

Falling \$hort in Every State: The Wage Gap and Harsh Economic Realities for Women Persist

More than forty-five years ago, President Kennedy signed the Equal Pay Act¹ into law, making it illegal for employers to pay unequal wages to men and women who perform substantially equal work. The following year, Title VII of the Civil Rights Act of 1964 was enacted, making it illegal to discriminate, including in compensation, on the basis of sex, race, color, religion, and national origin. At the time of the Equal Pay Act's passage in 1963, women were paid merely 59 cents to every dollar earned by men.² Although enforcement of the Equal Pay Act and Title VII has helped to narrow the wage gap, significant disparities remain and must be addressed.

The Gender Wage Gap Persists And Reflects Discrimination

Wage disparities are of particular concern in light of the present economy. More than 15.1 million women – about one in eight – are poor, and women were 35 percent more likely to live in poverty than men in 2008. While it is well-documented that men have been hit hard by the current recession, women are suffering too: In December 2009, women's unemployment jumped to 8.2 percent, the highest rate in over 26 years. Unemployment among women who head families jumped to 13 percent, and long-term unemployment is higher than ever: four in ten jobless women and men—over 6.1 million workers—have been unemployed for six months or more.³ For women who still hold their jobs, their earnings are increasingly important to ensuring family economic security: women account for nearly half of all workers (49.9% in December 2009)⁴ and, in 2008, nearly 40% of mothers were the primary breadwinners for their families while an additional quarter of mothers were co-breadwinners.⁵ Making sure women are fairly paid is a key tool to address these economic realities.

The earnings gap between men and women is deep and wide and exists in every state, impacting all women across race, class, and occupation. For example:

- ◆ In 2008, women working full-time, year-round were paid only 77 cents for every dollar earned by men, and the earnings were significantly worse for women of color.
 - The median earnings of white, non-Hispanic women working full-time, year round were only 73 cents for every dollar paid to white, non-Hispanic males.⁶
 - African American women earned just 61 cents for every dollar paid to white, non-Hispanic men, while Hispanic women earned only 52 cents on the dollar compared to white, non-Hispanic males.⁷
- ◆ There is not a single state in which women have gained economic equality with men.⁸ As of 2008, Washington, D.C. was the area with the smallest wage gap, at 88%, whereas Wyoming had the widest gap, with women making about 64% of what men earned.⁹

The wage gap cannot be dismissed as the result of “women’s choices” in career and family matters.

In fact, recent authoritative studies show that even when all relevant career and family attributes are taken into account, there is still a significant, unexplained gap in men's and women's earnings. These studies are borne out by case after case, in the courts and in the news, of suits brought by women charging their employers with wage discrimination. Even when women make the same career choices as men and work the same hours, they still earn less.

The Paycheck Fairness Act Will Target This Wage Gap

Congress has recently taken steps to improve the laws that govern pay discrimination. In January, President Obama signed the Lilly Ledbetter Fair Pay Act,¹⁰ which reverses the Supreme Court's harmful decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, and restores the right of victims of pay discrimination on the basis of sex, race, national origin, age, religion and disability to challenge the discrimination in court.

Although the Ledbetter Fair Pay Act was a critical step to address the wage gap for women, it simply restores the law that had long been accepted prior to the Supreme Court's decision in *Ledbetter*. But more is necessary both to strengthen the standards of equal pay laws, which have been weakened over time by courts, and to require the federal government to be more proactive in preventing and battling wage discrimination. In particular, the Paycheck Fairness Act, which has already passed the House of Representatives, would serve these goals. Among other things, the Paycheck Fairness Act would:

- ◆ **Improve Equal Pay Act Remedies:** The Act allows prevailing plaintiffs to obtain a full range of remedies for pay discrimination.
- ◆ **Facilitate Class Action Equal Pay Act Claims:** To ensure that relief will be provided to all those who are injured by the unlawful practice, the Act allows an Equal Pay Act lawsuit to proceed as a class action in conformity with the Federal Rules of Civil Procedure.
- ◆ **Prohibit Employer Retaliation:** The Act prohibits employers from punishing employees for sharing salary information with their coworkers. This change will greatly enhance employees' ability to learn about wage disparities and to evaluate whether they are experiencing wage discrimination.
- ◆ **Require the Federal Government to Take Proactive Steps to Address Wage Discrimination:** The Act provides for increased training for EEOC employees to help them identify and respond to wage discrimination claims and for enhancing Department of Labor research on ways to eliminate gender-based pay disparities. The Act also calls on the government to collect and monitor pay data.

In these economically perilous times, the Paycheck Fairness Act is critical to provide women the tools necessary to realize the decades-old promise of equal pay for equal work.

THE GENDER WAGE GAP PERSISTS IN EVERY STATE

The table below depicts women's earnings as a percentage of men's earnings for each state.¹¹

District of Columbia	88%
California	85%
Arizona	83%
New York	83%
Maryland	83%
Vermont	82%
Georgia	81%
Hawaii	80%
Florida	80%
Maine	80%
New Jersey	79%
Delaware	79%
North Carolina	79%
Oregon	79%
Texas	78%
Massachusetts	78%
Colorado	78%
Montana	77%
Tennessee	77%
Nevada	77%
Minnesota	77%
Iowa	77%
Kentucky	76%
Nebraska	76%
Connecticut	76%
Pennsylvania	76%

South Carolina	76%
South Dakota	76%
New Mexico	76%
Oklahoma	76%
Virginia	75%
Missouri	75%
Arkansas	75%
Alabama	74%
Rhode Island	74%
Wisconsin	74%
Ohio	74%
Washington	74%
Mississippi	74%
Kansas	74%
Illinois	74%
Alaska	74%
Michigan	72%
Idaho	72%
North Dakota	72%
New Hampshire	72%
Indiana	71%
Utah	69%
Louisiana	67%
West Virginia	67%
Wyoming	64%

¹ 29 U.S.C. § 206(d).

² U.S. Census Bureau, Historical Income Tables – People, Table P-40: Woman's Earnings as a Percentage of Men's Earnings by Race and Hispanic Origin: 1960 to 2007, available at <http://www.census.gov/hhes/www/income/histinc/p40.html> (last visited 4-17-09).

³ NWLC calculations from U.S. Department of Labor, Bureau of Labor Statistics, "The Employment Situation: December 2009," Tables A-1, A-7 (January 8, 2010) and from Labor Force Statistics, the Current Population Survey, Monthly Household Data tables, A-36, available at <ftp://ftp.bls.gov/pub/suppl/empstat/cpseea36.txt> (last visited 1-14-10).

⁴ NWLC calculations from U.S. Department of Labor, Bureau of Labor Statistics, Current Employment Statistics, Tables B-3 and B-4, available at <http://www.bls.gov/ces/tables.htm#ee> (last visited January 14, 2010).

⁵ Heather Boushey, "The New Breadwinners," *The Shriver Report: A Women's Nation Changes Everything*, (Center for American Progress, 2009), page 58.

⁶ U.S. Census Bureau, Current Population Survey, 2009 Annual Social and Economic Supplement, Table PINC-05: Work Experience in 2008 – People 15 Years Old and Over by Total Money Earnings in 2008, Age, Race, Hispanic Origin, and Sex, available at http://www.census.gov/hhes/www/cpstables/032009/perinc/new05_000.htm.

⁷ *Ibid.*

⁸ Amy Ciazza, April Shaw, & Misha Werschkul, *Women's Economic Status in the States: Wide Disparities by Race, Ethnicity, and Region*, Table 3a, (Institute for Women's Policy Research, 2004), available at <http://www.iwpr.org/pdf/R260.pdf> (last visited 2-26-07).

⁹ Jessica Semega, "Men's and Women's Earnings by State: 2008 American Community Survey," U.S. Census Bureau, September 2009, available at <http://www.census.gov/prod/2009pubs/acsbr08-3.pdf> (last visited 1-14-10).

¹⁰ Public Law No. 111-2, 123 Stat. 5 (2009).

¹¹ *Supra* note 9.