

# NOT TRUE! GENDER DOESN'T MATTER!

Last year, a prominent researcher and an elementary school teamed up to identify what works — and what doesn't — when it comes to teaching young children about gender bullying. What they learned will surprise you.

BY PEGGY MOSS • ILLUSTRATION BY EILI-KAIJA KUUSNIEMI

**S**HE CAN'T BE SPIDERMAN. Only boys can be Spiderman. She can wear pink. But he can't wear pink, at least not any more. And she will be pretty, and carry a purse and have nice handwriting. He will never, ever, carry a purse. His handwriting will be messy. And he will be good at sports, and he will know the rules, and he will care who wins. And she won't. She is a princess.

And wait, what about that one? He has long hair. Very long. He. Looks. Like. A. Girl. What do we do with him?

We watch him drop out of school.

Ultimately, that was the stereotype Rebecca Bigler couldn't stomach: The story of a bright, engaged, Native American student who wore his hair long in observance of tribal tradition. A student whose school experience was so rife with teasing and harassment that he dropped out in the 3rd grade.

"He was put in an untenable cultural bind," said Bigler, a psychologist at the University of Texas-Austin whose nationally recognized research focuses on racial

stereotyping and gender role development. "The school couldn't figure out a way to make room for a boy with a ponytail."

Studies indicate that adults have made enormous strides in reducing gender biases toward other adults; yet ironically, as parents and educators, adults leave little room for children who are "gender atypical."

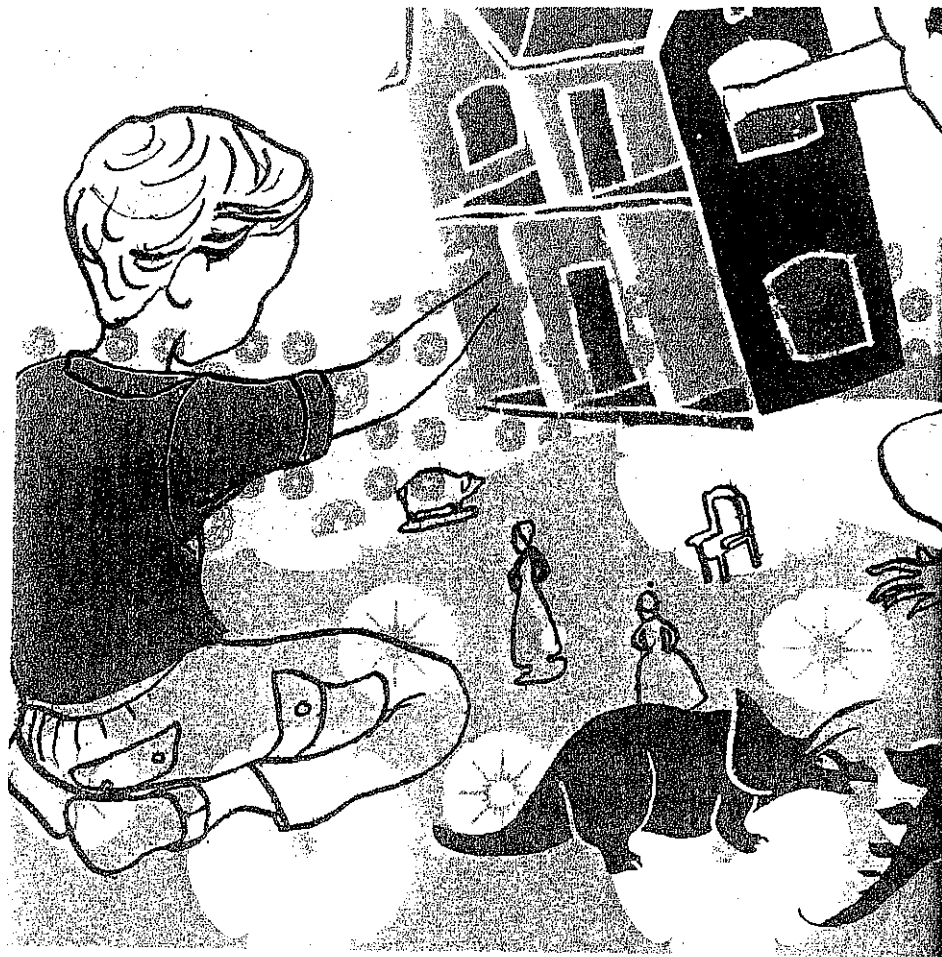
In turn, children internalize gender stereotypes and play a key role in enforcing them. By preschool, boys have begun to mete out punishment to other boys who play with "girls' toys" or demonstrate a lack of interest in aggressive play. In one study, a kindergarten girl who said she didn't like dresses was instructed by a classmate, "If you're a girl, you have to wear dresses sometimes. That's how people know you are a girl."

In addition to feeling pressure to conform to gender stereotypes that may contradict how they really feel, children who are gender atypical are more likely to be bullied and, ultimately, to feel less contented with themselves and with school.

## WEB EXCLUSIVES

- Thom Harnett, Maine's assistant attorney general for civil rights education and enforcement, shares the story of one child whose life was forever changed by gender bullies.
- Teaching Tolerance director Jennifer Holladay explains why it's critical for schools and researchers to collaborate.
- Learn more about Rebecca Bigler and the research of her Gender and Racial Attitudes Lab.

[www.teachingtolerance.org/magazine](http://www.teachingtolerance.org/magazine)



Bigler wants to change these realities — and she wants to help schools figure out *how* to change them.

Last spring, she organized a research project to determine whether young students could be taught to challenge sexist remarks made by their peers — and, if they could be, whether their gender attitudes would change. Importantly, she wanted to conduct the study in an actual school.

### THE SETTING

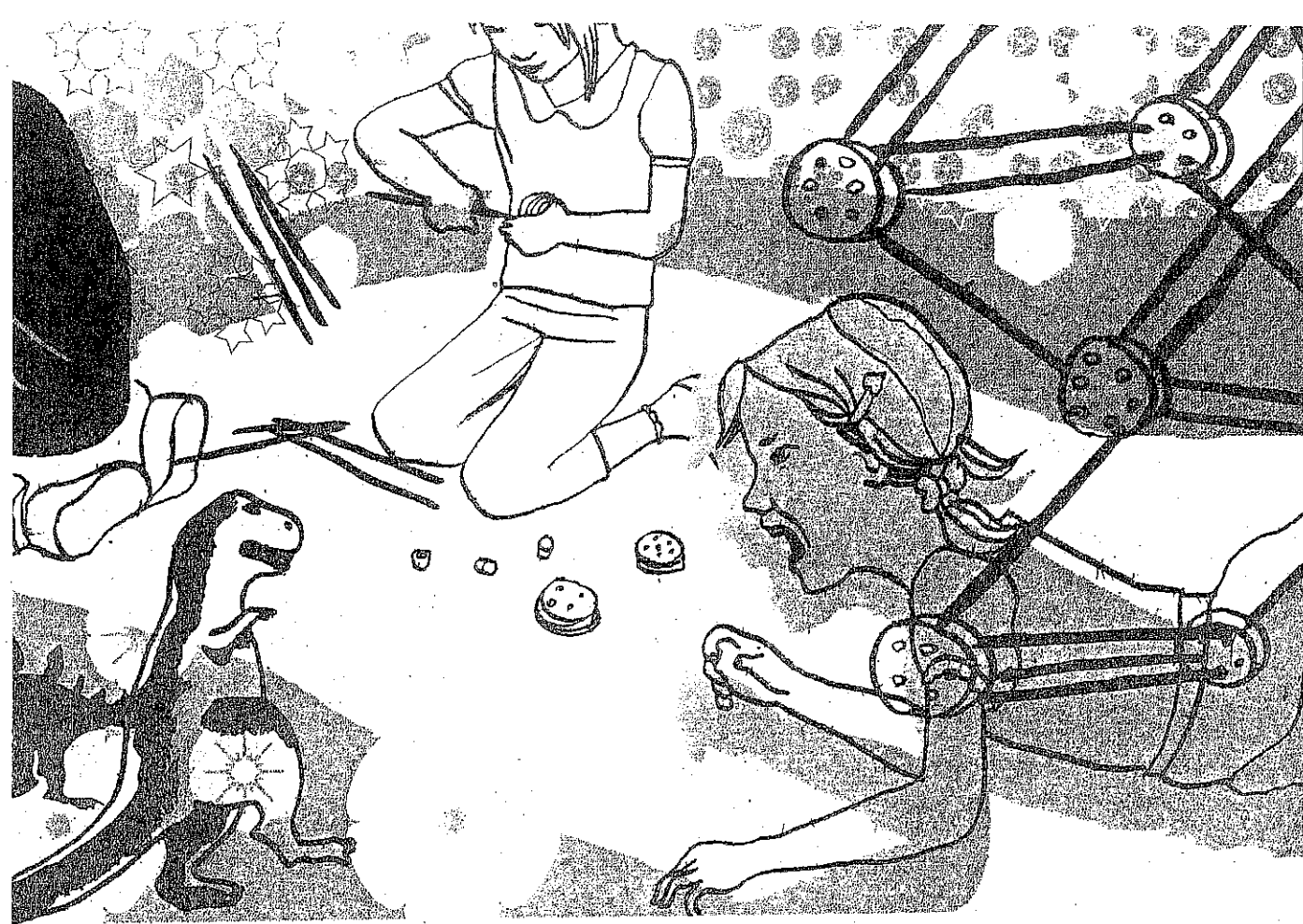
St. Francis Elementary is just up the road from Bigler's research lab and is a tad unusual. It's a private school but does not test for admissions. It's religious but nondenominational. It serves 372 students in grades pre-K through 8, has a large scholarship population and may well be the most diverse school in Austin — public or private.

Physically, St. Francis is a hodgepodge of tradition and spunk. Basketball trophies crowd a glass case on the left of the entrance, and St.

Francis himself stands under a potted plant on the right. The student garden springs up behind an enormous, plush, red leather sofa. Beyond the garden is the cafeteria, which is also the Little Gym, and doubles as the chapel.

On a hallway billboard, Akshara, Caitlin, Narali, Shreyas, Peyton and Jacob have written two-sentence essays about what they will do when they are president. Opposite their essays are student-made posters on Helen Keller, Edwin Hubble, Houdini and Buddha. Under the Lord Buddha is a delicately crafted portrait of Joan of Arc. She is made of orange construction paper and dressed in tin foil.

Bigler pitched the idea for her gender bullying study to St. Francis and found a key ally in Head of School Barbara Porter. Together, they briefed staff members and gave teachers control over timing and certain study logistics. With help from a Teaching Tolerance grant, the project launched in March 2006.



## METHODS AND MATERIALS

The project began with a pre-test of students in kindergarten through 3rd grade. They were asked questions to measure their gender contentedness, whether they felt pressure from peers or adults to conform with gender stereotypes, and their sense of self worth.

Students also were asked whether they would intervene, or speak up, in response to sexist comments such as, "You can't play house; you're a boy." The

children unanimously responded that they would not say a word.

Bigler and her team then divided the students into two groups.

Both groups received six lessons on gender. The first, or "modeling," group heard stories about people who had challenged gender stereotypes and learned about the accomplishments of women and men in atypical gender roles.

The second, or "practice," group received direct instruction about inter-

vening. Specifically, students learned when to challenge sexist remarks and exactly what to say. Then they performed skits in which they used the phrases they'd learned.

The practice group learned five expressions, or interventions:

*You can't say that boys [girls] can't play!*

*Not true, gender doesn't limit you!*

*Give it a rest, no group is best!*

*That's weird, being boys and girls doesn't matter here!*

*I disagree! Sexism is silly to me!*

An early ethical dilemma arose as the team considered the use of a third group — a "control." How does a school withhold helpful information from some of its students? Ultimately, Porter and Bigler decided that St. Francis could not. Instead, the ad hoc control group was formed from the students who entered the school after the program was already under way.

## WHAT WORKED

Bigler's team measured students' attitudes immediately after the lessons and

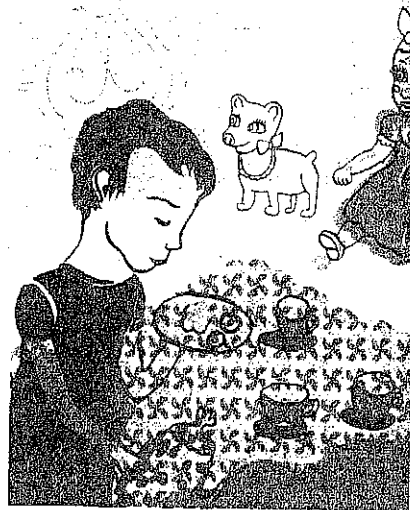


again six months later. Observations continued for nearly a year.

What worked, it turns out, was *not* reading about people who defy gender stereotypes. What affected students' attitudes and behaviors was learning and practicing what to say when gender bullying occurs.

Children in the practice group were more likely to say they would intervene when they felt excluded or thought a peer was being unfairly targeted. Perhaps more importantly, the practice children, unlike their peers in either the control group or the modeling group, actually spoke up when Bigler's team set up an elaborate post-test that created an opportunity for students to speak up after a sexist remark.

Researchers discovered something else, too, something unexpected: Practice group students began teaching the "come-back" refrains to peers. Almost a year later, many students in the modeling group — who had never been taught these expressions — knew them verbatim.



She placed the costumes for boys on the other side of the classroom. As they pulled Darth Vader and superhero costumes from their box, the boys couldn't help looking over at the frilly tutus and pink princess dresses across the room; the girls did the same.

## GET THIS CURRICULUM - FOR FREE!

In partnership with Rebecca Bigler and her colleagues, Teaching Tolerance is pleased to announce the release of "Gender Doesn't Limit You!"

Featuring the six lesson plans that served as the basis of the St. Francis study, the unit is available exclusively online at [www.teachingtolerance.org/gender](http://www.teachingtolerance.org/gender)

Teachers say this is because students found the rhyming expressions novel and catchy. They also acknowledge that the school climate fundamentally shifted. As one teacher noted, "Kids this age have a well-developed sense of fairness. Once they made that connection, they were right on this stuff."

Students' interventions weren't limited to peers, either. Shortly after they had received their six weeks of instruction, a new drama teacher brought in costumes for kindergarten and 1st-grade students.

"OK," the teacher said, setting down one box of costumes by the windows, "these are the girl costumes."

Gene,\* a kindergartener who'd been in the practice group, was frustrated. Finally he spoke up. "They don't have to be just for boys, do they?"

The drama teacher was caught off guard. "Well, no, I guess," she said and started to walk toward the containers, to pull them together. But the boys had already started to pull on tutus and dance around, as the girls wriggled themselves into Spiderman tights.

The classroom teacher, Ms. Ballentine, sat quietly at her desk and watched. "It was incredible," she said. "How happy they were. I think about how it must have been for all the other kids in that

room to hear a kindergartener speak up to an adult."

That Gene, a practice group student, had spoken up, was a predictable outcome. That he spoke up to an adult, in front of older children, was the surprise.

What none of the researchers or teachers counted on was that actions like his would be contagious. "It wasn't just the students," Ballentine said. "It was the teachers, too. We all started paying closer attention to what we were saying."

### A SIMPLE INOCULATION

Although this study has limitations, its findings are clear: Teachers and schools need to talk explicitly with young children about gender bullying and how to interrupt it.

"This is a simple, little inoculation," says Bigler. "Every teacher can write these five rules on the board and run through them every day, telling kids that people may say things they don't agree with, like, 'this is the girls' aisle'; but they are empowered to say something back: 'I don't agree with that. Gender doesn't limit you!' And when kids say it, over time, they start to believe it."

Brad, an articulate 3rd-grader with large, brown eyes, isn't a believer — just yet. Brad doesn't like to wrestle, because he doesn't like to hurt people.

"If you don't wrestle and you're a boy," Brad says, "they call you a wimp. You develop a reputation that you are afraid to stand up and fight." And that puts him in a difficult position. If he doesn't play, he fears he might get beaten up.

Brad doesn't tell teachers, because he's afraid the children will punish him for telling. Besides, he'd rather handle the problem himself. And he thinks he knows how. He'll use the words he learned during the study. ♦

*Peggy Moss is a freelance writer and former civil rights attorney based in Freeport, Maine. She is the author of the award-winning children's book Say Something. Her new book, Our Friendship Rules, is available from Tilbury House Publishers.*

\*Students' names have been changed.



# In Praise of Nurturing Men

By Andrea Warren

We celebrate that women can be doctors, firefighters, and engineers, but we still make fun of men who work at traditionally female jobs. It's time to make equity a two-way street.

AMEE HERRING, GROOMING BY MARIA SECCIA FOR BRADLEY CURRY, STYLING BY KIM FIELD. ON MAN: T-SHIRT BY OLD NAVY, ON BABY: T-SHIRT BY HANNA ANDERSSON.

Several years ago, weary of housework, I responded to a newspaper ad placed by a local cleaning person. To my surprise, the voice on the telephone was male. I immediately felt conflicted. Would a man be able to polish furniture, clean windows, and dust nooks and

crannies with the finesse of a female? Fortunately, I ignored my doubts and hired him. You can guess the rest. Our house sparkled; never had it received such attention to detail. Which only confirmed what I already knew from personal experience: Just as women can be fighter pilots and

professional wrestlers, men can be housekeepers, nurses, and kindergarten teachers. Women can wrestle alligators, and men can do needlepoint. Women can play basketball and fix leaky toilets, while men can study ballet and arrange flowers.

Still, our society tends to denigrate

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men who gravitate toward traditionally female pursuits; we question their motives and their masculinity. Stay-at-home dads who have breadwinner wives are still referred to as "Mr. Mom"—as if to remind them that they're doing women's work. Male elementary-school teachers, who are sorely needed as role models for kids, are often viewed with suspicion and mistrust. The same goes for male nurses. (Remember the movie *Meet the Parents*, in which Ben Stiller plays a nurse? His choice of career elicits endless ridicule.) Instead of celebrating a man who chooses a hands-on role in caregiving, society views him as an anomaly.

Even I have fallen victim to old stereotypes on occasion, and I of all people should know better: My husband, Jay, is director of a child-care center. Mostly he is an administrator, his day jammed with meetings, paperwork, and personnel issues. But

occasionally he's been needed to fill in for a classroom teacher, and then he puts everything aside to assume the task of nurturing and caring for infants and toddlers. This is the part of the job he loves best, and if you see him on these occasions, you immediately sense magic in the air.

*Let's cheer on  
men who break  
down the walls  
of gender bias.*

The price he pays for his chosen career, apart from its low salary, is having to deal with suspicion from some parents—and occasionally even outright hostility. It takes a man who's very secure in his masculinity to wade into the sea of skepticism that will engulf him if he decides to work with

young children. Ask any male preschool teacher—if you can find one. The prevailing attitude: Surely something must be wrong with a man who's not clawing his way up the corporate ladder, not doing something more manly, like trading bonds or laying construction pipe.

When I tell people my husband works at a child-care center, I usually get a blank stare. I could say, defensively, that he's also a psychologist with a part-time private practice. I could say that he's a black belt in tae kwon do, that he loves sailing, in-line skating, motorcycles, and golf. Or I might choose to rant about the bias in this country against male caregivers and about how it's keeping many good men from entering such careers. Job satisfaction just doesn't seem reward enough for the affront to their masculinity; as a result, all of us ultimately lose out.

I know just how extraordinary men

like my husband are. I've watched Jay stoop to greet a small child and seen that child's eyes light up. I've watched toddlers wrap themselves around him as he's leaving the classroom because they don't want him to go. I've walked into his office to find a baby cooing happily in an infant seat on his desk, keeping him company while he works.

Last Halloween, Jay's child-care center hosted its annual fund-raiser, complete with a haunted house. Jay was taking his turn on the dunking stool, which was especially popular with the 3- and 4-year-olds, who loved hitting the bell with a ball and watching Jay splash into the water. Two other men were helping out: a dad who's a nurse and a college student planning a career in art. These three guys were having a great time with the kids, holding up the toddlers so they could toss their balls at the

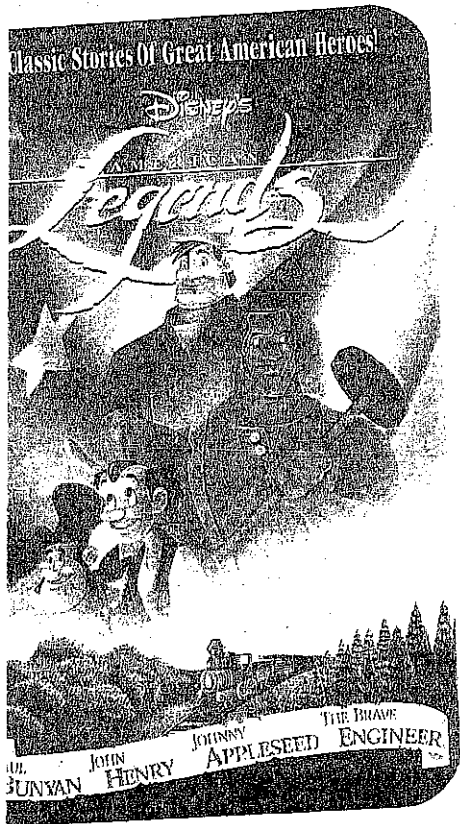
bell, encouraging hesitant children, celebrating victories, and making certain every child felt like a winner.

Another woman and I stood to one side, taking all this in. "There's nothing more attractive than a man who truly enjoys children," she mused. I wholeheartedly agreed. I'm privileged that my life partner is man enough to follow his heart. Many children have benefited as a result. Would most high-level corporate executives say the same about their work? I wonder how many mid-level managers stuck in jobs they hate would come alive if they followed their inner desires and became teachers, nurses—even housekeepers.

Just as we celebrate women who shatter the "glass ceiling," we should cheer on men who are struggling to break down the wall of gender bias. None of us will achieve true equity until those barriers are gone. □

## Still a Woman's World

Women have made great progress in what were once considered male fields: In 1971, 5.4 percent of law-school graduates were female, but by the end of the 1990s, that figure had risen to 44 percent. Similarly, the number of women graduating from medical school rose from 8.4 percent in 1970 to 41 percent by the end of the 1990s. Men, however, have not fared so well in traditionally female fields. Only 13 percent of elementary-school teachers are men, and despite aggressive recruitment efforts, only 5.4 percent of registered nurses are male.



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# TEACHING TOLERANCE

A PROJECT OF THE SOUTHERN POVERTY LAW CENTER

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## Gender Segregation: Separate But Effective?

### Overview:

Gender-segregated classrooms are on the rise in the U.S. — especially the Southeast — but research regarding their effectiveness remains inconclusive.

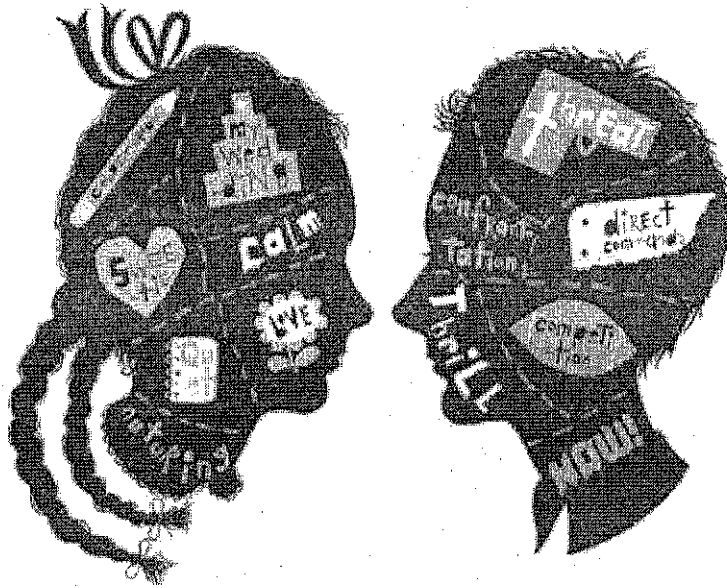
[Number 37: Spring 2010](#) <sup>[1]</sup>

[David Holthouse](#) <sup>[2]</sup>

Last October, more than 450 public school teachers, principals and central administrators from across the United States — as well as from Argentina, Bermuda, Canada and Poland — came together in Atlanta, Georgia, for the fifth annual convention of the National Association for Single Sex Public Education.

Dozens of presentations extolled the superiority of gender-segregated classrooms and entire schools, with lecture titles such as, “Burps, Farts and Snot: Teaching Chemistry To Middle School Boys,” and “Just Don’t Say ‘SEX’ — tips on how to implement single-gender programs in conservative, rural communities.”





Attendees ranged from Chicago and Philadelphia inner-city high school teachers to elementary school principals from small towns in Idaho and Indiana. They represented a fraction of recent converts to the Single Sex Public Education (SSPE) movement, which has expanded at a remarkable pace.

In 2002, only 11 public schools in the United States had gender-segregated classrooms. As of December 2009, there were more than 550.

The movement is based on the hypothesis that hard-wired differences in the ways that male and female brains develop and function in childhood through adolescence require classrooms in which boys and girls are not only separated by gender, but also taught according to radically different methods.

For example, SSPE doctrine calls for teachers in male classrooms to be constantly moving and speaking in a loud voice, even to the point of shouting, while teachers in female classes should be still and use a calming tone. This differentiation stems from the central tenet of SSPE ideology that young males thrive on competition and confrontation, while young females require a more nurturing and cooperative learning environment.

"When most young boys are exposed to threat and confrontation, their senses sharpen, and they feel a thrill," explains Dr. Leonard Sax, the founder and executive director of the National Associate for Single Sex Public Education. "When most young girls are exposed to such stimuli, however, they feel dizzy and yucky."

In a landmark essay published in the Spring 2006 edition of *Educational Horizons*, just as the SSPE movement was gaining strong momentum, Dr. Sax detailed the different ways elementary school teachers should address their students in gender-segregated classes. "[The teacher] may move right in front of a boy and say, 'What's your answer, Mr. Jackson? Give it to me!' Far from being intimidated, boys are energized by this teaching style. With girls [teachers should] speak more softly, use first names, terms of endearment

and fewer direct commands: 'Lisa, sweetie, it's time to open your book. Emily, darling, would you please sit down for me and join us in this exercise?'"

The title of Dr. Sax's essay was "Six Degrees of Separation," a reference to the SSPE guideline that while the perfect ambient temperature for a male classroom is 69 degrees Fahrenheit, females learn most effectively at 75 degrees.

### **Heroic Behavior vs. Wedding Cakes**

Separating boys and girls is a longstanding tradition at private and parochial schools. The concept began to gain traction in American public schools earlier this decade as schools began to experiment with SSPE in oft-desperate attempts to reduce disciplinary problems and improve test scores. The Department of Education accelerated the trend in 2006 by altering the Title IX provision of the No Child Left Behind Act to ease restrictions on gender-segregated education in public schools.

Since then, advocates like Dr. Sax, a child psychologist who never set foot in a classroom as a teacher, have stepped up their promotion of SSPE as a panacea for public education. With scant evidence backing them up, they herald SSPE as the most effective way to narrow the achievement gaps between rich and poor students and black and white students that persist eight years after the passage of No Child Left Behind.

Although SSPE programs are now in place at schools in 39 states and the District of Columbia, they are particularly popular in urban districts with large minority populations, and most concentrated in the Southeastern U.S. South Carolina has 173 SSPE schools, by far the most of any state.

Last year, the largest school system in Alabama, the Mobile County Public School System, with 66,000 students, implemented SSPE programs in eight of its 93 schools with no parental notification. The most extreme program was at Hankins Middle School in Theodore, Alabama, where boys and girls ate lunch at different times and were prohibited from speaking to one another on school grounds.

Hankins teachers were directed to create "competitive, high-energy" classrooms for boys and "cooperative, quiet" classrooms for girls. Boys were to be taught "heroic behavior." Girls were to learn "good character." Sixth-grade language arts exercises called for boys to brainstorm action words used in sports. Girls were instructed to describe their dream wedding cake. Electives were gender-specific. Boys took computer applications. Girls took drama. No exceptions.

Mark Jones, whose son Jacob attends Hankins, said that when he complained to the principal about the changes, she told him they were necessary because "boys' and girls' brains were so different they needed different curriculum."

"Segregating boys and girls didn't make things any better for our children. In fact they made things worse," Jones said. "Our kids were basically being taught ideas about gender that come from the Dark Ages."

Another parent, Terry Stevens, also objected. "The real world is integrated, and it's important to both me and my son that he learn in a coed environment," Stevens said.

Other parents and students disagreed. "You learn more like this," 11-year-old Brenda Orduna told the Mobile Press-Register after making the honor roll at the end of the first quarter for the first time in her academic career. "When boys are around, you're shy. And you won't ask questions if you don't get it."

### **Muddled Results**

The Mobile County SSPE experiment was short-lived. The district terminated all eight of its SSPE programs last March after the American Civil Liberties Union threatened to file a lawsuit on behalf of Jones and Stevens. The ACLU took the position that the Hankins program violated even the slackened Title IX provision. (The other seven Mobile County SSPE programs either offered all elective courses to both genders, in single-sex classrooms, or made their SSPE programs optional, with co-ed alternatives. At Hankins, they were mandatory.)

"While schools might think that sex-segregated classes will be a quick fix for failing schools, in reality they are inherently unequal and shortchange both boys and girls," said Emily Martin, Deputy Director of the ACLU Women's Rights Program. "There is no reliable evidence that segregating students by sex improves learning by either sex."

It is fair to say the supposed benefits of gender-segregated education in public schools claimed by SSPE supporters are unproven. On the other hand, there is no solid evidence that SSPE is harmful to the learning process of either gender, as critics argue. SSPE is such a relatively new phenomenon that no major credible studies have been conducted of its long-term efficacy. Likewise, research into gender-segregated education in general, let alone the controversial teaching methods promoted by the SSPE movement, has been inconclusive.

A 2006 study completed at the College of Education at Arizona State University showed that most of the research into gender-segregated education thus far has been of questionable value. According to the ASU study, the "research ... is mostly flawed by failure to control for important variables such as class, financial status, selective admissions, religious values, prior learning or ethnicity." The ASU study also found that the methodology of less than 2 percent of the more than 2,000 quantitative studies of gender-segregated education was of high enough quality to meet the standards of the National Center for Education Statistics.

In 2005 the Department of Education released a comprehensive meta-analysis of gender-segregated education scholarship, titled "Single Sex Versus Coeducational Schooling: A Systematic Review." The DOE found the results "equivocal."

"There is some support for the premise that single-sex schooling can be helpful especially for certain outcomes related to academic achievement and more positive academic aspirations," the DOE reported. "For many outcomes, there is no evidence of either benefit or harm. There is limited support for the view that single-sex schooling may be harmful."

The DOE report included the caveat that most research into gender-segregated education has been conducted in private Catholic schools, which hardly makes for an apples-to-apples comparison to public education.

"Sex segregation doesn't make public schools more like private schools," says Allison Neal, staff attorney with the ACLU of Alabama. "If some private schools provide a better education, it's because of their resources, not because they're single sex."

### **'A Self-Confidence Thing'**

Dr. Sax counters the mixed results of the Department of Education analysis by pointing out that most of the studies reviewed by the DOE involved merely segregating boys and girls in different classrooms without deploying SSPE teaching methods.

"The most obvious explanation for the variation is that merely placing girls and boys in separate classrooms accomplishes little," he said. "For the single-sex format to lead to improvements in academic performance, teachers must understand the hard-wired differences in how girls and boys learn and incorporate the best practices for all-female classrooms and all-male classrooms."

Dr. Sax has made a cottage industry of training public school teachers in those classroom practices. He maintains that two days of training, 14 hours total, is all that's needed to prepare the staff of a public school to switch from coeducation to SSPE. Since 2002, Dr. Sax by his own count has led such two-day conversion seminars for more than 300 schools in the United States, Canada and Mexico.

One of them was Carman Trails, an elementary school in the Parkway School District, which is in the St. Louis area. Despite a lack of test data to prove the program is working, SSPE at Carman Trails has won over teachers, parents and students. The program is expanding. When it began two years ago, it was limited to first grade. For the 2008-2009 academic year, first- and second-graders were segregated by gender. In February 2009, at the urging of enthusiastic parents, principal Chris Raeker grew the program to include the third grade.

Raeker said that since implementing the SSPE program, fewer boys are being sent to the principal's office, their overall attendance is up and they are participating in school clubs in higher numbers. First-grade teacher Alicia Wall said the program is benefiting girls in different ways. "I definitely see a self-confidence thing," Wall said. "The girls are ready to learn and ready to work. In coed classes, they're afraid to say something. They're afraid to be wrong."

The anecdotal success stories from schools like Carman Trails fail to sway opponents of SSPE, which include members of the American Civil Liberties Union and the American Association of University Women. They argue that SSPE is not a silver bullet for improving performance in public schools. Further, they point out that segregating students by race based on supposed differences in brain function between, for example, Asian students and African American students, would be decried as racist and arouse widespread protests.

"School districts across the country are experimenting with sex-segregated programs, which rely on questionable brain science theories based on outdated gender stereotypes," said the ACLU's Martin. "Instead, these districts should focus on efforts that we know can improve all students' education, like smaller classes and more teacher training and parental involvement."



# TEACHING TOLERANCE

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[Home](#) > Gender in the Fast Lane

## Gender in the Fast Lane

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[Jennifer Holladay](#) <sup>[1]</sup>

"Is that for a boy or a girl?"

This is the question posed to thousands of parents and guardians as they sweep through drive-throughs each day, seeking some quick eats for their children.

For my daughter, these moments are precious treats. We're not big consumers of fast food. And, in all honesty, it's not about the nuggets for her. What she wants — what she really, really wants — is the toy that's always floating in a bubble of plastic inside the kid's meal. A new toy with dinner — really, what could be better to a five-year-old?

I, on the other hand, loathe these moments, because, more often than not, they are an exercise in gender. "A boy or a girl?"

Sometimes, I mix it up and lie. "Boy," I declare, which universally leads to chants from Zoe in the back seat: "I'm a girl! I'm a girl!"

Such was the case during a recent weekend. The toy my daughter pulled from the bag was a "Dangerous Space" stencil set, brought to us by the authors of *The Dangerous Book for Boys*.

Had I said "girl," our options — based on *The Daring Book for Girls* — would have been a stencil set of sea animals, a mold-and-clay toy with a flower and a ladybug, and a watercolor set.

Burger King was serving up double servings of gender that day, making all kinds of presumptions about what boys and girls should like. Contrary to their predictions, Zoe loved her space toy. After all, one of the things she wants to be when she grows up is an astronaut.

The experience reminded me yet again of the importance of battling gender stereotyping at home — and in our classrooms. One of my favorite lessons in this regard is [Gendered Beliefs](#) <sup>[2]</sup>, which helps young children identify and respond to gender-based stereotypes.

Among the lesson's scenarios: "Sumen is playing in her room with her Barbie doll. Her brother Raj comes in and starts to play with another Barbie doll. Sumen tells Raj that he can't play with the Barbie doll because only girls can play with Barbies. What do we tell Sumen?"

The answer? "I disagree! Sexism is silly to me."

And that's exactly what we should say to Burger King.

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# Gender Pay Gap

*Are women paid fairly in the workplace?*

**M**ore than four decades after Congress passed landmark anti-discrimination legislation — including the Equal Pay Act of 1963 — a debate continues to rage over whether women are paid fairly in the workplace. Contending that gender bias contributes to a significant “pay gap,” reformists support proposed federal legislation aimed at bringing women’s wages more closely in line with those of men. Others say new laws are not needed because the wage gap largely can be explained by such factors as women’s choices of occupation and the amount of time they spend in the labor force. Meanwhile, a class-action suit charging Wal-Mart Stores with gender bias in pay and promotions — the biggest sex-discrimination lawsuit in U.S. history — may be heading for the Supreme Court. Some women’s advocates argue that a controversial high-court ruling last year makes it more difficult to sue over wage discrimination.



Former Goodyear manager Lilly Ledbetter won more than \$3 million in a pay-discrimination suit against the tire firm, but the U.S. Supreme Court overturned the verdict in 2007 for filing her complaint too late.

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# Gender Pay Gap

BY THOMAS J. BILLITTERI

## THE ISSUES

An insult to my dignity" is the way Lilly Ledbetter described it.<sup>1</sup> For 19 years, she worked at the Goodyear Tire plant in Gadsden, Ala., one of a handful of women among the roughly 80 people who held the same supervisory position she did. Over the years, unbeknownst to her, the company's pay-raise decisions created a growing gap between her wages and those of her male colleagues. When she left Goodyear, she was earning \$3,727 a month. The lowest-paid man doing the same work got \$4,286. The highest-paid male made 40 percent more than she did.<sup>2</sup>

Ledbetter sued in 1998, and a jury awarded her back pay and more than \$3 million in damages. But in the end, she lost her case in the U.S. Supreme Court.<sup>3</sup>

A conservative majority led by Justice Samuel A. Alito Jr. ruled that under the nation's main anti-discrimination law she should have filed a formal complaint with the federal government within 180 days of the first time Goodyear discriminated against her in pay. Never mind, the court said, that Ledbetter didn't learn about the pay disparity for years.

"The Supreme Court said that this didn't count as illegal discrimination," she said after the ruling, "but it sure feels like discrimination when you are on the receiving end of that smaller paycheck and trying to support your family with less money than the men are getting for doing the same job."<sup>4</sup>

The Ledbetter decision has added fuel to a long-burning debate over sex discrimination in women's wages and whether new laws are needed to narrow the disparity in men's and women's pay.



AP Photo/Noah Berger

*A suit filed by Betty Dukes, right, and other female Wal-Mart employees accuses the retail giant of sex discrimination in pay, promotions and job assignments in violation of the Civil Rights Act of 1964. The case, covering perhaps 1.6 million current and former Wal-Mart employees, is the biggest class-action lawsuit against a private employer in U.S. history.*

"A significant wage gap is still with us, and that gap constitutes nothing less than an ongoing assault on women's economic freedom," declared U.S. Rep. Rosa L. DeLauro, D-Conn., at a congressional hearing on a pay-equity bill she is sponsoring, one of several proposed on Capitol Hill.

But that view is hardly universal. "Men and women generally have equal pay for equal work now — if they have the same jobs, responsibilities and skills," testified Diana Furchtgott-Roth, a senior fellow at the Hudson Institute, a conservative think tank, and former chief economist at the Labor Department in the George W. Bush administration.<sup>5</sup>

The wrangle over wages is playing out not just in Washington but in cities and towns across America. In the biggest sex-discrimination lawsuit in U.S. history, a group of female Wal-Mart employees has charged the retail giant with bias in pay and promotions. The case could

affect perhaps 1.6 million women employees of Wal-Mart and result in billions of dollars in back pay and damages. (See sidebar, p. 254.)

The enormously complex gender-pay debate encompasses economics, demographics, law, social justice, culture, history and sometimes raw emotion. Few dispute that a wage gap exists between men and women. In 2006 full-time female workers earned 81 percent of men's weekly earnings, according to the latest U.S. Labor Department data, with the wage gap broader for older workers and narrower for younger ones. Separate U.S. Census Bureau data put the gap at about 77 percent of men's median full-time, year-round earnings.<sup>6</sup>

The fundamental issues are why the gap exists, how much of it stems from discrimination and what should be done about it.

Some contend the disparity can largely be explained by occupational differences between women and men, variations in work experience, number of hours worked each year and other such things.

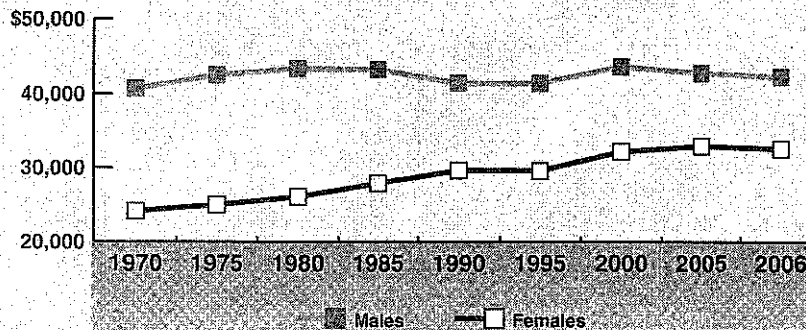
June O'Neill, an economics professor at the City University of New York's Baruch College and former director of the Congressional Budget Office in the Clinton administration, says that the most important factors affecting the pay gap stem from differences in the roles of women and men in family life. When the wages of men and women who share similar work experience and life situations are measured, the wage gap largely disappears, she says. Reasons that the earnings disparity may appear bigger in some research, she says, include the fact that many studies do not control for differences in years of work experience, the extent of part-time work

# GENDER PAY GAP

## Women Closing the Pay Gap . . . Slowly

More than 40 years after women began demanding equal rights and opportunities, they still earn 77 percent of what men earn. The pay gap has been closing, however, because women's earnings have been rising faster than men's.

**Median Annual Earnings of Full-time, Year-round Workers**  
(By gender, 1970-2006, in constant 2006 dollars)



Source: Carmen DeNavas-Walt, et. al., "Income, Poverty, and Health Insurance Coverage in the United States: 2006," U.S. Census Bureau, August 2007.

and differences in training and occupational choices. O'Neill notes that Labor Department data show median weekly earnings of female part-time workers exceed those of male part-timers. She also says the wage gap has been narrowing over time as women's work experience, education and other job-related skills have been converging with those of men.

"Large amounts of discrimination? No," she says. "Individual women may experience discrimination, and it's good to have laws that deal with it," she adds. "But those cases don't change the overall picture. The vast majority of employers don't harbor prejudice against women."

Yet others argue that beneath such factors as occupation and number of hours worked lies evidence of significant discrimination — covert if not overt.

"Women do not realize the enormous price that they pay for gender wage discrimination because they do not see big bites taken out of their paychecks at any one time," Evelyn F. Murphy, president of The Wage Pro-

ject, a nonprofit organization that works on eliminating the gender wage gap and author of *Getting Even: Why Women Don't Get Paid Like Men and What To Do About It*, told a congressional panel last year.<sup>7</sup>

In her book, she told the hearing, she wrote of employers "who had to pay women employees or former employees to settle claims of gender discrimination, or judges and juries ordered them to pay up. The behavior of these employers vividly [illustrates] the commonplace forms of today's wage discrimination: barriers to hiring and promoting qualified women; arbitrary financial penalties imposed on pregnant women; sexual harassment by bosses and co-workers; failure to pay women and men the same amount of money for doing the same jobs," and "everyday discrimination" marked by "the biases and stereotypes which influence [managers'] decisions about women."

Women's advocates point to a 2003 General Accounting Office (GAO) study concluding that while "work patterns"

were key in accounting for the wage gap, the GAO could not explain all the differences in earnings between men and women. "When we account for differences between male and female work patterns as well as other key factors, women earned, on average, 80 percent of what men earned in 2000. . . . We cannot determine whether this remaining difference is due to discrimination or other factors," the GAO report said.<sup>8</sup>

The study said that in the view of certain experts some women trade promotions or higher pay for job flexibility that allows them to balance work and family responsibilities.

Women's advocates point out that many women have little choice but to work in jobs that offer flexibility but pay less because they typically shoulder the bulk of family caregiving duties. And, they argue further, expectations within companies and society — typically subtle, but sometimes not — often channel women away from male-dominated jobs into female-dominated ones that pay less.

"People who argue that [wage discrimination] is small will say a lot of it is due to women's choices," such as the choice to stay home with the children, work part time or enter lower-paying fields, says Reeve Vanneman, a sociology professor at the University of Maryland, College Park, who studies gender inequality. But, he says, it's misleading to explain most of the wage gap in that way, especially when mid-career and older female workers are concerned.

"Why do women make those choices? Part of the reason is because they are discriminated against in the job. They see men getting rewarded more and promoted more than they are."

Women face unequal work not just on the job but at home, too, Vanneman says, with husbands not picking up their share.

Part of the wage gap stems from weak government enforcement, some

argue. A U.S. inspector general's report stated last fall that the Equal Employment Opportunity Commission, which enforces federal employment-discrimination laws, is "challenged in accomplishing its mission" because of "a reduced workforce and an increasing backlog of pending cases." The agency has experienced a "significant loss of its workforce, mostly to attrition and buyouts . . . offered to free up resources," the report said.<sup>9</sup>

The news on gender discrimination in pay is not all bad. The wage gap has narrowed considerably in recent decades. For example, Labor Department data show that for 35- to 44-year-olds, the earnings ratio of women to men rose from 58 percent in 1979 to 77 percent in 2006. For 45- to 54-year-olds, it went from 57 percent to 74 percent.<sup>10</sup> Among the youngest workers, ages 16 to 24, only about 5 percentage points separated median weekly wages of men and women in 2006.<sup>11</sup>

Still, many experts say the progress of the 1980s and early '90s has slowed or stalled in recent years, with the wage gap stuck in the range of 20 to 24 percent, although it is not entirely clear why. Some argue that entrenched wage discrimination remains a major culprit.

In a study of college graduates last year, the American Association of University Women Educational Foundation found that one year out of college, women working full time earn only 80 percent as much as their male colleagues, and 10 years after graduation the gap widens to 69 percent. Even after controlling for hours worked, training and education and other factors, the portion of the pay gap that remains unexplained is 5 percent one year after graduation and 12 percent a decade afterward, the study found.<sup>12</sup> (See graph, right.)

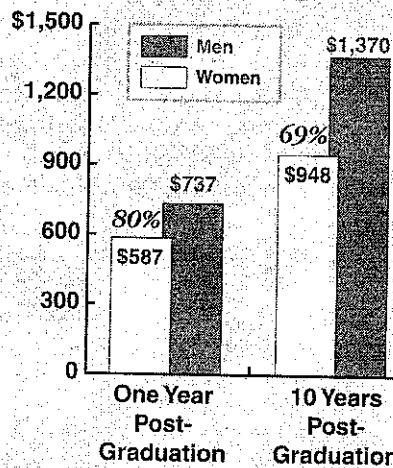
"These unexplained gaps are evidence of discrimination," the study concluded.

Employer advocates challenge such conclusions, though. Michael Eastman, executive director of labor policy at

## Gap Widens for College Graduates

*College-educated women earn only 80 percent of what their male counterparts earn a year after graduation, when both male and female employees have the same level of work experience and (usually) no child-care obligations — factors often used to explain gender pay differences. The gap widens to 69 percent by 10 years after graduation.*

**Gap in Average Weekly Earnings for Bachelor's Degree Recipients**  
(For full-time workers)



Source: "Beyond the Pay Gap," American Association of University Women, based on data from the "2003 Baccalaureate and Beyond Longitudinal Study," National Center for Education Statistics, U.S. Department of Education

the U.S. Chamber of Commerce, questions the assumption "that whatever gap is not explained must be due to discrimination. An unexplained gap is simply that — it's unexplained."

Election-year politics and the recent shift toward Democratic control of Con-

gress — along with the Supreme Court's decision in the *Ledbetter* case — have helped to reinvigorate the pay debate. Proposed gender-pay bills have strong support from women's-rights groups and some economists, who argue that the Equal Pay Act and Title VII of the Civil Rights Act of 1964 — the main avenues for attacking wage discrimination — fall short.

Presidential contender Sen. Hillary Rodham Clinton, D-N.Y., is sponsoring the Senate version of the DeLauro bill; another presidential hopeful, Sen. Barack Obama, D-Ill., is one of the 22 co-sponsors, although he didn't sign on to it until more than a month after she introduced it. Among other things, the measure would raise penalties under the Equal Pay Act, which bars paying men and women differently for doing the same job.<sup>13</sup>

Obama is co-sponsoring a more controversial bill, introduced in the Senate by Sen. Tom Harkin, D-Iowa, that advocates the notion of comparable worth; the idea, generally speaking, suggests that a female-dominated occupation such as social work may merit wages that are comparable to those of a male-dominated job such as a probation officer.<sup>14</sup> The Harkin measure would bar wage discrimination in certain cases where the work is deemed comparable in skill, effort, responsibility and working conditions, even if the job titles or duties are different. (See sidebar, p. 252.)

A third effort would undo the Supreme Court's ruling in the *Ledbetter* case.<sup>15</sup> A bill passed the House last summer, and advocates are hoping the Senate version — sponsored by Sen. Edward M. Kennedy, D-Mass., and co-sponsored by Clinton and Obama — moves forward soon. But the Bush administration has threatened a veto, and business interests are vehemently opposed.

As the debate over wage disparities continues, these are some of the questions being discussed:

## GENDER PAY GAP

### *Is discrimination a major cause of the wage gap?*

When economist David Neumark studied sex discrimination in restaurant hiring in the mid-1990s, he discovered something intriguing: In expensive restaurants, where waiters and waitresses can earn more than they can at low-price places, the chances of a woman getting a wait-staff job offer were 40 percentage points lower than those of a man with similar experience.<sup>16</sup>

The study is a telling bit of evidence that the wage gap is real and that discrimination plays a significant part in it, says Vicky Lovell, director of employment and work/life programs at the Institute for Women's Policy Research, an advocacy group in Washington. She estimates that perhaps a third of the wage gap stems from discrimination — mostly “covert” bias that occurs when people make false assumptions about the ability or career commitment of working women.

Lovell has little patience with those who say the wage gap stems from non-discriminatory reasons that simply haven't yet been identified. “That's just specious,” she says. “If we can't explain why women on average get paid less, what is the alternative explanation?”

The role of discrimination lies at the heart of the pay-gap debate. Researchers fall into different camps.

Some see little evidence that bias plays a big part in the gap. When adjusted for work experience, education, time in the labor force and other variables, wages of men and women are largely comparable, they contend.

“This so-called wage gap is not necessarily due to discrimination,” the Hudson Institute's Furchtgott-Roth said in congressional testimony. “Decisions about field of study, occupation and time in the work force can lead to lower compensation, both for men and women.”<sup>17</sup>

What's more, “some jobs command more than others because people are willing to pay more for them,” she

said. “Many jobs are dirty and dangerous. . . . Other highly paid occupations have long, inflexible hours. . . . Women are not excluded from these or other jobs but often select professions with a more pleasant environment and potentially more flexible schedules, such as teaching and office work. Many of these jobs pay less.”

Warren Farrell, who in the 1970s served on the board of the New York City chapter of the National Organization for Women, argues in his 2005 book — *Why Men Earn More: The Startling Truth Behind the Pay Gap— and What Women Can Do About It* — that women pay an economic price by seeking careers that are more fulfilling, flexible and safe. With a stated goal of helping women gain higher pay, Farrell offers 25 “differences in the way women and men behave in the workplace.” Those who earn more, he says, work longer hours, are more willing to relocate, require less security and produce more, among other things.

O'Neill, of Baruch College, points out that women are much more likely to go into occupations that will allow them to work part time, and typically “that doesn't pay as well.”

She studies data that track the work histories of women and men over a long period of time. “Women have just not worked as many weeks and hours over their lives as men,” she says. “When you adjust for that, you explain most of the [pay] difference. . . . You're still left with a difference, but then there are other things that become harder to measure.”

The AAUW study found that even women who make the same choices as men in terms of fields of study and occupation earn less than their male counterparts. A typical college-educated woman working full time earns \$46,000 a year compared to \$62,000 for college-educated male workers — a difference of \$16,000.

“The pay gap between female and male college graduates cannot be fully

accounted for by factors known to affect wages, such as experience (including work hours), training, education and personal characteristics,” the AAUW study says. “In this analysis the portion of the pay gap that remains unexplained after all other factors are taken into account is 5 percent one year after graduation and 12 percent 10 years after graduation. These unexplained gaps are evidence of discrimination, which remains a serious problem for women in the work force.”<sup>18</sup>

“This research asked a basic but important question: If a woman made the same choices as a man, would she earn the same pay? The answer is no,” Catherine Hill, director of research at the AAUW, told a House Committee on Education and Labor hearing last year.

Speaking more generally about pay inequity, Linda Meric, national director of 9to5, National Association of Working Women, a Milwaukee-based advocacy group, says that “when you control for all the other so-called factors” that might explain the wage gap, “there is still a gap.”

“And many of those so-called factors are not independent of discrimination and stereotypes of women. One is time in the work force. If there aren't policies that allow women to get jobs and maintain and advance in employment at the same time they are meeting their responsibility in terms of family caregiving, that's not an independent factor. It's something that influences the pay gap significantly.”

Heather Boushey, senior economist at the Center for Economic and Policy Research, a Washington think tank, noted that time away from the workforce strongly affects lifetime earnings. She said it is a myth that women choose lower-paying occupations because they provide the flexibility to better manage work and family. “The empirical evidence shows that mothers are actually less likely to be employed in jobs that provide them with greater flexibility.”<sup>19</sup>

Echoing that sentiment, Beth Shulman, co-director of the Fairness Initiative on Low Wage Work, a public policy advocacy group also in Washington, says, "We have kind of an Ozzie and Harriet workplace, with a full-time worker and the wife at home," but "70 percent of women with children are in the workplace." She adds, "Our structures haven't kept up with that. So women who are primary caregivers get punished."

Schulman, author of *The Betrayal of Work: How Low-Wage Jobs Fail 30 Million Americans*, says that while overt gender discrimination exists in the job market, an equally important contributor to the wage gap is the lack of flexibility for low-income working women with families. For example, she says, female factory employees with family responsibilities often find it difficult to accept better-paying manufacturing jobs because such jobs often require mandatory overtime.

Shulman also says that three-fourths of women in low-wage jobs don't have paid sick days. So when a child is sick or an elderly parent needs help, women may be forced to leave the workforce and then re-enter it — something that has a huge effect on wages over time.

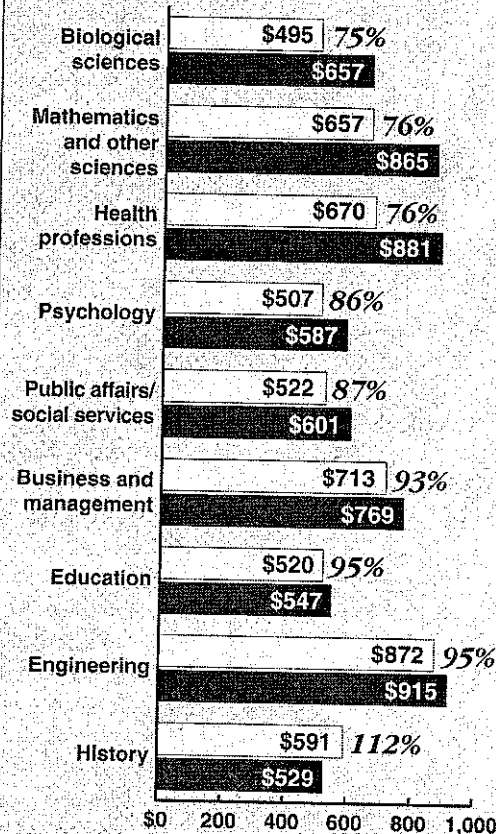
"Low-wage workers get kind of ghettoized into these part-time jobs that have poor wages, poor benefits and less government protection," Shulman says.

In a 1998 study, Cornell University economists Francine Blau and Lawrence Kahn found that 40 percent of the pay gap is unexplained after adjusting for gender differences in experience, education, occupation and industry. Blau cautions that such an estimate is conservative, because variables such as women's choices of occupation or industry and even their education and work experience can themselves be affected by discrimination. On the other hand, she acknowledges that some of the unexplained differences may be due to unmeasured productivity characteristics that increase men's earnings

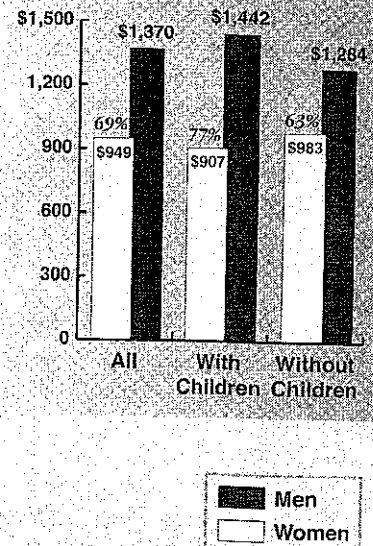
## Pay Gap Exists Despite Women's Choices

*Those who discount the seriousness of gender pay bias often blame differences in men's and women's salaries on women's choices to study "softer" sciences or to have children. But a recent study shows that the pay gap persists even when women choose not to have children and when they choose male-dominated fields of study and occupation — such as business, engineering, mathematics and medicine. The pay gap is greatest in the biology, health and mathematics fields. Women out-earn men only in the history professions.*

**Avg. Weekly Earnings One Year After Graduation**  
(For full-time workers with bachelor's degrees)



**Avg. Weekly Earnings 10 Years After Graduation**  
(For full-time workers with bachelor's degrees)



Source: "Behind the Pay Gap." American Association of University Women, 2007

relative to women's earnings.

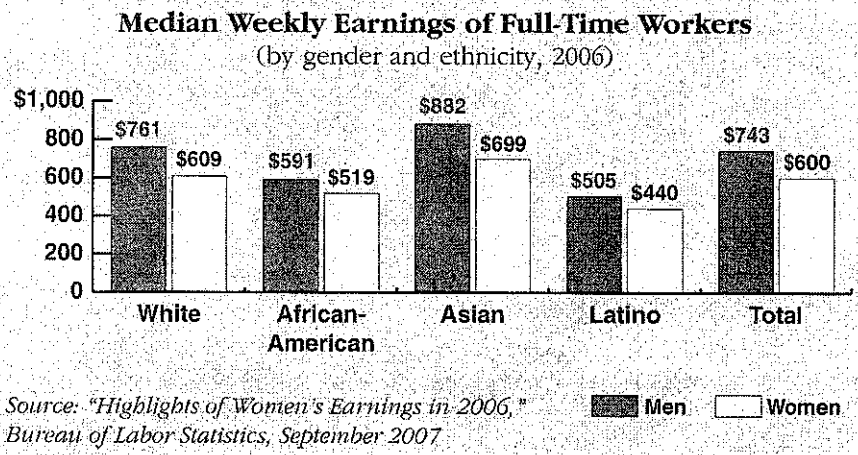
Applying that 40 percent figure to current government wage-gap data would suggest that 8 to 9 cents of each dollar in wage disparity is unexplained, with an unknown portion of that amount caused by discrimination.

Martha Burk, who directs the Corporate Accountability Project for the National Council of Women's Organizations, a coalition of more than 200 women's groups, says some of the pay gap stems from "historical discrimination" rooted in a time when employers

# GENDER PAY GAP

## Wage Disparities Highest Among Asians

The median weekly earnings for women are lower than men's across all ethnic groups. The largest disparity is among Asians, where men earn \$183 more on average per week than their female counterparts. The average difference for all groups is \$143.



could legally exclude women from certain jobs and pay them less for the kinds of jobs they typically did hold, such as teaching and clerical work.

Burk, who led the fight to open the Augusta (Ga.) National Golf Club to women, says those female-dominated jobs "were systematically devalued, and that has carried through to modern times."

### Are new laws needed to close the gender pay gap?

When President John F. Kennedy signed the Equal Pay Act in 1963, he called it "a first step."<sup>20</sup>

Over the decades, the pay gap has narrowed significantly, but the push for new laws to curb gender-pay inequity goes on, fueled in part by the view among women's advocates that progress toward wage equity has slowed or stalled in recent years.

"The best way is for corporations to behave as socially responsible corporate citizens [and] examine their wage practices," says Lovell of Women's Policy Research. "But that is not going to happen. I don't see any reason to think the private sector is going to address this

issue on its own. A few will to the extent they can within their own workforces. But if corporations individually or within industry groups aren't going to make this a priority, then that's why we have a government."

Opponents of new laws have sharply different views, though.

Roger Clegg, president and general counsel of the Center for Equal Opportunity, a conservative think tank in Falls Church, Va., says some gender discrimination will always exist but that existing laws can address it. Besides, Clegg says, the amount of gender discrimination that remains in the American workforce "is greatly exaggerated by the groups pushing for legislation."

Much of the support for new laws rests on the view that some jobs pay poorly because females historically have dominated them. Jocelyn Samuels, vice president for Education and Employment at the National Women's Law Center, a Washington advocacy group, told a congressional hearing last year that 95 percent of child-care workers are female while the same proportion of mechanical engineers are male.

Moreover, she said, wages in fields dominated by women "have traditionally been depressed and continue to reflect the artificially suppressed pay scales that were historically applied to so-called 'women's work.'" Maids and housecleaners — 87 percent of whom are women — make roughly \$3,000 per year less than janitors and building cleaners, 72 percent of whom are men, she said. "Current law simply does not provide the tools to address this continuing devaluation of traditionally female fields."<sup>21</sup>

To attack that situation, some advocates back the comparable-worth theory, arguing that women should be paid commensurate with men for jobs of equivalent value to a company, even if the work is different. But critics argue that such an approach violates the free-market principles of supply and demand for labor and that it could hurt both the economy and the cause of women.

"The comparable-worth approach has the government setting wages rather than the free market, and a great lesson of the 20th century is that centrally planned economies and centrally planned wage and price systems do not work," Clegg says.

Carrie Lukas, vice president for policy and economics at the Independent Women's Forum, a conservative group in Washington that backs limited government, contends that "government attempts to 'solve' the problem of the wage gap may in fact exacerbate some of the challenges women face, particularly in balancing work and family."

In an opinion column last year, she criticized the Clinton/DeLauro bill, which calls for guidelines to help companies voluntarily "compare wages paid for different jobs . . . with the goal of eliminating unfair pay disparities between occupations traditionally dominated by men or women." Lukas wrote that the bill would "give Washington bureaucrats more power to oversee how wages are determined, which might prompt businesses to make

employment options more rigid." Flexible job structures would become less common, she argued. Why, Lukas wondered, "would companies offer employees a variety of work situations and compensation packages if doing so puts them at risk of being sued?"<sup>22</sup>

Not only might women suffer from new laws, but so would employers, some argue. Washington lawyer Barbara Berish Brown, vice-chair of the American Bar Association's Labor and Employment Law Section, said in a hearing on the Clinton/DeLauro bill that she is "unequivocally committed" to erasing gender-pay bias, but that existing laws suffice.

"All that the proposed changes will do is encourage more employment-related litigation, which is already drowning the federal court docket, and make it much more difficult,

if not impossible, for employers, particularly small businesses, to prove the legitimate, nondiscriminatory reasons that explain differences between the salaries of male and female employees," she said.<sup>23</sup>

But longtime activists such as Burk, author of *Cult of Power: Sex Discrimination in Corporate America and What Can Be Done About It*, say existing laws are not effective enough to stamp out wage bias. "It has always been the view of conservatives that if you pay women equally, it's going to destroy capitalism," she says. "So far capitalism has survived quite well."



*U.S. Rep. Rosa L. DeLauro, D-Conn., is sponsoring one of several pay-equity bills in Congress. Presidential contender Sen. Hillary Rodham Clinton, D-N.Y., is sponsoring the Senate version of DeLauro's bill; Sen. Barack Obama, D-Ill., is one of the 22 co-sponsors. "A significant wage gap is still with us, and that gap constitutes nothing less than an ongoing assault on women's economic freedom," DeLauro says.*

AP Photo/Ron Edmonds

### ***Is equity possible after the Supreme Court's Ledbetter ruling?***

After the Supreme Court ruled in the Goodyear pay-discrimination case, Eleanor Smeal, president of the Feminist Majority, urged congressional action to reverse the decision. "We cannot stand by and watch a Bush-stacked court destroy in less than a year Title VII — the bedrock of women's rights and civil rights protection in wage-discrimination cases," she said.<sup>24</sup>

Yet, such outrage at the Supreme Court is matched by praise from business advocates. "We think the court got it exactly right," says Eastman, the U.S. Cham-

ber of Commerce labor policy official.

In the 5-4 ruling, the court said workers can't sue under Title VII of the Civil Rights Act, the main federal anti-discrimination law, unless they file a formal complaint with the EEOC within 180 days of a discriminatory act. And in Ledbetter's case, the clock didn't start each time a new paycheck was issued. The 180-day timeline applies whether or not the employee immediately spots the discrimination.

Critics argue that because pay decisions are seldom broadcast throughout a company, the ruling makes it difficult — if not impossible — for an employee to detect bias until it may have gone on for years. "The ruling essentially says 'tough luck' to employees who don't immediately challenge their employer's discriminatory acts, even if the discrimination continues to the present time," said Marcia Greenberg, co-president of the National Women's Law Center.<sup>25</sup>

"With this misguided decision, the court ignores the realities of the 21st-century workplace," Margot Dorfman, chief executive officer of the U.S. Women's Chamber of Commerce, told a congressional panel this year. "The confidential nature of employee salary information complicates workers' abilities to recognize and report discriminatory treatment."<sup>26</sup>

Lovell, of the Institute for Women's Policy Research, says the Ledbetter ruling "seems to reflect a complete lack of understanding of the labor market and a complete lack of concern for individuals who are at any kind of disadvantage in

the labor market." Workers wouldn't necessarily know right away that they were being discriminated against, she says. When Congress passed Title VII, it "was trying to establish an avenue for people who are discriminated against to pursue their claims . . . , not trying to make it impossible."

In a strongly worded dissent to the *Ledbetter* ruling, Justice Ruth Bader Ginsburg noted that pay disparities often occur in small increments, evidence of bias may develop over time, and wage information is typically hidden from employees. At the end of her dissent she wrote that "the ball is in Congress' court" to correct the Supreme Court's "parsimonious reading of Title VII" in the *Ledbetter* decision, just as Congress dealt with a spate of earlier Supreme Court decisions with passage of the 1991 Civil Rights Act.

Business groups have stood firm in the face of such impassioned views, though.

An exchange between Eastman of the U.S. Chamber of Commerce and law professor Deborah Brake last fall on the National Public Radio show "Justice Talking" helped underscore how polarizing the *Ledbetter* decision has been between advocates for women and for employers.<sup>27</sup>

Brake, a professor at the University of Pittsburgh School of Law who once litigated sex-discrimination cases for the National Women's Law Center, said she thought it was questionable whether the ruling was even good for employers.

"What an employee is supposed to do, let's say from the moment in time that they are hired, is search around the workplace and make sure that they're not being paid less if it's a woman than her male colleagues," she said on the radio program.

"If she has the slightest inkling or suspicion that she might be paid less than her male colleagues, she'd better immediately file a pay-discrimination claim. At every raise decision she better be sniffing around to make sure that

her raise wasn't less than that of her male colleagues. And if she hears that someone got a higher raise than her who was a male, to preserve her rights under [the *Ledbetter* ruling] she'd better immediately file an EEOC claim. I don't think that is in the best interest, long-term, of employer or employees."

Eastman, though, said Title VII "has a strong incentive for employees to file claims quickly so that matters are resolved while all the facts and evidence are fresh and in people's minds. And it is very difficult for employers to defend themselves from allegations made many, many years down the line."

Brake said it wasn't the 180-day limit that bothered her. "What I'm objecting to is a ruling that starts the clock running before any employee has enough reason or incentive to even think about filing a discrimination claim," she said. ■

## BACKGROUND

### Early Wage Gap

From the republic's beginning, women have played an integral role in American economic growth and prosperity, yet a wage gap has always been present.

During the Industrial Revolution of the 19th century, as the nation's productivity and wealth exploded, young, single women moved from farm to city and took jobs as mill workers, teachers and domestic servants.

The factory work wasn't easy, and owners exploited women and girls as cheap sources of labor. In 1830, females often worked 12 hours a day in "boarding-house mills" — factories with housing provided by mill owners. They earned perhaps \$2.50 a week. "Minor infractions such as a few minutes' lateness were punished severely," historian Richard B. Morris noted, and

"one-sided contracts gave them no power over conditions and no rewards for work."<sup>28</sup>

Still, young women flocked to manufacturing jobs in the cities. In Massachusetts, among the earliest states to industrialize, a third of all women ages 10 to 29 worked in industry in 1850, according to Harvard University economist Claudia Goldin.<sup>29</sup>

As demand for goods grew along with the nation's population, the wages of women working full time in manufacturing rose slowly as a percentage of men's pay. The wage gap narrowed from about 30 percent of men's earnings in 1820 to 56 percent nationwide in 1885, according to Goldin.<sup>30</sup>

But progress came more slowly, if at all, in ensuing years and decades.

In manufacturing, Goldin noted in a 1990 book on the economic history of American women, "The ratio of female to male wages . . . continued to rise slowly across most of the nineteenth century but reached a plateau before 1900."<sup>31</sup>

As the 20th century dawned, some women's advocates pushed for equal pay for equal work between the sexes. But others questioned the equal-pay idea. In 1891, the British economist Sidney Webb pointed to "the impossibility of discovering any but a very few instances in which men and women do precisely similar work, in the same place and at the same epoch."<sup>32</sup>

By the turn of the 20th century, women's jobs had started growing more diverse. Women found work not only in domestic service and manufacturing but also in teaching, sales and clerical positions. Still, only 21 percent of American women worked outside the home in 1900, and most left the labor force upon or right after marriage.<sup>33</sup>

Women seeking to move up in the business world faced huge cultural hurdles. In 1900 *Ladies' Home Journal* told its readers: "Although the statement may seem a hard one, and will

*Continued on p. 252*



# Chronology

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## 1900-1940

*Women make economic gains but face discrimination.*

**1914**

Start of World War I marks a period of advancement in the status of women, who go to work in traditionally male jobs.

**1919**

Women gain the right to vote through the 19th Amendment.

**1923**

The Equal Rights Amendment is introduced, but it falls three states short of ratification.

**1930**

Half of single women are in the labor force, and the labor-participation rate among married women approaches 12 percent.

**1938**

Fair Labor Standards Act establishes rules for a minimum wage, overtime pay and child labor.

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## 1940-1960

*Women make major contribution to wartime manufacturing efforts but don't gain wage equality with men.*

**1942**

National War Labor Board urges employers to equalize pay between men and women in defense jobs.

**1945**

Congress fails to approve Women's Equal Pay Act.

**1955**

Census Bureau begins calculating female-to-male earnings ratio.

## 1960-1980

*Major anti-discrimination laws helps women to fight pay bias.*

**1963**

Equal Pay Act bans gender pay discrimination in equal jobs.

**1963**

*The Feminine Mystique* by Betty Friedan challenges idea that women can find happiness only through marriage.

**1964**

Title VII of the Civil Rights Act bans job discrimination on the basis of race, color, religion, national origin and sex.

**1965**

Equal Employment Opportunity Commission founded.

**1966**

National Organization For Women is formed.

**1973**

Supreme Court's *Roe v. Wade* ruling overturns laws barring abortion, energizes the women's movement.

**1979**

National Committee on Pay Equity is formed.

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## 1980-2000

*Gender pay gap continues to narrow, but progress toward wage equality shows signs of slowing in the 1990s.*

**1981**

Supreme Court ruling in *County of Washington v. Gunther* allows female jail guards to sue for sex discrimination but declines to au-

thorize suits based on theory of comparable worth.

**1993**

Family and Medical Leave Act requires employers to grant unpaid leave for medical emergencies, birth and care of newborns and other family-related circumstances.

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## 2001-Present

*States expand laws to help working families, while several major corporations face gender-bias accusations.*

**2001**

Wal-Mart employees file for sex-discrimination claim against the retailer, to become the largest class-action lawsuit against a private employer in U.S. history.

**2004**

California grants up to six weeks partial pay for new parents.

**2004**

Equal Employment Opportunity Commission and Morgan Stanley announce \$54 million settlement of sex-discrimination suit. . . . Wachovia Corp. agrees to pay \$5.5 million in a pay-discrimination case involving more than 2,000 current and former female employees.

**2007**

San Francisco requires employers to provide paid sick leave to all employees, including temporary and part-time workers.

**2007**

In *Ledbetter v. Goodyear*, Supreme Court rules that a female worker's pay-discrimination claim was invalid because it was filed after a 180-day deadline.

## Debating the Comparable-Worth Doctrine

*Would the approach help close the gender gap?*

Imagine a company whose employees include a man who supervises telephone linemen and a woman who supervises clerical employees. They oversee the same number of workers, report to the same number of bosses, work the same hours and their jobs have been deemed of equal value to the company. Should their paychecks be the same?

Should the man get extra points for having to work outside in the cold? Should the woman get extra points for having a college degree or more years of experience?

Or, as some argue, should competitive market forces and the laws of supply and demand determine how much the man and woman earn?

Such questions lie at the heart of the debate over "comparable worth." The doctrine argues that when jobs require similar levels of skill, effort, responsibility and working conditions, the pay should be the same — even if the duties are entirely different.

Advocates of comparable worth say the market historically has undervalued jobs traditionally held by women — such as social work, secretarial work and teaching — and that such inequity has been a major contributor to the gender pay gap. If comparable worth were taken into account, they argue, it would even out wage inequality between those working in jobs dominated by women and those traditionally held by men when an impartial evaluation deems the jobs are of equal value to an employer.

Advocates also say neither the Equal Pay Act of 1963 — which bans unequal pay for the same job — nor Title VII of the Civil Rights Act of 1964, which bans discrimination based on race, color, gender, religion and national origin in hiring

and promotion, do what the comparable-worth doctrine would do: Root out bias against entire occupations traditionally dominated by females.<sup>1</sup>

Although women began entering non-traditional fields decades ago, Labor Department data show that certain occupations still are filled mostly by females. For example, in 2006, 89 percent of paralegals and legal assistants were women, while only 33 percent of lawyers were women. And only 7 percent of machinists were women, while 84 percent of special-education teachers were female.<sup>2</sup>

"There's a lot of [job] segregation, and the closer you look, the more segregation you find," says Philip Cohen, a sociologist at the University of North Carolina who studies gender inequality. "Under current law, it's very difficult to bring legal action successfully and say the pay gap between men and women is discrimination, because the employer can say they're doing different jobs."

But critics say comparable worth would disrupt the traditional market-based system of determining wages based on the laws of supply and demand. "You would have people moving into occupations where there was really no shortage" of workers, says June O'Neill, an economist at the City University of New York's Baruch College. "You would have gluts in some [job categories] and shortages in others."

In 2000 testimony before a congressional panel, O'Neill outlined what she saw as the dangers of adopting a comparable-worth approach. Because there is no uniform way to rank occupations by worth, she says, such a policy would "lead to politically administered wages that would depart from a market

*Continued from p. 250*

unquestionably be controverted, it nevertheless is a plain, simple fact that women have shown themselves naturally incompetent to fill a great many of the business positions which they have sought to occupy. . . . The fact is that no one woman in a hundred can stand the physical strain of the keen pace which competition has forced upon every line of business today."<sup>34</sup>

Women's labor participation gradually rose in the early decades of the 20th century, fueled in part by World War I, which ended in 1918. By 1920, almost a quarter of all U.S. women were in the labor force, and 46 percent of single women worked.<sup>35</sup>

World War I advanced women's status, historian Michael McGerr noted. "Although the number of employed women grew only modestly during the 1910s, the wartime departure of men for military service opened up jobs traditionally denied to women in offices, transportation and industry. Leaving jobs as domestic servants, seamstresses and laundresses, women became clerks, telephone operators, streetcar conductors, drill press operators and munitions makers. Women's new prominence in the work force led in turn to the creation of a Women's Bureau in the Department of Labor."<sup>36</sup>

In 1920 women gained the right to vote with adoption of the 19th Amend-

ment. Soon afterward, Quaker activist Alice Paul introduced the first version of today's Equal Rights Amendment. In 1923 the amendment fell three states short of ratification, and its passage remains controversial today.<sup>37</sup> (See "At Issue," p. 257.)

During the Great Depression of the 1930s, the proportion of single women who were working stayed more or less flat. But the percentage of married women who worked rose to almost 14 percent by 1940 — a jump of more than 50 percent over the 1920 rate.<sup>38</sup> World War II brought millions more women into the labor force, as females — characterized by the iconic image of Rosie the Riveter — took

system of wage determination." Pay in traditionally female occupations would likely rise — appointing people favorable to the comparable-worth idea "would all but guarantee that result," she said. But that higher pay would raise costs for employers, leading them to put many women out of work, she suggested. "The ironic result is that fewer workers would be employed in traditionally female jobs."

Not only that, but some employers would respond to the higher wage levels by providing fewer non-monetary benefits, such as favorable working hours, that help accommodate women with responsibilities at home, O'Neill said. "Apart from the inefficiency and inequality it would breed," she concluded, "I find comparable worth to be a truly demeaning policy for women. It conveys the message that some cannot compete in non-traditional jobs and can only be helped through the patronage of a job evaluator."

Critics also say that comparable worth would put the government into the role of setting wages for private business, an idea that is anathema to business interests.

"Who determines what is equal value?" asks Michael Eastman, executive director of labor policy at the U.S. Chamber of Commerce. "Equal value to society? Who's setting wages then? Is the government coming up with guidelines? For example, are truckers equal

jobs in defense plants doing work traditionally performed by men.

## Equal-Pay Initiatives

As women proved their mettle behind the drill press and rivet gun, advocates continued to push for equal pay. In 1942 President Franklin D. Roosevelt had the National War Labor Board urge employers to equalize wage rates between men and women "for comparable quality and quantity of work on the same or similar operations."<sup>39</sup>

In the closing months of the war, the first bill aimed at barring gender



Martha Burk directs the Corporate Accountability Project for the National Council of Women's Organizations.

AP Photo/Charles Dharipak

to nurses, and who's making that comparison? We've never had the government setting private-sector wage rates like that."

Supporters of comparable worth brush off such concerns. Martha Burk, a long-time women's activist, notes that a bill proposed by Sen. Tom Harkin, D-Iowa, would require companies to disclose how they pay women and men by job categories, a practice that alone would lead to more equitable wages. "What you have is a government solution that is not telling anybody what to pay their employees," she says. It would only "increase the transparency so the company can solve its own problem if it has one."

As to the notion that comparable worth amounts to government intrusion in the private market, Burk says, "Free marketers think anything short of totally unregulated capitalism is interfering in the free market."

"It may be that markets are efficient from the point of view of employers," adds Vicky Lovell, director of employment and work/life programs at the Institute for Women's Policy Research in Washington. "But I don't think they're efficient from the point of view of workers."

<sup>1</sup> For background, see June O'Neill, "Comparable Worth," *The Concise Encyclopedia of Economics*, The Library of Economics and Liberty, [www.econlib.org](http://www.econlib.org).

<sup>2</sup> "Women in the Labor Force: A Databook," U.S. Department of Labor, Report 1002, September 2007, Table 11, pp. 28-34.

pay discrimination came to the floor of Congress. The Women's Equal Pay Act of 1945 went nowhere, though.<sup>40</sup>

By 1960, more than a third of women were working, and among single, white women ages 25 to 34, the labor participation rate was a then-record 82 percent.<sup>41</sup> But most women continued to work in low-paying clerical, service and manufacturing jobs, and the wage gap between males and females was wide. By 1963, women made only 59 cents for every dollar in median year-round earnings paid to men.<sup>42</sup> Women who tried to break into so-called "men's" occupations faced huge resistance.

That year, after decades of struggle by women's advocates for federal leg-

islation on gender pay equity, Congress passed the Equal Pay Act as an amendment to the Fair Labor Standards Act of 1938. In signing the act, President Kennedy said the law "affirms our determination that when women enter the labor force they will find equality in their pay envelopes."<sup>43</sup>

The measure, as finally adopted, stopped short of ensuring the elusive comparable-worth standard that women's advocates had so long sought. Instead, the bill made it illegal to discriminate in pay and benefits on the basis of sex when men and women performed the same job at the same employer.

Under the law, for example, a company couldn't pay a full-time female

# Did Wal-Mart Favor Male Workers?

*Women's suit seeks billions in damages.*

**D**edra Farmer, the daughter of an auto mechanic, worked in the Tire Lube Express Division of Wal-Mart Stores, the only female in her district who held a salaried manager position in that division. During her 13 years with the retail giant, she told a congressional panel last year, she saw evidence that women — herself among them — earned less than men holding the same jobs.

Farmer said she complained to Wal-Mart's CEO through e-mails, expressed her concern at a store meeting and was assured by the store manager that she'd get a response. "The response I received was a pink slip," she said.<sup>1</sup>

Farmer has joined a class-action lawsuit accusing Wal-Mart of sex discrimination in pay and promotions. The case, which could cover perhaps 1.6 million current and former female employees and result in billions of dollars in damages, is the biggest workplace discrimination lawsuit in the nation's history.

Filed in 2001 by Betty Dukes and five other Wal-Mart employees, the case has gone through a series of legal maneuvers, most recently in December, when a three-judge panel of the U.S. 9th Circuit Court of Appeals reaffirmed its certification as a class-action lawsuit but left the door open for Wal-Mart to ask for a rehearing on that status. If the appeals court does not reconsider the class-action designation, the company reportedly will petition the Supreme Court.<sup>2</sup>

The stakes in the case are high. Goldman Sachs Group last year estimated potential damages at between \$1.5 billion and \$3.5 billion if the retailer loses, and punitive dam-

ages could raise the figure to between \$13.5 billion and \$31.5 billion.<sup>3</sup>

The company's lawyers have asserted that a class-action suit is an inappropriate vehicle to use because Wal-Mart's employment policies are decentralized, and individual store managers and district managers make pay and promotion decisions.<sup>4</sup>

Theodore J. Boutros Jr., a lawyer for Wal-Mart, has said that decisions by thousands of managers at 3,400 Wal-Mart stores during six years were "highly individualized and cannot be tried in one fell swoop in a nationwide class action."<sup>5</sup> He has also said the company has a "strong diversity policy and anti-discrimination policy."<sup>6</sup>

But Brad Seligman, executive director of the Impact Fund, a nonprofit group in Berkeley, Calif., representing the plaintiffs, said, "No amount of PR or spin is going to allow Wal-Mart to avoid facing its legacy of discrimination."<sup>7</sup>

A statistician hired by the plaintiffs said it took women an average of 4.38 years from the date of hire to be promoted to assistant manager, while it took men 2.86 years. Moreover, it took an average of 10.12 years for women to become managers compared with 8.64 for men.<sup>8</sup>

The statistician, Richard Drogin, of California State University at East Bay, also found that female managers made an average annual salary of \$89,280, while men in the same position earned an average of \$105,682. Female hourly workers earned 6.7 percent less than men in comparable positions.<sup>9</sup>

Appellate Judge Andrew J. Kleinfeld has dissented in the case, arguing that certifying the suit as a class action deprived the

store clerk less per hour than a male one for doing the same job in stores located in the same city. But the law was silent on situations in which, say, the work of a female secretarial supervisor was deemed to be of comparable worth to that of a male who supervised the same company's truck drivers.

While the Equal Pay Act marked progress, it was far from an airtight guarantee of "equality in . . . pay envelopes." For example, the law initially did not cover executive, administrative or professional jobs; that exemption was lifted in 1972. Yet, one study argues that courts have interpreted the act so narrowly that white-collar female workers have had trouble winning claims through its provisions.<sup>44</sup>

Perhaps more significantly, the law gives companies several defenses for pay disparities: when wage differences stem from seniority or merit systems, are based on quantity or quality of production, or stem from "any other factor other than sex."

That last provision, critics say, can sometimes allow business practices that may seem gender-neutral on the surface but discriminate nonetheless.

The Equal Pay Act took effect in 1964, and that same year Congress passed Title VII of the Civil Rights Act of 1964, a broad measure that prohibits employment discrimination on the basis of race, color, religion, national origin and sex, and covers hiring, firing and promotion as well as pay. A

measure called the Bennett Amendment, sponsored by Rep. Wallace F. Bennett, a Utah Republican, sought to bring Title VII and the Equal Pay Act in line with each other.

In ensuing years, the overlap of the Equal Pay Act and Title VII created confusion but also helped to animate the battle against wage discrimination. Part of the conflict over pay equity played out in the courts in the 1970s and '80s.

### Key Court Rulings

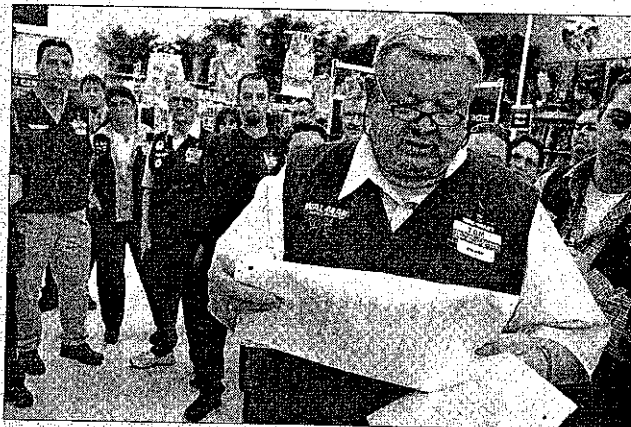
**I**n a case that initially raised hopes for the theory of comparable worth, the U.S. Supreme Court ruled 5-4 to

retailer of its right to defend against individual cases alleging bias. In addition, he argued that female employees who were discriminated against would be hurt by class-action status, because women "who were fired or not promoted for good reasons" would also share in any award if Wal-Mart lost the case.<sup>10</sup>

Business lobbies also have urged that the class-action certification be reversed. An official of the U.S. Chamber of Commerce, which filed a "friend of the court (*amicus curiae*)" brief in the case, warned of "potentially limitless claims" against companies "with limited ability to defend against them." He added: "The potential financial exposure to an employer facing a class action of this size creates tremendous pressure to settle regardless of the case's merit."<sup>11</sup>

But women's advocates argue that a class-action approach is appropriate. It "provides the only practical means for most women in low-wage jobs to redress discrimination in pay because of such workers' often tenuous economic status," stated an *amicus* letter written to the appeals court on behalf of the U.S. Women's Chamber of Commerce.<sup>12</sup>

Added Margot Dorfman, chief executive officer of the group: "A woman with family responsibilities often isn't in a position to



Getty Images/Gilles Mingusson

*A Wal-Mart store manager reads the store's weekly sales results to other workers. Male hourly workers at Wal-Mart earn 6.7 percent more than women in comparable positions, a pay-equity study contends.*

quit her job or risk antagonizing her employer with a challenge to a bad workplace practice."<sup>13</sup>

<sup>1</sup> Statement of Dendra Farmer before House Committee on Education and Labor, April 24, 2007.

<sup>2</sup> Amy Joyce, "Wal-Mart Loses Bid to Block Group Bias Suit," *The Washington Post*, Feb. 7, 2007, p. 1D.

<sup>3</sup> Details of the Goldman Sachs analysis are from Steve Painter, "Judges modify sex-bias decision; Wal-Mart appeal likely to see delay," *Arkansas Democrat-Gazette*, Dec. 12, 2007.

<sup>4</sup> Steven Greenhouse and Constance L. Hays, "Wal-Mart Sex-Bias Suit Given Class-Action Status," *The New York Times*, June 23, 2004.

<sup>5</sup> Joyce, *op. cit.*

<sup>6</sup> Quoted in Bob Egelko, "Wal-Mart sex discrimination suit advances; Appeals court OKs class action status for 2 million women," *San Francisco Chronicle*, Feb. 7, 2007, p. B1.

<sup>7</sup> Joyce, *op. cit.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> Painter, *op. cit.*

<sup>11</sup> "U.S. Chamber Files Brief in Wal-Mart Class Action," press release, U.S. Chamber of Commerce, Dec. 13, 2004, [www.uschamber.com/press/releases/2004/december/04-159.htm](http://www.uschamber.com/press/releases/2004/december/04-159.htm).

<sup>12</sup> Mark E. Burton Jr., Hersh & Hersh, San Francisco, et al., letter submitted to 9th U.S. Circuit Court of Appeals, March 27, 2007, [www.uswcc.org/amicus.pdf](http://www.uswcc.org/amicus.pdf).

<sup>13</sup> PR Newswire, "U.S. Women's Chamber of Commerce Joins Fight in Landmark Women's Class Action Suit Against Wal-Mart," March 28, 2007.

allow female jail guards to sue for sex discrimination. The women, called "matrons," earned 30 percent less than male guards, called "deputy sheriffs."<sup>45</sup> The women argued that while they had fewer prisoners to guard and more clerical duties than the male guards, their work was comparable. An outside job evaluation showed that the women did 95 percent of what the men were doing, but received \$200 less a month than the men.<sup>46</sup>

Prior to the Supreme Court's ruling, *The Washington Post* noted at the time, "the only sure grounds for a pay discrimination claim by a woman under federal law was 'unequal pay for equal work' — an allegation that she was paid less than a man holding an identical

job. The jail matrons and women's rights lawyers said that lower pay for a comparable, if not equal, job could also be the basis for a sex-discrimination charge."

Justice William J. Brennan wrote that a claim of wage discrimination under Title VII did not have to meet the equal work standards of the Equal Pay Act. Thus, noted Clare Cushman, director of publications at the Supreme Court Historical Society, "a woman employee could sue her employer for gender-based pay discrimination even if her company did not employ a man to work the same job for higher pay."<sup>47</sup>

Still, Cushman wrote, while the court "opened the door slightly for women working in jobs not strictly equal to their male counterparts, it also specif-

ically declined to authorize suits based on the theory of comparable worth."

In 1985 that theory suffered a blow that continues to resonate today, partly because of the personalities who were involved. In *AFSCME v. the State of Washington*, the 9th U.S. Circuit Court of Appeals overturned a lower court's ruling ordering Washington to pay more than \$800 million in back wages to some 15,000 state workers, most of them women.<sup>48</sup>

The case turned on the question of whether employers were required to pay men and women the same amounts for jobs of comparable worth, rather than equal wages for the same jobs. It eventually ended in a draw when the state negotiated a settlement with AFSCME

## GENDER PAY GAP

(American Federation of State, County and Municipal Employees union).<sup>49</sup>

Judge Anthony M. Kennedy, who now sits on the U.S. Supreme Court and presumably could help decide a comparable-worth case should one arise before the justices, wrote the appellate court's decision. Kennedy wrote: "Neither law nor logic deems the free-market system a suspect enterprise." During this same period, two other personalities who now sit on the high court also expressed negative views on comparable worth. As a lawyer in the Reagan administration, John Roberts, now chief justice, described it as "a radical redistributive concept."<sup>50</sup> And the EEOC, then under Chairman Clarence Thomas, rejected comparable worth as a means of determining job discrimination. "We found that sole reliance on a comparison of the intrinsic value of dissimilar jobs — which command different wages in the market — does not prove a violation of Title VII," Thomas stated.<sup>51</sup>

The views of Thomas and Roberts reflected the conservative policies of the Reagan administration during the 1980s. Yet despite the political tenor of that era, women made major strides toward workplace equality. From 1980 to 1992, the wage gap in median weekly earnings of full-time female wage and salary workers narrowed from 64 percent to 76 percent after adjusting for inflation. But it shrank only from 77 percent to 81 percent from 1993 — the year that Democratic President Bill Clinton took office and the Family and Medical Leave Act was enacted — to 2006.<sup>52</sup>

### Measuring Progress

Experts debate whether and to what degree women's gains may have slowed or stopped in recent years. Some point to huge political gains in this decade, including Sen. Clinton's role in the presidential race and the rise of Rep. Nancy Pelosi, D-Calif., to

speaker of the House. Others cite such evidence as a recent study showing that female corporate directors, though a small minority in boardrooms, out-earn male directors.<sup>53</sup>

But many scholars believe women's gains have indeed slowed.

Vanneman, the University of Maryland sociologist, has carefully charted a number of trends linked to the so-called gender revolution, and on his Web site he notes that he and several colleagues are studying the pace of women's progress.

"For much of the last quarter of the 20th century, women gradually reduced gender inequalities on many fronts," he wrote, citing such trends as women entering the labor force in growing numbers, the opening of previously male-dominated jobs to women, the narrowing wage gap, women's role in politics and a growing openness in public opinion about the participation of women in public and community life.

But, he added, "all this changed in the early to mid-1990s." A "flattening of the gender trend lines" is seen in nearly all parts of society, he added: working-class and middle-class, black, white, Asian and Hispanic, mothers with young children and those with older ones, and so on. "All groups experienced major gender setbacks during the 1990s. The breadth of this reversal suggests something fundamental has happened to the U.S. gender structure."

In an interview, Vanneman says he has no theories as to what accounts for that reversal — only hunches — as he continues to study the phenomenon. One hunch is that the flattening started happening in the 1980s but didn't show up in a big way until the 1990s. He also says he suspects the reversal in women's progress gathered momentum in the 1990s as the "culture of parenting" changed. Americans, he says, became less accepting of women trying to balance busy careers with the pressures of motherhood, a shift that has put

women in more of a bind than they felt in previous periods. As a result, many women have backed away from high-paying careers and devoted more time to family, he says.

"There's been tremendous growth in expectations of what it means to be a good parent," Vanneman says.

Cornell University economist Blau agrees that progress in women's wages slowed in recent years, though she sees some evidence that the picture has brightened a bit.

One reason for the slowdown in the 1990s, she says, may have been that the increase in demand for white-collar and service workers shifted into a lower gear compared to the 1980s, when many women benefited from a surge in hiring for white-collar jobs, including ones that required computer skills, while blue-collar jobs dominated by men began to wane.

In addition, Blau says that during the eighties, as many women began to stay in the workforce even after marriage and childbirth, employers' view of the value of female workers improved. That, she says, helped narrow the wage gap at a faster pace than in earlier decades.

Blau also sees evidence that men were doing more at home in the 1980s than ever before. That trend didn't go away in the past decade, she says, but it hasn't grown much either. ■

## CURRENT SITUATION

### Prospects in Congress

As concerns over the progress of gender equity grow, women's advocates are hoping that the Democrat-controlled Congress will pass new laws

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# At Issue:

## Is the Equal Rights Amendment to the Constitution still needed?



**IDELLA MOORE**  
EXECUTIVE OFFICER, 4ERA

WRITTEN FOR CQ RESEARCHER, FEBRUARY 2008

**W**e still need the Equal Rights Amendment (ERA) because sex discrimination is still a problem in our country. Like race or religious discrimination, gender discrimination is intended to render its victims economically, socially, legally and politically disadvantaged. But unlike racism and religious intolerance — whose practice against certain groups is localized within countries or regions — sex discrimination is universal. Why, then, in our court system are race and religious discrimination considered more serious offenses?

Today, American women — of all races and religions — are still fighting to achieve equal opportunity, pay, status and recognition in all realms of our society. At this moment, the largest class-action lawsuit in the history of this country is being argued on behalf of 1.6 million women who were discriminated against purely because of their gender. If the ERA had been ratified back in the 1970s, by now these types of lawsuits would be extinct.

We still need the ERA because ratification of the amendment will elevate “sex” to, in legal terms, a so-called suspect class. A suspect class has the advantage in discrimination cases. Gender, as yet, is not afforded that advantage. As we’ve seen with race, suspect class status increased the chance of favorable outcomes in discrimination cases. This, in turn, served as a deterrent. Consequently, in our society racism is now socially unacceptable. Sex discrimination, however, is not.

We still need the ERA because the continuing struggle for legal equality for women should be seen as a shameful and embarrassing condition of our society. Yet today lawmakers — sworn to represent all their constituents — proudly voice their objections to granting legal equality to women and without any fear of consequences to their political careers. How different our reactions would be if they were espousing racism.

The Equal Rights Amendment will perfect our Constitution by explicitly guaranteeing that the privileges, laws and responsibilities it contains apply equally to men and women. As it stands today the Constitution is sometimes interpreted that way, but women, as a universally and historically disadvantaged group, cannot rely on such interpretations. We have seen these “interpretations” vary and change, often due to the whims of the political climate. Therefore, without the ERA any gains women make will always be tenuous.

I see the Equal Rights Amendment, too, as a pledge to ourselves and posterity that we recognize that sexism exists and that we as a country are determined to continue perfecting our democracy by proudly and unequivocally guaranteeing that one’s gender will no longer be a detriment to achieving the American dream.



**PHYLLIS SCHLAFLY**  
PRESIDENT, EAGLE FORUM

WRITTEN FOR CQ RESEARCHER, FEBRUARY 2008

**T**he Equal Rights Amendment (ERA) was fiercely debated across America for 10 years (1972-1982) and was rejected. ERA has been reintroduced into the current Congress under a slightly different name, but it’s the same old amendment with the same bad effects.

The principal reason ERA failed is that although it was marketed as a benefit to women, its advocates were never able to prove it would provide any benefit whatsoever to women. ERA would put “sex” (not women) in the Constitution and just make all our laws sex-neutral.

ERA advocates used their massive access to a friendly media to suggest that ERA would raise women’s wages. But ERA would have no effect on wages because our employment laws are already sex-neutral. The equal-pay-for-equal-work law was passed in 1963, and the Equal Employment Opportunity Act — with all its enforcement mechanisms — was passed in 1972.

Supreme Court Justice Ruth Bader Ginsburg’s book *Sex Bias in the U.S. Code* spells out the changes ERA would require, and it proves ERA would take away benefits from women. For example, the book states that the “equality principle” would eliminate the concept of “dependent women.” This would deprive wives and widows of their Social Security dependent-wife benefits, on which millions of mothers and grandmothers depend.

Looking at the experience of states that have put ERA language into their constitutions, we see that ERA would most probably require taxpayer funding of abortions. The feminists aggressively litigate this issue. Their most prominent victory was in the New Mexico Supreme Court, which accepted the notion that since only women undergo abortions, the denial of taxpayer funding is sex discrimination.

ERA would also give the courts the power to legalize same-sex marriages. Courts in four states have ruled that the ERA’s ban on gender discrimination requires marriage licenses to be given to same-sex couples. In Maryland and Washington, those decisions were overturned by a higher court by only a one-vote margin. The ERA would empower the judges to rule either way.

If all laws are made sex-neutral, the military draft-registration law would have to include women. We don’t have a draft today, but we do have registration, and those who fail to register immediately lose their college grants and loans and will never be able to get a federal job.

# GENDER PAY GAP

Continued from p. 256

this year. But proposed legislation is likely to face stiff opposition.

Reversing the Supreme Court's *Ledbetter* decision seems to have the best chance of making it through Congress. The House passed the Ledbetter Fair Pay Act last July 31 by a 225-199 vote, largely along party lines.<sup>54</sup> A companion bill in the Senate, called the Lilly Ledbetter Fair Pay Restoration Act, had garnered 37 co-sponsors as of early March. Momentum continued this year with a Senate hearing.

In introducing the Senate version of the bill last July, Sen. Kennedy said it "simply restores the status quo" that existed before the *Ledbetter* decision "so that victims of ongoing pay discrimination have a reasonable time to file their claims."<sup>55</sup>

But employer advocates such as the U.S. Chamber of Commerce dispute such descriptions. Pointing to the House version that passed last summer, chamber officials said it would broaden existing law to apply to unintentional as well as intentional discrimination and would lead to an "explosion of litigation second-guessing legitimate employment and personnel decisions."<sup>56</sup>

The Bush administration has threatened a veto, saying last year that if the House bill came to the president, "his senior advisers would recommend that he veto" it.<sup>57</sup> The measure would "impede justice" by allowing employees to sue over pay or other employment-related discrimination "years or even decades after the alleged discrimination occurred," the administration said. Moreover, the House bill "far exceeds the stated purpose of undoing the court's decision" by "extending the expanded statute of limitations to any 'other practice' that remotely affects an individual's wages, benefits, or other compensation in the future."

Eric Dreiband, a former EEOC general counsel in the Bush administration, told this year's hearing on the

Senate bill that the measure would subject state and local governments, unions, employers and others to potentially unlimited penalties and could expose pension funds to "potentially staggering liability."<sup>58</sup>

Still, women's advocates remain sanguine about the measure's prospects. "My hope is that the bill will move expeditiously [this] spring" in the Senate and that "the president will reconsider and recognize how important this fix to the law is," says Samuels of the National Women's Law Center.

The other two main bills on gender pay equity could have rougher sledding.

Sen. Clinton's Paycheck Fairness Act is similar to a bill by the same name proposed during her husband's presidential administration. As of early March, the bill had garnered 22 co-sponsors in the Senate and 226 in the House.

Among other things, it would strengthen penalties on employers who violate the Equal Pay Act, make it harder for companies to use the law's defense for wage differences based on factors "other than sex," and bar employers from retaliating against workers who share wage information with each other. It also calls for the Labor Department to draw up guidelines aimed at helping employers voluntarily evaluate job categories and compare wages paid for different jobs with the aim of eliminating unfair wage differences between male- and female-dominated occupations.

The bill has drawn enthusiastic support from some women's advocates, but it also has opponents. Washington lawyer Brown said the goal of the provision on voluntary guidelines was "nothing more than the discredited 'comparable-worth' theory in new clothing."<sup>59</sup>

The Fair Pay Act, proposed by Sen. Harkin and Del. Eleanor Holmes Norton, D-D.C., a former EEOC chair, steps even closer to embracing the comparable-worth theory and thus, many observers believe, is likely to

face stiff headwinds. The main ideas have circulated in Congress for years.

As Harkin describes it, the bill requires employers to provide equal pay for jobs that are comparable in skill, effort, responsibility and working conditions, regardless of sex, race or national origin, and it bars companies from reducing other employees' wages to achieve pay equity.<sup>60</sup>

Again, advocates such as Samuels are hopeful Congress will pass both the Paycheck Fairness and Fair Pay Act and that the president won't veto them if they do make it to his desk. "The hope would be that the level of support for these bills both in Congress and among the public is so substantial, and they so clearly are a necessary step toward ensuring true equality of wages, that the president would understand the necessity for them and sign them," she says.

But business opposition is likely to be strong. Eastman at the U.S. Chamber of Commerce lists a variety of complaints about both bills, such as their provisions for punitive damages and their allowances for class-action suits against employers. "The case has not been made that these bills are justified," he says.

## State Action

While women's advocates hold out hope for congressional action, they also are turning their attention to the states in hopes of pressing legislatures to stiffen laws on pay equity and make local economies friendlier to gender issues. As of April 2007, all but 11 states and the District of Columbia had laws on equal pay.<sup>61</sup>

Minnesota has had a system of comparable worth, or "pay equity," for public employees since the 1980s, and last year proposals were made to expand the system to private employers



that do business with the state. The Minnesota program gave smaller raises to public workers in male-dominated jobs and bigger raises to those in female-dominated ones, according to a former staff member of the Minnesota Commission on the Economic Status of Women. The system shrank the pay gap from 72 percent to nearly equal pay.<sup>62</sup>

A report by the Institute for Women's Policy Research said in 2006 that while women's wages had risen in all states in inflation-adjusted terms since 1989, "in no state does the typical full-time woman worker earn as much as the typical man." It would take 50 years "at the present rate of progress" for women to achieve wage parity with men nationwide, it said.<sup>63</sup>

Some advocates are unwilling to wait that long. In Colorado, for example, a Pay Equity Commission appointed by Donald J. Mares, executive director of the state Department of Labor and Employment, worked since last June to formulate policy recommendations to curb gender and racial pay inequities in the private and public sectors. The 12-member commission includes policy analysts, business and labor union representatives, academics and advocates for women and minorities.<sup>64</sup>

Meric, the 9to5 director and a Colorado resident, said her group was instrumental in getting the state to appoint the commission. Although the panel has no authority to force employers to alter pay practices, Meric hopes the commission's work leads to change. One key recommendation, she says, is that employers do more to create flexible policies so that workers — especially women with caregiving responsibilities — aren't penalized for meeting both work and family responsibilities.

Mares told the Colorado Women's Legislative Breakfast in February that another recommendation calls for making the commission permanent, so it

can continue to monitor gender pay equity in the state and help educate businesses on good practices.

In Colorado, he said, the average woman makes 79 cents for every dollar earned by the average man. "Every day you as a community walk in the door," he told the gathering of women, "your pay is being discounted. That's not good."<sup>65</sup>

Better negotiating skills could help narrow the gender wage gap, in the view of women's advocates. The Clinton/DeLauro bill calls for grants to help women and girls "strengthen their negotiation skills to allow the girls and women to obtain higher salaries and the best compensation packages possible for themselves."

It's a talent that many women don't exercise, says Linda Babcock, an economist at Carnegie Mellon University in Pittsburgh and co-author of the recent book *Women Don't Ask: Negotiation and the Gender Divide*. Babcock found in a study of Carnegie Mellon students graduating with master's degrees in public policy that only 12.5 percent of females tried to negotiate for better pay when they received a job offer, while 51.5 percent of males did. Afterward, the females earned 8.5 percent less than the males.

Babcock sees several reasons why women are not inclined to negotiate more, including that they have been socialized by American culture to be less assertive than men. And, she says, women who do try to bargain for better wages often are subjected to "backlash" by employers and peers.

Not that women are incapable of negotiating, Babcock stresses. While they may not always stand up for themselves in seeking higher wages, women outperform men when negotiating on behalf of somebody else, she has found.

"It's really striking," she says. "If we were missing some gene, we wouldn't really be able to turn it on on behalf of somebody else."

## OUTLOOK

### Pressure for Change

Some women's advocates are not especially sanguine about the possibility of big strides on the gender-wage front, at least in the near future.

"I don't think five years is long enough [for there] to be much change, particularly if we don't see much concerted effort among employers," says Lovell of the Institute for Women's Policy Research.

Big change would require a "push from the federal government" or "some dramatic effort on the part of socially conscious employers," she says. "That hasn't happened before, and I don't think it will in the next few years."

Still, observers believe that social and political shifts will produce new pressure for changes in the way employers deal with wage equity.

Meric says 9to5's "long-term agenda" is to have the theory of comparable worth enshrined in law as well as to have "guaranteed minimum labor standards" for all workers that include paid sick leave and expanded coverage under the Family and Medical Leave Act. In Colorado, she hopes the recommendations outlined by the Pay Equity Commission will serve as a model for other states and "move us closer" to that long-term goal. "Basic protections should apply to workers wherever they live in the United States."

"In the last five or 10 years we have seen progress stall in [achieving] gender equality," says Phillip Cohen, a sociologist at the University of North Carolina at Chapel Hill who studies gender inequity. But in coming years, he says he is inclined to think that college-educated women

will exert increasing pressure on federal and state lawmakers and employers to make policy changes that can narrow the wage gap.

"If you look back to feminism in the '60s," Cohen says, "a lot of women had college degrees but weren't able to take advantage of their skills in the marketplace, and that became the 'feminine mystique' " explored in Betty Friedan's groundbreaking 1963 book.

Today, "Women are outnumbering men in college graduation rates, and I think we are going to see more and more women looking around for better opportunities. If they don't see gender equality resulting, they're going to be very dissatisfied."

And that dissatisfaction, Cohen says, could well show up in the political arena.

Samuels of the National Women's Law Center hopes the debate in Congress and fallout from the Supreme Court's *Ledbetter* decision will spur further gains in wage equity for women.

"Unfortunately, over the course of the last several years things have pretty much stagnated," she says. "I do hope that the recent public attention paid to wage disparity will cause employers to take a look at their pay scales and try to do the right thing." ■

## Notes

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<sup>3</sup> *Ledbetter v. Goodyear Tire & Rubber Co. Inc.*, 550 U.S. \_\_\_ (May 29, 2007).

<sup>4</sup> Ledbetter testimony, *op. cit.*, June 12, 2007.

<sup>5</sup> Diana Furchtgott-Roth, testimony on the Paycheck Fairness Act before House Committee on Education and Labor, April 24, 2007.

<sup>6</sup> "Highlights of Women's Earnings in 2006," U.S. Department of Labor, September 2007, Table 1, p. 7. Data are for median usual weekly earnings of full-time wage and salary workers ages 16 and older. For the Census Bureau data, see [www.census.gov/compendia/statab/tables/08s0628.pdf](http://www.census.gov/compendia/statab/tables/08s0628.pdf). The Census Bureau data represent median full-time, year-round earnings for male and female workers 15 years old and older as of March 2006.

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<sup>17</sup> Furchtgott-Roth testimony, *op. cit.*

<sup>18</sup> Dey and Hill, *op. cit.*

<sup>19</sup> Testimony of Heather Boushey before House Committee on Education and Labor, April 24, 2007, p. 4.

<sup>20</sup> John F. Kennedy, Remarks Upon Signing the Equal Pay Act, June 10, 1963, quoted in John T. Woolley and Gerhard Peters, *The American Presidency Project* [online], Santa Barbara, Calif., University of California (hosted), Gerhard Peters (database), [www.presidency.ucsb.edu/ws/?pid=9267](http://www.presidency.ucsb.edu/ws/?pid=9267).

<sup>21</sup> Testimony of Jocelyn Samuels before Senate Committee on Health, Education, Labor and Pensions, "Closing the Gap: Equal Pay for Women Workers," April 12, 2007, p. 6.

<sup>22</sup> Carrie Lukas, "A Bargain At 77 Cents To a Dollar," *The Washington Post*, April 3, 2007, p. 23A.

<sup>23</sup> Testimony of Barbara Berish Brown before Senate Committee on Health, Education, Labor and Pensions, April 12, 2007.

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### About the Author

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<sup>41</sup> Goldin, *op. cit.*, Table 2.2, p. 18.

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## FOR MORE INFORMATION

**Eagle Forum**, PO Box 618, Alton, IL 62002; (618) 462-5415; [www.eagleforum.org](http://www.eagleforum.org). Conservative social-policy organization opposed to ratification of the Equal Rights Amendment.

**4ERA**, 4355J Cobb Parkway, #233, Atlanta, GA 30339; (678) 793-6965; [www.4era.org](http://www.4era.org). Single-issue organization advocating ratification of the Equal Rights Amendment.

**Institute for Women's Policy Research**, 1707 L St., N.W., Suite 750, Washington, DC 20036; (202) 785-5100; [www.iwpr.org](http://www.iwpr.org). Research organization that focuses on gender pay as well as other issues affecting women, including poverty and education.

**National Committee on Pay Equity**, c/o AFT, 555 New Jersey Ave., N.W., Washington, DC 20001-2029; (703) 920-2010; [www.pay-equity.org](http://www.pay-equity.org). Coalition of women's and civil rights organizations, labor unions, religious, professional, legal and educational associations and others focused on pay-equity issues.

**National Women's Law Center**, 11 Dupont Circle, N.W., Suite 800, Washington, DC 20036; (202) 588-5180; [www.nwlc.org](http://www.nwlc.org). Advocacy group that focuses on employment, health, education and economic-security issues affecting women and girls.

**9to5**, National Association of Working Women, 207 E. Buffalo St., #211, Milwaukee, WI 53202; (414) 274-0925; [www.9to5.org](http://www.9to5.org). Grassroots organization focusing on economic-justice issues for women.

**U.S. Chamber of Commerce**, 1615 H St., N.W., Washington, DC 20062-2000; (202) 659-6000; [www.uschamber.com](http://www.uschamber.com). Represents business interests before Congress, government agencies and the courts.

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Farrell, Warren, *Why Men Earn More*, AMACOM, 2005.

The only man elected three times to the board of directors of the National Organization for Women's New York chapter argues that the pay gap can no longer be ascribed to discrimination, and he seeks "to give women ways of earning more rather than suing more."

Goldin, Claudia, *Understanding the Gender Gap: An Economic History of American Women*, Oxford University Press, 1990.

A Harvard University economics professor traces the evolution of female workers and gender differences in occupations and earnings from the early days of the republic to the modern era.

Murphy, Evelyn, with E.J. Graff, *Getting Even: Why Women Don't Get Paid Like Men — and What to Do About It*, Touchstone, 2005.

The former Massachusetts lieutenant governor writes in this anecdote-filled book that the "gender wage gap is unfair" and "it's not going away on its own."

### Articles

Hymowitz, Carol, "On Diversity, America Isn't Putting Its Money Where Its Mouth Is," *The Wall Street Journal*, Feb. 25, 2008.

Progress for women and minorities in business has stalled or moved backward at many of the nation's largest companies, and the inequality shapes perceptions about who can or should fill leadership roles.

Murphy, Cait, "Obama flunks Econ 101," *Fortune*, CNN-Money.com, June 6, 2007, [http://money.cnn.com/2007/06/04/magazines/fortune/murphy\\_payact.fortune/index.htm](http://money.cnn.com/2007/06/04/magazines/fortune/murphy_payact.fortune/index.htm).

The presidential candidate is "flirting with a very bad idea" by co-sponsoring the Fair Pay Act, "a bill that would bureaucratize most of the labor market," Murphy argues.

Parloff, Roger, and Susan M. Kaufman, "The War Over Unconscious Bias," *Fortune*, Oct. 15, 2007.

Wal-Mart and other companies are facing accusations of

gender pay bias and other forms of job discrimination, "but the biggest problem isn't their policies, it's their managers' unwitting preferences."

### Reports and Studies

Dey, Judy Goldberg, and Catherine Hill, "Behind the Pay Gap," American Association of University Women Educational Foundation, April 2007, [www.aauw.org/research/upload/behindPayGap.pdf](http://www.aauw.org/research/upload/behindPayGap.pdf).

A study of college graduates concludes that one year out of college women working full time earn only 80 percent as much as their male colleagues and that a decade after graduation the proportion falls to 69 percent.

Foust-Cummings, Heather, Laura Sabattini and Nancy Carter, "Women in Technology: Maximizing Talent, Minimizing Barriers," *Catalyst*, 2008, [www.catalyst.org/files/full/2008%20Women%20in%20High%20Tech.pdf](http://www.catalyst.org/files/full/2008%20Women%20in%20High%20Tech.pdf).

Technology companies are making progress at creating more diverse work environments, but women in the high-technology field still face barriers to advancement, such as a lack of role models, mentors and access to networks.

Hartmann, Heidi, Olga Sorokina and Erica Williams, et al., "The Best and Worst State Economies for Women," Institute for Women's Policy Research, IWPR No. R334, December 2006, [www.iwpr.org/pdf/R334\\_BWStateEconomies2006.pdf](http://www.iwpr.org/pdf/R334_BWStateEconomies2006.pdf).

The advocacy group concludes that women's wages have risen in all states since 1989 after adjusting for inflation, but that in "no state does the typical full-time woman worker earn as much as the typical man."

U.S. General Accounting Office, "Women's Earnings: Work Patterns Partially Explain Difference between Men's and Women's Earnings," October 2003, [www.gao.gov/new.items/d0435.pdf](http://www.gao.gov/new.items/d0435.pdf).

This statistical study concludes that "work patterns are key" among the factors that account for earnings differences between men and women, but that some differences remain unexplained.

U.S. Department of Labor, U.S. Bureau of Labor Statistics, "Highlights of Women's Earnings in 2006," Report 1002, September 2007, [www.bls.gov/cps/cpswom2006.pdf](http://www.bls.gov/cps/cpswom2006.pdf).

Among this report's conclusions: The earnings gap between men and women narrowed for most major age groups between 1979 and 2006 and was largest among those ages 45 to 64, with women earning about 73 percent as much as men in that age range.

# The Next Step:

## Additional Articles from Current Periodicals

### **Ledbetter Ruling**

"Injustice 5, Justice 4," editorial, *The New York Times*, May 31, 2007, p. A18.

The Supreme Court has stripped female employees of key civil rights by ruling against Lilly Ledbetter — a Goodyear employee who received less pay than male co-workers.

"Missing the Point About Unequal Pay," editorial, *The Philadelphia Inquirer*, June 5, 2007, p. A14.

The Equal Employment Opportunity Commission, unlike the Supreme Court, realizes it can take longer than 180 days for a worker to find out about wage disparities.

Palank, Jacqueline, "Democrats Will Try to Counter Ruling on Discrimination Suits," *The New York Times*, July 13, 2007, p. A13.

Democratic members of Congress are reacting to the *Ledbetter* Supreme Court ruling by formulating legislation that would override the decision.

### **Legislation**

Burk, Martha, and Eleanor Smeal, "Why We Need an ERA; The Gender Gap Runs Deep in American Law," *The Washington Post*, April 27, 2007, p. A23.

An Equal Rights Amendment is necessary to ensure constitutional equality for women in the workplace.

Schlafly, Phyllis, "The ERA: Still a Bad Idea," *Los Angeles Times*, April 8, 2007, p. A3.

While it may benefit women in the workplace, a proposed Equal Rights Amendment may actually take away some of women's other rights.

Selvin, Molly, "Taking Better Care of Caregivers," *Los Angeles Times*, May 12, 2007, p. C1.

California is among several states considering legislation that would ban discrimination against workers responsible for caring for children, ill spouses or aging parents.

### **Working Mothers**

Crary, David, "Survey: Increasingly Portion of Working Mothers Would Prefer Part-Time Work," *The Associated Press*, July 12, 2007.

An increasing number of America's working mothers would rather work part time or stay home entirely rather than take on a full-time job.

Hirshman, Linda, "Off to Work She Should Go," *The New York Times*, April 25, 2007, p. A27.

Nearly 60 percent of married mothers of preschool children are in the workforce.

Rivera, Ray, "4th Women Joins U.S. Bias Suit Against Bloomberg LP," *The New York Times*, Nov. 14, 2007, p. B2.

The company founded by New York City Mayor Michael Bloomberg is facing a federal lawsuit claiming discrimination against pregnant female employees.

Shellenbarger, Sue, "Government Eases Path for Parents to Sue Employees," *The Wall Street Journal*, May 24, 2007, p. 1C.

Women are finding that their first years of parenthood are increasingly marked by employers' unwillingness to promote them.

### **Workplace Discrimination**

"Mind the Gap," *The Economist*, Sept. 9, 2006.

A recent study suggests female scientists get paid about 23 percent less than men and have to be twice as good as them in order to win research grants.

Davies, Paul, "Dresdner is Sued By Six Women Claiming Bias," *The Wall Street Journal*, Jan. 10, 2006, p. C3.

Six female employees of Dresdner Bank are claiming unequal treatment compared to their male counterparts.

Jewell, Mark, "Complaints Allege Gender Bias, Locker-Room Atmosphere at Data Storage Company's Sales Offices," *The Associated Press*, Sept. 12, 2007.

Two former female employees of EMC Corp. allege they were systematically denied equal pay.

Trumbull, Mark, "Wal-Mart Suit Shows Glass Ceiling Still an Issue," *The Christian Science Monitor*, Feb. 8, 2007, p. 1.

Wal-Mart may never be found guilty of sex discrimination because many class-action cases are often settled out of court.

### **CITING CQ RESEARCHER**

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#### **MLA STYLE**

Jost, Kenneth. "Rethinking the Death Penalty." *CQ Researcher* 16 Nov. 2001: 945-68.

#### **APA STYLE**

Jost, K. (2001, November 16). Rethinking the death penalty. *CQ Researcher*, 11, 945-968.

#### **CHICAGO STYLE**

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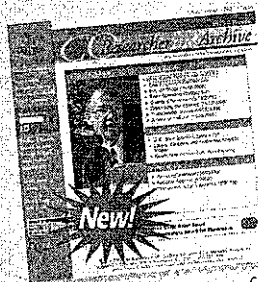
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