

July 2022

Greetings Beloved Tacoma Pierce County Community,

The preamble to the Declaration of Independence forms a foundation on which we, the people, of the United States of America celebrate July fourth each year.

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”

At its drafting, this aspirational declaration included the cultural bias and context of a post feudal time. The feudal British empire had Lords, surfs, and landowners, which influence thinking much like gravity makes our bodies sag under its pull today. For example, the words expressed in the preamble, many argue should be interpreted in the way former British subjects must have. Such a belief implies that the word “man” would have a specific connotation very different than the one commonly used to classify a gender or refer to humanity, including male and female. Continuing with such feudal influences the framers could never have envisioned a day when women would no longer be the property of a man.

Is it reasonable to believe that the Declaration of Independence serves as the foundational structure that perpetually defies gravity, well beyond the lives and times of the founders? If yes, those aspirational words must support future renovations that were beyond the experience and sensibilities of the authors, in this case, feudal sensibilities. For example, did the founders intend to maintain feudal practices by prescribing for all time those endowed with the right to vote as white male landowners, which their British cousins called Lords? If so, it is easy to see the need to continue to make decisions for women, as they were not specifically mentioned in those founding documents. That’s because such a feudal system defined women as property controlled by her father and eventually her husband. In such a system all decisions were reserved for the responsible man in a woman’s life.

But wait, the British cultural template did not remain stuck in feudal time. British common law reformed, I presume, because of widespread acceptance of the broader definition of man inclusive of both men and women. In addition, more than two-hundred years of this nation’s deliberate process of seeking to make a more perfect union, the United States reformed and amended its Constitution multiple times, in many ways, to many folks once excluded including women. This fact seems to support expanding the previous 18th Century exclusive group worthy of “Life Liberty and the pursuit of Happiness.”

Yes, women fought for and eventually won an amendment beginning with suffrage in a continued struggle to be their own person. There were times in our nation’s past when the most important decisions; regarding when and if they would participate in reproduction, were hers to make. In the middle of the last Century, the personhood of women was finally “discovered by mostly men in black robes”, I say with tongue in cheek. If women were included in the broader definition of man, they also had the right “endowed by their creator” to make decisions regarding their personal, “Life, Liberty, and the pursuit of Happiness.”

The gravity of feudal thinking currently exists in the form of a movement toward Originalism—a theory of interpreting legal texts, including the text of the US Constitution, insisting interpretation of such texts must be done exclusively in the context of the original understanding, at the time the text was adopted. Some suggest such archaic Originalistic interpretation is a slippery slope toward returning to feudal thinking.

How did we get to this back to the future moment? In 2021, after a decades long conservative goal to gain a Supreme Court majority; (1) Assisted by the Senate Majority leader's arbitrary refusal to hold confirmation hearings for President Obama's nominee Merrick B. Garland; (2) a one term president nominated and got Senate confirmation of three Justices all vetted by the Federalist Society. It is worth mentioning that the nominating President was impeached for colluding with Russia to win the 2016 election, was Impeached a second time for an attempted insurrection, and is currently being investigated by the House of Representatives January 6 Committee for at least three serious crimes. Nonetheless, we find ourselves with a 6:3 Federalist Society vetted ultra-conservative court majority which professes Originalism. Originalists insist that rights granted and codified by previous court decisions are not valid if such rights were not specifically included in the Constitution, as it was interpreted at the time it was written. This feudal thinking gravity is like a black hole which effectively eviscerates women as persons, thus nullifying their personal Life, Liberty, and the pursuit of Happiness.

While the erosion of rights for women is ongoing, this move toward early European feudalism scarcely mentions any restrictions on men's liberty. On the contrary recent Originalist Court decisions appear to on the one hand visit feudal times for women but bounce back to the future as follows. They decided 18 year-old males can buy and own muskets. No, this decision returns to the future allowing them to purchase and own modern weapons of war, as the nation is inundated with mass shootings carried out by young men, without a hint of irony.

At a time when 64% of the US population was opposed to overturning Roe, perhaps the fulfillment of the impassioned goal was too tempting to resist. However, this decision is consistent with eliminating or downgrading the personhood of women. It harshly superimposes 18th Century theories over settled law in effect imposing a minority religious standard that impacts women generally and specifically women of childbearing age. Women are 50.52%, a majority of the US population. It is interesting that the those championing this erosion of decision rights do not consider the life of a woman, or even a 10-year old girl victim of rape worthy of consideration. The expansion of state laws against the person hood of women elevate the potential human life over the actual human woman. Thus, many of these feudal laws do not consider any exception, pregnancy must go to term. The arrogance of minority rule demanding all women comply with an 18th Century belief system can be compared with other cultural and religious rituals designed for domination and control of property. Finally, what gives humans of male gender, 49.48% of our population, or the much smaller population consisting of the Federalist Society, the right to determine in perpetuity the personal definition of women's Life, Liberty, and the pursuit of Happiness? Such behavior presumes women are not authorized or capable of making health decisions, while the majority of the Supreme Court, men, do not have standing to fully comprehend the overwhelming gravity of this medical and personal decision. Sadly, the first salvo of the Originalist retro interpretation of law and culture have landed squarely on women's Healthcare Rights, the first of many devastating casualties.

Some would say such retro decisions by a powerful minority are not compatible with the ethos of a pluralistic democrat society or modern beloved community, I emphatically agree.

Sincerely,

Jonathan Johnson
Tacoma Branch NAACP
President