

EMPLOYMENT

FACT SHEET

Sex Stereotypes: How They Hurt Women in the Workplace - and in the Wallet

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Today, women who work full time, year round are paid only 77 cents on average for every dollar paid to their male counterparts.ⁱ That's shortchanging women and their families more than 10,000 dollars per year.ⁱⁱ This wage gap—which hasn't changed in a decadeⁱⁱⁱ—occurs in part because of outdated stereotypes about women and their “proper” place in society and in the workforce. These stereotypes contribute to women receiving lower pay for the same work, fewer promotions, fewer opportunities for advancement at work, fewer workforce training opportunities for higher-paying jobs, and being concentrated in low-paying positions in traditionally female fields.

Stereotypes That Women Face in The Workplace

Stereotypes about race, gender, age, and other personal characteristics shape how people perceive, make decisions about, and interact with other people.^{iv} Even when these biases are unconscious, they can lead to discrimination by influencing how people process and recall information about others.^v

Women in the workforce face a range of outmoded stereotypes and preconceptions that contribute to the wage gap. They are viewed as not needing raises or promotions because they aren't “breadwinners,” not tough enough for some jobs, too tough for other jobs, and less dedicated to the workplace—usually because of their caregiving responsibilities—than their male counterparts.^{vi}

Stereotype #1: Women's Aren't Breadwinners

The stereotype that men are breadwinners for their families, while women work only to earn “extra” money, has harmful consequences for men and women.^{vii} This stereotype is out of step with today's reality in which

most women are either the primary supporter or a major contributor to their family's income.^{viii} For example, in 2008, four of about ten mothers were breadwinners, while only one in ten were in 1967.^{ix} Still, the stereotype that women's income is unimportant to the family underlies the view that men are entitled to higher pay and to managerial, career-track jobs to support their families, while women do not “need” managerial jobs or equal pay.^x

Wal-Mart v. Dukes,^{xi} in which women working at Wal-Mart sued the retailer for failing to provide equal pay and promotions to women, illustrates this point. In that case, female employees testified that managers in Wal-Mart stores around the country explained pay disparities between men and women by saying that, for example, men make more because they “are working as the heads of their households, while women are just working for the sake of working” and to earn extra money.^{xii}

Stereotype #2: There's Something Called “Men's Work” and Women Can't Do It

Women are often viewed as incapable of doing work that traditionally has been done by men, such as jobs involving physical labor and managerial skills.^{xiii} Research has shown that people tend to classify jobs as appropriate for either men or women. In one study participants asked to identify the components of various occupation listed sex over sixty percent of the time, and often it was the first item mentioned.^{xiv} Because of the misconception that women can only do certain types of jobs, women are more likely to be relegated to jobs that have traditionally been done by women, and these jobs tend to be lower paid.^{xv} For example, in *Wal-Mart*, the plaintiffs showed that women made up more than 90 percent of the sales associates in

the infant-toddler, domestic goods, health and beauty aids, jewelry, hosiery, and ladies' sportswear departments, but they made up less than 30 percent of employees in sporting goods, hardware, meat, maintenance, produce, or the security departments. When a woman asked to work in the hardware department, her manager responded by saying, "you're a girl, why do you want to be in Hardware?" A male coworker told her that hardware was a "man's job" that women shouldn't do.^{xvi}

Stereotype #3: Women Are Supposed to Act Like Ladies

Research and experience have shown that women can be penalized in the workplace for appearing insufficiently "feminine." For example, in one recent study participants rated women wearing makeup as more likeable, competent, and trustworthy than women without makeup.^{xvii} Another study found that while men gain stature and clout by expressing anger at work, women doing so are seen as out of control, and are penalized.^{xviii} The classic example of this stereotype comes from a seminal Supreme Court decision, *Price Waterhouse v. Hopkins*.^{xix} In *Price Waterhouse* a female associate at a national accounting firm was told that she would have had a better chance of making partner if she had learned to "walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry."^{xx} The Supreme Court stated that it did not "require expertise in psychology to know that, if an employee's flawed 'interpersonal skills' can be corrected by a soft-hued suit or a new shade of lipstick, perhaps it is the employee's sex and not her interpersonal skills that has drawn the criticism."^{xxi}

Stereotypes about how women should act can also directly impact women's ability to successfully negotiate their salaries. For example, a recent study by researchers at Carnegie Mellon found that women who attempted to negotiate their salaries were seen as overly aggressive unless they conformed to feminine stereotypes by smiling and nodding when asking for higher pay.^{xxii}

Stereotype #4: Women Aren't Committed to the Job Because They're Busy Being Caregivers

Research demonstrates that employers may deny opportunities to women, particularly pregnant women and mothers, based on the assumption that they are caregivers first and workers second. Women are often believed to be unwilling to travel, commute, or work irregular or long hours because of perceived parenting or caregiving commitments, and are seen as incapable of holding management positions and taking challenging assignments.^{xxiii} This discrimination "stems

from stereotypes and negative assumptions about mothers' competence and commitment to the job that have nothing to do with their actual behavior."^{xxiv}

In one experiment, researchers created two job applicant profiles that were very similar, except that one applicant's resume included participation in a parent-teacher association, and the other resume made no mention of children. Participants in the study were nearly twice as likely to recommend hiring the women without children as they were to recommend hiring the mothers. When assigning a starting salary to the applicants, participants offered non-mothers an average of \$11,000 more than mothers. Fathers were not discriminated against in similar ways; in fact, they were seen as more committed to their jobs and were offered an average of \$6,000 more in salary than men without children.^{xxv}

Back v. Hastings on Hudson Union Free School District illustrates this problem.^{xxvi} In that case, a school psychologist with stellar evaluations returned from maternity leave only to be told that perhaps this was not the job or the school district for her if she had "little ones," and that it was "not possible for her to be a good mother and have this job." Her supervisors told her that they were worried her performance was "just an 'act'" until she got tenure, and that because she was a young mother she wouldn't continue her commitment in the workplace.^{xxvii}

These Stereotypes Are Harmful...

The stereotypes described above impede women's advancement in the workplace. They have contributed to women being clustered in lower-paid, "traditionally female positions," excluded from informal communication networks, shut out of assignments and job rotations that provide visibility, and compensated at lower levels.^{xxviii} All of these factors contribute to the stagnant wage gap between male and female workers.

The wage gap occurs at all education levels,^{xxix} after work experience is taken into account,^{xxx} and it gets worse as women's careers progress.^{xxxi} The typical woman makes 77 cents for every dollar made by the typical man and it's even worse for women of color; in 2011, on average, African-American women working full time, year round were paid only 64 cents, and Hispanic women only 55 cents, for every dollar paid to white, non-Hispanic men.^{xxxii} Motherhood accounts for an increasing proportion of the wage gap: although women who work full time, year round are paid only 77 cents on average for every dollar paid to their male counterparts, mothers' wages, on average, are only 60 percent of fathers' wages.^{xxxiii}

Women's lower wages hurt families who rely on women's earnings for all or part of their family income. Lower earnings have a serious impact on the economic security of the over 6.3 million families headed by working single mothers. In addition, most two-parent families depend on women's wages, and whole families suffer when women receive unfair pay. Nearly 1.8 million married couples with children relied exclusively on women's earnings at some point in 2010, representing 7.4 percent of all married couples with children.^{xxxiv}

....Not To Mention Illegal

Discriminating based on stereotypes isn't just wrong, it's illegal. When employers base their decisions on sex stereotypes this violates the prohibition against sex discrimination in Title VII of the Civil Rights Act of 1964.^{xxxv} As the Supreme Court explained in *Price Waterhouse*, "we are beyond the day when an employer could evaluate employees by assuming or insisting that they match the stereotype associated with their group."^{xxxvi}

How To Combat These Stereotypes And Close The Wage Gap

Stereotypes continue to limit women's opportunities at work and contribute to the wage gap. It is time to update our laws to ensure that women have the tools they need to combat discrimination in pay and promotions.

Enable Women to Enforce Their Right to Equal Pay

Fifty years ago, President Kennedy signed the Equal Pay Act of 1963 (EPA) into law, making it illegal for employers to pay unequal wages to men and women who perform substantially equal work. The **Paycheck Fairness Act** updates and strengthens the EPA in important ways to ensure that it will provide effective protection against sex-based pay discrimination, including barring retaliation against workers who voluntarily discuss or disclose their wages. The **Fair Pay Act** requires employers to provide equal pay for jobs that are comparable in skill, efforts, responsibility, and working conditions, and would give workers the information they need to determine when jobs are undervalued. For further information, see <http://www.nwlc.org/resource/how-paycheck-fairness-act-will-strengthen-equal-pay-act>.

Allow Workers to Collectively Challenge Discriminatory Employment Policies and Practices

In the deeply divided *Wal-Mart* opinion, the Supreme Court voted 5-4 to erect significant barriers to employees' ability to band together to enforce their rights under our nation's nondiscrimination laws.^{xxxvii} The **Equal Employment Opportunity Restoration Act** will remove the obstacles the Supreme Court placed in the way of ordinary Ameri-

cans seeking their day in court and provide a clear avenue for employees subject to company-wide discrimination to come together to seek redress. For more information, see <http://www.nwlc.org/resource/equal-employment-opportunity-restoration-act-2012-what-it-means-women-workers>.

Ensure that Women Can Obtain the Same Remedies for Sex Discrimination as are Available to Workers Subject to Race or National Origin Discrimination.

Workers who are discriminated against on the basis of race or national origin are not subject to limits on the amount of damages they can recover. In contrast, women who experience sex discrimination face arbitrary limits on the amount of compensatory and punitive damages available to them. Women should not be treated as second-class citizens under the law. The **Equal Remedies Act** would ensure that those subject to sex discrimination, as well as those who are treated inequitably on the basis of religion or disability, can obtain the full compensatory and punitive remedies that are necessary to provide appropriate redress.

Make Room for Pregnancy on the Job

While many pregnant workers will be able to work throughout their pregnancies without any difficulty, some will need modifications to their job duties to continue safely working. This is especially true in jobs that require physical activity like running, lifting, standing, or repetitive motion—for example, police officers, truck drivers, and retail and restaurant work. Many of these women could continue to work without putting themselves or their pregnancies at risk with minor adjustments to their job duties. But all too often, pregnant workers' requests for minor adjustments to their job duties have been denied, forcing these workers to make an impossible choice between the health of their pregnancies and their jobs. The **Pregnant Workers Fairness Act** would let pregnant women continue to do their jobs and support their families by requiring employers to make the same sorts of accommodations for pregnancy, childbirth, and related medical conditions that they do for disabilities. For example, an employer might be required to modify a no-food-or-drink policy for a pregnant employee, provide a stool to a pregnant cashier, reassign heavy lifting duties, or provide a light duty assignment to a pregnant police officer. For more information, see <http://www.nwlc.org/our-issues/employment/pregnancy%2C-parenting%2C-and-the-workplace>.

Expand Non-Discrimination Protections in the Workplace

Currently, federal law fails to adequately protect women—or men—from employment discrimination based on sexual orientation or gender identity. The **Employment Non-Discrimination Act** would fill these gaps in the law, by making explicit that employers may not discriminate against employees on either basis.

- i NWLC, The Wage Gap is Stagnant in the Last Decade (Sept. 2012), available at <http://www.nwlc.org/resource/wage-gap-stagnant-last-decade>.
- ii NWLC, Women Can't Afford Unfair Pay Today (Apr. 2012), available at <http://www.nwlc.org/resource/women-cant-afford-unfair-pay-today>.
- iii The wage gap persists and has remained largely unchanged over the last decade. See NWLC calculations from U.S. Census Bureau, Census Bureau CPS Data (ASEC), Historical Tbl. P-38: Full-Time, Year-Round Workers by Median Earnings and Sex in 1964, available at <http://www.census.gov/hhes/www/income/data/historical/people/index.html> (last visited January 15, 2013).
- iv Eva Paterson, Kimberly Thomas Rapp & Sara Jackson, *The Id, The Ego, and Equal Protection in the 21st Century: Building Upon Charles Lawrence's Vision to Mount a Contemporary Challenge to the Intent Doctrine*, 40 Conn. L. Rev. 1175, 1186 (2008).
- v See Audrey J. Lee, *Unconscious Bias Theory in Employment Discrimination*, 40 Harv. C.R.-C.L. L. Rev. 481, 482-84 (2005).
- vi See, e.g., Alison A. Reuter, Comment, *Subtle But Pervasive: Discrimination Against Mothers and Pregnant Women in the Workplace*, 33 Fordham Urb. L.J. 1369, 1400 (2006).
- vii See, e.g., *id.* at 1403 (noting the Family Medical Leave Act "presumes that mothers are not the breadwinners of their families; it presumes that women are dependent on their husbands"); Lindsay R. B. Dickerson, *Your Wife Should Handle It: The Implicit Messages of the Family and Medical Leave Act*, 25 B.C. Third World L.J. 429, 442 (2005) (book review) (discussing widely held assumption that "secondary source of income exists" for women who work).
- viii See Sarah Jane Glynn, *The New Breadwinners: 2010 Update, Rates of Women Supporting Their Families Economically Increased Since 2007*, at 2 (Apr. 2012), available at <http://www.americanprogress.org/wp-content/uploads/issues/2012/04/pdf/breadwinners.pdf>.
- ix See Heather Boushey, *The New Breadwinners*, in *The Shriver Report: A Woman's Nation Changes Everything* 36 (Boushey & O'Leary eds. 2009), available at http://www.americanprogress.org/issues/2009/10/womans_nation.html.
- x See Joan Williams, *Toward A Reconstructive Feminism: Reconstructing the Relationship of Market Work and Family Work*, 19 N. Ill. U. L. Rev. 89, 113-16 (1998) (explaining the tradition of underpaying women "on the grounds that they are just working for 'pin money,'" while men are viewed as breadwinners).
- xi *Wal-Mart Stores, Inc. v. Dukes*, ___U.S. ___, 131 S. Ct. 2541, 2548 (2011).
- xii Brief for American Civil Liberties Union and National Women's Law Center, et al. in Support of Respondents at 18, *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541 (2011) [hereinafter "NWLC Wal-Mart Amicus Brief"].
- xiii See Joan C. Williams, *The Social Psychology of Stereotyping: Using Social Science to Litigate Gender Discrimination and Defang the "Cluelessness" Defense*, 7 Emp. Rts. & Emp. Pol'y J. 401, 406, 412 & n.18 (2003) (summarizing findings of empirical social psychologists).
- xiv See *id.* at 407-08 (citing Peter Glick, et al., *Images of Occupations: Components of Gender and Status in Occupational Stereotypes*, 32 Sex Roles 565, 570 (1995)).
- xv See *id.* at 408 ("[T]he single best predictor of a job's salary is the extent to which it is associated with masculine personality traits.").
- xvi NWLC Wal-Mart Amicus Brief at 23-24.
- xvii See Catherine Saint Louis, *Up the Career Ladder, Lipstick in Hand*, N.Y. Times, Oct. 12, 2011, available at http://www.nytimes.com/2011/10/13/fashion/makeup-makes-women-appear-more-competent-study.html?_r=0.
- xviii See Lisa Belkin, *The Feminine Critique*, N.Y. Times, Nov. 1, 2007, available at <http://www.nytimes.com/2007/11/01/fashion/01WORK.html?pagewanted=all>.
- xix 490 U.S. 228 (1989).
- xx *Id.* at 235.
- xxi *Id.* at 256.
- xxii See Amanda Hess, *Advice for Women Seeking Equal Pay: Smile*, Slate XX Factor, Dec. 17, 2012, available at http://www.slate.com/blogs/xx_factor/2012/12/17/how_to_close_your_wage_gap_act_like_a_lady_smile_ask_nicely.html.
- xxiii See Joan C. Williams & Stephanie Bornstein, *Caregivers in the Courtroom: The Growing Trend of Family Responsibility Discrimination*, 41 U. S. F. L. Rev. 171, 177-78 (2006); Vicki Schultz, *Life's Work*, 100 Colum. L. Rev. 1881, 1894-96 (2000).
- xxiv Joan C. Williams & Stephanie Bornstein, *The Evolution of 'FREd': Family Responsibilities Discrimination and Developments in the Law of Stereotyping and Implicit Bias*, 59 Hastings L.J. 1311, 1326 (2008).
- xxv See Daniel Aloi, Press Release, Mothers Face Disadvantages in Getting Hired, Cornell Study Says, Cornell University News Service, Aug. 4, 2005, available at <http://www.news.cornell.edu/stories/Aug05/soc.mothers.dea.html>; see also Shelley J. Correll et al., *Getting a Job: Is There a Motherhood Penalty?*, Am. J. of Sociology, Vol. 112, No. 5 (Mar. 2007), available at <http://gender.stanford.edu/sites/default/files/motherhoodpenalty.pdf>.
- xxvi 365 F.3d 107 (2d Cir. 2004).
- xxvii *Id.* at 115.
- xxviii Federal Glass Ceiling Commission, *Good for Business: Making Full Use of the Nation's Human Capital* 155 (1995), available at http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1118&context=key_workplace.
- xxix Heather Boushey, Center for American Progress, *Strengthening the Middle Class: Ensuring Equal Pay for Women* (Mar. 11, 2010), available at <http://www.americanprogress.org/issues/labor/news/2010/03/11/7420/strengthening-the-middle-class-ensuring-equal-pay-for-women/>.
- xxx Joint Economic Committee, *Invest in Women, Invest in America: A Comprehensive Review of Women in the U.S. Economy* (Dec. 16, 2010), available at http://www.jec.senate.gov/public/index.cfm?p=Reports1&ContentRecord_id=11dd6449-8d54-41ff-9bb2-87d98cbf66c2&ContentType_id=efc78dac-24b1-4196-a730-d48568b9a5d7&Group_id=c120e658-3d60-470b-a8a1-6d2d8fc30132&MonthDisplay=12&YearDisplay=2010.
- xxxi Jessica Arons, Center for American Progress, *Lifetime Losses: The Career Wage Gap* (Dec. 8, 2008), available at <http://www.americanprogressaction.org/issues/women/report/2008/12/08/5343/lifetime-losses-the-career-wage-gap/>.
- xxxii NWLC, *Insecure and Unequal: Poverty and Income Among Women and Families, 2000-2011* (Sept. 2012), available at <http://www.nwlc.org/resource/insecureand-unequal-poverty-and-income-among-women-and-families-2000-2011>; see also NWLC, *Closing the Wage Gap is Especially Important to Women of Color in Difficult Times* (Apr. 2012), available at <http://www.nwlc.org/resource/closing-wage-gap-especially-important-women-color-difficult-times>.
- xxxiii Joan C. Williams & Nancy Segal, *Beyond the Maternal Wall: Relief for Family Caregivers Who are Discriminated Against on the Job*, 26 Harv. Women's L.J. 77, 77-78 (2003) (collecting studies).
- xxxiv NWLC, *Women Can't Afford Unfair Pay Today* (Apr. 2012), available at <http://www.nwlc.org/resource/women-cant-afford-unfair-pay-today>.
- xxxv See *Hopkins*, 490 U.S. at 250; Equal Employment Opportunity Commission, *Enforcement Guidance: Unlawful Disparate Treatment of Workers With Caregiving Responsibilities* (May 2007), available at <http://www.eeoc.gov/policy/docs/caregiving.html#fn44>; cf. *Back*, 365 F.3d at 119 (violation of Equal Protection Clause).
- xxxvi *Hopkins*, 490 U.S. at 251.
- xxxvii 131 S. Ct. 2541 (2011).