

# WOMEN, DEMOCRACY, AND THE PANDEMIC

By Prof. Paula A. Monopoli



**T**HE RECENT pandemic has had a disparate impact on women, particularly poor women and women of color. The economic toll was profound – nearly 3 million women forced out of the labor market, with the concomitant loss of wages, seniority, and retirement security. If women are to recover, their equal participation in democratic governance is essential. And the fundamental instrument of that participation is the vote.

Women’s right to vote was not protected by the U.S. Constitution until ratification of the Nineteenth Amendment in 1920. The pandemic eclipsed the amendment’s August 2020 centennial. But the commemoration did yield a better understanding of how its ratification did not ensure voting rights for women of color. As my colleague, Professor Taunya Banks and I discussed in the law

school’s new faculty webinar series last fall, Black and Brown women were disenfranchised by poll taxes, literacy tests, and threats of violence, even after the amendment’s ratification in 1920. Native American women were not afforded citizenship until 1924. And Asian immigrant women were denied the right to become naturalized citizens until the 1940s and 1950s.

Yet, women’s long struggle for suffrage has been erased from our collective memory, as I explain in my book, *Constitutional Orphan: Gender Equality and the Nineteenth Amendment* (Oxford Univ. Press 2020). When we recover that lost history, we find that white, Black, Brown, Asian American, and Native American suffragists were all constitution-makers. Their efforts re-shaped the constitutional landscape. Using their First Amendment rights to assemble, petition for redress of grievances, and speak in the public sphere, these suffragists secured additional constitutional rights. The rights they sought were not only a matter of equal status as an abstract matter—they were also a means to an end. Voting and holding public office, in particular, were important paths to power. And that political power could dismantle the remnants of subordinating legal regimes like coverture, while ensuring equal access to custody of children, relief from gender and racial violence, and equal economic opportunity.

One-hundred years later, women have yet to achieve full participation in our representative democracy. Only 26.5% of Congress, 30.9% of state legislatures, and 30.5% of local municipal officials are female. Nonetheless, throughout 2020 women persisted. Stacey Abrams led a voting rights movement that defied the odds, and Vice President Kamala Harris made history as the first woman elected to national office in the nation’s 245-year history.

The pandemic threatens to unravel years of progress in the realm of gender equality, exacerbating inequalities like the gender pay gap. But in the Nineteenth Amendment, we find a constitutional commitment to sex-equality in democratic governance. The amendment protects our right to engage in the political process, and to demand policies that will mitigate the pandemic’s social and economic toll on American women. The Nineteenth Amendment is at the core of our equal citizenship, and the struggle to fully achieve that status continues. ■

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