

EVENT TRANSCRIPT

A SYMPOSIUM CELEBRATING THE FIFTEENTH ANNIVERSARY OF THE VIOLENCE AGAINST WOMEN ACT

WELCOMING REMARKS

PANEL ONE: PRESENT AT THE CREATION: DRAFTING AND PASSING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

GEORGETOWN UNIVERSITY LAW CENTER
LEGAL MOMENTUM AND *THE GEORGETOWN JOURNAL OF GENDER AND THE LAW*
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ALEXANDER ALEINIKOFF: I'm Alex Aleinikoff, Dean at Georgetown Law School. It's terrific to see everyone here. I'm very pleased to welcome you all to this really important event marking the fifteenth anniversary of the enactment of the Violence Against Women Act.¹ This has been a terrific collaboration of Legal Momentum and *The Georgetown Journal of Gender and the Law* and at this point I would like to sit down and turn the podium over to our symposium editor from the journal, a third year law student, Jessica Heaven. Welcome to Georgetown and thank you all for being here.

JESSICA HEAVEN: On behalf of *The Georgetown Journal of Gender and the Law*, welcome to this celebration of the fifteenth anniversary of the Violence Against Women Act. The Journal is very proud to be a part of this historic event, which is also an anniversary for us; 2009 marks the Journal's tenth year of publication. *The Georgetown Journal of Gender and the Law* is one of the only law journals in the country that explores the impact of gender, sexuality, and race on the theory and practice of law. The Journal began first as a symposium before it was a publication, so this event actually represents our twelfth annual symposium. In addition to the symposium issue the Journal also produces two other publications each year, our general issue and also our annual review. The annual review is written by Gender Journal staff and is geared toward practitioners. It is

1. Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1902 (codified as amended at scattered sections of 18 U.S.C. and 42 U.S.C.) (referenced throughout).

the first and only comprehensive survey of legal issues relating to gender and sexuality and their intersection.

Many people deserve thanks for making this event happen; as always, too many to be named individually. On behalf of the Journal, I would like to thank Legal Momentum for reaching out to us and partnering with us for this event and Professor Susan Deller Ross for suggesting the partnership in the first place. Thank you to the Georgetown Law administration and staff, and particularly to Dean Robin West for all of her efforts in making this event happen and coordinating everything. Finally, thank you to the Office of Special Events and to the Office of Journal Administration for working so hard to make everything run smoothly today. Now I am honored to introduce Irasema Garza, president of Legal Momentum.

IRASEMA GARZA: Thank you Dean Aleinikoff and Jessica and all of you for joining us this morning to celebrate an important milestone in the history of the struggle for women's rights—the fifteenth anniversary of the Violence Against Women Act, the first comprehensive federal legislative package designed specifically to end violence against women. As president of Legal Momentum, the nation's oldest women's legal defense and education fund, I am pleased that we are engaged in this inquiry here at Georgetown Law Center, home of rigorous feminist legal scholarship and advocacy. And for this look back at the VAWA and its impact we have assembled important advocates, lawyers, and thinkers in the movement to end gender-based violence, a remarkable group of individuals who have been and continue to be involved in drafting, litigating, and reauthorizing VAWA. This is indeed a reunion of key players in this historic legislation.

I'm also very pleased that, later this morning, Legal Momentum will have the pleasure of honoring Vice President Joe Biden. He's the champion of the Violence Against Women Act. Vice President Biden will receive our inaugural Legal Momentum Hero Award in recognition of his singular contribution to the advancement of women's rights through his commitment to end violence against women. And now it is my pleasure to introduce our symposium chair Lynn Schafraan, Senior Vice President of Legal Momentum and Director of our National Judicial Education Program and a key player herself in VAWA, to welcome everybody.

LYNN HECHT SCHAFFRAN: Thank you Irasema and good morning everybody. On my now enshrined office calendar for August 9th, 1990, there is a notation that says, "1-3 Victoria Nourse, re: Safe Streets for Women Act, Sally Goldfarb, Ruth Jones, LHS." I am obviously the LHS in that trio. You are going to meet Victoria and Sally later this morning. That was my first encounter with what eventually became the Violence Against Women Act and fifteen years later led me to organize today's symposium celebrating the 15th anniversary of VAWA and honoring the man who made it happen, Vice President Joe Biden. Credit for inspiring this symposium also goes to Fred Strebeigh, who

you will also meet later today, and his book *Equal: Women Reshape American Law*.²

I read the last third of that book, which is the entire history of the Violence Against Women Act, from the time that it was a gleam in then-Senator Biden's eye, to the drafting, the redrafting, the fight to win passage, and then the litigation and ultimately losing the civil rights remedy³ in the U.S. Supreme Court.⁴ I thought about the fact that we so rarely, in the work that all of us in this room do, take the time to think about what we've achieved. We're so focused on what we haven't done yet, and what's next, and what is coming back to bite us again that we thought we had resolved, that we're always looking ahead, and I thought it would be a wonderful opportunity for us to come together and talk about what an amazing thing the Violence Against Women Act has been. We may have lost the civil rights remedy, but all other statutory provisions stand. The amazing grant programs have made such a difference. Those programs are administered through the Department of Justice, Office on Violence Against Women, and I am delighted to tell you that the Acting Director, Catherine Pierce, is with us this morning.

I think it's fair to say that today's symposium is living history. When I read Fred's book,⁵ which I trust you will all do, I realized there were things that I didn't even know were happening and there were things that I certainly didn't remember, weirdest of all, such as when I was reading my own old notes from ancient American Bar Association meetings in print. We all made the mistake of giving Fred our files. So you can read about all the events that happened and all the people who are going to be speaking today. You can read about them in Fred's book,⁶ but today you can meet them in person. So, as I said, this really is living history.

This symposium has three panels. Each panel is an hour long followed by ten minutes of Q&A. We tried to set this up so it's really discreet Q&A, and you really get to the Q&A.

VAWA was passed with a wonderful array of organizations which came together ultimately to become the National Task Force to End Sexual and Domestic Violence. This started originally when Sally Goldfarb had the idea to bring together a task force to help pass the Violence Against Women Act. Pat Reuss brought together a jillion more individuals and organizations to expand and expand it, and now it's working again because there is a third upcoming reauthorization, due in 2011. The program also includes a short history of VAWA and its two authorizations to date.

2. FRED STREBEIGH, *EQUAL: WOMEN RESHAPE AMERICAN LAW* (2009).

3. Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1902 (codified at 42 U.S.C. § 13981), *held unconstitutional* by *United States v. Morrison*, 529 U.S. 598 (2000) (referenced throughout).

4. *United States v. Morrison*, 529 U.S. 598 (2000) (referenced throughout).

5. STREBEIGH, *supra* note 2.

6. *Id.*

Now let me explain the logistics for the day. I feel rather like a flight attendant who stands in front of the plane and nobody wants to pay attention. Please pay attention, okay. As you can imagine, with the Vice President coming we are not the governors of our own time or schedule or back and forth or anything else. The plan of the moment is that at 10:30, not 10:45 as it says in your program, we will stop and troop over to Hart Auditorium. Because of security reasons, they had to sweep that building and we have to do this in two parts. Pray for sun; if not, the Dean promised me there would be students with umbrellas shielding you and so on. You may not bring anything with you except you must have your card that shows that you have passed through the registration here. If you don't have that card, you will not be allowed in, period. We will not be able to do anything about it over there.

When the Vice President has finished, we will come back here. We will have the ten minutes of Q&A that we didn't get to have at the end of Panel One, and we will go forward. We will have box lunches for everybody. How lunch is going to work out is, of course, anybody's guess, because we really don't know what the timing is going to be. So, theoretically, there will be about fifty minutes for lunch. There will be box lunches that you can pick up in the back of the room. If it's nice out, you can go out on the quad or some other place on the campus to eat, or you can eat in this room. I frankly think that we will end up sitting at these tables eating our boxed lunches and then going on with our program, but flexibility is all.

Now, as Jessica and Irasema said, many, many people worked to make today possible and I do want to thank everybody. My first phone call was to Professor Susan Deller Ross, an old comrade in arms on these issues for many, many years. Susan went and asked Dean Robin West, and then they put us together with *The Georgetown Journal of Gender and the Law* and we were off to the races. I also particularly want to thank Georgetown Law's Assistant Director of Special Events, Elizabeth Claps, who, I'm sure, is over in Hart holding hands with the Secret Service. From our own office, Legal Momentum, Jillian Weinberger the National Judicial Education Program Associate, who carried all the administrative load for this event. Alta Levat, who is our Director and Vice President for Communications, who is sitting all the way in the back at the piano, worked really, really hard. I would also like to thank Ashley Bauman, who is our Helena Rubinstein Intern in the Communications Department. We've just all been basically joined at the hip for the last several weeks.

Please remember to turn off anything that beeps, rings, or flashes, and do not text during this event, it annoys your neighbors. I also, especially and foremost, want to thank our panels and our moderators. I personally think it's a miracle that I got all these people together in one day, and when you meet them and hear who they are, and think about what their schedules are, you'll know it's a miracle, too.

Now, of course, the greatest miracle is that we passed the Violence Against Women Act, given that our chief opponent was the Chief Justice of the United

States who publicly lobbied against it. You will hear more about that as we go through the day.

So, on to our first panel, which is called Present at the Creation: Drafting, and Passing the Violence Against Women Act. Our moderator is Ford Foundation Program Director Helen Neuborne, who was the Executive Director of Legal Momentum, then called NOW Legal Defense and Education Fund, in those years—1989 to '94—when the Violence Against Women Act was first drafted and we struggled for passage.

HELEN NEUBORNE: Good morning and thank you Lynn. I was honored to be there at the beginning when we started this. And with me are the panelists who were also very much there at the creation. First, Victoria Nourse, as you know, who is now a professor at the University of Wisconsin and Emory Law School and was then the Senior Staff Special Counsel to then-Senator Biden who brought this issue to us. Next to her is Sally Goldfarb, who is a Professor of Law at Rutgers Law School in Camden, New Jersey and was then Senior Staff Attorney at NOW Legal Defense and Education Fund, now known as Legal Momentum. She had a lot of expertise in family law at the time and she did most of the drafting, much of the testimony for those of us who gave testimony, and truly worked around the clock on this issue. And next to her is Pat Reuss, who is now a Senior Policy Analyst at the National Organization for Women, but whom I hired, again as we mentioned earlier, to lead this task force; to build this task force which we knew was going to be critical not only for building the base to support the issue, but actually giving us huge insight into how these issues played out in people's lives and communities and so it was an incredibly valuable effort. And working on the task force with her is our last speaker Hilary Shelton, who is now the Vice President for Advocacy at the NAACP and Director of their Washington Bureau, and at that time was involved with the United Methodists, as one of the major participants in this task force. So we welcome all of you.

When Victoria came to us, not surprisingly, we thought long and hard about getting involved in such a massive undertaking and while we were very excited about it, we nonetheless knew that this would be a ton of work. It seemed to make sense, I felt, to go out and that is what I did. I went out and I talked to the other women leaders of women's groups at the time to see if they wanted to join with us to really share some of the responsibility and work and building that would go on around this issue. And surprisingly, they all said no. They did not think that this was a big issue facing women. They didn't think that women really cared that much about it. Indeed some of them were not sure they weren't going to oppose it because it would include criminal penalties against men who abused women.

But I must say I'm very proud to say that we were right. We knew that this was a huge issue impacting women's lives and that what was happening was that many women were simply silent despite suffering with the pain and the fear that was very much a part of their everyday lives. So looking back now almost 20

years on what we've accomplished, it's very exciting to see how far we've come as a nation addressing this issue. Even though there is more to do, nonetheless, we've accomplished a lot. And for those of us who have moved on and no longer have the same positions that we had at that time, we are still involved in this incredible issue.

I know that when I moved on to the Ford Foundation and was the Women's Rights Program Officer, I began to fund and support what became the next set of issues around violence against women. For example, women on welfare that nobody realized were traumatized and had fled an abuser and were unable or finding it difficult to support themselves; it was a huge issue and very much unknown. Also thinking about the role of men, and how we can support men who want to help stop violence against women. So I'm pleased to moderate this panel, and again as I said, it includes some of those who were there at the creation and on. To our first speaker, Professor Nourse.

VICTORIA NOURSE: Thank you all, thank you to Legal Momentum for putting this event together, and to Georgetown and Dean Aleinikoff for hosting it. I am very privileged to be here today. It is an odd project, as I have become a historian in the last ten years. Today, I have to be a historian about my own life. One never tells one's own narrative accurately, but you'll have to put up with this version. I'm going to do a little history just to put it into perspective, as Helen did.

Our moral judgments are very secure in the present precisely because they are in the present. As Hannah Arendt so long ago warned, evil can become banal precisely for this reason. History is a great critical tool to challenge the security of our judgments. Just as we can no longer imagine a world with lynching or fascism, I think it's very difficult to imagine a world in which violence against women was not seen as an important issue, when it was treated with derision and scorn, dismissed or denied.

So it's my job to tell you a little bit about the context in which the Violence Against Women Act was passed. After all who could be for such violence? I confess at the outset that when I worked for Senator Biden—since I've been a professor I'm not as shy—but I was very shy then. And he's a very large personality and a wonderful personality. Today, the point of my story is going to be that I am not the point of the story. I was but the translator, the medium and not the author. Indeed, this is what my own constitutional theory will tell you. My theory of governance holds that it is we the people, the people in this room, the thousands of women who got together in coalitions who helped bring to pass the Violence Against Women Act.

Thomas Kuhn once said: begin any history with the incomprehensible and once you understand that, you will understand the past. Why was it such a struggle to pass this bill? Why did presidents and judges seek to defeat the bill? Why did the Chief Justice take it on as his personal cause? Why after the bill was passed did the constitutional theory on which it was grounded suddenly change the next year? Why did it take one of the great masters of the Senate, and Senator

Biden was one of the great masters of the Senate, and now the Vice President, to make the law real?

To unravel the puzzle I must take you back to the 1980s. By the end of the decade, the country would know something about violence against women. We would see Farrah Fawcett in the Burning Bed, the Attorney General had convened a commission on family violence, and a Senator named Biden along with Bayh had already attempted to reform federal rape law. The political winds were changing.

In 1980, the year President Reagan was elected, California Senator Alan Cranston introduced legislation to provide modest federal support to fund battered women's shelters. The Senate stalled. Opponents wrote op-eds in the *New York Times* and made insistent claims that the bill, ironically enough, would undermine religion, punish domestic unhappiness, and result in federal sanctions for spanking and nagging. One Senator, who would later change heart, insisted that this modest funding bill would march federal regulators into the bedroom. The bill would become a federal OSHA on the family, referring to the much maligned bureaucracy regulating safety in the work place. Another added that shelters would become havens for teenagers and others who resent family discipline.

Five years later, the political situation was not significantly improved. The president's daughter, Maureen Reagan, was forced to deny at an international conference that shelters were R&R centers for bored housewives. Twenty-four congressmen complained to the Attorney General, and for a short time withdrew a grant to a leading national organization on domestic violence, on the theory that the organization was "pro lesbian, pro abortion and radically feminist." Senators repeated the 1980 sentiments of the future Chief Justice of the United States (prophetically, as he would become a major opponent of the Violence Against Women Act) that the "autonomy of the family" is best retained if the government provides for "no intervention" except in extreme cases. The federal government had no business resolving ordinary family disputes. Senator Jesse Helms, quoting then Justice Rehnquist, predicted that funding battered women's shelters would lead to the family's disintegration.

I knew little of this history when I arrived from the Justice Department to the Judiciary Committee, where I was supposed to be an expert on habeas corpus reform. Had I known, I might never have imagined a bill like the Violence Against Women Act was possible. Indeed, in retrospect, it was my naiveté, my privileged position as the unwitting and now extremely grateful product of an earlier generation of far braver feminists. It was my arrogance that I could be any kind of lawyer I wanted, my denial, that would allow me to think what others might have thought impossible.

I will never forget the first meeting I had with a battered women's group. When I went back to the office, I reported that the group seemed to me itself battered, that they had long given up, that they could not even tell me what they needed or

wanted. History now warns me that this judgment carried a kernel of truth, but also carried with it a certain arrogance of my own. I know now what the bill's champion, Senator Biden, knew—he had been in the Senate and he knew far better than I what we might face. This is why he forced me to argue with another female staffer about whether we should include the civil rights remedy.

As Senator Biden once told me, he never forgot the statement of Senator Denton when debating a proposal to eliminate the marital rape exemption. Denton said something like: Who could you rape if you can't rape your wife? Of course by 1990, when I arrived at the Senate, cultural change was afoot. In 1989, Tracey Thurman's horrific story in which police watched as her husband stomped on her neck, paralyzing her, yielded a multi-million dollar verdict and was made into a popular movie. And then there was Montreal, when a man went into a classroom, separated the women and the men, took out a semi automatic, and shot the women, claiming that they were feminists. Political culture in the Senate lagged. May 1990 was almost years and months before Anita Hill, and more before the Packwood harassment scandal. As Professor Judith Resnik, who will speak to you later, once told me when I visited at Yale Law School, she had never met anyone so much in denial as me. But denial is a protective mechanism.

Why did the political culture lag so badly? Well as a student of history, I'll tell you it's really very simple. It's why some men once dumped tea in a harbor and wrote a Declaration of Independence. The point was made by my daughter when she was three and she went into the ladies room, raised her baby Irish hands and said "Where are all the ladies?"

There were no ladies in the Senate. I had been at the Senate Judiciary Committee barely months when I was assigned to draft something "on women" for the crime bill. I had come from the Justice Department, and before that, a New York law firm, but I was no feminist. I had never taken a course in women and the law. I was frightened of feminism because I saw my only woman law professor almost denied tenure, although she published on the hearsay rule in the *Harvard Law Review*.

One day I went to the Library of Congress during a recess. This is a strange way to draft a piece of legislation. Only a future professor would attempt to do this, but I did what a judge named Weinfeld (who Dean Aleinikoff and I share) who knew a judge named B (otherwise known as Learned) Hand, and who revered a justice named Brandeis, did. I looked for the facts, scorched earth research. I wanted to find the data. Little did I know that the case would make itself. Even Brandeis might have smiled at the mountain of evidence that, as Justice Souter talked about in *United States v. Morrison*, would find its way to me as soon as I opened the door.

But first I needed some real ladies. Having no real ones present, I had to go in search of virtual ladies; virtual ladies in the library, Ruth Bader Ginsburg, Ann Friedman, Georgetown's Susan Deller Ross and Wendy Williams, Susan Estrich, Catharine MacKinnon, Martha Fineman and, most dearly and importantly, a

woman who I have not even met to this day, Dean Robin West, whose article I held close because I believe it showed that the equal protection amendment was as much about protection as classification. But I needed more than virtual ladies, I needed real ladies. Making a bill is not like writing a Supreme Court brief. It is a thousand times harder because you have to get the agreement of 535. So today I'm happy to be here with the ladies who made the Violence Against Women Act real and made it a possibility. I would like to introduce the first one, a distinguished professor at Rutgers, Sally Goldfarb, who I met one day during June of 1990, and has since been a great friend and who was instrumental in creating the massive coalition that was the Violence Against Women Act. Thank you.

SALLY GOLDFARB: One day in 1990, almost exactly nineteen years ago, I received a phone call that changed my life. That phone call came from someone I had never met: Victoria Nourse, who was calling from the Senate Judiciary Committee where she was a staff member to then-Senator Joseph Biden. When her call reached me, I happened to be in Washington for a meeting. I had some extra time that afternoon, so I agreed to stop by her office for a few minutes. What she told me when we met that day was incredibly exciting. Senator Biden was planning to introduce legislation that would address violence against women in a multitude of ways—legislation that would throw the power and resources of the federal government behind improvements in law enforcement, prevention, and victim services. Most important of all, this legislation would declare for the first time that crimes of violence motivated by the victim's gender are a violation of the victim's civil rights.

I immediately knew that I wanted to help with this legislation. (Little did I know I was signing away the next four years of my life.) Helen Neuborne readily agreed to devote NOW Legal Defense and Education Fund's resources to this project, and I set about drafting testimony to be delivered at the first congressional hearing on the bill in June 1990. It wasn't hard to make a case for why this new civil rights remedy was needed, and indeed, why it was long overdue. As our legislative testimony explained, state laws are inadequate to redress violence against women, both because of legal impediments like marital rape exemptions and tort immunities and also because of widespread gender bias against women in the state courts. Lynn Schafran helped me fill the testimony with vivid examples drawn from the state gender bias task force reports, such as the Maryland judge who stated that he did not believe a woman's account of being terrorized by her husband at gunpoint because, as the judge said, "I don't believe that anything like that could happen to me."

We also pointed out in our testimony that federal laws, such as Title VII⁷ and

7. The Civil Rights Act of 1964, Pub. L. No. 88-352, tit. VII, 78 Stat. 241 (codified at 42 U.S.C. § 2000e et seq.).

Title IX,⁸ fail to cover the most common forms of discriminatory violence against women. And finally, we argued that male violence against women is one of the principal ways in which women's subordinate social status is expressed and perpetuated. Gender-motivated violence, like other forms of discrimination, is a social wrong carried out on an individual level. Therefore, like other forms of discrimination, gender-motivated violence should be prohibited by federal civil rights law.

The hearing in June 1990 went very well, but in the following weeks I found myself wrestling with a dilemma. Despite Victoria's dedication and Senator Biden's commitment, I worried that the Violence Against Women Act would not go anywhere without strong support from outside of Congress. At that point in my career, I was spending a lot of time attending meetings of coalitions on family leave, child care, abortion, and so on. Clearly, there needed to be a coalition on the Violence Against Women Act, but there was a problem. The problem was that I didn't think there was anyone willing to start that coalition except me, and I wasn't sure that I was up to the task. But I got Helen's approval, and in August 1990, I sent out a letter to organizations that I knew were working on related issues, inviting them to the first meeting of what would become the National Task Force on the Violence Against Women Act.

That first meeting took place in NOW Legal Defense Fund's modest conference room, and representatives from about a dozen groups attended. In the coming months and years, with periodic meetings in Washington and New York, the task force grew until we had over 1,000 groups and individuals on our list. This was the first time that domestic violence advocates and rape crisis groups, as well as women's rights, civil rights, labor, religious, youth, and community organizations, all worked together on a continuing basis to develop a federal response to violence against women. This was partly a testament to the organizing efforts of Pat Reuss, who came on board soon afterward, but it was also a testament to the power of the issue. Violence against women was a subject that galvanized women and men from throughout the country, from every walk of life, and from all points on the political spectrum.

However, we did face challenges, particularly with respect to the civil rights section of the bill. The most damaging opposition came from some segments of the judiciary, which is the subject of the next panel, so I will not dwell on it here. But the judiciary was not alone in targeting the civil rights provision. The attacks came from both left and right. We were told that the civil rights provision was too broad and too narrow, too radical and not radical enough. Despite the fact that the civil rights provision was gender-neutral and provided a remedy for anyone, male or female, who was a victim of a crime of violence motivated by gender, some people nevertheless claimed that the statute was biased against men and

8. The Education Amendments of 1972, Pub. L. No. 92-318, tit. IX, 86 Stat. 373 (codified at 20 U.S.C. § 1681 et seq.).

paternalistic toward women. A number of liberal organizations that might have been expected to support the expansion of federal civil rights for a disadvantaged group instead criticized it on the ground that so many women are victims of discriminatory violence that their cases might overshadow the less numerous cases of other types of discrimination. A low point in this process was reached during the hearing before the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, when Bruce Fein, a former Justice Department official in the Reagan Administration, testified that the civil rights provision was a bad idea because it would interfere with the ability of states to immunize marital rape from prosecution, a choice that Fein claimed the states should be free to make based on "local customs."

But VAWA also had its champions. Then-Senator, now-Vice President Biden deserves enormous credit for his unflagging commitment to this legislation, even at times when being chief sponsor of VAWA probably cost him more political points than he gained. As Vice President Biden writes in his recent autobiography, he was helped every step of the way by Victoria Nourse. Other members of both houses of Congress, including Orrin Hatch, Barbara Boxer, Patricia Schroeder, Charles Schumer, Louise Slaughter and Connie Morella, and their staff members also played key roles. The participants in the task force were indefatigable in the process of marshalling support for the legislation and reviewing draft after draft of the bill. Several of them went way beyond the call of duty, such as Hilary Shelton, who welcomed the task force to hold its meetings in the headquarters of the United Methodist Church. Hilary also trooped around the halls of Congress on endless lobbying visits—even when he was on crutches from an injury.

Outside the halls of Congress, a crucial role was played by the National Association of Women Judges, and especially by Judge Mary Schroeder, who will be speaking today. The National Association of Women Judges endorsed VAWA, including its civil rights provision, and thereby provided a crucial counterweight to the views of the Chief Justice of the United States, the Judicial Conference of the United States (which represents the federal judiciary), and the Conference of Chief Justices (which represents the state judiciary). Judge Schroeder helped to forge a consensus on changes in the legislative language that led the Judiciary Conference of the United States to withdraw its opposition to the civil rights provision. That step, as much as any other, cleared the way for the bill's passage.

Under Helen Neuborne's leadership, the NOW Legal Defense and Education Fund, now known as Legal Momentum, devoted an enormous amount of its scarce resources to the effort to pass VAWA. I was fortunate to work with a group of wonderful colleagues, including Lynn Schafran, Martha Davis, and Ruth Jones, but I particularly want to say a few words about my colleague Pat Reuss. Pat and I were in many ways an odd couple. Even before I became a professor, I think it's fair to say that I have always taken a somewhat cerebral

approach to the law. Pat, on the other hand, is completely down to earth, passionate in her dedication to women's rights, and immersed in the nitty-gritty process of turning a bill into a law. She is also extremely irreverent. A case in point: After meeting with some congressional staff members, I commented to Pat that the staffers seemed very young. "You think they're young?" she answered in her booming voice, "I was ready to open my blouse and breast-feed them right there!" Pat gave me the education I never got at Yale Law School, and I will always be grateful to her for that.

Eventually, VAWA did pass, and it was signed into law by President Clinton. So where do things stand today, fifteen years later? The Violence Against Women Act of 1994 signaled a major shift in the way our country deals with violence against women. It brought unprecedented recognition and resources to the issue. Among its other accomplishments, the 1994 legislation made it a federal crime to cross state lines in order to commit domestic violence or to violate a protection order. It required states to give full faith and credit to protection orders issued by other states. It authorized federal grants to increase the effectiveness of police, prosecutors, judges, and victim services agencies. It provided funding for a national toll-free domestic violence hot line. It increased federal financial support for battered women's shelters. It reformed immigration law to help immigrant women escape their abusers without being forced to leave the country. It amended the Federal Rules of Evidence to extend rape shield protection to civil as well as criminal cases. It provided federal leadership for efforts to expand research and record-keeping on violence against women. In total, the 1994 legislation authorized a then-record amount of \$1.62 billion in federal funds.

Unfortunately, VAWA's civil rights provision was invalidated by the United States Supreme Court in its widely criticized opinion in the case of *United States v. Morrison*, which the next panel will discuss at more length. But even after the civil rights provision was stripped of the force of law, it continues to resonate today. It has changed the terms of the debate. The idea that women have a right to be free from violence directed at them because of their gender, which was once a novel concept, is now a mainstream, commonplace idea. In the meantime, not only has VAWA itself been reauthorized and expanded, but it has opened the door for other federal, state, and local legislation addressing violence against women in creative ways.

Another lasting legacy of VAWA is the task force that was created to work for its passage. Renamed the National Task Force to End Sexual and Domestic Violence Against Women, it has continued to work on improving legislation, policies, and practices that affect violence against women.

Clearly VAWA, even as expanded by Congress in 2000 and 2005, is not the definitive response to violence against women. Much more remains to be done. Many of its accomplishments are dependent on a sympathetic presidential administration and on Congress's continued willingness to appropriate funds.

The loss of the civil rights provision robbed the statute of one of its most valuable features. Nevertheless, the passage of VAWA in 1994 created a climate in which a high level of government attention to domestic violence, sexual assault, and other types of violence against women has become the norm. Regardless of the *United States v. Morrison* decision, the enactment of VAWA fifteen years ago ushered in a new era. Thank you.

HELEN NEUBORNE: Pat Reuss will be our next speaker.

PAT REUSS: I now anoint you all members of the National Task Force to End Sexual and Domestic Violence, and you will not leave the room without making sure we have your e-mail and your cell phone and every member of Congress that you know, because you will be tasked with calling them.

I started my career working in the battered women's movement late at night driving in my car with a pair of scissors. We were in Helena, Montana, and we had to raise money for the first ever battered women shelter. And we went around to our friends' houses and cut plants, put them in a potting soil in a Styrofoam cup, and the next morning had a yard sale with completely unrooted plants that died probably several hours later. We made \$500 and indeed started our shelter in '73 or '74. I came to D.C. in the halcyon time, because it was '79 and Alan Cranston's bill was passing. We were going to have June Zeitlin be the violence czar at HEW for Jimmy Carter's second term, and in the lame duck session after Ronald Reagan won, we lost that.

The next decade were very lean years. I'm proud to have worked at Women's Equity actually, but worked also at the National Coalition Against Domestic Violence—that was that group I suspect that was called all those names and I'm proud to be all those names. At any moment I will be . . . for everything that we were called. But because money and times were tight, they would have a lobbyist come to town and she would be all alone and had no . . . and come to my office sobbing with no money. I was doing COBRA and retirement issues and budget and taxes and tried to be sympathetic, and then we would lose the lobbyists. And so I think . . . the movement got a little stronger, and we had—I think we had \$15 million funding for our programs, and we had to battle to keep that. We fought with child abuse people and it was just terrible.

Joe Biden was an unusual but special person in all my years, starting in '79 when I first came here and we had gone to the women members because they got it. First of all they would see you. Second of all, their staff people were burgeoning feminists. Victoria you had a nub in there; it was always there. We just buffed it up. And so, to have a boy rather than a girl carrying our bill was like a miracle, because usually we had all been set aside, doing the women's issues. And those were considered soft issues. I've had people look right at me and tell me those are soft issues. Soft or not, they are the heart and soul of our nation's issues, and so we were determined to make them work.

National Network to End Domestic Violence was kind of scratching around

trying to figure out what to do. The sexual assault movement met sporadically out in the states and fought a lot, but then came together. Sometimes we would catch them when they were together, but they could never afford a D.C. person ever. I would call them up and beg, you can't really afford one now? Thank you for reminding us of that. The victim's rights groups, God bless them, and I hope they are here today, but they had never thought of victims of violence from the gender or feminist lens, and so we worked with them and brought them on board and now they are our staunchest allies. And the women's rights groups of which I was a member, and I should have known better, we sort of gave up in those years.

So when Joe Biden came along and Victoria Nourse started to work with Sally to write the bill, we blossomed. We were like a bar sponge and somebody put water on us and we just blossomed. And with every iteration of the bill, '90 and then '92, it kept getting better and better and we kept adding more and more.

The resource center just stated that we were kind of patted on the head, as I was telling Fred Strebeigh, and patted him on the head. He admitted that felt quite patronizing and he didn't like it, as if I was telling him, "I'll take care of you honey and you would be just fine." The women's movement said "you can't do it: you can't help immigrant women, you can't have a civil rights remedy that indeed is tougher than other civil rights remedies." And I, of course, said, "Yes we can, and we'll bring everybody with us." We'll all rise to strict scrutiny on any gender, race, or disability-based violence. Of course I made that up because I was a junior high school teacher and strict scrutiny was something you did when kids were talking in class, but I learned the words from Sally and she said about half the time I used the right ones.

But we were afraid, let me be honest and today I need to have that fear just go away. We were afraid to speak out about a problem that had no name. We were afraid to stand up against the problem and we were afraid to even go out and get allies because nobody wanted to talk about it. Sally worked legally on incest matters. Nobody will ever talk to you about that, so we called it child sexual abuse, and then we could maybe come in and discuss it. You talk about rape, oh my God, that's so private we can't talk about it, but Joe Biden sort of opened the door and all of us came in. And we said, we can't have this.

The Violence Against Women Act wasn't all we wanted it to be. We had some powerful opponents, and you know, they used the civil rights remedy to try to kill it, but they didn't like the fact that we were asking for billions of dollars. How could you, why aren't you back having plant sales, that's how you run the battered women's movement. And we said no, we need what the health experts call a collective community, and it needs to be a national campaign to prevent and eventually end violence against women. And we've got to talk about it, and not just name it, but look at how we stop it. Well, that scared everybody.

I want to comment that there were lots of people that weren't scared and one of them—he's not here right now; I think he's up in New York City, is on the city

council—David Yassky. He’s running for Comptroller in New York City, so if you’re there give him money and vote for him. He was one of the guys, and we collected our feminist men. When they go to the great beyond, they will have the biggest gold star because they hung in there. They talked about a subject that was even more uncomfortable for them, but they did it in the names of their moms, sisters, and daughters and friends.

One day in a very secret meeting in the House, where our own liberal members of Congress—including the Chairman of the Constitutional Subcommittee of the House Judiciary Committee and one of my best friends in the Montgomery NOW, Montgomery, Maryland NOW president—said how could any feminist support the civil rights remedy. And David Yassky raised his hand he said I do. So he came out as a feminist. We’re so proud of him and we recognize that day when he came out. That was so important, because it shut down the whole group—and indeed, in the conference committee the House agreed to the Senate civil rights remedy.

You don’t want to hear about some of this stuff we traded away, you don’t want to hear about what Joe Biden promised a member of the House conference committee—I was sitting there next to him and it was something for his brother and I went oh la, la, la, la. The other one is Connie Morella, who is no longer in Congress, but she was our sole Republican, so it was a bipartisan bill in the House. About once a month, she took a call from me and I gave her marching orders and they mostly involved calling Orrin Hatch. To this day every time we see each other, she’s now out of Congress and she says, “I miss most of it, except having to call Orrin Hatch once a month.”

The third person is Judge Mary Schroeder, who, unlike Judge Rehnquist and all the other judges [who] lobbied Congress hourly, when I called and said you have to call this member of Congress she said—in the way of women judges who believe in protocol and manners and the right thing to do—said, “Judges don’t call Congress.” I said, “Well, all the other judges are calling them.” They are calling them and telling them all this bad stuff and I talked to this member. I remind you I’m a junior high school teacher playing a lawyer on the Hill in my acting role, and so about three phone calls later I convinced her if she simply said that she had called him, and understood he had questions, and would answer them, you wouldn’t be lobbying a member of Congress. But in fact probably ninety percent of all judges at every level have called mayors and members of Congress and governors, but they are mostly the guys and they can’t imagine that they can’t do that. So you stepped above and beyond and made that phone call, and it changed a House person, and that is how we got the full Violence Against Women Act.

The last story, and I know my time is out, the night that Bob Dole and Orrin Hatch tried to put their version of the Violence Against Women Act on the crime bill, a nine-month pregnant Demetra, who had taken Victoria’s place, called me and said, “Can I read to you what changes we’re going to make?” And I said, oh no,

you know I won't know what strict scrutiny is and that it wasn't on my law degree. So, I called Sally and she was putting her son to bed and he'd had his bottle and was crying and needed to be rocked. I told her to call Demetra, give him another bottle, give him two bottles. Sally was truly making the final deals that night in 1993. She said he had three bottles and the crib was soaked the next morning, but we got the final deal cut, and that led to the '94 passage and signing.

HELEN NEUBORNE: Thank you, Pat. And our final speaker is Hilary Shelton. Moderating this panel is a lot of fun as you can tell, not a lot of work.

HILARY SHELTON: Thank you. Let me say it's an honor to be here. I've got such fond memories of all the work we did in passing the Violence Against Women Act and being one of those male feminists, as a matter of fact, in the room. I remember getting a call from my boss—and it happened to be a woman, Jane Hall Harvey—saying she got a letter from Pat Reuss and they wanted the United Methodist Church to become actively involved in the Violence Against Women coalition. So we said great. I don't guess she realized that I was excited about working on an issue like this here in Washington, so I called Pat and, for those of you who have never spoken to Pat Reuss on the telephone, it is an absolutely amazing experience. If you've heard the term brain dump, you get some of the most incredible ideas, perspectives, thoughts—I mean, anything you ever thought about anything before is all of a sudden being challenged in the most motherly way.

So, as such, I said great. I call up Pat she talked to me all about it, she was all over the place with it, a great perspective, a great view and an understanding. We sat down together. I think you were working right next door out of the Mudd House, and the United Methodist building that happens to be right on the corner of First and Maryland, which became headquarters central for a lot of our lobbying activities. It's a building that has a number of meeting rooms that is decorated in kind of early American church basement. It worked out very well. We pulled the screens apart, put the folding tables out and began sitting, working, plotting, and planning. The location allowed us to run to the Senate right across the street. As a matter of fact, at that time, even Senator Al Gore had an apartment in the building. So we actually did some lobbying in the building, just standing guard when we knew Senators would run across and sneak into their apartments inside the Methodist building and try to convince them to support the legislation.

Then, I remember being invited to that first meeting. I think I met Sally Goldfarb and talked on the telephone a few times. At Hudson Street, I remember going in, and I was one of two men sitting in the room as we talked about the legislation and listened to the perspectives. That was the last time I saw that guy—he didn't come back to the next meeting. So then it was just me. And I enjoyed it. I don't know if having a name like Hilary made it kind of easy for me to be part of it. I was just one of the girls in so many ways, and I enjoyed that, but I also enjoyed that we were able to pull together the kind of coalition we did. A

coalition of organizations that, we thought, would not have been involved in an issue like addressing violence against women.

But to our surprise, we found out that these were institutions (I'm talking about institutions like either the United Methodist Church itself, the Lutheran Church USA, the Presbyterian Church USA, the National Council of Churches) became actively involved. The American Baptist Church, the United Church of Christ, I mean the list went on and on. The U.S. Catholic Conference of Bishops became actively involved because of the approach we took. We kept hearing over and over again if clergy members had served as counsel in local communities and those clergy members were hearing from families who were being torn apart by violence right in their families and in their communities. And all they were given to work with was the option of trying to push these families back together, which in too many cases, it resulted in tragedy. Asking the women to go someplace else, staying in some shelter, when at [that] point staying in a shelter meant that they were, in many cases, endangering their children. You've seen these shelters; the kind of places where a few cots are laying around or a few dozen cots in a large room about this size with no protection, with no security. Women found themselves in a very awkward position and we began hearing those stories.

We began hearing those stories of immigrant women that followed the tradition of so many other immigrants in our society, where the man came to the United States seeking a better way of life for their families. After working for a while, he raised enough money to send for his wife to come and the wife came and brought the kids. They were only here on a work visa and were afraid that they would be kicked out of the country if they called the police about anything. So they lived in those traumatic circumstances, and we heard about the deaths and the challenges that continue to happen. So as we walked the halls of Congress armed with all this information, you can imagine how good it felt for me to stand there with Pat Reuss and Sally Goldfarb, Helen Neuborne—and Victoria Nourse providing support for us from the Senate side. These are all legends, as far as we were concerned, in the civil rights movement, so it made sense for us who worked on these women's issues to have them as our leaders.

I remember standing at a big press conference on Capitol Hill with Joe Biden at the same time Lani Guinier was being considered for the assistant attorney general for civil rights. It was a very awkward time for a lot of us. I still remember, don't tell Joe Biden I said this, we were all standing there very proud, NOW, the United Methodist Church, all the other groups what not, at a huge press conference and all of a sudden one of the reporters said well are you going to confirm Lani Guinier. I noticed, and I should have followed your lead Pat, that all of my friends in the feminist community starting slowly backing away from the camera shot because it wasn't a good time for our feminist issues and concerns when those things happen as well. So, there was a backdrop that made it very difficult in many ways.

It's very complicated to move an issue providing this kind of support for

women through, but indeed we did. And it was with great pride that we were able to trade off what we traded off, but maintained the integrity of legislation that became a law. We were even able to fix the immigrant provisions that were necessary. When finally years later, we were able to make it a permanent installation in the Department of Justice, it was wonderful to stand and talk about how we moved forward to expand on what I'll call a movement. There was a movement for women's rights and protections of families everywhere; it's a movement that we're still fighting, so I'm excited about the questions.

HELEN NEUBORNE: I just want to say thank you. I think our panelists did a fabulous job giving us the truth and the flavor of what was going on at that time. I know we may get interrupted later and we're going to have some time for questions and answers, but I wanted to pose one question to our panelists to help us use you, with the history that you've got, to help us think forward. How can we motivate, how can we provide advice and support to the next generation of VAWA advocates and workers? Please share any comments you want to offer to the group and then we can take questions.

HILARY SHELTON: I can begin by saying that what I learned through this process is an extraordinary array of people from different backgrounds, as we moved through this and again I'll call it a movement, the movement to secure passage of this legislation, of course we're beyond that. We started seeing that there were men's support groups that came out very well, trying to change the direction of how men were going on this. We weren't expecting that kind of participation, but it made sense in a lot of ways. We started hearing from Girl Scout troop leaders that came out and talked about how important this was as a civic responsibility.

From those perspectives—I actually learned this from Pat Reuss—you build an interesting alliance of people of extraordinary backgrounds that you would not expect to get involved in an issue like this. So I think the important thing is, as Pat still continues to remind us because she said so loudly and clearly, that very well anybody and every perspective can be an ally moving forward and don't let anybody out.

PAT REUSS: And I think what we learned and we're still not doing as well as we should, is to make sure that every voice and every need and every group is at the table and has their name. I think the indigenous women from Indian country, and they not only couldn't afford a lobbyist to come to Washington, D.C. they didn't have anybody lobbying at all. I asked Helen if we could take an Indian woman and put her through law school, so she could come and be an attorney for the battered Indian women's movement. We didn't do that, but we should have. But women of color, disabled women, older women, women in the military, we can go down and down, women in the entertainment industry, women in media. But instead of us speaking for them, we're bringing them to the table and saying their names and the cultural and racial diversity.

It started out a white middle class women's movement. I could do it because my grandma lived with me and took care of my three boys. My husband had a job and we lived happily ever after. I had a Master's degree and I could go drive around and cut plants and start the movement. It is no longer like that. With the economy, there is nobody like me out there with that time and energy. We all have jobs. But we do have to make sure that everyone is at the table, and so that is what we pledged to do. I anointed you as members of the task force, so when you get the notice you have to pick one of the subcommittees. I've already got Judith Resnik drafting the International VAWA Improvements Act and I think Cheryl is drafting the improved national hotline funding. She is renaming and doing a better job act. As for the military, that's a big one, NOW recently called for the commander-in-chief to call his generals, admirals, and commanders together and be the commander-in-chief and say no more violence in the military and that's an order, so we have to be at the table. So part of our time and energy is, when Hilary came to the table, our goal was diversity and that was 18 years ago. We still have that goal and have to keep working on it with kids, girl scouts, older women's league, etc.

VICTORIA NOURSE: I would just like to say from the academic perspective, this is a demonstration of what I said about what the Constitution means to me; "We the people." I will say also that I do believe, as I teach criminal law, that no women ever had a say in the Blackstonian criminal law that still resides in every law school in the country. There remains serious equal protection issues with the application of the criminal law and I believe that there are many, many things that students could do. I'm now at a point in my career that I have a long list of things that I'm happy to shed and articles to write on issues that I have researched over the last decade. It is not time to give up on these issues, it is not time to take a break, it is time to begin anew.

HELEN NEUBORNE: So I think before we take questions, I just want to say thank you once again to the panelists who I think did a spectacular job. I'm not sure if we're going to get rushed, but we do have some time for questions. We do have microphones, if you would please go to the microphone if you want to ask a question and until we get cut off we can ask a few questions of our panelists if anybody has one.

PAT REUSS: Come on, this is a test. Grades will be given.

HELEN NEUBORNE: Or if you want to make a comment, please go to the microphone.

SPEAKER: I'm Joan Winship, and I'm director of the International Association of Women Judges. I just want to bring the international perspective just for a minute. One to congratulate you on the celebration of this event and what you are raising, and secondly, just to say that the Violence Against Women Act here certainly has become a model for what is being done around the world. To that again, we congratulate everybody who has been involved in this.

We have judges, more than 4,000 members from A to Z, Argentina, Afghanistan to Zimbabwe, Zambia. The single issue that women around the world, whether they deal

with commercial law, civil law, criminal law, is violence against women. And we know for instance just within the last year or two, Brazil passed its first domestic violence act and Kenya passed its sexual offenses act. This is going on, but it does not exist in many, many—in fact, in most countries. Afghanistan is going backwards. Within the past couple of weeks, President Karzai even signed a law that says that men have the right to marital rape, etc. Marital rape is something that many cultures still will not even consider in the discussion of violence against women. So what the U.S. did and what happened here is carrying on its model, but there is so much work to be done. It's a sobering thought but it's also a congratulatory thought.

HELEN NEUBORNE: Thank you.

PAT REUSS: I would like to add that there were two more things that we have to do, I forgot. We have to get the Hate Crimes Bill passed. In 1992, Sally and I went over to the Clinton Justice Department and tried to convince them that gender belonged in the hate crimes bill. Then indeed, we got sexual identity and I'm real proud because it was NOW that worked the hardest on that, because the transgender groups didn't have the potency with the members of Congress. I believe that bill is being marked up this morning by the House Judiciary Committee. And we had fights over that. The Clinton FBI said how will we ever handle it if rapes are considered hate crimes against women; they will inundate our offices because there are so many rapes and we'll never be able to really handle real hate crimes. I got up and stomped out of that meeting. They begged me to come back. There I was in the Department of Justice, talk about irreverent, and the men were around the table at the Department of Justice and all the women attorneys at the Department of Justice were sitting around the edge in the chairs. As I walked out, I got little thumbs up and one woman had tears in her eyes, so that bill is finally going to pass and so you are all tasked with that as well.

The last one is we have to ratify CWA, the International Convention on Women's Rights and it has to be without the restrictions because . . . essentially will be used in many of our anti-violence initiatives. I forgot I was also working on hate crimes and . . . and we did all that at breakfast didn't we, Judith? All right thanks.

HELEN NEUBORNE: Great. Yes, please.

SPEAKER: Listening to these struggles that you went through . . . to Joe Biden to be a sponsor. I think also listening to the person who spoke about International Association of Women Judges, I think one of the things that is going on in a country, like India, is now trying to seek a third of the religious leaders as women, legislators for women and that is something that is going to be really helpful. Obviously it's going to be difficult in a country like this because of reservations. But I think if you look at having women legislators and working toward that would create a much better opportunity for success.

HELEN NEUBORNE: I think you're right. I know they started that a while ago, that women would be elected to the Punjab . . . Raj, I think they call it, the local councils in India. I think it's still hard even in that situation when women are elected because they very often don't speak up for issues that are very close to their heart. We still need to help organize them and mobilize them. A lot of that work is going on globally, helping women create these kinds of groups together where they feel comfort and strength to talk about these issues.

SPEAKER: My name is Gladys Kessler. I'm one of those bad people who is a federal district court judge. I'm very proud to be a friend of Mary Schroeder and I remember the days when she was stomping around and spending hours upon hours working on, not lobbying for, but working on and helping draft language for the Act.

One thing about Helen Neuborne, it sort of came up in my recollection that many years ago when she was at the NOW Legal Defense Fund, I knew her name and she was listed as a reference for somebody applying to me as a law clerk. We talked on the phone and of course her reputation was so fabulous even though I didn't know her, that I accepted her recommendation and the law clerk turned out to be wonderful. This is what I really want to say.

I want to raise a peripheral issue, but one that is of very great significance. There are many, many openings on the federal bench at the federal district court level and at the court of appeals level. I can only speak from my own area, here in the District of Columbia, where we have three openings on our district court. Very, very few women are applying. Very, very few minorities are applying. I don't get it. I only know that this is one of the times in our legal development that there are lots of opportunities and if we don't take advantage of those opportunities, we are making a terrible mistake. A federal judge recently made a very public speech in a packed ceremonial courtroom, so there was nothing private or confidential about it, in which he decried the politicization of this election of federal judges that's kind of like motherhood and fatherhood. Then he said, "We don't need judges who have empathy or compassion; those are fine qualities. We need judges who will announce the law as it was written in fluorescent lights up there for everybody."

Please, this is a very influential group. Everybody here has their own network of friends and associates. It is essential that highly qualified, sensitive, understanding people seek out selection to the federal bench. And I'm not lobbying.

HELEN NEUBORNE: I think Lynn Schafran could comment on that.

LYNN HECHT SCHAFRAN: Helen asked me if I would just say a few words about that because, before I was director of the National Judiciary Education program, I was involved in federal judicial screening and on equal justice to law. Alta is going to like this. If any of you are interested there is a formal project going on called the Infinity Project to try to increase the number of women in the Eighth Circuit, where only one woman has ever been on that bench and she's now senior status, Diana Murphy. I would be happy to talk to you about that.