

# KEYNOTE ADDRESS

## DISCOVERING OUR CONNECTIONS: RACE, GENDER, AND THE LAW

MARGARET WALKER ALEXANDER\*

The great American poet, Walt Whitman wrote:

I feel I am of them—  
I belong to those convicts and prostitutes myself—  
And henceforth I will not deny them—  
For how can I deny myself?

In these United States of America justice is tempered by money and power. Ever since the Constitution was framed more than two hundred years ago the power structure of America has been composed largely of white Anglo-Saxon Protestant males—no Catholics, Jews, nor Negroes need apply. These excluded groups along with all women were considered the minorities. When the society is fascist, sexist, and racist, the judicial system can be neither better nor worse. But the law is of a dual nature. It is both an oppressor and a liberator. When segregation was the law of the land established in 1896 by the Supreme Court in the *Plessy-Ferguson* case, the law was an oppressor.

Even before the Civil War under the Black Codes or penal system Black males were counted three-fifths of human beings and women

---

\* Margaret Walker Alexander was born in Birmingham, Alabama. Mrs. Alexander wrote her poem *For My People* when she was twenty-two. Since that time it has been a constant inspiration to the African-American community. Yale University Press published her first book of poetry in 1942. Houghton Mifflin published the historical novel *Jubilee* in 1966. Mrs. Alexander earned master's and doctoral degrees in English from the University of Iowa for these works. After approximately forty years of teaching, Mrs. Alexander retired as Emeritus Professor of English at Jackson State University in Jackson, Mississippi. Her famous biography on Richard Wright was published in 1988 by Warner Books.

As the keynote speaker, Mrs. Alexander delivered this speech at "Discovering Our Connections: Race and Gender in the Theory and Practice of the Law," a symposium hosted by *The American University Journal of Gender & the Law* on September 12, 1992 at the Washington College of Law.

This speech is reprinted verbatim in its entirety.

were not counted as either citizens or human beings. After a brief period of twenty-five to thirty years when Black males under radical reconstruction obtained the vote and held political office, *Plessy-Ferguson* revoked this privilege and disenfranchised most Black males. In 1919, after a fifty-four years struggle, white women received the franchise, but Black women were still for the most part without the franchise until as late as 1965 when the Voting Rights Act made voting for all citizens a universal act—all races and genders included.

Racism, Classism, and Sexism are pernicious evils and these three evils still persist in corrupting American society. Black people in this country have historically been the poorest of the poor masses. Money and power persist in excluding most African-Americans. The Thirteenth Amendment which was designed to eliminate slavery added a clause which excluded criminals from emancipation. It reads, "except in the case of criminal actions." Thus, it is no wonder that the disproportionate numbers of Black males or African-Americans are in our overcrowded jails and, therefore, without voting rights.

The judicial system remains today both a liberating and oppressive force where RACE and GENDER are concerned. Whether in the realm of constitutional, civil, or criminal law, our American judicial system discriminates against most minorities including women.

In Antebellum days the records show that Black women were beaten, branded, and murdered with no recourse to the law which frequently included the over-seer as sheriff and the master as judge and prosecuting lawyer. As late as the nineteen sixties, a Black woman, Fannie Lou Hamer, was beaten in a Winona, Mississippi jail by two Black trustees until she could not move. Sterling Brown used to tell a folk tale about American justice where a goose was taken into custody by a fox and when she went to court the judge, jury, jailer, and prosecuting attorney were all foxes. African-Americans are well aware that when the goose is Black all the foxes may be white—judge, jury, and executioner. In 1952, Judge William Hastie spoke at Jackson State University at a seminar on American democracy and a white man asked him if he thought the law could legislate men's minds and hearts and thus, end segregation. Judge Hastie answered, "We are going to make segregation illegal in this country and then we'll go from there."

During the past fifty years I have encountered the American judicial system at least on four different occasions. I hasten to add I have never been arrested nor spent the night in jail. I learned, how-

ever, during the 1960s that it is not always a disgrace to do so. A famous quote from *Civil Disobedience* by Henry David Thoreau says, "In an unjust state the only place for a just man is in jail."

In the early 1940s, in New York City, when my husband was flat on his back in an Army hospital in Wales, I was summoned to court on a charge of breaking and entering. I secured a good lawyer who later became a judge in New York City—and taking my infant daughter—I went to court. I lost the case and I was evicted from a coldwater flat in Greenwich Village where no Negroes had ever been allowed.

In the early 1970s, my son who volunteered for service in the Marines returned from a tour of duty in Vietnam. Two months after he returned he was arrested in a Black Nationalist Group of eleven persons including two women, one who was pregnant. They were accused and indicted for the murder of a white policeman. After seven weeks and a habeas corpus hearing, he was released on his own recognizance together with most of his friends. This was an example of false arrest. The incident succeeded in preventing my accepting a Fulbright grant to teach in Trondheim, Norway.

In 1970, two days before two students were killed at Jackson State University by highway patrolmen, L. Patrick Gray came to visit me in my home. He was accompanied by a man from the FBI who refused to identify himself. When the killings occurred, Mr. Gray telephoned me to ask what I thought caused the incident. I told him violent white racism and the widening of the Indo-China war in Cambodia were the causes of campus unrest and if they do not stop the war we will lose our country. Subsequently, when the President's Commission on Campus Unrest held a hearing in Jackson, I was called as a witness and asked to testify. I repeated what I told L. Patrick Gray.

During the same decade, nearly thirty years after my first experience with the judicial system in New York City, I had a mixed decision—I sued the apparent author of a block buster book for copyright infringement of my novel, *Jubilee*. The judge ordered a hearing by a female magistrate. She rendered the decision in my favor returning the case to the district judge. He ignored the female magistrate's opinion. Instead, he wrote a strong opinion against me and within ten days, retired or resigned his judgeship.

Four years ago in 1988, my biography of Richard Wright was published by Warner Books. Six months later, his widow, Mrs. Ellen Wright, sued for copyright infringement. Eighteen months later, we

won the decision. Then she appealed and the Appellate Court upheld the District Court's decision.

My experiences certainly did not endear me to the system—particularly having to give a deposition. But after nearly a year since the last skirmish which happily we won I still believe what I said in the beginning: Money and power temper justice in our judicial system.

People always ask, "What is it you people want? Haven't you made progress? What kind of change do you want?" We want a judicial system that treats all people alike, regardless of race, class, and gender—where the law is more the liberator than the oppressor—where women have more than voting rights, but also have reproductive rights—thus, having some control over our bodies and our destinies!

Recently, a reporter from *Mother Jones* magazine came to see me and asked how I could live in Mississippi with all the police brutality there. I wrote an answer to him in the form of a poem and here it is—

*On Police Brutality:*

I remember Memorial Day Massacre  
 Nineteen thirty-seven in Chicago.  
 And I was in the Capital of D.C.  
 May of nineteen seventy-one  
 When they beat all those white heads  
 And put two thousand souls in jail.  
 I wasn't in South Commons Boston  
 Neither when Crispus Attucks died  
 Nor South Boston when the rednecks rioted.  
 But I remember Boston  
 Where I couldn't buy a hot pastrami sandwich  
 In a greasy joint.  
 I remember living there in fear  
 Much as some would feel in Mississippi  
 I was neither in Watts, Los Angeles, California  
 In nineteen sixty-five  
 Nor Detroit in nineteen sixty-seven  
 And I remember all the fuss over LeRoi Jones  
 In Newark, New Jersey, too.  
 Now Santa Barbara, California is remembered  
 As a separate incident, a separate thing  
 From Kent State in Ohio  
 And Jackson State in Mississippi  
 And Orangeburg, South Carolina  
 And Texas Southern  
 But to me, they were all of one piece  
 Of the same old racist rag.  
 And all of these things are part  
 Of what I call Police Brutality.