Imagining Equality without Protection in the Era of the ERA

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*This was not a good time to be a woman*

Pursuing the theme of traditional values of freedom
the new leadership has pledged its
opposition to the Equal Rights Amendment
that would in the words of the President-elect
only throw the weaker sex into a vulnerable
position among mischievous men, and the like.

—June Jordan, “From Sea to Shining Sea,” ~1980

Written on the eve of “Reagan’s ascendancy,” June Jordan’s poem “From Sea to Shining Sea” surveys the interlocked dangers attending the former California governor’s rise to presidential power (“June Jordan”). The refrain “This was not a good time to be” followed by a descriptor—“to be gay,” “to be Black,” “to live in Grand Forks North Dakota,” to name a few examples—coordinates the social, economic, environmental, and political threats faced by what Jordan calls in a 1981 interview “various constituent groups” (*Directed* 327, 330; “June Jordan”). The poem opens with the declaration that “Natural order is being restored” (325). A few lines later comes an elucidation: “The natural order is not about a good time” (325). Among other things, it is about the weakening of legal impediments to racist acts at individual and institutional levels (327-238); the violent regulation of sexuality (327); the deregulation of formerly safe working conditions (329); the imminent threat of nuclear waste and nuclear weaponry to communities across the United States (329-330); and the end of government offices and public programs established to promote the interests of children and of people who are poor (328-329). For the greater length of the poem, Jordan reports on these developments from a distant third-person position, her critique implicit in the gap between the matter-of-fact of

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1 This paper is an abbreviated version of a chapter from my dissertation, *Words Are Found Responsible: Poetry’s Jurisdiction in an Age of Rights*. 
language of her account and the obvious violence, danger, and creeping retrenchment of equitable political possibility that she describes. Her persistent understatement calls attention to the ways that language of the everyday can mask violence; as phrases like “and the like,” “and so on,” and “etcetera” accumulate in the poem, they serve as a reminder that the ostensibly extraordinary conditions she describes are ordinary and ongoing (327-330).

The stanza beginning “This was not a good time to be a woman” references Reagan’s 1980 Republican Party platform, which elaborated a comprehensive and idiomatically American freedom premised on the protection, afforded by patriarchal arrangements, of women, families, and democracy around the world (329). Though the Equal Rights Amendment (ERA) to which Jordan refers had been passed by Congress with a clear majority in 1972, by the time of Reagan’s presidential run, whether the still-unratified amendment represented a grant or threat of rights to women had become a subject of national debate. Stop ERA, a national committee founded in 1972 by the conservative antifeminist activist Phyllis Schlafly, used “STOP” as an acronym for “Stop Taking Our Privileges” in efforts to halt ratification (Spruill 83). In a newsletter that same year, as in many speeches she gave, Schlafly construed the amendment as a “Fraud” and “semantic chicanery,” warning that, if enacted, it would “make women subject to the draft,” “abolish a woman’s right to child support and alimony,” and “would deprive the American woman of … the greatest rights of all: (1) NOT to take a job, (2) to keep her baby, and (3) to be supported by her husband.” Here, as in other contemporary conservative efforts, the rights-talk that had characterized demands of progressive social movements was transformed. Schlafly and her supporters presented women’s rights as rooted in the God-given nature of women; at their best, federal and state government, recognizing distinctions in the nature of men
and women, could formally and informally accommodate these distinctions by not treating women like men.

While explicit endorsement of the ERA had been a regular feature of the Republican Party platform since the 1940s and a version of the ERA had been proposed at every meeting of the US congress since 1923, Republican support for the amendment vanished in 1980 (Sigerman 340). The platform “reaffirmed our [Republican] Party’s historic commitment to equal rights and equality for women,” but it also condemned the pressure that federal departments exerted on states that had not ratified the ERA and “oppose[d] any move which would give the federal government more power over families” (340, 343). The campaign against the ERA, ongoing throughout the 1970s, helped to generate language that served an increasingly influential conservative coalition formed by the decade’s end. The language of Reagan’s platform, through parataxis, connects a broader effort to diminish the power of federal government with Schlafly’s assertion that “Our respect for the family as the basic unit of society, which is ingrained in the laws and customs of our Judeo-Christian civilization, is the greatest single achievement in the entire history of women’s rights.” Schlafly’s framing here affirms the family as a “basic unit of political analysis in liberalism,” where, in Wendy Brown’s words, “family is cast as even more natural than civil society, or as divinely ordained and ordered” (145). Positioning the apex of women’s rights gains in the past, Schlafly sets up a rhetorical path for disarticulating what were contemporary demands for equal rights from the domain of women’s rights.

It is how the meaning of equality was elaborated, elided, and otherwise negotiated during this time of shifting discourse around equal rights that is the subject of this chapter. I turn in particular to two projects of equality framed in Constitutional terms: the ERA, as passed in 1972, and the equal protection clause of the Fourteenth Amendment, which, while ratified in 1868, the
Supreme Court had not understood to comprehend women’s antidiscrimination claims until the eve of the ERA’s successful congressional vote.\(^2\) Alongside these, I place visions of equality offered by two poets deeply engaged with the social movements of their time: June Jordan and Adrienne Rich. Across a range of poems and essays, and in their efforts as teachers and activists, Jordan and Rich engage in theorizing equality and creating the grounds for its practice. While I am not interested in making an argument of cause, I do want to assert that among other texts, their work shaped the conversation—and the conditions for conversation—around the meaning of equality as increasing enthusiasm for and against the ERA raised questions about the scope of the Fourteenth Amendment’s equal protection clause. Following feminist legal scholar Reva Siegel’s assertion that social movements can, among other forces, shape assumptions about the intentions and horizons of Constitutional concepts (1323), I take as a premise of this dissertation the existence of two-way traffic, as well as overlap, between the discursive worlds of politically-engaged poets and those of legal experts and officials.

In beginning to particularize the discursive climate around equality, I use the first section of this chapter to offer a comparative close reading of the language of the Fourteenth Amendment’s equal protection clause and that of the ERA, finding that each invites different metaphors through which to imagine law, emphasizing protection and shelter, respectively. Comparisons of the two amendments’ equality provisions often concern the ERA’s apparent sex-blind or gender-neutral position on discrimination\(^3\); here I draw from the insights of such comparisons, as well as shift the frame. To further examine how differing understandings of law

\(^2\) In the 1971 case of \textit{Reed v. Reed}, a unanimous Court concluded “that the arbitrary preference established in favor of males” in Idaho probate law “cannot stand in the face of the Fourteenth Amendment's command that no State deny the equal protection of the laws to any person within its jurisdiction.” See also Siegel 1377.

\(^3\) For example, see Eisenstein 75 and Mayeri 17-19.
shape the horizons of equality, as well as how differing assumptions about the meaning of
equality varyingly position the role of law, in the second section of the chapter, I turn to poems
spanning the eventual passage of the ERA in 1972 and the expiration of the final extension
period for its ratification in 1982, highlighting this decade as an especially rich moment of public
conversation about equality in the United States.

By drawing poems into the same frame as Constitutional plans for equality and the
different figurations of law they invite, we can see how language around protection sets in
motion limited understandings of equality. The poems, especially where they engage gendered
and racialized violence, lesbian identity, and women’s desire, also provide pathways for
imagining equality that do not seat men at the horizon of comparison. Furthermore, they
constitute robust attempts to imagine and find the language to bring into being substantive rather
than purely formal equality at a time when the latter was coming to dominate the official
administration of equality. By doing so, they invite their audiences to question protection’s legal
monopoly on equality and the reduction of equality to a study of sameness. As such, these poems
constitute part of an archive that testifies to complex visions of equality that might inform recent
attempts to revive the ERA.4 Read alongside the amendments, the poetry underscores ways that
different expectations of equality—as well as who or what its subjects and points of reference
can be—are set in motion, to some extent, at the figurative level.

I. Two Constitutional Visions of Equality: the Equal Protection Clause and the ERA
   The Fourteenth Amendment guarantees that “No State shall… deny to any person within
   its jurisdiction the equal protection of the laws”; the ERA, as passed by Congress, promises that
   “Equality of rights under the law shall not be denied or abridged by the United States or by any

4 While I am not able to address these recent attempts in this paper, I would welcome discussion
of this topic.
State on account of sex.” On the surface, the language of the amendments is quite similar, and both explicitly prohibit discrimination on the part of the state(s). However, in both amendments, the referent for equality shifts with a reconfiguration of the relationship between equality and law. In the Fourteenth Amendment, “equal” modifies the “protection” provided by laws, and law is consequently figured in active, patriarchal terms, as that which wields protection. The amendment refers to “laws” plural, perhaps as an acknowledgement of their status as subject to change and proliferation, and highlights the role of the state in administering laws, noting what “No State shall… deny to any person.” In the ERA, “Equality” adheres to rights themselves, and appears under the law, characterizing law as a static umbrella or roof—a point of reference rather than an active agent of protection.

Certainly, the frame of protection is not completely absent from the language or context of the ERA; at its most basic, it is still a proposal that people be protected by law, and a proposal made within a state gendered through its masculinist exercises of power (Brown 167). Yet in its phrasing, modeled on the Fifteenth and Nineteenth Amendments, the ERA mitigates the language of protection that so strongly characterizes the Fourteenth Amendment. The language of the ERA, then, though not its situation as a proposed Constitutional document, leaves open a channel for imagining equality as somewhat disarticulated from the concept of protection.

Furthermore, in contrast to the Fourteenth Amendment’s reference to “laws,” plural, the ERA posits “law” as singular, with the result that law is characterized as less mutable, and almost appears anterior to the action of states. While the Fourteenth Amendment as a whole vacillates between referencing “citizen” and “person,” the ERA sidesteps recognition of these categories, with “sex” working as a metonym to figure the body that is the subject of the
(proposed) law. Also of note, given the Fourteenth Amendment’s mobilization in service of business interests through its capacity to protect (corporate) persons, is the absence of the “person” from the ERA. Despite the fact that the Fourteenth Amendment and the ERA eventually may have implied to legal practitioners similar channels for pursuing equality of sex, as I will shortly discuss in the context of the “de facto ERA,” what I want to underscore here is how the language of each amendment presents, at least potentially, distinct pathways for imagining the relationship between equality and law, between equality and persons, and between persons and law.

The utility of the ERA was dictated by the same logic that had made the Nineteenth Amendment necessary: the Court had repeatedly found that the gender-neutral language of “all persons” and “citizens” that marked the Fourteenth Amendment’s rights guarantees, not to mention the Fifteenth Amendment’s explicit prohibition against voting discrimination on the basis of race, color, or previous condition of servitude, was not intended to apply to women—despite women’s status as citizens. Even into the 1990s, Supreme Court Justice Antonin Scalia referenced the Nineteenth Amendment in order to make arguments about the need to constrain more current applications of the equal protection clause (Scalia 198). Furthermore, as discussed in this dissertation’s introductory chapter, the same common law tradition that was often called upon in order to accommodate legal adaptations to transforming social and economic landscapes was summoned, when it came to women’s rights, in order to affirm as common sense the exclusion of women from certain professions, particular forms of property and inheritance rights,

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5 The use of the general category of “sex” also marks a difference from earlier drafts of the amendment, such as the original 1923 proposal that “men and women shall have equal rights throughout the United States and every place subject to its jurisdiction” (Neale 1).
and the vote. The past itself came to stand as a self-evident form of authority, in a manner that had also for many years enabled Jim Crow.

The stakes of achieving various forms of equality between men and women were often developed through analogy between sex discrimination and racial discrimination, both by proponents and opponents of each. This was a practice undertaken at various moments throughout the 19th and 20th centuries, and in the 1960s, as legal scholar and historian Serena Mayeri highlights, it was African-American legal scholar and civil rights activist Pauli Murray who “engineered the rebirth of reasoning from race as the centerpiece of feminist legal strategy” in advocating against what she termed “Jane Crow” (Mayeri 3, see also Siegel 1370). Murray’s ideas influenced the ways that equal protection claims would be used to further women’s rights in the late 1960s and into the 1970s and helped to counter some of the resistance to the ERA from labor rights groups who were concerned that the newer amendment, if ratified, might end protections specifically in place for women laborers by mandating formally equal working conditions (Mayeri 37). In this chapter, I want to hold on to this distinction between formal equality and equal protection, as it gives rise to a major frame for thinking through the meaning of equality and requires that the objects of comparison that the very use of the word “equality” implies should be kept in view.

As the campaign for the ERA gathered new support and force in the late 1960s, and as its opponents became more vocal by the mid 1970s, an idea that the ERA was potentially redundant with the Fourteenth Amendment was widely understood (Mayeri 74). For opponents of the ERA, this was another reason it need not be ratified; for proponents of the ERA, this marked another channel through which to pursue equality. Feminist legal practitioners were working from what Siegel has called a “dual strategy,” which entailed a push “for constitutional change involving
both constitutional lawmaking and litigation” (1367). That the ERA had been passed, even if not ratified, also contributed to the Supreme Court’s interpretation of equal protection as a pathway to achieving women’s rights, as evident in various justices’ citation of the ERA in the 1973 case *Frontiero v. Richardson.* Reflecting on *Frontiero*, Mayeri remarks that “In retrospect, 1973 was both the high-water mark of race-sex parallelism and a moment suffused with hints of the hazards that lay ahead”—hints derived from the Court’s erasure of “the intersections between race and sex that underpinned Pauli Murray’s constitutional strategy” (75). Critiquing the abstract nature of the race-sex comparison Brennan makes in his opinion, Mayeri highlights the case as one of several that would follow in which the African-American history and activism that informed white couples’ challenges to nontraditional gender roles was obscured or altogether neglected (75).

The story of women’s rights in what Schlafly referred to as “Judeo-Christian civilization,” and in the United States in particular, certainly cannot be told without attention to how the family’s status “as the basic unit of society,” in Schlafly’s words, has been maintained, fortified, and challenged. In the context of rising and waning support for the ERA in the 1970s and 1980s, the rhetorical force of “the family,” as it was invoked explicitly and conjured more subtly through a constellation of patriarchal terms, stands out as a central source of authority and

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6 In this Fifth Amendment case, Justice Brennan indicated that congressional approval of the ERA allowed the Court to act with more confidence in ruling that the military could not discriminate between male and female service members in setting the conditions for awarding benefits to spouses. At the same time, Justice Powell, in a separate opinion for the case, noted that the ERA’s status as still-unratified gave him pause about Brennan’s invocation of the amendment to affirm the Court’s decision. Across the board, the justices presented varying views of the relationship between race and sex as discriminatory categories (see Mayeri 74-75).

7 Black feminists’ responses to the 1965 Moynihan Report played a role in this activism; June Jordan’s poem “Memo to Daniel Pretty Moynihan” charges the future senator, “Don’t liberate me / from my female black pathology” (*Directed* 83). Mayeri’s critique of Brennan’s collapsing of race and sex is especially important given his legacy as one of the Court’s liberal champions of rights.
metaphor in a public conversation about the meaning and contingencies of equality. It also forms a crucial measure in evaluating the life of the analogy between thinking about women’s rights and race. The (presumably white) family that had been framed as in need of protection from the threat of miscegenation was not unlike the family that was to be threatened by such things as the opening of childcare centers. The idea that “women’s liberation” would disrupt the traditional, gendered roles of parents, and especially of men, was haunted by the 1965 pathologization of the woman-headed Black family in the Moynihan Report. The idea of promoting anything but a family-centered, privatized view of social life not only risked upsetting traditional understandings of gendered parental roles, but also appearing to bow to the ever-present allure of the un-American—of communism. In this way, as Jordan demonstrates in “From Sea to Shining Sea,” as part of the pursuit of “traditional values of freedom”—a phrase that appears twice in the poem—resistance to the ERA is linked to the trucks carrying nuclear weapons developed to defend that freedom, to what she would later name as “the new manliness,” in an essay connecting domestic violence with international violence and nationalist posturing.

Even as state ratification of the ERA came to a halt, what legal scholars have referred to as a “de facto ERA” developed largely through a shift in Fourteenth Amendment jurisprudence,

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8 On perceptions of *Loving v. Virginia* as an enactment of the federal government’s exercise of control over family life vis-à-vis marriage, as well as about Nixon’s reasoning for vetoing the Comprehensive Child Care Bill of 1972, on the grounds that it represented a communal approach to child-rearing that threatened the integrity of the family, see (______). Nixon had offered the following: “for the Federal Government to plunge headlong financially into supporting child development would commit the vast moral authority of the National Government to the side of communal approaches to child rearing over against the family-centered approach.” More on the “threat” posed by communal child-rearing efforts and recognition of children’s potential for independence can be found in Michael Bronski’s 2018 *Boston Review* article, “When Gays Wanted to Liberate Children.” Jordan was a champion of children’s autonomy and her pedagogy evidences her respect for their intellectual independence from their parents and other adults.

9 See “Life after Lebanon.” Jordan also makes a strong case here for not turning into your oppressor by securing power by the same trammeled paths that oppressive power has taken.
where for the first time in over 100 years the Supreme Court began to interpret the Fourteenth Amendment’s equal protection clause as prohibiting discrimination on the basis of sex. As the decade turned toward the 1980s, and neoconservative politicians and thinkers set about proclaiming the goals of the previous decades’ civil rights movement to have been achieved, the Court’s reliance on the Fourteenth Amendment to endorse race-conscious efforts to end discrimination diminished, abetting the conditions for the development of purportedly race-neutral policies that disproportionally harmed racialized minorities by focusing on colorblind “equal process” rather than “equal results,” in Kimberlé Crenshaw’s terms (“Race” 103-106). An understanding that equality meant formal similarity reigned (118), with different consequences in different contexts—for example, both enabling more robust support for women playing college sports and diminishing universities’ use of affirmative action in the admissions process.10 With the de facto ERA, jurisprudential efforts to instantiate equality of race and equality of sex came to constitute race and sex as equivalent categories, shifting the horizons for imagining equality to a narrower frame.

Among the activists present at the intersection of movements for women’s rights and racial equality were poets. Pauli Murray was also a poet. Poets held a prominent place in the

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10 For an account of the way strategies of formal equality associated with liberal feminism shaped Title IX of the Civil Rights Act of 1964, see Brake, Deborah, *Getting in the Game: Title IX and the Women’s Sports Revolution* (8-9). Brake marks liberal feminism as one among several “strands of feminist legal theory” that informed the law. A notable moment in the attenuation of affirmative action came with *Regents of the Univ. of California v. Bakke*, a case hinging on the equal protection clause and the Civil Rights Act of 1964. In *Bakke*, decided in 1978, a divided Supreme Court found that using certain practices like quotas to redress longstanding racial harms was impermissible, while more general practices of affirmative action could still be allowed. Kimberlé Crenshaw’s “Race, Reform, and Retrenchment” highlights the gains and the limits of formal equality for African Americans as the “New Right” emerged as a rhetorically (and otherwise) powerful political force. Rich references *Bakke* in her essay “Disloyal to Civilization” as evidence, citing Justice Powell’s opinion, that the court does not take gender discrimination as seriously as racial discrimination (*On Lies* 284).
public picture of 1970s feminism and as Nicky Marsh notes, “Poetry was a crucial cultural practice for second-wave feminism” (15). Throughout the 1970s and into the 1980s, feminist periodicals circulated poetry alongside manifestos, essays, and reports on current events, and feminist presses provided an avenue for the production of a woman-centered, woman-directed literature. In academic settings, poets were at the forefront of initiatives to transform curriculum and pedagogy with equality in mind; Jordan, for example, introduced courses in Women’s Poetry and The Art of Black English to SUNY Stony Brook in the 1970s, developed collaborative methods for assessing student work, and encouraged students in self-directed research (Life Studies). In the particular role of “Poet,” Jordan also became increasingly visible as a public intellectual, as evident when she appeared under that title on William F. Buckley’s The Firing Line in 1976. Invited to debate First Amendment issues with the conservative polemicist Buckley and with Planned Parenthood and ACLU-affiliated lawyer Harriet Pilpel, a frequent guest on the show, it is Jordan who introduces the term “equal protection” into the conversation and prompts Pilpel to admit a “prejudicial commitment” to the First Amendment.

In 1977, in preparation for the National Women’s Conference—a federally-funded event organized in conjunction with the UN’s International Women’s Year —it fell to a poet, Maya Angelou, to write the declaration that would appear on a scroll that was to be carried from Seneca Falls to Houston. In that same year, the Combahee River Collective, in which poets Audre Lorde, Cheryl Clarke, and Akasha (Gloria) Hull and feminist publishers Beverly and Barbara Smith played a vital role, published a widely circulated collective statement illustrating the necessity of Black Feminism in addressing “systems of oppression [that] are interlocking” (210). Histories of the period also make reference to the contributions of poets and other creative writers to feminist movements, movements for racial equality, and the intersection of these.
Mayeri, for example, uses a literary reference to sum up what were the limits of race-sex analogies by the early 1980s. Given widely held conceptions about the default subjects of women’s and African-American social movements, shwrites, “The title of an influential anthology published in 1982 said it all: *All the Women Are White, All the Blacks Are Men, But Some of Us Are Brave*” (3).

In this active climate of politically-animated poetry and poetically-animated politics, Rich and Jordan’s work had a particularly wide reach. Rich’s archive at the Schlesinger Library teems with letters from women around the country, writing in gratitude for her work—a testament to the breadth and impact of her visibility. Her writing from the 1970s and 1980s, especially her essay “Compulsory Heterosexuality and Lesbian Existence” and her work on motherhood, has also influenced scholarship that resonates in legal settings, including Rosalind Petchesky’s *Abortion and Women’s Rights*, cited in the 1992 Supreme Court decision *Planned Parenthood v. Casey* for its affirmation that Americans organize their lives with knowledge of the availability of abortion. Jordan’s work appeared in publications with wide circulation; she published not only in poetry-centered magazines, such as the *American Poetry Review* (in a column called “The Black Poet Speaks of Poetry”), but also popular magazines like *Essence*, where her “Poem about My Rights” appeared in 1978, and *Mademoiselle, The Nation*, and *Ms.*, which featured her essay “Second Thoughts of a Black Feminist,” assessing the meaning of liberation in, and tackling the often exclusionary practices of, “the Black Movement, the Third World Movement, and the Women’s Movement” (117). When she republished this 1976 essay in her book *Civil Wars*, under the title of “Declaration of an Independence I Would Just as Soon Not

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11 Kimberlé Crenshaw also turns to the title of this book to illustrate the multidimensional experiences of Black women that antidiscrimination law, feminist theory, and racist politics tend to miss (“A Black Feminist Critique” 356), as does LeRhonda S. Manigault-Bryant in a newspaper article responding to the planned 2017 “Women’s March on Washington.”
Have”—highlighting the context of the essay’s publication in the year of much bicentennial celebration—she prefaced it with the note that her call for solidarity at the end of the essay “was answered by Black Women who wrote me, care of Ms., from all over the country. Yes, they said, you are not alone!” (115). Her essays from the 1970s, including this “Declaration of Independence,” treat the persistence of racism even in the wake of major civil rights legislation, as well as women’s especial vulnerability to violence in a patriarchal society whose strength is in no small part enforced by police power. Rich’s collection On Lies, Secrets, and Silence, which collects essays from the mid-1960s through the late 1970s, takes on similar contemporary circumstances and responds to the insights of the black feminist thinkers with whom she was in conversation, and is dotted with references to the Equal Right Amendment and the antifeminist campaign against it.  

The arguments made in these essays inform the attention that I give in this chapter to Jordan and Rich’s poetry—a genre, these writers argued, with a special power of communication. For Jordan, poetry should be understood as “a natural communication among human beings” and the “particular sensation of an only life trying to reach out, trying to touch, trying to understand whoever and whatever exists beyond the realm of me, mine, and I” (Life Studies 21, 40). For Rich, in poetry, “we’re translating into a medium—in this case language—the contents of our consciousness, wherever they may come from… And then poetry becomes something that can enter the consciousness of others” (Arts 134). For both of these writers, poetry is a means of overcoming solipsism, where “an ‘I’ can become a ‘we’ without extinguishing others,” as Rich would write in her 1993 essay “Someone Is Writing a Poem.” As discussed in the introduction to

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12 See Rich’s “The Antifeminist Woman” and “Disloyal to Civilization,” for example. In the latter essay, she acknowledges that the passage of the ERA alone would not effect equal rights for women “given the composition of the courts” (284).
this dissertation, these poets’ persistent insistence on the affirmative and communicative power of the first-person challenged a history of understanding lyric poetry as self-obsessed and self-addressed.

... Taking seriously poets’ claims that poetry is a medium of communication, and appreciating the scope of their reach as writers, I consider their poetic work as a contribution to broader conversations around women’s and racial equality. Poems by Jordan and Rich illustrate the close links between protection and patriarchy, and the role of these links in shaping demands for equality. In doing so, they invite their audiences to question protection as an inherent good, as well as the ways that classification renders groups of people imaginatively and materially vulnerable and threatening. Their timing is notable, coinciding with an expansion of the security state that did not escape the attention of poets, and had in fact had already shaped poetic engagements for decades, in the context of cold-war surveillance.\footnote{See Deborah Nelson’s \textit{Pursuing Privacy}.} Allen Ginsberg, who along with Rich received the National Book Award in 1974, used his acceptance speech proclaim that:

\begin{quote}
The reckoning has come now for America. 100 Billion goes to the War Department this year out of 300 Billion Budget. Our militarization has become so top heavy that there is no turning back from Military Tyranny. Police agencies have become so vast – National Security Agency alone the largest police bureaucracy in America yet its activities are almost unknown to all of us – that there is no turning back from computerized police state control of America. \\
\[...\]
\end{quote}

\begin{quote}
... I take this occasion of publicity to call out the Fact: our military has practiced subversion of popular will abroad and can do so here if challenged, create situations of Chaos, take over the Nation by Military Coup, and proclaim itself Guardian over public order. And our vast police networks can, as they have in last decade, enforce that will on public and poet alike.
\end{quote}

Ginsberg, like Jordan and Rich, marks as extraordinary what in his moment was understood as common sense. As Ruth Wilson Gilmore points out in assessing the role of racism in the
genocide that characterizes the twentieth century, militarism is one of the ways that “classification maintains coherence,” and “[a] sign of militarism’s ideological embrace is the fact that all kinds of U.S.-based people believe without pause that, in a general way, ‘the key to safety is aggression’” (citing Bartov and Gilmore 244). Poets point to the picture of the world that links common-sense ideas about who threatens women, the American family, and America itself, as well as shapes ideas about what should be done in response.

Rich’s 1974 National Book Award acceptance speech was not hers alone, but jointly composed with co-nominees Audre Lorde and Alice Walker, and accepted on behalf of all three “in the name of all the women whose voices have gone and still go unheard in a patriarchal world, and in the name of those who, like us, have been tolerated as token women in this culture, often at great cost and in great pain.” Positing poetry as something that “exists in a realm beyond ranking and comparison” and “refusing the terms of patriarchal competition,” they declare that they will share the award. Read as companion pieces to each other, the Lorde, Rich, and Walker statement and Ginsberg’s statement illustrate the far-ranging stakes of “patriarchal competition.” Lorde, Rich, and Walker also take the moment to mark the inadequacy of awards in remediating the conditions that shape women’s quality of life, subtly arguing, too, that celebrating the token successful woman should not be confused with broader equality of and for women:

We appreciate the good faith of the judges for this award, but none of us could accept this money for herself, nor could she let go unquestioned the terms on which poets are given or denied honor and livelihood in this world, especially when they are women. We dedicate this occasion to the struggle for self-determination of all women, of every color, identification, or derived class: the poet, the housewife, the lesbian, the mathematician, the mother, the dishwasher, the pregnant teenager, the teacher, the grandmother, the prostitute, the philosopher, the waitress, the women who will understand what we are doing here and those who will not understand yet; the silent women whose voice have been denied us, the articulate women who have given us strength to do our work.
In their proliferating list of identity markers and their use of the open-ended category of “identification,” the poets work to dismantle binaries often used in assessments of equality. In proclaiming their vision of equality, they look towards the future; they look past the common sense of their present moment.

II. Equality without Protection, Equality without Equivalence

In the decade that began with Nixon’s call for law and order and turned with similar promises from Reagan (see chapter 4), abstracted assumptions about connections between sex and race, compromised demands for equal rights, as well as shifts in the composition of the Supreme Court contributed to the weakness of what has been understood as the de facto ERA. Scholars have argued that the de facto ERA resulted in a weaker case of women’s rights than might have been accommodated through a separate amendment, and Siegel notes that “The history of the de facto ERA suggests some less visible ways in which law disestablishing a status order can become entangled in its reproduction and preservation” (1331).

In legal practices, the irrelevance of the actual ERA may now be a (largely) settled matter—periodic attempts to revive the amendment notwithstanding. Still, I want to query the implications of the differences between the ERA and the equal protection clause of the Fourteenth Amendment. My aims, as I connect my analysis of these Constitutionally-oriented texts to poetry contemporary with the battle for ERA ratification, are to call attention to the fact that theorizations of equality posit objects of comparison, whether these are overtly given or

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14 In May 2018, for example, the state of Illinois, Phyllis Schlafly’s home state and the base of her Eagle Forum, voted to ratify the ERA, despite its ostensible 1982 ratification deadline. Nevada voted to ratify the amendment in 2017. A July 2018 report by Thomas Neale of the Congressional Research Service reviews attempts to argue against the expiration of the ratification period as well as proposed “fresh starts” for the ERA, which would re-introduce the amendment for a vote. Various scholarly projects, including a special issue of Frontiers: a journal of women studies in 2017, also examine the legacy of the ERA in particular
implied—a fact that can be lost where equality appears abstracted from concrete referents, as it can in law. An additional aim is to examine the pictures of the world that Constitutional and poetic texts participate in maintaining and upending, following from an understanding of law’s normative role and poetry’s capacity to operate as a form of analysis.

While I recognize that, in examining the figurative dimensions of law set in motion through a kind of close reading associated with poetry, I have been reading amendments in ways that would not have much traction in legal settings, the brief history I’ve outlined so far should demonstrate that in the campaign to bring the ERA to the attention of Congress, it was commonly understood that the ERA and equal protection clause suggested different ways of engaging with equality, which perhaps have now collapsed into one another. Jordan and Rich offer in their poetry instances where the usual binaries that tend to constitute the objects of comparison in conversations around equality—women and men, black and white—are absent or are marked as constructions rather than natural modes of apprehension. Their work suggests an analysis of equality that draws into the same frame whom propositions of equality concern and how equality is attempted or enacted.

In several poems composed between 1972 and 1982, concern for the relationship between equality and protection emerges. Returning to the 1980 poem “From Sea to Shining Sea,” the parallel structure of many of the stanzas in the poem’s fifth section suggests a veneer of formal equality, but an equality of what? Jordan emphasizes not how an equal protection of the law applies to the “various constituent groups” she’s identified (“June Jordan”), but the way unequal applications of the law’s protection—in the form of neglect, or the turning of weapons developed to protect the state against its inhabitants—renders different populations differently vulnerable. For example, highlighting inadequate investigation into what were known as the Atlanta Child
Murders and, several stanzas later, the fragile safety of those living alongside a North Dakota missile base, she writes:

This was not a good time to be a child

Suicide rates among the young reached alltime highs as the incidence of child abuse and sexual abuse rose dramatically across the nation. In Atlanta Georgia at least twenty-eight Black children have been murdered, with several more missing and all of them feared dead, or something of the sort. (328)

and later:

This was not a good time to live in Grand Forks North Dakota

Given the presence of a United States nuclear missile base in Grand Forks North Dakota the non-military residents of the area feel that they are living only a day by day distance from certain annihilation, etcetera. (330)

The disappearance of human (grammatical) subjects from the earlier of these two stanzas—the initial subjects are suicide rates and the incidence of child abuse, not children themselves—underscores the disappearance of Black children referenced a few lines later. The passive construction “have been murdered” transmits a lack of information about who is responsible for the murders; who is feeling the fear is also unspecified. This both contributes to an illustration of fear that is widespread and atmospheric and points to the disregard by police and other official investigative bodies of Black parents’ fear and grief. Jordan’s appending “something of the sort”
to “dead” opens up a space between life and death that enlarges the field of death beyond the literal.\textsuperscript{15}

The later of the two stanzas above points to what seems like an inevitability of disaster, or the idea that everything is tumbling out of people’s control—though not out of order; the poem, after all, opens with the proclamation that “Natural order is being restored” (325). This is what the restoration of order looks like: what seems designed for protection, like missiles, necessitates further protection. But how, and from whom? “From Sea to Shining Sea” raises questions about who adjudicates vulnerability, who creates the circumstances that engender vulnerability, and how vulnerability comes to be conceived as a given condition of life.

In the stanza where Jordan stages Reagan’s worry that the ratification of the Equal Rights Amendment would “only throw the weaker sex into a vulnerable / position among mischievous men, and the like” (329), Jordan shows how conservative leaders, without providing real protection, mobilized a logic of protection to limit women’s self-determination—a keyword that provides a different way of thinking through women’s rights than does equality, but is still, like equality, a way of imagining the self that is coherent in a world significantly ordered through structures of liberalism, as will be discussed in the next chapter. By invoking women through the biblically-inflected idiom of “the weaker sex,” Jordan points to the way assumptions about the natural order and the biblical order are conflated and encoded in everyday phrases, carrying with them assumptions about who needs protection.

Her sentence structure also highlights that “mischievous men, and the like” are not held responsible for their actions, as it is not these men whom Jordan attaches to the active verb

\textsuperscript{15} See the introduction to Toni Cade Bambara’s “What’s happening in Atlanta?” which mentions “police ineptitude,” parent and community members’ campaign against the murders, and the disregard of female victims from official narratives of the murders (111-112).
“throw,” but the ERA. It is the ERA that would initiate what reads at once as a figurative and literal subjection—subjection meaning, at its root, a throwing under. The slipperiness of “mischievous men” is amplified by their blurring into “the like.” Such a disavowal of men’s responsibility for what happens to women edges towards what Wendy Brown describes as a “central paradox of late modern masculinity: its power and privilege operate increasingly through disavowal of potency, repudiation of responsibility, and diffusion of sites and operations of control” (194). As Brown connects this to a similar tendency of the late modern state to represent “itself as pervasively hamstrung, quasi-impotent, unable to come through on many of its commitments, because it is decentralizing (decentering itself)” (194), so too does Jordan, addressing “Streamliner plans for the Federal Budget” to eliminate or reduce Social Security, Medicare and Medicaid, the Office of Education, and Unemployment Compensation, as “the national / leadership boasts that this country will no longer / be bullied and blackmailed by wars for liberation” abroad (328, 329). Other poems of Jordan’s written in the 1980s and would go on to record what she illustrates as US-led bullying at the international level.16

While “From Sea to Shining Sea” highlights damaging consequences that attend the absence of equal protection and the promise of protection, Jordan concludes the poem not by petitioning the state for greater protection, but by proposing indeterminate collective action. Throughout much of the poem, she renders the present as the past by using the phrase “This was not a good time,” framing the present moment of the poem’s composition from the viewpoint of an unspecified future. This allows for an opening up of a present-tense time of action at the conclusion of the poem. After delivering a litany of what “This was not a good time” for, Jordan

16 For example, see “Problems of Translation: Problems of Language” (340-343); “Easter Comes to the East Coast: 1981” (357-358); “Apologies to All the People in Lebanon” (380-382); and “Another Poem about the Man” (384), among others.
writes, “-Wait a minute-” and, prompted by a new sensual awareness that stands in stark contrast
to the report-like descriptions that appear earlier in the poem, shifts into the present tense, then
concludes:

This is a good time
This is the best time
This is the only time to come together

Fractious
Kicking
Spilling
Burly
Whirling
Raucous
Messy
Free
Exploding like the seeds of a natural disorder. (331)

This coming together in a continually renewing present tense, in an explosion that is unfinished
in the poem, recalls imagery from the beginning of the poem of a pomegranate with its many
seeds (325, 326). With such a conclusion, the poem does not insist that differences be reconciled
in the name of promoting the substantive equality of various human lives. How might this serve
as a “picture of the world” that informs understandings of equality? The poem posits an
indeterminate future—a disorder that refuses the certainty law, with its “shall,” asserts about the
future. It also participates in the (re)production of an aesthetic that finds, as the seventeenth-
century poet Robert Herrick writes, something like “delight in disorder”: a pleasure that appears
politicized when held against a rhetoric that persistently evokes a desire for “law and order.”

Herrick’s poem and his politics (a royalist during the English civil war) are distinct from
Jordan’s; the disorder in his poem concerns a woman whose slightly neglectful manner of dress
excites his attention and charms him. However, both poems can be located in a larger poetic
tradition that questions common-sense understandings of symmetry as beautiful and desirable,
As the first poem in Jordan’s book *Living Room*, “From Sea to Shining Sea” begins to posit nonhierarchical coalitions of collaborators working to improve conditions for thriving, especially for the most vulnerable. In elaborating a “fractious,” “burly,” “whirling,” and perhaps temporary coalition, Jordan turns for an analog not to family, but to a piece of fruit. At the same time, while this referent is other than human, the pomegranate with its many seeds also links the future with reproductivity, a concept central to conversations around equal protection given the rhetorical importance of “the family.” The family figures as that which needs to be protected and needs to reproduce itself to legitimate protection; it serves as an original model for thinking about how protection operates.

Feminist legal scholar and scholar of law and literature Robin West provides one means of examining how invocations of the family work in theorizing protection. In her 1994 book on the Fourteenth Amendment, she turns to an essay by Justice Scalia, noting that he “describes the basic idea behind the formalist interpretation of the equal protection clause by use of an analogy to family life”: children won’t tolerate the unequal application of rules from parents, and neither will citizens tolerate breaches of formal equality without being provided very good reasons (20). West observes that Scalia’s essay treats the concept of equal justice rather than that of equal protection, but the very idea that Scalia’s real focus becomes evident only through her analysis implies a close link between thinking “parents” and thinking “protection.” That is, even though Scalia’s essay may have treated equal justice rather than equal protection, it can be argued that

with implications for common expectations about the design and appearance of social and political life. Furthermore, while Jordan’s poem does not turn on the poet’s objectification of a woman, the sensual dimension of one of its central metaphors is important, as readers of “From Sea to Shining Sea” have observed. For example, Tamara Lea Spira notes that the poem “begins with the metaphor of a pomegranate in the grocery store. A symbol of sensuality encased and nature’s commodification, the pomegranate arrives at the store only after a process of violent extraction … However, in addition to symbolizing processes of domination, the pomegranate is also juicy and succulent. It is bursting with sensuality and vitality.”
the very mention of protection in the Constitutional clause triggers this reference to, and imagination through, the family.

Furthermore, to distinguish between equal justice and equal protection, West chooses to return to the site of the family. Inviting readers to consider a *Lord of the Flies*-like island, but with parents, and parents who are treated as a central authority, West writes:

The parents on this Goldingesque island… are peculiar. They usually intervene in their children’s economic lives … so that all children can withstand natural threats to survival and have equal opportunities in the quest for glory. In addition, the parents intervene in their children’s physical battles to protect each child against the violence and dominance of the others. They accomplish this latter goal by laying down a mandate prohibiting all intrafamilial violence and then punishing offenders. But for some perverse reason, they bestow this protection of parental authority on every child but one…

… The child denied equal protection of the parental authority, no less than the citizen denied equal protection of the state authority against private violence and violation, lives a very different life than her siblings… One way to express the difference between her life and the lives of the other children is that the other children live with only one familial authority: the parents whose will must be obeyed… By contrast, the child denied equal protection lives under the thumb of two sovereigns… She becomes not just a victim of injustice. She becomes a slave. (21-22)

As West develops her Goldingesque scenario in response to Scalia, she is able to illustrate what is at the heart of her own argument about how the Fourteenth Amendment should be interpreted: using an approach that would overcome, or at least propose a way of navigating between, the conflicting understandings of the formalist and anti-subordination approaches that have characterized interpretations of the amendment’s engagements with equality. What West advocates is an “abolitionist approach,’ which she explains through the above scenario. At its heart is the idea that a citizen should not have to be subject to dual sovereignty in the form of private violence—that is, to any sovereign besides the state. The takeaway is that “no state may deny to any citizen the protection of its criminal and civil law against private violence and violation” (23).
West goes on, later in the book, to highlight the ways in which marital rape exemptions, still in place when she was writing, highlight exactly this problem of dual sovereignty. Jordan and Rich also address this problem of private violence in their poems, exploring the way that the state licenses sovereign power to patriarchal figures, complicating the bounds of what counts as a private violation. A trio of poems concerning the police—Rich’s poems “Rape” and “Frame,” and Jordan’s “Poem about Police Violence”—draw forward state complicity in private violation, as well as the danger of turning to the state for protection.

Rich’s 1972 poem “Rape” opens with an image that conflates protector, patriarch, and predator: “a cop who is both prowler and father” (105). As the poem develops, Rich deepens her elaboration of the threat posed by this figure of protection, who “has access to machinery that could kill you,” whom Rich poses atop a stallion (105-106), one hand on a gun (105). She emphasizes that this figure, though seemingly distant from the “you” addressed in the poem, is nonetheless intimate with that you; the cop’s eyes are “the blue eyes of all the family / whom you used to know” (106). Ultimately, the details of the rape as reported come to sound “like a portrait of your confessor” (106). The poem is ruled by the logic of this figure, to whom “you have to confess” that “you are guilty of the crime / of having been forced” (106)—to make the crime cognizable, the victim must criminalize herself. The cop appears as the possessor of knowledge: “He knows, or thinks he knows, how much you imagined” and “what you secretly wanted” (106).

As in Rich’s 1980 poem “Frame,” based on the factual, reported incident of a young black female student in Boston who was, after seeking shelter on a cold night while waiting for the bus, violently ejected from the building she had gone in to, violently handled by a security and a police officer, and taken to the police station for nothing but her very act of seeking protection
figures of protection appear as practitioners of abuse, unable to listen to, to make sense of, this woman’s need for security. In “Frame,” the description of the building in which the woman seeks shelter appears through the eyes of someone trained to look out for her own safety: before entering, “the newly finished building suddenly looks / like shelter, it has glass doors, lighted halls / presumably heat. The wind is wicked…” (188). The description, highlighting the newness of the building, its transparency, and its warmth, also underscores a gap measured in the poem between rhetorics of progress and practices of equal protection. For all of its modern touches, it still cannot be a place of shelter, remaining under surveillance by “the white man who watches the building / who has been watching her” (188). The transparency of the building does not contribute to its safety for the woman who seeks shelter, nor does the employment of a security officer secure her well-being. Rich adds, in the same line as she describes “the white man who watches the building,” as if to further mark the disjunction between temporal progress and social transformation, “This is Boston 1979” (188). Boston, 1979, as Rich likely knew, was also a dangerous coordinate for black women, twelve of whom were murdered in the surrounding areas that year, as the Combahee River Collective publicized in a pamphlet (Combahee “Eleven Women,” Hong 32-33). Despite the transparency of the building, and the transparency of the racialized and gendered form of violence leveled by the officers against the figure in the frame of the poem, the first-person speaker who narrates the story beyond the reach of sound recognizes that “it is meant to be in silence that this happens / in silence that he [the police officer] pushes her into the car” and:

- in silence that he twists the flesh of her thigh
- with his nails in silence that her tears begin to flow
- that she pleads with other policeman as if
- he could be trusted to see her at all
- in silence that in the precinct she refuses to give her name (189)
Despite the apparent transparency to a police officer of a body racialized as black, she who is rendered transparent remains vulnerable to violence. Despite the clarity with which the reader of the poem takes in this violence, it remains uncognizable to figures of the law.

The first-person speaker of “Frame” is “standing… somewhere just outside the frame / of all this, / trying to see,” and at once finds herself implicated in the violence caused by the security officers, by virtue of the power she shares with them through whiteness (188), and finds her status of her testimony to this event invalidated by the cohort to which these officers belong: “What I am telling you / is told by a white woman who they will say / was never there. I say I am there,” the poem concludes, asserting presence through poetic address (188). Rich’s insistence that she is telling “you” something underscores a sense of the poem as testimony, and implies an audience who would be invoked by this you, raising questions about the authority of the contingent community called into being by the poem’s address. After Rich tells “you” what she has seen, what are you to do?

Another poem in which the equal protection of the law is exposed as a fiction through descriptions of law enforcement is in Jordan’s “Poem about Police Violence,” which highlights the disproportionate killing of black men and boys by police officers. Jordan emphasizes the act of address in the poem, stressing that here the poet is not just talking to herself; as in Rich’s poem, the poet becomes a witness. The poem opens:

Tell me something
what you think would happen if
everytime they kill a black boy
then we kill a cop
everytime they kill a black man
then we kill a cop

you think the accident rate would lower
subsequently?

Written after police choked Arthur Miller to death in Brooklyn (Jordan 272, Reed), the poem opens with a proposal that operates under the logic of formal equality, so as to critique the absence of it in the police force’s operation under a racist order that is especially lethal for black boys and men. Further, Jordan illustrates that police use of force not only evades formally equal treatment across encounters with people of various racialized appearances, but is also highly disproportionate: “they tell me / 18 cops to subdue one man / 18 strangled him to death in the ensuing scuffle” (272). At a time when the concept of formal equality dominated understandings of what equality could mean, rather than posit state action as the remedy for a lethal form of discrimination, Jordan tests out a prompt for violent collective action on behalf of the black targets of police violence. Furthermore, in her mathematical considerations, Jordan also measures the limits of rationality associated with formal equality. As Jewelle Gomez writes, “The shock of the question is deliberately provocative. But the poem's power lies in its status as inquiry. It’s an intellectual hypothesis demanding we follow the corollaries out to the edge of the page” (34). That is, this is a question that is not (just) rhetorical: repeating the proposal across the poem, Jordan sets the path for imagining what would happen and invites a response with “tell me.”

In all of the aforementioned poems—“From Sea to Shining Sea,” “Rape,” “Frame,” and “Poem about Police Violence”—equality cannot modify protection as it does in the equal protection clause, even aspirationally. To the extent that protection is involved in the circumstances these poems describe, what is being protected is not necessarily a quality of sameness in the application of the law regardless of the race or sex of a person, but a way of living that affirms the status quo of patriarchal arrangements. Rather than call for more police presence to protect against private violence, as West does in her 1994 book, or clearer legal paths
for pursing claims related to gendered violence, as Cynthia Grant Bowman explores in writing about street harassment (to be addressed in the next chapter), Rich and Jordan raise the question of who or what can make protection possible when the channels that enable both state and private violence appear indistinct.

An additional perspective is suggested by James Boyd White’s writing on the effects of a rising movement in “Law and Economics” during the 1970s. As White explains, the language of economics has become a language in which we increasingly perceive, feel, think, and assess the meaning of what we do; many of its premises have come to be taken as natural—as descriptive, totalizing, and stable (46-72). Economic discourse (“namely microeconomics of the neoclassical kind”) engenders a “Mathematical Image of the Person” and operates through binaries (46, 64). In such a context, fairness is exemplified by the market, freedom is framed as matter of government restraint rather than enablement, and “equality [of people] under the law” presumes an equality of opportunity for featureless economic actors (62-64, 66). In part, what Jordan and Rich’s work enables is the recognition of the featureless economic actor as gendered and the appearance of the “person” in other than economic frames.

The constraints provided by the capitalist and patriarchal logics of law, and perhaps by its figurative dimensions as well, have animated scholarly discussion around the possibility not only of feminist legal theories, but a more comprehensive feminist jurisprudence, which some legal scholars have asserted cannot exist until the patriarchal dominance that renders human beings presumptively male before the law is upended (Cain 193, citing Catherine MacKinnon and Robin West). Patricia A. Cain, in a widely cited 1988 article for the Berkeley Women’s Law Journal, calls on Adrienne Rich’s “Twenty-One Love Poems” in an argument for ensuring feminist legal and academic methods account for the experiences of lesbians and come to recognize
heterosexuality as an institution, in a way that might make a future feminist jurisprudence more possible (193). Cain quotes from Rich’s chronicle of her own reaction to two heterosexual women friends celebrating what they interpreted as the universality of “Twenty-One Love Poems.” Rich notes that “The longing to simplify … to assimilate lesbian experience by saying that ‘relationship’ is really all the same, love is always difficult—I see that as a denial, a kind of resistance, a refusal to read and hear what I’ve actually written, to acknowledge what I am” (Cain 207 citing Rich “Interview”). This is one instance of Rich’s interest in affirming that presumptions of women’s equality—among themselves, with or men—need not serve claims of sameness.

Rich’s work in “Twenty-One Love Poems” to compose the ground of woman-centered thought and experience can be viewed as a contribution to her contemporary discursive realm, as evident in Cain’s citation of her and in other scholarly works that highlight the importance of lesbian writers’ efforts to situate women other than through location respective to men, as well as debates about tendencies to essentialize “woman.” Rich’s own essay “Compulsory Heterosexuality and Lesbian Existence” testifies to how persistently women are imagined or constituted in relation to men, but in it she also asserts the presence of counter-traditions. “Traditions,” plural, is key. As Victoria Hesford remarks of this essay, “Rich does not argue for an equivalence between different episodes, places, and times of woman-identified experience but for the production of a relationship between them” (247).

By the time she published “Twenty-One Love Poems,” Rich was not writing as an unknown figure. The sequence appeared not only in her own poetry collection The Dream of a Common Language, but also in the anthology Amazon Poetry and as a stand-alone chapbook, making the work part of the realm of W.W. Norton and part of a network of feminist publishing
brought to life through independent presses, chapbooks, and newsletters that presumed a specifically (in some cases lesbian-)feminist audience. As Kevin McGuirk notes, following Charles Altieri’s observation of a move in Rich’s work from pathos to ethos coincident with “Twenty-One Love Poems,” Rich can be understood to have replaced “the pathos of the private lyric self with the ‘woman-centered,’ ‘woman-identified’ experience of ethical community” as a means of “situat[ing] the lyric self in the political world” (68). Central to this self is Rich’s affirmation of her lesbian identity, which informs her explorations of equality in the poem sequence.

The sixth poem of the sequence opens with an image of equality: “Your small hands, precisely equal to my own—/ only the thumb is larger, longer—in these hands / I could trust the world, or in many hands like these” (146). Equality begins in these lines as an image of identity, until the precision of that identity is interrupted with the speaker’s recognition of a minor difference in the thumb size of herself and her addressee. As the set of objects of comparison—“your small hands” and the speaker’s hands—expands to include “many hands like these,” the very idea that equality need be understood as a matter of identity—as in sameness—further dissolves. “[M]any hands like these” are significant not because of whatever qualities they share, but because they are equal in capacity—equal to the litany of activities that fills the rest of the stanza, which include “handling power-tools or steering-wheel / or touching a human face,” turning “the unborn child rightways in the birth canal,” “pilot[ing] the exploratory rescue-ship / through icebergs” and “piec[ing] together / the fine needle-like sherds of a great krater-cup”—an ancient Greek vessel (146). In these lines. Rich appears to tap into an essentialist paradigm (the power of the midwife) and into one of equal opportunity (women can handle power-tools) at the same time, creating the ground to think these things together— and in a way that challenges the
terms of a debate around sameness/difference that would come to public prominence in the Equal Employment Opportunity Commission’s 1986 case against Sears. Yet ultimately, the basis for conceiving of equality in “Your small hands [Poem VI]” is not that of equality between women and men, as in “women can handle power-tools just as well as men,” but of the equal capacity of women’s hands. Describing not who women are, but what their hands can do, Rich at once joins contemporary efforts to loosen sedimented notions about women’s abilities as creators and navigators and animates histories of women’s midwifery, figurative and literal, that are often obscured or framed in relation to the creative projects of men.

It is significant that the “great krater-cup” Rich imagines being carefully assembled ultimately takes shape as a vessel featuring “figures of ecstatic women striding / to the sibyl’s den or the Eleusinian cave,” both representations of women privileged in their milieu, and of social and erotic bonding among women. These women might be seen as part of Rich’s consciousness as a “woman-identified woman,” as part of the “lesbian continuum” she later writes of in “Compulsory Heterosexuality and Lesbian Existence”:

> I mean the term lesbian continuum to include a range—through each woman's life and throughout history—of woman-identified experience; not simply the fact that a woman has had or consciously desired genital sexual experience with another

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18 The case concerned discrimination against women in commission jobs and had its origins in the prior decade. For a discussion of theoretical approaches to overcoming the essentialism highlighted in the case, see Joan Williams, “Dissolving the Sameness/Difference Debate: A Post-Modern Path Beyond Essentialism in Feminist and Critical Race Theory” and Joan Scott, “The Sears Case.”
19 Rich also engages woman’s role as muse or midwife to a man’s creative process in her 1972 essay “When We Dead Awaken: Writing as Re-Vision” (On Lies 36). In one iteration of this essay, which appears in slightly different forms across various publications, Rich provides what seems a counter to Sir Phillip Sidney’s paradigmatic account of a male writer’s appropriation of pregnancy to describe the creative process (“Thus, great with child to speak, and helpless in my throes, / Biting my truant pen, beating myself for spite-- / ‘Fool,’ said my Muse to me, ‘look in thy heart and write.’”). Rich writes of the “victimization and anger being experienced by women” that “They are our birth pains, and we are bearing ourselves” (in College English 25).
woman. If we expand it to embrace many more forms of primary intensity between and among women, including the sharing of a rich inner life, the bonding against male tyranny, the giving and receiving of practical and political support; if we can also hear in it such associations as marriage resistance and the "haggard" behavior identified by Mary Daly... ——we begin to grasp breadths of female history and psychology that have lain out of reach as a consequence of limited, mostly clinical, definitions of “lesbianism.” (51)

This consciousness is central to Rich’s navigation between identity and difference in the poem, and therefore shapes the points of references through which she elaborates her understandings of equality.

At the same time, the poem bears signs of the pressures that would submerge this continuum, as well as the possibilities contingent upon acknowledging it, under existing structures and narratives. What exists already, the conditions of the world, can’t be ignored, as evident in Rich’s narration of a scene in which the speaker, driving with her lover “to another place / to sleep in each other’s arms” finds “the beds were narrow like prisoners’ cots / and we were tired and did not sleep together / and this is what we found, so this is what we did—” (151). This is followed up with a question, and a response: “was the failure ours? / If I cling to circumstances I could feel / not responsible” (151). Rich closes the poem (the twelfth out of twenty-two poems in the sequence) with an idea that she reiterates throughout the body of her work: that even under constraint, choice is possible. This seems less the market-inflected understanding of choice that would come to mark debates about equal opportunity, merit, and racism, but a framing of choice as a responsibility that comes of living in a world with other people.

The thirteenth poem in the sequence follows up these images of constraint with one of open, unmapped roads, and the vision of the speaker and her lover “driving through the desert / wondering if the water will hold out / the hallucinations turn to simple villages” and in “a
country that has no language” and “no laws.” Given the extent to which language and law have served as a metonym for country, imagining a country with no language and no laws requires a reimagining of country. For Rich, this would come to be a frequent poetic exercise; by the 1980s, she would frame her poems as an attempt “to speak from, and of, and to, [her] country” and “[t]o speak a different claim from those staked by the patriots of the sword” (*Your Native Land* jacket). Considering this aspiration in connection with 1970s poems including “Rape,” “Frame,” and “Twenty-One Love Poems,” the importance of keeping in view the shared root of patriarchy and patriotism emerges.

[…]

[...]
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