

PBS' "TO THE CONTRARY"

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6:00 A.M.

SUNDAY, DECEMBER 15, 2002

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TRANSCRIPT BY: FEDERAL NEWS SERVICE
620 NATIONAL PRESS BUILDING
WASHINGTON, DC 20045

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MS. ERBE: An influential legal think tank recommends dramatic changes in family law, such as not penalizing a divorcing spouse financially for committing adultery. Do we need to update family law as society changes its vision of family values?

MS. CONWAY: Modernizing the law is less important than getting back to basics with our valuing families, promoting matrimony, motherhood, and cherishing children.

MS. ECHAVESTE: We need to update, just like we did when women could not even inherit their husband's property.

DELEGATE NORTON: It's time family law caught up with American families. But be cautious when it comes to children.

MS. PFOTENHAUER: Reasonable changes, yes. Facilitating divorce, no.

(Musical break.)

MS. ERBE: Hello, I'm Bonnie Erbe. Welcome to To the Contrary, a discussion of news and social trends from a variety of women's perspectives.

In the news, the American Law Institute, an influential legal think tank, has recommended sweeping changes in family law that largely liberalize it and, thereby causing a commotion among conservatives.

Then, New Year's Eve is quickly approaching, do you know who your date is? Many modern singles are turning to Internet dating services for the answer.

Behind the headlines, women country leaders. We interviewed the women who fill New Zealand's top three political offices, and fill you in on how it's different when girls, big girls that is, rule.

Up first, family law. The American Law Institute, an influential group of lawyers and judges is proposing massive changes in family law that, if adopted, could affect almost every family in America. These changes would boost alimony payments, change child custody and property rights for many divorced women, and for the first time extend similar legal rights to domestic partners, both hetero and homosexual.

The ALI says it's proposing these changes to bring family law current with changes in society and relationships over the past 30 years. One recommendation, judge's decisions about alimony or marital property should change if a divorcing spouse has committed adultery. The ALI also suggests extending payments similar to alimony to unmarried couples who split up. The Institute defines domestic partners as two persons of the same or opposite sex not married to one another who, for a significant period of time, share a primary residence and a life together as a couple.

The proposal has caused an uproar among conservatives. Critics say the proposals are biased against marriage and could undermine it as an institution.

So, Maria Echaveste, are they biased against marriage, and is this something we should adopt including not penalizing somebody for cheating on the other person?

MS. ECHAVESTE: Well, there's two points. Number one, the ALI is a very influential group, but it also is reflecting what is already happening in the courts. There are starting to be case law, and cases won involving unmarried partners.

MS. ERBE: Starting to be, but it's still the exception rather than the rule. I mean, if every couple that ever lived together in America started suing each other --

MS. ECHAVESTE: And this is where the ALI comes in, it takes a look at trends and says, wait a minute, we need to put some rules together that make sense for our society. And it's recommended. It's sort of a model code that then the state legislators will debate and decide. So, there's going to be plenty of opportunity for people of all different stripes to debate what the changes should be. But the bottom line is, we are seeing a change in the way relationships are formed, how long they last, the ties, and we need a hard look at where our society is going.

MS. CONWAY: I don't know that Hollywood's idea of what makes a family should be the cultural standard to which we all go down. And it seems to me that the law should first try to, yes, promote some of our basic institutions, including motherhood and child-rearing and marriage. And, at the same

time, the law has done an inefficient job of going after deadbeat dads, or getting alimony paid where it has to be paid.

MS. ERBE: Doing an inefficient job until recently because they never tried. It's only in the last few years that they started trying, and now they're doing better.

MS. CONWAY: It's improving.

MS. ERBE: Now authorities are doing better.

MS. CONWAY: Shouldn't we give that a little bit more time before we say, oh, and by the way, a family is now defined as this and such, and that and such. And the fact is, Maria, that it sounds great on paper to say that domestic partners should be recognized and everything, but that's been rejected when it has been put on most initiative and referendum before the people on the ballot. And it's only -- I mean, gay people can only get married in one or two states now, and it's been rejected by legislatures.

DELEGATE NORTON: The American Law Institute has always been on the cusp of where they think society is going. I don't think everybody should panic about the ALI. That's how they always are. My own judgment is that the law can never get too far ahead of where the society is. On the other hand, you don't want to leave people outside of the law either, as literal outlaws in the society. I think the more rational distinction --

MS. ERBE: Who is being left out now? Who is an outlaw?

DELEGATE NORTON: Well, I think a rational way to go at it, and the American Law Institute does do this in some of its proposals, is to think of what is the major reason people form families? Well, yes, they form families because they want to get together, they want to have somebody to live with. They form families usually because, if they're heterosexual, they have children. I would treat people who don't have children very differently from people who do have children, and not throw them all into this hodgepodge called marriage, or all into this hodgepodge called domestic partners. Most domestic partners are single. I hope this doesn't go off on homosexuals and heterosexuals, this is family law. Most families are heterosexual. We have a total breakdown of marriage which should concern us all because of children. Now, those who don't have children, it seems to me that they should be left to their lifestyles, and that the courts should recognize it, but it's time that this society woke up to the fact that this family law is not about whether you and your husband got together or whether he committed adultery or you did. It's about those children, and what has happened to children as a result of the breakup of families.

MS. PFOTENHAUER: Let me, very strangely here, agree with the folks I normally disagree with and say, Maria is right that a lot of what we're hearing right now is just reflecting what's currently happening in case law. And I think that that does matter, because in absence of some kind of uniform code, the people who benefit are not the mothers or the fathers, they are the divorce attorneys, because you go in and you re-litigate each case. And they reference the case law. The attorney gets a huge fee, and the same decision is made whether there was a code put in place or not. But attorneys have gotten a tremendous amount of money.

MS. ERBE: I have problems with two of the things the ALI has recommended. I don't have problems with registered domestic partnerships. I do have problems with every couple that shacks up, and affirmatively decides not to get married, and understandably, this is probably going to hurt women because they earn less than men, but they could have gotten married if they wanted to, why did they not?

DELEGATE NORTON: I agree with you. First of all, if you keep this up, there's not going to be any reason to get married at all. You don't have to get married to have children. You don't have to get married to name the children. You don't have to get married even to get compensation from your spouse. Why bother?

MS. PFOTENHAUER: Not only that, but I believe that common law is still common law

marriages. It means that you didn't just shack up for 24 months, you lived together for a decade or whatever.

MS. ERBE: Seven years.

MS. CONWAY: Then you need to prove it is a common law marriage, which again brings in all the attorneys. I hope the second thing you object to, Bonnie, is the fact that we seem to be letting adultery slide yet again.

MS. ERBE: That is.

MS. CONWAY: There's almost an incentive -- it sounds like they want to have a disincentive against pointing the finger at people, or making them pay.

MS. ERBE: Last word, quickly.

DELEGATE NORTON: No fault divorces are now decades old, so you can't go back to that kind of blame.

MS. PFOTENHAUER: And most states, if there are children, make you wait at least a year before you move into the proceedings.

MS. ERBE: Okay. On to the next topic, finding love online.

New Year's Eve, one of the most stressful nights of a single person's year makes some singles worry about locking a date way in advance. But more and more singles are flooding cyber space to fill in their calendars, and fill up the black books. Sites such as Matchmaker.com, LavaLife, and Kiss.com, proliferate. In fact, 16.6 million Americans visited matchmaking web sites in September alone, making Internet dating common place, and taking the sting and stigma out of something such as matchmaking that most people used to keep secret. But while more acceptable, it's still not guaranteed safe, especially for women, since there's little or no control over who is getting on these sites, and what people are saying about themselves. Women are, however, finding ways to fight back. On GreatBoyfriends.com, women recommend their male friends and ex-boyfriends to other women. The free site operates on the theory that a woman is more likely to find a man appealing and feel safe with him if he comes recommended by another woman.

Nancy Pfothenauer, one thing I have noticed, because one of my close friends is on one of these web sites, my husband watches us, I swear, as we go on these web sites together, but unlike the printed personal ads that still are around, but have been basically dwarfed by Internet dating, the printed personal ads were a majority women. The Internet ads are a majority male. So, because it's a techie thing, more guys are doing that. So, isn't that a good thing for single women?

MS. PFOTENHAUER: I think it depends on which guys are doing it. It would be my observation.

MS. ERBE: But you have to post a picture.

MS. PFOTENHAUER: But that picture can be doctored, we've all heard the story. And, my one concern would just be that, you know, a woman might be putting herself in a dangerous situation when she gets together with someone she's never met who she has no friends in common with, doesn't know where they work, has no recourse, if something untoward would occur. And that's the same situation they're putting themselves in if they answer personal ads. So, it brings out kind of the worried older sister in me when I think about my friends doing it. But I'm always aware that folks are lonely and they're looking for high tech solutions to that loneliness.

MS. ECHAVESTE: And I think you said it, people are lonely, and they're trying every possible way to meet people who share their interests, or provide some sort of potential opportunity for

companionship. But how far to go when there's no sort of screen, and deciding who you're going to meet. I mean, I hope these people are using common sense.

MS. ERBE: That's what the GreatBoyfriends.com site is all about. I went on the site researching this thing.

MS. PFOTENHAUER: Do girls rate other guys?

MS. ERBE: What they do is say, here's my ex-boyfriend, and here's my brother, or one from Florida, she put her father on there. So, I thought that was a pretty cool idea. And aren't women going to find somebody recommended by another woman a little safer?

MS. CONWAY: Maybe, but since when did finding a boyfriend or a suitable mate become like hiring someone? Since when did we look at a resume, and did you find out --

MS. ERBE: When I was single, I was like that. I wanted to get married, and I made a job out of it. --

DELEGATE NORTON: When you were single, there's been a sea change here. And I think it's caused by late marriages, and by the dissolution of traditional institutions where people met. Look, you used to meet during college, at church, or at the office. Now, marriages, divorces send people asunder. I think traditional institutions like churches, clubs, need to do much more of this. Where are the churches in bringing couples together.

MS. ERBE: When I was single, there were plenty of Jewish single events in the Washington Area.

MS. CONWAY: And still are. There's also J-Date which is specifically for Jewish singles to meet each other.

DELEGATE NORTON: There was much more work by traditional institutions in forming events for single people to come would help relieve this problem.

MS. ERBE: Fine. But I'm also here to say that the Internet, there's nothing like it for bringing people together who wouldn't have found each other otherwise.

Behind the headlines, women country leaders, if you're hearing a lot about New Zealand this week, it's probably because The Two Towers, the Second Lord of the Rings Movie is being released, and it was shot there, at New Zealand, beautiful, and Middle Earth looking as it might be, should also be famous for something else not widely known about the country. It's the only nation in the world where the top three government officials are women. To The Contrary introduces you to these three extraordinary women and shows you how things change when girls, big girls that is, rule.

New Zealand, land of incredible pristine beauty, environmental nirvana, world capital for extreme sports enthusiasts, and geographically the globe's most isolated nation. But it's also making political history as the first country ever in which the prime minister, the governor-general, and the chief justice of the Supreme Court, the top three posts are filled by women. It's probably no accident that women have scored so big here on the political scene, New Zealand was the first country in the world, yes, in the world, to give women the vote on a national basis. In 1893, almost three decades before the American Women's Suffrage Movement won women the right to vote in the U.S.

The Governor-General is the second most powerful position in the New Zealand government, appointed by the British Crown, then approved by the Prime Minister. This Governor-General Dame Silvia Cartwright, points out New Zealand is home to many other firsts for women.

GOVERNOR-GENERAL CARTWRIGHT: We're very proud of our history of giving women the

vote over 100 years ago in 1893, and of the fact that we had some of the first women in professional positions in the world. The first woman lawyer here in 1897, which was truly remarkable, well ahead of most other countries. Our first woman doctor, all sorts of firsts.

MS. ERBE: Proud, yes, of women's accomplishments in New Zealand, but also surprised at the rest of the world's reaction. When I asked Dame Cartwright how things have changed since three women took charge, she said:

GOVERNOR-GENERAL CARTWRIGHT: For me, the most obvious change is the fact that everyone is so interested in the phenomenon. And a lot of the world's media have inquired about this, or interviewed various ones of us.

MS. ERBE: So, would that indicate that you're so beyond gender differences in New Zealand that it's not even a story here that there are three women in charge?

GOVERNOR-GENERAL CARTWRIGHT: It isn't particularly a story here anymore. There are occasional comments about it. For instance, a couple of years ago, the government was to appoint a new Solicitor-General, and rumors were going around about which woman was going to be appointed, and when the appointment was announced, the headline in the paper said, It's a Boy.

MS. ERBE: But despite Dame Cartwright's nonchalance, things do change when more women are in power. For example, New Zealand sports a Ministry of Women's Affairs, a cabinet-level department whose mission is to draw attention to and provide gender specific advice to advance the status of women in New Zealand. Among other things, that ministry collects extensive data on women's participation in what it calls the paid and non-paid labor force. Those figures show, for example, females and males, age 12 and over, work on average a very similar seven hours a day, but 60 percent of men's work is paid, while almost 70 percent of women's work is unpaid. This allowed women's rights advocates to make the case for government policy to narrow the gap between paid and unpaid labor. Perhaps as a result, Kiwis, as New Zealanders call themselves, do have a narrower pay gap than Americans. New Zealand women make 84 percent of what men earn, American women earn about 75 percent of what American men earn. There are differences in the two country's laws as well.

Like the United States, National New Zealand law bars discrimination against women in employment, but New Zealand law also goes farther in that it bars indirect discrimination against women in the workplace. So, for example, women have been able to bring cases saying that employers indirectly discriminated against them on the basis of family status, or responsibilities.

Chief Justice Sean Elias points out, no cases have been successfully brought under that new law yet, but adds New Zealand is still a ways from parity between the sexes.

CHIEF JUSTICE ELIAS: I think we are not yet seeing women being able to compete with their male peers at all levels of society. I think that in employment, or the figures indicate that women still lag in terms of value ascribed to their work, and some of the opportunities available to them. There are very few women, for example, on the board of our public corporations. We have very few women chief executives even in the public service.

MS. ERBE: However, in politics Kiwi women excel in representation when compared with most other countries in the world. Women make up 30 percent of New Zealand's unicameral legislative body, more than double the number of women in the U.S. Congress. A staggering difference. I asked Prime Minister Helen Clark, a towering presence and dominant leader --

PRIME MINISTER CLARK: There is currently no such mandated action because evidence has not been presented that would warrant it.

MS. ERBE: -- why she thinks women's representation is so much higher in her country?

PRIME MINISTER CLARK: There seems to be a pattern doesn't there. We're a small Western-

style democracies like Ireland, like the Scandinavians, like New Zealand can produce women at the very top of politics, as can the Indian subcontinent for completely different reasons, usually the domestic family reasons. But in the states the top prize has been elusive. I think in our kind of societies, it's a question of getting a sufficient critical mass of women in the legislature and the top executive positions for then a move to having a woman leader at the very top to seem to be a very natural and normal thing.

MS. ERBE: And, Prime Minister Clark notes, New Zealand's Parliament underwent major changes after more women were elected.

PRIME MINISTER CLARK: It's changed so much since I first went to Parliament in 1981, and I've often joked about the three main forms of recreation which were available to members of Parliament at the time. There was the billiards room, and I never learned how to pick up a billiards cue, that was too boring, too slow for me. There was the bar, which used to exercise the elbow muscle. And then there were the card schools that played late into the night with a lot of money being bet on them. This was no place for a young woman out of university to be. But, I've just seen that male culture largely disappear from our Parliament, and it's been replaced by professional, task-oriented people. And women have led the way on that.

MS. ERBE: So, are you saying that men just wanted to drink and play, and women just want to get down to business?

PRIME MINISTER CLARK: Absolutely. Women are very task-focused. We're all busy. We've all got other things going on in our lives. We come to politics to do a job. We set goals, we go after them. And I think we've been great role models.

MS. ERBE: So, Congresswoman Norton, first and foremost, can you imagine an American politician in Congress answering my question that way, did men just want to drink and play? Absolutely. I expected, oh, no, that's not what I meant.

DELEGATE NORTON: There's a woman who is not afraid of men or anybody else. But I must say, what's happened in New Zealand is very impressive. It's important, though, not to overemphasize what indeed is happening there. I mean, it's not the first country that's had a woman prime minister. And once you get the woman prime minister, the two other posts are appointed. It does show that when a woman gets on top, she can help other women who are well qualified to get on top too.

I'm not very impressed with the average woman there. Of course, they have the social welfare state, and when you hear a lot of the progress there, it has to do with the welfare state, not just being women. You know, rates of pay, the number of judges, the number of lawyers, they have some of the same problems we do. But it does help to get women in leadership to pull women from the bottom up, too, and having a ministry certainly shows that.

MS. ERBE: What about the fact that they keep numbers on unpaid labor's contribution of the workforce, is that helpful or hurtful for women?

MS. ECHAVESTE: When you're trying to make policy, having data is so important, and I think that's a perfect example, that if you're not in this country even keeping track of what is unpaid work, and how much people are doing work and not getting paid for it, you are devaluing what a lot of people and women are spending their days with. I think she made another point, which is the critical mass. Having a critical mass of women in the legislature, which is a way to build and finally get a critical mass of candidates who could actually run for the top job. And that is, we're slowly getting there, but we're still far away from having a critical mass.

MS. PFOTENHAUER: You know, I think it would help to have more female candidates running, and to have more female candidates who are good at what they do elected. I kind of look at it, though, from a purely individual standpoint. This person wins the election because they're the best candidate. I would vote for them not because they're a woman or a man, but because of what they believed in.

MS. ERBE: And actually their first female prime minister was a conservative. She's Labor Party Liberal, et cetera.

MS. PFOTENHAUER: And you look at Margaret Thatcher, I would hope that the people in this country would do the same thing. That's why I think maybe back at the getting more women to run for office, and that's been an evolution in my thinking. I'm starting to believe that we need more people jumping into the fray. The problem is right now you've got to be able to self-finance to win, so you've got to find millionaires.

MS. ERBE: Not just to finance the campaign, but also take off from work. So, for most people, how do you support yourself.

MS. CONWAY: For a year, and then you uproot your family and come to Washington, at least half time. Two things, I think one of the most underreported stories of the 2002 elections in this country is how many women won at the state legislative number, that we are really -- critical mass is slowly trickling upward. But that's an underreported story because we're a very top down political society.

Number two, I'm very struck in reading literature about New Zealand's example that most of these women said, but there were no women's issues. We rejected immediately and out of hand the fact that here were women's issues and men's issues. This country has not been able to do that. We're not able to get past that. And if you look at all of the women candidates who stood up in this country in 2002 saying, I'm for choice, and I'm for gun control, they lost miserably. They lost the governor's races, Kathleen Kennedy Townsend, Shannon O'Brien, they lost the Senate races Jeanne Shaheen, Jean Carnahan, Karen Thurman lost her seat in the House. If Delegate Norton stood up and only talked about guns and choice, it would be ridiculous.

MS. ECHAVESTE: I think Townsend lost for different reasons. O'Brien lost for different reasons.

MS. ERBE: Hold it until after we go to credits. That's it for this edition of To The Contrary.

Next week, 12 million women suffer from depression each year, find out why this disease affects twice as many women as men.

Whether your views are in agreement or to the contrary, please join us next time, and we want to hear from you, write to us at ToTheContrary@pbs.org, or visit our PBS Online web site at PBS.org.

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