that God had created four order of beings with which he had made us acquainted through the Bible. The first was angels, the second was man, the third beasts; and now, children, what is the fourth? After a pause, several girls replied, "WOMEN."

> A woman's personal property by marriage becomes absolutely her husband's, which, at his death, he may leave entirely away from her.

And further, all the avails of her labor are absolutely in the power of her husband. All that she acquires by her industry is his; so that she cannot, with her own honest earnings, become the legal purchaser of any property. If she expends her money for articles of furniture, to contribute to the comfort of her family, they are liable to be seized for her husband's debts: and I know an instance of a woman, who by labor and economy had scraped together a little maintenance for herself and a do-little husband, who was left, at his death, by virtue of his last will and testament, to be supported by charity. I knew another woman, who by great industry had acquired a little money which she deposited in a bank for safe keeping. She had saved this pittance whilst able to work, in hopes that when age or sickness disqualified her for exertion, she might have something to render life comfortable, without being a burden to her friends. Her husband, a worthless, idle man, discovered this hid treasure, drew her little stock from the bank, and expended it all in extravagance and vicious indulgence. I know of another woman, who married without the least idea that she was surrendering her rights to all her personal property. Accordingly, she went to the bank as usual to draw her dividends, and the person who paid her the money, and to whom she was personally known

as the owner of the shares in that bank, remarking the change in her signature, withdrew the money, informing her that is she were married, she had no longer a right to draw her dividends without an order from her husband. It appeared that she intended having a little fund for private use, and had not even told her husband that she owned this stock, and she was not a little chagrined, when she found that it was not at her disposal. I think she was wrong to conceal the circumstances. The relation of husband and wife is too near and sacred to admit of secrecy about money matters, unless positive necessity demands it; and I can see no excuse for any woman entering into a marriage engagement with a design to keep her husband ignorant that she was possessed of property. If she was unwilling to give up her property to his disposal, she had infinitely better have remained single.

> The laws above cited are not very unlike the slave law of Louisiana.
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> > All that a slave possesses belongs to his master; he possesses nothing of his own, except what his master chooses he should possess. By the marriage, the husband is absolutely master of the profits of the wife's land during the coverture, and if he has had a living child, and survives the wife, he retains the whole of those lands, if they are estates of inheritance, during his life; but the wife is entitled only to one third if she survives, out of the husband's estates on inheritance. But this she has, whether she has had a child or not. With regard to the property of women, there is taxation without representation; for they pay taxes without having the liberty of voting for representatives.

And this taxation, without representation, be it remembered, was the cause of our Revolutionary war, a grievance so heavy , that it was thought necessary to purchase exemption from it at an immense expense of blood and treasure, yet the daughters of New England, as well as of all the other States of this free Republic, are suffering a similar injustice – but for one, I had rather we should suffer any injustice or oppression, than that my sex should have any voice in the political affairs of the nation.

The laws I have quoted, are, I believe, the laws of Massachusetts, and, with few exceptions, of all the States in the Union." In Louisiana and Missouri, and possibly, in some other southern States, a woman not only has half her husband's property by right at his death, but may always be considered as possessed of half his gains during his life; having at all times power to bequeath that amount." That the laws which have generally been adopted in the United States, for the government of women, have been framed almost entirely for the exclusive benefit of men, and with a design to oppress women, by depriving them of all control over their property, is too manifest to be denied. Some liberal and enlightened men, I know, regret the existence of these laws; and I quote with pleasure an extract from Harriet Martineau's *Society in America* [1837] as proof of the assertion." "A liberal minded lawyer of Boston, told me that his advice to testators always it to leave the largest possible amount to the widow, subject to the condition of her leaving it to the children; but that it is with shame that he reflects that any woman should owe that to his professional advice, which the law should have secured to her as a right." I have known a few instances where men have left their whole property to their wives, when they have died, leaving only minor children; but I have known of more instances of "the friend and helper of many years, being portioned off like a salaried

domestic," instead of having a comfortable independence secured to her, while the children were amply provided for.

As these abuses do exist, and women suffer intensely from them, our brethren are called upon in this enlightened age, by every sentiment to honor, religion and justice, to repeal these unjust and unequal laws, and restore to woman those rights which they have wrested from her. Such laws approximated too nearly to the laws enacted by slaveholders for the government of their slaves, and must tend to debase and depress the mind of that being, whom God created as a help meet for man, or "helper like unto himself," and designed to be his equal and his companion. Until such laws are annulled, woman never can occupy that exalted station for which she was intended by her Maker. And just in proportion as they are practically disregarded, which is the case to some extent, just so far is woman assuming that independence and nobility of character which she ought to exhibit.

The various laws which I have transcribed leave women very little more liberty, or power, in some respects, than the slave. “A slave," says the civil code of Louisiana, "is one who is in the power of a master, to whom he belongs. He can possess nothing, nor acquire anything, but what must belong to his master." I do not wish by any means to intimate that the condition of free women can be compared to that of slaves in suffering, or in degradation; still, I believe the laws which deprive married women of their rights and privileges, have a tendency to lessen them in their won estimation as moral and responsible beings, and that their being made by civil law inferior to their husbands, has a debasing and mischievous effect upon them, teaching them practically the fatal lesson to look unto man for protection and indulgence.

Ecclesiastical bodies, I believe, without exception, follow the example of legislative assemblies, in excluding women from any participation in forming the discipline by which she is governed. The men frame the laws, and, with few exceptions, claim to execute them on both sexes. In ecclesiastical, as well as civil courts, woman is tried and condemned, not by a jury of her peers, but by beings, who regard themselves as her superiors in the scale of creation. Although looked upon as an inferior, when considered as an intellectual being, woman is punished with the same severity as man, when she is guilty of moral offenses. Her condition resembles, in some measure, that of the slave, who, while he is denied the advantages of his more enlightened master, is treated with even greater rigor of the law. Hoping that in the various reformations of the day, women may be relieved from some of their legal disabilities, I remain,

Thine in the bonds of womanhood,

Sarah M. Grimké

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