



Completing the Unfinished Agenda for Women and Their Families in the 21st Century

July, 2002

With the law on your side, great things are possible

Co-Presidents' Message

Much has changed over the last three decades. The possibilities for women and girls' lives – and the expectations they hold for themselves – have been undeniably transformed. But the massive social changes that swept the nation did not happen without several struggles, many of them in the courts and on Capitol Hill.

This November marks the 30th anniversary of the National Women's Law Center, founded in 1972 to protect and advance the progress of women and girls at work, in school and almost every other aspect of their lives. The Center is proud to have been a major actor in virtually every legal or public policy initiative to expand the possibilities for women and girls over the last three decades.

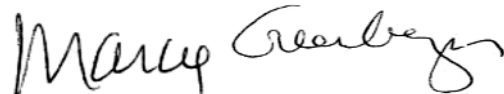
It is important for every American to know just how far women and girls have come, and also to understand the work that is left to do to open opportunities for the women and girls who have been left behind. We hope that *Completing the Unfinished Agenda for Women and Their Families in the 21st Century* helps serve this purpose.

The Center's mission is far from complete. Women still earn only 73 cents for every dollar earned by men. Gender gaps persist in education, particularly when it comes to training women and girls for today's technology-oriented workplace. Over 70 percent of mothers are in the paid workforce, but high-quality, affordable child care is still beyond the reach of millions of families. One in five elderly women living alone is poor and almost half of single mothers with children are living below the poverty line. Women are second-class citizens in health care and their reproductive rights are under constant attack.

The National Women's Law Center, as it begins its 30th year, will continue to expand the possibilities for women and girls – fighting to pass and enforce new laws, litigating ground-breaking lawsuits from the lower courts to the Supreme Court, and educating Americans about how to make the law and public policies work for women and their families – using the law to achieve our vision of a nation without barriers based on gender.



Nancy Duff Campbell
Co-President



Marcia D. Greenberger
Co-President

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Introduction

It was not long ago that the daily “Help Wanted” section of the newspaper was divided into two sections, one for men and one for women. Women were routinely fired when they were pregnant. An employer could demand that a female employee have sex with him to keep her job. Only the privileged attended college and many women were even discouraged from completing high school. Law and medicine were thought to be “non-traditional” careers for women, much as engineering, computer science and firefighting are today.

Thirty years ago, a young woman could not end an unwanted pregnancy without the risk of arrest, and very often, her life. Single women in many parts of the country could not buy contraceptives. Women often needed the permission of their husbands, fathers or judges for hysterectomies. Poor and minority women could be sterilized without their consent and were routinely denied welfare and other public benefits for arbitrary reasons without due process of law.

But in the early 1970s came a turning point. Congress passed a new law, Title IX, which promised equal educational opportunities for women and girls. Other acts of Congress allowed women, for the first time, to get credit in their own names and extended the law prohibiting employment discrimination to include professional women. The Supreme Court, for the first time, struck down government discrimination based on sex under the Constitution. It held that welfare beneficiaries had a right to a hearing and other due process protections before their benefits could be terminated. And, in *Roe v. Wade*, it ruled that a woman had the constitutional right to terminate her pregnancy.

Because of the tremendous gains over the last 30 years, many Americans believe that women and girls have achieved full equality. There can be no question that the legal and public policy advances of the last three decades have transformed what is possible for women and girls. But many of these advances are far from secure. And, while millions have benefited, far too many women and girls have been left behind or seen the gains they had achieved severely eroded.

Where We’ve Been

Education

When young women hear the stories of their mothers’ and

30 Years of Expanding the Possibilities

– 1972 –

The National Women’s Law Center is established as a project of the Center for Law and Social Policy to expand and build on the advances beginning to be made for women in the courts, in Congress and in public policy.

– 1973 –

With *Roe v. Wade* just decided, the Center turns to reproductive rights, and stops the coercive use of an experimental contraceptive on poor and institutionalized women.

– 1974 –

The Center files *Relf and NWRO v. Weinberger*, which secures new HEW regulations to protect poor women from involuntary sterilization.

– 1975 –

Congress creates the Child Support Enforcement Program to provide new legal remedies, which the Center plays a central role in expanding in 1984, 1988, 1993 and 1996.

– 1976 –

Women Working in Construction v. Marshall is filed, and in 1978 the Center wins a court order requiring government-enforced, nationwide goals for hiring women in federally funded construction.

grandmothers' lives, they are often shocked and surprised because they have grown up with a greater expectation of fairness and equality – and a greater awareness that schools, employers and society's other institutions can be held accountable for discriminating against women.

But their mothers and grandmothers had no such expectations. Girls were often excluded from education programs and prestigious universities, given separate tests based on their sex, held to different standards in college admissions, and not encouraged to pursue an education or career. A critical step to expanding opportunities for young women and girls came in 1972 when Congress enacted Title IX, the federal law that bars sex discrimination in federally funded education programs.

But simply passing the law was not enough. The federal government was slow to enforce Title IX, and advocates began a long-term litigation strategy, which continues to this day, to ensure that the nation kept its promise of equality. These lawsuits included challenging college athletic programs to expand women's participation opportunities and scholarships and arguing and winning Supreme Court cases to hold schools accountable for sexual harassment by both teachers and other students and to open the Virginia Military Institute and The Citadel to female cadets.

As a result of these efforts and others, the number of female college athletes is now nearly five times the pre-Title IX rate, parents have recourse if their child is sexually harassed in school, and young women are breaking down long-held barriers to their choices in education. This progress provides an important foundation for the work that remains to continue to expand educational opportunities for women and girls, especially non-college bound young women, whose options are only marginally better than they were 30 years ago.

Employment

Over the past three decades, women have entered the paid workforce in record numbers, and their range of career options have expanded greatly. But it was not until 1978, after the passage of the Pregnancy Discrimination Act, that a woman had federal law on her side if she was fired for becoming pregnant. And it was not until the passage of the Civil Rights Act of 1991 that a woman who was sexually harassed on the job could sue her employer for damages. It took until 1993, when the President signed the Family and Medical Leave Act into law, for many families to know their jobs were safe if they had to take time off to care for a seriously ill child or ailing parent. And it took until 1994 for Congress to repeal laws barring military women from serving in combat. But women still face barriers

– 1977 –

The Center wins a landmark court decree, *WEAL v. Weinberger*, requiring timely government enforcement of Title IX and Executive Order 11246 prohibiting sex discrimination in schools nationwide.

– 1978 –

The Center plays a leadership role in passing the Pregnancy Discrimination Act, establishing that Title VII prohibits employment discrimination based on pregnancy.

– 1979 –

The Supreme Court adopts the Center's friend-of-the-court arguments in *Westcott v. Califano*, establishing that AFDC must be available for two-parent families with unemployed mothers, not just those with unemployed fathers.

– 1980 –

The Center brings the first major Title IX case challenging an entire intercollegiate athletic program, *Haffer v. Temple University*, leading to a precedent-setting, court-ordered settlement expanding the entire women's sports program.

in the workplace, including pay disparity and a glass ceiling that restricts their access to top positions.

As the numbers of women in the paid workforce increased, the demand for high-quality, affordable child care steadily grew. Not until 1990 did Congress enact the first comprehensive child care legislation since World War II, the Child Care and Development Block Grant, which provides federal funds to the states to help middle- and low-income families pay for child care and to help improve the quality and availability of care. But even with such policies, high-quality, affordable child care is still out of reach for many families; only one in seven children eligible for CCDBG are receiving assistance and Head Start, after 35 years of investment, still only serves about three out of five eligible children. And women still struggle, in other ways, to balance work and family responsibilities.

Family Economic Security

Thirty years ago, women's economic dependence was widely accepted. The fact that women, especially single mothers, women of color, and older women were disproportionately poor was rarely acknowledged. Laws and public policies did little to assist women struggling to provide for themselves and their families as primary breadwinners or caretakers.

For example, the lack of child support enforcement left many single mothers and their children living in poverty and with nowhere to turn. It was not until the mid-1980s and the 1990s, after several hard-fought legislative and legal battles, that states began to be held accountable for improving their child support enforcement programs and courts affirmed a right to child support enforcement services for all parents, without regard to income. In the last five years, state child support agencies have doubled their collection rate, but millions of mothers and children still do not receive child support.

While many policy makers involved in the tax debates from the early 1980s through 2001 may not have seen tax policy as a "women's issue," improvements in the state and federal tax codes have been central to helping low-income women and their families make ends meet. At the urging of women's rights and other advocates, in a series of actions over the last 15 years Congress has greatly increased the Earned Income Tax Credit, which permits low-income working families to claim a refundable tax credit to meet their basic needs; increased the Dependent Care Tax Credit, which permits families to claim a tax credit for a portion of their child or adult dependent care expenses; and improved the tax treatment of single heads of household. But tax policy still overwhelmingly favors the well-to-do over the poor, and the help that other government programs have provided low-income women and their families has

– 1981 –

The Center becomes the independent National Women's Law Center and helps secure an expansion of the Child and Dependent Care Tax Credit that makes it more valuable to low-income families.

– 1982 –

With the Equal Rights Amendment extension drive just expired, Justice O'Connor's early opinion in *MUW v. Hogan* adopts arguments advanced by the Center establishing stronger constitutional protection against sex discrimination.

– 1983 –

The Center wins *Parents Without Partners v. Massinga*, establishing a right to state child support enforcement services without regard to income.

– 1984 –

IRS determines that almost 1.4 million new taxpayers claimed the Child and Dependent Care Tax Credit after the Center convinced IRS to add the credit to the 1040A "short form" the year before.

– 1985 –

With Congress beginning to debate major tax reform, the Center organizes and co-chairs the first ever Coalition on Women and Taxes, helping to win important benefits for women in the 1986 Tax Reform Act.

been dramatically cut in recent years.

Low lifetime earnings and years of unpaid family caregiving mean poverty in old age for many women, especially those who are widowed, divorced, or never-married. One important reform to protect older women occurred in 1978 when Congress passed legislation to allow divorced spouses to receive Social Security benefits based on their former spouse's earnings if the parties had been married for at least 10 years, rather than 20. This change increased retirement income for millions of divorced women, but additional improvements in Social Security benefits for women are needed; the poverty rate is still more than 60% higher for elderly women than for elderly men.

Health Care

Central to the rights of women, and key to their economic independence, are their reproductive rights and access to health care. But over the past 30 years, women have had their health needs too often overlooked, they have been excluded from participation in health research and treatment programs, and they have too often struggled without health insurance.

Several key legal and legislative victories were essential for improving women's health. For example, advocates won government protections to end the abuse of women across the country who were being unwittingly used as experiments in breast cancer research and ensured that the FDA provide women with information on the benefits and risks of prescription estrogens. State and federal governments devoted greater resources to women's health, in some cases creating offices to monitor and implement better policies. One result of this attention was a dramatic increase in women's participation in clinical trials. And, in 1996, an important step in expanding women's access to health insurance came in the form of a new federal law to preserve insurance when individuals change jobs and to provide special protections for women's health.

After *Roe v. Wade* was decided in 1973, the fight to secure and protect women's reproductive rights was not over, but it did change the landscape. In the mid-70s, advocates brought lawsuits to stop the coercive use of experimental contraceptives on poor and institutionalized women and to protect poor women from involuntary sterilization. After these initial victories, however, attacks on reproductive rights mounted, and congressional action was necessary to stop the advertising of fake abortion clinics used to mislead women and to protect them from aggressive and sometimes violent abortion protesters. But the right to choose is far from secure today, with strong anti-choice forces in Congress and *Roe v. Wade* hanging by a narrow margin in the Supreme Court.

– 1986 –

The Supreme Court establishes that sexual harassment violates Title VII, prohibiting sex discrimination in employment, in a case in which the Center participated, and the Center launches a major effort in the courts, Congress and government agencies to expand its legal protection.

– 1987 –

With the nomination of Robert Bork to the Supreme Court, the Center releases the widely quoted report, *Setting the Record Straight: Judge Bork and the Future of Women's Rights*, forming a basis for successful opposition to his confirmation.

– 1988 –

With the Center leading the Title IX coalition, Congress passes the Civil Rights Restoration Act, establishing that all parts of schools, including athletics, are covered by Title IX if any part receives federal funds.

– 1989 –

The Center secures \$14 million for women and minorities, the largest-ever Executive Order 11246 back-pay award, in *Department of Labor v. Harris Trust*, while representing Women Employed.

Where We Are Today And Our Challenges For Tomorrow

Education

Gender gaps persist in education, particularly in career and technical programs. Career education, or “vo-tech” as it has been called in the past, is not just shop and auto mechanics class anymore. Today, school systems have revamped the vocational school model of the past to encompass learning about the latest technologies, such as computer circuitry and computer-aided design. These reforms hold tremendous potential to help increase the earning power of women, especially for the nearly one-third who will not obtain a college degree.

But in career education across the country, women and girls are often discouraged by counselors and teachers from participating in nontraditional classes and they continue to be clustered in programs that prepare them for traditionally female, and lower-paying, jobs in fields such as cosmetology, fashion and clerical support. Women who take nontraditional courses are often the recipients of sexual harassment and mistreatment in the classroom. These old patterns of sex segregation threaten to leave girls behind in the new economy.

For example, of New York City’s 18 vocational-technical high schools, 13 are still highly sex-segregated – four have student bodies that are more than 70% female and nine have student bodies that are 70% male, including three that are more than 90% male. The predominantly male schools offer a variety of high-tech courses and Advanced Placement classes leading to jobs in the 21st century workforce and the predominantly female schools offer programs leading to traditionally female, low-wage work. Both legal and public education strategies are needed to combat this pervasive problem in New York and across the nation.

Even when it comes to athletics, an area where many feel equality has been achieved, male college athletes still far outnumber female college athletes and receive nearly twice as much of total athletic operating budgets as women. At the high school level, the inequitable treatment, budgets and equipment female athletes receive can be far worse.

Employment

Despite expanded employment opportunities over the past three decades, women still face outright and subtle barriers to advancement in the workplace, including when it comes to pay and promotions. They are barred outright, solely because of their gender, from serving in many U.S. military occupational

– 1990 –

The Center plays a central role in crafting and pressing a national agenda on child care, resulting in passage of the first comprehensive child care legislation since World War II.

– 1991 –

Anita Hill’s testimony rivets the country’s attention on sexual harassment, aiding the Center and its allies in passing the Civil Rights Act of 1991, which adds a damages remedy in sexual harassment and other cases and otherwise strengthens employment discrimination law.

– 1992 –

Record numbers of women win public office and the Center helps win the Supreme Court case, *Franklin v. Gwinnett County*, holding that Title IX contains a damages remedy for sexual harassment and other forms of sex discrimination in schools.

– 1993 –

The Center’s three-year Child Care Tax Credits Outreach Campaign assures that millions of low-income families claim significantly more assistance under the Earned Income Tax Credit and Child and Dependent Care Tax Credit.

specialties. They face barriers to many other nontraditional jobs and, despite some notable exceptions, the top positions in companies and government. Women still do not earn the same amount as men for the same work. In 2001, women earned only 73 cents for every dollar earned by men. An African-American woman earns just 65 cents and a Hispanic woman earns only 53 cents for each dollar that a white man earns. Legislation is pending on Capitol Hill to close loopholes in the pay equity laws, and strong enforcement of existing laws are still needed to eradicate sexual harassment and other forms of sex discrimination from the workplace.

Sex discrimination in the workplace extends to employment benefits as well. For example, despite the fact that access to contraception is critical to preventing unintended pregnancies and enhancing women's health, many health insurance plans exclude coverage of prescription contraceptives even while they include coverage of other prescription drugs and devices. This gap in insurance coverage is a leading reason why women of reproductive age spend 68% more than men in out-of-pocket health care costs. A long-term litigation strategy is underway, that will likely end in the Supreme Court, to require employers to add coverage of prescription contraceptives to their health plans on the ground that their failure to do so constitutes illegal sex discrimination.

But tough enforcement of the discrimination laws is not the only thing that women need to succeed at work; they also need critical supports, such as child care. Nearly three-quarters of women with children work in the paid labor force today. Yet, high-quality child care is too often unaffordable or simply not available. Only 9% of U.S. child care is estimated to be excellent, 30% is rated good, 53% fair and 8% poor. One reason for the low quality of care lies in the poor compensation and training of child care workers, the vast majority of whom are women. Despite the critical role that child care workers play in the lives of children, they are among the nation's lowest-paid workers. In 2000, the average wage for a child care worker was \$7.86 per hour or \$16,350 annually, less than barbers (\$20,340) and even pet sitters (\$17,600).

Family Economic Security

Although women have better access to education and employment opportunities than they did 30 years ago, they still earn less than men, still bear disproportionate responsibilities for family caretaking, and still are more likely to be poor than men at all stages of life. The poverty rate for single mothers and their children declined during the recent decade-long economic expansion, but one-third of single mothers with children under 18 still are poor. Social Security has reduced the poverty rate for elderly women over the past 30 years; but one in five

– 1994 –

The Center's analysis of gender-stereotyped limitations helps secure congressional legislation and Defense Department policies that open 260,000 new military positions to women, including combat ships and aircraft.

– 1995 –

Women Prisoners of the District of Columbia v. D.C., a case developed and co-counseled by the Center, provides critical relief for women subjected to sexual abuse, inferior educational and vocational programs, and unsafe and unsanitary living conditions in D.C. prisons.

– 1996 –

The Supreme Court opens the Virginia Military Institute and The Citadel to women, adopting the strongest-ever standard of constitutional protection against sex discrimination, reflecting the Center's lead friend-of-the-court brief.

– 1997 –

The Center files 25 Title IX charges against colleges and universities across the country alleging sex discrimination in athletic scholarships, and ultimately securing millions of dollars more in scholarships for women students each year.

elderly women still is poor.

Meanwhile, the programs that low-income women and their families depend upon face new threats. These programs are being targeted for cutbacks, even as additional tax cuts for the wealthiest taxpayers and corporations are being proposed and debated. Since the 1996 welfare law was passed, our nation has learned much about how to help parents move from welfare to long-term self-sufficiency. Low-income mothers need better access to affordable, quality child care; education and training for good jobs; child support; health care; and supplements for low wages – but it is not clear that Congress and the states will provide these critical supports.

Women rely more heavily than men on Social Security's guaranteed, lifetime, inflation-adjusted benefits for their retirement income. But Social Security benefits are threatened by privatization proposals that would divert money from Social Security into private accounts. Because they take money away from Social Security, these proposals would require cuts in guaranteed Social Security benefits that private accounts are unlikely to make up – especially for women and other low earners, who are also much less likely than men to have private pension coverage.

It is feasible to increase economic security for women and their families – if we make it a priority. For example, the long-term cost of the tax cuts passed in 2001 is more than twice as large as the long-term shortfall in Social Security, and its benefits go overwhelmingly to the wealthiest 5% of taxpayers and the largest 2% of estates. Postponing or scaling back the parts of the tax cut that have yet to take effect would enable us to strengthen Social Security and address women's other critical needs.

Health Care

Despite advances in women's health, women continue to be treated like second-class medical citizens. In no state do women enjoy satisfactory health based on the nation's own standards. More than one in eight women lacked health insurance in 2001, and the insurance coverage available is often inadequate to meet women's needs. For example, just six states require coverage for hospital stays after childbirth for the period of time deemed necessary by the woman's physician. Women who have had a heart attack are at almost twice the risk of having a second one than men, and women's heart attacks are more severe than men's, yet women's concerns are overlooked because cardiovascular disease is still perceived as a "men's problem." Health policies must be strengthened to take women's particular health care needs into account, make sure women are included in research and treatment protocols, and

– 1998 –

The Center helps to pass the Child Support Performance and Incentive Act, which holds states accountable for improving their child support enforcement programs by basing federal incentive payments to states on their performance records.

– 1999 –

The Center wins the landmark Supreme Court decision in *Davis v. Monroe County Board of Education*, holding schools accountable under Title IX for student-to-student sexual harassment.

– 2000 –

The Center expands women's access to prescription contraceptives by securing a landmark EEOC ruling that employers' exclusion of contraceptives from otherwise comprehensive health insurance plans constitutes sex discrimination, and by serving on the legal team that won the first federal court ruling on this issue, *Erickson v. Bartell Drug Co.*

increase women's access to insurance.

At the same time, women's reproductive rights are under constant attack. Women's right to choose is at greater risk than it has ever been since *Roe v. Wade* was decided. *Roe* is hanging by a razor-thin margin in the Supreme Court, and President Bush has made clear his intention to fill the next vacancy with an anti-choice jurist. Emboldened anti-choice members of Congress are determined to enact new restrictions on women's access to reproductive health services, including efforts to undermine *Roe* by passing laws that extend the concept of "personhood" to the fetus. Meanwhile, there has been a 30% decline in the number of abortion providers nationwide since 1982, and almost one in three U.S. women lives in a county with no abortion provider available. Vigilance has never been needed more to fight the anti-choice backlash in Congress, to oppose nominees to the federal judiciary whose records show a lack of commitment to equal protection of the laws and the right to privacy, and to reverse the trend of dwindling access to vital reproductive health services for all women, regardless of where they live or their income.

Conclusion

Although women and girls have made tremendous strides in the last 30 years, the vision of a nation without barriers based on gender has not yet been achieved. More challenges lie ahead to create a world where our daughters' opportunities are limitless – where no educational opportunities are closed, where no careers are considered out of reach for women and the workplace is flexible enough to meet the demands of raising a family, where no older women, single mothers or their families are poor, and where no women are denied reproductive rights or access to health care based on solid medical research that reflects women's particular health care needs.

– 2001 –

The Center seizes the opportunity to improve the Child Tax Credit, the Dependent Care Tax Credit and the Earned Income Tax Credit to benefit millions of low- and middle-income families and co-chairs a coalition of over 500 diverse organizations that limits to some extent the size of the 2001 federal tax cut.

– 2002 –

During Title IX's 30th anniversary year, the Center brings national attention to the discrimination that women and girls still face in education by revealing a nationwide investigation into high school 'vo-tech' programs showing that girls continue to be segregated into traditionally female, and lower-paying, career training and by exposing a \$6.5 million scholarship gap for female athletes just at 30 colleges and universities alone.