

May 26, 2006

# National Organization for Women Foundation

## Sex-Based Employment Discrimination in the U.S.

**Submitted for the U.S. Gender Working Group's Shadow Report with regard to U.S. obligations under Articles 2, 3 and 26 of the International Covenant on Civil and Political Rights, pertaining to equal protection of the law, and to General Comment No. 28: Equality of rights between men and women.**

### Summary

The United States has maintained for many decades one of the strongest and most stable economies in the world, generating significant employment and income growth for much of the population. But despite the country's economic might and unparalleled wealth, gains have not been equitably shared. The gulf between the top-most income earners and low- and moderate-income earners is well-documented and has expanded considerably in recent years. The confluence of embedded patterns of sex and race discrimination with the shift in income distribution has meant that millions of women and their families bear the brunt of policies producing deep inequality.

Since U.S. ratification of the International Covenant on Civil and Political Rights (ICCPR) in 1992 when the U.S. became obligated to bring its laws and policies into conformance with the Covenant's sex equality provisions, little has been accomplished towards those ends. In fact, in recent years repeated efforts have been mounted by conservative legislators and policy-makers to undermine and repeal laws and policies intended to promote sex equality.

It is self-evident that the U.S. government has failed to adopt effective laws to address the problem of persistent and pervasive pay inequity. The slow pace in closing the wage gap between men and women – less than a half percent per year since passage of the Equal Pay Act in 1963 – speaks for itself. A high number of occupational categories segregated by both sex and race pay less simply because they are dominated by women and people of color. Despite women's gains in educational attainment, there are still significant differences in pay between men and women of similar education and experience.

Concerning sex-based discrimination in employment, both benign neglect and willful government actions have prevented the adoption of legislative and administrative remedies that would address broad-based wage and salary discrimination disproportionately harming women. As will be documented in this report, sex-based discrimination that constrains and penalizes women is pervasive in the United States. And not only are laws against sexual harassment and sex discrimination in employment and education inadequate and poorly enforced, there has been a steady stream of attacks on those laws and policies which, if successful, would make conditions even more unequal.

Women are far more likely than men to be poor. Government policies affecting low-income workers have made it difficult for women to earn a fair wage that will support themselves and their children. Welfare "reform" legislation and policies have restricted poor women's ability to attain additional education and job skills in order to move out of poverty.

Several of the more notable factors that have promoted inequality are: poor enforcement of existing laws against sex-based discrimination, refusal to adjust the federal minimum wage to reflect the ravaging effects of inflation, inadequacy of penurious family leave policies, persistent under-funding of subsidized child care programs for low-income families and the resulting high cost of child care for low- and moderate-income families together with multiple attempts – some successful – to dismantle government programs that help women as mothers, students, trainees, employees, care-givers and retirees. Other factors that disadvantage women workers include: lack of health insurance coverage, restrictions on eligibility for Unemployment Insurance compensation, limited pension coverage and out-of-date Social Security policies that penalize women as caregivers.

But many other factors, which will be described shortly, add to an overall picture that characterizes the U.S. workplace as one of the least supportive employment environments for women of any developed nation.

Family support policies are seriously lacking in the U.S. and their absence makes it nearly impossible for women to achieve equality in the workplace. Family and medical leave provisions affecting women and their families are among the most unfriendly of all developed nations, providing only unpaid leave and available to fewer than half of working women.

Lesbians are not protected from sexual-orientation bias in the workplace and suffer from a counter-productive policy of "Don't Ask; Don't Tell" in the military. Other restrictions on women regarding combat and combat-support positions constrain their military careers.

Nearly all conditions described in this report could be addressed by legislative and policy changes that would bring the U.S. into conformance with provisions of the International Covenant on Civil and Political Rights – yet 14 years after U.S. ratification of the ICCPR very little positive action has been taken.

## **U.S. Constitution Does Not Prohibit Sex Discrimination**

No full legal clarification of women's status has been made since the call was issued 43 years ago by the President's Commission on the Status of Women in a report requested by President John F. Kennedy's Executive Order 10980 that documented pervasive sex discrimination against women and made numerous recommendations for change.<sup>1</sup>

The United States Constitution does not have a guarantee of equal protection that unequivocally forbids discrimination on the basis of sex. Efforts to add a sex equality amendment had been ongoing since 1923, but by a Congressionally-imposed deadline in 1982 when 15 states failed to ratify, the ERA was defeated. A constitutional equality amendment that would assure equal protection under the law for women and men remains an unquestionably critical need to this day.

*In the Second and Third Periodic Reports of the United States to the UN Committee on Human Rights Concerning the International Covenant on Civil and Political Rights, the U.S. asserts that the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the Constitution guarantee equality for men and women<sup>2</sup> – as required in Article 3 of the ICCPR – however, there is scant evidence that this is the case for women's equality protections in this country.*

## 14th Amendment Does Not Consistently Assure Equal Protection for Women

As citizens under the U.S. Constitution, women have been consistently denied the guarantee of fully equal protection of the law, a guarantee that male citizens receive as a constitutional birthright. Initially, denial was understood but unspoken – then inclusion of the words “male citizens” in the second section of the 14<sup>th</sup> Amendment, ratified in 1868, made it more explicit. Although several decisions of the Supreme Court have overturned particular gender-biased laws based on the Constitution, sex discrimination *per se* is not explicitly unconstitutional in the making, interpreting, and enforcing of U.S. law. Women won the right to vote with passage of the 19<sup>th</sup> Amendment in 1920 after an unprecedented seventy-two year campaign. Except for the right to vote, there has been no other area in which an amendment has guaranteed women’s right to legal parity with men.

The 14th Amendment's equal protection provision has not been consistently interpreted as protecting women from sex discrimination, and it has not been interpreted to require strict scrutiny of gender-based classifications. Instead, the standard ranges from requiring a "rational basis" for gender-based distinctions to requiring an “exceedingly persuasive” justification. *Craig v. Boren*, [429 U.S. 190](#) (1976); *Rostker v. Goldberg*, [453 U.S. 57](#) (1981); *Michael M. v. Superior Court*, [450 U.S. 464](#) (1981); *Frontiero v. Richardson*, [411 U.S. 677, 684](#) -87 (1973); *Mississippi Univ. for Women v. Hogan*, [458 U.S. 718, 724](#) n. 9 (1982), *United States v. Virginia et al.*, [518 US 515](#) (1996).

The 14<sup>th</sup> Amendment has not been interpreted to apply to sexual orientation or gender identity discrimination. Nor does it protect women from discrimination on the basis of pregnancy or childbirth. *Geduldig v. Aiello*, [417 US 484](#) (1974). Further, the amendment has been interpreted to require a demonstration of discriminatory intent; it is not sufficient that a law or policy has a disproportionate impact on one gender. *Personnel Administrator of Massachusetts v. Feeny*, 442 US 256 (1979). Given this history, the recent additions of John Roberts and Samuel Alito to the Court, and the possibility of future Supreme Court appointments during President George W. Bush’s term, reliance on judicial interpretation of the 14<sup>th</sup> Amendment to accord sex the recognition as a protected class that is accorded to race and national origin classes is not realistic.

## U.S. Ratification of CEDAW Would Expose Women's Inequality

The failure of the United States to ratify the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is further indication of the depth of the problem of achieving sex equality in the United States. The treaty was signed by President Jimmy Carter in 1980, but has not been ratified by the senate for the more than twenty-five years since that time. This international 'Bill of Rights' for women was been ignored, delayed and ultimately blocked from a final floor vote in 1994 and again in 2002. Conservatives in the Senate have continued to prevent ratification of CEDAW since its signing.

Even if it had been ratified, a series of Reservations, Declarations and Understandings (RDUs) have been attached to CEDAW which would limit the application of the Convention in the U.S. In 1994, the NOW Legal Defense and Education Fund (now called Legal Momentum) with the Lawyers Committee for Human Rights evaluated them and concluded that the RDU's are objectionable, undesirable and unnecessary.<sup>3</sup> In effect, the Reservations, Declarations and Understandings -- should the U.S. ever ratify -- would render most provisions of the treaty meaningless with the U.S. having refused to carry out many of its recommended actions to end discrimination against women. Because ratification of CEDAW requires legal equality for citizens in signatory states, the U.S. cannot ratify without exposing the inferior legal status of female U.S. citizens due to the lack of a constitutional guarantee of equality and the ambivalent nature of the 14th Amendment.

## Sex-Based Wage Gap Exact Toll on Employed Women, Families

Women have made great advances in terms of participation in the paid labor force. In 1950, only 34 percent of women 16 years and older were employed, but by 2004, that figure had climbed to 59.2 percent, or 46 percent of the total U.S. labor force. Out of a total population of 116 million women 16 years and over, some 68 million women were either working or looking for work that year, according to the U.S. Department of Labor. African-American women have a slightly higher rate of labor participation at 61.5 percent, with Asian women at 57.6 percent and Hispanic women at 56.1 percent. About 38 percent of women work in management, professional and related occupations, while 35 percent working in sales and office occupations. The remaining numbers are found in the service occupations, at 20 percent, followed by 6 percent in production, transportation and agriculture and 1 percent in material moving, construction, maintenance and natural resources.<sup>4</sup>

Currently, labor sectors employing more women than men are limited, compared to those dominated by men, both in terms of number and the average salaries in each field. Because training opportunities for women are fewer and more difficult to access, there are over 12 times more male than female skilled laborers. As a result, women tend to be tracked into lower-paying occupations. The number of female clerical and secretarial workers is four times the number of their male counterparts. Following with general stereotypes, female hospital workers also outnumber their male counterparts by more than 300 percent.<sup>5</sup> In addition, because of the “glass ceiling” effect where qualified women are often not hired for management positions and are frequently “pigeonholed” in certain occupations, lower-paying jobs are disproportionately held by women as compared to men.<sup>6</sup>

A comprehensive Government Accounting Office (GAO) examination of the wage gap in 2003 found a 20 percent earnings gap between women and men that could not be explained, even after controlling for demographic and work-related factors such as occupation, industry, race, marital status and job tenure.<sup>7</sup> It can only be concluded that this gap is attributable to discrimination: certain jobs pay less simply because they are held by women and people of color. Inadequate enforcement of anti-discrimination laws and the failure of Congress to pass more stringent and enforceable legislation are major factors in the decades-long persistence of sex-based wage discrimination.

In 2004, median annual earnings for U.S. women working full-time year-round were \$31,223. Men working full-time, year-round, had median earnings of \$40,798.<sup>8</sup>

The sex-based wage gap persists, moving slowly from women earning 59 percent as much as men (median earnings of women working full-time, year-round, compared to median earnings of men working full-time, year round) in 1963 to 77 percent in 2005.<sup>9</sup> The gap's closing in recent years is due in part to a larger decline in men's wages compared to a smaller decline in women's pay. The sex-based wage disparities among women of color are even more dramatic. In 2004, median earnings for African-American women were 68 percent of men's earnings; Latinas at 57 percent of men's earnings; and Asian American women's median earnings were 88 percent of men's median earnings.<sup>10</sup> Such disparity in compensation between the sexes requires government intervention.

If the wage gap were eliminated, annual family incomes would increase, on average, by more than \$4,000 and the poverty rate would be cut in half. Working families in the U.S. lose \$200 billion of income annually to the wage gap.<sup>11</sup> The wage gap measured over time has a much larger impact: in a study of a 15 year period, the average woman in the study sample was paid only \$273,592 (in 1999 dollars), while the average man received \$722,693 – with the woman being paid only 38% of what the average man was paid.<sup>12</sup>

The 2003 GAO (above) study of the wage gap showed that the same nearly 20 percent difference has persisted over almost two decades, from 1983 through 2000 – evidence that the closing of the wage gap has been stalled for some time.<sup>13</sup> In addition, from 2003 to 2004, women’s median earnings declined slightly by 1.0 percent – a development that should be viewed with alarm.

The fact that women are paid significantly less than men has collateral effects on choices women make in choosing and preparing for career. “[T]he presence of discrimination likely causes women to under-invest in themselves and reduce their educational attainment and skill development.”<sup>14</sup> While the time and money costs of investing in educational pursuits and job training are equal among the sexes, the payoff in terms of salary is significantly less for women. Hence, the financial incentive to pursue higher educational degrees and other training in order to obtain these jobs is lower in women.

The impact on employed mothers is even greater than these statistics indicate. According to the General Accounting Office, women with children receive wages 2.5 percent less than women without children. Men with children also exacerbate the wage gap, netting a 2 percent *increase* in pay compared to men without children.<sup>15</sup>

This “side-effect” of the wage gap becomes even more powerful when it comes to married women with children. The opportunity-cost of leaving work to care for children is higher for men than for women, ultimately causing a significant number of women to handle childrearing duties by limiting their weekly paid work hours. This is true to a greater extent than just the traditional stereotypes of the female-dominant role in child care, as basic cost-benefit analysis would steer even neutral families (neutral in terms of predispositions to child care responsibilities) to opt more often for females to take the time off.<sup>16</sup>

*General Comment No. 28 points out that Articles 2 and 3 of the ICCPR mandate that States parties take all steps necessary, including the prohibition of discrimination on the ground of sex, to put an end to discriminatory actions, both in the public and private sectors, which impair the equal enjoyment of rights (4.).* The market forces that many assume will ultimately solve the wage gap have yet to make any serious gains in closing the gap since 1983. Discrimination is becoming increasingly difficult to identify and eliminate because “it has gotten more subtle and...unconscious on the part of people who perpetuate it.”<sup>17</sup> Laws requiring equal pay for work of equal (or comparable) value across occupations do not exist at the national level. Current laws, the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964, do not provide a broad-based solution to discrimination in wages, as their interpretations in federal courts have been mixed. The clandestine nature of discrimination necessitates comprehensive government action based on constitutional principle to provide appropriate redress and to deter future discrimination.

## **Poor Enforcement of Sex Discrimination Laws**

The Department of Justice (DOJ) has scaled back enforcement of the law against discrimination in the workplace by pursuing far fewer cases and abandoning pending sex discrimination cases.<sup>18</sup> The Civil Rights Division of the DOJ, during the Bush administration, has initiated fewer employment discrimination cases than in past administrations and a relatively few of those cases are “pattern or practice” cases that would have an impact on large numbers of employees. In addition, the Department without notice withdrew from several major sex discriminations cases, including one that would have affected large numbers of women in cases brought against the Philadelphia transit system and a pending settlement with New York City schools concerning custodial jobs.<sup>19</sup> Reportedly, experienced employment discrimination attorneys have been involuntarily removed from their positions and a political litmus test has been applied for new attorney hires – actions that are in line with the recent record of reduced enforcement of Title VII cases.

The **Equal Pay Act of 1963** [29 U.S.C. 206(d)] requires that men and women be given equal pay for equal work – or substantially equal -- in the same establishment. The law is too narrow to address wage inequality in an economy characterized by a large number of occupational categories highly segregated by both sex and race. Efforts to prohibit pay discrimination in *comparable* job situations in all occupational categories across all employment sectors, by and large, have not been successful.

**Title VII of the Civil Rights Act of 1964** [42 U.S.C. Sect. 2000(e)] prohibits private employers with fifteen or more employees from discriminating on the basis of sex, race, color, religion, or national origin – and it is broader than the Equal Pay Act because it forbids discrimination in hiring, firing, and compensation, as well as the terms, conditions, and privileges of employment. Also, an amendment to Title VII prohibits discrimination on the basis of pregnancy, childbirth or related medical conditions. Like the Fourteenth Amendment, Title VII has not been interpreted to apply to sexual orientation discrimination, and has been inconsistently applied to gender identity discrimination.

Both the Equal Pay Act and Title VII are poorly enforced by the federal government, and for many victims of sex discrimination the hurdles to mount in pressing an Equal Employment Opportunity Commission (EEOC) claim or pursuing private lawsuits are protracted and expensive. Additionally, there is usually an unequal set of resources between employee plaintiffs and corporate defendants that make decisions in favor of plaintiffs less likely.

The EEOC lacks the authority to sue state or local governments for discrimination, so the agency's scope is considerably limited; however, the Department of Justice does have this authority but apparently has little interest in pursuing Title VII cases.

Workplace sexual harassment, illegal under Title VII as a form of discrimination, is also addressed by complaints to the EEOC, while the number of sexual harassment complaints grew during the 1990s, there has been a decline in recent years, according to EEOC statistics.<sup>20</sup> Some 75,428 filings at EEOC offices were made in 2005, with about 63 percent of those based on alleged race or sex (including sexual harassment) discrimination. – down from 91,189 charges filed in 1994 when figures soared due to increased awareness of sexual harassment problems in the workplace. Many women's rights advocates believe that only a fraction of the actual incidence of sexual harassment in the workplace is ever reported to the EEOC and that most of the instances of sexual harassment result in women simply leaving their place of employment, a result suggesting anti-competitive motives for harassment.

In 2005, the EEOC filed 383 lawsuits, resulting in \$107.7 million for victims; another \$271.6 million was attained for victims without going to trial, through settlements or mediation.<sup>21</sup> Pregnancy discrimination claims filed with the EEOC have risen 31 percent over the last decade, from 3,385 in 1992 to 4,449 in 2005. The EEOC has seen a tripling of pre-litigation settlements, rising from \$3.7 million to \$11.6 million, and an increased filing of lawsuits: 30 cases in 2005.

Historically, EEO enforcement has been under-funded. A recent reorganization of EEOC district offices downgraded eight of the 23 offices and reduced the number of senior attorneys in the field -- a move some interpreted as intending to constrain the agency's effectiveness. But even if they had greater resources, their cumbersome complaint, investigatory and resolution process could not rectify the systemic, industry-wide patterns of sex discrimination in the U.S.

## **No Workplace Protections for Lesbians, Transgender Persons**

At the federal level, lesbians have no protection from discrimination in the workplace: Title VII of the Civil Rights Act does not include sexual orientation. Efforts in Congress have not been successful in recent years to pass legislation that would prohibit discrimination in employment based on bias against lesbians, gay men, bisexual and transgender (LGBT)

persons. Sixteen states and the District of Columbia have laws prohibiting sexual orientation discrimination in both public and private employment.

Surveys have documented the prevalence of discrimination against LGBT people in employment. One study found that “51 percent of lesbians and gay men in Pennsylvania reported experiencing discrimination in their lifetime” and another that “54 percent of respondents in a 2001 statewide survey of lesbian, gay, and bisexual New Yorkers had experienced discrimination in employment, housing, or public accommodation since 1996.”<sup>22</sup> In 2004, the National Gay and Lesbian Task Force, a national advocacy organization for LGBT people, conducted a survey in Topeka, Kansas, and 35 percent of those surveyed reported “receiving harassing letters, e-mails, or faxes at work because of their sexual orientation, and 29 percent had observed discrimination based on sexual orientation seeking social or government services.”<sup>23</sup>

In September of 2002 a national study found that two out of five gay and lesbian adults in the U.S. faced hostility or harassment on the job. The online survey reached over 2,000 individuals and found that when “asked which groups of people in society they perceive experience discrimination in the workplace, such as being fired, harassed or denied a promotion, almost three quarters (73 percent) answered ‘gays and lesbians.’ It was the second highest survey response, just behind ‘older adults aged 65 and older’ (78 percent). Other groups mentioned as vulnerable to workplace discrimination included ‘people with disabilities’ (68 percent), ‘women’ (65 percent), ‘African-Americans’ (61 percent), ‘Hispanic Americans’ (60 percent), ‘Muslims’ (60 percent), ‘Asian Americans’ (44 percent) and ‘Jews’ (39 percent).”<sup>24</sup>

## **Low Federal Minimum Wage Keeps Many Women Poor**

The **federal minimum wage** [29 U.S.C. Sect. 206] has remained at \$5.15 an hour for the last nine years.<sup>25</sup> While a living wage helps keep working families above the poverty level, the low level of the current federal minimum wage does not keep workers out of poverty, paying only \$10,712 a year for full-time workers. Women continue to hold a majority of these minimum wage jobs, with women constituting 62.5 percent of the minimum wage workforce in 2004.<sup>26</sup> Of women paid minimum wage, about a third of are supporting children and 35 percent are sole earners.<sup>27</sup>

Unlike most other taxes and Social Security, the federal minimum wage is not adjusted automatically for inflation. As a result, the purchasing power of the minimum wage has declined significantly. If the minimum wage had merely kept pace with inflation since its 1968 figure, the 2005 minimum wage would be nearly 60 percent more than its current figure or \$8.88 in 2005.<sup>28</sup> Efforts in Congress have repeatedly failed to increase the wage threshold to \$7.25 an hour.

The U.S. Department of Health and Human Services (DHHS) annually establishes the “federal poverty guidelines,” a measure of the minimum amount of pre-tax income a family must earn in order to be considered as living “above the poverty line.”<sup>29</sup> The federal poverty guidelines are important because they are used to determine eligibility for a myriad of government subsidies. The guidelines are adjusted based upon the number of persons in the family, and are modified annually to account for inflation.

A single mother with two children, earning minimum wage and working 40 hours a week for an entire year, is paid \$5,378 less than the 2005 federal poverty guidelines.<sup>30</sup> In addition, critics of the federal poverty guidelines note that the levels are relatively conservative in terms of necessary expenditures by families, and that the guidelines do not account for vast differences in living costs in urban versus rural areas of the country.<sup>31</sup> Minimum family budgets in high cost areas of the United States (such as New York or Boston) are generally understood to be much higher than in rural areas, as evidenced by the Economic Policy Institute’s Basic Family Budget Calculator.<sup>32</sup> The failure to adjust the minimum wage for inflation is especially harmful to women’s lifetime earnings and is major factor in old-age poverty among women.<sup>33</sup>

## **Government Attempts to Limit Data Collection Pertaining to Women**

The “Department of Labor has abolished its Equal Pay Matters Initiative, removed information about narrowing the wage gap from its Web site, refused to use available tools to identify violations of equal pay laws, and adopted regulations that deprive millions of women the right to over time pay.”<sup>34</sup> Further, the Department revised regulations pertaining to overtime pay (to permit) reclassifying employees as “executive”, “administrative” or “professional” thereby removing them from overtime protections under the Fair Labor Standards Act of 1938 [29 U.S.C. 201-219]. The result is that about 3.7 million women have lost overtime protections. In addition, efforts have been made to stop the collection of data on working women, making it more difficult to identify sex discrimination in employment and to measure women’s progress – or lack of – in the labor force.

**OFCCP/ EEO surveys** – Executive Order 11246, issued by President Lyndon B. Johnson in 1965, banned pay discrimination by federal contractors and requires contractors to perform self-audits. The Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor published a new regulation in the Federal Register in January, 2006, that will abolish the Equal Opportunity Survey (EO Survey).<sup>35</sup> Current regulations require the thousands of federal contractors who do business with the federal government to complete this survey to help monitor personnel activity—applicants, incumbents, hires, promotions and terminations—and compensation practices by sex and race. This confidential survey is intended to identify which contractors might be engaging in discriminatory practices and which contractors should undergo a federal on-site compliance review. Should the survey be discontinued, the likely result will be reduced incentive on the part of contractors to hire and retain qualified female employees.

**Working Women’s Surveys** – In 2004, the U.S. Department of Labor, Bureau of Labor Statistics (BLS) proposed that the collection of employment data on women workers be discontinued.<sup>36</sup> The information was obtained through the Current Employment Statistics Survey (CES), a monthly nationwide survey of payroll records that includes the “Women Worker Series,” requesting that employers answer a question about the number of women they employ. The BLS data demonstrate women’s important and growing influence on the nation’s economy, providing the only accurate picture of whether women are gaining or losing jobs, and in which industries. Considered to be the most reliable data for tracking month-to-month changes in employment, it is often used by lawmakers in the formation of public policies that affect women. Despite thousands of messages from women’s groups and the public, the BLS refused drop plans to stop the data collection. Only an amendment to the Senate Labor-Health and Human Services ’06 appropriations bill requiring the BLS to reinstate collection of the Women Worker data series saved the day. The appropriations measure passed Congress was later signed into law in December, 2005.

## **Despite Gains in Education, Experienced Women Not Promoted**

Over recent decades, women have made considerable progress in educational attainment. One in four adults 25 years and older have college degrees and a little more than half of both men and women, ages 25 years and old, have completed at least some college. Among young adults, 25 – 29, women are more likely to have a college education, 31 percent as compared to 26 percent for men.<sup>37</sup> Though for all age groups, men are slightly more likely to have a college degree.<sup>38</sup> Even with a four-year college degree, women were paid \$44,400 as compared to the \$61,800 paid to men in 1999 (calculated in 2003 dollars) at an earnings ratio of 71.5.<sup>39</sup>

The “glass ceiling” phenomenon, the pervasive problem of women shut out of the most prestigious and highest paying jobs, continues to play itself out in the United States. Perhaps the most glaring example of this is in the corporate world. Women account for 46.5 percent of the nation’s workforce, yet only 8 percent of the nation’s top managers.<sup>40</sup> In addition, female managers are paid 72 percent of what their male counterparts are paid.<sup>41</sup> According to Booz Allen Hamilton, women made up less than 1 percent of chief executive officers in 2004 and notes that this figure is “very low and not getting higher.”<sup>42</sup>

In addition, the perception of a “glass ceiling” has collateral effects not measured in the myriad of statistics regarding female employment and wages. A 1993 survey found that 37 percent of women who left their jobs “were tired of battling the glass ceiling.”<sup>43</sup> If this attitude persists, women may not view the investment of extra education as beneficial to them and ultimately choose different careers. Some evidence of this exists in the continued lack of women in certain fields where they may not seem to have the best career prospects, continued to opt for so-called “pink collar” jobs such as nursing.<sup>44</sup>

### **Glass Ceiling in Education Professions Keeps Women from Top Positions**

A similar glass ceiling exists for women academics on the faculties of many of the nation's colleges and universities, particularly at top research universities and especially in the science, mathematics and engineering departments. A 2004 study found that there are far fewer women on these faculties, even in disciplines where females outnumber male Ph.D. recipients.<sup>45</sup> For example, there are markedly fewer female full professors in engineering and science; the percentage of women who are full professor ranges from 3 percent to 15 percent—even though the percentages of Ph.D.s awarded to women is much higher. In the top 50 computer science departments, there are no African-American, Hispanic or Native American women in tenured or tenure-track positions. The dearth of women full professors and assistant professors ranges across all disciplines of the 'hard' sciences as well as in the fields of political science, sociology and psychology.

The lack of women in ranking faculty slots as mentors and role models contributes to the female student attrition. Many studies have shown that the mere presence of female faculty encourages female students. Stubborn patterns of sexual harassment are also a factor in both student attrition and failure to hire and promote women for top faculty positions.<sup>46</sup>

Attrition of female students in the science, math, engineering and information technology fields can be attributed to persistent sex bias and to the failure of higher education institutions to inculcate the equal education opportunities objectives of Title IX of the Education Amendments of 1972. [20 U.S.C. Sect. 1681-1688] Educational institutions that receive federal funds are required to demonstrate by using any one prong of a three-pronged test to show that they are in compliance with the act. A 2004 study by the Government Accountability Office (GAO) on gender issues in the sciences concluded that Title IX-required compliance reviews at education institutions have been largely neglected.<sup>47</sup> Additionally, a number of lawsuits have challenged the constitutionality of Title IX, but none have been successful to date.

Nonetheless, conservative political leaders are attempting to turn the clock back on equal education for girls and young women. A provision was adopted in the No Child Left Behind Act of 2001 (P.L. 107-110) to allow single-sex classrooms and schools in public education systems so long as they comply with applicable civil rights laws, including Title IX (which allows single-sex education in limited situations such as physical education, human sexuality education classes and choirs). The U.S. Department of Education issued in May, 2002, a set of vague guidelines and in March, 2004, a proposed rule change in Title IX regulations that would "provide flexibility for educators to establish single-sex classes and schools at the elementary and secondary

levels." <sup>48</sup> The proposed regulatory change is seen by women's rights advocates as yet another attempt to weaken Title IX equal education objectives, since there is little evidence that single-sex education produces better outcomes than co-education – and for the few studies which have shown some gains for girls in single-sex schools, the gains became slight or disappeared entirely when controlled for socio-economic and other variables. <sup>49</sup>

## **Affirmative Action Programs Attacked, Scaled Back**

Affirmative action, defined by the Merriam Webster dictionary as "an active effort to improve the employment or educational opportunities of members of minority groups and women," has been of critical importance in helping qualified women be recruited, hired and promoted. Federal affirmative action programs originally called for in the 1960s under Executive Order 11246, including initiatives that aided companies, organizations and educational institutions that receive federal assistance to evaluate candidates fairly and equally based on candidates' qualifications, helped to spur significant progress for women and people of color. <sup>50</sup> But in recent years, affirmative action programs – primarily those targeting racial diversity goals – have been under attack. A series of court decisions [*Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, *Texas v. Hopwood*, 518 U.S. 1033, *Gratz v. Bollinger*, 537 U.S. 1044, among others] have required affirmative action programs to be more narrowly tailored and require that the programs be limited to situations in which there is a compelling government interest.

Opponents of affirmative action are pushing a ballot measure in Michigan to end affirmative action programs for women and people of color in public employment, education and contracting. A recent analysis has suggested that gender-specific health programs, education and training programs and other programs that improve women's educational attainment, job skills and ability to win government contracts, will be threatened if the Michigan initiative is adopted. <sup>51</sup> Similar ballot measures in other states will follow, no doubt. Among states that have restricted affirmative action programs in recent years are California, Texas, Florida and Washington. Women's equality advocates fear that with the federal judiciary becoming increasingly conservative, the remaining affirmative action programs may be imperiled as well.

## **Lack of Affordable Child Care a Major Constraint**

At the federal level, the United States has few policies that address the burdens on working parents, especially on mothers of young children. Annual costs for day care for one child range from \$4,000 to \$10,000. <sup>52</sup> The number of places available at subsidized day care, pre-school, and Head Start centers are limited, and are far below the need. The Fiscal Year 06 federal budget significantly reduced funding that has aided low-income families in paying for child care.

The lack of a national policy that supports child-rearing and effectively assists low and moderate income families contributes to the difficulties facing employed mothers. The high cost of day care shuts out low-income families most in need of two-parent incomes, and is responsible for much of the disparity in child care quality and affordability between the U.S. and other nations. This disparity in quality exists even as the costs of such care are many times greater in the United States than abroad. This pattern is replicated in terms of pre-school programs, where parents pay around 60 percent of the costs associated with sending their children to these programs, far more than their European and Australian counterparts. This is also a serious problem for low-income families, who end up paying a disproportionate amount of their income for child care and pre-school programs. <sup>53</sup> Even though a majority of women with school-age children are in the paid workforce, availability of after-school care and summer programs is modest in most communities. A further disadvantage relates to the scarcity of on-site child care at the workplace and a bias against flex-time and job-sharing positions that would benefit parents with small children.

The Work, Family and Equity Index of the Project on Global Working Families ranks the United States low on its global scale, particularly when evaluating working conditions that make it possible to care effectively for children and other family members. The U.S. lags far behind on a dozen measures, including paid family leave and sick leave, breastfeeding protections, evening and night wage premiums, mandatory day of rest, maximum length of work week, and leave for major family events.<sup>54</sup> Without a comprehensive system of adequate family supports, women in the U.S. cannot attain equality in the workplace.

## **Lack of Family Leave Coverage and Paid Leave a Workforce Deterrent**

The federal **Family and Medical Leave Act (FMLA)**, enacted in 1993 is inadequate for many women in that it applies only to employers who have 50 or more employees, does not require that employees on leave be paid any portion of their salary, and has other strict limitations. Only four in 10 workers – men and women -- qualify for coverage under the FMLA, plus a large proportion of women workers are employed at firms with fewer than 50 employees. A national survey has shown that few workers can afford to lose wages by taking the unpaid FMLA leave and therefore either do not take advantage of the act or greatly limit their leave time.<sup>55</sup> In a study conducted by Harvard University of nations around the world, 163 countries offer paid leave for women related to childbirth. The United States is not one of them.<sup>56</sup>

In 2003, the Department of Labor repealed a rule adopted by a previous administration that allowed states to use their Unemployment Insurance (UI) funds to compensate workers taking leave for the birth or adoption of a child under the FMLA. At about the same time, the U.S. Supreme Court ruled that state employees are entitled to damages when a state agency violates the FMLA, *Nevada Department of Human Resources v. Hibbs*, 538 U.S. 721 (2003).<sup>57</sup> What remains unclear is the statutory authority states may rely on if they tap UI funds to pay for leave under the FMLA. The DOL has also proposed to further revise FMLA regulations in a manner that would scale back dramatically the scope of the law, such as requiring employees to take unpaid leave in half-day increments, redefining “serious illness” to exclude such conditions as acute appendicitis, pneumonia, certain kinds of heart attacks and other conditions. The proposed revision of the FMLA regulation is expected to be announced in June, 2006.

## **Breastfeeding Constraints Penalize Employed Mothers, Babies**

As a corollary to the lack of child care protections, the United States similarly lacks any federal laws or policies affording working women the opportunity to breastfeed their infants while at work. Women have a biologically unique role as provider of breast milk for their children, yet the rights of mothers to participate in breastfeeding at work is very limited in the U.S. At least 76 countries protect the rights of working mothers to breastfeed their children, as breastfeeding is recognized as an important element in preventing infant mortality.<sup>58</sup> Outside of the office setting, at the national level, the government has not passed any law protecting breastfeeding in public areas. This has forced individual states to enact a patchwork of protections, giving their residents the ability to breastfeed their children without being forced into restrooms or inconvenient places. This myriad of state laws has left millions of mothers, many of them employed, without any provisions for breastfeeding their babies outside of the home.

## **Unemployment Insurance Often Denied to Women**

The Unemployment Insurance (UI) system is supposed to assist workers who become unemployed through no fault of their own by providing temporary income. However, because individual states set eligibility criteria (such as a minimum earnings standard), many low-income,

part-time, seasonal and temporary workers do not qualify for UI assistance. The result is that while 35 percent of unemployed men are supported by the UI system, only 23 percent of unemployed women are supported by that system. Because women represent 60 percent of low-wage workers, the lack of access to UI assistance falls disproportionately on their sex.<sup>59</sup> Additionally, the scarcity of affordable child care means that many women must accept less-than full time employment – that factor lead to disqualifying from UI many women single heads of households.

### **Discriminatory Limitations on Women in Armed Forces**

The various branches of the U.S. Armed Forces continue to maintain policies based on sex and presumed sex differences that constrain opportunities for women to distinguish themselves and to gain promotion. In recent decades, women have challenged age-old stereotypes about women not being effective members of the armed forces. Self-serving stereotypical thinking by military rule-makers has resulted in a *de facto* combat ban in the Navy and the Marine Corps, which has ensured that nearly half of all Navy positions and eighty percent of Marine Corps positions are not open to women.<sup>60</sup> Furthermore, recent efforts in Congress to further restrict women from combat support positions may further reduce Army women's progress. These limitations generate an artificial obstacle to the advancement of women in the military, affecting rank, pay and lifetime career expectations.

Sexual assault against servicewomen in all branches – particularly in armed conflict areas – and in the service academies has been recognized recently as a critical problem. Procedures are still evolving for reporting incidents, protecting victims' privacy and providing effective medical and psychological services, but the ever-present threat of assault is a deterrent to women's military careers that serves to advantage men's military careers and ambitions. Inadequate or inappropriate treatment for victims has sometimes resulted in women leaving the service, giving up their aspirations for a military career and frequently experiencing difficulties recovering from the trauma.

One glaring example of systemic sexual harassment of women involves United States military regulations regarding sexual orientation. Since 1993, the United States Armed Forces has maintained a "Don't Ask, Don't Tell" policy regarding gay and lesbian servicemembers, who are not permitted to disclose their sexual orientation while enlisted in the military. However many servicewomen report that they have been threatened by fellow soldiers – men who say that if the woman doesn't have sex with him, he will start a rumor that she is a lesbian, thus prompting a full-scale investigation of her and possibly a dishonorable discharge. Since the inception of "Don't Ask, Don't Tell," women have been discharged at a rate that is more than double their percentage presence in the military.<sup>61</sup>

### **Poverty Rates of Women Historically Higher**

The number of people in poverty has increased by 4.3 million since 2000. Nearly 36 million individuals live in poverty, including 13 million children. In the United States, poverty (as defined by the U.S. Census Bureau) in terms of percentage of population has been relatively stable over the past 40 years. However, the number and percentage of women living in poverty in the United States has continuously been higher than that of men.<sup>62</sup> In every year since the poverty standard was created in the 1960's, there has been a large gender gap. In 2003, of all adults 18 or older, 12.4 percent of women were poor compared to 8.9 percent of men – in other words, women are 39 percent more likely than men to be poor. Women are 34 percent more likely than men to be *extremely* poor; about one of every twenty women is extremely poor.

For women aged 65 and older, they are 71 percent more likely to be poor than elderly men. African-American women are far more likely to live in poverty than are white women, with 26.5

percent of African-American women, and 9.1 percent of white women living in poverty, according to 2003 Census data.<sup>63</sup> It is important to note that the U.S. Census Bureau's annual report provides poverty rates by age and race, but does not provide differences based on gender – thus distorting public perception of poverty in this country.<sup>64</sup>

Welfare reforms made in the mid-1990s greatly restricted opportunities for poor women to attain additional education and job skills in order to move out of poverty, even though a lack of skills and inadequate educational attainment has been repeatedly identified as a core reason for women's poverty. Additionally, welfare program changes under the Temporary Assistance to Needy Families (TANF) Act under-funded critical supports like subsidized child care programs, transportation assistance, substance abuse aid and family violence screening and counseling.<sup>65</sup>

## **Social Security System Penalizes Women and Care-Givers**

*General Comment 28, #31 stipulates that "Discrimination against women in areas such as social security laws...violates article 26 [of the ICCPR].* The nation's retirement security program, Social Security, contains several of out-of-date features that have discriminatory impacts on women. Perhaps the most important element is the failure to recognize that women are the primary unpaid caregivers of the nation. Women are more likely than men to take time out of the paid workforce to raise children or take care of elderly parents. The typical woman is in the workforce for 32 years, compared to 44 years for men.<sup>66</sup> Reasons that many women are forced to leave the paid workforce can be traced back to unaffordable child care and restrictive family leave policies.

Because of the way that benefits are calculated over a 35 year period, each year out of the paid workforce counts against women who plan to take worker benefits (not spousal benefits), including never-married and divorced women. The benefit formula compensates somewhat in that benefit amounts are based on a worker's 35 highest-earning years, but if years out of the workforce resulted in fewer than 35 years of paid employment, then additional years (up to 35) are treated as \$0 earnings. There is a compensating factor when determining retirement benefits for low-income earners, in that workers with low wages receive proportionally more benefits (relative to their wages) than higher-waged workers, but this compensating factor also could make employers feel it is more acceptable to maintain low wages and forego pensions for employees.

According to the Center on Budget and Policy Priorities, "unmarried women are at greater risk financially largely because they are less likely to receive income from pensions, earnings, or investments than married women".<sup>67</sup> Since 1959, Social Security has brought poverty among U.S. elderly to the lowest level ever (9.3 percent).<sup>68</sup> However, many extremely elderly women rely almost exclusively on their modest Social Security retirement checks because they have exhausted their personal savings, placing them among the poorest of the poor.

Women, both married and unmarried, are less likely than men to have pensions and other savings. According to the Institute for Women's Policy Research, only 38 percent of women today participate in an employer pension plan, compared with 51 percent of men.<sup>69</sup> Moreover, when a woman does have a pension, it is likely to be smaller than a man's, for precisely the same reasons that their Social Security benefits are likely to be lower than a man's – they have lower lifetime earnings (due to wage discrimination, job segregation and care-giving) and are more likely to work in jobs that do not offer pensions.

The Social Security Administration notes that women are more likely than men to depend upon Social Security to avoid poverty, due to cumulative effects of the wage gap, relative lack of pension coverage, and the consistency with which some females outlive their male

counterparts.<sup>70</sup> If Social Security becomes unable to maintain the level of benefits it has historically paid out to beneficiaries, cuts in benefits or other policy reforms may disproportionately disadvantage elderly women.

## **Lack of Health Care Benefits Harms Working Women**

The lack of health insurance is a serious barrier in the low-income workforce that falls disproportionately on women. Roughly, 46 million people under age 65 in the U.S. were in 2004 without health insurance coverage – an increase of 6 million persons since 2000.<sup>71</sup>

Increasingly, jobs in the U.S. offer no health insurance coverage for employees, particularly in the service sector where pay is low. Even when benefits are offered, there is usually a high deductible (out-of-pocket) payment which few low-income workers can afford. Lack of coverage, less stable coverage and higher out-of-pocket costs are all difficulties that fall disproportionately on women (and especially on women of color), who constitute a majority of low-income workers. Approximately one-third (35 percent) of non-elderly women (ages 18-64) are in low-income families, defined as families with incomes below 200 percent of the poverty level (which was \$28,510 for a family of three in 2001).<sup>72</sup> Low-income women are twice as likely as higher income women to report being in fair or poor health. And among middle-aged women (ages 45-64), low-income women consistently have higher rates of physician-diagnosed chronic health conditions.<sup>73</sup>

Medicaid, the federal-state cost-sharing health insurance program for poor and low income people, plays a critically-important role in providing coverage for women. It is the back-up plan for women in the low-wage workforce who do not receive health insurance coverage from their employers. Women comprise nearly 70 percent of the Medicaid population over age 15 and the program insures nearly one in ten of all U.S. women, including 40 percent of single mothers.<sup>74</sup> Repeatedly, efforts have been made to expand Medicaid coverage to more low-income women, but millions are still uninsured. Recent federal budgets have cut back on the federal share of Medicaid funds, placing more of the burden on less well-financed state governments which, in turn, are raising eligibility standards and cutting benefits.<sup>75</sup>

## **Recommendations:**

- Initiate a national dialogue regarding the benefits of an equal rights amendment, including full and fair Congressional hearings on the intent and applicability of a Constitutional amendment assuring equal protection under the law for women and men.
- Immediately pass legislation that would increase the federal minimum wage to bring its value closer to a "living wage" – that is, a wage that would bring minimum wage workers above the poverty level and be sufficient to pay for basic living costs and reflect the effects of inflation and regional variations.
- Similarly, the U.S. Senate should move legislation to a floor vote that would provide for ratification of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), at the same time recommending removal the Reservations, Declarations and Understandings that

have been attached to CEDAW which would render most of the treaty's provisions meaningless in the U.S.

- Pass legislation that would strengthen and expand laws against sex-based employment discrimination, in particular addressing the problem of wage discrimination in various occupational categories that exists merely because they primarily employ women and people of color. Strengthen the Equal Pay Act to address comparable work, improving remedies and enforcement provisions. Improve collection of data on employed women.
- Provide more effective enforcement of Title VII of the Civil Rights Act of 1964 and other laws prohibiting sex discrimination in the workplace, including sexual harassment, discrimination in hiring and promotion, and pregnancy discrimination. Increase funding for Departments of Justice, Labor and other agencies concerned with employment discrimination. Fully fund the Equal Employment Opportunity Commission (EEOC) and establish it as an independent agency. Legislatively expand protections against retaliation by employers against individuals who file complaints. Fund aggressive enforcement activities that would thoroughly investigate all complaints, initiate reviews of alleged discriminatory practices, heighten use of litigation and focus on "pattern or practice" violations that go beyond individual complaints.
- Restore provisions under the Fair Labor Standards Act that mandated overtime pay for certain occupations prior to the restrictive regulations adopted in 2004. Broaden – not restrict -- the Family and Medical Leave Act to apply to nearly all workplaces, covering more conditions under which employees are allowed to take leave, and mandating paid leave. Expand coverage of Unemployment Insurance (UI) to include part-time, seasonal and temporary workers, providing additional federal financial assistance to state UI funds.
- Protect equal education goals of Title IX of the Education Amendments of 1972 from any regulations that would undermine its provisions; adopt an aggressive compliance review schedule for all educational institutions; restore funding and technical assistance to the Title IX coordinator network; restrict conditions under which single sex classes and schools that receive federal aid may operate to reflect the original intent of Title IX; and, conduct vigorous enforcement activities, including prompt and thorough investigations of systemic discrimination, adopting sanctions against violators and assisting plaintiffs in Title IX violations litigation – both in the academic and athletic fields.
- Expand federal government efforts to assist women in the math, science, engineering and information technology fields in order to promote their presence in graduate schools, on faculties, in the labs and research institutions. Additionally, the effort should promote equal pay for women professors, teachers and researchers at institutions receiving federal financial assistance.

- Adopt legislation that would prohibit workplace discrimination against lesbians, gay men, bisexual and transgender persons.
- Abandon punitive welfare policy measures that restrict public assistance without regard to need and which limit poor women's ability to attain further education and training; increase funding for child care available to low-income and welfare-to-work programs; mandate domestic violence screening and assistance programs; adopt counseling, rehabilitation treatment and federal assistance programs for women who have used illegal substances, particularly for pregnant women, and provide for more flexibility and other essential supports such as transportation and health care coverage for women in the welfare-to-work process.
- Expand policies and programs that assist employed parents, such as increasing government subsidies to child care, early learning, pre-K, kindergarten, after-school and summer programs. Special emphasis should be made for increasing staff salaries and education, improving program quality and greatly improving access to programs by low- and moderate-income parents. Similarly, Head Start and Early Head Start programs funding should be greatly increased to support unmet needs.
- Increase -- rather than reduce -- federal and state government funding for the Medicaid program so that all low-income women and their families have health care coverage under this program. Assure that all employed women have access to affordable health insurance.
- Update and strengthen the existing Social Security system to address out-of-date and discriminatory provisions, especially those that penalize women who take time out of the paid workforce to care for family members.

---

## References

<sup>1</sup> Carabillo, T., Meuli, J. and Csida, J.B. (1993) Feminist Chronicles, 1953 – 1993. Los Angeles: Women's Graphics.1993, p. 45 and retrieved April 23, 2006 from <http://www.lib.umich.edu/govdocs/jfkeo/eo/10980.htm>

<sup>2</sup> U.S. Department of State. (2005) Second and Third Periodic Report of the United States to the U.N. Committee on Human Rights Concerning the International Covenant on Civil and Political Rights, Article 3, #60.Oct. 21, 2005. Retrieved April 23, 2006 from <http://www.state.gov/g/drl/rls/55504.htm>

<sup>3</sup> Legal Analysis of the Reservations, Declarations and Understandings concerning the CEDAW. (1994) Joint Position of the Lawyers Committee for Human Rights and the Now Legal Defense and Education Fund, September 26, 1994. Retrieved April 23, 2006 from [http://www.now.org/issues/global/cedaw\\_analysis.htm](http://www.now.org/issues/global/cedaw_analysis.htm)

<sup>4</sup> Women's Bureau, Statistics and Data, Quick Stats 2004, U.S. Department of Labor. Retrieved on April 24, 2006 from <http://www.dol.gov/wb/stats/main.htm>

---

<sup>5</sup> Davis, C. "Female Participation in the Labor Force." Swarthmore College Women's Studies. Retrieved April 7, 2006, from <http://fubini.swarthmore.edu/~WS30/CDfinal.html.p.2>, (Employment Statistics and specific job descriptions provided by the U.S. Equal Employment Opportunity Commission and <http://www.bls.gov/eas/srch/blssearch.idg> )

<sup>6</sup> Ibid.

<sup>7</sup> U.S. Government Accountability Office. (2003) Women's Earnings: Work Patterns Partially Explain Difference between Men's and Women's Earnings, Oct 2003, GAO-04035, pp.2, 29

<sup>8</sup> Institute for Women's Policy Research.(2006) The Gender Wage Ratio: Women's and Men's Earnings. Fact Sheet, IWPR #C350, Updated April 2006, Retrieved May 22, 2006 [http://www.iwpr.org/pdf/Updated2006\\_C350.pdf](http://www.iwpr.org/pdf/Updated2006_C350.pdf) (U.S. Bureau of Labor Statistics, Employment & Earnings, January 2005/January 2006.)

<sup>9</sup> National Committee on Pay Equity. (2006) Wage Gap Remains. Retrieved April 5, 2006 from <http://www.pay-equity.org/>

<sup>10</sup> Ibid.

<sup>11</sup> American Association of University Women. (2006) AAUW Position Paper – Pay Equity. The Wage Gap Persists. Retrieved by AAUW February 17, 2006 from AFL-CIO Department for Professional Employees. (2005) Fact Sheet 2005: Professional Women: Vital Statistics. [http://www.dpeaflcio.org/policy/factsheets/fs\\_2005\\_Professional\\_Women.htm](http://www.dpeaflcio.org/policy/factsheets/fs_2005_Professional_Women.htm)

<sup>12</sup> Rose, S. and Hartmann, H. (2004) Still a Man's Labor Market: The Long-Term Earnings Gap, "Career Earnings, Work Hours and Persistent Low Earnings," P. 21. Washington, D.C. Institute for Women's Policy Research.

<sup>13</sup> U.S. General Accounting Office. (2003) Women's Earnings: Work Patterns Partially Explain Difference between Men's and Women's Earnings. Oct 2003, GAO-040-35. p. 15

<sup>14</sup> Hartmann, H. (2000) "New and Stronger Remedies are Needed to Reduce Gender Based Wage Discrimination." Testimony before the United States Senate Committee on Health, Education, Labor and Pensions. June 8, 2000, p. 12

<sup>15</sup> . U.S. General Accountability Office. Op.cit (2003) GAO-040-35, p. 32.

<sup>16</sup> U.S. General Accountability Office. Op. cit. (2003) pp. 59-61

<sup>17</sup> Hartmann, H, (2001) Economic Security for Women and Children, What Will It Take?" The Next Agenda, February 28, 2001. WHAT PAGE??

<sup>18</sup> National Women's Law Center (2004) "Slip-Sliding Away: The Erosion of Hard-Won Gains for Women Under the Bush Administration and an Agenda for Moving Forward." April, 2004. p. 13

<sup>19</sup> Ibid. National Women's Law Center (2004). pp. 13-14

<sup>20</sup> U.S. Equal Employment Opportunity Commission (2006) EEOC Litigation, Charge, Sex, Equal Pay Act, Sexual Harassment, and Pregnancy Discrimination Statistics, FY 1992-FY 2005, Retrieved April 14, 2006 from <http://www.eeoc.gov/stats/>

- 
- <sup>21</sup> Lee, C. (2006) "Job Police or Not, The EEOC Is Busy with Discrimination; Agency Press the Private Sector to Treat Workers Equally." The Washington Post, March 27, 2006. A13
- <sup>22</sup> National Gay and Lesbian Task Force. (2005) The Issues: Nondiscrimination; Facts and Statistics. Retrieved April 8, 2006 from <http://www.thetaskforce.org/theissues/issue.cfm?issueID=18>
- <sup>23</sup> Ibid. (2005)
- <sup>24</sup> Harrisinteractive. (2002) Gays and Lesbians Face Persistent Workplace Discrimination and Hostility Despite Improved Policies and Attitudes in Corporate America, September, 2002. Retrieved April 8, 2006 from <http://www.harrisinteractive.com/news/allnewsbydate.asp?NewsID=503>
- <sup>25</sup> AFL-CIO. (2006) " What's The Difference Between a Living Wage and Minimum Wage?" p.1. Retrieved April 8, 2006 from <http://www.aflcio.org/issues/jobseconomy/livingwages/>
- <sup>26</sup> U.S. Department of Labor. (2004) Characteristics of Minimum Wage Workers: 2004. Table 10. Employed wage and salary workers paid hourly rates with earnings at or below the prevailing minimum wage by sex, 1979 – 2004 annual averages. Retrieved April 23, 2006 from <http://www.bls.gov/cps/minwage2004tbls.htm>
- <sup>27</sup> United Food and Commercial Workers, " Fair Minimum Wage Act of 2005." Retrieved April 10, 2006 from [http://www.ufcw.org/worker\\_political\\_agenda/minimum\\_wage/min\\_wage\\_facts.cfm](http://www.ufcw.org/worker_political_agenda/minimum_wage/min_wage_facts.cfm)
- <sup>28</sup> AFL-CIO. Op.cit. (2006) p. 1
- <sup>29</sup> U.S. Department of Health and Human Services (2006) Poverty Guidelines, Research and Measurement, Retrieved April 2, 2006 from <http://www.aspe.hhs.gov/poverty/>
- <sup>30</sup> U.S. Department of Health and Human Services. (2006) 2006 HHS Poverty Guidelines. Retrieved April 2, 2006 from <http://www.aspe.hhs.gov/poverty/05poverty.shtml>
- <sup>31</sup> Allegretto, S. (2005) Basic Family Budgets – Working families incomes often fail to meet living expenses around the U.S. p. 1. Retrieved April 10, 2006 from <http://www.epi.org/content.cfm/bp165>
- <sup>32</sup> Economic Policy Institute. (2005) Basic family budget Calculator. Retrieved April 10, 2006 from [http://www.epi.org/content.cfm/datazone\\_fambud\\_budget](http://www.epi.org/content.cfm/datazone_fambud_budget)
- <sup>33</sup> Women's Institute for A Secure Retirement. Women & Pensions – An Overview. (Not dated) p.1. Retrieved April 2, 2006 from [http://www.wiser.heinz.org/pensions\\_overview.html](http://www.wiser.heinz.org/pensions_overview.html)
- <sup>34</sup> National Women's Law Center (2004) Slip-Sliding Away: The Erosion of Hard-Won Gains for Women Under the Bush Administration and an Agenda for Moving Forward," April. 2004. p. 14
- <sup>35</sup> Federal Register, Part III, Department of Labor. Office of Federal Contract Compliance Programs, 41 CFR Part 60-2, Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors, Equal Opportunity Survey; Proposed Rule

- 
- <sup>36</sup> Statement by IWPR on the BLS Decision to Discontinue Data Collection on Women's Employment (2004, Institute for Women's Policy Research, Dec. 7, 2004. Retrieved from <http://www.iwpr.org/pdf/iwprstatementonbls.pdf>
- <sup>37</sup> Hill, C. (2005) Five Frequently Asked Questions. American Association of University Women. Retrieved April 10, 2006 from <http://www.aauw.org/research/statedata.faq.cfm> and Census Bureau, Educational Attainment in the United States: 2003. Current Population Reports P20-550. 2-3 (Washington, D.C. 2004) Retrieved Nov. 8, 2004 from <http://www.census.gov/prod/2004pubs/p20-550.pdf>
- <sup>38</sup> Ibid.
- <sup>39</sup> U.S. Department of Labor (2004) Women in the Labor Force: A Databook. Statistical Tables, #8 & 14. Retrieved April 12, 2006 from <http://www.bls.gov/cps/wlf-databook.htm>
- <sup>40</sup> The Economist. (2005) "The conundrum of the glass ceiling – why are women so persistently absent from top corporate jobs?" July 21, 2005 print edition. P. 1. Retrieved April 10, 2006 from [http://www.economist.com/business/PrinterFriendly.cfm?story\\_id=4197626](http://www.economist.com/business/PrinterFriendly.cfm?story_id=4197626)
- <sup>41</sup> Ibid.
- <sup>42</sup> Ibid.
- <sup>43</sup> Feldman, Gayle (1997) Breaking the Glass Ceiling: Women Have Had a Long Hard Struggle to Reach their Current Status in the Industry, Publishers Weekly. V 244, n31 p. 82. Retrieved from <http://www.stfrancis.edu/ba/ghkickul/stuwebs/btopics/works/glass.htm>
- <sup>44</sup> American Association of University Women Foundation. (2003) Women At Work. Retrieved April 11, 2006 from <http://www.aauw.org/research/womenatwork.cfm>
- <sup>45</sup> Nelson, D. J. and Rogers, D.C. (2004) A National Analysis of Diversity in Science and Engineering Faculties at Research Universities, Jan. 15, 2004, [http://www.now.org/issues/diverse/diversity\\_report.pdf](http://www.now.org/issues/diverse/diversity_report.pdf)
- <sup>46</sup> American Association of University Professors. 2005) "Sexual Harassment in Higher Education: Current Issues and Trends." November 18, 2005. Retrieved April 5, 2006 from <http://www.aaup.org/Legal/info%20outlines/05sexharass.htm>
- <sup>47</sup> Government Accountability Office. (2004) Gender Issues – Women's Participation in the Sciences Has Increased, but Agencies Need to Do More to Ensure Compliance with Title IX. Education, GAO-04-639. July 2004, Results in Brief and Recommendations, p. 33. Retrieved April 5, 2006 from <http://www.gao.gov/new.items/d04639.pdf>
- <sup>48</sup> American Association of University Women. (2004) Single-sex education. Changes to Single-Sex Policy in Public Schools. Retrieved April 8, 2006 from [http://www.aauw.org/issue\\_advocacy/actionpages/positionpapers/singlesex.cfm](http://www.aauw.org/issue_advocacy/actionpages/positionpapers/singlesex.cfm)
- <sup>49</sup> American Association of University Women. (2004) Single-sex education. AAUW Findings on Single-Sex Education. Retrieved April 8, 2006 from [http://www.aauw.org/issue\\_advocacy/actionpages/positionpapers/singlesex.cfm](http://www.aauw.org/issue_advocacy/actionpages/positionpapers/singlesex.cfm)

- 
- <sup>50</sup> U.S. Department of Labor (2006) Executive Order 11246. Employment Standards Administration. Office of Federal Contract Compliance Programs. Retrieved April 12, 2006 from <http://www.dol.gov/esa/regs/statutes/ofccp/eo11246/htm>
- <sup>51</sup> Lewis, T. (2006) Michigan Anti-Affirmative Action Ballot Language Approved. January 25, 2006 Americans for a Fair Chance, Leadership Conference for Civil Rights. Retrieved April 10, 2006 from [http://fairchance.civilrights.org/research\\_center/details.cfm?id=39872](http://fairchance.civilrights.org/research_center/details.cfm?id=39872)
- <sup>52</sup> NOW Legal Defense and Education Fund.(Not dated) Family Initiative: Better Child Care, Preschool and Afterschool. Retrieved April 3, 2006 from <http://www.legalmomentum.org/fi/pubs/ChildCareFactSheetfor2.pdf>
- <sup>53</sup> Blau, D. (2002) Rethinking U.S. Child Care Policy, Issues in Science and Technology, The University of Texas at Dallas, Jan 9, 2002, <http://issues.org/18.2/blau.html#>
- <sup>54</sup> Heymann, J., Earle, A., Simmons, S., Breslow, S. and Kuehnhoff, A. (2004) "The Work, Family and Equity Index: Where Does the United States Stand Globally?" The Project on Global Working Families, p. 1. Harvard University. June 16, 2004. Retrieved April 10, 2006 from <http://www.hsph.harvard.edu/globalworkingfamilies/images/report.pdf>
- <sup>55</sup> Casta, N., Editor. (2000) "Highlights of the 2000 U.S. Department of Labor Report. Balancing the needs of Families and Employers: Family and Medical Leave Surveys." National Partnership for Women and Families. Retrieved April 10, 2006 from <http://www.nationalpartnership.org/portals/p.3/library/FamilyMedicalLeave/2000DOLLaborReportHighlights.pdf>
- <sup>56</sup> Heymann, J. et.al. Op.cit. p. 1
- <sup>57</sup> U.S. Supreme Court. (2001) Nevada Department of Human Resources v. Hibbs, 538 U.S. 721 (2003). Retrieved from <http://www.supremecourtus.gov/opinions/02pdf/01-1368.pdf>
- <sup>58</sup> Heymann, J., et.al. Op.cit. p. 1
- <sup>59</sup> Lovell, V. and Hill, C. (2001) Fact Sheet. Today's Women Workers: Shut Out of Yesterday's Unemployment Insurance System. Institute for Women's Policy Research. IWPR Publication #A127. p. 1 May 2001.
- <sup>60</sup> National Women's Law Center. (1992) Women in Combat. Retrieved April 9, 2006 from <http://www.nwlc.org/pdf/Combat.pdf>
- <sup>61</sup> Servicemembers Legal Defense Network (2005) Ten Years of Don't Ask, Don't Tell." A Disservice to the Nation. Timeline and Summary, Table IV. Retrieved April 2, 2006 from [http://www.sldn.org/binary-data/SLDN\\_ARTICLES/pdf\\_file/1453.pdf](http://www.sldn.org/binary-data/SLDN_ARTICLES/pdf_file/1453.pdf)
- <sup>62</sup> Legal Momentum. (2004) Reading Between the Lines: Women's Poverty in the United States, 2003. October, 2004. Retrieved April 14, 2006 from <http://www.legalmomentum.org/womeninpoverty.pdf> Data from Income, Poverty and Health Insurance Coverage in the United States, 2003, U.S. Census Bureau, P60-226 (2004), available at <http://www.census.gov/prod/2004pubs/p60-226.pdf>
- <sup>63</sup> Legal Momentum (2004) Op.Cit. Data retrieved from Historical Poverty Tables, Table 7. Poverty of People, by Sex: 1966 to 2004 at <http://www.census.gov/hhes/www/poverty/histpov/hstpov24.html>

- 
- <sup>64</sup>Legal Momentum. (2004) Op. Cit. Data from Historical Poverty Tables. Table 24. Number in Poverty and Poverty Rate by Race and Hispanic Origin Using 3-Year Averages: 1987 – 2004. <http://www.census.gov/hhes/www/poverty/histpov/hstpov15.html>
- <sup>65</sup> National Women's Law Center. (2004) Op. Cit. pp.19-20
- <sup>66</sup> Anzick, M. and Weaver, D. (2001) "Reducing Poverty Among Elderly Women" Social Security Administration. Office of Policy, Office of Research, Evaluation and Statistics. Retrieved April 10, 2006 from <http://www.ssa.gov/policy/docs/workingpapers.wp87.pdf>
- <sup>67</sup> Kijakazi, K. (2001) "Women's Retirement Income: The Case for Improving Supplemental Security Income." June 8, 2001.Center on Budget and Policy Priorities. Retrieved April 10, 2006 from <http://www.cbpp.org/6-8-01socsec.htm>
- <sup>68</sup> Kijakazi, K. (2001) "The Importance of Social Security to People of Color and Women." Revised July 18, 2001. Center on Budget and Policy Priorities. Retrieved April 10, 2006 from <http://www.cbpp.org/4-18-01socsec.htm>
- <sup>69</sup> Shaw, L. and Hill, C. (2001) "The Gender Gap in Pension Coverage: Women Working Full-Time are Catching Up, But Part-Time Workers Have Been Left Behind." IWPR Publication #E506. April 2001. Retrieved April 10, 2006 from <http://www.iwpr.org/pdf/ribgender-gape506.pdf>
- <sup>70</sup> Social Security Administration. (2001) Op.Cit.
- <sup>71</sup>The Henry J. Kaiser Family Foundation. (2006) The Uninsured: A Primer, Key Facts About Americans Without Health Insurance. January, 2006. Kaiser Commission on Medicaid and the Uninsured. Overview, p. 1. Retrieved April 12, 2006 from <http://kff.org/uninsured/upload/745/>
- <sup>72</sup> The Henry J. Kaiser Family Foundation. (2004) Fact Sheet: Women's Health Policy Facts. June 2004. Women's Health Insurance Coverage. Retrieved April 12, 2006 from <http://www.kff.org>
- <sup>73</sup> The Henry J. Kaiser Family Foundation. (2006) Issue Briefs, An Update on Women's Health Policy, May 2006. Medicaid's Role for Women, page 1. Retrieved May 1, 2006 from <http://www.kff.org/womenshealth/upload/Medicar-s-Role-for-Women-May-2006.pdf>
- <sup>74</sup> Ibid.
- <sup>75</sup> The Henry J. Kaiser Family Foundation. (2005) "Underlying Growth in State Tax Revenue Compared with Average Medicaid Spending Growth, 1997 – 2005 from State Medicaid Prescription Drug Policies: Findings from a National Survey, 2005." Retrieved from <http://www.kff.org/medicaid/kcmu101905nr.cfm>