

Bibliography of Scholarly Pay Equity Law Articles

2013-October 2021

The Pay Equity Project at UCI School of Law

Professor Trilby Robinson-Dorn, Director

The Pay Equity Project would like to thank Jessica Pierucci, Research Law Librarian at UCI School of Law, for her work in creating this fantastic resource.

Unannotated Bibliography

Abbott Watkins, Torie. "The Ghost of Salary Past: Why Salary History Inquiries Perpetuate the Gender Pay Gap and Should Be Ousted as a Factor Other than Sex." *Minnesota Law Review* 103, no. 2 (2018): 1041–88. <https://heinonline.org/HOL/P?h=hein.journals/mnlr103&i=1063>.

Adams, Veronica. "The End 'Goal' to the U.S. Women's Soccer Team Equal Pay Lawsuit: Proposing a Resolution for Gender Equality by Examining the Equal Pay Laws for Male and Female Sports." *University of Miami Business Law Review* 29, no. 1 (Winter 2021): 22–48. <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=152545810&site=ehost-live>.

Addison, John T., Liwen Chen, and Orgul D. Ozturk. "Occupational Skill Mismatch: Differences by Gender and Cohort." *ILR Review* 73, no. 3 (May 1, 2020): 730–67. <https://doi.org/10.1177/0019793919873864>.

Addison, John T., Orgul D. Ozturk, and Si Wang. "The Occupational Feminization of Wages." *ILR Review* 71, no. 1 (January 1, 2018): 208–41. <https://doi.org/10.1177/0019793917708314>.

Aka, Philip C., Aref A. Hervani, and Elizabeth Arnott-Hill. "Protection against the Economic Fears of Old Age: Six Micro and Macro Steps for Bridging the Gap in Retirement Security between Blacks and Whites." *Vermont Law Review* 40 (2016 2015): 1–68. <https://heinonline.org/HOL/P?h=hein.journals/vlr40&i=9>.

Allegretto, Sylvia A., and Ilan Tojerow. "Teacher Staffing and Pay Differences: Public and Private Schools." *Monthly Labor Review* 137 (September 2014): 1–25. <https://heinonline.org/HOL/P?h=hein.journals/month137&i=762>.

Allen, Renee Nicole, Alicia Jackson, and DeShun Harris. "The Pink Ghetto Pipeline: Challenges and Opportunities for Women in Legal Education." *University of Detroit Mercy Law Review* 96, no. 4 (2019): 525–56. <https://heinonline.org/HOL/P?h=hein.journals/udetmr96&i=553>.

Amin, Shahina. "Book Review: The Economics of Women, Men, and Work by Francine D. Blau and Anne E. Winkler." *ILR Review* 71, no. 1 (January 1, 2018): 280–81. <https://doi.org/10.1177/0019793917738530>.

The Pay Equity Project

Anderson, David, Margret Bjarnadottir, Cristian L. Dezso, and David Gaddis Ross. "On a Firm's Optimal Response to Pressure for Gender Pay Equity." *Robert H. Smith School Research Paper No. RHS 2798938*, June 2016, 1–34. <https://ssrn.com/abstract=2798938>.

Andrus, Lori E. "Jumping 5 Hurdles in Equal Pay Cases: When Representing Women Who Have Been Denied Fair Wages, Here Are Some Common Obstacles to Anticipate as You Build Your Case." *Trial* 56, no. 7 (July 2020): 30–38. <https://link.gale.com/apps/doc/A631438724/LT?u=ucirvine&sid=bookmark-LT&xid=45032ca0>.

Anginer, Deniz, Jinjing Liu, Cindy A. Schipani, and H. Nejat Seyhun. "Should the CEO Pay Ratio Be Regulated?" *Journal of Corporation Law* 45, no. 2 (2020): 471–514. <https://heinonline.org/HOL/P?h=hein.journals/jcorl45&i=493>.

Antecol, Heather, Deborah A. Cobb-Clark, and Eric Helland. "Bias in the Legal Profession: Self-Assessed versus Statistical Measures of Discrimination." *The Journal of Legal Studies* 43, no. 2 (June 1, 2014): 323–57. <https://doi.org/10.1086/677299>.

Austin, Perry F. "Motion to Dismiss for Failure to Succeed on the Merits: The EEOC and Rule 12(b)(6)." *William and Mary Law Review* 59, no. 3 (February 2018): 1097–1122. <http://link.galegroup.com/apps/doc/A535996431/LT?u=ucirvine&sid=LT&xid=745c2f39>.

Baker, Jamie J. "The Intersectionality of Law Librarianship & Gender." *Villanova Law Review* 65, no. 5 (2020): 1011–36. <https://heinonline.org/HOL/P?h=hein.journals/vllalr65&i=1051>.

Bambauer, Jane R., and Tauhidur Rahman. "The Quiet Resignation: Why Do So Many Female Lawyers Abandon Their Careers." *UC Irvine Law Review* 10, no. 3 (2020): 799–854. <https://heinonline.org/HOL/P?h=hein.journals/ucirvire10&i=817>.

Bame, Jennifer L. "For Those Who Do Not Speak: Protecting Class Arbitration as the Last Collective-Action Option for Women." *Washington University Journal of Law & Policy* 46 (2014): 245–80. <http://heinonline.org/HOL/P?h=hein.journals/wajlp46&i=252>.

Barigozzi, Francesca, Helmuth Cremer, and Kerstin Roeder. "Women's Career Choices, Social Norms and Child Care Policies." *IZA Discussion Paper No. 10502*, January 1, 2017. <https://papers.ssrn.com/abstract=2903124>.

Barnhart, Nicole Michele. "Gender Wage Inequality: Is More Legislation the Answer?" *Seattle University Law Review* 40, no. 4 (2017): 1435–52. <https://heinonline.org/HOL/P?h=hein.journals/sealr40&i=1467>.

Bartel, Ann P., Maya Rossin-Slater, Christopher J. Ruhm, Jenna Stearns, and Jane Waldfogel. "Paid Family Leave, Fathers' Leave-Taking, and Leave-Sharing in Dual-Earner Households." *Journal of Policy Analysis and Management* 37, no. 1 (2017): 10–37. <https://doi.org/10.1002/pam.22030>.

Barzilay, Arianne Renan. "Discrimination without Discriminating: Learned Gender Inequality in the Labor Market and Gig Economy." *Cornell Journal of Law and Public Policy* 28, no. 3 (2019): 545–68. <https://heinonline.org/HOL/P?h=hein.journals/cjlp28&i=573>.

The Pay Equity Project

- . “Parenting Title VII: Rethinking the History of the Sex Discrimination Prohibition.” *Yale Journal of Law and Feminism* 28 (2016): 55–102. <https://heinonline.org/HOL/P?h=hein.journals/yjfem28&i=59>.
- Barzilay, Arianne Renan, and Anat Ben-David. “Platform Inequality: Gender in the Gig-Economy.” *Seton Hall Law Review* 47 (2017 2016): 393–432. <http://heinonline.org/HOL/P?h=hein.journals/shlr47&i=405>.
- Bastani, Spencer, Tomer Blumkin, and Luca Micheletto. “The Welfare-Enhancing Role of Parental Leave Mandates.” *The Journal of Law, Economics, and Organization* 35, no. 1 (March 1, 2019): 77–126. <https://doi.org/10.1093/jleo/ewy021>.
- Beazley, Mary Beth. “Shouting into the Wind: How the ABA Standards Promote Inequality in Legal Education, and What Law Students and Faculty Should Do about It.” *Villanova Law Review* 65, no. 5 (2020): 1037–64. <https://heinonline.org/HOL/P?h=hein.journals/vllalr65&i=1077>.
- Bednar, Steven, and Dora Gicheva. “Career Implications of Having a Female-Friendly Supervisor.” *ILR Review* 71, no. 2 (March 1, 2018): 426–57. <https://doi.org/10.1177/0019793917703973>.
- Bessner, Deborah. “Will the United States Continue to Say You’re Fired to CEDAW?: Lessons Learned from Germany and Chile’s Implementation of CEDAW and the Potential for United States Ratification.” *Fordham International Law Journal* 40 (2017): 1225–80. <http://heinonline.org/HOL/P?h=hein.journals/frdint40&i=1243>.
- Bibeau, Anne G., Michael J. Jr. Frantz, and Kristen E. Protas. “Pay Equity in the Construction Industry Closing the Gap.” *Construction Lawyer* 41, no. 1 (2021): 34–41. <https://heinonline.org/HOL/P?h=hein.journals/conlaw41&i=34>.
- Bilginsoy, Cihan. “Union Wage Gap in the U.S. Construction Sector: 1983–2007.” *Industrial Relations: A Journal of Economy and Society* 52, no. 3 (July 1, 2013): 677–701. <https://doi.org/10.1111/irel.12029>.
- Bisom-Rapp, Susan, and Malcolm Sargeant. “It’s Complicated: Age, Gender, and Lifetime Discrimination against Working Women - the United States and the U.K. as Examples.” *Elder Law Journal* 22 (2015 2014): 1–110. <http://heinonline.org/HOL/P?h=hein.journals/elder22&i=5>.
- Blau, Francine D., and Lawrence M. Kahn. “The Gender Wage Gap: Extent, Trends, and Explanations.” *Journal of Economic Literature* 55, no. 3 (September 2017): 789–865. <https://doi.org/10.1257/jel.20160995>.
- Bornstein, Stephanie. “Disclosing Discrimination.” *Boston University Law Review* 101, no. 1 (2021): 287–358. <https://heinonline.org/HOL/P?h=hein.journals/bulr101&i=293>.
- . “Equal Work.” *Maryland Law Review* 77, no. 3 (May 11, 2018): 581. <http://digitalcommons.law.umaryland.edu/mlr/vol77/iss3/1>.
- . “The Statutory Public Interest in Closing the Pay Gap.” *Alabama Civil Rights & Civil Liberties Law Review* 10, no. 1 (2019): 1–34. <https://heinonline.org/HOL/P?h=hein.journals/alabcrcl10&i=7>.

The Pay Equity Project

Bowers, Marianne L., and Daniel E. Chand. "An Examination of Wage and Income Inequality within the American Farmworker Community." *Journal on Migration and Human Security* 6, no. 3 (September 1, 2018): 182–91. <https://doi.org/10.1177/2331502418786707>.

Brake, Deborah L. "Reviving Paycheck Fairness: Why and How the Factor-Other-Than-Sex Defense Matters." *Idaho Law Review* 52, no. 3 (September 2016): 888–912. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=116881844&site=ehost-live>.

———. "The Shifting Sands of Employment Discrimination: From Unjustified Impact to Disparate Treatment in Pregnancy and Pay." *Georgetown Law Journal* 105 (2017): 559–618. <http://heinonline.org/HOL/P?h=hein.journals/glj105&i=571>.

Braun, David J. "Intended and Unintended Consequences of Illinois Public School Salary and Wage Payment Law Changes from the 101st General Assembly." *Southern Illinois University Law Journal* 44, no. 4 (Summer 2020): 641–53. <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=149001008&site=ehost-live>.

Brochin, Heather Weine, and Gregory S. Tabakman. "Expanded Employee Protections for New York Employees." *Employee Relations Law Journal* 45, no. 3 (Winter 2019): 13–19. <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=139579174&site=ehost-live>.

Brown, Sabrina L. "Negotiating Around the Equal Pay Act: Use of the 'Factor Other than Sex' Defense to Escape Liability." *Ohio State Law Journal* 78, no. 2 (March 2017): 471–501. <https://heinonline.org/HOL/P?h=hein.journals/ohslj78&i=483>.

Browne, Kingsley R. "The Quixotic Quest for 'Gender Equality' in the Workplace." *University of Toledo Law Review* 49, no. 3 (2018): 685–714. <https://heinonline.org/HOL/P?h=hein.journals/utol49&i=709>.

Buckman, David G., and Tommy E. Jackson. "Addressing the Gender Pay Gap: The Influence of Female and Male Dominant Disciplines on Gender Pay Equity." *Journal of Education Finance* 47, no. 1 (2021): 71–91. <https://muse.jhu.edu/article/806387>.

Burke, Marion. "Lessons from Labor Feminists: Using Collective Action to Improve Conditions for Women Lawyers." *American University Journal of Gender, Social Policy & the Law* 26, no. 1 (January 2018): 559–92. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=128025840&site=ehost-live>.

Burn, Ian. "The Relationship between Prejudice and Wage Penalties for Gay Men in the United States." *ILR Review* 73, no. 3 (May 1, 2020): 650–75. <https://doi.org/10.1177/0019793919864891>.

Busch, Felix. "Occupational Devaluation Due to Feminization? Causal Mechanics, Effect Heterogeneity, and Evidence from the United States, 1960 to 2010." *Social Forces* 96, no. 3 (March 1, 2018): 1351–76. <https://doi.org/10.1093/sf/sox077>.

Buzuvis, Erin E. "Athletic Compensation for Women Too: Title IX Implications of Northwestern and O'Bannon." *Journal of College and University Law* 41 (2015): 297–342. <http://heinonline.org/HOL/P?h=hein.journals/jcolunly41&i=319>.

The Pay Equity Project

- Cacchioli, Jennifer. "Leaving Unequal Pay in the Past: Why Reliance on Prior Pay Must Be Restricted Under the Equal Pay Act." *Seton Hall University - Law School Student Scholarship*, 2019. https://scholarship.shu.edu/student_scholarship/973.
- Cahen, Claire. "Does Individualizing the Labor Contract Hurt Women?" *Industrial Relations: A Journal of Economy and Society* 58, no. 3 (2019): 317–75. <https://doi.org/10.1111/irel.12239>.
- Cahill, Kevin E. "Retirement-Related Economic Damages Calculations and the Fair Calculations in Civil Damages Act of 2016." SSRN, September 15, 2017. <https://papers.ssrn.com/abstract=3068862>.
- Cahn, Naomi, June Carbone, and Nancy Levit. "Discrimination by Design." *Arizona State Law Journal* 51, no. 1 (2019): 1–70. <https://heinonline.org/HOL/P?h=hein.journals/arzl51&i=9>.
- . "Gender and the Tournament: Reinventing Antidiscrimination Law in an Age of Inequality." *Texas Law Review* 96 (2018): 425–86. <https://heinonline.org/HOL/P?h=hein.journals/tlr96&i=463>.
- Cahn, Naomi R., and Linda C. McClain. "Gendered Complications of COVID-19: Towards a Feminist Recovery Plan." *Georgetown Journal of Gender and the Law* 22, no. 1 (2020): 1–56. <https://heinonline.org/HOL/P?h=hein.journals/grggenl22&i=5>.
- Campbell, Honey. "Superior Play, Unequal Pay: U.S. Women's Soccer and the Pursuit for Pay Equity." *University of San Francisco Law Review* 51, no. 3 (September 2017): 545–70. <https://heinonline.org/HOL/P?h=hein.journals/usflr51&i=565>.
- Canales, Bilma. "Closing the Federal Gender Pay Gap through Wage Transparency." *Houston Law Review* 55 (2018 2017): 969–98. <http://heinonline.org/HOL/P?h=hein.journals/hulr55&i=1007>.
- Carbone, June, Naomi Cahn, and Nancy Levit. "Women, Rule-Breaking, and the Triple Bind Women and Corporate Governance." *George Washington Law Review* 87, no. 5 (2019): 1105–62. <https://heinonline.org/HOL/P?h=hein.journals/gwlr87&i=1179>.
- Casabianca, Elizabeth J., Alessia Lo Turco, and Claudia Pigini. "Equal Pay for Equal Task: Assessing Heterogeneous Returns to Tasks across Genders." *Industrial Relations: A Journal of Economy and Society* 59, no. 2 (2020): 197–239. <https://doi.org/10.1111/irel.12253>.
- Causevic, Emina. "Following the States' Lead: A Proposed Amendment to the Equal Pay Act." *University of Toledo Law Review* 49, no. 3 (Spring 2018): 741–60. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=132996200&site=ehost-live>.
- Cech, Erin A. "Ideological Wage Inequalities? The Technical/Social Dualism and the Gender Wage Gap in Engineering." *Social Forces* 91, no. 4 (June 1, 2013): 1147–82. <https://doi.org/10.1093/sf/sot024>.
- Cerf, Benjamin. "Sexual Orientation, Income, and Stress at Work." *Industrial Relations: A Journal of Economy and Society* 55, no. 4 (October 1, 2016): 546–75. <https://doi.org/10.1111/irel.12151>.
- Chap, Olivia. "Cost-of-Service Ratemaking and Labor Costs: Expanding the 'Just and Reasonable' Standard to Close the Gender Pay Gap in the Energy Industry Notes." *George Washington Journal of*

The Pay Equity Project

Energy and Environmental Law 11, no. 2 (2021): 67–77.

<https://heinonline.org/HOL/P?h=hein.journals/gwjeel11&i=71>.

Choi, Stephen J., Mitu Gulati, and A. C. Pritchard. “Should I Stay or Should I Go: The Gender Gap for Securities and Exchange Commission Attorneys.” *Journal of Law & Economics* 62, no. 3 (2019): 427–56. <https://heinonline.org/HOL/P?h=hein.journals/jlecono62&i=429>.

Cochrane, Thomas F. “Partners Are Individuals: Applying Title VII to Female Partners in Large Law Firms.” *UCLA Law Review* 65 (2018): 488–530.

<http://heinonline.org/HOL/P?h=hein.journals/uclalr65&i=512>.

Collins, Sondra. “How Well Can the Gender Pay Gap in Mississippi Be Explained.” *Journal of Research in Gender Studies* 7 (2017): 27–38. <http://heinonline.org/HOL/P?h=hein.journals/jogenst7&i=301>.

Collins, William J., and Michael Q. Moody. “Racial Differences in American Women’s Labor Market Outcomes: A Long-Run View.” *NBER Working Paper No. 23397*, May 2017.

<https://doi.org/10.3386/w23397>.

Cook, Abigail. “The New Jersey Ban on Salary History Questions: Closing the Gender Wage Gap One Question at a Time.” *Rutgers Journal of Law and Public Policy* 16, no. 2 (2019): 1–30.

<https://heinonline.org/HOL/P?h=hein.journals/rutjulp16&i=225>.

Coyne, Patrick C. “A Huge Win for Equal Pay: Women’s National Teams Grab Their Biggest Victories yet in Recent Contract Disputes.” *Jeffrey S. Moorad Sports Law Journal* 25, no. 2 (July 2018): 315–58.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=137199552&site=ehost-live>.

Cunningham, J. Chris. “Measuring Wage Inequality within and across U.S. Metropolitan Areas, 2003–13.” *Monthly Labor Review* 138 (September 2015).

<https://heinonline.org/HOL/P?h=hein.journals/month138&i=586>.

Cunningham-Parmeter, Keith. “(Un)Equal Protection: Why Gender Equality Depends on Discrimination.” *Northwestern University Law Review* 109 (2015 2014): 1–56.

<http://heinonline.org/HOL/P?h=hein.journals/illlr109&i=7>.

Dakin, Haley C. “Equal Pay for Equal (or Better) Play.” *Mississippi Sports Law Review* 9, no. 1 (2020): 22–37. <https://heinonline.org/HOL/P?h=hein.journals/missisp9&i=24>.

Dale, Candy W. “Transcript of Keynote Speech.” *Idaho Law Review* 52, no. 3 (September 2016): 814–24. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=116881864&site=ehost-live>.

Daniel, Bret G., and Erin B. Edwards. “Employment Law.” *University of Richmond Law Review* 54, no. 1 (2019): 103–32. <https://heinonline.org/HOL/P?h=hein.journals/urich54&i=113>.

Delaney, Nicole, and Joanna N. Lahey. “The ADEA at the Intersection of Age and Race.” *Berkeley Journal of Employment and Labor Law* 40, no. 1 (2019): 61–90.

<https://heinonline.org/HOL/P?h=hein.journals/berkjemp40&i=69>.

The Pay Equity Project

Delhommer, Scott. "Effect of State and Local Sexual Orientation Anti-Discrimination Laws on Labor Market Differentials." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, June 16, 2020. <https://doi.org/10.2139/ssrn.3625193>.

Dennis, Tanya E. "Why Is Your Grass Greener than Mine?: The Need for Legal Reform to Combat Gender Discrimination in Professional Sports." *New England Law Review* 50, no. 3 (July 2016): 347–60. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=120582190&site=ehost-live>.

Devlin, Nora. "Faculty Title VII and Equal Pay Act Cases in the Twenty-First Century." *Journal of College and University Law* 44, no. 1 (June 2018): 96–124. <https://heinonline.org/HOL/P?h=hein.journals/jcolunly44&i=107>.

DiBenedetto, Rachel. "To Shatter the Glass Ceiling, Clean the Sticky Floor and Thaw the Frozen Middle: How Discrimination and Bias in the Career Pipeline Perpetuates the Gender Pay Gap." *American University Journal of Gender, Social Policy & the Law* 29, no. 2 (2021): 151–224. <https://heinonline.org/HOL/P?h=hein.journals/ajgsp29&i=171>.

Dickerson, Darby. "Finding the Goldilocks Zone: Negotiating Your First Employment Offer in Legal Academia." *Journal of Legal Education* 69, no. 1 (2019): 48–94. <https://heinonline.org/HOL/P?h=hein.journals/jled69&i=52>.

Dinovitzer, Ronit, and John Hagan. "Hierarchical Structure and Gender Dissimilarity in American Legal Labor Markets." *Social Forces* 92, no. 3 (February 24, 2014): 929–55. <https://muse.jhu.edu/article/537775>.

Doneff, Andrea. "Social Framework Studies Such as Women Don't Ask and It Does Hurt to Ask Show Us the Next Step toward Achieving Gender Equality - Eliminating the Long-Term Effects of Implicit Bias - But Are Not Likely to Get Cases Past Summary Judgment." *William & Mary Journal of Women and the Law* 20 (2014): 573–624. <http://heinonline.org/HOL/P?h=hein.journals/wmjw20&i=611>.

Douglas, Jamie H., and Michael D. Steinberger. "The Sexual Orientation Wage Gap for Racial Minorities." *Industrial Relations: A Journal of Economy and Society* 54, no. 1 (January 1, 2015): 59–108. <https://doi.org/10.1111/irel.12077>.

Dowell, Michele Lee, and Karen H. Larwin. "Gender Equity in Educational Administration: Investigating Compensation and Promotion Power, Feminism, and Social Dimension." *Journal of Research in Gender Studies* 3 (2013): 53–77. <http://heinonline.org/HOL/P?h=hein.journals/jogenst3&i=53>.

Droganova, Maria. "Women Working for Women: Career Advancement and the Gender Wage Gap in the U. S. Federal Government." SSRN, January 12, 2018. <https://papers.ssrn.com/abstract=3074466>.

DuBose, Renalia. "Compliance Requires Inspection: The Failure of Gender Equal Pay Efforts in the United States." *Mercer Law Review* 68, no. 2 (Winter 2017): 445–60. <https://heinonline.org/HOL/P?h=hein.journals/mercer68&i=461>.

Duvall, John E. "Employment Discrimination." *Mercer Law Review* 70, no. 4 (Summer 2019): 989–1005. <https://heinonline.org/HOL/P?h=hein.journals/mercer70&i=1031>.

The Pay Equity Project

Dworkin, Terry M., Cindy A. Schipani, Frances J. Milliken, and Madeline K. Kneeland. "Assessing the Progress of Women in Corporate America: The More Things Change, the More They Stay the Same." *American Business Law Journal* 55, no. 4 (2018): 721–62. <https://doi.org/10.1111/ablj.12132>.

Edelman, Marc. "The Future of Amateurism after Antitrust Scrutiny: Why a Win for the Plaintiffs in the NCAA Student-Athlete Name & Likeness Licensing Litigation Will Not Lead to the Demise of College Sports." *Oregon Law Review* 92 (2014 2013): 1019–56. <http://heinonline.org/HOL/P?h=hein.journals/orqlr92&i=1033>.

Eisenberg, Deborah Thompson. "Stopped at the Starting Gate: The Overuse of Summary Judgment in Equal Pay Cases." *New York Law School Law Review* 57, no. 4 (2013): 815–39. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=87483301&site=ehost-live>.

El-Ramly, Yasmine. "Steps toward Closing the Gender Pay Gap: CPA Employers Can Take These Concrete Actions to Make Compensation More Equitable." *Journal of Accountancy* 228, no. 3 (September 2019): 1–7. <https://search.ebscohost.com/login.aspx?direct=true&db=bah&AN=138492960&site=ehost-live&scope=site>.

"Employment Law -- Equal Pay Legislation -- Oregon Bans Employers from Asking Job Applicants About Prior Salary -- Oregon Equal Pay Act of 2017, 2017 Or. Laws Ch. 197, H.B. 2005 (to Be Codified in Scattered Sections of Or. Rev. Stat.)." *Harvard Law Review* 131, no. 5 (March 2018): 1513–20. <https://harvardlawreview.org/2018/03/oregon-equal-pay-act-of-2017/>.

Engstrom, David Freeman. "'Not Merely There to Help the Men': Equal Pay Laws, Collective Rights, and the Making of the Modern Class Action." *Stanford Law Review* 70, no. 1 (January 2018): 1–97. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=127414254&site=ehost-live>.

Epstein, Richard A. "Why Income and Wealth Equality Cannot End Wage Stagnation." *Creighton Law Review* 48 (2014): 1–22. <https://heinonline.org/HOL/P?h=hein.journals/creigh48&i=9>.

"Equal Rights Amendment Conference Transcription." *Richmond Public Interest Law Review* 23, no. 3 (2020): 145–254. <https://heinonline.org/HOL/P?h=hein.journals/richlapin23&i=671>.

Ertman, Martha M. "The Cost of Non-Billable Work." *Texas Law Review Online* 98 (2020): 184–215. <https://texaslawreview.org/the-cost-of-non-billable-work/>.

Ettienne, Lerae. "It's Time to Pay up, the Justification for Higher Salaries for WNBA Players: An Analysis of the WNBA's Success and Employing Mediation between the WNBA and NBA to Leverage Future Success." *Pepperdine Dispute Resolution Law Journal* 19, no. 2 (2019): 175–200. <https://heinonline.org/HOL/P?h=hein.journals/pepds19&i=178>.

Even, William E., and David A. Macpherson. "The Gender Wage Gap and the Fair Calculations Act." *Journal of Forensic Economics* 29, no. 1 (December 30, 2020): 39–58. <https://doi.org/10.5085/JFE-444>.

Exley, Christine L., Muriel Niederle, and Lise Vesterlund. "Knowing When to Ask: The Cost of Leaning In." *NBER Working Paper No. 22961*, December 2016. <https://doi.org/10.3386/w22961>.

The Pay Equity Project

- Feeney, Cassandra L. "The Long and Winding Road: Pursuing Gender Equality in Rhode Island First Women Lawyers in Rhode Island." *Roger Williams University Law Review* 25, no. 3 (2020): 372–411. <https://heinonline.org/HOL/P?h=hein.journals/rwulr25&i=382>.
- Feldblum, Chai. "Gender Equity in the 21st Century: Keynote Address." *Richmond Journal of Law and the Public Interest* 18 (2015): 417–40. <http://heinonline.org/HOL/P?h=hein.journals/richlapin18&i=467>.
- Feldman, Torrey M. "Bet You Didn't Know She Could Get Paid for That: Using Sports Betting and the Right of Publicity to Address the Gender Wage Gap in Professional Sports." *UCLA Women's Law Journal* 27, no. 2 (2020): 249–72. <https://heinonline.org/HOL/P?h=hein.journals/uclawo27&i=257>.
- Fields, Tyler. "Glory & Gold Medals Don't Pay Rent: The Case for Paying U.S. National Soccer Teams." *Berkeley Journal of Entertainment and Sports Law* 10 (2021): 1–36. <https://heinonline.org/HOL/P?h=hein.journals/bjesl10&i=1>.
- Filisko, G. M. "How Open Are Firms' Compensation Systems - And Does It Matter." *Perspectives* 24 (2016): 4–7. <http://heinonline.org/HOL/P?h=hein.journals/prspctiv24&i=52>.
- Fiorentino, Susan R., and Sandra M. Tomkowicz. "Can Millennials Deliver on Equal Pay? Why the Time Is Finally Right for Pay Transparency." *Hofstra Labor & Employment Law Journal* 38, no. 2 (2021): 253–84. <https://heinonline.org/HOL/P?h=hein.journals/hlelj38&i=273>.
- Fisk, Catherine L. "Book Review - Katherine Turk, Equality on Trial: Gender and Rights in the Modern American Workplace. Philadelphia: University of Pennsylvania Press, 2016. Pp. 284. \$45.00 Cloth (ISBN 978-0-8122-4820-3). Doi:10.1017/SO738248017000347." *Law and History Review* 35 (2017): 837–39. <http://heinonline.org/HOL/P?h=hein.journals/lawhst35&i=861>.
- Flake, Collin R. "Getting to Deuce: Professional Tennis and the Need for Expanding Coverage of Federal Antidiscrimination Laws." *Texas Review of Entertainment & Sports Law* 16 (2014): 51–70. <http://heinonline.org/HOL/P?h=hein.journals/tresl16&i=61>.
- Fox, Julia M. "An Interpretation and Application of the Lilly Ledbetter Fair Pay Act of 2009: How Courts Got It Wrong . . . Twice." *Boston University Public Interest Law Journal* 24 (2015): 143–74. <https://heinonline.org/HOL/P?h=hein.journals/bupi24&i=149>.
- Fryer, Roland G., Devah Pager, and Jörg L. Spenkuch. "Racial Disparities in Job Finding and Offered Wages." *The Journal of Law and Economics* 56, no. 3 (August 1, 2013): 633–89. <https://doi.org/10.1086/673323>.
- Fuetsch, Hannah. "Chapter 546: Another Step to Ensure Equal Pay Doesn't Wait Another Fifty Years Review of Selected 2015 California Legislation: Labor." *University of the Pacific Law Review* 47, no. 3 (2016): 577–98. <https://heinonline.org/HOL/P?h=hein.journals/mcglr47&i=613>.
- Gastwirth, Joseph L. "A Summary of the Statistical Aspects of the Procedures for Resolving Potential Employment Discrimination Recently Issued by the Office of Federal Contract Compliance Along with a Commentary." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, May 27, 2021. <https://doi.org/10.2139/ssrn.3854884>.

The Pay Equity Project

Gdula, Kimberly, Gigi Rollini, Allison Stevenson, and Elyse Velagic. "NAWL Pay Equity Connection: Sources of the 'Pay Gap.'" *Women Lawyers Journal* 104, no. 1–2 (2019): 10–21.

<https://heinonline.org/HOL/P?h=hein.journals/wolj104&i=12>.

Gersch, Taylor Kennedy. "The Gender Pay Gap: Seeking Fairness for Women in Professional Sports." *Oregon Review of International Law* 22 (2021): 147–96.

<https://heinonline.org/HOL/P?h=hein.journals/porri122&i=149>.

Gilman, Michele E. "En-Gendering Economic Inequality." *Columbia Journal of Gender and Law* 32 (2016): 1–61. <http://heinonline.org/HOL/P?h=hein.journals/coljgl32&i=11>.

Goldstein, Mark S., Saranne E. Weimer, and Alexandra C. Manfredi. "New York Lawmakers Upend the Employment Law Landscape... Again." *Employee Relations Law Journal* 45, no. 3 (Winter 2019): 5–12.

<https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=139579173&site=ehost-live>.

Goodwin, Michele. "Women on the Frontlines." *Cornell Law Review* 106, no. 4 (2021): 851–946.

<https://heinonline.org/HOL/P?h=hein.journals/clqv106&i=881>.

Gottsacker, Jessica. "Waging War against Prior Pay: The Pay Structure That Reenforces the Systemic Gender Discrimination in the Workplace." *Saint Louis University Law Journal* 64, no. 1 (2019): 113–44.

<https://heinonline.org/HOL/P?h=hein.journals/stlulj64&i=115>.

Green, Tristin K. "Civil Rights Lemonade: Title VII, Gender, and Working Options for Working Families." *Stanford Journal of Civil Rights & Civil Liberties* 10 (2014): 191–222.

<http://heinonline.org/HOL/P?h=hein.journals/stjcrcl10&i=207>.

Guidry, Hallie. "Wyoming, Take Another Look at Unions: How Unions Can Increase Equality for Women in the Workplace Wyoming Law Division." *Wyoming Law Review* 19, no. 2 (2019): 363–90.

<https://heinonline.org/HOL/P?h=hein.journals/wylr19&i=385>.

Guinier, Lani. "Courting the People: Demosprudence and the Law/Politics Divide." *Harvard Law Review* 127, no. 1 (November 2013): 437–44. <http://www.jstor.org/stable/23741406>.

Guinta, Jeremy, and Angela Sabbe. "California Fair Pay Act: Data Gathering and Gender Pay Analyses." *Employment & Labor Relations Law* 15 (2017): 5–9.

<http://heinonline.org/HOL/P?h=hein.aba/emlare0015&i=32>.

Guo, Kaiming, and Jingwen Yu. "Gender Gap, Capital Accumulation and the Demographic Transition." *Economics of Transition* 25, no. 3 (n.d.): 553–72. <https://doi.org/10.1111/ecot.12126>.

Gupta, Vishal K., Sandra C. Mortal, and Xiaohu Guo. "Revisiting the Gender Gap in CEO Compensation: Replication and Extension of Hill, Upadhyay, and Beekun (2015)'s Work on CEO Gender Pay Gap." *Strategic Management Journal*, May 2, 2018. <https://doi.org/10.1002/smj.2905>.

Guthrie, Chris, and Emily Lamm. "The Aid Gap." *Journal of Legal Education* 69, no. 1 (2019): 123–37.

<https://heinonline.org/HOL/P?h=hein.journals/jled69&i=127>.

The Pay Equity Project

Gutierrez, Federico. "Commuting Patterns, the Spatial Distribution of Jobs and the Gender Pay Gap in the U.S." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, November 25, 2018. <https://papers.ssrn.com/abstract=3290650>.

———. "Reaching the Top or Falling Behind? The Role of Occupational Segregation in Women's Chances of Finding a High-Paying Job Over the Life-Cycle." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, October 29, 2018. <https://papers.ssrn.com/abstract=3274877>.

Haile, Andrew J. "An Even Playing Field: The Goal of Gender Equity in World Cup Soccer." *Oregon Law Review* 98, no. 2 (July 2020): 427–75. <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=144779812&site=ehost-live>.

Haimann, Clifford. "The Uniform Guidelines on Employee Selection Procedures Does Not Apply to Compensation." *Labor Law Journal* 70, no. 4 (Winter 2019): 225–34. <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=140209166&site=ehost-live>.

Hall, Lily. "Unbinding Working Women in a 'Binders-Full-of-Women' Nation: How the United States Can Learn from Swedish, Norwegian and Icelandic Successes in Gender Pay Gap Legislation." *Cardozo Journal of International & Comparative Law* 22, no. 3 (Spring 2014): 627–63. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=100966335&site=ehost-live>.

Hamermesh, Daniel S., Katie R. Genadek, and Michael C. Burda. "Racial/Ethnic Differences in Non-Work at Work." *ILR Review* 74, no. 2 (March 1, 2021): 272–92. <https://doi.org/10.1177/0019793919891429>.

Hamrick, Cameron S., and Roger V. Abbott. "The 'Fair Pay and Safe Workplaces' Regulations and Guidance Constitute an Unreasonable Use of Federal Authority." *Public Contract Law Journal* 46, no. 2 (Winter 2017): 217–57. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=122781732&site=ehost-live>.

Han, Eunice S. "Teacher Wage Penalty and Decrease in Teacher Quality: Evidence from Career-Changers." *Labor Studies Journal* 46, no. 3 (September 1, 2021): 251–85. <https://doi.org/10.1177/0160449X20929083>.

Hansen, Benjamin, and Drew McNichols. "Information and the Persistence of the Gender Wage Gap: Early Evidence from California's Salary History Ban." Working Paper. Working Paper Series. National Bureau of Economic Research, April 2020. <https://doi.org/10.3386/w27054>.

Harris, Elizabeth C., and Mychel L. Estevez. "The Role of Gender and Motherhood Ideologies in Perpetuating Workplace Inequality." *Journal of Research in Gender Studies* 7 (2017): 67–85. <http://heinonline.org/HOL/P?h=hein.journals/jogenst7&i=341>.

Hart, Melissa. "Missing the Forest for the Trees: Gender Pay Discrimination in Academia." *Denver University Law Review* 91 (2014): 873–92. <https://heinonline.org/HOL/P?h=hein.journals/denlr91&i=897>.

The Pay Equity Project

Hegewisch, Ariane, and Emma Williams-Baron. "The Gender Wage Gap and Work-Family Supports: Women's Choices or Policy Choices." *Saint Louis University Public Law Review* 36 (2017): 5–18.

<https://heinonline.org/HOL/P?h=hein.journals/stlpl36&i=19>.

Henry, P. J., and Russell Steiger. "U.S. Cities with Greater Gender Equality Have More Progressive Sexual Orientation Laws and Services." *Psychology, Public Policy, and Law* 25, no. 1 (February 2019): 15–29.

<http://dx.doi.org/10.1037/law0000189>.

Hersch, Joni. "Econometrics and Economists in Employment Discrimination Litigation." *Journal of Legal Economics* 26 (2020): 5–22.

<https://heinonline.org/HOL/P?h=hein.journals/jole26&i=13>.

Hersch, Joni, and Jennifer Bennett Shinall. "Something to Talk about: Information Exchange under Employment Law." *University of Pennsylvania Law Review* 165 (2016): 49–90.

<http://heinonline.org/HOL/P?h=hein.journals/pnlr165&i=53>.

Hershkoff, Helen, and Elizabeth M. Schneider. "Sex, Trump, and Constitutional Change." *Constitutional Commentary* 34, no. 1 (2019): 43–132.

<https://heinonline.org/HOL/P?h=hein.journals/ccum34&i=45>.

Hollander-Blumoff, Rebecca. "It's Complicated: Reflections on Teaching Negotiation for Women." *Washington University Journal of Law & Policy* 62 (2020): 77–86.

<https://heinonline.org/HOL/P?h=hein.journals/wajlp62&i=89>.

Hollowell, Katilyn. "Mind the Gap: Bridging Gender Wage Inequality in Louisiana." *Louisiana Law Review* 77, no. 3 (Spring 2017): 833–978.

<https://digitalcommons.law.lsu.edu/lalrev/vol77/iss3/10/>.

Huertas-Noble, Carmen. "Worker-Owned and Unionized Worker-Owned Cooperatives: Two Tools to Address Income Inequality." *Clinical Law Review* 22, no. 2 (2016): 325–58.

<https://heinonline.org/HOL/P?h=hein.journals/clinic22&i=329>.

Hutcherson, Dale. "Striker No Striking! U.S. Soccer Federation, Inc. v. U.S. Women's National Soccer Team Players Ass'n: A Clearance in the Courtroom." *Sports Lawyers Journal* 26 (2019): 109.

<https://advance.lexis.com/api/permalink/c6e74ebd-de59-4c26-99f5-64251469beb7/?context=1000516>.

Jeffers, Matthew T. "Book Review: Debating Equal Pay for All." *Compensation & Benefits Review* 53, no. 4 (September 1, 2021): 188–91.

<https://doi.org/10.1177/08863687211008151>.

Jessani, Ali. "Shooting for Equality: An Analysis of the Market Force Defense As Applied to the U.S. Women's Soccer Team's Equal Pay Claim." *Duke Journal of Gender Law & Policy* 25, no. 2 (2018): 221–48.

<https://heinonline.org/HOL/P?h=hein.journals/djglp25&i=222>.

Johnson, Candon, and Eduardo Minuci. "Wage Discrimination in the NBA: Evidence Using Free Agent Signings." *Southern Economic Journal* 87, no. 2 (2020): 517–39.

<https://doi.org/10.1002/soej.12461>.

Johnson, Julia. "Gender Differences in Negotiation: Implications for Salary Negotiations." *UCLA Women's Law Journal* 23 (2016): 131–51.

<https://heinonline.org/HOL/P?h=hein.journals/uclawo23&i=136>.

The Pay Equity Project

Jones, Jeff, and Tamara Jones. "The Oregon Pay Equity Act Is Here." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, July 15, 2018.
<https://papers.ssrn.com/abstract=3277617>.

Jones, Trina. "A Different Class of Care: The Benefits Crisis and Low-Wage Workers." *American University Law Review* 66 (2017): 691–760.
<https://heinonline.org/HOL/P?h=hein.journals/aulr66&i=719>.

Kassenboehmer, Sonja C., and Mathias G. Sinning. "Distributional Changes in the Gender Wage Gap." *ILR Review: The Journal of Work and Policy* 67 (2014): 335–61.
<http://heinonline.org/HOL/P?h=hein.journals/ialrr67&i=335>.

Kennelly, Sarah. "Still Looking for That 'M': How Inequity Affects WNBA Players and What the League Should Improve in Its Collective Bargaining Agreement Notes." *Women's Rights Law Reporter* 42, no. 1/2 (2020): 110–33. <https://heinonline.org/HOL/P?h=hein.journals/worts42&i=114>.

Kim, Marlene. "Pay Secrecy and the Gender Wage Gap in the United States." *Industrial Relations: A Journal of Economy and Society* 54, no. 4 (October 1, 2015): 648–67.
<https://doi.org/10.1111/irel.12109>.

Kimhi, Omer. "Falling Short: On Implicit Biases and the Discrimination of Short Individuals." *Connecticut Law Review* 52, no. 2 (2020): 719–70. <https://heinonline.org/HOL/P?h=hein.journals/conlr52&i=738>.

Klassen, Siobhan. "Challenges in Bringing Gender Equity into the Workplace: Addressing Common Concerns Women Have When Deciding to Hold Employers Accountable for Gender Discrimination." *Journal of Race, Gender, and Ethnicity* 10, no. 1 (January 1, 2021): 7–22.
<https://digitalcommons.tourolaw.edu/jrge/vol10/iss1/5>.

Kleinjans, Kristin J., Karl Fritjof Krassel, and Anthony Dukes. "Occupational Prestige and the Gender Wage Gap." *Kyklos* 70, no. 4 (n.d.): 565–93. <https://doi.org/10.1111/kykl.12149>.

Kleinmann, Sangeeta Shastry. "A New Frontier: Applying Evolving National Pay Equity Trends to Kansas's Statute." *University of Kansas Law Review* 65, no. 4 (2017): 835–74.
<https://heinonline.org/HOL/P?h=hein.journals/ukalr65&i=903>.

Klugman, Jeni, Henriette Kolb, and Matthew Morton. "Persistent Gender Inequality in the World of Work." *Fletcher Forum of World Affairs* 38 (2014): 133–52.
<http://heinonline.org/HOL/P?h=hein.journals/forwa38&i=369>.

Kmec, Julie A., and Sheryl L. Skaggs. "The 'State' of Equal Employment Opportunity Law and Managerial Gender Diversity." *Social Problems* 61, no. 4 (2014): 530–58.
<https://doi.org/10.1525/sp.2014.12319>.

Kolb, Deborah M. "Negotiated in the Shadows of Organizations: Gender, Negotiation, and Change." *Ohio State Journal on Dispute Resolution* 28 (2013): 241–62.
<http://heinonline.org/HOL/P?h=hein.journals/ohjdpr28&i=253>.

The Pay Equity Project

- Krieger, Linda Hamilton. "Message in a Bottle." *Berkeley Journal of Employment and Labor Law*, no. 1 (2018): 53–88. <https://heinonline.org/HOL/P?h=hein.journals/berkjemp39&i=59>.
- Kronberg, Anne-Kathrin. "Stay or Leave?: Externalization of Job Mobility and the Effect on the U.S. Gender Earnings Gap, 1979–2009." *Social Forces* 91, no. 4 (June 3, 2013): 1117–46. <https://muse.jhu.edu/article/509331>.
- Kuk, John, and Zoltan Hajnal. "Democratic Party Control Reduces Gender Inequality." *Legislative Studies Quarterly* 46, no. 1 (2021): 155–88. <https://doi.org/10.1111/lsg.12316>.
- Kulow, Marianne DelPo. "Beyond the Paycheck Fairness Act: Mandatory Wage Disclosure Laws - A Necessary Tool for Closing the Residual Gender Wage Gap." *Harvard Journal on Legislation* 50 (2013): 385–436. <https://heinonline.org/HOL/P?h=hein.journals/hjl50&i=397>.
- Kunze, Astrid. "The Gender Wage Gap in Developed Countries." *IZA Discussion Paper No. 10826*, June 21, 2017. <https://www.iza.org/publications/dp/10826/the-gender-wage-gap-in-developed-countries>.
- Kutzner, Tori D. "Helping out Supermom: Gender-Aware Policymaking & Mothering in the Twenty-First Century American Workforce." *Georgetown Journal of Gender and the Law* 21, no. 1 (2019): 171–200. <https://heinonline.org/HOL/P?h=hein.journals/grggenl21&i=181>.
- Law, Sylvia A. "Income Disparity, Gender Equality, and Free Expression." *Fordham Law Review* 87, no. 6 (2019): 2479–2500. <https://heinonline.org/HOL/P?h=hein.journals/flr87&i=2534>.
- Lee, Katrina. "Discrimination as Anti-Ethical: Achieving Systemic Change in Large Law Firms." *Denver Law Review* 98, no. 3 (2021): 581–628. <https://heinonline.org/HOL/P?h=hein.journals/denlr98&i=586>.
- Lerum, Catherine. "Equal Pay for Women Can Become a Reality: A Proposal for Enactment of the Paycheck Fairness Act." *Northern Illinois University Law Review* 34 (2013): 221–58. <https://heinonline.org/HOL/P?h=hein.journals/niulr34&i=231>.
- Lester-Abdalla, Elizabeth. "Salary History Should Be Her Story: Upholding Regulations of Salary History Through a Commercial Speech Analysis." *William and Mary Law Review* 60, no. 2 (November 2018): 701–38. <https://heinonline.org/HOL/P?h=hein.journals/wmlr60&i=721>.
- Leysen, Sherry L. "Laws by Women, Laws about Women: A Retrospective Survey of Laws by California State and Federal Legislators." *Chapman Law Review* 23, no. 2 (2020): 447–94. <https://heinonline.org/HOL/P?h=hein.journals/chlr23&i=455>.
- Lobel, Orly. "Biopolitical Opportunities: Between Datafication and Governance." *Notre Dame Law Review Reflection* 96, no. 4 (May 19, 2021): 181–93. https://scholarship.law.nd.edu/ndlr_online/vol96/iss4/3.
- . "Gentlemen Prefer Bonds: How Employers Fix the Talent Market." *Santa Clara Law Review* 59, no. 3 (2020): 663–700. <https://heinonline.org/HOL/P?h=hein.journals/saclr59&i=666>.

The Pay Equity Project

- . “Knowledge Pays: Reversing Information Flows and the Future of Pay Equity.” *Columbia Law Review* 120, no. 3 (April 2020): 547–611.
<https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=143061788&site=ehost-live>.
- Lopez, Alexandria. “The Evolution of Gender Equity From a Marxist and Existentialist Perspective.” *Journal of Race, Gender, and Ethnicity* 10, no. 1 (January 1, 2021): 130–45.
<https://digitalcommons.tourolaw.edu/jrge/vol10/iss1/14>.
- Luo, Xiaoshuang Iris, Cyrus Schleifer, and Christopher M. Hill. “Police Income and Occupational Gender Inequality.” *Police Quarterly* 22, no. 4 (December 1, 2019): 481–510.
<https://doi.org/10.1177/1098611119862654>.
- Lyman, Christine, Lonnie Giamela, and LaLonnie Gray. “Mind the Gap: Practical Solutions to Minimize Pay Equity Claims Labor and Employment Law.” *Colorado Lawyer* 49, no. 5 (2020): 30–35.
<https://heinonline.org/HOL/P?h=hein.barjournals/cololaw0049&i=472>.
- Lynn Yoshino, Keiko. “Reevaluating the Equal Pay Act for the Modern Professional Woman.” *Valparaiso University Law Review* 47, no. 2 (Winter 2013): 585–625.
<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=88332598&site=ehost-live>.
- Lyons, Sarah. “Why the Law Should Intervene to Disrupt Pay-Secrecy Norms: Analyzing the Lilly Ledbetter Fair Pay Act Through the Lens of Social Norms.” *Columbia Journal of Law & Social Problems* 46, no. 3 (Spring 2013): 361–92.
<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=87380208&site=ehost-live>.
- MacKinnon, Catherine A. “Toward a Renewed Equal Rights Amendment: Now More than Ever.” *Harvard Journal of Law and Gender* 37 (2014): 569–80.
<http://heinonline.org/HOL/P?h=hein.journals/hwlj37&i=585>.
- Madl, Amy C., and Lisa Larrimore Ouellette. “Policy Experiments to Address Gender Inequality among Innovators.” *Houston Law Review* 57, no. 4 (2020): 813–42.
<https://heinonline.org/HOL/P?h=hein.journals/hulr57&i=849>.
- Magid, Julie Manning. “Cloaking: Public Policy and Pregnancy.” *American Business Law Journal* 53, no. 3: 439–85. Accessed May 31, 2018. <https://doi.org/10.1111/ablj.12082>.
- Marschilok, Caroline, Jessica Moran, Danna Seligman, and Aislinn Toohey. “Equal Protection.” *Georgetown Journal of Gender and the Law* 18 (2017): 537–98.
<http://heinonline.org/HOL/P?h=hein.journals/grqgen18&i=548>.
- Masters, Hannah L. E. “Red Card on Wage Discrimination: US Soccer Pay Disparity Highlights Inadequacy of the Equal Pay Act.” *Vanderbilt Journal of Entertainment & Technology Law* 22, no. 4 (2020): 895–922. <https://heinonline.org/HOL/P?h=hein.journals/vanep22&i=895>.
- Mathiason, Garry. “AI’s Transformational Role in Making HR More Objective While Overcoming the Challenge of Illegal Algorithm Biases.” *RAIL: The Journal of Robotics, Artificial Intelligence & Law* 1, no. 2 (2018): 91–100. <https://fc7.fastcase.com/outline/US/1053?docUid=136907674>.

The Pay Equity Project

McAllister, LaCrisha. "Quarters in the Court: How the Gender Pay Gap Affects Black Women in Law." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, February 28, 2020. <https://doi.org/10.2139/ssrn.3576299>.

McCann, Michael. "Money, Sex, and Power: Gender Discrimination and the Thwarted Legacy of the 1964 Civil Rights Act." *Denver University Law Review* 91 (2014 2013): 779–802. <http://heinonline.org/HOL/P?h=hein.journals/denlr91&i=803>.

McCormack, Shannon Weeks. "Postpartum Taxation and the Squeezed Out Mom." *Georgetown Law Journal* 105 (2017): 1323. <https://georgetownlawjournal.org/articles/235/postpartum-taxation-squeezed-out>.

McCormick, Marcia L. "Constitutional Limitations on Closing the Gender Gap in Employment." *FIU Law Review* 8 (2013): 405–22. <http://heinonline.org/HOL/P?h=hein.journals/fiulawr8&i=413>.

McGinley, Ann C., and Nicole Buonocore Porter, eds. "Systemic Claims and Gender: Proving Disparate Treatment and Impact." In *Feminist Judgments: Rewritten Employment Discrimination Opinions*, 334–461. Feminist Judgment Series: Rewritten Judicial Opinions. Cambridge: Cambridge University Press, 2020. <https://doi.org/10.1017/9781108694643.008>.

McIlvanie, Kate. "Seeking Equality in Wages for Employees with Intellectual and Developmental Disabilities." *Northern Illinois University Law Review* 40, no. 1 (2019): 70–99. <https://heinonline.org/HOL/P?h=hein.journals/niulr40&i=70>.

Meara, Katie, Francesco Pastore, and Allan Webster. "Is the Gender Pay Gap in the US Just the Result of Gender Segregation at Work?" *IZA Discussion Paper No. 10673*, April 10, 2017. <https://papers.ssrn.com/abstract=2949109>.

Meli, Jeffrey, and James C. Spindler. "Salary History Bans and Gender Discrimination." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, March 28, 2019. <https://papers.ssrn.com/abstract=3361431>.

Miazad, Amelia. "Sex, Power, and Corporate Governance." *UC Davis Law Review* 54, no. 4 (2021): 1913–98. <https://heinonline.org/HOL/P?h=hein.journals/davlr54&i=1925>.

Mihaila, Ramona. "Female Labor Force Participation and Gender Wage Discrimination." *Journal of Research in Gender Studies* 6 (2016): 262–68. <http://heinonline.org/HOL/P?h=hein.journals/jogenst6&i=263>.

———. "Is the Decrease in the Gender Wage Gap the Principal Driver of the Sustained Rise in Female Labor Market Participation?" *Journal of Research in Gender Studies* 6 (2016): 146–52. <http://heinonline.org/HOL/P?h=hein.journals/jogenst6&i=424>.

Miller, McKenzie. "Is VII>IX? Does Title VII Preempt Title IX Sex Discrimination Claims in Higher Ed Employment?" *Catholic University Law Review* 68, no. 2 (2019): 401–24. <https://heinonline.org/HOL/P?h=hein.journals/cathu68&i=413>.

The Pay Equity Project

Mocio, Lilette. "United States Soccer Federation, Inc. v. United States Women's National Soccer Team Players Association: When Winning Isn't Everything: An Examination into a World Where Female Isn't Deleted, but Figures after a Dollar Sign Are." *Sports Lawyers Journal* 25 (2018): 249–68.

<https://heinonline.org/HOL/P?h=hein.journals/sportlj25&i=255>.

Monopoli, Paula A. "The Market Myth and Pay Disparity in Legal Academia." *Idaho Law Review* 52, no. 3 (September 2016): 866–87.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=116881855&site=ehost-live>.

Morgan, J. Andrew. "How to Close the Gender Pay Gap: Transparency in Data Regarding Compensation Is the Key." *Connecticut Journal of International Law* 35, no. 3 (2020): 407–44.

<https://heinonline.org/HOL/P?h=hein.journals/conjil35&i=457>.

Musachio, Megan. "Shooting for Equality: The U.S. Women's National Team and Their Struggle for Equal Pay." *Journal of International Business and Law* 19, no. 2 (2020): 258–79.

<https://heinonline.org/HOL/P?h=hein.journals/jibla19&i=282>.

Nica, Elvira. "Economic Processes and Gender Equality." *Journal of Research in Gender Studies* 4 (2014): 1050–55. <http://heinonline.org/HOL/P?h=hein.journals/jogenst4&i=1051>.

Nichols, Timothy J. "Closing the Wage Gap: Cities' and States' Prohibitions Against Prior Salary History Inquiries and the Implications Moving Forward." *Seton Hall Law Review* 49, no. 2 (April 2019): 411–39.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=136108839&site=ehost-live>.

Onwuachi-Willig, Angela. "The Intersectional Race and Gender Effects of the Pandemic in Legal Academia." *Hastings Law Journal* 72, no. 6 (August 1, 2021): 1703–15.

https://repository.uchastings.edu/hastings_law_journal/vol72/iss6/4.

Pack, Sarah, Thomas A. Baker III, and Bob Heere. "One Nation, Two Teams: The U.S. Women's National Team's Fight for Equal Pay." *Northeastern University Law Review* 13, no. 2 (2021): 339–88.

<https://heinonline.org/HOL/P?h=hein.journals/norester13&i=362>.

Palk, Laura, and Shelly Grunsted. "Born Free: Toward an Expansive Definition of Sex." *Michigan Journal of Gender & Law* 25, no. 1 (June 2018): 1–58.

<https://heinonline.org/HOL/P?h=hein.journals/mjgl25&i=9>.

Parady, Sarah, Charlotte N. Sweeney, and Bill C. Berger. "Colorado's Equal Pay for Equal Work Act: What Employment Counsel Need to Know Labor and Employment Law." *Colorado Lawyer* 48, no. 9 (2019): 36–43. <https://heinonline.org/HOL/P?h=hein.barjournals/cololaw0048&i=902>.

<https://heinonline.org/HOL/P?h=hein.barjournals/cololaw0048&i=902>.

Park, Kyung H, and Nayoung Rim. "The Disparate Impact of Up-or-Out Promotion Policy on Fertility Timing." *American Law and Economics Review* 22, no. 1 (April 1, 2020): 127–72.

<https://doi.org/10.1093/aler/ahaa003>.

Peery, Destiny. "Number of Women Equity Partners in Law Firms Maintains a Slow and Steady Pace: Annual Survey Report - 2017." *Women Lawyers Journal* 102 (2017): 10–21.

<http://heinonline.org/HOL/P?h=hein.journals/wolj102&i=180>.

The Pay Equity Project

Perras, Carrie. "Moving Towards Equal Pay for Professional Female Athletes: What We Can Learn from Equal Pay Legislation in Iceland." *Indiana International & Comparative Law Review* 30, no. 2 (January 2020): 319–48.

<https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=148711440&site=ehost-live>.

Pettinicchio, David, and Michelle Maroto. "Employment Outcomes Among Men and Women with Disabilities: How the Intersection of Gender and Disability Status Shapes Labor Market Inequality." *Research in Social Science and Disability* 10 (September 11, 2017): 3–33.

<https://papers.ssrn.com/abstract=3035611>.

Phillips, Alexandra N. "Promulgating Parity: An Argument for a States-Based Approach to Valuing Women's Work and Ensuring Pay Equity in the United States." *Tulane Law Review* 92 (2018): 719–44.

<https://heinonline.org/HOL/P?h=hein.journals/tulr92&i=759>.

Pietruszka, John. "Looking to the United Kingdom to Overhaul New York State's Paid Family Leave Law and Close the Global Gender Gap." *Brooklyn Journal of International Law* 45, no. 1 (2019): 463–96. <https://heinonline.org/HOL/P?h=hein.journals/bjil45&i=471>.

Pittman, Larry. "The Thirteenth Amendment and Equal Protection: A Structural Interpretation to 'Free' the Amendment." *William & Mary Journal of Race, Gender, and Social Justice* 27, no. 2 (May 12, 2021): 461–514. <https://scholarship.law.wm.edu/wmjowl/vol27/iss2/6>.

Plass, Stephen. "Securing Workers' Economic Rights Through Public Protest." *Intercultural Human Rights Law Review* 11 (January 2016): 33–54.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=118651929&site=ehost-live>.

———. "Wage Compression as a Democratic Ideal." *Cornell Journal of Law and Public Policy* 25 (2016): 601–48. <https://heinonline.org/HOL/P?h=hein.journals/cjlpp25&i=619>.

Porter, Nicole Buonocore. "Book Review: An Ambitious Approach: A Review of Lifetime Disadvantage, Discrimination and the Gendered Workforce." *Employee Rights and Employment Policy Journal* 22, no. 1 (2018): 125–58. <https://heinonline.org/HOL/P?h=hein.journals/emprght22&i=129>.

———. "Choices, Bias, and the Value of the Paycheck Fairness Act: A Response Essay." *ABA Journal of Labor & Employment Law* 29, no. 3 (Spring 2014): 429–45.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=102906841&site=ehost-live>.

Preedy, Melia. "Subminimum or Subpar? A Note in Favor of Repealing the Fair Labor Standards Act's Subminimum Wage Program." *Seattle University Law Review* 37, no. 3 (Spring 2014): 1097–1125.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=98282175&site=ehost-live>.

Price, Nicole. "The Turf War: Gender Discrimination and the Creation of a Hostile Work Environment through Synthetic Turf." *University of Denver Sports and Entertainment Law Journal*, 2017, 23–44.

<https://heinonline.org/HOL/P?h=hein.journals/denversel20&i=27>.

Pulido, Dania Y. "When Giving Birth Becomes a Liability: The Intersection of Reproductive Oppression and the Motherhood Wage Penalty for Latinas in Texas." *Scholar: St. Mary's Law Review on Race and Social Justice* 19 (2016): 111–44. <http://heinonline.org/HOL/P?h=hein.journals/schom19&i=121>.

The Pay Equity Project

Quintana-García, Cristina, and Marta M. Elvira. "The Effect of the External Labor Market on the Gender Pay Gap among Executives." *ILR Review* 70, no. 1 (January 1, 2017): 132–59.

<https://doi.org/10.1177/0019793916668529>.

Rabb, Harriet S. "Litigating Sex Discrimination Cases in the 1970s." *Columbia Journal of Gender & Law* 25, no. 1 (March 2013): 50–53. <https://heinonline.org/HOL/P?h=hein.journals/coljgl25&i=60>.

Ramdat, Bryan. "The Gender Pay Gap, in Relation to Professional Sports." *Journal of Race, Gender, and Ethnicity* 10, no. 1 (January 1, 2021): 45–65. <https://digitalcommons.tourolaw.edu/jrge/vol10/iss1/8>.

Renberg, Kristen M. "Money Talks, but Is Prior Pay Silenced Under the Equal Pay Act? Rizo v. Yovino." *Justice System Journal* 41, no. 4 (October 1, 2020): 379–80.

<https://doi.org/10.1080/0098261X.2020.1869442>.

Rikleen, Lauren Stiller. "Women Lawyers Continue to Lag behind Male Colleagues: Report of the Ninth Annual NAWL National Survey On Retention And Promotion Of Women In Law Firms." *Women Lawyers Journal* 100, no. 4 (2015): 25–41. <http://heinonline.org/HOL/P?h=hein.journals/wolj100&i=183>.

Río, Coral del, and Olga Alonso-Villar. "Occupational Achievements of Same-Sex Couples in the United States by Gender and Race." *Industrial Relations: A Journal of Economy and Society* 58, no. 4 (2019): 704–31. <https://doi.org/10.1111/irel.12246>.

Rippner, Jennifer A., and Robert K. Toutkoushian. "The 'Big Bang' in Public and Private Faculty Salaries." *Journal of Education Finance* 41, no. 2 (2015): 103–23.

<http://link.galegroup.com/apps/doc/A439632929/LT?u=ucirvine&sid=LT&xid=53f8f558>.

Riscione, Kristen K., and Amy Vorenberg. "Podia and Pens: Dismantling the Two-Track System for Legal Research and Writing Faculty." *Columbia Journal of Gender and Law* 31 (2015): 47–64.

<https://heinonline.org/HOL/P?h=hein.journals/coljgl31&i=59>.

Robbins, Ruth Anne, Kristen K. Tiscione, and Melissa H. Weresh. "Persistent Structural Barriers to Gender Equity in the Legal Academy and the Efforts of Two Legal Writing Organizations to Break Them Down." *Villanova Law Review* 65, no. 5 (2020): 1155–86.

<https://heinonline.org/HOL/P?h=hein.journals/vllalr65&i=1195>.

Rollor, Claire R. "Narrowing the Gender Pay Gap by Providing Equal Opportunities: The Need for Tenured Female Professors in Higher STEM Institutions in an Effort to Recast Gender Norms." *UCLA Women's Law Journal* 21 (2014): 143–84.

<http://heinonline.org/HOL/P?h=hein.journals/uclawo21&i=164>.

Romero, Adam P. "Does the Equal Pay Act Prohibit Discrimination on the Basis of Sexual Orientation or Gender Identity?" *Alabama Civil Rights & Civil Liberties Law Review* 10, no. 1 (2019): 35–94.

<https://heinonline.org/HOL/P?h=hein.journals/alabcrcl10&i=41>.

Rowan, Jenna N. "Equal Protection for Equal Play: A Constitutional Solution to Gender Discrimination in International Sports." *Vanderbilt Journal of Entertainment & Technology Law* 20, no. 3 (Spring 2018): 919–45. <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=129348101&site=ehost-live>.

The Pay Equity Project

- Ruan, Nantiya. "Chapter Introduction: Pay Inequality, Access to Work, and Discrimination." *Denver University Law Review* 91 (2014): 869–72. <http://heinonline.org/HOL/P?h=hein.journals/denlr91&i=893>.
- Ruan, Nantiya, and Nancy Reichman. "Hours Equity Is the New Pay Equity." *Villanova Law Review* 59 (2014): 35–82. <https://heinonline.org/HOL/P?h=hein.journals/vllalr59&i=45>.
- Russell, Hannah Michelle, and Murphy Smith. "How Corporate Internal Auditors Can Advance Gender Equality." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, 2018. <https://papers.ssrn.com/abstract=3315771>.
- Sachs, Benjamin I. "In Memoriam: Judge Stephen Reinhardt." *Harvard Law Review* 131, no. 8 (2018): 2112–16. <https://heinonline.org/HOL/P?h=hein.journals/hlr131&i=2148>.
- Safstrom, Jennifer. "Salary History and Pay Parity: Assessing Prior Salary History as a 'Factor Other than Sex' in Equal Pay Act Litigation." *Yale Journal of Law and Feminism* 31, no. 1 (2019): 135–66. <https://heinonline.org/HOL/P?h=hein.journals/yjfem31&i=142>.
- Sahni, Herman, and Suresh L. Paul. "Sociability Capital and Gender Wage Gap." SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, March 10, 2019. <https://papers.ssrn.com/abstract=3346955>.
- Sasson, Bridget. "The Equal Pay Act: Almost Fifty Years Later, Why Wage Gap Still Exists." *Duquesne Business Law Journal* 15 (2013): 73–86. <http://heinonline.org/HOL/P?h=hein.journals/duqbuslr15&i=73>.
- Savage, Mariah. "Money Talks: Using Prior Salary as an Affirmative Defense in Equal Pay Claims." *Utah Law Review* 2020, no. 1 (January 2020): 289–311. <https://heinonline.org/HOL/P?h=hein.journals/utahlr2020&i=297>.
- Sbrocchi, Samantha M. "Gender Pay Gap: The Time to Speak up Is Now." *Touro Law Review* 35, no. 2 (2019): 839–65. <https://heinonline.org/HOL/P?h=hein.journals/touro35&i=855>.
- Schipani, Cindy A., and Terry Morehead Dworkin. "Class Action Litigation after Dukes: In Search of a Remedy for Gender Discrimination in Employment." *University of Michigan Journal of Law Reform* 46 (2013): 1249–78. <http://heinonline.org/HOL/P?h=hein.journals/umijlr46&i=1291>.
- Schneider, Andrea. "Negotiating While Female." *SMU Law Review* 70 (2017): 695–720. <http://heinonline.org/HOL/P?h=hein.journals/smulr70&i=715>.
- Scudder, Penelope. "Failing Our Workers: How the FMLA and RFRA Disadvantage Female Workers in the United States When Compared to Their European Union Counterparts." *Penn State Journal of Law and International Affairs* 6, no. 1 (2018): 427–60. <https://heinonline.org/HOL/P?h=hein.journals/pensalfaw6&i=432>.
- Settele, Sonja. "How Do Beliefs About the Gender Wage Gap Affect the Demand for Public Policy?" SSRN Scholarly Paper (Forthcoming *American Economic Journal: Economic Policy*). Rochester, NY: Social Science Research Network, May 3, 2019. <https://doi.org/10.2139/ssrn.3382325>.

The Pay Equity Project

Shilton, Elizabeth. "Book Review: Lifetime Disadvantage, Discrimination and the Gendered Workforce." *Comparative Labor Law & Policy Journal* 39, no. 3 (2018): 645–50.

<https://heinonline.org/HOL/P?h=hein.journals/cllpj39&i=683>.

Shippey, Ian P. "Pay History and Wage Discrimination: Can State Pay History Laws Survive Present Judicial Construction of the Equal Pay Act?" *American Journal of Trial Advocacy* 42, no. 2 (Spring 2019): 411–47. <https://heinonline.org/HOL/P?h=hein.journals/amjtrad42&i=427>.

Silbermann, Jacki. "Gender-Based Pay Gaps in the Gig Economy." *Harvard Journal of Law & Gender Online Content*, February 6, 2020. <https://harvardjlg.com/2020/02/gender-based-pay-gaps-in-the-gig-economy/>.

Silva de Alwis, Rangita de, and Amanda M. Martin. "'Long Past Time': CEDAW Ratification in the United States." *University of Pennsylvania Journal of Law & Public Affairs* 3, no. 1 (2018): 15–52.

<https://heinonline.org/HOL/P?h=hein.journals/penjuaf3&i=21>.

Siniscalco, Gary, Lauri Damrell, and Clara Morain Nabity. "The Pay Gap, the Glass Ceiling, and Pay Bias: Moving Forward Fifty Years After the Equal Pay Act." *ABA Journal of Labor & Employment Law* 29, no. 3 (Spring 2014): 395–427.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=102906840&site=ehost-live>.

Słoczyński, Tymon. "Average Gaps and Oaxaca–Blinder Decompositions: A Cautionary Tale about Regression Estimates of Racial Differences in Labor Market Outcomes." *ILR Review* 73, no. 3 (May 1, 2020): 705–29. <https://doi.org/10.1177/0019793919874063>.

Slutsky, Amanda B. "But, Men and Women Are Equally Compensated, Right? An Examination of Why an Equal Rights Amendment in New York's Constitution Will End the Wage Gap." *Journal of Civil Rights and Economic Development* 32, no. 3 (2019): 341–68.

<https://heinonline.org/HOL/P?h=hein.journals/sjllc32&i=359>.

Smith, Meg, Robyn Layton, and Andrew Stewart. "Inclusion, Reversal, or Displacement: Classifying Regulatory Approaches to Pay Equity." *Comparative Labor Law & Policy Journal* 39 (2018 2017): 211–46. <https://heinonline.org/HOL/P?h=hein.journals/cllpj39&i=223>.

Smith, Michelle Margaret. "You Play Ball Like a Girl: Cultural Implications of the Contact Sports Exemption and Why It Needs to Be Changed." *Cleveland State Law Review* 66, no. 3 (2018): 677–703.

<https://heinonline.org/HOL/P?h=hein.journals/clevslr66&i=693>.

Soled, Amy H. "Legal Writing Professors, Salary Disparities, and the Impossibility of 'Improved Status.'" *Legal Writing: The Journal of the Legal Writing Institute* 24 (2020): 47–53.

<https://www.legalwritingjournal.org/2020/03/15/legal-writing-professors-salary-disparities-and-the-impossibility-of-improved-status/>.

Specker, Suzanne. "Hun, I Want You for Dessert: Why Eliminating the Sub-Minimum Wage for Restaurant Servers Will Empower Women." *University of Pennsylvania Journal of Law and Social Change* 19 (2016): 335–50. <http://heinonline.org/HOL/P?h=hein.journals/hybrid19&i=346>.

The Pay Equity Project

- Spector, Rachel A. "Dignified Jobs at Decent Wages: Reviving an Economic Equity Model of Employment Discrimination Law." *Berkeley Journal of Employment and Labor Law* 36 (2015): 123–68. <https://heinonline.org/HOL/P?h=hein.journals/berkjemp36&i=123>.
- Spletzer, James R., and Elizabeth Weber Handwerker. "Measuring the Distribution of Wages in the United States from 1996 through 2010 Using the Occupational Employment Survey." *Monthly Labor Review* 137 (2014): 1–20. <https://heinonline.org/HOL/P?h=hein.journals/month137&i=419>.
- Stansell, Margaret. "The Need for Ratification of the Equal Rights Amendment: More Rights than None, but Still Not Equal." *UMKC Law Review* 89, no. 3 (2021): 779–800. <https://heinonline.org/HOL/P?h=hein.journals/umkc89&i=799>.
- Stark, Barbara. "State Responsibility for Gender Stereotyping." *Journal of Gender, Race & Justice* 17 (2014): 333–66. <http://heinonline.org/HOL/P?h=hein.journals/jgrj17&i=361>.
- Stebbins, Julie-Anne Geraghty. "Family Law - The Rehabilitation Illusion: How Alimony Reform in Massachusetts Fails to Compensate for Caregiving." *Western New England Law Review* 36 (2014): 407–36. <https://heinonline.org/HOL/P?h=hein.journals/wnelr36&i=407>.
- Steinbuch, Robert. "Finding Female Faculty: Empirically Assessing the State of Women in the Legal Academy." *Women's Rights Law Reporter* 36 (2015): 375–423. <http://heinonline.org/HOL/P?h=hein.journals/worts36&i=393>.
- Sterling, Joyce, and Nancy Reichman. "Navigating the Gap: Reflections on 20 Years Researching Gender Disparities in the Legal Profession." *FIU Law Review* 8, no. 2 (March 20, 2013): 515–39. <http://ecollections.law.fiu.edu/lawreview/vol8/iss2/16>.
- Stern, Cari. "Title VII and Title IX: A 30,000 Foot View." *DePaul Journal of Sports Law & Contemporary Problems* 9 (2013 2012): 147–58. <http://heinonline.org/HOL/P?h=hein.journals/jspocpd9&i=163>.
- Stevenson, Elizabeth A. "Is Prior Salary a Factor Other than Sex?: An Approach to Resolve the Ongoing Debate." *Nebraska Law Review* 98, no. 4 (2020): 996–1025. <https://heinonline.org/HOL/P?h=hein.journals/nebklr98&i=1020>.
- Strain, Michael, and Douglas A. Webber. "High School Experiences, the Gender Wage Gap, and the Selection of Occupation." *IZA Discussion Paper No. 9277*, September 4, 2015. <https://papers.ssrn.com/abstract=2655317>.
- Suk, Julie C. "An Equal Rights Amendment for the Twenty-First Century: Bringing Global Constitutionalism Home." *Yale Journal of Law and Feminism* 28 (2017): 381–444. <http://heinonline.org/HOL/P?h=hein.journals/yjfem28&i=389>.
- Tewari, Geeta. "Local Governance, Pay Equity, and the Pandemic: Applying New York City Human Rights Law to Salary Negotiation." SSRN Scholarly Paper (Forthcoming Albany Law Review). Rochester, NY: Social Science Research Network, 2021. <https://doi.org/10.2139/ssrn.3817503>.
- Tharp, Derek T., Meghaan Lurtz, Katherine S. Mielitz, Michael Kitces, and David Allen Ammerman. "Examining the Gender Pay Gap among Financial Planning Professionals: A Blinder-Oaxaca

The Pay Equity Project

Decomposition.” *FINANCIAL PLANNING REVIEW* 2, no. 3–4 (2019): e1061.

<https://doi.org/10.1002/cfp2.1061>.

Theloudis, Alexandros. “Wages and Family Time Allocation.” *Luxembourg Institute of Socio-Economic Research (LISER) Working Paper No. 2018-06*, February 20, 2018.

<https://papers.ssrn.com/abstract=3126715>.

Timpson, Corey. “Rizo V. Yovino: Another Step Toward Equality Through the Equal Pay Act.” *Golden Gate University Law Review* 49, no. 1 (January 2019): 29–55.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=134549105&site=ehost-live>.

Tippett, Elizabeth C. “Opportunity Discrimination: A Hidden Liability Employers Can Fix.” *Employee Rights and Employment Policy Journal* 23, no. 1 (2019): 165–98.

<https://heinonline.org/HOL/P?h=hein.journals/emprght23&i=171>.

Tiscione, Kristen K. “Gender Inequity throughout the Legal Academy: A Quick Look at the (Surprisingly Limited) Data.” *Journal of Legal Education* 69, no. 1 (2019): 116–22.

<https://heinonline.org/HOL/P?h=hein.journals/jled69&i=120>.

Travis, Michelle A. “Disabling the Gender Pay Gap: Lessons from the Social Model of Disability.” *Denver University Law Review* 91 (2014): 893–924.

<https://heinonline.org/HOL/P?h=hein.journals/denlr91&i=917>.

Treuthart, Mary Pat. “Feminist-in-Chief? Examining President Obama’s Executive Orders on Women’s Rights Issues.” *Chicago-Kent Law Review* 91 (2016): 171–206.

<http://heinonline.org/HOL/P?h=hein.journals/chknt91&i=185>.

Tronolone, Nicole. “The Blurry Limits of the Equal Pay Act’s ‘Factor Other Than Sex’: An Argument For Limiting The Use of Salary History and the Benefit to Employers.” *Wake Forest Law Review Online* 11 (March 5, 2021): 21–41. <http://www.wakeforestlawreview.com/2021/03/the-blurry-limits-of-the-equal-pay-acts-factor-other-than-sex-an-argument-for-limiting-the-use-of-salary-history-and-the-benefit-to-employers/>.

Tufarolo, Morgan A. “You Haven’t Come a Long Way, Baby: The Courts’ Inability to Eliminate the Gender Wage Gap Fifty-Two Years After the Passage of the Equal Pay Act.” *American University Journal of Gender, Social Policy & the Law* 24, no. 2 (June 2016): 305–36.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=114708787&site=ehost-live>.

Underhill, Bridget. “Moving Closer to Pay Parity by Requiring Wage Transparency: A Private Sector National Standard.” *University of Detroit Mercy Law Review* 97, no. 1 (2019): 157–86.

<https://heinonline.org/HOL/P?h=hein.journals/udetmr97&i=159>.

Vandenberg, Kate. “Salary History and the Equal Pay Act: An Argument for the Adoption of ‘Reckless Discrimination’ as a Theory of Liability.” *Northwestern Journal of Law and Social Policy* 15, no. 2 (2020): 246–64.

<https://heinonline.org/HOL/P?h=hein.journals/nwjlso15&i=246>.

Ward, Stephanie Francis. “Pay Check.” *ABA Journal* 106, no. 5 (2020): 54–59.

<https://heinonline.org/HOL/P?h=hein.journals/abaj106&i=360>.

The Pay Equity Project

Warren, Zack. "The Green Goods and Services Occupational Survey: Initial Results Green Goods and Services." *Monthly Labor Review* 136 (2013): 26–35.

<https://heinonline.org/HOL/P?h=hein.journals/month136&i=39>.

Watkins, Tone Abbott. "The Ghost of Salary Past: Why Salary History Inquiries Perpetuate the Gender Pay Gap and Should Be Ousted as a Factor Other than Sex." *Minnesota Law Review* 103, no. 2 (December 2018): 1041–88.

<http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=134175412&site=ehost-live>.

Webber, Douglas A. "Firm-Level Monopsony and the Gender Pay Gap." *Industrial Relations: A Journal of Economy and Society* 55, no. 2 (April 1, 2016): 323–45. <https://doi.org/10.1111/irel.12142>.

Wheeler, Carolyn L. "Women's Work Is Never Done." *St. Louis University Public Law Review* 36, no. 1 (January 2017): 59–85. <https://heinonline.org/HOL/P?h=hein.journals/stlpl36&i=73>.

Williams, Jamillah Bowman. "Maximizing #MeToo: Intersectionality & the Movement." *Boston College Law Review* 62, no. 6 (2021): 1797–1864. <https://heinonline.org/HOL/P?h=hein.journals/bclr62&i=1830>.

Wood, Tyler M. "Never Ask a Woman Her Wage: The Constitutionality of Salary-History Bans." *University of Chicago Law Review* 88, no. 5 (September 2021): 1247–83.

<https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=152242287&site=ehost-live>.

Yearby, Ruqaiijah. "Internalized Oppression: The Impact of Gender and Racial Bias in Employment on the Health Status of Women of Color." *Seton Hall Law Review* 49, no. 5 (2019): 1037–66.

<https://heinonline.org/HOL/P?h=hein.journals/shlr49&i=1036>.

Yoshino, Keiko Lynn. "Reevaluating the Equal Pay Act for the Modern Professional Woman." *Valparaiso University Law Review* 47 (2013): 585–626.

<https://heinonline.org/HOL/P?h=hein.journals/valur47&i=613>.

Yuracko, Kimberly A., and Ronen Avraham. "Valuing Black Lives: A Constitutional Challenge to the Use of Race-Based Tables in Calculating Tort Damages." *California Law Review* 106, no. 2 (2018): 325–72.

<https://heinonline.org/HOL/P?h=hein.journals/calr106&i=341>.

Zerunyan, Nicole. "Time's up: Addressing Gender-Based Wage Discrimination in Professional Sports." *Loyola of Los Angeles Entertainment Law Review* 38, no. 3 (September 2018): 229–59.

<https://heinonline.org/HOL/P?h=hein.journals/laent38&i=247>.

Zhang, Terrence Y. "Does a 'Gender Wage Gap' Exist at the University of Florida?" SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, December 5, 2018.

<https://papers.ssrn.com/abstract=3305473>.

Zilberman, Raquel S. "Pay Her More! How Sex and Motherhood Play a Role in the Unequal Pay of Women on the World Stage." *San Diego International Law Journal* 21, no. 1 (2019): 295–330.

<https://heinonline.org/HOL/P?h=hein.journals/sdintl21&i=298>.

The Pay Equity Project

Annotated Bibliography

The Ghost of Salary Past: Why Salary History Inquiries Perpetuate the Gender Pay Gap and Should Be Ousted as a Factor other than Sex

Author Torie Abbott Watkins

Abstract Salary history inquiries adopt and reinforce past discrimination, continuing a cycle where women make less money than men. Breaking this perpetual cycle allows new, well-intentioned actors the ability to make choices that are fair and equal. This Note exposes the dangers of salary history inquiries, and how women suffer from a perpetual pay gap that stems - in part - from those inquiries. While use of a salary history inquiry is neutral on its face, in application, women are disparately impacted by a history of lower wages. Part I outlines the Equal Pay Act and modern "equal pay for equal work" doctrine, and the use of salary history inquiries under the Act's "any other factor other than sex" exception. Part II discusses current statistics and myths about the gender pay gap, outlines the salary history inquiry circuit split caused by the Act's grey area, and addresses past federal and state proposals to address that grey area. Part III proposes a legislative solution to ban salary history inquiries and reduce the overall gender pay gap.

Publication Minnesota Law Review

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/mnlr103&i=1063>

Volume 103

Issue 2

Pages 1041-1088

**Journal
Abbr** Minn. L. Rev.

- **Tags:**
 - Student Note⁷⁰

The End "Goal" to the U.S. Women's Soccer Team Equal Pay Lawsuit: Proposing a Resolution for Gender Equality by Examining the Equal Pay Laws for Male and Female Sports

Author Veronica Adams

Abstract In March 2019, on International Women's Day, 28 women on the U.S. Women's Soccer Team filed a lawsuit against The U.S. Soccer Federation claiming gender discrimination, specifically in unequal payment between the men's team and the women's team. Players based the lawsuit on two grounds: (1) that U.S. Soccer violated the Equal Pay Act by paying the WNT less than the MNT; and (2) that the federation discriminated against the WNT under Title VII of the Civil Rights Act in regard to workplace conditions. The Federation claims that the men and women are paid equally and the discrepancy in pay lies in the way the payment is broken down for each respective team, since the WNT did not agree to a collective bargaining agreement as the MNT did. Additionally, the Federation

The Pay Equity Project

points to the language of the Equal Pay Act to show that the men and women are distinctive in accordance with the language in the statute. On May 1, federal Judge Klausner in California rejected the players claims that the WNT was paid less than the MNT. In his decision, he stated that other unequal working conditions such as travel conditions and medical support were issues that could be presented at trial. Ultimately Judge Klausner concluded that the WNT did not prove wage discrimination under the Equal Pay Act because the women's team played more games and received more money than the men. Though, the fight has not stopped there. The WNT players have appealed the decision for which the trial has been asked to be pushed back to January 2021 due to the COVID-19 pandemic. This article will examine whether the WNT can prevail with an equal pay claim under the current lawsuit and propose solutions to deter future pay disparity claims. Part I will discuss the WNT equal pay lawsuit in its entirety. Part II will analyze the WNT's chance of prevailing under the claims brought. Part III will study both effective and ineffective pay structures in other sports. Part IV will analyze pay structure for both men and women and propose an equal business structure to ensure that there is no discrimination based on gender, specifically in United States professional soccer.

Publication	University of Miami Business Law Review
Date	Winter 2021
URL	https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=152545810&site=ehost-live
Volume	29
Issue	1
Pages	22-48

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

The Occupational Feminization of Wages

Author John T. Addison
Author Orgul D. Ozturk
Author Si Wang

Abstract This article updates the 1995 study by Macpherson and Hirsch that used monthly Current Population Survey (CPS) data from 1973 to 1993 to examine the effects of occupational gender composition on earnings. In the updating process, the authors correct for biases in this data set that are attributable to the inclusion of imputed earners and the misreporting of occupation. They use CPS data from 1996 to 2010 to provide cross-sectional estimates of the impact of the feminization of occupations on wages, as well as its contribution to the gender wage gap. Longitudinal CPS data indicate that the negative effects of gender composition on earnings observed in cross-sectional data are lessened when researchers control for observed heterogeneity and are much reduced when controlling for unobserved heterogeneity. These findings are confirmed using much longer panels from the National Longitudinal Survey of Youth 1979 (NLSY79). Finally, the use of synthetic panels of aging cohorts suggests that

The Pay Equity Project

wage penalties are largest for younger cohorts in predominantly female occupations.

Publication ILR Review
Date January 1, 2018
URL <https://doi.org/10.1177/0019793917708314>
Volume 71
Issue 1
Pages 208-241
Journal Abbr ILR Review
DOI [10.1177/0019793917708314](https://doi.org/10.1177/0019793917708314)

Occupational Skill Mismatch: Differences by Gender and Cohort

Author John T. Addison
Author Liwen Chen
Author Orgul D. Ozturk

Abstract The authors deploy a measure of occupational mismatch based on the discrepancy between the portfolio of skills required by an occupation and the array of abilities possessed by the worker for learning those skills. Using data from the Occupational Information Network (O*NET) and the 1979 and 1997 National Longitudinal Survey of Youth (NLSY79 and NLSY97), they report distinct gender differences in match quality and changes in match quality over the course of careers. They also show that a substantial portion of the gender wage gap stems from match quality differences among the college educated. College-educated females show a significantly greater likelihood of mismatch than do males. Moreover, individuals with children and those in more flexible occupations tend to experience a larger degree of mismatch. Cohort effects are also evident in the data: College-educated males of the younger cohort (NLSY97) are worse off in terms of match quality compared to the older cohort (NLSY79), even as the younger cohort of women is doing better on average.

Publication ILR Review
Date May 1, 2020
URL <https://doi.org/10.1177/0019793919873864>
Volume 73
Issue 3
Pages 730-767
Journal Abbr ILR Review
DOI [10.1177/0019793919873864](https://doi.org/10.1177/0019793919873864)

Protection against the Economic Fears of Old Age: Six Micro and Macro Steps for Bridging the Gap in Retirement Security between Blacks and Whites

Author Philip C. Aka
Author Aref A. Hervani

The Pay Equity Project

- Author** Elizabeth Arnott-Hill
- Abstract** We argue that in the aftermath of the economic downturn, retirement security for Black people is predicated on micro steps comprised of changes in the tripod of Social Security, employer-sponsored pension plans, and personal assets, implemented in tandem with macro steps in the form of a reduction in disparities between Blacks and Whites in education, healthcare, and housing." These are three critical areas of American national life; without reducing disparities in these areas, the chances for Black retirement security may be bleak for many years to come. In developing our argument, we did three things. First, we highlighted the shape of the retirement security gap between Blacks and Whites in a discussion that integrates the six variables at the focus of this Article.^{1 2} Second, we presented a historical narrative necessary for proper understanding of our research that, among other materials, draws on President Franklin D. Roosevelt's model of a right to adequate protection from the economic fears of old age, as part of a bill of economic rights meant to complement the original bill of political rights that the United States adopted in 1791. ¹³ Third and finally, we zeroed in our attention on the six steps for closing the retirement gap between Blacks and Whites at the cynosure of this work. Of those six steps, we devoted extensive space and analysis to personal assets, commensurate with the threat that this benefit source poses for the retirement security regime, which is indicative of the shift in responsibility for retirement readiness to individual workers over many years that predated the economic difficulties of the past decade.¹⁴
- Publication** Vermont Law Review
- Date** 2015-2016
- URL** <https://heinonline.org/HOL/P?h=hein.journals/vlr40&i=9>
- Volume** 40
- Pages** 1-68
- Journal Abbr** Vt. L. Rev.

Teacher Staffing and Pay Differences: Public and Private Schools

- Author** Sylvia A. Allegretto
- Author** Ilan Tojerow
- Abstract** A study using Current Population Survey data shows that, from 1996 to 2012, elementary, middle, and high school teachers earned less than other college graduates, but the gap was smaller for public school teachers and smaller still if they had union representation; moreover, the mitigating effects are stronger for female than male teachers, so the within-gender pay gaps are much larger for male teachers.
- Publication** Monthly Labor Review
- Date** September 2014
- URL** <https://heinonline.org/HOL/P?h=hein.journals/month137&i=762>
- Volume** 137
- Pages** 1-25
- Journal Abbr** Monthly Lab. Rev.

The Pay Equity Project

The Pink Ghetto Pipeline: Challenges and Opportunities for Women in Legal Education

Author Renee Nicole Allen

Author Alicia Jackson

Author DeShun Harris

Abstract

The demographics of law schools are changing and women make up the majority of law students. Yet, the demographics of many law faculties do not reflect these changing demographics with more men occupying faculty seats. In legal education, women predominately occupy skills positions, including legal writing, clinic, academic success, bar preparation, or library. According to a 2010 Association of American Law Schools survey, the percentage of female lecturers and instructors is so high that those positions are stereotypically female. The term coined for positions typically held by women is "pink ghetto." According to the Department of Labor, pink-collar-worker describes jobs and career areas historically considered "women's work," and included on the list is teaching. However, in legal education, tenured and higher-ranked positions are held primarily by men, while women often enter legal education through non-tenured and non-faculty skills-based teaching pipelines. In a number of these positions, women experience challenges like poor pay, heavy workloads, and lower status such as by contract, nontenure, or at will. While many may view this as a challenge, looking at these positions solely as a "pink ghetto" diminishes the many contributions women have made to legal education through the skills faculty pipelines. Conversely, we miss the opportunity to examine how legal education has changed and how women have accepted the challenge of being on the front line of educating this new generation of learners while enthusiastically adopting the American Bar Association's new standards for assessment and student learning. There is an opportunity for women to excel in these positions if we provide them with allies who champion for equal status and provide the requisite support. This article focuses on the changing gender demographics of legal education, legal education pipelines, and the role and status of women in higher education with an emphasis on legal education. The final section applies feminist pedagogy to address challenges, opportunities, and aspirations for women in legal education.

Publication University of Detroit Mercy Law Review

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/udetmr96&i=553>

Volume 96

Issue 4

Pages 525-556

**Journal
Abbr** U. Det. Mercy L. Rev.

Book Review: The Economics of Women, Men, and Work by Francine D. Blau and Anne E. Winkler

Author Shahina Amin

The Pay Equity Project

Abstract Francine D. Blau and Anne E. Winkler have done it again—the eighth edition of the book is an extensively updated and improved version of already excellent previous editions. This textbook is now the most current and comprehensive book on gender economics. Blau and Winkler analyze recent developments in the labor markets and enhance the discussion of many policy issues and legislation in a bipartisan way.

Publication ILR Review

Date January 1, 2018

URL <https://doi.org/10.1177/0019793917738530>

Volume 71

Issue 1

Pages 280-281

**Journal
Abbr** ILR Review

DOI [10.1177/0019793917738530](https://doi.org/10.1177/0019793917738530)

On a Firm's Optimal Response to Pressure for Gender Pay Equity

Author David Anderson

Author Margret Bjarnadottir

Author Cristian L. Dezso

Author David Gaddis Ross

Abstract We present a theory of how a rational, profit-maximizing firm would respond to pressure for gender pay equity by strategically distributing raises and adjusting its organizational structure to reduce the pay gap between its female and male employees at minimum cost. Using mathematical reasoning, simulations, and data from a real employer, we show that (a) employees in low-paying jobs and whose job-related traits typify men at the firm are most likely to get raises; (b) counterintuitively, some men will get raises and giving raises to certain women would increase the pay gap; (c) a firm can reduce the gender pay gap as measured by a much larger percentage than the overall increase in pay to women at the firm; and (d) “ghettoizing” women in select jobs can help a firm reduce its pay gap. Our analysis yields a rich set of implications for empirical research and policy.

Publication Robert H. Smith School Research Paper No. RHS 2798938

Date June 2016

URL <https://ssrn.com/abstract=2798938>

Pages 1-34

Jumping 5 Hurdles in Equal Pay Cases: When representing women who have been denied fair wages, here are some common obstacles to anticipate as you build your case

Author Lori E. Andrus

Abstract When representing women who have been denied fair wages, here are some common obstacles to anticipate as you build your case. From insurance

The Pay Equity Project

companies to the U.S. Soccer Federation, businesses and institutions across America are facing lawsuits for paying women less than men.¹ Slowly but surely, women are demanding equal pay for equal work. Although women's *31 wages steadily increased between 1980 and 2000-- diminishing the gap between the wages of their male counterparts--these gains have not continued, and wages have leveled off in the last 20 years.² Frustratingly, the overall pay gap appears to be stuck at women earning 80 cents on the dollar--with women in minority groups often earning significantly less.³ Several explanations have been offered for this phenomenon,⁴ but, regardless, the result is wage theft, plain and simple. As corporate employers fail to right this wrong, litigation has become necessary to help level the playing field, and the federal Equal Pay Act of 19635 remains an underutilized tool. Plaintiff attorneys bringing equal pay claims in collective and class actions should prepare for these five common obstacles, whether under the federal statute or a state law equivalent.

Publication Trial

Date July 2020

URL <https://link.gale.com/apps/doc/A631438724/LT?u=ucirvine&sid=bookmark-LT&xid=45032ca0>

Volume 56

Issue 7

Pages 30-38

Should the CEO Pay Ratio Be Regulated?

Author Deniz Anginer

Author Jinjing Liu

Author Cindy A. Schipani

Author H. Nejat Seyhun

Abstract The remainder of this Article is organized as follows. In Part II, we discuss the evolution of CEO compensation. Part III analyzes various regulations regarding promoting disclosure of executive compensation in the United States followed in Part IV with a discussion of the debates surrounding whether disclosure of CEO pay should be mandated. Part V then addresses potential determinants of CEO compensation, while Part VI describes various theories for the contrasting difference in the Pay Ratio between the U.S. and Western Europe. We then provide, in Part VII, empirical evidence that the Pay Ratio correlates with increases in the cost of capital for firms and dominates the CPS. Finally, in Part VIII we discuss policy implications and conclude.

Publication Journal of Corporation Law

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/jcorl45&i=493>

Volume 45

Issue 2

Pages 471-514

Journal Abbr J. Corp. L.

The Pay Equity Project

Bias in the Legal Profession: Self-Assessed versus Statistical Measures of Discrimination

Author Heather Antecol

Author Deborah A. Cobb-Clark

Author Eric Helland

Abstract Legal cases are won or lost on the basis of statistical discrimination measures, but workers' perceptions of discriminatory behavior are important for understanding labor supply decisions. Workers who believe that they have been discriminated against are more likely to leave their employers, and workers' perceptions of discrimination likely drive formal complaints to the Equal Employment Opportunity Commission. Yet the relationship between statistical and self-assessed measures of discrimination is far from obvious. We expand on the previous literature by using data from the After the J.D. study to compare standard Blinder-Oaxaca measures of earnings discrimination to self-reported measures of client discrimination, other work-related discrimination, and harassment. Our results indicate that conventional measures of earnings discrimination are not closely linked to the racial and gender bias that new lawyers believe they have experienced on the job. Moreover, statistical earnings discrimination does not explain the disparity in self-assessed bias across gender and racial groups.

Publication The Journal of Legal Studies

Date June 1, 2014

URL <https://www.journals.uchicago.edu/doi/full/10.1086/677299>

Volume 43

Issue 2

Pages 323-357

Journal Abbr The Journal of Legal Studies

DOI [10.1086/677299](https://doi.org/10.1086/677299)

Motion to Dismiss for Failure to Succeed on the Merits: The EEOC and Rule 12(b)(6)

Author Perry F. Austin

Abstract This Note proceeds in three main Parts. Part I discusses the plausibility standard generally. It then surveys the current split among the circuit courts of appeals regarding the status of pre-*Twombly* precedent governing pleadings in employment discrimination cases. Part II overviews the procedural role of the EEOC in employment discrimination suits. Part III explains why the motion to dismiss for failure to state a claim under Rule 12(b)(6) in employment discrimination actions has become inevitable, and revisits the policy rationale underlying the plausibility standard. Part III then suggests that the motion to dismiss has improperly replaced the motion for summary judgment in the employment discrimination context, allowing courts to evaluate the merits of a plaintiff's lawsuit before a plaintiff is able to obtain key facts in his or her favor through discovery. Finally, it argues that the policy rationale behind plausibility

The Pay Equity Project

pleading points strongly against granting an employer's motion to dismiss when the EEOC files suit on behalf of a plaintiff because the EEOC's function as a gatekeeper prevents meritless suits from being filed in the first place.

Publication William and Mary Law Review

Date February 2018

URL <http://link.galegroup.com/apps/doc/A535996431/LT?u=ucirvine&sid=LT&xid=745c2f39>

Volume 59

Issue 3

Pages 1097-1122

- **Tags:**
 - Student Note⁷⁰

The Intersectionality of Law Librarianship & Gender

Author Jamie J. Baker

Abstract Like the legal writing community who has brought this issue to the forefront, it is important for law librarians to be fully included in the discussion surrounding statusXgender is the legal academy. This Article attempts to do just that. Part I of this Article provides a historical background in librarianship as a pink-collar profession. Part II discusses the pink ghetto in the legal academy and provides a history of law librarians within the legal academy. Part II concludes with a discussion of law librarians inhabiting the pink ghetto of the legal academy. Part III provides insight into the effects of living in a hierarchy, and Part IV concludes with recommendations for improvement.

Publication Villanova Law Review

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/vllalr65&i=1051>

Volume 65

Issue 5

Pages 1011-1036

Journal Abbr Vill. L. Rev.

The Quiet Resignation: Why Do So Many Female Lawyers Abandon Their Careers

Author Jane R. Bambauer

Author Tauhidur Rahman

Abstract Thirty percent of female layers leave their careers. The same is true for female doctors. Over time, an increasing number of married professionals have recreated traditional gender roles, and sodey has lost a tremendous amount of training and well-honed talent as a result. Neither workplace discrimination norfamily obbgations canfully and satisfactorily explain the trend. Both of those theories assume that women take a more dependent and vulnerable position in the household because of constraints, but in one important respect, men are more constrained than women, and they are better offor it: to maintain sodal

The Pay Equity Project

status, men have to work. Women do not. This Article advances a theory and corroborating evidence that the cultural acceptance of female underemployment is a privilege in the abstract, but a curse in practice. Even under the best conditions, the early stages of professional careers involve mistakes, mismatches, and disappointments. An opportunity to escape the stress of the public sphere by focusing on the family may have great appeal in the short run even though the long-run consequences are severe. Asymmetric cultural acceptance creates an easy off-ramp for females, to nearly everybody's detriment.

Publication UC Irvine Law Review

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/ucirv10&i=817>

Volume 10

Issue 3

Pages 799-854

Journal Abbr UC Irvine L. Rev.

For Those Who Do Not Speak: Protecting Class Arbitration as the Last Collective-Action Option for Women

Author Jennifer L. Bame

This Note argues that the protection of class arbitration as a concerted activity should be upheld by the Supreme Court under § 7 of the NLRA, because it is an especially important tool for equalizing the power of women in the workplace. Through the preservation of class arbitration, women will be more successful in enforcing their workplace rights. Part I of this Note reviews how the division of labor along gender lines has created devastating economic consequences for women, leading women to constitute a large majority of the working poor in America. It explores the underlying causes of this gendered division of labor through the lens of divergent feminist theories. It then argues that, as a result of occupational sex segregation, women can benefit greatly from collective action as a means of addressing workplace grievances. Part II discusses the decline of unionization as a tool for collective action and rights enforcement in the workplace, and how the history of collective action has affected working women in America. Part III examines the increasing difficulty of winning class certification and using class action litigation as a tool to assert workplace rights, following *Wal-Mart Stores, Inc. v. Dukes*.²⁴ Part IV considers the use of class arbitration, how it compares to traditional litigation, and why it is currently at risk. This Note concludes that the decline of unionization and other collective-action strategies has left class arbitration as a last-ditch option for working women to collectively address workplace grievances. As such, the Fifth Circuit's decision in *DR Horton* should be reversed, and class arbitration should be protected in the employment context as a necessary form of concerted activity.

Abstract

Publication Washington University Journal of Law & Policy

Date 2014

URL <http://heinonline.org/HOL/P?h=hein.journals/wajlp46&i=252>

Volume 46

The Pay Equity Project

Pages 245-280
Journal Abbr Wash. U. J. L. & Pol'y

- **Tags:**
 - Student Note⁷⁰

Women's Career Choices, Social Norms and Child Care Policies

Author Francesca Barigozzi
Author Helmuth Cremer
Author Kerstin Roeder

Abstract Our model explains the observed gender-specific patterns of career and child care choices through endogenous social norms. We study how these norms interact with the gender wage gap. We show that via the social norm a couple's child care and career choices impose an externality on other couples, so that the laissez-faire is inefficient. We use our model to study the design and effectiveness of three commonly used policies. We find that child care subsidies and women quotas can be effective tools to mitigate or eliminate the externality. Parental leave, however, may even intensify the externality and decrease welfare.

Publication IZA Discussion Paper No. 10502

Date 2017/01/01

URL <https://papers.ssrn.com/abstract=2903124>

Gender Wage Inequality: Is More Legislation the Answer?

Author Nicole Michele Barnhart

Abstract This Comment examines the unfortunate truth of gender wage inequality, focusing primarily on the California Fair Pay Act-one of the toughest equal pay laws in the United States.s Part I examines the gender pay gap and how it is calculated. Part II provides an overview of the different laws aimed at protecting women from wage inequality both at a federal and state level. Part III discusses the negative, unintended consequences that may arise from the California Fair Pay Act by closely examining the plain language of the legislation. Part IV analyzes the underlying factors that contribute to wage inequality between men and women. Finally, Part V concludes with three recommendations on how employers can help eliminate gender wage inequality throughout the United States.

Publication Seattle University Law Review

Date 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/sealr40&i=1467>

Volume 40

Issue 4

Pages 1435-1452

Journal Abbr Seattle U. L. Rev.

The Pay Equity Project

- **Tags:**
 - Student Note⁷⁰

Paid Family Leave, Fathers' Leave-Taking, and Leave-Sharing in Dual-Earner Households

Author Ann P. Bartel
Author Maya Rossin-Slater
Author Christopher J. Ruhm
Author Jenna Stearns
Author Jane Waldfogel

Abstract Using difference-in-difference and difference-in-difference-in-difference designs, we study California's Paid Family Leave (CA-PFL) program, the first source of government-provided paid parental leave available to fathers in the United States. Relative to the pre-treatment mean, fathers of infants in California are 46 percent more likely to be on leave when CA-PFL is available. In households where both parents work, we find suggestive evidence that CA-PFL increases both father-only leave-taking (i.e., father on leave while mother is at work) and joint leave-taking (i.e., both parents on leave at the same time). Effects are larger for fathers of first-born children than for fathers of later-born children.

Publication Journal of Policy Analysis and Management
Date 2017
URL <https://onlinelibrary.wiley.com/doi/abs/10.1002/pam.22030>
Volume 37
Issue 1
Pages 10-37
DOI [10.1002/pam.22030](https://doi.org/10.1002/pam.22030)

Parenting Title VII: Rethinking the History of the Sex Discrimination Prohibition

Author Arianne Renan Barzilay

Abstract It is a pillar of employment discrimination law that Title VII's prohibition of "sex" discrimination lacks prior legislative history.. When interpreting the meaning of sex discrimination protection under Title VII, courts have stated that it is impossible to fathom what Congress intended when it included "sex" in the Act. After all, the sex provision was added at the last minute by the Southern archconservative congressman Howard "Judge" Smith in an attempt to frustrate the Civil Rights Act's passage. Courts have often interpreted the sex provision's passage as a "fluke" that has left us bereft of prior legislative history that might guide judicial interpretation. It is not surprising, then, that Title VII's sex discrimination prohibition has been rather narrowly construed. This Article rethinks this received narrative and emphasizes its implausibility in light of the pre-Civil Rights Act contributions feminists made to the national discourse on sex discrimination. It considers not only scholarship on Equal Rights Feminists' role in passing Title VII's sex provision, but also scholarship on the often-overlooked Working-Class Social and Labor Feminists. The Article also explores the contestations between these two groups over the meaning of sex discrimination.

The Pay Equity Project

It provides a more complex narrative of the provision's parentage than the one previously recognized. The Article reframes the narrative by broadening the scope of inquiry in two ways: first, by focusing on Working-Class Social and Labor Feminists' agitation for equality in the workplace, and second, by looking further back in time in order to reconceptualize debates over workplace equality as formative of the discourse on sex discrimination. The Article begins with early twentieth century contestations over protective labor legislation and argues that Working-Class Social Feminists supported labor regulation based not merely on sex stereotypes, but on their understanding of labor regulation as a means to combat sex discrimination. It continues through the New Deal, when an early sex anti-classification provision was inscribed in federal law by Social Feminists to provide equal pay for men and women. It examines the debates over workplace sex discrimination that reverberated in the decades following World War II and persisted through the early 1960s-when Congress passed the Equal Pay Act and the President's Commission on the Status of Women issued its report. The Article considers these developments as part of feminists' sustained efforts to combat sex discrimination, and as stage-setters for the sex provision's passage. It claims that Working-Class Social and Labor Feminists' long agitation for women's equality de-facto constitutes decades' worth of legislative history for the sex provision. When Congress voted to include "sex" discrimination in Title VII, it was already well aware of its robust meanings, thanks in large part to these feminists' efforts to ameliorate systemic disadvantages facing women in the workforce. Working-Class Social and Labor Feminists' actions and ideology should be considered important influences on the context of the sex provision's birth. As law is the dynamic and indeterminate product of human interaction, its interpretation must account for the complexity of the legacies that infuse it with meaning. To this end, after re-conceiving the history of the sex provision's birth, the Article suggests this history may provide a richer notion of Title VII sex discrimination, one that emphasizes structural features of the market and requires employers to take affirmative measures to offset the features that often result in discrimination.

Publication Yale Journal of Law and Feminism

Date 2016

URL <https://heinonline.org/HOL/P?h=hein.journals/yjfem28&i=59>

Volume 28

Pages 55-102

**Journal
Abbr** Yale J.L. & Feminism

Discrimination without Discriminating: Learned Gender Inequality in the Labor Market and Gig Economy

Author Arianne Renan Barzilay

Abstract The "sharing" economy, and in particular the exchange of labor and services within it, is generating wide-spread attention from scholars. It has been celebrated as a disruption to current forms of labor and consumption. This depiction suggests a new, sui generis form of economy, which can and should be understood in and of itself or at most, by its contrast with the current labor market in which workers are employees. Yet, I argue, emerging research on gender discrimination in the gig economy suggests that this understanding occludes a

The Pay Equity Project

major feature of the gig economy-its operation in the shadow of the labor market and antidiscrimination law. In this Article, I argue that we should begin to consider the deeper relationship between the gig economy, the labor market, and antidiscrimination law. More specifically, I contend that inequality is learned: the labor market teaches gender inequality, these lessons are internalized by workers and reappear in the context of working in the gig economy. Therefore, I suggest that if we wish to mitigate gender discrimination for taskers in the gig economy, we must enhance antidiscrimination law for employees in the traditional labor market.

Publication Cornell Journal of Law and Public Policy
Date 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/cjlp28&i=573>
Volume 28
Issue 3
Pages 545-568
Journal Abbr Cornell J. L. & Pub. Pol'y

Platform Inequality: Gender in the Gig-Economy

Author Arianne Renan Barzilay

Author Anat Ben-David

Abstract Laboring in the new economy has recently drawn tremendous social, legal, and political debate. The changes created by platform-facilitated labor are considered fundamental challenges to the future of work and are generating contestation regarding the proper classification of laborers as employees or independent contractors. Yet, despite this growing debate, attention to gender dimensions of such laboring is currently lacking. This Article considers the gendered promises and challenges that are associated with platform-facilitated labor, and provides an innovative empirical analysis of gender discrepancies in such labor; it conducts a case study of platform-facilitated labor using computational methods that capture some of the gendered interactions hosted by a digital platform. These empirical findings demonstrate that although women work for more hours on the platform, women's average hourly rates are significantly lower than men's, averaging about 2/3 (two-thirds) of men's rates. Such gaps in hourly rates persist even after controlling for feedback score, experience, occupational category, hours of work, and educational attainment. These findings suggest we are witnessing the remaking of women into devalued workers. They point to the new ways in which sex inequality is occurring in platform-facilitated labor. They suggest that we are beholding a third generation of sex inequality, termed "Discrimination 3.0," in which discrimination is no longer merely a function of formal barriers or even implicit biases. The Article sketches Equality-by-Design (EbD) as a possible direction for future redress, through the enlisting of platform technology to enhance gender parity. In sum, this Article provides an empirical base and analysis for understanding the new ways sex inequality is taking hold in platform-facilitated labor.

Publication Seton Hall Law Review
Date 2016-2017

The Pay Equity Project

URL <http://heinonline.org/HOL/P?h=hein.journals/shlr47&i=405>
Volume 47
Pages 393-432
Journal Abbr Seton Hall L. Rev.

The Welfare-Enhancing Role of Parental Leave Mandates

Author Spencer Bastani
Author Tomer Blumkin
Author Luca Micheletto

Abstract A major factor that contributes to persistent gender variation in labor market outcomes is women's traditional role in the household. Child-related absences from work imply that women accumulate less job experience, are more prone to career discontinuities and, hence, suffer a motherhood penalty. We highlight how the gender-driven career/family segmentation of the labor market may create a normative justification for parental leave rules as a means to enhance efficiency in the labor market and alleviate the gender wage gap.

Publication The Journal of Law, Economics, and Organization
Date 2019/03/01
URL <https://academic.oup.com/jleo/article/35/1/77/5183311>
Volume 35
Issue 1
Pages 77-126
Journal Abbr J Law Econ Organ
DOI [10.1093/jleo/ewy021](https://doi.org/10.1093/jleo/ewy021)

Shouting into the Wind: How the ABA Standards Promote Inequality in Legal Education, and What Law Students and Faculty Should Do about It

Author Mary Beth Beazley

Abstract This Article will analyze how we might return 405(b) to its appropriate role as a protector of equitable treatment of full-time law faculty. First, it will analyze some of the reasons that full-time legal writing and clinical faculty are treated differently; second, it will explain how the current system hurts equality, particularly gender equality; third, it will examine how these inequalities hurt the next generation of lawyers; fourth, it will describe how the inequalities hurt the supposed goals of legal education; and finally, it will suggest what law faculty, the ABA and AALS, and law students can do to improve all kinds of equality in legal education.

Publication Villanova Law Review
Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/vllalr65&i=1077>
Volume 65
Issue 5

The Pay Equity Project

Pages 1037-1064
Journal Abbr Vill. L. Rev.

Career Implications of Having a Female-Friendly Supervisor

Author Steven Bednar

Author Dora Gicheva

Abstract The authors study how variations in supervisors' attitudes toward working with females generate gender differences in workers' observed career outcomes. The employment records of athletic directors and head coaches in a set of NCAA Division I programs provide longitudinal matched employer-worker data. Supervisors are observed at multiple establishments, which allows the authors to construct a measure of revealed type and to examine its role for the performance and turnover of lower-level employees. The authors observe that the careers of male and female workers progress differently depending on supervisor type in a way that is consistent with a type-based mentoring model. The results suggest that more focus should be placed on managerial attitudes revealed through actions in addition to observable attributes such as gender.

Publication ILR Review

Date March 1, 2018

URL <https://doi.org/10.1177/0019793917703973>

Volume 71

Issue 2

Pages 426-457

Journal Abbr ILR Review

DOI [10.1177/0019793917703973](https://doi.org/10.1177/0019793917703973)

Will the United States Continue to Say You're Fired to CEDAW?: Lessons Learned from Germany and Chile's Implementation of CEDAW and the Potential for United States Ratification

Author Deborah Bessner

Abstract This Note discusses the potential implementation of CEDAW in the United States, using lessons learned from Germany and Chile to suggest a path forward. Part I of this Note provides the history of the United Nation's 1979 Convention on the Elimination of Discrimination Against Women. Part I then compares CEDAW's uniqueness to other UN human rights treaties. Part II focuses on Germany's implementation of CEDAW: specifically, Part II demonstrates how the post-war German political and social landscape continues to affect CEDAW's enforcement. Part III moves to Chile, and explores the implementation of CEDAW there. This Part also emphasizes how that country's political and social landscape affects its own application of CEDAW. Part IV examines various suggestions why the United States has not ratified CEDAW. Part IV also summarizes domestic women's rights legislation and investigates whether this treaty can be passed in the future given the United States political and social climate. Lastly, Part V

The Pay Equity Project

compares Germany and Chile's implementation of CEDAW, and whether the ideology of a head of state influences the effectiveness of CEDAW. Moreover, Part V argues that the United States should ratify CEDAW based on conclusions drawn from the Note's two case studies.

Publication Fordham International Law Journal

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.journals/frdint40&i=1243>

Volume 40

Pages 1225-1280

**Journal
Abbr** Fordham Int'l L.J.

- **Tags:**
 - Student Note⁷⁰

Pay Equity in the Construction Industry Closing the Gap

Author Anne G. Bibeau

Author Michael J. Jr. Frantz

Author Kristen E. Protas

The Equal Pay Act (EPA) is one of the first federal statutes that addressed gender-based pay disparity and was signed into law by President John F. Kennedy in 1963. In 1960, the disparity between male and female wages was 60.7 percent.¹ Despite the EPA's passage, a wage gap still exists today, although, as discussed below, it is somewhat smaller than it was 60 years ago. Perhaps the reason for this continuing gap is the lack of "teeth" in the EPA.

Abstract However, the EPA has remained legislatively unchanged since its enactment. As a result, in recent years, there has been an increase in state legislation to address gender-based wage disparity and a corresponding uptick in enforcement actions, employee claims, and lawsuits. This article will describe current federal and state sex-based pay disparity law. It will also describe steps that employers and their counsel should consider, and the current state of sex-based pay disparity in the construction industry

Publication Construction Lawyer

Date 2021

URL <https://heinonline.org/HOL/P?h=hein.journals/conlaw41&i=34>

Volume 41

Issue 1

Pages 34-41

**Journal
Abbr** Constr. Law.

Union Wage Gap in the U.S. Construction Sector: 1983–2007

Author Cihan Bilginsoy

The Pay Equity Project

Abstract Wage gap decomposition shows that declining union power was the principal force behind the shrinking union wage premium in the U.S. construction industry between the 1980s and the 2000s. This decline was largely offset by changes in returns to workforce attributes and workforce compositions. Without these moderating effects, the decline in the wage gap would have been twice as large (in log points). The patterns were similar in the basic and mechanical trades, but magnitudes of change were larger in the latter.

Publication Industrial Relations: A Journal of Economy and Society

Date 2013-07-01

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12029>

Volume 52

Issue 3

Pages 677-701

DOI [10.1111/irel.12029](https://doi.org/10.1111/irel.12029)

It's Complicated: Age, Gender, and Lifetime Discrimination against Working Women - the United States and the U.K. as Examples

Author Susan Bisom-Rapp

Author Malcolm Sargeant

Abstract This Article considers the effect on women of a lifetime of discrimination using material from both the U.S. and the U.K. Government reports in both countries make clear that women workers suffer from multiple disadvantages during their working lives, which result in significantly poorer outcomes in old age when compared to men. Indeed, the numbers are stark. In the United States, for example, the poverty rate of women 65 years old and up is nearly double that of their male counterparts. Older women of color are especially disadvantaged. The situation in the United Kingdom is comparable. To capture the phenomenon, the Article develops a model of Lifetime Disadvantage, which considers the major factors that on average produce unequal outcomes for working women at the end of their careers. One set of factors falls under the heading "Gender-based factors." This category concerns phenomena directly connected to social or psychological aspects of gender, such as gender stereotyping and women's traditionally greater roles in family caring activities. A second set of factors is titled "Incremental disadvantage factors." While these factors are connected to gender, that connection is less overt, and the disadvantage they produce increases incrementally over time. The role of law and policy, in ameliorating or exacerbating women's disadvantages, is considered in conjunction with each factor, revealing considerable incoherence and regulatory gaps. Notably, the United Kingdom's more protective legal stance toward women in comparison with the United States fails to change outcomes appreciably for women in that country. An effective, comprehensive regulatory framework could help compensate for these disadvantages, which accumulate over a lifetime. Using the examples of the United States and the United Kingdom, however, the Article demonstrates that regulatory schemes created by "disjointed incrementalism" - in other words, policies that tinker along the margins without considering women's full life course - are unlikely to vanquish systemic inequality on the scale of gender-based lifetime discrimination.

The Pay Equity Project

Publication Elder Law Journal
Date 2014-2015
URL <http://heinonline.org/HOL/P?h=hein.journals/elder22&i=5>
Volume 22
Pages 1-110
Journal Abbr Elder L.J.

The Gender Wage Gap: Extent, Trends, and Explanations

Author Francine D. Blau
Author Lawrence M. Kahn

Abstract Using Panel Study of Income Dynamics (PSID) microdata over the 1980-2010 period, we provide new empirical evidence on the extent of and trends in the gender wage gap, which declined considerably during this time. By 2010, conventional human capital variables taken together explained little of the gender wage gap, while gender differences in occupation and industry continued to be important. Moreover, the gender pay gap declined much more slowly at the top of the wage distribution than at the middle or bottom and by 2010 was noticeably higher at the top. We then survey the literature to identify what has been learned about the explanations for the gap. We conclude that many of the traditional explanations continue to have salience. Although human-capital factors are now relatively unimportant in the aggregate, women's work force interruptions and shorter hours remain significant in high-skilled occupations, possibly due to compensating differentials. Gender differences in occupations and industries, as well as differences in gender roles and the gender division of labor remain important, and research based on experimental evidence strongly suggests that discrimination cannot be discounted. Psychological attributes or noncognitive skills comprise one of the newer explanations for gender differences in outcomes. Our effort to assess the quantitative evidence on the importance of these factors suggests that they account for a small to moderate portion of the gender pay gap, considerably smaller than, say, occupation and industry effects, though they appear to modestly contribute to these differences.

Publication Journal of Economic Literature
Date 2017/9
URL <https://www.aeaweb.org/articles?id=10.1257/jel.20160995>
Volume 55
Issue 3
Pages 789-865
DOI [10.1257/jel.20160995](https://doi.org/10.1257/jel.20160995)

Equal Work

Author Stephanie Bornstein

Abstract Most Americans have heard of the gender pay gap and the statistic that, today, women earn on average eighty cents to every dollar men earn. Far less discussed, there is an even greater racial pay gap. Black and Latino men

The Pay Equity Project

average only seventy-one cents to the dollar of white men. Compounding these gaps is the “polluting” impact of status characteristics on pay: as women and racial minorities enter occupations formerly dominated by white men, the pay for those occupations goes down. Improvement in the gender pay gap has been stalled for nearly two decades; the racial pay gap is actually worse than it was thirty-five years ago. Both pay gaps exacerbate growing income inequality in the United States. While demographic differences contribute to pay disparities (in women’s hours worked and time off for childbearing, and in minority workers’ education and experience levels), economists now find that fully one-third to one-half of both pay gaps is caused by two other factors: occupational segregation—meaning the unequal distribution of women and racial minorities across job fields—and discrimination. To what extent are these factors due to stereotypes about the value of women and racial minorities’ work, and what, if anything, can antidiscrimination law do to respond? Existing federal law prohibits sex and race discrimination in pay, but requires an employee to provide proof of an employer’s intent to discriminate or a nearly identical “comparator” of a different sex or race performing “equal work” who is paid more. Current proposals for reform focus on narrowing an employer’s defenses in a lawsuit alleging unequal pay. This approach, while likely to improve plaintiffs’ successes in court, misses the forest for the trees. Leaving the definition of “equal work” untouched in threshold requirements for legal protection fails to account for the workforce segregation and gender and racial stereotyping at the root of much of the current pay gaps. This Article explores how the limitations of existing law allow the gender and racial pay gaps to persist and analyzes proposals for improvement. To do so, the Article contrasts current reform efforts with alternatives, including the historical movement in the 1980s for “comparable worth” legislation and its echo in recently enacted laws in three states requiring equal pay for “substantially similar” or “comparable work.” Given the difficulty of enacting legislative change at the federal level, the Article then proposes a reframing of the concept of “equal work” in existing law by drawing on examples of broader definitions used to set pay in some union, government, and private sector employment contexts. Debunking the outdated criticism that strong equal pay laws force employers to “compare apples and oranges” and framing the comparison of “equal work” more broadly are essential to overcoming the impacts of occupational segregation and stereotyping on pay, and to closing the pay gaps.

Publication Maryland Law Review

Date 2018-05-11

URL <http://digitalcommons.law.umaryland.edu/mlr/vol77/iss3/1>

Volume 77

Issue 3

Pages 581

**Journal
Abbr** Md. L. Rev.

The Statutory Public Interest in Closing the Pay Gap

Author Stephanie Bornstein

Abstract This Essay explores the role that the statutory public interest should play in the enforcement of rights under the Equal Pay Act of 1963 (EPA). Current data

The Pay Equity Project

shows that, even fifty-five years after the enactment of federal law outlawing sex based pay discrimination, the gender pay gap inflicts huge costs on women, their families, and the U.S. economy, echoing the public concerns that led to the statute's original passage. That Fair Labor Standards Act of 1938 (FLSA) and EPA rights cannot be waived by an employee calls into question two common employer pay-setting practices often excused under federal law: setting pay by individual negotiation and basing pay on an employee's prior salary. As this Essay argues, both practices unfairly benefit employers due to unequal information and bargaining power; as such, allowing them to excuse unequal pay constitutes a forced waiver of an employee's EPA rights. Part I of this Essay reviews existing law under Title VII of the Civil Rights Act of 1964 and the EPA before turning to examine the statutory public interests and related limitations on waiver of FLSA and EPA rights. Part II applies these considerations to the modern workplace, first identifying the public interests in closing today's gender pay gap, then considering employer pay-setting practices through the lens of the nonwaivability of EPA rights. Importantly, this Essay in no way seeks to advocate for a protectionist approach or to imply that women need special treatment in compensation practices. Instead it seeks to expose a significant proportion of the gender pay gap for what it actually is: the result of unfair competition and unfair labor practices that injure the public interest and the U.S. economy. Just as a law that requires a minimum wage and an overtime premium for all workers is not "protection" for a special group but, instead, a minimum labor standard that helps the entire U.S. economy, so too is a law that requires for equal pay regardless of sex. Underpaying female workers—who now compose nearly half of the paid workforce and provide 40 to 100% of household income in half of all families with children—hurts the entire U.S. economy. Both the FLSA and the EPA were passed with the public concern in mind; it is time to revisit this intention.

Publication	Alabama Civil Rights & Civil Liberties Law Review
Date	2019
URL	https://heinonline.org/HOL/P?h=hein.journals/alabcrcr10&i=7
Volume	10
Issue	1
Pages	1-34
Journal Abbr	Ala. C.R. & C.L. L. Rev.

Disclosing Discrimination

Author Stephanie Bornstein

Abstract In the United States, enforcement of laws prohibiting workplace discrimination rests almost entirely on the shoulders of employee victims, who must first file charges with a government agency and then pursue litigation themselves. While the law forbids retaliation against employees who complain, this does little to prevent it, in part because employees are also responsible for initiating any claims of retaliation they experience as a result of their original discrimination claims. The burden on employees to complain—and their justified fear of retaliation if they do so—results in underenforcement of the law and a failure to spot and redress underlying structural causes of race and sex discrimination at work. By statutory design, government enforcement agencies play a crucial but limited role

The Pay Equity Project

in litigating discrimination lawsuits, which makes significant expansion of the agencies' roles politically infeasible. This Article considers compelled disclosure of employer information as a means of better enforcing antidiscrimination law. Information-forcing mechanisms have long been a part of securities law. The recent #MeToo and Time's Up social movements have brought the power of public exposure to the issues of sexual harassment and pay discrimination at work. Drawing on lessons from both contexts, this Article argues for imposing affirmative public disclosure requirements on employers that track the pay, promotion, and harassment of employees by their sex and race. It documents emerging disclosure models in some state and international laws meant to target workplace discrimination and highlights where existing U.S. federal law opens the door to such an approach. It also considers counterarguments raised by compelled disclosure, including privacy and free speech concerns. Requiring public disclosures on equality measures is an incremental yet important untapped mechanism that can shift some of the enforcement burden for U.S. antidiscrimination law off of employees and onto employers and responsible government agencies.

Publication Boston University Law Review

Date 2021

URL <https://heinonline.org/HOL/P?h=hein.journals/bulr101&i=293>

Volume 101

Issue 1

Pages 287-358

**Journal
Abbr** B.U. L. Rev.

An Examination of Wage and Income Inequality within the American Farmworker Community

Author Marianne L. Bowers

Author Daniel E. Chand

Abstract This article explores the reasons for earning inequalities among farmworkers. Using national data from the US Department of Labor's National Agricultural Worker Survey (NAWS), we detail and examine differences in earnings among farmworkers based on certain characteristics identified in prior literature. We find that gender and youth are the most reliable predictors of farmworker earnings, with females and workers under 21 consistently earning less than other categories of farmworkers. In addition, we find that workers who seasonally follow crops are among the lowest earning farmworkers. We also confirm that, as expected, workers lacking authorized status earn less than those who have legal status. Surprisingly, however, foreign-born US citizens actually earn more than their US-born counterparts. These findings have substantial implications for policymakers and labor advocates who seek to improve the plight of US farmworkers.

Publication Journal on Migration and Human Security

Date September 1, 2018

URL <https://doi.org/10.1177/2331502418786707>

The Pay Equity Project

Volume 6
Issue 3
Pages 182-191
Journal Journal on Migration and Human Security
Abbr
DOI [10.1177/2331502418786707](https://doi.org/10.1177/2331502418786707)

The Shifting Sands of Employment Discrimination: From Unjustified Impact to Disparate Treatment in Pregnancy and Pay

Author Deborah L. Brake

Abstract

This Article begins in Part I with a brief survey of the state of employment discrimination law. After teasing out the architecture of the law and its supporting premises, the picture that emerges reveals an area of law bound by rigid proof frameworks-in which the sorting of evidence into discrete categories and shifting burdens of proof take center stage-and a sharp dichotomy separating disparate treatment and disparate impact claims. Within disparate treatment, as the empirical foundations for the proof models have weakened, the individual disparate treatment claim has become increasingly difficult to win. Courts apply the disparate treatment proof frameworks in search of a conception of discriminatory intent in which an individual decision maker consciously and deliberately decides to disfavor an employee because of his or her protected class status. Using this understanding of discriminatory intent, courts require an exceedingly close proximity between comparators in order to rule out what they would consider more likely explanations for the adverse treatment of a plaintiff. Although there is no separate element of the disparate treatment claim requiring proof of deliberate and conscious bias, this conception of discriminatory intent shapes what courts are looking for and reduces the likelihood of finding intentional discrimination. Against this background, Part II explores the ways in which the Young framework breaks from these strictures. The result is a PDA claim that is broad enough to reach not only employer policies that burden pregnant women because of antipregnancy animus or a deliberate desire to harm pregnant workers, but also those policies disadvantaging pregnant workers that are based on an implicit judgment that devalues workers on the cusp of motherhood and places a lower value on their retention. Making the case that the latter explanation, and not the narrower animus-based understanding, best explains the prevalence of pregnancy discrimination today, this Part concludes with a defense of the Court's grounding of the claim in the disparate treatment, as opposed to disparate impact, category. Part III turns to the implications of Young beyond pregnancy discrimination, contending that the Court's central move, using unjustified impact to support a finding of disparate treatment, provides the foundation for a parallel move in the equal pay claim. It charts the similarities between the doctrine in pregnancy and pay discrimination that make the pay claim amenable to this development and points out parallels in the heightened social movement activism surrounding both of these gender justice issues. This Part argues that, as is true for pregnancy discrimination, much of the unfavorable treatment of women stems from implicit judgments devaluing women as workers rather than conscious decisions to disfavor women because of their sex. Importing the Young theory of unjustified impact into the pay claim would make it

The Pay Equity Project

a more viable tool for reaching the kind of bias that more typically manifests as pay discrimination in the modern workforce. The move to incorporate unjustified impact into the disparate treatment pay framework has already begun in some lower courts and is a central feature of the primary focal point for legislative reform, the proposed Paycheck Fairness Act. The theory of Young developed and defended in this Article supports the parallel development that is on the cusp of taking hold in the equal pay claim. The Article concludes with thoughts about why, notwithstanding the malleability of the treatment and impact categories, disparate treatment provides the preferable grounding for these developments. Doctrinal advantages aside, the disparate treatment framing of pregnancy and pay discrimination claims best resonates with the social movement work of contesting the ideologies at the heart of these injustices.

Publication Georgetown Law Journal

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.journals/glj105&i=571>

Volume 105

Pages 559-618

**Journal
Abbr** Geo. L.J.

Reviving Paycheck Fairness: Why and How the Factor-Other-Than-Sex Defense Matters

Author Deborah L. Brake

Abstract An essay is presented which addresses the author's views about paycheck (wage) fairness, the U.S. Lilly Ledbetter Fair Pay Act of 2009, and a factor other than sex (FOS) defense to the nation's Equal Pay Act of 1963. Judicial scrutiny and sex-based discrimination involving compensation are addressed, along with Title VII of the U.S. Civil Rights Act of 1964 and the American Supreme Court's ruling in the 2015 case *Young v. United Parcel Services Inc.* which deals with pregnancy discrimination.

Publication Idaho Law Review

Date September 2016

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=116881844&site=ehost-live>

Volume 52

Issue 3

Pages 888-912

**Journal
Abbr** Idaho Law Review

Intended and Unintended Consequences of Illinois Public School Salary and Wage Payment Law Changes from the 101st General Assembly

Author David J. Braun

The Pay Equity Project

- Abstract** Illinois has recently enacted several new laws, upon Governor Pritzker's signature, that create new requirements, obligations, and risks for employers in long-used systems for compensating the work of employees. While many of those new requirements appear on their face long overdue, unambiguously "fair," and consistent with how Illinoisans want their tax dollars spent, there are, as with any new law, consequences, both intended and unintended, that public employers will be forced to address. Particularly given recent reductions in spending and economic growth in the wake of COVID-19, some of these consequences may be unaffordable for some public school districts, and it remains to be seen how schools will confront those challenges with their unions. Schools have a responsibility to act in a manner that a) adequately attracts new staff, b) compensates employees fairly for long, competent, and loyal service, and c) affordably protects school districts' public assets over the long haul, and the law changes coupled with economic downward pressure will make bargaining to meet all of these goals without additional funding (or, worse yet, funding shortfalls) a challenge.
- Publication** Southern Illinois University Law Journal
Date Summer 2020
URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=149001008&site=ehost-live>
Volume 44
Issue 4
Pages 641-653

Expanded Employee Protections for New York Employees

- Author** Heather Weine Brochin
Author Gregory S. Tabakman
- Abstract** The article explores progressive, employee-friendly legal changes in New York during 2019. Topics discussed include expansion of human rights law to protect gender identity/expression, extension of paid voting leave, expansion of race definition in New York State Human Rights Law and expansion of the state's equal pay law.
- Publication** Employee Relations Law Journal
Date Winter 2019
URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=139579174&site=ehost-live>
Volume 45
Issue 3
Pages 13-19

Negotiating Around the Equal Pay Act: Use of the "Factor Other than Sex" Defense to Escape Liability

- Author** Sabrina L. Brown
- Abstract** The article offers insight to the U.S. Equal Pay Act. Topics discussed include current status of Equal Pay Act litigation of the factor other than sex defense;

The Pay Equity Project

issues of pay gap in the workplace and prevention of the same; and Shultz v. Wheaton Glass Co. court case addressing the same in the country.

Publication Ohio State Law Journal

Date March 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/ohslj78&i=483>

Volume 78

Issue 2

Pages 471-501

**Journal
Abbr** Ohio State Law Journal

- **Tags:**
 - Student Note⁷⁰

The Quixotic Quest for "Gender Equality" in the Workplace

Author Kingsley R. Browne

Abstract There is little reason to think that victory in the war for gender equality in the workplace will ever be declared, both because it is implausible that the sexes will ever sort themselves in precisely the same way and because an entrenched narrative of female victim-hood requires continued perceptions of inequality irrespective of the facts on the ground. The pattern of women's representation in both educational fields and occupations is consistent with long-recognized sex differences in patterns of occupational interest. Yet the fact that women do not earn majorities in every field (especially some STEM fields) is deemed inequitable, despite their heavy majorities in many other fields, suggesting that the implicit definition of "gender equality" of some advocates is that women should be guaranteed at least half of all things that are perceived to be "good." Likewise, the under-representation of women in the executive suite is to a large extent a result of sex differences in parental choices, especially the decision of highly able women (married to highly able and high-earning men) to reduce their workforce involvement after marriage and especially after entering motherhood. Women and men will continue to exhibit different workplace behaviors. However, attributing these differences to true choice diminishes the force of the victim narrative, so choice becomes "choice," and women are treated as puppets acted upon by others (men, employers, universities, society). In addition to stripping women of agency, this perception guarantees that the war for gender equality will continue so long as women and men make different life choices. In other words, it will never end.

Publication University of Toledo Law Review

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/uto49&i=709>

Volume 49

Issue 3

Pages 685-714

**Journal
Abbr** U. Tol. L. Rev.

The Pay Equity Project

Addressing the Gender Pay Gap: The Influence of Female and Male Dominant Disciplines on Gender Pay Equity

Author David G. Buckman

Author Tommy E. Jackson

Abstract This study used Kanter's (1997) Tokenism theory to analyze the relationship between gender and faculty salaries in Georgia higher education institutions to determine whether pay inequity existed between male and female professors in 2018. Two separate mixed-effect regression models were estimated on a 2018 cross-sectional survey dataset of Georgia higher education faculty members where faculty demographic characteristics (i.e., gender and academic discipline) were regressed on their annual base salaries. When controlling for demographics and occupational characteristics, female faculty received significantly lower salaries than their male counterparts. In addition, when controlling for academic discipline and grouping those disciplines vis-a-vis male dominant and female dominant, males in female-dominant disciplines earned significantly more money than females, and females in male-dominant disciplines earned more money than males. Additional findings support negotiable salaries as a significant contributor to higher pay.

Publication Journal of Education Finance

Date 2021

URL <https://muse.jhu.edu/article/806387>

Volume 47

Issue 1

Pages 71-91

Lessons from Labor Feminists: Using Collective Action to Improve Conditions for Women Lawyers

Author Marion Burke

Abstract The article focuses on the elimination of discrimination faced by the women workers, particularly women lawyers in the U.S. Topics discussed include employment discrimination cases; family responsibility discrimination litigation; and enactment of Civil Rights Act, Equal Pay Act and Family and Medical Leave Act for eliminating the same.

Publication American University Journal of Gender, Social Policy & the Law

Date January 2018

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=128025840&site=ehost-live>

Volume 26

Issue 1

Pages 559-592

Journal Abbr American University Journal of Gender, Social Policy & the Law

- **Tags:**
 - Student Note⁷⁰

The Pay Equity Project

The Relationship between Prejudice and Wage Penalties for Gay Men in the United States

- Author** Ian Burn
- Abstract** This article estimates the empirical relationship between prejudicial attitudes toward homosexuality and the wages of gay men in the United States. It combines data on prejudicial attitudes toward homosexuality from the General Social Survey with data on wages from the U.S. Decennial Censuses and American Community Surveys—both aggregated to the state level. The author finds that a one standard deviation increase in the share of individuals in a state who are prejudiced toward homosexuals is correlated with a decrease in the wages of gay men of between 2.7% and 4.0%. The results also suggest that the prejudice of managers is responsible for this correlation. The author finds that a one standard deviation increase in the share of the managers in a state who are prejudiced toward homosexuals is associated with a 1.9% decrease in the wages of gay men. The author finds no evidence that the wage penalty for gay men is correlated with the prejudice of customers or co-workers.
- Publication** ILR Review
- Date** May 1, 2020
- URL** <https://doi.org/10.1177/0019793919864891>
- Volume** 73
- Issue** 3
- Pages** 650-675
- Journal Abbr** ILR Review
- DOI** [10.1177/0019793919864891](https://doi.org/10.1177/0019793919864891)

Occupational Devaluation Due to Feminization? Causal Mechanics, Effect Heterogeneity, and Evidence from the United States, 1960 to 2010

- Author** Felix Busch
- Abstract** Proponents of the devaluation hypothesis claim that occupations experiencing a significant inflow of female workers are devalued, both in status and in pay. We suggest that devaluation is an essentially cultural phenomenon that can be subject to change over time and that is not constant with varying contexts. Our theoretical model connects changing gender compositions in occupations with the formation of occupational gender stereotypes. In combination with a cultural bias that attributes less value to female work, these stereotypes can lead to devaluation. This is a novel view on the mechanics at play in the devaluation process. With US census data from 1960 to 2010, we show that devaluation was restricted to sometimes very specific contexts. A trend toward declining or disappearing devaluation is observed over the entire time span. Given potential cultural inertia and the stability of stereotypes, this result could, however, be an artifact of a deficient testing strategy that focuses solely on changes in occupational gender compositions without taking into account the normative power of the past.
- Publication** Social Forces

The Pay Equity Project

Date 2018/03/01
URL <https://academic.oup.com/sf/article/96/3/1351/4710317>
Volume 96
Issue 3
Pages 1351-1376
Journal Abbr Soc Forces
DOI [10.1093/sf/sox077](https://doi.org/10.1093/sf/sox077)

Athletic Compensation for Women Too: Title IX Implications of Northwestern and O'Bannon

Author Erin E. Buzuvis

Abstract This Article seeks to advance two positions. First, that the NCAA is right: In a world where male athletes in revenue sports are paid, Title IX would require payment of female athletes using some measure of equality. Second, that NCAA's critics are right: athletes are being exploited by the present system. But, the reformers needn't fear the NCAA's use of Title IX as a shield. Used properly, Title IX presents the reformers with a sword. If, as the NCAA has suggested, Title IX implications render the application of labor and antitrust law to college athletics prohibitively expensive, the NCAA's only choice will be to reform college athletics to restore the primacy of educational over commercial values, or alternatively, to separate the commercial interests from higher education entirely. Either approach would simultaneously address concerns about the exploitation of uncompensated labor, gender equity, and cost containment. For this reason, it is important that college athletics confront the Title IX implications of decisions that result in compensation for athletes.

Publication Journal of College and University Law

Date 2015
URL <http://heinonline.org/HOL/P?h=hein.journals/jcolonly41&i=319>
Volume 41
Pages 297-342
Journal Abbr J.C. & U.L.

Leaving Unequal Pay in the Past: Why Reliance on Prior Pay Must Be Restricted Under the Equal Pay Act

Author Jennifer Cacchioli

Abstract This comment will explore the broad, antidiscriminatory purpose and structure of the EPA in Part II. Part III will discuss the three different approaches taken by circuit courts on whether prior pay should be construed as a "factor other than sex." In Part IV, this comment will argue that the circuit courts should not accept an employer's sole reliance on prior salary as satisfying the EPA's fourth affirmative defense. In order to resolve the circuit split and support the EPA's purpose to mitigate this pervasive cycle of wage inequality, the Supreme Court should rule that an employer cannot assert reliance on prior pay alone as a

The Pay Equity Project

“factor other than sex” defense. To support this argument, this comment will reason that an employer’s use of prior salary as a determinative factor in setting wages perpetuates the consistently lower salaries paid on average to female employees. Furthermore, the Ninth Circuit’s business justification approach is flawed because, while it claims to accommodate both employees and employers, its adverse effect on pay equality is no different from the even broader approach of the Eighth and Seventh Circuits. This comment will also argue that, while employers have a valid interest in relying on prior pay to incentivize desirable candidates, this does not excuse the need to place restrictions on prior salary reliance in order to promote wage equality. As the Eleventh and Tenth Circuits have held, prior salary may be properly used to accommodate both employee and employer interests if considered along with other factors, such as experience. If circuits courts across the board refuse to accept an affirmative EPA defense relying solely on prior pay, employers will be forced to rely on more legitimate factors that facilitate progress in wage equality.

Publication Seton Hall University - Law School Student Scholarship

Date 2019

URL https://scholarship.shu.edu/student_scholarship/973

- **Tags:**
 - Student Note⁷⁰

Does Individualizing the Labor Contract Hurt Women?

Author Claire Cahen

Abstract

The twenty-first century has been marked by a retreat of the collective bargaining rights of public employees throughout the United States. This study exploits the variation in legal environments resulting from these reforms to estimate the causal impact of different collective bargaining policies on public employee compensation. Using data from the American Community Survey, results show a modest wage penalty at the aggregate level for employees covered by constraints on collective bargaining. However, this wage penalty is differential and is concentrated on women in all but one case—a legal environment in which collective bargaining over wages has either been prohibited or directly constricted, allowing governments to periodically institute wage freezes and caps on raises for public employees. In this case, a pre-existing wage gap in which men earned more than women is disappearing as male and female earnings converge at a lower wage. The paper suggests that the long-term effects of restricting collective bargaining occur through the individualization of the labor contract and should be examined along individual-level characteristics, such as gender.

Publication Industrial Relations: A Journal of Economy and Society

Date 2019

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12239>

Volume 58

Issue 3

Pages 317-375

DOI [10.1111/irel.12239](https://doi.org/10.1111/irel.12239)

The Pay Equity Project

Retirement-Related Economic Damages Calculations and the Fair Calculations in Civil Damages Act of 2016

Author Kevin E. Cahill

Abstract How would the Fair Calculations in Civil Damages Act of 2016 (the “Act”) impact economic damages calculations related to the retirement process? The Act covers discrimination based on race, ethnicity, gender, religion, or actual or perceived sexual orientation. This paper focuses on gender discrimination and explores how imposing gender-neutral worklife and earnings tables, per the Act, would impact earnings and pension calculations in cases involving economic damages. We compare damages calculations under three scenarios: 1) a gender-specific approach, 2) a gender-neutral approach (per the Act), and 3) a gender-specific approach that takes into account the unexplained portion of the male-female earnings gap. The latter approach serves as a “free of bias” benchmark under the assumption that the unexplained portion of the gender wage gap is due entirely to discrimination. Generally speaking, we find that the Act’s broad-brush attempt to correct for possible gender discrimination would introduce more distortions than it would resolve, and likely exacerbate the degree of discrimination in economic damages calculations. A more effective approach to address the possibility of gender discrimination is to allow forensic economists to take gender into account (or not) on a case-by-case basis.

Publication SSRN

Date 2017/09/15

URL <https://papers.ssrn.com/abstract=3068862>

Journal Abbr SSRN

Gendered Complications of COVID-19: Towards a Feminist Recovery Plan

Author Naomi R. Cahn

Author Linda C. McClain

Abstract COVID-19 exposed the limitations in the current economic system on public and private support for gender equity and the intersecting impact of gender, race, and class in that lack of support. Women of color, particularly those who are Black, Latina, or Native American, were at the intersection of the inequities in the pandemic economy. The catalogue of COVID-19's impact covers all aspects of women's lives: work, family, education, health, reproduction, mental and physical well-being, and leisure. This Article argues that COVID-19 has complex implications for gender equality and gender equity as state and local governments, the federal government, and private actors focus on recovery plans. The negative effects of the pandemic include hundreds of thousands of deaths, lingering health complications for many who have contracted the virus, massive economic disruption and loss for individuals, families, and communities, and the exacerbation of structural inequalities in areas ranging from children's education to women's status. The creative policy responses prompted by the devastating impact of COVID-19 provide promise for building a more transformative and equitable future. Indeed, while a return to the status quo might be possible, developing a roadmap to resilience provides an opportunity to address the gender inequities in our social infrastructure-if there is political will to

The Pay Equity Project

follow that roadmap. Proposing a feminist recovery plan, this Article focuses on a set of issues relating to pre-existing gender inequities concerning work and family, including the gender pay gap, the child care crisis, and the disproportionate role of women-particularly, women of color-in providing essential but undervalued care work.

Publication Georgetown Journal of Gender and the Law
Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/grggenl22&i=5>
Volume 22
Issue 1
Pages 1-56
Journal Abbr Geo. J. Gender & L.

Gender and the Tournament: Reinventing Antidiscrimination Law in an Age of Inequality

Author Naomi Cahn
Author June Carbone
Author Nancy Levit

Abstract

Since the 1970s, antidiscrimination advocates have approached Title VII as though the impact of the law on minorities and women could be considered in isolation. This Article argues that this is a mistake. Instead, Gender and the Tournament attempts to reclaim Title VII's original approach, which justified efforts to dismantle segregated workplaces as necessary to both eliminate discrimination and promote economic growth. Using that approach, this Article is the first to consider how widespread corporate tournaments and growing gender disparities in the upper echelons of the economy are intrinsically intertwined, and how they undermine the core promises of antidiscrimination law. The Article draws on a case filed in 2014 challenging the "rank-and-yank" evaluation system at Microsoft, as well as social science literature regarding narcissism and stereotype expectations, to illustrate how consideration of the legitimacy of competitive pay for performance schemes is essential to combating the intrinsically gendered nature of advancement in the new economy.

Publication Texas Law Review
Date 2018
URL <https://heinonline.org/HOL/P?h=hein.journals/tlr96&i=463>
Volume 96
Pages 425-486
Journal Abbr Tex. L. Rev.

Discrimination by Design

Author Naomi Cahn
Author June Carbone

The Pay Equity Project

Author Nancy Levit

Abstract Platform world is speeding the redesign of employment. Bricks-and-mortar firms once hired through narrow portals and then invested in the workers they hired, providing job security and predictable career ladders. Platform world flings the doors wide open to income-generating efforts, providing new opportunities but also offering security and predictable advancement to almost no one. Other legal scholars have mined these same data for gender disparities; they have found disparities in the platform economy arising from customer biases and individual preferences, and manifested in men's and women's different experiences in everything from pricing plumbing services to fraud prevention. Neutral-appearing algorithms may then amplify the impact on wages and opportunities. Because the outcomes are not equal, other scholars argue that these disparities should be actionable. Accordingly, they suggest various ways to adapt existing laws to remedy gender disparities. This Article is the first to develop an analysis of the multiple types of gender disparities in platform world. Rather than focus on the fact that disparities exist, this Article asks the question when—and even more provocatively, whether—they should matter. First, the Article documents the various sources and forms of gender disparities, setting up the argument that no one legal approach fits. Second, while some of those disparities are already actionable under existing antidiscrimination laws, even antidiscrimination law today rarely provides a viable cause of action simply because the results produce statistical disparities. In platform world, it's not clear that the disparities are morally questionable, actionable under existing law, or appropriate subjects for regulation. The real issues in this new economy concern the lack of benefits, stability, and promotion opportunities. Antidiscrimination law can help those employed by platform companies, but not the gig workers who need health benefits and protection against harassment, nor the algorithms that need oversight. Consequently, existing antidiscrimination law is all but irrelevant except to address the most glaring discrepancies, and the real need is for a wholesale rethinking of the legal infrastructure necessary to realize the benefits of the platform economy for more than a few platform creators.

Publication Arizona State Law Journal

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/arzil51&i=9>

Volume 51

Issue 1

Pages 1-70

**Journal
Abbr** Ariz. St. L.J.

Superior Play, Unequal Pay: U.S. Women's Soccer and the Pursuit for Pay Equity

Author Honey Campbell

Abstract The article discusses how several members of the U.S. Women's National Soccer team filed a complaint with the Equal Employment Opportunity Commission in 2016 claiming that the U.S. Soccer Federation engaged in wage discrimination by paying female soccer players less than the members of the U.S. Men's National Soccer team. Sex discrimination against women claims are

The Pay Equity Project

examined, along with potential violations of Title VII of America's Civil Rights Act of 1964 and the nation's Equal Pay Act.

Publication University of San Francisco Law Review

Date September 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/usflr51&i=565>

Volume 51

Issue 3

Pages 545-570

**Journal
Abbr** University of San Francisco Law Review

- **Tags:**

- Student Note⁷⁰
- U.S. Women's Soccer¹⁷

Closing the Federal Gender Pay Gap through Wage Transparency

Author Bilma Canales

Abstract

Today, the median woman working full-time earns twenty-one percent less than her male counterpart. The courts and Congress have failed to craft a viable solution to the nation's pay inequity. To reduce the gender pay gap, the federal government should require full wage transparency for federal contractors because wage transparency can help counteract pay secrecy policies that prevent an employee from learning about potential wage discrimination. The federal government already requires wage transparency for its employees and this has resulted in a lower wage gap among those workers. Although federal contractors are private employers, federal contractors' employees are similar to federal government employees for two reasons. First, federal contractors have previously been singled out by executive orders regarding employee pay. Second, the same policy argument that necessitates wage transparency for federal employees also exists for federal contractors and can have the same positive effect of reducing the wage gap.

Publication Houston Law Review

Date 2017-2018

URL <http://heinonline.org/HOL/P?h=hein.journals/hulr55&i=1007>

Volume 55

Pages 969-998

**Journal
Abbr** Hous. L. Rev.

- **Tags:**

- Student Note⁷⁰

Women, Rule-Breaking, and the Triple Bind Women and Corporate Governance

Author June Carbone

The Pay Equity Project

Author Naomi Cahn

Author Nancy Levit

Abstract

Two growing literatures critique Hobbesian corporate cultures. Management analyses document the way high-stakes/zero-sum bonus systems undermine, rather than enhance, productivity as they subvert teamwork, valorize self-interested behavior, and weaken ethical standards. This literature treats negative effects of such systems, including lawless and unethical behavior, as the unintended consequences of efforts to shake up complacent institutions or replace an insular old guard with an ambitious and meritocratic new workforce. A second, darker literature terms such Hobbesian environments "masculinities contests" that select for those executives who best exemplify masculine traits such as a single-minded focus on professional success, physical strength, and the willingness to engage in no-holds-barred competition. This literature treats the rule-breaking environment that results as an incidental byproduct of the way that such cultures valorize masculine traits. Drawing on insights from criminology, psychology, and feminist theory, this Article suggests another possibility: that certain management cultures intentionally design the competitions to facilitate breaking the rules with impunity. In a Hobbesian world, where some profit handsomely from defying convention, zero-sum competitions play a role that extends beyond valorizing alpha males. They select for leaders who will lie, shortchange their families, and break the law to get results-and do so without explicit orders that might subject upper management to accountability for the practices. In such a world, women fall behind not necessarily because of misogyny, though such environments often breed it. Instead, they lose because of a triple bind. First, women cannot prevail in such competitions unless they can outmaneuver men, credibly display greater devotion to the job, or more brazenly flout the laws. Second, they are disproportionately disliked and punished for displaying the selfcentered, rule-breaking behavior of men. Third, women become less likely to seek positions because they correctly perceive that they could not thrive and are more likely than men to decide they do not wish to do so on such terms, reinforcing the male-identified character of such environments. Where these companies' business models depend not just on the ability to upend traditional practices, but to break the law, the companies cannot address gender disparities without addressing the business model itself The Article concludes that gender inequality is intrinsically intertwined with the evisceration of the rule of law in corporate America.

Publication George Washington Law Review

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/qwlr87&i=1179>

Volume 87

Issue 5

Pages 1105-1162

Journal Abbr Geo. Wash. L. Rev.

The Pay Equity Project

Equal Pay for Equal Task: Assessing Heterogeneous Returns to Tasks across Genders

- Author** Elizabeth J. Casabianca
- Author** Alessia Lo Turco
- Author** Claudia Pigni
- Abstract** We inspect the heterogeneous association between tasks and wages across genders using individual-level data on U.S. workers. Our findings suggest that women receive a higher wage premium when engaged in cognitive tasks and experience more contained wage losses when performing manual activities. However, a wage penalty characterizes women engaged in highly social intensive jobs. Further inspection reveals that this result is especially driven by the teamwork component of social activities.
- Publication** Industrial Relations: A Journal of Economy and Society
- Date** 2020
- URL** <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12253>
- Volume** 59
- Issue** 2
- Pages** 197-239
- DOI** [10.1111/irel.12253](https://doi.org/10.1111/irel.12253)

Following the States' Lead: A Proposed Amendment to the Equal Pay Act

- Author** Emina Causevic
- Abstract** The article examines the proposed amendment to the Equal Pay Act (EPA) in the U.S. to resolve the pay discrepancies in the workplace. Also cited are the low pay received by female minorities like African-American women and Latinas compared to their white male counterparts, as well as the provisions of the failed Paycheck Fairness Act (PFA).
- Publication** University of Toledo Law Review
- Date** Spring 2018
- URL** <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=132996200&site=ehost-live>
- Volume** 49
- Issue** 3
- Pages** 741-760
- Journal Abbr** University of Toledo Law Review

- **Tags:**
 - Student Note⁷⁰

Ideological Wage Inequalities? The Technical/Social Dualism and the Gender Wage Gap in Engineering

- Author** Erin A. Cech

The Pay Equity Project

Abstract Can professional cultures contribute to wage inequality? Recent literature has demonstrated how widely held cultural biases reproduce ascriptive inequalities in the workforce, but cultural belief systems within professions have largely been ignored as mechanisms of intra-profession inequality. I argue that cultural ideologies about professional work, which may seem benign and have little salience outside of a profession's boundaries, play an important role in reproducing wage inequalities therein. Using nationally representative data on engineers, I demonstrate that patterns of sex segregation and gendered wage allocation in engineering break consistently along the lines predicted by its "technical/social dualism"—an ideological distinction between "technical" and "social" engineering subfields and work activities. After explaining how these findings deepen our understanding of gender inequality in engineering, the article discusses how the consideration of professional cultures may open up fresh areas of inquiry into intra-profession inequality more generally.

Publication Social Forces

Date 2013/06/01

URL <https://academic.oup.com/sf/article/91/4/1147/2235790>

Volume 91

Issue 4

Pages 1147-1182

**Journal
Abbr** Soc Forces

DOI [10.1093/sf/sot024](https://doi.org/10.1093/sf/sot024)

Sexual Orientation, Income, and Stress at Work

Author Benjamin Cerf

Abstract I present a model explaining recent findings that partnered gay men earn less than partnered straight men while partnered lesbian women earn more than partnered straight women. In an environment with compensating differentials and a gender gap in potential income, an income effect leads partnered gay men to choose jobs with lower income and higher amenities than partnered straight men. The same mechanism generates similarly reasoned predictions about income and amenities for women and single people. Canadian data on stressfulness of one's working environment support these predictions.

Publication Industrial Relations: A Journal of Economy and Society

Date 2016-10-01

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12151>

Volume 55

Issue 4

Pages 546-575

DOI [10.1111/irel.12151](https://doi.org/10.1111/irel.12151)

Cost-of-Service Ratemaking and Labor Costs: Expanding the "Just and Reasonable" Standard to Close the Gender Pay Gap in the Energy Industry Notes

Author Olivia Chap

The Pay Equity Project

This Note explores the gender pay gap in the energy sector and advances a plausible approach to closing it. The gender pay gap in the United States is roughly 20%, which means that, on average, women make around 80 cents for every dollar men are paid.¹ The gender pay gap in the energy industry is similarly worrisome, and there is a dishearteningly low number of women represented in energy-related jobs.² Some public utilities, and the state public utility commissions that regulate them, are violating the constitutional standard that all rates be "just and reasonable" by incorporating and approving unequal male and female employee compensation data into their ratemaking calculations. In 1976, the U.S. Supreme Court addressed a similar, but much broader, challenge that the National Association for the Advancement of Colored People asserted against the Federal Power Commission, the Federal Energy Regulatory Commission's predecessor.³ In *NAACP v. FPC*, the Supreme Court held that the Federal Power Commission could deny utilities recovery of demonstrably discriminatory costs if certain criteria are satisfied in pursuit of its just and reasonable mandate.⁴ By analogizing the Federal Energy Regulatory Commission to public utility commissions, this Note argues that the just and reasonable standard similarly requires public utility commissions and the utilities on the state level to play a more active role in fighting discrimination and, as relevant here, closing the gender pay gap. This Note proposes to close the gender pay gap in the energy industry by requiring state-regulated utilities to organize their labor and wage data by gender in ratemaking proceedings. In doing so, utilities and public utility commissions will be able to scrutinize objectionable costs that utilities try to recover in the form of new rates. Enforcement of these new requirements would incentivize state utilities and public utility commissions to reject discriminatory costs in violation of the constitutional principle that all rates be just and reasonable.

Abstract

Publication George Washington Journal of Energy and Environmental Law

Date 2021

URL <https://heinonline.org/HOL/P?h=hein.journals/gwjeel11&i=71>

Volume 11

Issue 2

Pages 67-77

Journal Abbr Geo. Wash. J. Energy & Envtl. L.

- **Tags:**

- Student Note⁷⁰

Should I Stay or Should I Go: The Gender Gap for Securities and Exchange Commission Attorneys

Author Stephen J. Choi

Author Mitu Gulati

Author A. C. Pritchard

Abstract Most research on the gender gap in the legal profession focuses on the private sector. We look at the gender gap in a setting where one might expect the gaps to be smaller: the Division of Enforcement of the Securities and Exchange

The Pay Equity Project

Commission (SEC), which has a reputation for providing employees with good childcare and work flexibility. We find a substantial gender gap in assignments but only a modest one in pay. Men are also more likely to move laterally and more likely to move to lucrative private-sector jobs. What causes these gaps? The primary explanation for the gender gap from the extant literature is the gender differential in childcare. We do not find substantial evidence that having children affects pay and assignments at the SEC. The presence of children, however, does seem to affect the behavior of men and women differently in deciding when to leave the SEC.

Publication Journal of Law & Economics
Date 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/jlecono62&i=429>
Volume 62
Issue 3
Pages 427-456
Journal Abbr J.L. & Econ.

Partners Are Individuals: Applying Title VII to Female Partners in Large Law Firms

Author Thomas F. Cochrane

Abstract Women in large law firm partnerships continue to face an uphill battle. While much scholarly attention has been afforded to the relative scarcity of female partners-according to the most recent statistics, women constitute only 18 percent of partners in the largest law firms-less attention has been paid to the continuing discrimination faced by those women who do make it to the partnership level. This Comment aims to fill that gap in the scholarship analyzing the legal profession. First, this Comment identifies the numerous ways in which female lawyers continue to face discrimination even after they make partner. Second, the Comment highlights a serious gap in current antidiscrimination law that perpetuates discrimination against female partners: Courts have interpreted Title VII of the Civil Rights Act of 1964 to protect employees but not partners, leaving female partners without recourse when they are discriminated against by their firms. Finally, the Comment offers a solution based on textualist-intentionalist statutory interpretation that would bring partners within the ambit of Title VII in order to protect female law firm partners and to disincentivize discrimination against them.

Publication UCLA Law Review
Date 2018
URL <http://heinonline.org/HOL/P?h=hein.journals/uclalr65&i=512>
Volume 65
Pages 488-530
Journal Abbr UCLA L. Rev.

The Pay Equity Project

How Well Can the Gender Pay Gap in Mississippi Be Explained

- Author** Sondra Collins
- Abstract** Currently women in Mississippi who work full-time earn approximately 27% less than men who work full-time. The purpose of this study is to determine how much of Mississippi's wage gap can be attributed to measurable factors such as education and choice of occupation. The study also discusses some of the possible reasons a wage gap still persists after these measurable factors are taken into consideration. Using a Blinder-Oaxaca decomposition, this study finds a wage gap of approximately 18% in Mississippi after taking measurable factors into account. The factors taken into consideration include industry, occupation, education, age and race. A portion of the 18% wage gap that remains may be due to discrimination, however there are other unmeasurable factors that may cause a portion of the 18% wage gap as well
- Publication** Journal of Research in Gender Studies
- Date** 2017
- URL** <http://heinonline.org/HOL/P?h=hein.journals/jogenst7&i=301>
- Volume** 7
- Pages** 27-38
- Journal Abbr** J. Res. Gender Stud.

Racial Differences in American Women's Labor Market Outcomes: A Long-Run View

- Author** William J. Collins
- Author** Michael Q. Moody
- Abstract** This paper documents and explores black-white differences in U.S. women's labor force participation, occupations, and wages from 1940 to 2014. It draws on closely related research on selection into the labor force, discrimination, and pre-labor market characteristics, such as test scores, that are strongly associated with subsequent labor market outcomes. Both black and white women significantly increased their labor force participation in this period, with white women catching up to black women by 1990. Black-white differences in occupational and wage distributions were large circa 1940. They narrowed significantly as black women's relative outcomes improved. Following a period of rapid convergence, the racial wage gap for women widened after 1980 in census data. Differences in human capital are an empirically important underpinning of the black-white wage gap throughout the period studied.
- Publication** NBER Working Paper No. 23397
- Date** May 2017
- URL** <http://www.nber.org/papers/w23397>
- DOI** [10.3386/w23397](https://doi.org/10.3386/w23397)

The Pay Equity Project

The New Jersey Ban on Salary History Questions: Closing the Gender Wage Gap One Question at a Time

- Author** Abigail Cook
- Abstract** Kerri Sleeman's supervisor told her many times: "if [he] could duplicate [her], [he'd] be able to get rid of the rest of the staff." Sleeman thrived as the supervisor who took over a failing project and turned it around. Yet, when the company proceeded through bankruptcy court, Sleeman discovered that many of the young men she supervised were getting paid more than her. When she spoke up about the discrepancy, her former supervisor unapologetically suggested that the men probably made more because they were the sole breadwinners for their wives and families., Sleeman lost out of more than \$10,000 in pay and retirement benefits in the short five years she worked for that company.² Unfortunately, Kerri Sleeman's situation is not unique; almost all working women are impacted by the gender wage gap.³
- Publication** Rutgers Journal of Law and Public Policy
- Date** 2019
- URL** <https://heinonline.org/HOL/P?h=hein.journals/rutjulp16&i=225>
- Volume** 16
- Issue** 2
- Pages** 1-30
- Journal Abbr** Rutgers J. L. & Pub. Pol'y

A Huge Win for Equal Pay: Women's National Teams Grab Their Biggest Victories yet in Recent Contract Disputes

- Author** Patrick C. Coyne
- Abstract** This Comment examines, from a legal standpoint, whether each dispute represents an equal pay issue based on gender discrimination, and how the resolution of each dispute resulted in "equitable pay" that represents affirmative steps toward potentially achieving true equal pay in the future.¹⁸ Part II of this Comment discusses the laws regulating equal pay in America, as well as the legislation and the contracts that established the relationships between the players and their respective governing bodies.¹⁹ Part III of this Comment argues that, while neither Team achieved the same pay, dollar-for-dollar, as their male counterparts, they achieved "equitable pay" and put their sports in better positions to grow in coming years at the professional and grassroots levels.²⁰ Finally, Part IV of this Comment provides a summary of the key issues discussed and conclusions made based on the new deals, and what the deals might mean for the ultimate goal of truly equal pay.²¹
- Publication** Jeffrey S. Moorad Sports Law Journal
- Date** July 2018
- URL** <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=137199552&site=ehost-live>
- Volume** 25
- Issue** 2
- Pages** 315-358

The Pay Equity Project

Journal Jeffrey S. Moorad Sports Law Journal
Abbr

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

Measuring wage inequality within and across U.S. metropolitan areas, 2003-13

Author J. Chris Cunningham
This article shows that location, size, and occupational composition play important roles in determining the level of wage inequality within and across U.S. metropolitan areas. Larger areas, especially in the Northeast and on the West Coast, typically have greater wage inequality, while smaller areas, many of which are in the South and Midwest, have less inequality. Metropolitan areas with high concentrations of employment in higher paying occupations also tend to have greater inequality.

Abstract

Publication Monthly Labor Review
Date September 2015
URL <https://heinonline.org/HOL/P?h=hein.journals/month138&i=586>
Volume 138

(Un)Equal Protection: Why Gender Equality Depends on Discrimination

Author Keith Cunningham-Parmeter
Most accounts of the Supreme Court's equal protection jurisprudence describe the Court's firm opposition to sex discrimination. But while the Court famously invalidated several sex-based laws at the end of the twentieth century, it also issued many other, less-celebrated decisions that sanctioned sex-specific classifications in some circumstances. Examining these long-ignored cases that approved of sex discrimination, this Article explains how the Court's rulings in this area have often rejected the principle of formal equality in favor of broader antidisubordination concerns. Outlining a new model of equal protection that authorizes certain forms of sex discrimination, (Un)Equal Protection advocates for one particular discriminatory policy that could dramatically promote gender equality in the decades to come. Fatherhood bonuses -- laws that give families additional parental leave when fathers stay at home with their newborns -- have the potential to drastically reorder gendered divisions of labor and expand women's workplace opportunities. Countries that have experimented with fatherhood bonuses have seen women with children spend more time in paid work, advance in their careers, and earn higher wages. Applying these international models to the American context, this Article explains why fatherhood bonuses would fit comfortably within our constitutional framework, which authorizes discriminatory policies when such policies support women's public participation. (Un)Equal Protection concludes by proposing a model for fatherhood bonuses in the United States that would encourage more men to perform care work, thereby advancing the goal of gender equality for both sexes.

Abstract

Publication Northwestern University Law Review

The Pay Equity Project

Date 2014-2015
URL <http://heinonline.org/HOL/P?h=hein.journals/illlr109&i=7>
Volume 109
Pages 1-56
Journal Abbr Nw. U. L. Rev.

Equal Pay for Equal (or Better) Play

Author Haley C. Dakin

Abstract There are multiple ways to attack the issue of gender inequality, and women in the sports arena should be taking note of such ways.⁷ Change cannot be effected without action taking place; thus, the question remains as to which measure is the better path of action to take. The USWNT decided to take the route of litigation, which, as it turns out, takes years and, of course, money to achieve. A better route than litigation, which would be more effective to leagues not protected by the Equal Pay Act, is to attack the collective bargaining agreement of each league. This would be a better mode of action because, in short, a collective bargaining agreement has more options and is less constrictive than any type of litigation available. Furthermore, this method allows for female athletes to do what they do best stand up for themselves. Although litigation is a good way to force one's hand into doing the right (and legal) thing, it would be an even greater success to demonstrate a proactive approach by demanding equal pay and benefits from the beginning.

Publication Mississippi Sports Law Review

Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/missisp9&i=24>
Volume 9
Issue 1
Pages 22-37
Journal Abbr Miss. Sports L. Rev.

• **Tags:**

- Student Note⁷⁰
- U.S. Women's Soccer¹⁷

Transcript of Keynote Speech

Author Candy W. Dale

Abstract The article presents a keynote speech by U.S. District Court Judge Candy W. Dale which addresses her experiences in the field of employment (labor) law as both an attorney, judge, and mediator, and it mentions how she oversaw the adjudication of several labor law cases while serving as a U.S. Magistrate Judge. America's Equal Pay Act of 1963 and Employment Act of 1967 are examined, along with the Title VII of the U.S. Civil Rights Act of 1964 and the country's Fair Labor Standards Act of 1938.

Publication Idaho Law Review

The Pay Equity Project

Date September 2016
URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=116881864&site=ehost-live>
Volume 52
Issue 3
Pages 814-824
Journal Abbr Idaho Law Review

Employment Law

Author Bret G. Daniel
Author Erin B. Edwards
Abstract This Article provides an update on recent developments in employment law in Virginia.¹ It does not attempt to capture every change in the law, but instead focuses on significant developments in this arena. Part I of the Article discusses noteworthy shifts in Fourth Circuit jurisprudence regarding: the Equal Pay Act, Title VII of the Civil Rights Act, the Americans with Disabilities Act, and the Fair Labor Standards Act. Part II of the Article contains a brief update on state-specific statutory and case law developments regarding military leave, data privacy, employee access to personnel records, and Virginia's unique flavor of wrongful terminationBowman claims.
Publication University of Richmond Law Review
Date 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/urich54&i=113>
Volume 54
Issue 1
Pages 103-132

"Long Past Time": CEDAW Ratification in the United States

Author Rangita de Silva de Alwis
Author Amanda M. Martin
Abstract More than 70 years after Eleanor Roosevelt pioneered the drafting of the Universal Declaration of Human Rights, the US has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW or what is known as the global Bill of Rights for Women). The Trump administration is planning measures such as paid parental leave and child care legislation which are supported by the CEDAW. Despite the Trump administration's caution about human rights treaties, we argue that an enlightened self-interest on the part of the administration will draw it towards the CEDAW ratification despite the ratification being "past time."
Publication University of Pennsylvania Journal of Law & Public Affairs
Date 2018
URL <https://heinonline.org/HOL/P?h=hein.journals/penjuaf3&i=21>
Volume 3

The Pay Equity Project

Issue 1
Pages 15-52
Journal Abbr U. Pa. J.L. & Pub. Aff.

Occupational Achievements of Same-Sex Couples in the United States by Gender and Race

Author Coral del Río

Author Olga Alonso-Villar

Abstract This article offers a framework that allows for the simultaneous comparison of all sexual orientation–gender–race/ethnicity groups after controlling for characteristics. The analysis suggests that occupations matter in explaining earnings differences among groups. The article also displays the high magnitude of the gender wage gap in an intersectional framework. The sexual orientation wage premium of lesbians is quite small for blacks and much higher for Hispanics and Asians than for whites. For men, departing from the white heterosexual model involves a substantial punishment; the racial penalty is larger for heterosexuals whereas the sexual orientation penalty is greater for whites.

Publication Industrial Relations: A Journal of Economy and Society

Date 2019

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12246>

Volume 58

Issue 4

Pages 704-731

DOI [10.1111/irel.12246](https://doi.org/10.1111/irel.12246)

The ADEA at the Intersection of Age and Race

Author Nicole Delaney

Author Joanna N. Lahey

Abstract As the population of older Americans grows larger and more diverse, there is a growing need for stronger legal protection against labor market discrimination targeting this group. This paper discusses the existence and effect of such labor market discrimination against older minority workers in the United States and explains how the Age Discrimination in Employment Act (ADEA) fails to adequately protect such workers. Older minority Americans may face labor market discrimination due to their age, their race, and the combination of those two factors. However, the ADEA is not designed to protect against discrimination at the intersection of multiple identities. Although minorities have brought an increasing proportion of age discrimination claims and an increasing number of cases allege multiple bases of discrimination, plaintiffs face legal barriers and a low success rate. The ADEA specifically limits enforcement on claims where age constitutes one of multiple factors, rather than the only factor, leading to an adverse employment action, meaning that the law does not support combined age and race claims. However, other federal and state laws protecting against

The Pay Equity Project

age discrimination may provide better relief for older minorities facing age and race discrimination.

Publication Berkeley Journal of Employment and Labor Law
Date 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/berkjemp40&i=69>
Volume 40
Issue 1
Pages 61-90
Journal Abbr Berkeley J. Emp. & Lab. L.

Effect of State and Local Sexual Orientation Anti-Discrimination Laws on Labor Market Differentials

Author Scott Delhommer

This paper presents the first quasi-experimental research examining the effect of both local and state anti-discrimination laws on sexual orientation on the labor supply and wages of lesbian, gay, and bisexual (LGB) workers. To do so, I use the American Community Survey data on household composition to infer sexual orientation and combine this with a unique panel dataset on local anti-discrimination laws. Using variation in law implementation across localities over time, I find that anti-discrimination laws significantly reduce gaps in labor force participation rate, employment, and the wage gap for gay men relative to straight men. These laws also significantly reduce the labor force participation rate, employment, and wage premium for lesbian women relative to straight women. One explanation for the reduced labor supply and wage premium is that lesbian couples begin to have more children in response to the laws, shifting to a more traditional household with one woman working fewer hours. Finally, I present evidence that state anti-discrimination laws significantly and persistently increased support for same-sex marriage. This research shows that anti-discrimination laws can be an effective policy tool for reducing labor market inequalities across sexual orientation and improving sentiment toward LGB Americans.

Abstract

Date 2020-06-16
URL <https://papers.ssrn.com/abstract=3625193>
Place Rochester, NY

Why Is Your Grass Greener than Mine?: The Need for Legal Reform to Combat Gender Discrimination in Professional Sports

Author Tanya E. Dennis

A sport is "[a]n activity involving physical exertion and skill in which an individual or team competes against another or others for entertainment." The Industrial Revolution increased leisure time for the working class, freeing time for their engagement in sports.

Abstract As a form of relaxation, spectators gathered to enjoy their favorite sports. With technological advancements, such as mass media, spectators were willing to "pay to watch the very best athletes play sports." To elicit the best players and to encourage the best performances, athletes received remuneration and endorsements to maintain their

The Pay Equity Project

top performances. This exchange of pay-for-play elevated male athletes from amateurs to professionals, but not women. Past oppression and the underrepresentation of women in sports affect professional female athletes who continue to experience gender discrimination in professional sports. This Note argues that the Civil Rights Act and the Equal Pay Act, which prohibit discrimination against a protected class of individuals, fail to reach gender-discriminated professional athletes because of the statutes' narrowly drafted provisions. Specifically, the Civil Rights Act excludes gender as a protected class and applies only to discriminatory conduct by a state actor. As well, proof of an Equal Pay Act violation is predicated on inherently discriminatory factors rather than factors specific to each sport. This Note proposes new legislation for professional athletes to accommodate for the shortcomings of current anti-discrimination legislation.

Publication New England Law Review

Date July 2016

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=120582190&site=ehost-live>

Volume 50

Issue 3

Pages 347-360

Journal Abbr New England Law Review

- **Tags:**
 - Student Note⁷⁰

Faculty Title VII and Equal Pay Act Cases in the Twenty-First Century

Author Nora Devlin

Abstract The ever-evolving nature of case law means that even as scholars have been examining the issue of gender pay disparity in academia since at least 1977, there is always more to be written. Employees alleging gender-based pay discrimination may pursue two causes of action for filing claims under federal law: under the Equal Pay Act of 1963 (EPA) and under Title VII of the Civil Rights Act of 1964 (Title VII). This paper discusses these two causes of action, their treatment in the courts in cases with college faculty plaintiffs, and what issues these cases raise for faculty and universities. Finally, the paper examines how the case law might be used to shape policies that better protect both faculty and universities.

Publication Journal of College and University Law

Date June 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/jcolunly44&i=107>

Volume 44

Issue 1

Pages 96-124

- **Tags:**
 - Student Note⁷⁰

The Pay Equity Project

To Shatter the Glass Ceiling, Clean the Sticky Floor and Thaw the Frozen Middle: How Discrimination and Bias in the Career Pipeline Perpetuates the Gender Pay Gap

- Author** Rachel DiBenedetto
- Abstract** Part I of this Article will begin by examining the historical development of case law and enacted legislation for gender pay inequity. Part II will highlight how gender disparities in salary distributions within a specific controlled group³⁸ surface through workplace discriminatory practices and latent contractual obligations. Part III will explore how the gender pay gap in a non-controlled group³⁹ exists because of an array of factors but focus on institutional discrimination and gender bias-both stemming from gender norms. Section A will highlight how gender stereotypes and lack of equal representation in multiple facets reinforces gender norms. Section B will tackle the career pipeline, specifically addressing how biased academic and athletic programs may guide a student to pursue a profession. Part IV will demonstrate how these guided choices lead to unequal gender representation, thus, perpetuating gender-centered professions. Part IV also will analyze how occupational segregation, driven by aforementioned institutional sexism and reinforced bias partially explains gender wage disparities. Part V will focus on proposed solutions, short term Congressional remedies, and long- t e r m community approaches to increase equal gender workplace representation and in turn, reduce the gender pay gap. In breaking down these social constructs, studies will redirect their focus to address gender issues in a controlled workplace setting instead of contrasting women and men's earnings on account of the profession itself.
- Publication** American University Journal of Gender, Social Policy & the Law
- Date** 2021
- URL** <https://heinonline.org/HOL/P?h=hein.journals/ajgsp29&i=171>
- Volume** 29
- Issue** 2
- Pages** 151-224
- Journal Abbr** Am. U. J. Gender Soc. Pol'y & L.

Finding the Goldilocks Zone: Negotiating Your First Employment Offer in Legal Academia

- Author** Darby Dickerson
- Abstract** Being offered your first academic teaching position is a thrill. But receiving the offer can trigger anxiety and trepidation.' After learning the initial terms, questions about whether, what, and how to negotiate can loom large.' You may think that negotiating too aggressively could harm your chances of securing the position or building a positive relationship with your dean. On the other hand, not negotiating may mean leaving valuable consideration on the table, deflating your enthusiasm or self-confidence if you learn others at the same level earn more, or signaling to the administration that you lack the skill to negotiate. The goal should be to strike just the right balance-to find the Goldilocks Zone³-by negotiating the most important terms in a way that meets both parties' needs. Of course, that's easier

The Pay Equity Project

said than done. Negotiating a job offer is a complex, bespoke task. For this reason, all involved should avoid a cookiecutter approach.⁴ Keeping that important tenet in mind, what follows is one law dean's perspective on negotiating your first full-time faculty appointment in legal academia. While the essay focuses on women planning to enter the legal academy, it also provides more general advice about typical terms of an initial offer and strategies for all candidates to reach the Goldilocks Zone and negotiate a win-win academic appointment

Publication Journal of Legal Education

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/jled69&i=52>

Volume 69

Issue 1

Pages 48-94

**Journal
Abbr** J. Legal Educ.

Hierarchical Structure and Gender Dissimilarity in American Legal Labor Markets

Author Ronit Dinovitzer

Author John Hagan

Abstract Research on inequality in the legal profession underemphasizes the macro-level factors that structure legal work. This paper introduces two measures that characterize local legal labor markets. The index of gender dissimilarity is the proportion of women required to move into the private law firm sector from the public sector to create gender balance. The index of hierarchical market structure is defined by a concentration of elite law graduates, highly leveraged law firms, lucrative billings, and corporate clients. Women's salaries increase more rapidly than men's in these markets, yet men continue to out-earn women. Furthermore, HLM models indicate that in labor markets with greater gender dissimilarity, women's wages are significantly depressed. We explain this in terms of mechanisms of opportunity hoarding and exploitation (Tilly 1998).

Publication Social Forces

Date 2014-02-24

URL <https://muse.jhu.edu/article/537775>

Volume 92

Issue 3

Pages 929-955

Social Framework Studies Such as Women Don't Ask and It Does Hurt to Ask Show Us the Next Step toward Achieving Gender Equality - Eliminating the Long-Term Effects of Implicit Bias - But Are Not Likely to Get Cases Past Summary Judgment

Author Andrea Doneff

Abstract Lawyers and judges long have relied on outside evidence-usually studies or empirical research-to help them better understand the impact or meaning of the

The Pay Equity Project

facts in certain cases. In employment cases, lawyers have used studies that show statistical variance in hiring or promotion between men and women to prove discrimination. They have used studies that talk about implicit bias, the kind of bias that we apply without even knowing we are biased, perhaps the kind of bias we apply even when we are doing our best not to be biased, to understand that comments like "You should go to charm school" indicate sex-based stereotyped thinking. But they have not successfully used (and few appear even to have attempted to use) recent studies that tie together actions over a long period of time with a seemingly unrelated adverse employment action. These connections are much less obvious than those between "charm school" and sex-based stereotyping. They require a court to look at the long term cumulative effects of bias-not an if-then analysis but an understanding of the whole employment relationship, as explained with the help of these and related studies. This Article focuses on two studies (really one study and its related predecessor) and argues that they change the way we should look at the difficult individual disparate impact case, especially when combined with other social science research. The first study shows what many people accept from experience-that women simply do not negotiate on their own behalf.² The follow up study, much more important for purposes of this Article, shows that women who do negotiate might get what they negotiated for, but end up being perceived negatively thereafter by both the men and the women they work with.³ In a case where the effects of discrimination manifest over time and cannot be tied directly to a specific employment event, convincing a judge to use the study to fill in the gaps in evidence and let a case past summary judgment could be crucial to closing the gender gap. Unfortunately, although juries might make good use of the studies, judges who tend to grant summary judgment in discrimination cases are not likely to be persuaded that the studies, even paired with other illuminating studies, provide a sufficient "social framework" to get a case to a jury without significant and recent witness or documentary evidence. ⁴ Employment lawyers will not risk the expense to hire the expert necessary to make the argument. The studies will have little impact, even though they present essential information that should cause both employers and employees to question and perhaps modify their decisions and motivations.

Publication William & Mary Journal of Women and the Law
Date 2014
URL <http://heinonline.org/HOL/P?h=hein.journals/wmjw20&i=611>
Volume 20
Pages 573-624
Journal Abbr Wm. & Mary J. Women & L.

The Sexual Orientation Wage Gap for Racial Minorities

Author Jamie H. Douglas
Author Michael D. Steinberger
Abstract We explore the sexual orientation wage gap across four race and ethnic groups in the 2000 U.S. Census: Asian, black, Hispanic, and white. Using decomposition analysis, we explore if racial minority groups experience the same pattern of sexual orientation wage differences as their white counterparts, and how racial

The Pay Equity Project

and sexual orientation wage differences interact over the distribution of wages. For men, we show a combined unexplained penalty greater than the sum of their individual unexplained race and sexual-orientation differentials. Racial minority lesbians, however, earn higher wages than what the sum of their racial and sexual-orientation analyses would suggest.

Publication Industrial Relations: A Journal of Economy and Society

Date 2015-01-01

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12077>

Volume 54

Issue 1

Pages 59-108

DOI [10.1111/irel.12077](https://doi.org/10.1111/irel.12077)

Gender Equity in Educational Administration: Investigating Compensation and Promotion Power, Feminism, and Social Dimension

Author Michele Lee Dowell

Author Karen H. Larwin

Abstract A pending shortage in the position of public school superintendent is predicted due to retirements and the new accountability standards for public schools. This study was designed to contribute to the body of educational literature in regards to gender differences faced by school superintendents in regards to compensation, promotion track and performance evaluation. The first research question, explored the possibility of continued issues with the gender pay gap for superintendents. The second research question explored the career path of superintendents examining the gender specific paths of women through the elementary principalship and men through the secondary principalship. A survey developed in 2004 by Montz was administered to a stratified random sample of female and male superintendents across Pennsylvania, Ohio, and West Virginia. Demographic variables of age, race, marital status, education, district typology and salary were collected. Significant findings and implications for educational leaders are discussed.

Publication Journal of Research in Gender Studies

Date 2013

URL <http://heinonline.org/HOL/P?h=hein.journals/jogenst3&i=53>

Volume 3

Pages 53-77

Journal Abbr J. Res. Gender Stud.

Women Working for Women: Career Advancement and the Gender Wage Gap in the U. S. Federal Government

Author Maria Droganova

Abstract This paper investigates how female leadership affects the gender wage gap in the U. S. federal government. Using a unique dataset from the Office of

The Pay Equity Project

Personnel Management, I track careers of civilian employees from 1988 to 2011. I find that in offices where all supervisors are men, male wages are on average 10.6% higher than female wages. In contrast, in offices where all supervisors are women, the wage gap in favor of men disappears and becomes 3.2% in favor of women due to a 7.1% increase in female wages and a 6.7% decline in male wages. Also, the gender of an executive (a higher level supervisor) has a lesser impact on wages than the gender of regular supervisors. However, the gender of an executive has a greater impact on wages of supervisors than on wages of non-supervisors, which is consistent with the theory of mentorship. I account for potential endogeneity caused by a non-random assignment of supervisors by using office fixed effects and an instrumental variable based on retirement. Finally, I investigate potential mechanisms by examining promotions, exits, starting, and exiting positions.

Publication SSRN

Date 2018/01/12

URL <https://papers.ssrn.com/abstract=3074466>

**Journal
Abbr** SSRN

Compliance Requires Inspection: The Failure of Gender Equal Pay Efforts in the United States

Author Renalia DuBose

Abstract The U.S. Chamber of Commerce has characterized the reporting requirements of the expanded Executive Order 13665 as being "too burdensome."⁷ The Author of this Article believes the burdensome nature of the new reporting requirements should not be the focus of the gender wage gap issue; rather, the focus should center on past federal laws that should have remedied the wage gap. Further, the Author believes that laws designed to remedy the gender wage gap without rigorous inspection requirements produce minimal results.

Publication Mercer Law Review

Date Winter 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/mercer68&i=461>

Volume 68

Issue 2

Pages 445-460

**Journal
Abbr** Mercer Law Review

Employment Discrimination

Author John E. Duvall

Abstract A mix of interesting employment law decisions were handed down during the survey period.¹ Cases reported in this Article this year construe aspects of Title VII of the Civil Rights Act of 1964 (Title VII),² the Equal Pay Act,³ the Age Discrimination in Employment Act of 1967 (ADEA),⁴ the Americans with Disabilities Act of 1990 (ADA),⁵ and sections 1981 and 1983 of the Civil Rights

The Pay Equity Project

Acts of 1866 and 1871. 7 With just a few exceptions, only published decisions are discussed in this Article.

Publication Mercer Law Review
Date Summer 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/mercer70&i=1031>
Volume 70
Issue 4
Pages 989-1005
Journal Abbr Mercer Law Review

Assessing the Progress of Women in Corporate America: The More Things Change, the More They Stay the Same

Author Terry M. Dworkin
Author Cindy A. Schipani
Author Frances J. Milliken
Author Madeline K. Kneeland

Abstract Overt gender discrimination in the workplace is now less frequent since the passage of the Civil Rights Act; however, subconscious workplace gender biases persist. These subtle biases continue to contribute to gender inequality in the employment context, hindering women's ability to reach the top ranks of corporate leadership and their ability to achieve pay equity. To combat this inequity, in this article, we advance several suggestions. First, we urge states to pass legislation requiring paycheck fairness and urge firms to institute policies of salary transparency. Next, when there is a lack of women in the highest corporate ranks of the company, a presumption of discrimination should replace the current legal framework in the courts for disparate treatment analysis in Title VII cases of gender discrimination. We further suggest that firms would do well to improve mentoring and networking programs for women to help even the playing field and call on companies to offer implicit bias training for men. Finally, we urge firms to improve the environment for women in the workplace by adopting and sincerely promoting family-friendly policies. Not only would these recommendations be just, they would also likely increase productivity in the corporate world and help resolve the paradox surrounding the paucity of women in top leadership positions.

Publication American Business Law Journal
Date 2018
URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/ablj.12132>
Volume 55
Issue 4
Pages 721-762
DOI [10.1111/ablj.12132](https://doi.org/10.1111/ablj.12132)

The Pay Equity Project

The Future of Amateurism after Antitrust Scrutiny: Why a Win for the Plaintiffs in the NCAA Student-Athlete Name & Likeness Licensing Litigation Will Not Lead to the Demise of College Sports

- Author** Marc Edelman
- Abstract** This Article analyzes the pertinent legal issues in the NCAA Student-Athlete Name & Likeness Licensing Litigation and explains why a plaintiffs' victory would not lead to the demise of college sports as the NCAA suggests. Part I of this Article provides a history of the college sports marketplace, including its historic governance structure and its transition of economic power from individual colleges to the NCAA. Part II discusses the NCAA Student-Athlete Name & Likeness Licensing Litigation in terms of its procedural history and core legal principles. Part III explains why a win for the plaintiffs in the NCAA Student-Athlete Name & Likeness Licensing Litigation would not truly destroy competitive balance in college sports. Finally, Part IV explains why a win for the plaintiffs similarly would not destroy the financial viability of college sports.
- Publication** Oregon Law Review
- Date** 2013-2014
- URL** <http://heinonline.org/HOL/P?h=hein.journals/orglr92&i=1033>
- Volume** 92
- Pages** 1019-1056
- Journal Abbr** Or. L. Rev.

Stopped at the Starting Gate: The Overuse of Summary Judgment in Equal Pay Cases

- Author** Deborah Thompson Eisenberg
- Abstract** The article focuses on trial courts' overuse of dispositive motions of employers for summary judgment in employment discrimination cases on equal pay claims under the U.S. Equal Pay Act (EPA). It informs that courts granted majority of employer motions for summary judgment which means, only some of equal pay claims sustained the summary judgment starting gate. It also depicts that judges inadequately permitted summary judgment when disputes regarding the standard of equal work fact existed.
- Publication** New York Law School Law Review
- Date** 2013
- URL** <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=87483301&site=ehost-live>
- Volume** 57
- Issue** 4
- Pages** 815-839
- Journal Abbr** New York Law School Law Review

The Pay Equity Project

Steps toward closing the gender pay gap: CPA employers can take these concrete actions to make compensation more equitable

- Author** Yasmine El-Ramly
- Early in her career, Melissa Hooley, CPA, CGMA, and her husband at the time, also a CPA, worked for the same organization. Every year they each received a letter detailing their raises — and every time her husband got a higher increase than she did, even though they were at the same level and had nearly identical backgrounds, performance reviews, and expertise. "Each year I had to go in and discuss the issue," said Hooley, who has since
- Abstract** changed firms and is now partner-in-charge of employee benefit plan services at ACM LLP in Denver. "Every year I had a conversation with my mentor (a male partner at the organization), and he always ensured adjustments were made." Although she appreciated the organization's adjusting her compensation and recognizing the unintentional bias, she found it exasperating to have to make a case for herself year after year, especially with the knowledge that others with the same qualifications didn't experience the same problem.
- Publication** Journal of Accountancy
- Date** September 2019
- URL** <https://search.ebscohost.com/login.aspx?direct=true&db=bah&AN=138492960&site=ehost-live&scope=site>
- Volume** 228
- Issue** 3
- Pages** 1-7

"Not Merely There to Help the Men": Equal Pay Laws, Collective Rights, and the Making of the Modern Class Action

- Author** David Freeman Engstrom
- Why, in a nation thought pervasively committed to "adversarial legalism," did mass litigation and, in particular, the class action lawsuit not emerge as significant regulatory tools until at least the 1970s? Standard answers point to New Deal faith in bureaucracy or to an Advisory Committee that was not moved to amend Rule 23 of the Federal Rules of Civil Procedure until mounting docket pressures and the desegregation cases of the 1950s and 1960s forced its hand. This Article challenges these accounts by framing the modern class action's emergence as part of a broader midcentury battle over how to conceptualize collective rights within the emerging New Deal state. Using the untapped archival records of a remarkable lawsuit brought by twenty-nine female factory workers against General Motors in 1938 claiming unequal pay and the heated state- and federal-level legislative campaigns to enact pay equity laws it spurred, this Article presents novel evidence that labor unions killed the earliest efforts to build U.S. antidiscrimination law around the class action. Working against dozens of bills providing for class action authority, damages multipliers, and attorneys' fees, unions instead pushed the new pay equity laws into an anemic administrative system of regulation because they saw class actions as an existential threat to the New Deal system of labor relations built around collective bargaining. Recovering this history yields two sets of insights. First, it allows us to imagine alternative pathways in the United States's continuing struggle to combat workplace discrimination. Indeed, a more potent regulatory response to gender discrimination built around class actions of the modern sort could have fundamentally altered the U.S. industrial order and women's place in it. Second, the early history of the
- Abstract**

The Pay Equity Project

pay equity movement offers an especially clear example of how the tensions between a labor-driven vision of collective rights and one built around adversarial, aggregated litigation of workplace disputes have shaped the evolution of the U.S. regulatory state. That history remains highly relevant today as the U.S. Supreme Court, in a trio of cases asking whether the National Labor Relations Act bars class action waivers in arbitration agreements, must once more reconcile U.S. labor law and the class suit.

Publication Stanford Law Review

Date January 2018

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=127414254&site=ehost-live>

Volume 70

Issue 1

Pages 1-97

Journal Abbr Stanford Law Review

Why Income and Wealth Equality Cannot End Wage Stagnation

Author Richard A. Epstein

Abstract It is a great honor and privilege for me to return to Creighton Law School. I was last here in 1979 when I talked about automobile no fault insurance, a lecture that formed the basis of my 1980 article for the Creighton Law Review. 1 There is in fact a common theme between that article and this topic: beware of the Nirvana fallacy in evaluating proposals for major institutional reforms. This proposition was first stated by Harold Demsetz, who put the point bluntly, "The view that now pervades much public policy economics implicitly presents the relevant choice as between an ideal norm and an existing 'imperfect' institutional arrangement. This nirvana approach differs considerably from a comparative institution approach in which the relevant choice is between alternative real institutional arrangements."

Publication Creighton Law Review

Date 2014

URL <https://heinonline.org/HOL/P?h=hein.journals/creigh48&i=9>

Volume 48

Pages 1-22

Journal Abbr Creighton L. Rev.

The Cost of Non-Billable Work

Author Martha M. Ertman

Abstract This Article's argument for redistributing the cost of non-billable work proceeds in four parts. The first Part gives examples of non-billable work from the pending sex discrimination case against the global law firm Jones Day, provides a three-part typology describing a range of non-billable work, and links it to gender discrimination. The second Part articulates a theoretical explanation for why organizations and workers themselves often mistake non-billable work for a gift due instead of real work. Seeing collegiality and economic gain as mutually

The Pay Equity Project

exclusive “Hostile Worlds,” in the phrasing of Princeton sociologist Viviana Zelizer,⁷ covers up the work’s economic value under a blanket of collegiality. The third Part proposes the metaphor of a mosaic to disrupt erroneous Hostile Worlds thinking and replaces it with a more accurate understanding that allows collegiality to exist alongside the economic gains that billable work confers on organizations. Finally, the fourth Part shows how the mosaic metaphor can help advocates in employment discrimination cases. Together these insights give legal doctrine, organizations, and workers themselves a tool to enable them to see the value of non-billable work and consequently improve the respect and compensation that comes from it.⁸

Publication Texas Law Review Online
Date 2020
URL <https://texaslawreview.org/the-cost-of-non-billable-work/>
Volume 98
Pages 184-215
Journal Abbr Tex. L. Rev. Online

It's Time to Pay up, the Justification for Higher Salaries for WNBA Players: An Analysis of the WNBA's Success and Employing Mediation between the WNBA and NBA to Leverage Future Success

Author Lerae Ettienne

Abstract This article looks at the potential positive effects that mediation can have in fostering a better relationship between the two leagues and for the WNBA and its players to get their much-deserved respect and compensation. First, the article will go in depth regarding the structure of the WNBA, and its history to date. Next, the article will examine the WNBA's success despite the discrepancy in pay and the purported lack of viewership. The article will then expound on the rise of mediation as one of the major ADR tools. Next, the article will analyze the success of mediation in professional sports disputes. Lastly, the article will analyze the application of mediation to the issues concerning the WNBA, weighing both sides of the issues.

Publication Pepperdine Dispute Resolution Law Journal
Date 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/pepds19&i=178>
Volume 19
Issue 2
Pages 175-200
Journal Abbr Pepp. Disp. Resol. L.J.

- **Tags:**
 - Student Note⁷⁰

The Pay Equity Project

The Gender Wage Gap and the Fair Calculations Act

Author William E. Even

Author David A. Macpherson

Abstract If enacted into law, the Fair Calculations Act would require forensic economists to ignore an injured party's gender when forecasting the loss in future earnings. We discuss how this would affect the size of awards for men and women, and some of the issues that would arise if the law is enacted. Of particular interest is the extent to which gender differences in earnings, earnings growth, and worklife expectancy are the result of sex discrimination in labor markets as opposed to sex differences in preferences. We present evidence that gender differences in human capital characteristics explain a large share of gender differences in labor market outcomes, though there is considerable disagreement about how to interpret these results. We also show that gender differences in earnings are diminishing over time, but it is not likely that the gap will disappear in the near future. Finally, we discuss how forensic economists may have to rely on additional information when forecasting earnings if they are no longer allowed to use gender.

Publication Journal of Forensic Economics

Date December 30, 2020

URL <https://doi.org/10.5085/JFE-444>

Volume 29

Issue 1

Pages 39-58

Journal Abbr Journal of Forensic Economics

DOI [10.5085/JFE-444](https://doi.org/10.5085/JFE-444)

Knowing When to Ask: The Cost of Leaning In

Author Christine L. Exley

Author Muriel Niederle

Author Lise Vesterlund

Abstract Gender differences in the propensity to negotiate are often used to explain the gender wage gap, popularizing the push for women to "lean-in." We use a laboratory experiment to examine the effect of leaning-in. Despite men and women achieving similar and positive returns when they must negotiate, we find that women avoid negotiations more often than men. While this suggests that women would benefit from leaning-in, a direct test of the counterfactual proves otherwise. Women appear to positively select into negotiations and to know when to ask. By contrast, we find no significant evidence of a positive selection for men.

Publication NBER Working Paper No. 22961

Date December 2016

URL <http://www.nber.org/papers/w22961>

DOI [10.3386/w22961](https://doi.org/10.3386/w22961)

The Pay Equity Project

The Long and Winding Road: Pursuing Gender Equality in Rhode Island First Women Lawyers in Rhode Island

- Author** Cassandra L. Feeney
- Abstract** For decades, national organizations and local bar leaders have taken numerous steps to raise awareness of the need to increase gender equality within the legal profession. In the 1980s, national organizations encouraged judicial involvement in the formation of task forces to investigate gender bias in the courts, issue recommendations to address the problems, and form committees to monitor the elimination of gender bias. Rhode Island was an early leader in response to this call to action: it became the third state to form such a committee-the Rhode Island Supreme Court Committee on Women in the Courts-which issued a report in 1987. While there have undeniably been some advances in Rhode Island to promote gender equality since the 1987 report, much work remains to be done. There must be a conscious, long-term commitment to eliminate gender bias, while identifying ongoing and emerging problems. We all have a responsibility to fight for equality in the legal profession.
- Publication** Roger Williams University Law Review
- Date** 2020
- URL** <https://heinonline.org/HOL/P?h=hein.journals/rwulr25&i=382>
- Volume** 25
- Issue** 3
- Pages** 372-411
- Journal Abbr** Roger Williams U. L. Rev.

Gender Equity in the 21st Century: Keynote Address

- Author** Chai Feldblum
- Abstract** You have heard a lot this morning about the need in 1964 for Congress to enact prohibitions against discrimination on the basis of race, national origin and religion. I am going to use my time, therefore, to talk about gender equity: the addition of the sex discrimination prohibition in Title VII, the advances that have occurred since passage of that law, and the miles that we still have to go to achieve full gender equity.
- Publication** Richmond Journal of Law and the Public Interest
- Date** 2015
- URL** <http://heinonline.org/HOL/P?h=hein.journals/richlapin18&i=467>
- Volume** 18
- Pages** 417-440
- Journal Abbr** Rich. J. L. & Pub. Int.

Bet You Didn't Know She Could Get Paid for That: Using Sports Betting and the Right of Publicity to Address the Gender Wage Gap in Professional Sports

- Author** Torrey M. Feldman

The Pay Equity Project

Abstract

May 14, 2018 is among the most significant days in modern American sports history. No one earned a gold medal or played a championship game. There was no World Cup or National Series title on the line. Instead, with just a keystroke, the U.S. Supreme Court held the Professional and Amateur Sports Protection Act (PASPA) unconstitutional, thereby legalizing sports betting across the country. In the two years following the decision, dozens of states have established sports betting operations. For professional sports athletes and their agents, this new era brings with it questions of how state laws regarding the right of publicity will interact with laws governing sports betting operations. Complicating this question is well-established precedent governing fantasy sports and the online platforms that profit off of the name, image, and likeness of professional athletes. Against this backdrop, female professional athletes continue to earn significantly lower salaries than their male counterparts. This Article examines the gender wage gap in professional soccer and basketball, and explains the significance and history of PASPA. It then reviews the case law regarding professional athletes and their right of publicity claims. It concludes by suggesting that some female professional athletes may narrow the gender wage gap by asserting their right of publicity on sports-betting platforms.

Publication UCLA Women's Law Journal

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/uclawo27&i=257>

Volume 27

Issue 2

Pages 249-272

Journal Abbr UCLA Women's L.J.

Glory & Gold Medals Don't Pay Rent: The Case for Paying U.S. National Soccer Teams

Author Tyler Fields

Abstract

The United States Women's National Soccer Team is one of the most successful national teams of all time, having amassed four World Cup titles and four Olympic titles in the last thirty years. In recent years, multiple disagreements over how much they are paid by their employer, U.S. Soccer, has led to an array of litigation including both an Equal Pay Act and a Title VII lawsuit. The lawsuits aside, a bigger question remains: Why is U.S. Soccer paying both the men and the women at all? Most U.S. Olympians and other international athletes make little to nothing for national representation when compared to the bonuses paid to US. Soccer teams. This Comment argues that soccer is different from other sports and that to drive international competitiveness, paying the national teams is a necessary floor for any hope of success. Additionally, this Comment argues that paying the U.S. Women more is in the national interest and furthers the mission of U.S. Soccer. This Comment explores the global financing of national sports representation from the history of U.S. Soccer and the two senior teams to other Olympic sports at home and abroad. Finally, this Comment concludes with an analysis of what "equal" pay looks like in the soccer context and offers commentary on the economic counterarguments to paying the US. Women more.

The Pay Equity Project

Publication Berkeley Journal of Entertainment and Sports Law
Date 2021
URL <https://heinonline.org/HOL/P?h=hein.journals/bjesl10&i=1>
Volume 10
Pages 1-36
Journal Abbr Berkeley J. Ent. & Sports L.

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

How Open Are Firms' Compensation Systems - And Does It Matter

Author G. M. Filisko

Abstract The more firms disclose to lawyers about how they reach compensation decisions, the sooner women will achieve pay equity. Or maybe not. Compensation is so much more than a number. Many female lawyers know their base salary and, perhaps, the range of bonuses within their reach. But very few have delved deeply into their firm's compensation structure, particularly how "open" or "closed" it is.

Publication Perspectives
Date 2016
URL <http://heinonline.org/HOL/P?h=hein.journals/prspctiv24&i=52>
Volume 24
Pages 4-7
Journal Abbr Perspectives

Can Millennials Deliver on Equal Pay? Why the Time Is Finally Right for Pay Transparency

Author Susan R. Fiorentino
Author Sandra M. Tomkowicz

Abstract Part I of this article examines past and current legislative attempts to address the equal pay problem at both the federal and state levels.³² Part II discusses the case for pay transparency policies in the workplace and societal trends towards transparency, examines effective elements of pay transparency policies and pay audits, and suggests how private employers can adopt such policies to proactively decrease workplace pay inequity claims. ³³ This article concludes that employers should proactively embrace robust pay transparency policies both to reduce the incidence of workplace pay disparity and to align with the changing legal and social landscape. ³⁴

Publication Hofstra Labor & Employment Law Journal
Date 2021
URL <https://heinonline.org/HOL/P?h=hein.journals/hlelj38&i=273>

The Pay Equity Project

Volume 38
Issue 2
Pages 253-284
Journal Abbr Hofstra Lab. & Emp. L. J.

Book Review - Katherine Turk, Equality on Trial: Gender and Rights in the Modern American Workplace. Philadelphia: University of Pennsylvania Press, 2016. Pp. 284. \$45.00 cloth (ISBN 978-0-8122-4820-3). doi:10.1017/SO738248017000347

Author Catherine L. Fisk

Abstract This book synthesizes legal history with the history of social movements and civil rights to illuminate fifty years of struggle among lawyers, government officials, activists, and women workers over what it means to discriminate in employment "because of ... sex." In seven chapters, Turk covers the full range of major issues and cases in the law of sex discrimination, situating each in the context of the work cultures that the activists sought to change. Accessible to non-lawyers, but with sufficient detail to engage students and teachers of law, the book will be an important resource for anyone who wishes to understand the history of twentieth century efforts to use law to eliminate gender discrimination in employment.

Publication Law and History Review

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.journals/lawhst35&i=861>

Volume 35

Pages 837-839

Journal Abbr Law & Hist. Rev.

Getting to Deuce: Professional Tennis and the Need for Expanding Coverage of Federal Antidiscrimination Laws

Author Collin R. Flake

Abstract This Note uses a socio-legal framework, with tennis as a case study, to argue that some independent contractors should be protected under federal law. Part I lays out the theoretical and legal background by first describing social-scientific theories on occupational gender inequality. It then provides a brief overview of Title VII and the Equal Pay Act. Part II discusses the statistical evidence of a gender pay gap in professional tennis and explains why tennis players are independent contractors. Part III outlines several proposals for covering some independent contractors under federal law, and argues that returning to the economic realities test is the most practical and effective way to effectuate the remedial purposes of the antidiscrimination statutes. To conclude, this Note discusses the policy implications of expanding coverage of the statutes.

Publication Texas Review of Entertainment & Sports Law

Date 2014

The Pay Equity Project

URL <http://heinonline.org/HOL/P?h=hein.journals/tres16&i=61>
Volume 16
Pages 51-70
Journal Abbr Tex. Rev. Ent. & Sports L.

- **Tags:**
 - Student Note⁷⁰

An Interpretation and Application of the Lilly Ledbetter Fair Pay Act of 2009: How Courts Got It Wrong . . . Twice

Author Julia M. Fox

Abstract This Comment will argue that Congress intended an interpretation of the FPA that allows plaintiffs to bring claims following some, but not all, discrete acts affecting pay. This interpretation strikes a compromise between the narrow interpretation adopted by most federal courts since 2009 and the broadest interpretation in use. Part H of this Comment will provide a brief overview of the Supreme Court's decision in *Ledbetter v. Goodyear*, the passage of the FPA, cases decided in the wake of the FPA, and tools of statutory interpretation. Part III relies on textualism and legislative intent to argue that Congress intended that courts read the FPA to allow for resetting the statute of limitations with each paycheck following some other discriminatory decisions with effects on compensation. 26 Part III will also compare courts' FPA decisions with an interpretation that falls in line with canons of statutory interpretation and then refute arguments made by those in favor of an overly narrow or overly broad interpretation of the statute. This Comment will conclude with a recommendation that courts interpret the FPA to allow for the extension of the statute of limitation for pay discrimination claims following certain discrete, discriminatory acts.

Publication Boston University Public Interest Law Journal
Date 2015
URL <https://heinonline.org/HOL/P?h=hein.journals/bupi24&i=149>
Volume 24
Pages 143-174
Journal Abbr B.U. Pub. Int. L.J.

- **Tags:**
 - Student Note⁷⁰

Racial Disparities in Job Finding and Offered Wages

Author Roland G. Fryer
Author Devah Pager
Author Jörg L. Spenkuch

Abstract The extent to which discrimination can explain racial wage gaps is one of the most divisive issues in the social sciences. Using a newly available data set, this

The Pay Equity Project

paper develops a simple empirical test that, under plausible (but not innocuous) conditions, provides a lower bound on the extent of discrimination in the labor market. Taken at face value, our estimates imply that differential treatment accounts for at least one-third of the black-white wage gap. We argue that the patterns in our data are most naturally rationalized through a search-matching model in which employers statistically discriminate on the basis of race when hiring unemployed workers but learn about their marginal product over time.

Publication The Journal of Law and Economics
Date August 1, 2013
URL <https://www.journals.uchicago.edu/doi/full/10.1086/673323>
Volume 56
Issue 3
Pages 633-689
Journal Abbr The Journal of Law and Economics
DOI [10.1086/673323](https://doi.org/10.1086/673323)

Chapter 546: Another Step to Ensure Equal Pay Doesn't Wait Another Fifty Years Review of Selected 2015 California Legislation: Labor

Author Hannah Fuetsch
Abstract This article explains the legal background of the wage gap and analyzes Chapter 546's potential for narrowing the wage gap for California women.
Publication University of the Pacific Law Review
Date 2016
URL <https://heinonline.org/HOL/P?h=hein.journals/mcglr47&i=613>
Volume 47
Issue 3
Pages 577-598
Journal Abbr The U. of Pac. L. Rev.

A Summary of the Statistical Aspects of the Procedures for Resolving Potential Employment Discrimination Recently Issued by the Office of Federal Contract Compliance Along with a Commentary

Author Joseph L. Gastwirth
On November 5, 2020, the Office of Federal Contract Compliance in the Department of Labor issued new rules codifying the procedures it will use to resolve equal employment issues. First, this paper summarizes the new rules focusing on how the agency will use and evaluate statistical evidence in its monitoring of government contractors' compliance with equal employment laws. After noting the diminished role of statistical evidence in the new rules, the likely effect of them on the use of statistical data and analyses in equal employment proceedings are explored. The logical and statistical reasoning underlying several aspects of the new rules are also questioned. Because the new rules refer to a report of the Chamber of Commerce

The Pay Equity Project

that, in part, criticized the agency from bringing a case against a firm, data from the case are re-analyzed. The statistical analysis provides support for the position of OFCCP.

Date 2021-05-27

URL <https://papers.ssrn.com/abstract=3854884>

Place Rochester, NY

NAWL Pay Equity Connection: Sources of the "Pay Gap"

Author Kimberly Gdula

Author Gigi Rollini

Author Allison Stevenson

Author Elyse Velagic

Abstract This article is a list of high-level issues highlighting factors contributing to the pay gap, including resources and literature that will aid in obtaining a better understanding and appreciation of the complexity of the issues that cause the pay gap between men and women.

Publication Women Lawyers Journal

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/wolj104&i=12>

Volume 104

Issue 1-2

Pages 10-21

Journal Abbr Women Law. J.

The Gender Pay Gap: Seeking Fairness for Women in Professional Sports

Author Taylor Kennedy Gersch

Abstract Professional female athletes are constantly being asked to do more with less. They are asked to perform better and attract more viewers, often with less pay, less media coverage, and fewer sponsorships. Professional female athletes should be able to use the Equal Pay Act (EPA) to close the gender pay gap. However, not all professional athletes can use the EPA as a legal tool. In order to close the gender pay gap, the U.S. must alter its sports ecosystem to give professional female sports an equal part in broadcasting and sponsorships. This Article aims to address these issues and present solutions to close the gender pay gap in professional sports. Part I of this Article introduces the WNT's continued fight for equal pay. Part II analyzes the pay, broadcasting, and sponsorship gaps between professional female and male sports. Part III explores the elements and defenses of the Equal Pay Act. Part IV applies the Equal Pay Act to the WNT's lawsuit had it gone to trial and briefly summarizes Judge Klausner's partial summary judgment in favor of the United States Soccer Federation (USSF). Part V explores Australia's approach to the gender pay, broadcasting, and sponsorship gaps in professional sports. Finally, Part VI presents solutions to close the gender pay gap in professional sports in the United States.

The Pay Equity Project

Publication Oregon Review of International Law
Date 2021
URL <https://heinonline.org/HOL/P?h=hein.journals/porri122&i=149>
Volume 22
Pages 147-196
Journal Abbr Or. Rev. Int'l L.

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

En-Gendering Economic Inequality

Author Michele E. Gilman

Abstract We live in an era of growing economic inequality. Luminaries ranging from the President to the Pope to economist Thomas Piketty in his bestselling book *Capital in the Twenty-First Century* have raised alarms about the disparity between the haves and the have-nots. Overlooked, however, in these important discussions is the reality that economic inequality is not a uniform experience; rather, its effects fall more harshly on women and minorities. With regard to gender American women have higher rates of poverty and get paid less than comparable men, and their workplace participation rates are falling. Yet economic inequality is neither inevitable nor intractable. Given that the government creates the rules of the market, it is essential to analyze the government's role in perpetuating economic inequality. This Article specifically examines the role of the Supreme Court in contributing to gender-based economic inequality. The thesis is that the Supreme Court applies oversimplified economic assumptions about the market in its decision-making, thereby perpetuating economic inequality on the basis of gender. Applying insights of feminist economic theory, the Article analyzes recent Supreme Court jurisprudence about women workers, including *Wal-Mart v. Dukes* (denying class certification to female employees who were paid and promoted less than men), *Burwell v. Hobby Lobby Stores, Inc.* (granting business owners the right to deny contraception coverage to female employees on religious grounds), and *Harris v. Quinn* (limiting the ability of home health care workers to unionize and thereby improve their working conditions). In these cases, the Court elevates its narrow view of efficiency over more comprehensive understandings, devalues care work, upholds harmful power imbalances, and ignores the intersectional reality of the lives of low-wage women workers. The Article concludes that the Court is eroding collective efforts by women to improve their working conditions and economic standing. It suggests advocacy strategies for reforming law to obtain economic justice for women and their families.

Publication Columbia Journal of Gender and Law
Date 2016
URL <http://heinonline.org/HOL/P?h=hein.journals/coljgl32&i=11>
Volume 32
Pages 1-61

The Pay Equity Project

Journal Colum. J. Gender & L.
Abbr

New York Lawmakers Upend the Employment Law Landscape... Again

Author Mark S. Goldstein

Author Saranne E. Weimer

Author Alexandra C. Manfredi

Abstract The article explores employment laws passed by New York legislators and how they will affect businesses. Topics discussed include the use of nondisclosure provisions in agreements resolving claims of unlawful discrimination, harassment, and retaliation, equal pay law changes, hiring practices, and other changes to the state's anti-discrimination laws.

Publication Employee Relations Law Journal

Date Winter 2019

URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=139579173&site=ehost-live>

Volume 45

Issue 3

Pages 5-12

Women on the Frontlines

Author Michele Goodwin

Abstract This Article takes aim at the troubling and persistent disempowerment and invisibility of women generally, and particularly marginalized women of color even one hundred years after the ratification of the Nineteenth Amendment. It observes how the persistence of sexism, toxically combined with racism, impedes full political, economic, and social personhood of women and girls in society, sometimes to deadly effect. On the centennial anniversary of the Nineteenth Amendment, it speculates reasons for women's labor being undervalued, even while on the frontlines of service to their families, employers, and our nation. It examines how women's invisibility and sacrifice are particularly striking during the 2020 pandemic—a public health crisis so severe that nations besieged by the novel coronavirus or COVID-19 closed their borders, issued shelter-in-place orders, or imposed quarantines. In the United States, COVID-19 exposes preexisting institutional and infrastructural social problems, laid bare by a suffocating, debilitating virus. Racism, sexism, and xenophobia are the preexisting social conditions that further exacerbate harms manifested by the disease. Written during the heat of a pandemic, this Article closely examines the unique ways in which centuries of stereotypes and stigma further undermine women and girls as laborers during the 2020 pandemic and as patients. Meanwhile, their suffering is obscured in news media and not sufficiently accounted for in political spheres.

Publication Cornell Law Review

Date 2021

URL <https://heinonline.org/HOL/P?h=hein.journals/clqv106&i=881>

The Pay Equity Project

Volume 106
Issue 4
Pages 851-946
Journal Abbr Cornell L. Rev.

Waging War against Prior Pay: The Pay Structure That Reenforces the Systemic Gender Discrimination in the Workplace

Author Jessica Gottsacker

Abstract This Note addresses the inconsistent interpretations on whether prior pay can in fact be considered a "factor other than sex" when analyzing the Equal Pay Act. Based on the Equal Pay Act's language, legislative history, and the persistent gender pay gap seen today in the workplace, the Ninth Circuit was correct to exclude prior pay as a "factor other than sex" due to the unintended but consequential perpetuation of salary discrimination that is, in fact, on the basis of sex. Prior pay is in fact a violation of the Equal Pay Act. Part I of this Note will discuss the history and legislative intent of the Equal Pay Act. Part II will discuss the Ninth Circuit case, *Rizo v. Yovino*, which addressed the issue of considering prior pay under the Equal Pay Act. Part III will discuss the current circuit split surrounding whether prior pay can be considered as a "factor other than sex" when determining salaries. Part IV will address the need for the U.S. Supreme Court to officially take a stance on the issue and the potential results now that the Supreme Court has remanded the Ninth Circuit case. Part V will provide insight to the legislative action that could occur, successfully solving the Equal Pay Act's violation before the Court gets another chance.

Publication Saint Louis University Law Journal

Date 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/stlulj64&i=115>
Volume 64
Issue 1
Pages 113-144
Journal Abbr St. Louis U. L.J.

- **Tags:**
 - Student Note⁷⁰

Civil Rights Lemonade: Title VII, Gender, and Working Options for Working Families

Author Tristin K. Green

Abstract I have two main goals for this Article. The first is to think practically and strategically about next legal steps for Title VII enforcement in light of recent procedural setbacks. But my goal here is deeper and more complex than this account may suggest: I seek to shift the balance of debate in ways that resonate with American morals and in ways that are true to people's real lives and

The Pay Equity Project

struggles. This leads me to my second goal, which is to better link, in our minds, our literatures, and our visions for Title VII, people's lived lives, including their families and communities, with their working lives. In so doing, I hope that we can better see, among other things, that economic conditions and job options affect family well-being and gender norms in numerous and diverse ways.

Publication Stanford Journal of Civil Rights & Civil Liberties

Date 2014

URL <http://heinonline.org/HOL/P?h=hein.journals/stjcrcl10&i=207>

Volume 10

Pages 191-222

**Journal
Abbr** Stan. J. C.R. & C.L.

Wyoming, Take Another Look at Unions: How Unions Can Increase Equality for Women in the Workplace Wyoming Law Division

Author Hallie Guidry

Abstract As a result of House Bill 209, the Wyoming Department of Workforce Services released a report entitled "A Study of the Disparity in Wages and Benefits Between Men and Women in Wyoming."⁶ The report both confirmed the wage disparity between men and women and offered potential legislative solutions, including: (1) prohibiting employers from asking about past salary; (2) prohibiting retaliation against employees who discuss their salaries; (3) raising the minimum wage, which disproportionately affects women; (4) raising pay equity for public employees; (5) encouraging companies to address pay equity through leveraging government contracts; and (6) requiring employers to explain gender wage disparity to employees.⁷ Yet, the report did not mention unionism as a tool for decreasing the wage disparity. Wyoming must make changes to increase the salaries, benefits, and rights of female employees.⁹ Female-dominated industries in particular can especially benefit from unionization.¹⁰ In 2017, the national statistics indicated that 33.5% of employees in education, training, and library occupations were unionized, whereas only 12.4% of healthcare practitioners and technical occupations and only 6.9% of healthcare support occupation employees were members of a union.¹¹ This is in sharp contrast to Wyoming, where unions on average represent 5.5% of women and 9.2% of men.¹² The lack of unionism in Wyoming is due in part to public-sector employees not having the right to unionize.¹³ The primary tools for unionization in Wyoming are the National Labor Relations Act (NLRA) and a narrowly applicable state statutory scheme.¹⁴ The NLRA grants protections to private-sector employees, which can benefit women and increase equity in wages and benefits.¹⁵ Wyoming statutory law grants firefighters the right to collective bargaining and unionization, but all other public-sector employees do not have these rights.¹⁶ Wyoming must amend its statutes to grant the same rights to public-sector employees, thus expanding protections to thousands of more employees and allowing more women to gain the advantages of union representation.¹⁷ This Comment explores the benefits unions provide to women and how Wyoming can use unions to advance women's working conditions and interests. Part II of this Comment explores the history of women in labor unions, and examines the participation of women in unions today.¹⁸ Part III outlines labor law at both federal level under the NLRA and state

The Pay Equity Project

law under Wyoming's statutory scheme.²⁰ Part IV explains the permissible subjects for collective bargaining under the NLRA, including wages, sexual harassment, family and medical leave, medical insurance, job security, and safe work environments, as well as how collective bargaining agreements (CBAs) can protect women's interests in the workplace.²¹ Part V advocates for legislation that grants public employees the right to bargain collectively.²² Part VI concludes that unions can improve workplace conditions for women and, therefore, illustrates Wyoming must pass laws that grant collective bargaining rights to public-sector employees.²³ Then, part VII proposes legislation that would grant public employees the right to bargain collectively in Wyoming.²⁴

Publication Wyoming Law Review

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/wylr19&i=385>

Volume 19

Issue 2

Pages 363-390

**Journal
Abbr** Wyo. L. Rev.

- **Tags:**
 - Student Note⁷⁰

Courting the People: Demosprudence and the Law/Politics Divide

Author Lani Guinier

An essay is presented on U.S. Supreme Court (USSC) Justice Ruth Bader Ginsburg and her dissenting opinion in the 2007 USSC case Ledbetter v.

Abstract Goodyear Tire & Rubber Co. which deals with women's equality and tire industry employee Lilly Ledbetter's challenge to the defendant's policy of offering different levels of pay to male and female employees. The nation's Lilly Ledbetter Fair Pay Act, demosprudence in America, and the relationship between law and politics are examined.

Publication Harvard Law Review

Date November 2013

URL <http://www.jstor.org/stable/23741406>

Volume 127

Issue 1

Pages 437-444

**Journal
Abbr** Harvard Law Review

California Fair Pay Act: Data Gathering and Gender Pay Analyses

Author Jeremy Guinta

Author Angela Sabbe

The Pay Equity Project

Abstract The California Fair Pay Act (Senate Bill 358) recently amended the California Equal Pay Act, codifying in California Labor Code section 1197.5 discrete changes regarding gender pay discrimination cases. These changes in the language directly impact how gender pay discrimination analysis is conducted and how companies collect employee information.

Publication Employment & Labor Relations Law

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.aba/emlare0015&i=32>

Volume 15

Pages 5-9

Journal Abbr Emp't & Lab. Rel. L.

Gender gap, capital accumulation and the demographic transition

Author Kaiming Guo

Author Jingwen Yu

Abstract This paper focuses on explaining the demographic transition and some of the broad patterns that are associated with it. We present an endogenous growth model that incorporates altruism and son preference within the family as well as gender wage gap and gender wage discrimination in the labour market. We show that with the accumulation of physical capital and human capital, the output share of mental labour increases and the gender wage gap narrows. In the early stages of economic development, gender discrimination is becoming prevalent and the substitution effect of capital accumulation, which raises the cost of child rearing, is dominated by the income effect, so the growth rate of population increases with income. When the degree of gender wage discrimination starts to decline, the increased cost of child rearing induces families to invest more in the human capital of children and the growth rate of the population falls. The quantitative analysis shows that gender wage discrimination is indeed an important contributor to the demographic transition.

Publication Economics of Transition

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/ecot.12126>

Volume 25

Issue 3

Pages 553-572

DOI [10.1111/ecot.12126](https://doi.org/10.1111/ecot.12126)

Revisiting the Gender Gap in CEO Compensation: Replication and Extension of Hill, Upadhyay, and Beekun (2015)'s work on CEO Gender Pay Gap

Author Vishal K. Gupta

Author Sandra C. Mortal

Author Xiaohu Guo

Abstract Research Summary The increasing number of women chief executives motivates considerable interest in examining possible gender differences in CEO

The Pay Equity Project

compensation. Recently, Hill, Upadhyay and Beekun (2015) reported that female CEOs receive greater compensation than male CEOs, which runs counter to common wisdom that the gender pay gap in the labor market favors men over women. With the goal of contributing to cumulative knowledge development in this area, we seek to reexamine Hill et al's finding about gender differences in CEO compensation by extending the analyses further in time, using a larger sample of firms and more rigorous empirical analyses. Our findings, which are robust to different statistical procedures and econometric specifications, do not reveal reliable evidence for differences in compensation paid to male and female CEOs. Managerial Summary For years, a lively debate has centered on the issue of gender pay gap. The ubiquity of the pay gap between men and women has recently been questioned by Hill and colleagues (2015) who identify the Chief Executive Officer (CEO) role as a workplace position where women receive greater compensation than men. Our investigation examines whether women CEOs are indeed compensated substantively more than male CEOs. We seek to replicate earlier work by Hill and colleagues, using an expanded dataset over a longer period of time and with more rigorous analytical tools. We do not find reliable evidence for a difference in compensation paid to male and female CEOs, suggesting that claims about gender gap in CEO compensation favoring women over men may be premature.

Publication Strategic Management Journal

Date 2018/5/2

URL <https://onlinelibrary.wiley.com/doi/abs/10.1002/smj.2905>

DOI [10.1002/smj.2905](https://doi.org/10.1002/smj.2905)

The Aid Gap

Author Chris Guthrie

Author Emily Lamm

Abstract

In this Essay, we criticize merit scholarship negotiation on disparate impact grounds. We begin in Part I by describing the practice of merit scholarship negotiation. In Part II, we explain why this process can lead to a gender-based aid gap. In so doing, we rely on a rich literature on gender in negotiation, focusing particularly on the literature documenting gender-based differences in the initiation of negotiation. Then, in Part III, we recommend that the American Bar Association (ABA) act to address the aid gap. We begin by arguing that the ABA should ban merit scholarship negotiation altogether-- an action that falls within the ABA's accrediting authority and that would eliminate the gap. In the event the ABA is unwilling or unable to ban merit scholarship negotiation, we recommend that the ABA follow the approach it has taken with so-called "conditional scholarships" and mandate disclosure. While mandatory disclosure might not fully eliminate the aid gap, it would inform admitted students of each school's merit scholarship negotiation practices and outcomes, and this awareness should at least reduce the aid gap. Finally, we conclude our Essay by observing that the aid gap is likely part of a much larger problem affecting other less advantaged populations and impacting students enrolling in other degree programs. By taking a strong stance against merit scholarship negotiation in legal education, the ABA, the Law School Admissions Council (LSAC), and the law schools themselves can become role models for all of higher education.

The Pay Equity Project

Publication Journal of Legal Education

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/jled69&i=127>

Volume 69

Issue 1

Pages 123-137

**Journal
Abbr** J. Legal Educ.

Commuting Patterns, the Spatial Distribution of Jobs and the Gender Pay Gap in the U.S.

Author Federico Gutierrez

Abstract This paper studies to what extent gender differences in commuting patterns explain the observed disparities between husband and wife in relation to earnings and wages. It is argued that the cost of commuting is higher for women because they bear a disproportionate share of housework and child-rearing responsibilities. Therefore, female workers tend to work relatively close to home. A 'job location wage gap' emerges because jobs located away from the central business district offer lower wages. Using pooled data from the American Community Survey, the results indicate that 10% of the gender pay gap among childless workers and more than 23% of the wage decline attributed to being a mother ("child pay penalty") are explained by sex differences in commuting patterns. A conditional Oaxaca-Blinder decomposition indicates that short commutes are strongly associated with working in low-paying occupations and industries.

Date 2018/11/25

URL <https://papers.ssrn.com/abstract=3290650>

Place Rochester, NY

Reaching the Top or Falling Behind? The Role of Occupational Segregation in Women's Chances of Finding a High-Paying Job Over the Life-Cycle

Author Federico Gutierrez

Abstract Using a two-stage decomposition technique, this paper analyzes the role of occupational segregation in explaining the probability of women vis-a-vis men of finding high-paying jobs over the life-cycle. Jobs are classified as highly-remunerated if their compensation exceeds a threshold, which is set at different values to span the entire wage distribution. Results obtained from pooled CPS surveys indicate that the importance of occupational segregation remains virtually unchanged over the life-cycle for low- and middle-wage workers. However, women's access to high-paying occupations becomes significantly more restricted as workers age, suggesting a previously undocumented type of 'glass ceiling' in the U.S.

Date 2018/10/29

URL <https://papers.ssrn.com/abstract=3274877>

Place Rochester, NY

The Pay Equity Project

An Even Playing Field: The Goal of Gender Equity in World Cup Soccer

Author Andrew J. Haile

Abstract The United States Women's National Soccer Team has dominated the sport since the inaugural Women's World Cup in 1991. Despite its success on the field, however, the team has had a contentious relationship over the last three decades with the United States Soccer Federation, the sport's governing body in the United States. The ongoing discord between the Women's National Team and the U.S. Soccer Federation culminated in March 2019, when twenty-eight players from the team filed a lawsuit alleging that the Federation had violated the Equal Pay Act by paying them less than it paid members of the Men's National Team. This Article traces the history of strife between the Women's National Team and the U.S. Soccer Federation. The troubled relationship is a result of the mismatch between the team's superior results but lower pay compared to the Men's National Team. This mismatch has its roots in competing legal and societal forces. On the one hand, Title IX caused an explosion in the participation rate for women's soccer in the United States, which has led to the Women's National Team's unprecedented success. On the other hand, with the exception of the World Cup finals every four years, the viewership market for women's soccer remains much smaller than the market for men's soccer, which has resulted in lower revenue generation by the Women's National Team compared to the far less successful Men's National Team. After explaining the history and cause of the turmoil between the Women's National Team and the U.S. Soccer Federation, this Article analyzes the merits of the players' Equal Pay Act claim. The Article contends that the Federation has the stronger position on the merits of the claim, but further argues that the Federation should renegotiate the Women's National Team's collective bargaining agreement in light of the Federation's mission of "gender equality." The Article proposes specific principles that might guide that renegotiation and lead to a successful resolution of the long-standing tensions between the Women's National Team and the U.S. Soccer Federation.

Publication Oregon Law Review

Date July 2020

URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=144779812&site=ehost-live>

Volume 98

Issue 2

Pages 427-475

- **Tags:**
 - U.S. Women's Soccer¹⁷

The Uniform Guidelines on Employee Selection Procedures Does Not Apply to Compensation

Author Clifford Haimann

Abstract The article discusses how job relatedness standards described in the Uniform Guidelines on Employee Selection Procedures can be applied to compensation laws. Topics discussed include statutes requiring a demonstration of job relatedness for pay factors; ways in which Pay equity is an increasingly important topic in American society; and work

The Pay Equity Project

of federal agencies, such as the Equal Employment Opportunity Commission and Office of Federal Contract Compliance Programs to combat pay disparities.

Publication Labor Law Journal

Date Winter 2019

URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=140209166&site=ehost-live>

Volume 70

Issue 4

Pages 225-234

- **Tags:**
 - Student Note⁷⁰

Unbinding Working Women in a "Binders-full-of-Women" Nation: How the United States Can Learn from Swedish, Norwegian and Icelandic Successes in Gender Pay Gap Legislation

Author Lily Hall

Abstract The article analyzes difference between the gender policies of the U.S. and Norway in managing the gender pay gap (GPG). Topics discussed include impact of the GPG on gender equality in workplace, laws governing the investments on women's health and education along with the impact of family policies on discrimination in workplace.

Publication Cardozo Journal of International & Comparative Law

Date Spring 2014

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=100966335&site=ehost-live>

Volume 22

Issue 3

Pages 627-663

Journal Abbr Cardozo Journal of International & Comparative Law

- **Tags:**
 - Student Note⁷⁰

Racial/Ethnic Differences in Non-Work at Work

Author Daniel S. Hamermesh

Author Katie R. Genadek

Author Michael C. Burda

Abstract Evidence from the American Time Use Survey 2003–2012 suggests that minority employees, especially men, spend a small but statistically significant amount of time not working at the workplace relative to non-Hispanic whites. The time differences remain significant but decrease by 25 to 50% when accounting for detailed industry and occupation controls. Union status, public- or private-sector

The Pay Equity Project

attachment, payment method, and educational attainment do not explain the differences, although health status is important among African Americans. The estimates imply that the differences in non-work at the worksite can explain up to 10% of the adjusted wage gap between minority and non-Hispanic white workers.

Publication ILR Review

Date March 1, 2021

URL <https://doi.org/10.1177/0019793919891429>

Volume 74

Issue 2

Pages 272-292

**Journal
Abbr** ILR Review

DOI [10.1177/0019793919891429](https://doi.org/10.1177/0019793919891429)

- **Tags:**

- compensating wage differentials
- discrimination
- effort
- ethnicity
- race
- time use

The "Fair Pay and Safe Workplaces" Regulations and Guidance Constitute an Unreasonable Use of Federal Authority

Author Cameron S. Hamrick

Author Roger V. Abbott

Abstract The article discusses the executive order Fair Pay and Safe Workplaces issued by the U.S. federal agencies, and a final guidance issued by the Department of Labor for its implementation by the Federal Acquisition Regulatory Council (FAR Council) and contracting agencies. Topics include certain labor law information required to be disclosed by federal contractors and subcontractors; and authority granted to contracting officers to exercise certain adverse actions based on labor law information.

Publication Public Contract Law Journal

Date Winter 2017

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=122781732&site=ehost-live>

Volume 46

Issue 2

Pages 217-257

**Journal
Abbr** Public Contract Law Journal

The Pay Equity Project

Teacher Wage Penalty and Decrease in Teacher Quality: Evidence from Career-Changers

Author Eunice S. Han

Abstract This paper examines the relation between teacher pay and teacher quality through the career dynamics of teachers and non-teachers. I find that public school teachers earn considerably less than their comparable college graduates in the non-teaching sector. By tracking wage differentials before and after career changes, I find evidence of positive selection, in which high-paid teachers are more likely to move to non-teaching occupations, and of negative selection, in which low-paid non-teachers tend to move to the teaching sector. These selection patterns, which ultimately contribute to a decrease in teacher quality, are more significant in union-unfriendly states.

Publication Labor Studies Journal

Date September 1, 2021

URL <https://doi.org/10.1177/0160449X20929083>

Volume 46

Issue 3

Pages 251-285

Journal Abbr Labor Studies Journal

DOI [10.1177/0160449X20929083](https://doi.org/10.1177/0160449X20929083)

- **Tags:**
 - career change
 - multiple jobholding
 - teacher quality
 - teacher wage penalty
 - teachers unions

Information and the Persistence of the Gender Wage Gap: Early Evidence from California's Salary History Ban

Author Benjamin Hansen

Author Drew McNichols

Abstract Aiming to reduce the gender wage gap, several states and cities have recently adopted legislation that prohibits employers from asking about previously earned salaries. The advocates of these salary history bans (SHBs) have suggested pay history perpetuates past discrimination. We study the early net impact of the first state-wide SHBs. Using both difference-in-difference and synthetic control approaches, we find the gender earnings ratio increased by 1 percent in states with SHBs. We find these population wide increases are driven by an increase of the gender earnings ratio for households with all children over 5 years old, by workers over 35, and are principally driven by those who have recently switched jobs.

Date 2020-04

URL <https://www.nber.org/papers/w27054>

The Pay Equity Project

The Role of Gender and Motherhood Ideologies in Perpetuating Workplace Inequality

- Author** Elizabeth C. Harris
- Author** Mychel L. Estevez
- Abstract** Drawing on 48 qualitative interviews, the authors study the relationship between gender ideologies and how women negotiate for family friendly work conditions and compensation. The authors find that although the women in their sample have widely diverging ideologies about the obligations and rights women have in the home and in the workforce, these ideologies did not influence discernibly their negotiations at work to obtain compensation and friendly work conditions. Instead, the women's beliefs about gender egalitarianism tended to be overshadowed by their beliefs that motherhood is intensive and all-involving and necessarily involves sacrifices in the workplace and at home. This gendered understanding of motherhood frequently limited the expectations of even the most-feminist identified women when they approached their employers about compensation and about accommodations that would facilitate better work and family balance. The authors conclude that family and work scholars who study the role of gender ideology should expand their definitions of gender ideology to incorporate the ways in which ideologies about motherhood may interact with, contradict or overshadow other gender egalitarian beliefs.
- Publication** Journal of Research in Gender Studies
- Date** 2017
- URL** <http://heinonline.org/HOL/P?h=hein.journals/jogenst7&i=341>
- Volume** 7
- Pages** 67-85
- Journal Abbr** J. Res. Gender Stud.

Missing the Forest for the Trees: Gender Pay Discrimination in Academia

- Author** Melissa Hart
- Abstract** Women in virtually every job category still make less than men. Academia is no exception. This Article will explore some of the structural explanations for this continued disparity and the continued resistance to seriously confronting those structural barriers to equality. Using the still-unfolding story of a charge of discrimination filed against a university, this Article examines the script that has become all-too-familiar in discussions about the gender pay gap, whether in academia or elsewhere. The basic storyline in pay discrimination litigation is this: Evidence is presented about the existence of a gap between men's earnings and women's earnings. The response is that the numbers cannot be looked at as a group because there are individual explanations for each pay decision. With this move, the focus of attention is shifted from an evaluation of the troubling structural picture to an evaluation of an individual employee. Until we are willing to resist that shift, it will be nearly impossible to address the root causes of continued pay inequity.
- Publication** Denver University Law Review
- Date** 2014

The Pay Equity Project

URL <https://heinonline.org/HOL/P?h=hein.journals/denlr91&i=897>
Volume 91
Pages 873-892
Journal Abbr Denv. U. L. Rev.

The Gender Wage Gap and Work-Family Supports: Women's Choices or Policy Choices

Author Ariane Hegewisch
Author Emma Williams-Baron

Abstract This article begins by establishing the importance of women's wages for families, and trends in the wage gap from the passage of the Equal Pay Act of 1963 to the present day. It next examines explanations for the gender wage gap, including the impacts of discrimination, occupational segregation, and differences in women's and men's contribution to unpaid family work. The final section focuses on the work-family infrastructure and sets out variations in work-family supports such as paid leave, pre-K enrollment, and child care supports between states. It finds that the states with the most extensive work-family supports also have the lowest gender wage gap; and states with the least work-family supports have the highest. The article concludes that policy decisions constrain women's options, and can be powerful tools for closing the gender wage gap.

Publication Saint Louis University Public Law Review
Date 2017
URL <https://heinonline.org/HOL/P?h=hein.journals/stlpl36&i=19>
Volume 36
Pages 5-18
Journal Abbr St. Louis U. Pub. L. Rev.

U.S. cities with greater gender equality have more progressive sexual orientation laws and services

Author P. J. Henry
Author Russell Steiger

Abstract For decades, American legal scholars have speculated that discrimination against lesbians and gay men in the United States represents a special case of sex discrimination that reinforces sex stereotypes and inequality between men and women. The present research analyzes recent documentation of the progressiveness of sexual orientation laws and programs across 386 cities in the United States, to determine whether it is related to one manifestation of gender discrimination, the male-female wage gap. The results show that cities with a smaller gender wage gap tend to have more progressive sexual orientation laws and programs, a finding that holds true even when controlling for plausible third variables such as the city's religiosity and conservative political climate. The findings show that the speculation of American legal scholars concerning the gendered nature of LGBT rights has basis in empirical reality.

The Pay Equity Project

Publication Psychology, Public Policy, and Law

Date Feb 2019

URL <https://www.proquest.com/docview/2198820853/abstract/1FF71FE198934D45PQ/1>

Volume 25

Issue 1

Pages 15-29

DOI <http://dx.doi.org/10.1037/law0000189>

Econometrics and Economists in Employment Discrimination Litigation

Author Joni Hersch

Abstract This paper, based on my keynote address to the American Academy of Economic and Financial Experts (AAEFE) on April 25, 2019, provides an overview of my research on related issues that arise in employment discrimination litigation. I discuss (a) econometric critiques commonly raised in litigation and how these critiques relate to case outcomes; (b) the role of home production in explaining gender pay gaps; (c) valuation of sexual harassment risk; and (d) unique survey evidence on consulting experiences among economists by gender.

Publication Journal of Legal Economics

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/jole26&i=13>

Volume 26

Pages 5-22

**Journal
Abbr** J. Legal Econ.

Something to Talk about: Information Exchange under Employment Law

Author Joni Hersch

Author Jennifer Bennett Shinall

Abstract To avoid the appearance of sex discrimination that would violate Title VII of the Civil Rights Act, Equal Employment Opportunity Commission (EEOC) guidance coupled with a common misunderstanding of the law have resulted in little or no information about family status being provided in pre-employment interviews. To investigate whether concealing family information actually improves women's employment prospects, we conducted an original experimental study fielded on more than 3000 subjects. Our study provides the first ever evidence that concealing personal information lowers female applicants' hiring prospects. Subjects overwhelmingly preferred to hire candidates who provided personal or family information, regardless of content-any explanation improved employment prospects relative to no explanation for an otherwise identical job candidate. Our results are consistent with the behavioral economics theory of ambiguity aversion, which finds that individuals prefer known risks over unknown risks. These findings have broader implications regarding permissible preemployment questions, as they suggest that restrictions on questions about matters such as criminal history and credit history, both of which are currently targeted by

The Pay Equity Project

legislatures and by the EEOC for prohibition, may likewise have adverse effects on the classes of workers such restrictions are intended to protect. Finally, our findings suggest that the interactive process model of reasonable accommodation, embodied in the enforcement guidance for the Americans with Disabilities Act, may provide a better model for accommodation of work-family balance.

Publication University of Pennsylvania Law Review
Date 2016
URL <http://heinonline.org/HOL/P?h=hein.journals/pnlr165&i=53>
Volume 165
Pages 49-90
Journal Abbr U. Pa. L. Rev.

Sex, Trump, and Constitutional Change

Author Helen Hershkoff

Author Elizabeth M. Schneider

Part I of this Article contextualizes women's current resistance to the Trump Administration's policies, discussing how women's absence from the Constitution coincides with their economic and social inferiority, especially since the economic meltdown of the early twenty-first century. The problems identified in this Part were an entrenched feature of American life before Trump became President but elected officials frequently overlooked or pushed them to the side. Part II turns to the Trump Administration's policy agenda, which has privileged financial elites, cut back worker protections, and sought to dismantle health and welfare protection, including those that bear on women's reproductive choice. Looking at an illustrative sample of the President's policies, we examine their anticipated impact on women and show that they are likely to exacerbate gendered trends of social and economic disadvantage. Part III takes an unusual turn, at least for a symposium that is focused on constitutional law. We look not at the Supreme Court, but at the lower federal courts, and explore not the Constitution and the substantive law of gender equality, but the Federal Rules of Civil Procedure.

Abstract These rules involve basic litigation devices such as arbitration agreements, motions to dismiss, summary judgment, and class certification. Our focus on procedure should not be regarded as "a technical affair" or off the mark for those interested in gender equality. 4 5 Constitutional scholars, studying the Civil Rights Movement and the campaign for marriage equality, have argued that popular mobilization can motivate and legitimate the progressive reordering of constitutional doctrine.⁴⁶ Procedural rules-long regarded as critical to rights and liberty-provide a pathway through which social movements translate constitutional aspirations into constitutional doctrine. Civil procedure .plays this role by shaping, channeling, and encouraging-or discouraging-the flow of information to and from the court and ultimately to the public.^{4 8} Activism in resistance to President Trump's policies concerning women offer interpretive resources that are critical to the reframing of constitutional narrative. 49 As we show, there is a danger that information about women's experiences will be filtered from public knowledge through procedural decisions that seem distant from constitutional struggles. In our view, anyone seriously interested in the

The Pay Equity Project

transformative power of women's mobilization must take account of procedural rulings that potentially blunt the communicative force of a social movement and thereby diminish its legal and political potential. This Article certainly is not the first to associate the application of federal procedural rules with gendered effects." Some would argue that these judicial trends are evidence of stealth activism-not by liberal judges seeking to adapt the Constitution to current concerns, but by conservative judges cutting back on equality-favoring laws enacted by earlier political coalitions.⁵² Others might equate them with an unspoken assumption that "women's issues" are not worth the federal courts' time and trouble-consistent, for example, with the exclusion of domestic-relation cases from federal jurisdiction.⁵³ Our contribution is to examine the linkage between adjudicative procedure and the potential impact of social mobilization on constitutional culture. We raise the question whether procedural decisions, by failing to engage with the facts of women's experiences, inadvertently undermine what Elizabeth Winkler has referred to as women's "epistemological authority," and so diminish or block women's contribution to legal discourse.⁵⁴ Part IV is normative and prescriptive. Trump's presidency has triggered a national conversation about women; his policies are likely to impede women's advances, and his appointments to the Supreme Court are allied with his vision. Even before the current crisis, some commentators urged a renewed effort at amending the Constitution to give women an explicit place in its text and to commit the nation to a substantive conception of equality and liberty.⁵⁶ In our view, the Constitution is sufficiently capacious to remedy structural forms of gender inequality and to recognize the sorts of social and economic claims that are now typical of contemporary constitutions. But we have little optimism that the Supreme Court will embrace this approach without a constitutional amendment. In these times, mobilizing to ensure that the Constitution will protect persons regardless of gender is critically important, to be combined with grassroots mobilization, participation in state and local elections, and pursuing enforcement actions in agencies and state and federal courts. Procedure can support or subvert substantive goals, but in the end the substantive law of gender equality could itself benefit from repair. In this Part we sketch out the ways in which an equal rights amendment could expand women's constitutional possibilities and improve America overall." We then briefly conclude.

Publication Constitutional Commentary

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/ccum34&i=45>

Volume 34

Issue 1

Pages 43-132

**Journal
Abbr** Const. Comment.

It's Complicated: Reflections on Teaching Negotiation for Women

Author Rebecca Hollander-Blumoff

Abstract This effort to include gender-specific training for negotiation reveals a consistent message: if women did a better job with their negotiations, gender pay equity would be closer to realization. At the same time, legal rules also have developed

The Pay Equity Project

that acknowledge how difficult information can be to acquire in the workplace. For example, when Lilly Ledbetter filed a case against Goodyear Tire and Rubber Company alleging pay discrimination, the Supreme Court dismissed the case because the statute of limitations had long passed on the initial pay disparity. 5 In response, Congress enacted the Lilly Ledbetter Fair Pay Act of 2009, which provided that the statute of limitations for pay discrimination would reset with each new paycheck.¹⁶

Publication Washington University Journal of Law & Policy
Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/wajlp62&i=89>
Volume 62
Pages 77-86
Journal Abbr Wash. U. J. L. & Pol'y

Mind the Gap: Bridging Gender Wage Inequality in Louisiana

Author Katilyn Hollowell
Abstract The article focuses on issues of gender wage inequality in the U.S., and mentions history of the gender wage gap; federal and state statutory frameworks governing wage discrimination; and federal and state laws governing equal pay rights and unlawful employment practices.

Publication Louisiana Law Review
Date Spring 2017
URL <https://digitalcommons.law.lsu.edu/lalrev/vol77/iss3/10/>
Volume 77
Issue 3
Pages 833-978
Journal Abbr Louisiana Law Review

- **Tags:**
 - Student Note⁷⁰

Worker-Owned and Unionized Worker-Owned Cooperatives: Two Tools to Address Income Inequality

Author Carmen Huertas-Noble
Abstract This article evaluates worker-owned and unionized worker-owned cooperatives as alternatives to the conventional corporate structures for businesses in the United States. With their focus on democratic governance and shared ownership, worker-owned cooperatives offer an antidote to the extreme inequality of income and deterioration of working conditions that workers are experiencing. These are inequities for which corporate prioritization of executive compensation and shareholder enrichment are at least partly responsible. While questions have been raised concerning the sustainability of the cooperative form, two examples

The Pay Equity Project

of large, well established cooperatives - Mondragon and Cooperative Home Care Associates - demonstrate how capitalization strategies, cooperative ecosystems, and strategic affiliations with unions can leverage resources to start and keep cooperative businesses functioning. The article also documents the growth of municipal and institutional support for the cooperative form of business ownership, and the role that the City University of New York's Community Economic Development Law Clinic (CEDC) has played in supporting that movement domestically and internationally. That support has included developing curricula to build the capacity of worker cooperatives, participating in creating and sustaining the creation of a city-wide advocacy coalition, organizing annual conferences, and successfully working with local legislatures to increase funding for cooperatives. Law students in CEDC have gained skills of transactional lawyering, movement lawyering and coalition-building through their representation of individual worker cooperatives and their work with a city-wide advocacy coalition for cooperatives. Of particular note in the pedagogy of this representation are the advanced skills of integrative counseling and inclusive problem solving that assistance for complex actors requires.

Publication Clinical Law Review

Date 2016

URL <https://heinonline.org/HOL/P?h=hein.journals/clinic22&i=329>

Volume 22

Issue 2

Pages 325-358

**Journal
Abbr** Clinical L. Rev.

Striker No Striking! U.S. Soccer Federation, Inc. v. U.S. Women's National Soccer Team Players Ass'n: A Clearance in the Courtroom

Author Dale Hutcherson

This Article is divided into six sections. Part II discusses the background and historical development of the relationship between the USWNTPA and USSF, the 2012 CBA and 2013 MOU in more detail, and addresses the change in General Counsel for the USWNTPA and how that went into the making of this lawsuit. Part II concludes by highlighting the policy arguments and fundamental legal issues at stake as portrayed in the media, which generates heated discussions from all sides and affects the American population. Part III focuses on principles of contract law and CBAs and how they are viewed by the courts - especially in the context of professional sports. Part IV examines the actual arguments of the parties - USSF and USWNTPA - as well as the court's holding on the issue and its implications for the CBA and MOU. Part V will briefly discuss how this entire issue could have been avoided by the parties and what should have been done to "fully integrate" the CBA. Finally, Part VI concludes by summing up why the Federal District Court of the Northern District of Illinois was correct in its ruling on the matter and addresses again the purpose behind writing this Article.

Abstract

Publication Sports Lawyers Journal

Date 2019

The Pay Equity Project

URL <https://advance.lexis.com/api/permalink/c6e74ebd-de59-4c26-99f5-64251469beb7/?context=1000516>
Volume 26
Pages 109
Journal Abbr Sports Law. J.

- **Tags:**
 - U.S. Women's Soccer¹⁷

Book Review: Debating Equal Pay for All

Author Matthew T. Jeffers
The edited volume, Debating Equal Pay for All, features many proposals to address pay inequality and these can be broken down into essentially two types. The first type of proposal calls for equal pay and this has two versions: unconditional and conditional. The unconditional version calls for paying everybody, including those who do not work, the same annual compensation. By contrast, the conditional version of equal pay calls for everybody earning the same hourly rate, but this would only apply to those who work. The second category of proposals do not call for equal pay, instead these proposals aim to moderate, but not eliminate, pay inequality. This second category includes everything from universal basic income, mandatory pay ratios between executives and entry level employees, to job guarantee programs. Advocates of proposals in the second category largely dismiss the idea of equal pay as either having serious economic problems or believe it to be too politically or socially extreme. I begin with a review of the challenges facing the equal pay proposals and consider the extent to which proponents of equal pay were able to overcome those challenges. I then turn to discuss the merits of the more moderate proposals featured in this volume.

Abstract

Publication Compensation & Benefits Review
Date September 1, 2021
URL <https://doi.org/10.1177/08863687211008151>
Volume 53
Issue 4
Pages 188-191
Journal Abbr Compensation & Benefits Review
DOI [10.1177/08863687211008151](https://doi.org/10.1177/08863687211008151)

Shooting for Equality: An Analysis of the Market Force Defense As Applied to the U.S. Women's Soccer Team's Equal Pay Claim

Author Ali Jessani
Abstract Sedion II of this Note analyzes the current legal landscape for addressing sex-based wage discrimination claims, with a particular focus on how these claims have been addressed in the sports context. Part A begins by describing how the

The Pay Equity Project

market force defense has been traditionally applied to EPA and Title VII claims and reviews college sports cases where the market force defense has been raised. Part B summarizes research that challenges the deference given to the market force defense and makes the case that courts need to analyze institutional factors in order to ensure that employers are not actively contributing to market disparities. Part C shows how Title IX provides a framework for courts to conduct an analysis of a market-based defense that takes into consideration institutional factors. Section III of this Note zooms in on the USWNT's claim against the Federation. Part A summarizes the claims made by both sides regarding the wage disparity between the USWNT and the United States' Men's National Team ("USMNT"). Part B then looks at the institutional factors that a court should analyze when evaluating the Federation's market force defense. Ultimately, this paper argues that courts should reevaluate how they assess the market force defense by taking into account institutional, market-related factors that the employer either created, or has the power to change, and to provide an analysis of the USWNT's case against the Federation as an example of what such assessments should look like.

Publication Duke Journal of Gender Law & Policy

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/djglp25&i=222>

Volume 25

Issue 2

Pages 221-248

- **Tags:**

- Student Note⁷⁰
- U.S. Women's Soccer¹⁷

Gender Differences in Negotiation: Implications for Salary Negotiations

Author Julia Johnson

Despite incentives aimed at achieving equality for women in the workforce, women continue to lag behind men in terms of pay and leadership positions. This is despite the fact that women, on average, have equal or better educational credentials and offer comparable skill sets to employers.¹ A variety of causal factors have been postulated for this disparity,² including women's tendency to choose to enter fields with lower pay at higher rates than men,³ and their greater concern for work-life balance in order to prioritize childcare obligations.⁴ However, another contributing factor exists that receives less attention: often, women are not as effective at self-advocacy in the workplace as are men. Women may fear the potential negative social consequences of ardent self-promotion, and this can lead to a reticence to negotiate that results in women receiving significantly less pay for the same work as men.⁵ Part II of this article explores the nature of the gender disparity manifested in the salary negotiations process. Part III discusses a number of culturally dictated gender stereotypes and behavioral norms that can act as obstacles to women's success in salary negotiations. Finally, Part IV recommends several strategies and tactics intended to enhance women's effectiveness in salary negotiations that women may take into consideration.

Abstract

The Pay Equity Project

Publication UCLA Women's Law Journal

Date 2016

URL <https://heinonline.org/HOL/P?h=hein.journals/uclawo23&i=136>

Volume 23

Pages 131-151

Journal Abbr UCLA Women's L.J.

- **Tags:**
 - Student Note⁷⁰

Wage discrimination in the NBA: Evidence using free agent signings

Author Candon Johnson

Author Eduardo Minuci

Abstract This article takes a step toward understanding potential causes of wage discrimination in an economy highly dependent on the service industry. Traditionally categorized within the service industry, professional sport leagues such as the National Basketball Association (NBA) provides a unique setting to examine the potential impact of race on salary. We analyze free agency contract signings, which allow us to better capture the determinants of players' wages, from 2011 to 2017 to investigate the prominence of wage discrimination in the NBA. Using weighted linear regression models and the Oaxaca–Blinder decomposition, we find that Black athletes are paid significantly less than their counterparts. In addition, we also identify the presence of consumer discrimination after controlling the exposure of a player to the audience, which is observed through the interaction term between the share of MSA population which is White and an identifier for whether a player is Black.

Publication Southern Economic Journal

Date 2020

URL <https://onlinelibrary.wiley.com/doi/abs/10.1002/soej.12461>

Volume 87

Issue 2

Pages 517-539

DOI [10.1002/soej.12461](https://doi.org/10.1002/soej.12461)

A Different Class of Care: The Benefits Crisis and Low-Wage Workers

Author Trina Jones

Abstract When compared to other developed nations, the United States fares poorly with regard to benefits for workers. While the situation is grim for most U.S. workers, it is worse for low-wage workers. Data show a significant benefits gap between low-wage and high-wage in terms of flexible work arrangements (FWAs), paid leave, pensions, and employer-sponsored health-care insurance, among other things. This gap exists notwithstanding the fact that FWAs and employment benefits produce positive returns for employees, employers, and society in general. Despite these returns, this Article contends that employers will be loath

The Pay Equity Project

to extend FWAs and greater employment benefits to low-wage workers due to (1) concerns about costs, (2) a surplus of low-wage workers in the labor market, (3) negative perceptions of the skill of low-wage workers and the value of low-wage work, (4) other class-based stereotypes and biases, and (5) structural impediments in some low-wage jobs. Given the decline of unions and limited legislative action to date, the Article maintains that low-wage workers are in a "different class of care" with little hope for meaningful change on the horizon.

Publication American University Law Review

Date 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/aulr66&i=719>

Volume 66

Pages 691-760

**Journal
Abbr** Am. U. L. Rev.

The Oregon Pay Equity Act Is Here

Author Jeff Jones

Author Tamara Jones

Abstract When Congress passed the Equal Pay Act of 1963, it did so to "insure, where men and women are doing the same job under the same working conditions that they will receive the same pay." Fifty-five years later, we are still not there. The ACS Census estimates that for 2018 the gender wage gap is 80 cents. That is, women earn 80 cents for each dollar men earn. According the National Women's Law Center, women in Oregon earn 79.3 cents for every dollar earned by men. In the last few years, numerous states have passed equal pay laws designed to correct for the shortcomings of federal law. With a few exceptions, enforcement of Oregon's latest effort at pay equality, the Oregon Pay Equity Act of 2017 (OPEA), begins January 1, 2019. In this Article we anticipate legal issues that will arise from the OPEA's enforcement, raise uncertainties and address the proposed regulations issued by the Oregon Bureau of Labor and Industries. We pay particular attention to complexities involved in conducting pay equity analyses that will prove sufficient for employers to enjoy the OPEA's "safe harbor" provision. In the end, we conclude that the OPEA is a welcome step toward pay equity for the incentives it creates for employers to voluntarily investigate wage structures within their workplaces.

Date 2018/07/15

URL <https://papers.ssrn.com/abstract=3277617>

Place Rochester, NY

Distributional Changes in the Gender Wage Gap

Author Sonja C. Kassenboehmer

Author Mathias G. Sinning

Abstract Using Panel Study of Income Dynamics (PSID) data, the authors analyze changes in wage differentials between white men and women over time and across the entire wage distribution. The authors decompose distributional changes in the gender wage gap to assess the contribution of observed characteristics measuring individual productivity. They find that the gender wage

The Pay Equity Project

gap narrowed by 16% at the lowest decile and by less than 5% at the highest decile. The decomposition results indicate that changes in the gender wage gap are mainly attributable to changes in educational attainment at the top of the wage distribution, with a sizable part due to work history changes at the bottom. The findings further reveal that the accuracy of the results depends on the direction in which the decompositions are performed.

Publication ILR Review: The Journal of Work and Policy
Date 2014
URL <http://heinonline.org/HOL/P?h=hein.journals/ialrr67&i=335>
Volume 67
Pages 335-361
Journal Abbr ILR Rev.: J. Work & Pol'y

Still Looking for That "M": How Inequity Affects WNBA Players and What the League Should Improve in Its Collective Bargaining Agreement Notes

Author Sarah Kennelly

The wage gap in the United States is narrowing and women inch closer to achieving equality in the workforce each day.' In the world of sports, the prevailing assumption that women's sports leagues are less popular and profitable is used to justify lower salaries for female athletes.² This assumption often leads to the deterioration of negotiations for equal pay, even in a world where the women are bringing greater economic benefit to their league than their male counterparts.³ By subjecting female athletes to worse working conditions (e.g., accommodations, benefits, time-off) and investing less in the future of their players (e.g., age eligibility requirement, lower salaries), women's leagues are preventing themselves from generating the type of revenue the men's leagues bring in.⁴ This is especially evident in women's basketball in the U.S., where women earn a fraction of what their male counterparts do, while also traveling and training in worse conditions.⁵ This note will focus primarily on issues with the Women's National Basketball Association's ("WNBA") collective bargaining agreement ("CBA"), which was recently renegotiated in January 2020. Section I of this note will provide a background on the league and the players' union, the Women's National Basketball Players Association ("WNBPA") and discuss how it has implemented labor laws to protect the rights of its players. Section II will take a close look at both the NBA and WNBA's CBAs to identify the areas with the most disparity. Section III will examine the justifications and rationalizations used to explain the disparity between the men and women's basketball leagues. Section IV will consider potential remedies for the weak points of the women's CBA. Finally, Section V will take a broader look at women's sports to see where U.S. women's basketball falls in terms of gender equality, and what the WNBA could take away from other women's sports both in the U.S. and abroad.

Abstract

Publication Women's Rights Law Reporter
Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/worts42&i=114>
Volume 42

The Pay Equity Project

Issue 1/2
Pages 110-133
Journal Abbr Women's Rts. L. Rep.

- **Tags:**
 - Student Note⁷⁰

Pay Secrecy and the Gender Wage Gap in the United States

Author Marlene Kim

Abstract Legislators and advocates claim that pay secrecy perpetuates the gender wage gap and that the Fair Labor Standards Act (FLSA) should be amended to outlaw these practices. Using a difference-in-differences fixed-effects human-capital wage regression, I find that women with higher education levels who live in states that have outlawed pay secrecy have higher earnings, and that the wage gap is consequently reduced. State bans on pay secrecy and federal legislation to amend the FLSA to allow workers to share information about their wages may improve the gender wage gap, especially among women with college or graduate degrees.

Publication Industrial Relations: A Journal of Economy and Society

Date 2015-10-01

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12109>

Volume 54

Issue 4

Pages 648-667

DOI [10.1111/irel.12109](https://doi.org/10.1111/irel.12109)

Falling Short: On Implicit Biases and the Discrimination of Short Individuals

Author Omer Kimhi

Abstract Socio-psychological research solidly shows that people hold implicit biases against short individuals. We associate a host of positive qualities to those with above average height, and we belittle those born a few inches short. These implicit biases, in turn, lead to outright discrimination. Experiments prove that employers prefer not to hire or promote short employees and that they do not adequately compensate them. According to various studies, controlling for other variables, every inch of height is worth hundreds of dollars in annual income, which is no less severe than the wage gap associated with gender or racial discrimination. Given the proportions of height discrimination revealed in this Article, I examine why it is not legally addressed. How come the federal system and most states do not view height discrimination as illegal, and why are such discriminatory practices ignored even by their victims? Using psychological literature, I argue that the answer lies in the "naming" of this phenomenon. We fail to recognize height discrimination because it does not fit our mental template of discrimination. The characteristics we usually associate with discrimination intentional behavior, clear harm, specific perpetrator/victim, and specific domain do not exist in height discrimination, so we fail to categorize it as such. This

The Pay Equity Project

Article explains why, despite the "naming" difficulties, the legal system should not ignore the widespread heightism phenomenon. Based on the psychological literature, it suggests ways to deal with it, focusing on the provision of information and on consciousness raising.

Publication Connecticut Law Review

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/conlr52&i=738>

Volume 52

Issue 2

Pages 719-770

**Journal
Abbr** Conn. L. Rev.

Challenges in Bringing Gender Equity into the Workplace: Addressing Common Concerns Women Have When Deciding to Hold Employers Accountable for Gender Discrimination

Author Siobhan Klassen

Abstract Within this article, I will briefly describe federal laws which can be used to promote gender equity. Because the laws are useless unless utilized and it can be intimidating and overwhelming to bring a case against a current or former employer, I will spend the majority of this article in an attempt to provide reassurances for women who are considering making a complaint of gender discrimination or filing a case. Women will be able to use the laws that protect them effectively to promote gender equity if and when they feel comfortable with the legal process. Addressing common concerns women have when deciding if they want to bring a case will hopefully allow them to feel confident and protected, instead of feeling vulnerable and ostracized, which they likely already feel from being the victim of discrimination.

Publication Journal of Race, Gender, and Ethnicity

Date 2021-01-01

URL <https://digitalcommons.tourolaw.edu/jrge/vol10/iss1/5>

Volume 10

Issue 1

Pages 7-22

Occupational Prestige and the Gender Wage Gap

Author Kristin J. Kleinjans

Author Karl Fritjof Krassel

Author Anthony Dukes

Abstract Occupational segregation by gender remains widespread and explains a significant part of the gender wage gap. We shed light on the reasons why occupational segregation persists despite the increases in women's education and labor force participation, and why it results in a gender wage gap. Women express a stronger relative preference than men for occupations that are valuable

The Pay Equity Project

to society, which we argue is captured by their occupational prestige. If women prefer occupations with higher occupational prestige, they will earn lower wages because of compensating wage differentials. Using conditional logit models of occupational choice, we find statistically significant support for this hypothesis. The effect is economically significant: the gender differences in the weights placed on prestige and wages can explain up to one half of the gender wage gap resulting from occupational segregation, or about one fourth of the overall gender wage gap. Our results are strongest for individuals with low ability, which suggests that social norms may be an important factor in generating these gender differences.

Publication Kyklos

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/kykl.12149>

Volume 70

Issue 4

Pages 565-593

DOI [10.1111/kykl.12149](https://doi.org/10.1111/kykl.12149)

A New Frontier: Applying Evolving National Pay Equity Trends to Kansas's Statute

Author Sangeeta Shastry Kleinmann

This Comment argues that Kansas should incorporate select provisions from federal statutes and proposed legislation as well as from California, Massachusetts, and New York's laws. Such adoptions would have positive economic consequences for not only Kansas women, but also for the state as a whole. Part II provides a primer on current federal and state pay equity statutes and focuses on comparisons and shortcomings among California, Massachusetts, and New York's new statutes. This section also compares

Abstract Kansas's current pay equity law to the three aforementioned updated statutes. Part III aims to accomplish two tasks to make the argument that Kansas would economically benefit from adopting a combination of strengthened pay equity statutory provisions. First, this section outlines the economic context and positive economic contributions such provisions would make in Kansas. Second, this section explains the specific provisions Kansas should adopt and the impact such changes will have on empowering employees to seek pay equity and addressing economic policy concerns arising from the persistent wage gap.

Publication University of Kansas Law Review

Date 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/ukalr65&i=903>

Volume 65

Issue 4

Pages 835-874

Journal Abbr U. Kan. L. Rev.

- **Tags:**
 - Student Note⁷⁰

The Pay Equity Project

Persistent Gender Inequality in the World of Work

Author Jeni Klugman

Author Henriette Kolb

Author Matthew Morton

Abstract Today, many more girls are going to school and living longer, healthier lives than thirty, or even ten, years ago.' Yet this has not translated sufficiently into broader gains in economic opportunities. Too many women still lack basic freedoms and opportunities and face huge inequalities in the world of work. Globally, fewer than half of women have jobs, compared with almost four-fifths of men. Girls and women still learn less, earn less, and have far fewer assets and opportunities. When women do work, they farm smaller plots, work in less profitable sectors, and face discriminatory laws and norms that constrain their time and choices. They are also limited in their ability to own or inherit property, open a bank account, access technology, or take out a loan-to buy fertilizer, for example, which would boost food production. To close these gaps, we need to examine existing constraints and understand the policies and practices that can bring about gender equality in the world of work.

Publication Fletcher Forum of World Affairs

Date 2014

URL <http://heinonline.org/HOL/P?h=hein.journals/forwa38&i=369>

Volume 38

Pages 133-152

Journal Abbr Fletcher F. World Aff.

The “State” of Equal Employment Opportunity Law and Managerial Gender Diversity

Author Julie A. Kmec

Author Sheryl L. Skaggs

Abstract Women’s underrepresentation in management is a persistent social problem. We take a new approach to understanding the lack of managerial gender diversity by investigating how U.S. state equal employment opportunity laws are related to women’s presence in upper and lower management. We draw on data from 2010 EEO-1 reports documenting managerial sex composition in U.S. work establishments and a state employment law database to answer our research questions. State mandates are found to be differentially associated with upper-versus lower-level managerial gender diversity. Establishments in states with an equal pay law, or that once ratified the ERA, employ more women in upper management than those in states without such a law or in nonratifying states, but this holds only in establishments in industries that typically employ women. In contrast, establishments in states that require anti-discrimination workplace postings employ fewer women in upper-management than those in states without such a requirement. State equal pay laws, especially those adopted before federal equal pay legislation, family responsibility discrimination protections, and past ERA ratification are positively associated with women’s lower-level managerial presence. Conversely, state expanded family and medical leave

The Pay Equity Project

coverage, prohibited sex discrimination, and specific posting rules are negatively associated with women's presence in lower management. Results hold net of establishment, state, firm, and industry factors. We discuss the meaning behind differences across managerial level and the role of state regulation in moving toward greater managerial gender equity.

Publication Social Problems

Date 2014

URL <http://www.jstor.org/stable/10.1525/sp.2014.12319>

Volume 61

Issue 4

Pages 530-558

DOI [10.1525/sp.2014.12319](https://doi.org/10.1525/sp.2014.12319)

Negotiated in the Shadows of Organizations: Gender, Negotiation, and Change

Author Deborah M. Kolb

More recently, the explosion of research on the topic has been prompted by concerns about the gender gap in wages and achievement-the glass ceiling effects-that have women in organizations plateauing before they reach top leadership positions. 4 Despite the fact that they make up close to fifty percent of the labor force and graduate from college in greater numbers than men, women are still not anywhere near parity in the senior positions of corporations,

Abstract professional services partnerships, or large-scale global organizations, nor are they likely to get there soon.5 The compensation gap has been growing recently, particularly among women of color. While there are a multitude of societal and organizational explanations for these phenomena,6 there are actions women can take to remedy these situations and one of them is to negotiate more proactively and effectively for wages and opportunity. It is in this spirit that much of this more recent work has been undertaken.

Publication Ohio State Journal on Dispute Resolution

Date 2013

URL <http://heinonline.org/HOL/P?h=hein.journals/ohjdpr28&i=253>

Volume 28

Pages 241-262

Journal Abbr Ohio St. J. on Disp. Resol.

Message in a Bottle

Author Linda Hamilton Krieger

And so, I write this message, put it in a bottle, and throw the bottle out to sea in the hope that one day, when the time is right, someone will find the bottle, take out and read the message, and put the words there to some constructive use in

Abstract reviving Title VII, this good law, and with it the hopes and dreams, the meanings and the practices, the social and legal norms that I believed as an earnest twenty-four-year-old it would come to represent. I'll first try to describe, as succinctly as possible, what went wrong. Then, a briefer and more conversational

The Pay Equity Project

conclusion will describe five lessons-some of them quite difficult-that I learned from what happened to Title VII. To admit to ourselves-let alone to others-what we got wrong is hard, but it is important, too. It calls us to hope that what one generation learns can be transmitted to the next, or if not the next, then to the next after that. It challenges us to trust that as a people, we are not doomed to make the same mistakes over and over again.

Publication Berkeley Journal of Employment and Labor Law
Date 2018
URL <https://heinonline.org/HOL/P?h=hein.journals/berkjemp39&i=59>
Issue 1
Pages 53-88
Journal Abbr Berkeley J. Emp. & Lab. L.

Stay or Leave?: Externalization of Job Mobility and the Effect on the U.S. Gender Earnings Gap, 1979–2009

Author Anne-Kathrin Kronberg

Abstract As jobs in the United States become less secure and traditional job ladders deteriorate, employees increasingly change employers to build their career. This article explores how this shift affects gender earnings disparities. I find that the effect of changing employers depends on whether changes occur in “good” or “bad” jobs and whether individuals leave voluntarily or involuntarily. Using the Panel Study of Income Dynamics 1979–2009, gender disparities narrowed among voluntary leavers in good jobs and involuntary leavers in bad jobs. Disparities stagnated among voluntary leavers in bad jobs. The gender gap actually increased among involuntary leavers in good jobs. Although the causal mechanisms driving these trends are still unknown, the results indicate that the externalization opens opportunities primarily to those who are already in good positions.

Publication Social Forces
Date 2013-06-03
URL <https://muse.jhu.edu/article/509331>
Volume 91
Issue 4
Pages 1117-1146

Democratic Party Control Reduces Gender Inequality

Author John Kuk

Author Zoltan Hajnal

Abstract Women earn less than men who work in the same job with the same level of experience. We know much about this gender wage gap but relatively little about its political or partisan sources. In this article, we examine the effects of party control of state government on gender inequality in income, wages, unemployment, and poverty. Employing both a regression discontinuity design and a dynamic difference-in-difference analysis, we find that electing a

The Pay Equity Project

Democratic majority to the state house leads to substantial improvement in women's incomes, wages, and unemployment relative to men—especially in recent years. We also show that greater female representation in office and more liberal policymaking on policies related to women's rights could be driving that process. We find, however, fewer clear effects on poverty and less robust results for partisan control of the governor's office or the state senate. Parties and politics matter, but not always.

Publication Legislative Studies Quarterly

Date 2021

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/lsg.12316>

Volume 46

Issue 1

Pages 155-188

DOI [10.1111/lsg.12316](https://doi.org/10.1111/lsg.12316)

Beyond the Paycheck Fairness Act: Mandatory Wage Disclosure Laws - A Necessary Tool for Closing the Residual Gender Wage Gap

Author Marianne DelPo Kulow

Despite the presence of three federal statutes outlawing gender discrimination in wages, United States women continue to earn only 77 cents to the male dollar.

Abstract

One reason that many identify for part of the remaining gap is that wage discrimination often goes undetected by its victims because salaries of comparably employed males are usually private information. Therefore, some suggest that mandatory wage disclosure laws are necessary to completely close the gap. This Article makes the case for adoption of such a statute.

Publication Harvard Journal on Legislation

Date 2013

URL <https://heinonline.org/HOL/P?h=hein.journals/hjl50&i=397>

Volume 50

Pages 385-436

Journal Abbr Harv. J. on Legis.

The Gender Wage Gap in Developed Countries

Author Astrid Kunze

Despite the increased attachment of women to the labour force in nearly all developed countries, a stubborn gender pay gap remains. This chapter provides a review of the economics literature on the gender wage gap, with an emphasis on developed countries. We begin with an overview of the trends in the gender

Abstract

differences in wages and employment rates. We then review methods used to decompose the gender wage gap and the results from such decompositions. We discuss how trends and differences in the gender wage gap across countries can be understood in light of non-random selection and human capital differences. We then review the evidence on demand-side factors used to explain the existing

The Pay Equity Project

gender wage gap and then discuss occupational segregation. The chapter concludes with suggestions for further research.

Publication IZA Discussion Paper No. 10826

Date 2017/06/21

URL <https://www.iza.org/publications/dp/10826/the-gender-wage-gap-in-developed-countries>

Helping out Supermom: Gender-Aware Policymaking & Mothering in the Twenty-First Century American Workforce

Author Tori D. Kutzner

Abstract Feminists have long debated whether the path to gender equality requires treating men and women the same or differently. Answering this question is fundamental to the formulation of policies that address women's disproportionate contribution to unpaid caretaking labor. Should feminists promote gender-neutral policies to avoid cementing the notion that women should perform this labor? Or should advocates pursue policies aimed directly at women to better meet their unique needs? This Note argues that feminists should instead adopt a third strategy: gender-aware policymaking. Gender-aware policies are acutely alert and responsive to gendered realities but do not explicitly distinguish on the basis of sex. By endorsing gender-aware policies, feminists can simultaneously satisfy women's pressing, short-term needs and affirm a vision where parents of all genders can and should contribute to the rearing of children.

Publication Georgetown Journal of Gender and the Law

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/grggenl21&i=181>

Volume 21

Issue 1

Pages 171-200

Journal Abbr Geo. J. Gender & L.

- **Tags:**
 - Student Note⁷⁰

Income Disparity, Gender Equality, and Free Expression

Author Sylvia A. Law

Abstract In the past half century, our world has experienced a radical change comparable to the Industrial Revolution of the nineteenth century. At least five elements are key: growing disparity of human opportunity, advance of formal human rights and equality, information transformation, economic globalization, and climate change. My focus is on economic disparity and gender equality in the United States. These two issues, huge in and of themselves, interact with the other cataclysmic changes of our time.

Publication Fordham Law Review

Date 2019

The Pay Equity Project

URL <https://heinonline.org/HOL/P?h=hein.journals/flr87&i=2534>
Volume 87
Issue 6
Pages 2479-2500
Journal Abbr Fordham L. Rev.

Discrimination as Anti-Ethical: Achieving Systemic Change in Large Law Firms

Author Katrina Lee

Abstract As protests calling for racial justice erupted across the country in 2020, many large law firms issued compelling statements acknowledging systemic inequities and bias. During the preceding few decades, firms had already expressed their commitment to diversity, equity, and inclusion; some had launched well-publicized diversity initiatives. Still, breakthrough progress has been elusive. Women, and especially women of color, continue to be severely underrepresented in partnership ranks. The gender pay gap at law firms persists. An unrelenting pattern of heavy burden in the lived experiences of women and women of color at law firms continues. This Article argues that an ethical reset is needed to drive true systemic change in large law firms. With the gender pay gap in law firm partnership compensation as a vehicle, this Article explains precisely how the design of the rules of professional conduct renders them largely symbolic on discrimination and ineffective against longstanding systemic barriers. It proposes a framework requiring (1) transparency of process and pay; (2) regular self-assessment addressing milestones; and (3) a financial incentive for compliance. The framework can be used as a springboard to address other consequences of systemic discrimination in law firms, like the abysmal underrepresentation of women of color. This Article takes leaders of large law firms at their word and extends an invitation to advocate for state supreme courts, state bars, the American Bar Association, and state legislatures to implement the proposed framework and finally bring about an ethical reset aimed squarely at eliminating systemic discrimination and bias in large law firms.

Publication Denver Law Review

Date 2021
URL <https://heinonline.org/HOL/P?h=hein.journals/denlr98&i=586>
Volume 98
Issue 3
Pages 581-628
Journal Abbr Denv. L. Rev.

Equal Pay for Women Can Become a Reality: A Proposal for Enactment of the Paycheck Fairness Act

Author Catherine Lerum

Abstract This Legislative Note begins its analysis in Part II by examining the legislative histories of the Equal Pay Act and the Paycheck Fairness Act. It demonstrates

The Pay Equity Project

that both congressional bodies intended to eliminate the wage gap." Part II of this Legislative Note also illustrates current statistics concerning the wage gap. It shows what women currently earn compared to men and how the wage gap dramatically affects a woman's earnings over a working lifetime.⁴⁵ Part III of this Legislative Note focuses on the amendment to the EPA's fourth affirmative defense-the "any other factor other than sex" defense. It argues that the language of the PFA would not only resolve a split circuit issue concerning how a defendant fulfills his burden of proof,⁴⁶ but it also protects future EPA plaintiffs from unfounded defenses employers use to mask discrimination.⁴⁷ The unambiguous language of the PFA amendment would place a higher burden of proof on the defendant. ⁴⁸ However, the most significant aspect of this amendment is that it compels courts and defendants to justify wage disparity between employees of the opposite sex based on factors like training, education, and skill, rather than a factor ⁴⁹ concerning one's sex. Part IV of this Legislative Note focuses on the "establishment" portion of the EPA and the amendment proposed by the PFA. It argues that the language of the PFA supports a broad interpretation of the term "establishment," and, by doing so, allows a plaintiff to successfully plead her case. This Legislative Note argues that the "establishment" amendment would eliminate the result that a plaintiffs case is dismissed solely because she works at another location, and it illustrates that the amendment promotes the basic purposes of the EPA." Last, Part V of this Legislative Note discusses the PFA "class action" amendment to the Fair Labor Standards Act. It shows that the PFA amendment better serves plaintiffs if they are permitted to bring a class action under Federal Rule of Civil Procedure 23 (Rule 23), as opposed to a collective action under 29 U.S.C. § 216(b) (section 216(b)).⁵² Specifically, Rule 23 permits and encourages a higher participation class rate and grants procedural protections that section 216(b) fails to provide.⁵³ Overall, by analyzing certain amendments from the PFA, this Legislative Note demonstrates that the PFA would have a significant impact on wage discrimination claims: it would create uniformity among courts, better protect EPA plaintiffs, serve the true remedial purposes of the EPA, and close the wage gap between men and women.

Publication Northern Illinois University Law Review

Date 2013

URL <https://heinonline.org/HOL/P?h=hein.journals/niulr34&i=231>

Volume 34

Pages 221-258

**Journal
Abbr** N. Ill. U. L. Rev.

- **Tags:**
 - Student Note⁷⁰

Salary History Should Be Her Story: Upholding Regulations of Salary History Through a Commercial Speech Analysis

Author Elizabeth Lester-Abdalla

The Pay Equity Project

This Note argues that questions of salary history-whether asked in a job interview or of a new hire-are commercial speech and should be regulated as such without being subject to strict scrutiny. Part I explores definitions of commercial speech and explains why salary history should be classified as such. Part II reviews the Supreme Court's test for commercial speech regulations and then explains why this level of scrutiny remains indispensable to the commercial speech analysis. Part III outlines the substantial government interest in narrowing and eventually eliminating the gender wage gap through means such as salary history bans.

Abstract This Part also explains why the current framework is insufficient to obtain wage equality and thus why these new laws are necessary. Part IV argues that these salary history laws are sufficiently narrow in directly advancing the government interest and restrict commercial speech in a reasonably confined way. Regardless of the outcome of the litigation in Philadelphia, this Note is important for understanding the regulations that are sweeping the country with regards to employer questions about salary history as commercial speech and why the regulation of these questions is critical for eliminating factors that contribute to the wage gap.

Publication William and Mary Law Review

Date November 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/wmlr60&i=721>

Volume 60

Issue 2

Pages 701-738

- **Tags:**
 - Student Note⁷⁰

Laws by Women, Laws about Women: A Retrospective Survey of Laws by California State and Federal Legislators

Author Sherry L. Leysen

It is easy to become discouraged by the seemingly constant bombardment of contemporary headlines drawing attention to the status of women. Gender disparities and inequities continue to exist for women, particularly in the workplace. Whether working as entrepreneurs, 12 professional athletes, 13 physicians, 14 lawyers, 15 scientists, 16 advertising executives, 17 coaches, 18 in technology, 19 in entertainment, 20 or any number of other professions, collectively women are still struggling to reach the hoped-for equality. Yet we should not lose sight of the progress made. This Article attempts to briefly survey the law's role in that progress. Its intention is not to provide a comprehensive overview, 21 nor is it a study of voting records, nor a commentary on partisan politics. Rather, its intent is to shine a light on a small selection of work by federal and state legislators that have strived to move things forward. Part I discusses the advancement of statutory authority by women, highlighting bill introduction or sponsorship and select legislative records of the first women elected to the California State Assembly and Senate. Part II highlights a selection of laws about women in three policy areas: employment, corporate governance, and health-particularly those supported by California state and federal legislators.

Abstract

The Pay Equity Project

Publication Chapman Law Review

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/chlr23&i=455>

Volume 23

Issue 2

Pages 447-494

**Journal
Abbr** Chap. L. Rev.

Knowledge Pays: Reversing Information Flows and the Future of Pay Equity

Author Orly Lobel

Abstract After years of stagnation, pay equity law is gaining spectacular momentum. In the past three years, over a dozen states have passed important new legislation with numerous other bills pending before the federal, state, and local legislatures and a rising number of class action suits underway. This Article, the first to study the emerging ecology of pay equity law, argues that the underlying logic of these reforms is to structurally change the ways in which salaries are negotiated, determined, and, subsequently, detected and contested. Moreover, a central innovation of the new laws is to reverse information flows in the wage market. Efforts to eradicate wage discrimination have failed in large part because of information asymmetries and difficulties in identifying and proving discrimination. The new path of pay equity is to correct knowledge disparities in three key ways: 1) inducing more information about salaries, including protecting the exchange of information among employees; 2) reducing information that reflects existing biases by preventing employers from relying on, or even asking about, salary histories of new hires; and 3) requiring broader explanatory information from employers about pay disparities by broadening the comparisons from "equal" work to "substantially similar" or "comparable" work, shifting the burden to employers to produce reasons for disparities that exist in their salary structures. The Article explains how these developments move beyond the substantive prohibition of pay discrimination to focus on process, with the potential to shift discrimination policy from the litigation framework of traditional discrimination law to a governance approach that encourages dynamic, ongoing, and proactive efforts by private organizations and stakeholders. The significance of these reforms is dramatic because the new laws alter and shape the numbers and signals that circulate in the job market, including both intra- and inter-firm speech. Still, the Article argues that the reforms are piecemeal (primarily at the state level), they are heavily contested, and some of the most promising initiatives for systematic wage transparency have been halted.

Publication Columbia Law Review

Date April 2020

URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=143061788&site=ehost-live>

Volume 120

Issue 3

Pages 547-611

Biopolitical Opportunities: Between Datafication and Governance

Author Orly Lobel

The Pay Equity Project

Abstract

Julie Cohen's dazzling tour de force *Between Truth and Power* asks us to consider the new ways powerful actors extract valuable resources for gain and dominance.² Cohen in particular warns that "the universe of personal data as a commons [is] ripe for exploitation."³ Cohen writes that "if protections against discrimination, fraud, manipulation, and election interference are to be preserved in the era of infoglut, regulators will need to engage more directly with practices of data-driven, algorithmic intermediation and their uses and abuses."⁴ I read *Between Truth and Power* as not only a compelling account of the contemporary transformations of law and technology but also a call to action. This Essay takes up Cohen's challenge by considering ways in which governments can engage in new forms of governance to leverage the very same biopolitical data extracted by private actors for profit purposes in service of public goals of fairness, equality, and distributive justice. In particular, the Essay describes several current contexts that demonstrate how datafication can, and indeed should, be employed to aid regulatory research, enforcement, and accountability. The three examples I focus on are: first, current developments in labor market information flows that are attempting to address salary inequities, labor market concentration, and bias; second, the technique of scraping data off platforms in service of regulatory compliance; third, the issue of monitoring and tracking viral spread during a global pandemic. I argue that if we are to take Cohen's framework seriously, then policymakers have no choice but to identify opportunities within disruptive technological changes and to mirror, rather than attempt to block, these innovations.

Publication Notre Dame Law Review Reflection

Date 2021-05-19

URL https://scholarship.law.nd.edu/ndlr_online/vol96/iss4/3

Volume 96

Issue 4

Pages 181-193

Gentlemen Prefer Bonds: How Employers Fix the Talent Market

Author Orly Lobel

Abstract

The labor market is precisely as the name indicates: a market. The currency of this market is talent. Competition principles apply in equal force to the labor market as to the product market, with the added effect that human capital is a living resource its quality is endogenous to the competition for it. Competition among firms in the product markets spurs innovation, competitive pricing, and higher quality products and services. Competition among firms over talent ensures higher wages, better work conditions, and higher quality human capital. The strength of competition in the labor market depends on a range of factors, but a key measure of competition is the number of alternatives available for employees to consider. A powerful armor employed by companies to reduce alternative job opportunities is the restrictive covenant. The purpose of this article, written for a symposium on frontier in antitrust law, is threefold. First, it explains that beyond the traditional non-compete, firms use many restrictive covenants that prevent competition in the talent market. The article introduces this broader landscape of anti-competitive restrictions that are routinely placed on employees including horizontal collusion between employers agreeing to fix

The Pay Equity Project

wages or refraining from poaching each other's employees and vertical arrangements between employers and employees, which include employees agreeing not to solicit customers or former co-workers post-employment, exit penalties, and overreaching NDAs and pre-innovation assignment clauses, which reach beyond IP and trade secrecy protections and into information that should remain in the competitive markets public domain, such as customer lists, compensation information, and general knowhow. Second, while many of the harms potentially caused by non-competes are well-documented, the article introduces a neglected aspect of labor market concentration: the perpetuation of wage gaps and inequalities. The article argues that mobility restrictions have a disproportionate effect on certain protected identities primarily women, minorities, and older workers. In particular, I provide an original analysis of the effects of restrictive covenants on the gender wage gap and present supporting empirical evidence. Third, the article considers a pervasive problem in the landscape of restrictive covenants: the prevalence of unenforceable contractual terms. I argue that the problem of unenforceable anti-competitive restrictions in employment contracts calls for a proactive approach, including notice requirements in employment contracts, regulatory action and penalties that target these contracts, including the attorney that drafted them, before litigation has been pursued, and a private right of action, including class actions by employees who have been harmed by unenforceable contracts.

Publication Santa Clara Law Review

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/saclr59&i=666>

Volume 59

Issue 3

Pages 663-700

**Journal
Abbr** Santa Clara L. Rev.

The Evolution of Gender Equity From a Marxist and Existentialist Perspective

Author Alexandria Lopez

Being fair and impartial are the components of Equity. Women have faced disproportionate circumstances throughout history and the push for gender equity has not been an easy feat. To understand the evolution of gender equity of American women, it is important to understand the history of women in the United States. Numerous events in American history fail to mention the significant contributions that women have made; the successes within technological, scientific, and philosophical communities cannot be discussed without

Abstract recognizing the achievements of women. Some areas of disproportionality include employment, education, and healthcare. To ensure fairness, there must be a practical approach to compensate women for the disadvantages that have prevented them from the same opportunities that are available to men. Critiquing and dissecting the social construct that hinders and impedes women's success, capitalism, is also necessary to further contemplate gender equity. Lastly, an appreciation for existential philosophy is fundamental since it emphasizes the existence of individuals- in this case, women. The existential transcendence of

The Pay Equity Project

women into powerful positions will allow them to dismantle the misogyny that is engrained in our society through the oppressive nature of Capitalism.

Publication Journal of Race, Gender, and Ethnicity
Date 2021-01-01
URL <https://digitalcommons.tourolaw.edu/jrge/vol10/iss1/14>
Volume 10
Issue 1
Pages 130-145

Police Income and Occupational Gender Inequality

Author Xiaoshuang Iris Luo

Author Cyrus Schleifer

Author Christopher M. Hill

Abstract Research has found a meaningful income gap between males and females across several occupational settings, and this is also true within law enforcement. As more female workers enter the criminal justice system, it is important to revisit and update these patterns of gender inequality to account for the changing gender dynamics within this occupation. Using Current Population Survey data, we document the gender differences in pay among police over the past 28 years. Police officers experience income advantage compared with the general working population, but they also show a stable gender gap in pay. While this stable inequality is better than other public-sector jobs—which have experienced a growth in the gender pay gap—it represents a continued disadvantage for police women, despite the growing number of women working in law enforcement and the rules governing public-sector employment. We further decompose the gendered pattern in police pay by whether these individuals work for federal, state, or local agencies, and find that those working for state government show stark declines in the gender gap in pay while those working for local or federal agencies experience little to no change in this gender income inequality over time. We conclude with a discussion of the policy implications of our findings and directions for future research on gender inequality within law enforcement occupations.

Publication Police Quarterly
Date December 1, 2019
URL <https://doi.org/10.1177/1098611119862654>
Volume 22
Issue 4
Pages 481-510
Journal Police Quarterly
Abbr Police Quarterly
DOI [10.1177/1098611119862654](https://doi.org/10.1177/1098611119862654)

The Pay Equity Project

Mind the Gap: Practical Solutions to Minimize Pay Equity Claims Labor and Employment Law

- Author** Christine Lyman
Author Lonnie Giamela
Author LaLonnie Gray
- Abstract** As the pay equity legal landscape evolves, Colorado employers should brace themselves for claims of gender-based discrimination, plummeting morale, and negative publicity. Employers can minimize the risk of claims by implementing the solutions discussed here.
- Publication** Colorado Lawyer
- Date** 2020
URL <https://heinonline.org/HOL/P?h=hein.barjournals/cololaw0049&i=472>
Volume 49
Issue 5
Pages 30-35
Journal Abbr Colo. Law.

Reevaluating the Equal Pay Act for the Modern Professional Woman

- Author** Keiko Lynn Yoshino
- Abstract** The article discusses the U.S. Equal Pay Act and its potential impact on modern professional women in America as of January 2013, focusing on gender-based compensation discrepancies, as well as cable television co-host Mike Brzezinski of the show "Morning Joe" and her book "Knowing Your Value: women, Money, and Getting What You're Worth." Female chief executive officers are mentioned, along with a U.S. Bureau of Labor Statistics report on the participation of women in the labor force.
- Publication** Valparaiso University Law Review
- Date** Winter 2013
URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=88332598&site=ehost-live>
Volume 47
Issue 2
Pages 585-625
Journal Abbr Valparaiso University Law Review

- **Tags:**
 - Student Note⁷⁰

Why the Law Should Intervene to Disrupt Pay-Secrecy Norms: Analyzing the Lilly Ledbetter Fair Pay Act Through the Lens of Social Norms

Author Sarah Lyons

The Pay Equity Project

This Note addresses the Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co.* and the subsequent legislative response, the Lilly Ledbetter Fair Pay Act (LLFPA). Through the LLFPA, Congress overrode the *Ledbetter* decision and enacted a paycheck-accrual rule for Title VII pay-discrimination cases, the purpose of which is to provide victims with a longer -- and more realistic -- statute of limitations for pay-discrimination claims. This Note explores the congressional justifications for the LLFPA and the workings of pay-discrimination claims, and argues that the legislation does not address all of the obstacles that prevent victims from effectively challenging pay discrimination because the statute's goals are frustrated by social norms of pay secrecy. This Note argues for a transformative legal intervention to enable Title VII to remedy all instances of pay discrimination.

Abstract

Publication Columbia Journal of Law & Social Problems

Date Spring 2013

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=87380208&site=ehost-live>

Volume 46

Issue 3

Pages 361-392

Journal Abbr Columbia Journal of Law & Social Problems

- **Tags:**
 - Student Note⁷⁰

Toward a Renewed Equal Rights Amendment: Now More than Ever

Author Catherine A. MacKinnon

Abstract The sexes are human equals. Yet women, on the whole, are not men's legal equals or, by most any standard, men's social equals.' The laws that guarantee against discrimination--mainly the Fourteenth Amendment Equal Protection Clause⁴ and Title VII of the Civil Rights Act of 1964⁵ --have, I argue, gone about as far as they will or can to produce equality of the sexes in life. An Equal Rights Amendment (ERA) is urgently needed, now as much as or more than ever.

Publication Harvard Journal of Law and Gender

Date 2014

URL <http://heinonline.org/HOL/P?h=hein.journals/hwlj37&i=585>

Volume 37

Pages 569-580

Journal Abbr Harv. J.L. & Gender

Policy Experiments to Address Gender Inequality among Innovators

Author Amy C. Madl

Author Lisa Larrimore Ouellette

Abstract In the twenty-fourth annual Frankel Lecture, Professor Orly Lobel set forth an intriguing hypothesis: that noncompete agreements, nondisclosure agreements,

The Pay Equity Project

and other legal restrictions on employee exit and voice exacerbate the innovation gender gap. The unequal participation of women in science, technology, and innovation is an issue of increasing concern for many public- and private-sector stakeholders, and those interested in increasing innovation by women would be well advised to consider Professor Lobel's ideas. But as we emphasize in this Commentary, the underlying causal mechanisms for inequalities among innovators remain highly contested, and policymakers should not overstate the existing evidence for potential interventions out of a desire for rapid progress. Nor should they use this lack of evidence as an excuse for inaction. Rather, we argue that institutions interested in this issue should look for opportunities to rigorously and transparently test the most promising interventions.

Publication	Houston Law Review
Date	2020
URL	https://heinonline.org/HOL/P?h=hein.journals/hulr57&i=849
Volume	57
Issue	4
Pages	813-842
Journal Abbr	Hous. L. Rev.

Cloaking: Public Policy and Pregnancy

Author Julie Manning Magid

Abstract

Part I describes the historical context of three major workplace legislative advancements: Title VII, the PDA, and the FMLA. This part examines how pregnancy becomes an aspect of gender, disability, and family issues rather than its own unique reality of most women in the workplace. The steps taken by Congress to alleviate the financial and “dignitary harm”²⁵ associated with how women choose to structure their family and work life have failed thus far to address the assumptions that women encounter in the workplace. Part II addresses the most recent developments in pregnancy discrimination law: accommodation. Although accommodation theory has been advocated as “the most far-reaching measure of socio-dynamic equality,”²⁶ I reject the notion of accommodating disabilities related to pregnancy as an adequate policy initiative to obtain economic self-sufficiency for women in the workplace. The interaction between the Americans with Disabilities Act of 1990 (ADA)²⁷ and pregnancy is an extension of pregnancy as a subset of disabilities. Despite the recent reconsideration of the PDA in the context of accommodation in *Young*,²⁸ the precarious position of women seeking to attain economic self-sufficiency remains an issue left unresolved by accommodation advances. Accommodation does not help women achieve what is necessary for labor force participation—job market mobility.²⁹ However, accommodation moves equality a step away from the “sameness” model toward consideration of difference. Part III examines further the FMLA³⁰ as the critical legislation impacting pregnant women's economic self-sufficiency. Amending the FMLA to incorporate recent studies addressing pregnancy as the main contributor to the gender wage gap is the immediate change in policy for which I advocate. In particular, the importance of mobility in the modern economy is reflected by recent sociological and economic research and supports the importance of job changes to advance earnings potential.³¹

The Pay Equity Project

Publication American Business Law Journal

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/ablj.12082>

Volume 53

Issue 3

Pages 439-485

DOI [10.1111/ablj.12082](https://doi.org/10.1111/ablj.12082)

Equal Protection

Author Caroline Marschilok

Author Jessica Moran

Author Danna Seligman

Author Aislinn Toohey

Part II of this article provides an overview of the principles of equal protection and discusses the three levels of judicial scrutiny and their corresponding triggers. Part III considers sex-based classifications under the federal constitution and the extent to which *United States v. Virginia*⁴ and *Nguyen v. LN.S.*⁵ have altered the framework for analyzing sex-based classifications. Section II next addresses the standards of review that states apply in sex-based discrimination claims. Part IV addresses discrimination based on sexual orientation. This section begins with an overview of *Romer v. Evans*,⁶ which established the applicability of rational basis review for sexual orientation-based classifications. The section then reviews *Lawrence v. Texas*—a landmark case in which the Supreme Court determined that homosexuals' right to liberty under the Due Process Clause gives them the right to engage in sexual conduct without interference from the government.⁸ Next, the section looks at how district and circuit courts have used the *Romer* standard⁹ to limit the rights granted in that decision,¹⁰ and summarizes the pre-*Obergefell* circuit split on same sex marriage and the resulting Supreme Court decisions expanding the right to marry for all same-sex couples in the 2013 *Windsor* decision¹¹ and the 2015 *Obergefell* decision.¹² Finally, the section explores state constitutions' varying levels of scrutiny of sexual orientation classifications.

Publication Georgetown Journal of Gender and the Law

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.journals/grggen18&i=548>

Volume 18

Pages 537-598

**Journal
Abbr** Geo. J. Gender & L.

Red Card on Wage Discrimination: US Soccer Pay Disparity Highlights Inadequacy of the Equal Pay Act

Author Hannah L. E. Masters

Abstract In the months leading up to its latest World Cup win, the US Women's National Team sued its parent organization over income inequality in US soccer. Statements from high-profile players, like Megan Rapinoe and Alex Morgan,

The Pay Equity Project

contributed to a national conversation about the gender pay gap that exists not just in soccer but across many professions. The claims of the Women's Team should make for a perfect Equal Pay Act claim, but all signs point to a loss. Instead, the women are far more likely to succeed on their claim arising under Title VII of the Civil Rights Act, despite the lack of evidence showing that the pay discrepancy is the result of discrimination. This Note examines the claims brought and how they highlight the inadequacy of the Equal Pay Act. The world's best women's soccer team isn't being paid equally with its far-less-successful male counterpart; if the women's team can't make out a successful Equal Pay Act claim, who can? This Note urges amending the Equal Pay Act in a few key ways to ensure that women are paid equally to men when performing the same work.

Publication Vanderbilt Journal of Entertainment & Technology Law
Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/vanep22&i=895>
Volume 22
Issue 4
Pages 895-922
Journal Abbr Vand. J. Ent. & Tech. L.

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

AI's Transformational Role in Making HR More Objective while Overcoming the Challenge of Illegal Algorithm Biases

Author Garry Mathiason

Abstract The development of mature artificial intelligence programs for human resources data collection, predictive analytics, and cognitive computing will accelerate and is unstoppable. The author of this article discusses the role of artificial intelligence in human resources decision-making and the dark side of the use of algorithms in making critical decisions.

Publication RAIL: The Journal of Robotics, Artificial Intelligence & Law
Date 2018
URL <https://fc7.fastcase.com/outline/US/1053?docUId=136907674>
Volume 1
Issue 2
Pages 91-100
Journal Abbr J. Robotics, Artificial Intelligence & L.

Quarters in the Court: How the Gender Pay Gap Affects Black Women in Law

Author LaCrisha McAllister

The Pay Equity Project

Women constitute almost half of the national workforce. For half of American families, they are the sole source of income or they are a co-breadwinner. They earn more degrees than men. They work in a broad spectrum of professions and industries and they serve in a multitude of capacities, from administrators to upper management to laborers and everything between. Despite these things, women are paid significantly less than their male counterparts. Efforts to address this have been

Abstract fodder for discussion for some time. Currently, less than 1% of elected prosecutors are Black women, less than 8% of judges are Black Women in State Trial Courts and State Appellate courts respectively, and a report from the National Association for Law Placement found that Black Women make up about 1.73% of all attorneys included in their survey. This paper seeks to address the ways that the Gender Pay Gap affects Black women in the legal field and how the legal profession can place equity in pay at the base of its mission.

Date 2020-02-28

URL <https://papers.ssrn.com/abstract=3576299>

Place Rochester, NY

Money, Sex, and Power: Gender Discrimination and the Thwarted Legacy of the 1964 Civil Rights Act

Author Michael McCann

Abstract I have chosen as the title of my talk: Money, Sex, and Power. I really like that title, but it is not original. It owes to a good friend of mine, Professor Emeritus Nancy Hartsock at the University of Washington. ³ She wrote a classic book on feminist theory in the 1980s, and I thought it fit what I wanted to talk about. My focus will emphasize the lost potential of the 1964 Civil Rights Act for improving the capacities of women and people of color to earn good incomes, find good jobs, exercise a voice in the workplace, enhance their roles as providers for themselves and their families, and take on roles as active citizens. My address will focus to some degree on wage equity, but it will transcend that to talk about other related issues as well.

Publication Denver University Law Review

Date 2013-2014

URL <http://heinonline.org/HOL/P?h=hein.journals/denlr91&i=803>

Volume 91

Pages 779-802

**Journal
Abbr** Denv. U. L. Rev.

Postpartum Taxation and the Squeezed Out Mom

Author Shannon Weeks McCormack

Abstract Faced with too-short (or nonexistent) maternity leaves, inflexible work schedules, and the soaring costs of childcare in the United States, many new mothers temporarily leave the workforce to care for their young children. Although media attention has focused on the “opt-out” mom, many more mothers are squeezed out of the external workplace. But mothers that try to return to work may discover that it is difficult to do so, as employers have been shown to be less likely to hire

The Pay Equity Project

mothers than others. A mother that does reenter may find that even short periods out of work cost (sometimes far) more than the income foregone during her intended time out and may result in a reduction in her overall earning potential, retirement, disability, and Medicare benefits. This may contribute to severe economic hardships among divorced mothers and their children, the underrepresentation of women in high-level leadership positions, and a wage gap between mothers and others, to name a few problems. Recognizing these realities, experts that study the biases faced by women in the workplace encourage mothers who want or need to work to resist leaving, even during their children's preschool years when childcare (and other financial and personal) costs are so high that the short-term prospects of working may seem (in some cases quite) low. These experts instead urge mothers to view these high costs as investments in their most valuable economic asset: their lifelong earning potential. Using these insights, this Article proposes ways in which the Internal Revenue Code could be modified to help prevent some new mothers from being squeezed out of the external workplace.

Publication Georgetown Law Journal

Date 2017

URL <https://georgetownlawjournal.org/articles/235/postpartum-taxation-squeezed-out>

Volume 105

Pages 1323

**Journal
Abbr** Geo. L.J.

Constitutional Limitations on Closing the Gender Gap in Employment

Author Marcia L. McCormick

Abstract This paper explores the ways that the Court has slowly been retracting our ability to address the underlying causes of the achievement gap through the law or federal programs. Part II addresses the gender gap and summarizes the approach federal law takes to narrow it. Part III traces the constitutional developments that have slowly eroded government's power to address inequality. Part IV identifies potential worrying trends from cases that are not employment law cases, but which nonetheless might worry the labor and employment community. Part V concludes this article.

Publication FIU Law Review

Date 2013

URL <http://heinonline.org/HOL/P?h=hein.journals/fiulawr8&i=413>

Volume 8

Pages 405-422

**Journal
Abbr** FIU L. Rev.

Systemic Claims and Gender: Proving Disparate Treatment and Impact

Editor Ann C. McGinley

Editor Nicole Buonocore Porter

The Pay Equity Project

- Abstract** Chapter 7's four rewritten cases deal with proof of systemic disparate treatment and impact discrimination. The rewritten Sears opinion rejects expert testimony that blamed women's lack of interest in commission-based sales for the dearth of women employed in those jobs, characterizes this testimony as sex stereotyping, and holds that courts may not rebut strong statistical showing by plaintiffs in pattern or practice cases with sex stereotypes. Rewritten AFSCME exposes implicit bias in the market forces causing a pay gap between men and women, and narrates the real-life stories of the women whose pay was substantially lower in jobs of equal value to those of male colleagues. Rewritten Ricci holds that white plaintiffs who challenge an employer's failure to use a test with a disparate impact on black and Latino employees must show that the employer lacked an actual and reasonable belief that it would be subject to liability for disparate impact if it used the test. Rewritten Wal-Mart certifies a large class of female employees, and holds that a showing of intent is not necessary when the statistics demonstrate discriminatory outcomes and the employer fails to rectify the problem.
- Series** Feminist Judgment Series: Rewritten Judicial Opinions
- Date** 2020
- Publisher** Cambridge University Press
- URL** <https://www.cambridge.org/core/books/feminist-judgments/systemic-claims-and-gender-proving-disparate-treatment-and-impact/85D213874C57A2F9895F52203FA0F4FA>
- Place** Cambridge
- Pages** 334-461
- ISBN** 978-1-108-49317-8

Seeking Equality in Wages for Employees with Intellectual and Developmental Disabilities

- Author** Kate McIlvanie
- Abstract** This Comment discusses the little-known exception to the minimum wage within the Fair Labor Standards Act that allows individuals with intellectual and developmental disabilities to be paid at a rate below the federal minimum wage rate. Starting with background information regarding the progression of labor laws, this Comment addresses the current paradigm of the "sheltered workshop" and the current protections for persons with intellectual and developmental disabilities in the workforce. It will provide specific examples of exploitation that has occurred as a result of this practice, as well as an overview of opposing arguments in the controversy surrounding the subminimum wage. Additionally, this Comment will provide a look into how developments in this area are being addressed at the federal and state levels and why the allowance for a subminimum wage as applied to intellectually and developmentally disabled persons should be discontinued.
- Publication** Northern Illinois University Law Review
- Date** 2019
- URL** <https://heinonline.org/HOL/P?h=hein.journals/niulr40&i=70>
- Volume** 40
- Issue** 1

The Pay Equity Project

Pages 70-99
Journal Abbr N. Ill. U. L. Rev.

- **Tags:**
 - Student Note⁷⁰

Is the Gender Pay Gap in the US Just the Result of Gender Segregation at Work?

Author Katie Meara
Author Francesco Pastore
Author Allan Webster

Abstract This study examines the gender wage gap between male and female workers in the US using a cross-section from the Current Population Survey (CPS) It shows that the extent of gender segregation by both industry and occupation is significantly greater than previously supposed. For the wage gap this creates problems of sample selection bias, of non-comparability between male and female employment. To address these problems the study uses a matching approach, which we also extend to a more recent methodological version with a yet stronger statistical foundation – Inverse Probability Weighted Regression Adjustment (IPWRA) – not previously used in related studies. Despite this, doubts remain about even these well founded and appropriate techniques in the presence of such strong gender segregation. To secure even greater precision we repeat the matching analysis for a small number of industries and occupations, each carefully selected for employing similar numbers of men and women. This is an approach that has not previously been explored in the relevant literature. The findings for the full sample are replicated at the level of industry and occupation, where comparability is more reliable. The study supports the view of the existing literature that the gender wage gap varies by factors such as age and parenthood. But it also finds that, even when these and other important "control" variables such as part-time working, industry and occupation are taken into account, a statistically significant gender wage gap remains.

Publication IZA Discussion Paper No. 10673
Date 2017/04/10
URL <https://papers.ssrn.com/abstract=2949109>

Salary History Bans and Gender Discrimination

Author Jeffrey Meli
Author James C. Spindler

Abstract A number of important jurisdictions have recently enacted salary history bans to combat the gender pay gap. This paper examines the effect of such bans by developing a novel, tractable economic model of unconscious bias in the workplace: some firms consistently but unconsciously under-evaluate the productivity of their female workers. In a Bayesian setting, a worker and his or her employer learn about worker quality over time by observing worker productivity; a worker's salary thus conveys information about the employer's inference of worker quality. A lateral employee market exists, and female workers who find themselves underpaid may

The Pay Equity Project

choose to switch firms. We find that, under assumptions of non-strategic firm behavior, bans can reduce the gender wage gap, but do so at the expense of high-performing women; switching from discriminatory employers requires high-performing women to give up their history of high performance, and they may be effectively trapped at discriminatory firms. When firms are strategic (meaning they infer the reasons for employees' switching behavior), bans do not reduce the gender wage gap; adverse selection results, which has an even more pronounced effect of trapping high-performing women by imposing greater switching costs on them. We find that a well-functioning job-switching market ameliorates unconscious bias and the gender wage gap, and that the wage gap (and the welfare of working women, particularly high-performers) is better addressed through policies that promote efficient job switching.

Date 2019/03/28
URL <https://papers.ssrn.com/abstract=3361431>
Place Rochester, NY

Sex, Power, and Corporate Governance

Author Amelia Miazad

Abstract For decades, social scientists have warned us that sexual harassment training and compliance programs are ineffective. To mitigate the risk of sexual harassment, they insist that we must cure its root cause - power imbalances between men and women. Gender-based power imbalances plague start-ups and billion-dollar companies across sectors and industries. These power imbalances start at the top, with the composition of the board and the identity of CEOs and executive management. Pay inequity and boilerplate contractual terms in employment contracts further cement these imbalances. In response to the #MeToo movement, key stakeholders began to shift their focus from compliance to corporate culture. This influential group of stakeholders - which includes investors, employees, regulators, insurance carriers, and board advisors - started asking companies to uproot genderbased power imbalances. In response to mounting pressure, seismic corporate governance reforms are underway. Boards are becoming more gender diverse, companies are beginning to address pay inequity and abandon mandatory arbitration and non-disclosure agreements, and boards are holding CEOs to account for sexual harassment and misconduct. While the "old boys' club" is still thriving in corporate America, this Article is the first comprehensive account of how the power imbalances on which it depends are shifting.

Publication UC Davis Law Review

Date 2021
URL <https://heinonline.org/HOL/P?h=hein.journals/davlr54&i=1925>
Volume 54
Issue 4
Pages 1913-1998
Journal Abbr UC Davis L. Rev.

The Pay Equity Project

Female Labor Force Participation and Gender Wage Discrimination

- Author** Ramona Mihaila
- Abstract** The objective of this paper is to emphasize the causes and consequences of female labor force participation, the impact of female managerial representation on gender integration, and the gender specific changes in wage discrimination. My analysis complements the growing literature on organizational and establishment-level schemes and practices as crucial drivers of work-based gender inequality, gender-driven labor market outcomes, and the manner in which the relative wages of men and women differ within labor market spheres. The overall results provide strong evidence for the effect of global trade on the gender pay gap and female labor force participation, the gender dissimilarities in labor market outcomes, and the function of gender in the labor market. The literature on the relationship between the occurrence of female organizational leaders and diminished inequality, the determinants of the gender wage gap, and the gender disparities in the rise in wage discrimination is relevant to this discussion.
- Publication** Journal of Research in Gender Studies
- Date** 2016
- URL** <http://heinonline.org/HOL/P?h=hein.journals/jogenst6&i=263>
- Volume** 6
- Pages** 262-268
- Journal Abbr** J. Res. Gender Stud.

Is the Decrease in the Gender Wage Gap the Principal Driver of the Sustained Rise in Female Labor Market Participation?

- Author** Ramona Mihaila
- Abstract** Over the past decade, there has been increasing evidence describing the increasing female participation in the labor market, the function of social norms concerning women's performance in influencing observed gender outcomes, and the labor market effects of gender dissimilarities in conduct and comparative advantages. The purpose of this article is to gain a deeper understanding of particular hindrances that women confront in the labor market, gender disparities in choices and psychological characteristics possibly associated with labor market success, and the consequences of gender gaps in the labor market on aggregate productivity and income per person.
- Publication** Journal of Research in Gender Studies
- Date** 2016
- URL** <http://heinonline.org/HOL/P?h=hein.journals/jogenst6&i=424>
- Volume** 6
- Pages** 146-152
- Journal Abbr** J. Res. Gender Stud.

The Pay Equity Project

Is VII>IX? Does Title VII Preempt Title IX Sex Discrimination Claims in Higher Ed Employment?

Author McKenzie Miller

Abstract

Across all job sectors, women working full-time earned about 80 percent of what men earned in 2016. Within higher education this gender gap persists in salary, hiring, promotions, and other aspects of academic employment. Professors can seemingly attempt to remedy this under Title VII of the Civil Rights Act or Title IX of the Education Amendments, both of which prohibit sex discrimination in higher education. Circuits, however, have split as to whether Title VII preempts Title IX in actions for employment discrimination in higher education. The Third Circuit revived this split in *Doe v. Mercy Catholic Medical Center*, and joined the First and Fourth Circuits in holding that employees in the education sector can pursue sex discrimination claims under either Title VII or Title IX. The Fifth and Seventh Circuits, in contrast, have determined that Title VII preempts Title IX entirely. This Comment argues that, despite Title IX's ambiguity, it provides employee-plaintiffs a right of action to sue their universities for sex discrimination without Title VII preemption, allowing plaintiffs the flexibility to choose under which statute to pursue their claims for relief. Because Title VII and Title IX differ so greatly in their administrative requirements, filing deadlines, and available remedies, this opportunity for choice grants plaintiff-employees the critical opportunity to choose strategically the method that will best relieve and restore their interests.

Publication Catholic University Law Review

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/cathu68&i=413>

Volume 68

Issue 2

Pages 401-424

Journal Abbr Cath. U. L. Rev.

- **Tags:**
 - Student Note⁷⁰

United States Soccer Federation, Inc. v. United States Women's National Soccer Team Players Association: When Winning Isn't Everything: An Examination into a World Where Female Isn't Deleted, but Figures after a Dollar Sign Are

Author Lilette Mocio

Abstract

For years, female athletes have faced an uphill battle with regard to competition, often labeled as subpar and inferior to the men. 1Link to the text of the note While Title IX gives women equal opportunity to compete as amateurs at the collegiate level, women at the professional level are still suffering from vast discrepancies in wages relative to their male counterparts. 2Link to the text of the note Recently, the United States Women's National Team (USWNT) has garnered attention both on and off the field: on the field by winning the 2015 World Cup, and off the field by filing a discrimination suit with the Equal Employment Opportunity Commission

The Pay Equity Project

(EEOC) and having an [*250] expired collective bargaining agreement (CBA) with the United States Soccer Federation (USSF). 3Link to the text of the note Notably, during the upcoming 2018 World Cup, the United States Men's National Team (USMNT) will not be taking the field. 4Link to the text of the note Instead, because they failed to qualify, the men will be sitting at home on their couches, watching their competitors vie for a title they should have at least had a shot at. 5Link to the text of the note Yet, despite their failure to qualify for the 2018 World Cup and their best all-time World Cup finish being third place, the USMNT will still be making more money sitting at home watching the World Cup on TV than the USWNT, who won the World Cup just three years ago. 6Link to the text of the note Because World Cup victories have not resulted in a CBA that economically justifies the USWNT's prowess, the athletes have had to turn to the law to ensure that their success on the field receives the merited compensation. 7Link to the text of the note In early 2016, the USWNT filed a complaint with the EEOC, claiming that it would go on strike if the USSF refused to negotiate a new CBA that reasonably compensated the USWNT and provided fields and facilities for the women of the same caliber as those it provided to the men. 8Link to the text of the note In response, the USSF filed an anticipatory breach of contract claim with the United States District Court for the Northern District of Illinois, Eastern Division. 9Link to the text of the note The Players Association for the USWNT (USWNTPA) argued that the USSF's claim should be dismissed on the grounds that the memorandum of understanding (MOU) between the two parties had not been ratified by a lawful agent. 10Link to the text of the note The USSF filed a cross motion for summary judgment, maintaining that even if the USWNTPA's agent lacked actual authority, the agent had apparent authority and could therefore bind the Players Association to the MOU. 11Link to the text of the note The United States District Court for the Northern District of Illinois, Eastern Division, held that the USWNTPA's agent had the authority to bind the Association to the MOU and that the terms of the CBA - including the no-strike [*251] provision - were in effect at the time of the execution of the MOU. 12Link to the text of the note The court further held that the USWNT could not go on strike and that the USWNTPA had neither anticipatorily breached the MOU nor the CBA. *United States Soccer Federation, Inc. v. United States Women's National Soccer Team Players Ass'n*, 190 F. Supp. 3d 777, 780-82, 784-87 (N.D. Ill. 2016).

Publication Sports Lawyers Journal

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/sportlj25&i=255>

Volume 25

Pages 249-268

**Journal
Abbr** Sports Law. J.

- **Tags:**
 - U.S. Women's Soccer¹⁷

The Market Myth and Pay Disparity in Legal Academia

Author Paula A. Monopoli

The Pay Equity Project

Abstract The article discusses the author's claim about a wage gap and pay disparity problem involving the male and female law professors that are employed in America's legal academia field, and it mentions the U.S. Equal Pay Act of 1963, as well as market (fourth affirmative) defenses. Legal cases involving law professors' salaries at the University of Denver Sturm College of Law and University of Texas School of Law are examined, along with U.S. Equal Employment Opportunity Commission investigations.

Publication Idaho Law Review

Date September 2016

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=116881855&site=ehost-live>

Volume 52

Issue 3

Pages 866-887

Journal Abbr Idaho Law Review

How to Close the Gender Pay Gap: Transparency in Data regarding Compensation Is the Key

Author J. Andrew Morgan

Abstract This Article will look at the problem of unequal pay and will argue that transparency regarding compensation of men and women must be increased before any decision can be made as to why the gender pay gap exists. This Article proceeds in three parts. Part I provides a comprehensive discussion of existing equal pay laws in the United States that prohibit pay discrimination by sex and an analysis of the most up-to-date data on the current gender pay gap in the United States. It also examines theories as to why or why not there is a pay gap and how clarity can be provided by increasing transparency. Part II provides a comprehensive discussion of the new equal pay laws in the United Kingdom. It also provides an analysis of how the United Kingdom has reduced its gender pay gap by increasing transparency and how these laws can provide a road map for improving the pay gap in the United States. Lastly, Part III provides an analysis of the gender pay gap worldwide and how other countries have addressed the gender pay gap by increasing transparency.

Publication Connecticut Journal of International Law

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/conjil35&i=457>

Volume 35

Issue 3

Pages 407-444

Journal Abbr Conn. J. Int'l L.

- **Tags:**
 - Student Note⁷⁰

The Pay Equity Project

Shooting for Equality: The U.S. Women's National Team and Their Struggle for Equal Pay

Author Megan Musachio

Abstract Part II of this note begins with the legislative history of the numerous attempts for equal pay. Starting with the United States and the Equal Pay Act of 1963, this note then shifts to how this disparity is handled internationally by analyzing the Australian and British legislative attempts. Part III conducts an investigation into the Australian National Team and explains its recent shift towards equal pay amongst the genders. Part IV details the progress that has been made in other European countries regarding equal base pay, focusing specifically on Norway and Iceland. Part V will compare the British National Team system with the United States National Teams, illustrating the similarities and differences between the two. Part VI will examine the United States Women's National team and its long battle for equal pay, starting from the formation of the team and ending with present day, following another historic FIFA World Cup win. Part VII of this note details the financial aspect of the sport of soccer. While traditionally not thought of as the most popular sport in the United States, the U.S. National Teams are responsible for bringing in millions of dollars' of revenue in advertisements. Part VIII explains how the United States Soccer Federation, the governing body of the sport in the United States, is in major violation of the Equal Pay Act due to its unwillingness to pay men and women the same salary for the same work. Finally, Part IX concludes with a proposed solution advocating that the U.S. National Teams operate more like the Australian, Norwegian, and Icelandic National teams by starting athletes at the same base pay, regardless of their gender, truly embodying the principle of equal pay for equal work.

Publication Journal of International Business and Law

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/jibla19&i=282>

Volume 19

Issue 2

Pages 258-279

**Journal
Abbr** J. Int'l Bus. & L.

- **Tags:**
 - Student Note⁷⁰

Economic Processes and Gender Equality

Author Elvira Nica

Abstract In the present paper, I focus on the rise in women's labor force participation rates, family policy effects on inequalities in the class/gender intersection, the socio-economic composition of women in employment, and the formation of policies affecting gender relations. This paper aims to analyze and discuss the nexus between the gender wage gap and globalization, gender and family as sources of stratification, the gendered divisions of paid and unpaid work, and gender differences in wages

The Pay Equity Project

Publication Journal of Research in Gender Studies
Date 2014
URL <http://heinonline.org/HOL/P?h=hein.journals/jogenst4&i=1051>
Volume 4
Pages 1050-1055
Journal Abbr J. Res. Gender Stud.

Closing the Wage Gap: Cities' and States' Prohibitions Against Prior Salary History Inquiries and the Implications Moving Forward

Author Timothy J. Nichols

Abstract This Comment argues that state and municipal legislatures, displeased with the ongoing wage discrepancy between the genders and the analyses and outcomes of the judiciary in cases alleging gender discrimination under the EPA, are enacting these new laws to remove the most controversial element of courts' analysis. Part II of this Comment provides an in-depth discussion of the EPA and the FLSA, along with the conflicting stances federal circuit courts have adopted regarding the interplay between prior salary history and one of the exceptions of the FLSA. Part III discusses the laws currently enacted by cities and states across the United States as of this writing and compares and contrasts elements of the laws. Part IV introduces some of the emerging backlash against the laws and the implications the laws have across the country now and moving forward. Part V argues that the cities and states enacting the laws are effectively circumventing one of the exceptions under the FLSA by removing prior salary in its entirety from consideration, eliminating the catch-all from the courts' analysis. Part VI suggests that, until prior salary history inquiry bans become universally enacted, the Eighth and Ninth Circuits' approach is the correct approach to analyzing prior salary history as a "factor other than sex." Part VII briefly concludes.

Publication Seton Hall Law Review
Date April 2019
URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=136108839&site=ehost-live>
Volume 49
Issue 2
Pages 411-439
Journal Abbr Seton Hall Law Review

- **Tags:**
 - Student Note⁷⁰

The Intersectional Race and Gender Effects of the Pandemic in Legal Academia

Author Angela Onwuachi-Willig

Abstract Just as the COVID-19 pandemic helped to expose the inequities that already existed between students at every level of education based on race and socioeconomic class status, it has exposed existing inequities among faculty

The Pay Equity Project

based on gender and the intersection of gender and race. The legal academy has been no exception to this reality. The widespread loss of childcare and the closing of both public and private primary and secondary schools have disproportionately harmed women law faculty, who are more likely than their male peers to work a “second shift” in terms of childcare and household responsibilities. Similarly, women law faculty were more likely to feel the effects of the financial exigencies that universities and law schools faced during the pandemic because of their disproportionate representation in non-secure, meaning non-tenure-stream, faculty positions. Furthermore, the rapid switch to remote teaching and learning, particularly during spring 2020, had a more detrimental effect on women in part because of the persistent gender bias that women law faculty, who teach a larger percentage of required and survey courses, encounter in student teaching evaluations and in part because women tend to be more engaged in the mental health and emotional caretaking of students, which significantly increased during the pandemic. Even the actions that law schools took during the pandemic to provide relief to faculty, such as automatic extensions to the tenure clock for all faculty, place women more at risk than men for harmful impacts on factors like pay equity. In all, this Essay briefly analyzes how factors such as limited childcare, remote learning, the greater caretaking needs of students, plus other pandemic-related effects, have worked to exacerbate previously existing gender and intersectional gender and race inequities between men and all women in legal academia and between white men and women of color.

Publication Hastings Law Journal

Date 2021-08-01

URL https://repository.uchastings.edu/hastings_law_journal/vol72/iss6/4

Volume 72

Issue 6

Pages 1703-1715

One Nation, Two Teams: The U.S. Women's National Team's Fight for Equal Pay

Author Sarah Pack

Author Thomas A. Baker III

Author Bob Heere

Abstract The United States Soccer Foundation (USSF), embroiled in a long-simmering and well-documented equal pay lawsuit with members of its senior women's national team (the USWNT), won an important victory when U.S. District Court Judge Gary Klausner granted its motion for summary judgment to dismiss the USWNT's claim under the Equal Pay Act (EPA). Judge Klausner found that the USWNT failed to establish a prima facie case of wage discrimination under the EPA because the USWNT players received more total compensation than their male comparators. This article reviews the legal issues in the case and frames them within a broader policy dispute, comparing the two teams' current collective bargaining agreements and providing an overview of the disparate prize money awarded by the Federation Internationale de Football Association (FIFA).

Publication Northeastern University Law Review

Date 2021

The Pay Equity Project

URL	https://heinonline.org/HOL/P?h=hein.journals/norester13&i=362
Volume	13
Issue	2
Pages	339-388
Journal Abbr	N.E. U. L.R.

- **Tags:**
 - U.S. Women's Soccer¹⁷

Born Free: Toward an Expansive Definition of Sex

Author Laura Palk

Author Shelly Grunsted

Abstract

The State of New York recently issued its first physician-certified "intersex" birth certificate, correcting a 55-year-old's original birth certificate. This is a positive step towards eliminating the traditional binary approach to a person's birth sex, but it creates potential uncertainties in the employment discrimination context. Over the past several years, the definition of what constitutes "discrimination on the basis of sex" has both expanded (with the legalization of same-sex marriage) and narrowed (restricting the use of gender specific bathrooms). Until recently it appeared that a broader definition of the term "sex" would become the judicial- and possibly legislative- norm in a variety of contexts. However, several obstacles have emerged to jeopardize true equality for the LGBTQIA community, including (1) inconsistent judicial opinions regarding the meaning of "sex," (2) the increased ability of employers to utilize religion or "any other factor" as a defense to discrimination claims, (3) regressive executive policies regarding the definition of "sex," and (4) uncertainty about the extent to which transgender individuals may remain in the military. Although each of these issues warrants thorough analysis and has sparked scholarly debate, in this Article we focus on another critical inequality: wage disparity. Specifically, we are concerned with the problem posed for DSD and transgender individuals, given the Equal Pay Act's requirement that plaintiff demonstrate they are paid differently from the "opposite sex" for a wage disparity claim. The Equal Pay Act (EPA) is outdated and discriminatory in its application, and it unnecessarily subjects an entire segment of the workforce-LGBTQIA individuals-to continued discrimination. The EPA requires that plaintiff prove their cases through reference to an opposite sex comparator, but then defers to the employer's subjective definition of who "the opposite sex" is. This makes LGBTQIA plaintiffs' cases essentially unwinnable. Uncertainty for the LGBTQIA community is further compounded by the expansion of the employer's right, under both the Equal Pay Act and Title VII, to invoke religion, conscience, or "any other factor" as an affirmative defense to discrimination claims. In this Article, we discuss the interplay between a plaintiff's sex-specific protections (against sex-based employment discrimination under Title VII and against wage disparity under the Equal Pay Act) and an employer's affirmative defenses (under Title VII, the EPA, and current interpretations of the Religious Freedom Restoration Act). Our discussion concludes with recommendations for an expansive definition of the word "sex" and the adoption

The Pay Equity Project

of the recently proposed Equality Act to help alleviate all forms of sex-based discrimination in the employment context.

Publication Michigan Journal of Gender & Law
Date June 2018
URL <https://heinonline.org/HOL/P?h=hein.journals/mjgl25&i=9>
Volume 25
Issue 1
Pages 1-58

Colorado's Equal Pay for Equal Work Act: What Employment Counsel Need to Know Labor and Employment Law

Author Sarah Parady
Author Charlotte N. Sweeney
Author Bill C. Berger
Abstract This article summarizes Senate Bill 19-085, Colorado's Equal Pay for Equal Work Act.
Publication Colorado Lawyer
Date 2019
URL <https://heinonline.org/HOL/P?h=hein.barjournals/cololaw0048&i=902>
Volume 48
Issue 9
Pages 36-43
Journal Abbr Colo. Law.

The Disparate Impact of Up-or-Out Promotion Policy on Fertility Timing

Author Kyung H Park
Author Nayoung Rim
Abstract There is growing evidence that childbirth can have especially adverse effects on the career advancement of women. Our study examines how this affects the fertility decisions of men and women on the partner track. We use the After the JD study, a rich panel data set on a nationally representative sample of lawyers, and find that women are more likely than men to delay their first child until after the promotion decision is resolved. This difference in fertility timing is not easily explained by gender-based sorting; however, descriptive evidence suggests that reduced employer investment in mothers and social norms that tie women to child care are relevant mechanisms.
Publication American Law and Economics Review
Date April 1, 2020
URL <https://doi.org/10.1093/aler/ahaa003>
Volume 22
Issue 1
Pages 127-172

The Pay Equity Project

Journal American Law and Economics Review
Abbr
DOI [10.1093/aler/ahaa003](https://doi.org/10.1093/aler/ahaa003)

Number of Women Equity Partners in Law Firms Maintains a Slow and Steady Pace: Annual Survey Report - 2017

Author Destiny Peery

Abstract Each year, the goal of the NAWL Survey has been to provide objective statistics regarding the position and advancement of women lawyers in law firms in particular, and the NAWL Survey remains the only national survey that collects this industry benchmarking data in such detail. The 2017 NAWL Survey marks 10 years of tracking data on the career progression and compensation of women among the top 200 U.S. law firms. This year's survey demonstrates a continuation of a pattern observed over the last 10+ years, that numbers of women in equity partner positions in law firms have increased slowly, if at all, even while there has been some improvement in other areas, such as representation on governance committees.

Publication Women Lawyers Journal

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.journals/wolj102&i=180>

Volume 102

Pages 10-21

Journal Women Law. J.
Abbr

Moving Towards Equal Pay for Professional Female Athletes: What We Can Learn from Equal Pay Legislation in Iceland

Author Carrie Perras

Abstract This Note will explore the issue of gender pay inequality in professional sports and whether Iceland's new legislation, enacted in January 2018, would help achieve pay equality for female athletes.⁴ In Part 1, this Note will provide background and historical information about the gender pay gap nationally in the United States as well as in professional sports. This Note will examine the popular cases of the Women's National Soccer Team and the Women's National Hockey Team, as well as pay equality issues in other professional sports. Part 2 will detail the current legislation used in the U.S. in pay inequality cases, including the Equal Pay Act and Title VII of the Civil Rights Act. Part 3 of this Note will detail Iceland's history of leading the world in gender equality issues and the new legislation this country enacted with the specific purpose of eliminating gender pay inequality in all careers. Finally, part 4 will determine whether the United States should enact legislation similar to Iceland's new law in order to fight pay inequality more effectively in professional sports.

Publication Indiana International & Comparative Law Review

Date January 2020

URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=148711440&site=ehost-live>

The Pay Equity Project

Volume 30
Issue 2
Pages 319-348

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

Employment Outcomes Among Men and Women with Disabilities: How the Intersection of Gender and Disability Status Shapes Labor Market Inequality

Author David Pettinicchio

Author Michelle Maroto

Abstract This chapter assesses how gender and disability status intersect to shape employment and earnings outcomes for working-age adults in the United States. The research pools five years of data from the 2010-2015 Current Population Survey to compare employment and earnings outcomes for men and women with different types of physical and cognitive disabilities to those who specifically report work-limiting disabilities. The findings show that people with different types of limitations, including those not specific to work, experienced large disparities in employment and earnings and these outcomes also varied for men and women. The multiplicative effects of gender and disability on labor market outcomes led to a hierarchy of disadvantage where women with cognitive or multiple disabilities experienced the lowest employment rates and earnings levels. However, within groups, disability presented the strongest negative effects for men, which created a smaller gender wage gap among people with disabilities. This chapter provides quantitative evidence for the multiplicative effects of gender and disability status on employment and earnings. It further extends an intersectional framework by highlighting the gendered aspects of the ways in which different disabilities shape labor market inequalities. Considering multiple intersecting statuses demonstrates how the interaction between disability type and gender produce distinct labor market outcomes.

Publication Research in Social Science and Disability

Date 2017/09/11

URL <https://papers.ssrn.com/abstract=3035611>

Volume 10

Pages 3-33

Promulgating Parity: An Argument for a States-Based Approach to Valuing Women's Work and Ensuring Pay Equity in the United States

Author Alexandra N. Phillips

Abstract This Comment explores the ways in which pay equity is currently addressed in the United States. Ultimately, it proposes that existing legal remedies neither appropriately address the limitations faced by women in bringing a pay equity claim nor quell the underlying social circumstances from which the gender wage gap originates. Part II provides a brief overview of the gender wage gap, how it is

The Pay Equity Project

measured, and how it is reflected in the United States. Part III discusses various explanations that have been proffered for the gender wage gap. Part IV surveys existing and proposed legal remedies available to combat pay inequity, as well as the limitations to each approach. Part V claims that current legal measures fail to guarantee equal pay for women. Part V also posits that state measures mandating wage disclosure and paid family leave would be the best means to address the pay gap in the United States. Part VI offers concluding thoughts.

Publication Tulane Law Review
Date 2018
URL <https://heinonline.org/HOL/P?h=hein.journals/tulr92&i=759>
Volume 92
Pages 719-744
Journal Abbr Tul. L. Rev.

- **Tags:**
 - Student Note⁷⁰

Looking to the United Kingdom to Overhaul New York State's Paid Family Leave Law and Close the Global Gender Gap

Author John Pietruszka

Abstract Part I of this Note will examine parental leave policies in the US and the UK. It will also review the relationship that each country's policies have to their ranking on the Global Gender Gap Index. Part II will argue that NYS could close its economic gender gap by improving its current paid parental leave law by emulating the UK, or alternatively, by agreeing to meet standards outlined by various sources of international law. In doing so, NYS would substantially improve its law by altering its method of funding, amount of leave remuneration, and duration of coverage. Part III will address counterarguments to this proposition, including notions that such a policy will reduce economic efficiency, lead to greater discrimination in the hiring of women, or prove too fiscally burdensome to state budgets.^{3 1} This Note will conclude that NYS legislators can effectuate the economic and social benefits of greater gender parity by looking to the UK model or sources of International Law to improve the current paid family leave policy.

Publication Brooklyn Journal of International Law
Date 2019
URL <https://heinonline.org/HOL/P?h=hein.journals/bjil45&i=471>
Volume 45
Issue 1
Pages 463-496
Journal Abbr Brook. J. Int'l L.

- **Tags:**

The Pay Equity Project

- Student Note⁷⁰

The Thirteenth Amendment and Equal Protection: A Structural Interpretation to "Free" the Amendment

- Author** Larry Pittman
- Abstract** The hope is that the Court will one day hold that the Thirteenth Amendment has its own equal protection clause or component and that strict scrutiny will not be used for benign racial classifications designed to eradicate current badges and incidents of slavery. This Article critiques the Court's decision in the Civil Rights Cases regarding the scope of section 1 of the Amendment and it offers a holistic or structural interpretation of the Amendment to include an equal protection component and a lesser standard of review than strict scrutiny. Essentially, the Thirteenth Amendment, if properly used, could become a public policy of equal protection that influences courts' interpretation of the Amendment, other constitutional provisions, and statutes.
- Publication** William & Mary Journal of Race, Gender, and Social Justice
- Date** 2021-05-12
- URL** <https://scholarship.law.wm.edu/wmjowl/vol27/iss2/6>
- Volume** 27
- Issue** 2
- Pages** 461-514

Securing Workers' Economic Rights Through Public Protest

- Author** Stephen Plass
- Abstract** An essay is presented which explore the use of public protest as a non regulatory device for promoting the fair pay and equal workplace treatment principles of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- Publication** Intercultural Human Rights Law Review
- Date** January 2016
- URL** <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=118651929&site=ehost-live>
- Volume** 11
- Pages** 33-54
- Journal Abbr** Intercultural Human Rights Law Review

Wage Compression as a Democratic Ideal

- Author** Stephen Plass
- Abstract** Wage disparity between workers in the same occupations and between senior managers and the rest of the workforce has become a defining issue for policymakers. The economic claims of capital and those of labor remain at odds. Business supporters argue that greater pay for the larger workplace will result in loss of employment, higher prices for products and services, and loss of

The Pay Equity Project

competitive advantage in the global marketplace. Labor advocates respond that higher wages promote greater productivity, increase demand for goods and services, and facilitate the strengthening of democratic institutions. Neither side is persuaded by the other, and this has created an impasse with respect to federal intervention to moderate the effects of dramatic pay growth for senior managers and stagnant or declining wages for the larger workforce. This Article discusses the ideas and practices that have produced large wage disparities and the regulatory environment that has accommodated it. On the labor regulation side, the Article evaluates the National Labor Relations Act's (NLRA) approach to wage contracting, including its accommodation of right-to-work laws. It shows that the free-market wage policy of the NLRA is generally embraced by unions, although its effects may be more devastating than the NLRA's tolerance for right-to-work laws that unions condemn. On the corporate governance side, it shows that shareholders' interests rather than overall stagnant wages have driven regulatory attempts to curb excessive executive pay, and say-on-pay and new CEO pay disclosure regulations are not designed to address wage disparity. The Article argues that wage compression can be achieved through unrepresented worker protest and collective bargaining practices that link the plight of workers to the overall compensation practices of their employers. It proposes a revitalization of bonus and profit-sharing practices that reduce employers' long-term risks as a more viable collective bargaining strategy to reduce wage divergence while reducing the financial risks associated with fixed increases of wages and benefits.

Publication Cornell Journal of Law and Public Policy

Date 2016

URL <https://heinonline.org/HOL/P?h=hein.journals/cjlp25&i=619>

Volume 25

Pages 601-648

Journal Abbr Cornell J. L. & Pub. Pol'y

Choices, Bias, and the Value of the Paycheck Fairness Act: A Response Essay

Author Nicole Buonocore Porter

Abstract An essay on the ability of the U.S. Paycheck Fairness Act (PFA) to address the issues related to pay gap and employer discrimination policies in the country is presented. Topics discussed include the provision in PFA with the U.S. Equal Pay Act for preventing discrimination against women wages, employers responsibility in preventing the pay gap, and role of choices made by women regarding occupation, care giving, and commitment in resulting pay discrimination.

Publication ABA Journal of Labor & Employment Law

Date Spring 2014

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=102906841&site=ehost-live>

Volume 29

Issue 3

Pages 429-445

The Pay Equity Project

Journal ABA Journal of Labor & Employment Law
Abbr

Book Review: An Ambitious Approach: A Review of Lifetime Disadvantage, Discrimination and the Gendered Workforce

Author Nicole Buonocore Porter

Abstract In this review of Susan Bisom-Rapp's and Malcom Sargeant's book, Lifetime Disadvantage, Discrimination and the Gendered Workforce, I both summarize and applaud the authors' ambitious approach to exploring the disadvantages women experience in the workforce throughout their careers and the cumulative effects of those disadvantages over their lifetimes. The authors develop a "model of lifetime disadvantage," and this model is presented in an exhaustively researched and thoroughly enjoyable read. In addition to exploring the causes and effects of the discrimination and disadvantages women face, the authors also explore possible solutions, both here in the United States as well as in the United Kingdom. The authors take a broad and ambitious approach to solving the lifetime disadvantage suffered by women. Because I also like to think broadly when reimagining what is possible in the workplace and in life, I use this review to preview my own book in progress, which is an unabashedly ambitious approach to ameliorating the workplace disadvantages suffered by women and individuals with disabilities.

Publication Employee Rights and Employment Policy Journal

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/emprght22&i=129>

Volume 22

Issue 1

Pages 125-158

Journal Emp. Rts. & Emp. Pol'y J.
Abbr

Subminimum or Subpar? A Note in Favor of Repealing the Fair Labor Standards Act's Subminimum Wage Program

Author Melia Preedy

Abstract The article argues the repeal of the Section 14(c) of the Fair Labor Standards Act (FLSA) in order to provide equality to the employees with disability. Topics discussed include the authorization provided to the employers to pay minimum or sub minimum wages to their employees with disability under this section of the FLSA, efforts of the U.S. Congress in reducing the discrimination with the disabled employees at their work places and the development of disability rights and wage legislations.

Publication Seattle University Law Review

Date Spring 2014

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lqs&AN=98282175&site=ehost-live>

Volume 37

Issue 3

The Pay Equity Project

Pages 1097-1125
Journal Abbr Seattle University Law Review

- **Tags:**
 - Student Note⁷⁰

The Turf War: Gender Discrimination and the Creation of a Hostile Work Environment through Synthetic Turf

Author Nicole Price

Abstract In an effort to bring to light the discrimination practices that professional athletes, particularly women, face and to prevent this generation's soccer players from becoming the guinea pigs for determining the true danger of turf, this Note seeks to make the Turf War both an issue about gender discrimination because of the disparate treatment of male and female soccer players, as well as an issue about the creation of a hostile work environment. Part II discusses the background of turf and the research that has been [*29] conducted so far. The EPA's endorsement of turf and the regulatory loopholes they provide to turf manufacturers will also be discussed. Part III examines the protections available to professional athletes from the Occupational Safety and Health Administration (OSHA) and under the National Labor Relations Act (NRLA). Part IV suggests that the federal government should not only fund more research into the long-term effects of artificial field turf, but should also enforce OSHA in regards to the work environments of professional athletes.

Publication University of Denver Sports and Entertainment Law Journal

Date 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/denversel20&i=27>

Pages 23-44

Journal Abbr U. Denv. Sports & Ent. L.J.

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

When Giving Birth Becomes a Liability: The Intersection of Reproductive Oppression and the Motherhood Wage Penalty for Latinas in Texas

Author Dania Y. Pulido

Abstract This Comment analyzes the detrimental reproductive and economic effects of H.B. 2 on Latinas in Texas had the U.S. Supreme Court not struck down its ASC and admitting privileges requirements. At first glance, these two issues appear seemingly unrelated; however, reproductive freedom and the motherhood wage penalty have interrelated consequences, particularly for Latinas residing in south and west Texas.³ This Comment looks at the key provisions of H.B. 2 and the resulting negative repercussions on teenage Latinas, undocumented women, and

The Pay Equity Project

Latina mothers. This Comment then discusses the motherhood wage penalty, its significance, and various methodologies utilized to explain the penalty. Using an intersectional approach, this Comment analyzes the dynamics of reproductive oppression and gender subordination and the resulting detrimental effects. Lastly, this Comment proposes a model to shift stereotypes faced by this group of marginalized women.

Publication Scholar: St. Mary's Law Review on Race and Social Justice
Date 2016
URL <http://heinonline.org/HOL/P?h=hein.journals/schom19&i=121>
Volume 19
Pages 111-144
Journal Abbr Scholar

- **Tags:**
 - Student Note⁷⁰

The Effect of the External Labor Market on the Gender Pay Gap among Executives

Author Cristina Quintana-García
Author Marta M. Elvira

Abstract To date, few empirical studies have explored potential differences in the effects of external labor market hiring on the compensation of male and female managers. Using longitudinal data from a sample of public high-technology firms on individual top executives' total compensation in the United States, and the separate components of base and variable pay, the authors study the effects of being an external hire for men and women. The results suggest that women who are external labor market hires are disadvantaged, in both base and variable compensation, compared with internal placements. The analyses also provide some evidence that having greater representation of women in top positions reduces the disadvantaging effects for women of being an external hire.

Publication ILR Review
Date January 1, 2017
URL <https://doi.org/10.1177/0019793916668529>
Volume 70
Issue 1
Pages 132-159
Journal Abbr ILR Review
DOI [10.1177/0019793916668529](https://doi.org/10.1177/0019793916668529)

Litigating Sex Discrimination Cases in the 1970s

Author Harriet S. Rabb

The Pay Equity Project

Abstract

The article focuses on cases filed against the organizations on the grounds of sex discrimination in response to segregated job and salary structures of women from men. It highlights two cases, one filed against Newsweek magazine from Daily Beast Company by the women regarding the discrimination in response to job designations of a man behind a typewriter as a writer and that of a woman as a researcher. It depicts in the second case that the New York Telephone Company at Long Island, constituted 2200 management women employees in the Traffic Department of the Company with the lowest management jobs earning half the salary of men who held the top management jobs. The case settled with goals and salary increments for women.

Publication Columbia Journal of Gender & Law

Date March 2013

URL <https://heinonline.org/HOL/P?h=hein.journals/coljgl25&i=60>

Volume 25

Issue 1

Pages 50-53

Journal Abbr Columbia Journal of Gender & Law

The Gender Pay Gap, in Relation to Professional Sports

Author Bryan Ramdat

Abstract

In finding the relevant laws and policies that govern businesses and organizations, this Note will address the gender pay gap by specifically looking at how the pay gap has impacted numerous sport organizations.³⁴ Following the examination of the sports and entertainment industries, there will be a discussion of the pending cases addressing the gender pay gap in sports.³⁵ Part IV of this Note will give a recommendation of what can be done to eliminate genderbased wage discrimination. This Note will conclude with what the near and long-term future looks like for gender pay discrimination in sports.

Publication Journal of Race, Gender, and Ethnicity

Date 2021-01-01

URL <https://digitalcommons.tourolaw.edu/jrge/vol10/iss1/8>

Volume 10

Issue 1

Pages 45-65

- **Tags:**
 - Student Note⁷⁰

Money Talks, but is Prior Pay Silenced Under the Equal Pay Act? Rizo v. Yovino

Author Kristen M. Renberg

Abstract

The article discusses the Ninth Circuit Court of Appeals court case Rizo v. Yovino on relying on the prior pay of an employee in establishing current salary under the Equal Pay Act of 1963.

Publication Justice System Journal

The Pay Equity Project

Date October 1, 2020
URL <https://doi.org/10.1080/0098261X.2020.1869442>
Volume 41
Issue 4
Pages 379-380
DOI [10.1080/0098261X.2020.1869442](https://doi.org/10.1080/0098261X.2020.1869442)

Women Lawyers Continue to Lag behind Male Colleagues: Report of the Ninth Annual NAWL National Survey On Retention And Promotion Of Women In Law Firms

Author Lauren Stiller Rikleen

Abstract This year's NAWL Survey of women in law firms demonstrates what we have long seen: The number of women equity partners in law firms has barely increased in the past 10 years, despite all the available talent and opportunity present in 2006, and earlier. Indeed, the NAWL Challenge goal seemed like one that could reasonably be accomplished. With a full pipeline, there was every reason to be optimistic that the legal profession would achieve these goals.

Publication Women Lawyers Journal

Date 2015
URL <http://heinonline.org/HOL/P?h=hein.journals/wolj100&i=183>
Volume 100
Issue 4
Pages 25-41
Journal Abbr Women Law. J.

The 'Big Bang' in public and private faculty salaries

Author Jennifer A. Rippner

Author Robert K. Toutkoushian

Abstract The gap between average faculty salaries at public and private institutions has been growing wider over the past 40 years, yet little is known about the nature and causes of the gap. This study uses data on more than 1,000 institutions to examine institutional average faculty salaries and how they have changed for public and private institutions. We found that the current average salary disadvantage for public institutions is primarily concentrated in research-intensive institutions and the average salary gaps between public and private research institutions have continued to increase between 2001 and 2011 even after controlling for selected factors including financial resources.

Publication Journal of Education Finance

Date 2015
URL <http://link.galegroup.com/apps/doc/A439632929/LT?u=ucirvine&sid=LT&xid=53f8f558>
Volume 41
Issue 2

The Pay Equity Project

Pages 103-123

Podia and Pens: Dismantling the Two-Track System for Legal Research and Writing Faculty

Author Kristen K. Riscione

Author Amy Vorenberg

Abstract At the 2015 AALS Annual Meeting, a panel was convened under this title to discuss whether separate tracks and lower status for legal research and writing ("LRW") faculty make sense given the current demand for legal educators to better train students for practice. The participants included law professors, an associate dean, and a federal judge.² Each panelist was asked to respond to questions about the "two-track" system—a shorthand phrase for the two tracks of employment at many law schools whereby full-time LRW faculty are treated differently than tenured and tenure-track faculty. The panelists represented differing views on the topic. This Article grows out of the conversation, information, and ideas that emerged.

Publication Columbia Journal of Gender and Law

Date 2015

URL <http://heinonline.org/HOL/P?h=hein.journals/coljgl31&i=59>

Volume 31

Pages 47-64

**Journal
Abbr** Colum. J. Gender & L.

Persistent Structural Barriers to Gender Equity in the Legal Academy and the Efforts of Two Legal Writing Organizations to Break Them down

Author Ruth Anne Robbins

Author Kristen K. Tiscione

Author Melissa H. Weresh

Abstract Part I of this Article discusses the social and cultural barriers to gender integration and equality in the general workforce and specifically in the legal academy. Parts II and III detail persistent organizational and institutional barriers in the legal academy, particularly for non-tenure track faculty teaching skills-focused courses. Part IV then explains the collective efforts, successes, and failures of LWI and ALWD to improve the overall status of legal writing faculty. Although occupational segregation in the legal academy, with all the inequities that follow, is but one example of gender discrimination in the workforce, ²² we conclude that its persistence in law schools sets and maintains a standard of gender inequity with unacceptable and far-reaching effects on the legal profession and beyond.

Publication Villanova Law Review

Date 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/vllalr65&i=1195>

Volume 65

The Pay Equity Project

Issue 5
Pages 1155-1186
Journal Abbr Vill. L. Rev.

Narrowing the Gender Pay Gap by Providing Equal Opportunities: The Need for Tenured Female Professors in Higher STEM Institutions in an Effort to Recast Gender Norms

Author Claire R. Rollor

Abstract Women face extreme obstacles in breaking into the fields of science, technology, engineering, and math ("STEM"). The dearth of women in these higher paying fields has resulted in negative repercussions for female careers in today's economy. 2 One particularly challenging issue career STEM women face is achieving tenure status. Part I of this article describes the current role female faculty play in STEM fields and the typical tenure policies in higher educational institutions across the U.S.¹³ Part II then looks at the laws and regulations associated with females achieving tenure in the STEM fields,¹⁴ with Part III analyzing the discriminatory effects felt by STEM female faculty members.¹⁵ Finally, Part IV explores several approaches to cure the deficiency of tenured STEM females. 6

Publication UCLA Women's Law Journal

Date 2014

URL <http://heinonline.org/HOL/P?h=hein.journals/uclawo21&i=164>

Volume 21

Pages 143-184

Journal Abbr UCLA Women's L.J.

Does the Equal Pay Act Prohibit Discrimination on the Basis of Sexual Orientation or Gender Identity?

Author Adam P. Romero

Abstract To contextualize the question of whether the Equal Pay Act covers wage disparities on the basis of sexual orientation or gender identity, Part I summarizes the most recent evidence of wage disparities and discrimination facing sexual and gender minorities in the United States. Although the legal rights and social acceptance of LGBT people have generally improved, a variety of evidence demonstrates that stigma, discrimination, and violence against LGBT people remain widespread. Part II details the shifting legal landscape on express protections against sexual orientation and gender identity discrimination as it presently exists in the United States. By "express protections," I mean that the text of the law includes the specific words "sexual orientation" or "gender identity." Part II is important because it demonstrates why determining the scope of federal anti-sex-discrimination provisions, including the Equal Pay Act, as to sexual orientation and gender identity discrimination is so consequential. Whether the Equal Pay Act, Title VII, Title IX, or any other anti-sex-discrimination

The Pay Equity Project

statute is interpreted to cover sexual orientation or gender identity discrimination may be the difference between having a cognizable claim or not for the many people living, working, or going to school in places with no state or local law on point. Part III turns squarely to federal anti-sex-discrimination statutes. I first summarize the relevant laws and failed legislative efforts to amend them to expressly include sexual orientation and gender identity. Part III then synthesizes decades of judicial and agency interpretations of Title VII, Title IX, and other statutes as to sexual orientation and gender identity discrimination. The analysis shows that the courts are irreconcilably split but that an increasing number of courts are revisiting old rulings to hold that discrimination on the bases of sexual orientation and gender identity are, at bottom, discrimination because of sex. With this body of case law as our guide, Part IV turns to the Equal Pay Act and analyzes its statutory text and legislative history. I conclude that the text of the Equal Pay Act-particularly the use of "opposite sex"-impedes its interpretation to cover sexual orientation or gender identity discrimination, though I recognize plausible arguments to the contrary. Yet, significantly, the text of the Equal Pay Act strengthens the arguments that Title VII and Title IX cover discrimination motivated by someone's actual or perceived sexual orientation or gender identity, because those statutes do not expressly require an opposite sex comparator as the Equal Pay Act does. In the Conclusion, I discuss legislative and other efforts that could begin to address the employment discrimination and economic vulnerabilities that LGBT people face, which would include reducing the gender and race wage gaps, too.

Publication Alabama Civil Rights & Civil Liberties Law Review

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/alabcrcr10&i=41>

Volume 10

Issue 1

Pages 35-94

**Journal
Abbr** Ala. C.R. & C.L. L. Rev.

Equal Protection for Equal Play: A Constitutional Solution to Gender Discrimination in International Sports

Author Jenna N. Rowan

This Note considers the extent of gender discrimination in international sports, providing an overview of gender discrimination in sports and detailing the inadequacies of current statutory remedies. Additionally, this Note describes why constitutional remedies are unavailable for these athletes, highlighting a 1987 Supreme Court case holding that sports governing bodies are not state actors.

Abstract This Note proposes overruling that case to hold instead that international sports governing bodies are state actors and are, therefore, subject to the provisions in the US Constitution. Under this solution, international athletes could bring gender discrimination claims against these bodies under an equal protection rationale.

Publication Vanderbilt Journal of Entertainment & Technology Law

Date Spring 2018

The Pay Equity Project

URL	http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=129348101&site=ehost-live
Volume	20
Issue	3
Pages	919-945
Journal Abbr	Vanderbilt Journal of Entertainment & Technology Law

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

Chapter Introduction: Pay Inequality, Access to Work, and Discrimination

Author	Nantiya Ruan
Abstract	<p>At the half-century anniversary of Title VII of the Civil Rights Act of 1964, it is high time to address the pervasive and well-entrenched pay inequity women face in American workplaces. As the presenters on the "Pay Inequality, Access to Work, and Discrimination" Panel observed, progress on the gender wage gap is at a standstill. For full-time, yearround workers in 2012, the median salary for women was 76.5% of the median salary for men-nearly identical to the gap reported in 2001.¹ Moreover, today's workforce is filled with part-time female workers who are at the mercy of their supervisors for their pay (e.g., the number and scheduling of hours they work). The number of part-time workers has steadily increased over the last decade, with the total number of part-time workers exceeding twenty-seven million.² Two-thirds of part-time workers are women, and as the Congressional Joint Economic Committee has recognized, the gender pay gap is partly driven by the earning penalty for part-time work, which pays less per hour than the same or equivalent work done by full-timers.³ Most commentators agree that if the overall rate of change from 1964 to today remains the same going forward, women in today's labor market will never experience gender wage parity during their working lives.</p>
Publication	Denver University Law Review
Date	2014
URL	http://heinonline.org/HOL/P?h=hein.journals/denlr91&i=893
Volume	91
Pages	869-872
Journal Abbr	Denv. U. L. Rev.

Hours Equity Is the New Pay Equity

Author	Nantiya Ruan
Author	Nancy Reichman
Abstract	<p>This Article makes the case for changing the way we think about pay equity. Because our workforce is filled with part-time workers, advocates for low-wage workers should focus not only on pay inequities and living wages, but also on</p>

The Pay Equity Project

hours equity. Hours equity would provide muchneeded stability to scheduling that would allow female part-time workers to have a reliable schedule with guaranteed hours so that they make an expected amount of pay. Part II describes the experience of many female low-wage workers in retail America. Based on a composite from the authors' interviews with non-profit agencies dedicated to fair employment practices, as well as low-wage workers themselves, the story of Anna represents the plight of parttime work and the difficulties women faced in an unstable scheduling environment. Part III explores the modern workplace and the part-time worker's place in it. Because of employers' strict adherence to minimizing labor costs and the contingent nature of part-time, low-wage work, today's workplace is a precarious place without assurances of guaranteed compensation. Part IV outlines and analyzes the different statutory frameworks meant to regulate workplace fairness: the FLSA, the EPA, and Title VII's disparate treatment and disparate impact provisions. While each holds potential to address scheduling shortfalls, without amendment, the only current statutory framework that allows for address of the harms stemming from hours inequity is Title VII. Finally, Part V provides potential solutions to address the scheduling shortfalls: lobbying for statutory gap-filling; community organizing and collective action; and renewed public regulation and enforcement.

Publication Villanova Law Review

Date 2014

URL <https://heinonline.org/HOL/P?h=hein.journals/vllalr59&i=45>

Volume 59

Pages 35-82

**Journal
Abbr** Vill. L. Rev.

How Corporate Internal Auditors Can Advance Gender Equality

Author Hannah Michelle Russell

Author Murphy Smith

Virtually everyone agrees that a well-run, ethically responsible business pays all employees fair wages that are gender neutral. In other words, equal work results in equal pay, regardless of gender. Corporate management, including internal auditors, can help corporations in their efforts to achieve gender equality and other socially

Abstract responsible goals. Corporate social responsibility is a major issue in modern business. The idea is that corporations should do their part to make the world a better place, that is, to be good corporate citizens. This paper describes how internal auditors and other corporate managers can assist corporations to attain corporate social responsibility goals, notably, to advance gender equality.

Date 2018

URL <https://papers.ssrn.com/abstract=3315771>

Place Rochester, NY

In Memoriam: Judge Stephen Reinhardt

Author Benjamin I. Sachs

The Pay Equity Project

Abstract Eleven days after Judge Stephen Reinhardt died, the Ninth Circuit issued a major Equal Pay Act 42Link to the text of the note decision that he authored. 43Link to the text of the note To a former clerk who loved and admired the Judge, the posthumous publication of *Rizo v. Yovino*44Link to the text of the note had a deep poignancy. Reading the words of this [*2113] groundbreaking decision -- a decision that prohibits employers from justifying salary differentials between men and women on the basis of prior salaries -- felt like hearing the Judge speaking still. And it was undoubtedly his voice I heard throughout the en banc opinion. He started: "The Equal Pay Act stands for a principle as simple as it is just: men and women should receive equal pay for equal work regardless of sex."

Publication Harvard Law Review

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/hlr131&i=2148>

Volume 131

Issue 8

Pages 2112-2116

Journal Abbr Harv. L. Rev.

Salary History and Pay Parity: Assessing Prior Salary History as a "Factor other than Sex" in Equal Pay Act Litigation

Author Jennifer Safstrom

Abstract Inquiries about a prospective applicant's salary history are controversial because of the role such inequities play in the broader gender pay equity debate. The use of prior salary to determine compensation can perpetuate pay discrimination for women, especially women of color, and lock them into cycles of underpayment when these inequities are carried over from job to job. Reliance on salary history perpetuates historical discrimination and is antithetical to the language and purpose of Title VII and the Equal Pay Act. The purpose of this paper is to critically analyze the legal reasoning relied upon to interpret these laws, especially in light of the new cases emerging in this field, and to assess the potential impacts of these differing interpretations across the circuit courts. This paper offers a nuanced analysis of the courts' reasoning, including an analysis of the text and context of the legislation and how this influences appellate courts' divergent interpretation and reasoning. Given that this circuit split primes the issue for Supreme Court consideration, this Article considers the implications of the various interpretations.

Publication Yale Journal of Law and Feminism

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/yjfem31&i=142>

Volume 31

Issue 1

Pages 135-166

Journal Abbr Yale J.L. & Feminism

The Pay Equity Project

Sociability Capital and Gender Wage Gap

Author Herman Sahni

Author Suresh L. Paul

Abstract This study develops a job-signaling model to study the gender wage gap for occupations in which both cognitive and non-cognitive skills are productive. Workers acquire both education and sociability capital to signal their skills. The results show that a gender wage gap occurs when working women divert time away from sociability capital accumulation to meet family responsibilities.

Date 2019/03/10

URL <https://papers.ssrn.com/abstract=3346955>

Place Rochester, NY

The Equal Pay Act: Almost Fifty Years Later, Why Wage Gap Still Exists

Author Bridget Sasson

Abstract This Comment will review the history of the Equal Pay Act ("EPA") and recent legislation dealing with wage disparity and examine possible causes for the continuing wage gap. In 1963 John F. Kennedy signed the EPA, amending the Fair Labor Standards Act ("FLSA") of 1938, making it illegal to pay women lower wages than men solely because of their sex.¹ Nearly fifty years later, according to recent census statistics, women are still earning less than their male counterparts.² The percentages have improved since the implementation of the EPA in 1963, when women earned 58.9% of what men earned.³ On January 29, 2009, President Obama signed the Lilly Ledbetter Fair Pay Act ("Ledbetter Act").⁴ The Ledbetter Act reversed the Supreme Court's ruling in *Ledbetter v. Goodyear Tire & Rubber Co.*, which held that a discriminatory compensation decision occurred each time an employee was paid pursuant to a discriminatory practice.⁵ Though the Ledbetter Act is a step in the right direction, more legislation is necessary to help close the wage gap. The most promising is the proposed Paycheck Fairness Act ("Paycheck Act"), which attempts to revise the exceptions to wage discrimination that have developed since the enactment of the EPA.⁶

Publication Duquesne Business Law Journal

Date 2013

URL <http://heinonline.org/HOL/P?h=hein.journals/duqbuslr15&i=73>

Volume 15

Pages 73-86

**Journal
Abbr** Duq. Bus. L.J.

- **Tags:**
 - Student Note⁷⁰

Money Talks: Using Prior Salary as an Affirmative Defense in Equal Pay Claims

Author Mariah Savage

The Pay Equity Project

The wage gap is alive and well, with women on average making 82 cents for every dollar a man makes. Moreover, the wage gap has stagnated, with no significant progress being made to close the gap for the past ten years. In light of this stagnation, it is important to review current practices and consider steps that could be taken in order to catalyze a modern effort at closing the wage gap. One commonplace business practice that should be addressed is an employer's use of an employee's prior salary to determine starting pay. Courts are divided as to whether employers can or should be allowed, under the Equal Pay Act of 1963, to rely on an employee's past salary to excuse any resulting wage differential between employees of the opposite sex performing substantially similar work. This Note argues that, within the context of the Equal Pay Act, employers should not be able to excuse a wage gap by using an employee's prior salary. This Note proceeds by examining the history and current context of the Equal Pay Act of 1963, as well as the disparate court responses concerning whether employers can use their considerations of an employee's prior salary to defend a resulting wage gap. This Note finds that, while prior salary may appear to be an objective measure that helps facilitate setting current wages, prior salary is ultimately some thirdparty's determination of a person's worth. Prior salary is a shadowy concept and it is extraordinarily difficult, if not outright impossible, to discern what factors may have been used in setting it and whether that determination was at all prejudicial. Therefore, this Note ultimately urges courts and legislatures to recognize that prior salary should not be used to excuse a wage gap. People's livelihoods are at risk and it is important that the question of whether prior salary should continue to be considered and used as a defense by employers be resolved.

Abstract

Publication Utah Law Review

Date January 2020

URL <https://heinonline.org/HOL/P?h=hein.journals/utahlr2020&i=297>

Volume 2020

Issue 1

Pages 289-311

- **Tags:**
 - Student Note⁷⁰

Gender Pay Gap: The Time to Speak up Is Now

Author Samantha M. Sbrocchi

Abstract Part II outlines the history of inconsistency regarding gender discrimination in compensation law. Part III discusses the recent developments in gender discrimination law. Part IV examines the recent #TimesUp movement. Part V reviews the current gender discrimination in compensation laws and the burdens of proof. Part VI sets forth my proposal for a change in the law that can close the gender wage gap.

Publication Touro Law Review

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/touro35&i=855>

Volume 35

The Pay Equity Project

Issue 2
Pages 839-865

- **Tags:**
 - Student Note⁷⁰

Class Action Litigation after Dukes: In Search of a Remedy for Gender Discrimination in Employment

Author Cindy A. Schipani

Author Terry Morehead Dworkin

In this Article we argue for substantial reforms to our system of combating workplace gender discrimination in light of the Supreme Court's ruling in Wal-Mart Stores, Inc. v. Dukes. To help counter discrimination victims' decreasing access to the courts, our proposals call for a narrow construction of the holding of Dukes. At the same time, agencies such as the Equal Employment Opportunity

Abstract Commission (EEOC), the Office of Federal Contract Compliance Programs (OFCCP), and the Securities and Exchange Commission (SEC) can better use their regulatory authority to address gender discrimination. Further, regulatory agencies, arbitrators, and courts can mandate mentoring programs to assist employees in overcoming the effects of discrimination and provide a potential pathway for career success.

Publication University of Michigan Journal of Law Reform

Date 2013

URL <http://heinonline.org/HOL/P?h=hein.journals/umijlr46&i=1291>

Volume 46

Pages 1249-1278

**Journal
Abbr** U. Mich. J.L. Reform

Negotiating While Female

Author Andrea Schneider

Why are women paid less than men? Prevailing ethos conveniently blames the woman and her alleged inability to negotiate. This article argues that blaming women for any lack of negotiation skills or efforts is inaccurate and that prevailing perceptions about women and negotiation are indeed myths. The first myth is that women do not negotiate. While this is true in some lab studies and among younger women, more recent workplace data calls this platitude into question. The second myth is that women should avoid negotiations because of potential

Abstract backlash. Although women in leadership do face an ongoing challenge to be likeable, it is clear that not negotiating has long-term detrimental effects. The third myth, based on the limited assumption that a good negotiator must be assertive, is that women cannot negotiate as well as men. However, the most effective negotiators are not just assertive, but also empathetic, flexible, socially intuitive, and ethical. Women can and do possess these negotiation skills. This article concludes by proposing an action plan which provides advice on how women can

The Pay Equity Project

become more effective negotiators and identifies structural changes that might encourage negotiation and reduce the gender pay gap.

Publication SMU Law Review

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.journals/smulr70&i=715>

Volume 70

Pages 695-720

**Journal
Abbr** S.M.U. L. Rev.

Failing Our Workers: How the FMLA and RFRA Disadvantage Female Workers in the United States When Compared to Their European Union Counterparts

Author Penelope Scudder

Abstract

This comment will focus on two examples which illustrate that the United States disadvantages its female workers when compared to the EU: (1) the FMLA and how it requires employees to choose between their families and their jobs; and (2) United States employers exercising undue influence over the private lives of their employees as a result of the Supreme Court's decision in Hobby Lobby. Section II of this comment will introduce the intersection of the public and private spheres; particularly with respect to what degree employer intrusion in the private lives of employees is permitted, in the United States. Section III will argue that the FMLA insufficiently protects the rights of female workers, who are socially expected to take medical leave when a family member falls ill, particularly when compared to leave standards in the EU. Section IV will argue that the Religious Freedom Restoration Act, through its interpretation of Hobby Lobby, created an artificial tension with Title VII. This section will compare these recent developments in the United States, with the systems in place in the EU, where female workers are better protected from undue employer involvement in their personal lives. Finally, this Comment will conclude that the United States must do more to protect its female workers, and it will suggest that the United States should use EU laws as a starting point.

Publication Penn State Journal of Law and International Affairs

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/pensalfaw6&i=432>

Volume 6

Issue 1

Pages 427-460

**Journal
Abbr** Penn St. J.L. & Int'l Aff.

How Do Beliefs About the Gender Wage Gap Affect the Demand for Public Policy?

Author Sonja Settele

The Pay Equity Project

Abstract I conduct a pre-registered online information experiment with a representative sample of the US population to study the relationship between people's beliefs about the size of the gender wage gap and their demand for policies aimed at mitigating it. Beliefs about the size of the wage gap causally affect demand for equal pay legislation and for statutory affirmative action programs for women, but only account for a minor share of the polarization in policy views across the political spectrum and by gender. Changes in policy demand seem to be driven by changes in beliefs about gender-based discrimination in labor markets and related fairness concerns, whereas self-interest does not play an important role. A substantial share of individuals hold pessimistic beliefs about the effectiveness of government intervention, limiting the overall elasticity of policy demand to the perceived size of wage differentials.

Date 2019-05-03
URL <https://papers.ssrn.com/abstract=3382325>
Place Rochester, NY

Book Review: Lifetime Disadvantage, Discrimination and the Gendered Workforce

Author Elizabeth Shilton

Abstract Lifetime Disadvantage, Discrimination and the Gendered Workforce addresses causes and remedies for this problem, with a focus on the United States and the United Kingdom.. The authors are highly qualified to tackle the topic. In addition to their lengthy lists of individual publications on employment law and discrimination issues, Bisom-Rapp and Sargeant have collaborated for several years on research involving problems of discrimination against older workers and the failure of law and policy to resolve those problems.' Both legal academics, they bring a useful comparative perspective to their collaboration; Bisom-Rapp is based in the United States while Sargeant teaches and writes in the United Kingdom. Much of their joint work has focused on gender issues, acknowledging that while age discrimination cuts across gender lines, it is nevertheless a gendered phenomenon, producing outcomes prejudicial to women that are directly linked to their gender.

Publication Comparative Labor Law & Policy Journal

Date 2018
URL <https://heinonline.org/HOL/P?h=hein.journals/cllpj39&i=683>
Volume 39
Issue 3
Pages 645-650
Journal Abbr Comp. Lab. L. & Pol'y J.

Pay History and Wage Discrimination: Can State Pay History Laws Survive Present Judicial Construction of the Equal Pay Act?

Author Ian P. Shippey

The Pay Equity Project

Abstract This Article examines the history of the Equal Pay Act and its underlying purposes, the persistent gender pay gap and its possible causes, as well as circuit court case law that has limited the Act's applicability to payment schemes that tend to create disparities in pay between men and women. After examining these issues, the paper's focus shifts to state laws banning inquiries into pay history and the challenges these laws face based on judicial interpretations of the Equal Pay Act. Finally, the paper analyzes case law that presents a way forward for pay history laws, and the Ninth Circuit's recent opinion in *Rizo v. Yovino*,⁷⁰ which was recently vacated by the United Supreme Court on procedural grounds.'

Publication American Journal of Trial Advocacy

Date Spring 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/amitrad42&i=427>

Volume 42

Issue 2

Pages 411-447

- **Tags:**
 - Student Note⁷⁰

Gender-Based Pay Gaps in the Gig Economy

Author Jacki Silbermann

Abstract There is good reason to believe that the gig economy and platform work would reduce the gender wage gap and increase gender parity by creating greater access to the workforce for women. Specifically, the argument goes, gender-blind algorithms would more equitably dole out jobs and more flexible work schemes would allow women to assume dual roles as employees and caregivers.^[1] Unfortunately, these optimistic predictions have not panned out. Recent studies suggest that despite equal access to work and comparable working hours, the gig economy is not an easy remedy for gender-based pay gaps. Rather, behaviors that manifest themselves in the traditional workforce are present in the gig economy as well.

Publication Harvard Journal of Law & Gender Online Content

Date 2020-02-06T18:21:02+00:00

URL <https://harvardjlg.com/2020/02/gender-based-pay-gaps-in-the-gig-economy/>

- **Tags:**
 - Student Note⁷⁰

The Pay Gap, the Glass Ceiling, and Pay Bias: Moving Forward Fifty Years After the Equal Pay Act

Author Gary Siniscalco

Author Lauri Damrell

Author Clara Morain Nabity

Abstract The article examines the role of the U.S. Equal Pay Act of 1963 (EPA) in filling the gap between pay of women and men in the U.S. and discusses its impact on the employer's

The Pay Equity Project

pay bias. Topics discussed include the authority of the U.S. Equal Employment Opportunity Commission (EEOC) to enforce law over EPA violations, provisions against discrimination under Title VII of the U.S. Civil Rights Act of 1964, and the U.S. Lilly Ledbetter Fair Pay Act that addresses issues related to pay gap.

Publication ABA Journal of Labor & Employment Law

Date Spring 2014

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=102906840&site=ehost-live>

Volume 29

Issue 3

Pages 395-427

Journal Abbr ABA Journal of Labor & Employment Law

Average Gaps and Oaxaca–Blinder Decompositions: A Cautionary Tale about Regression Estimates of Racial Differences in Labor Market Outcomes

Author Tymon Słoczyński

Abstract

Using a recent result from the program evaluation literature, the author demonstrates that the interpretation of regression estimates of between-group differences in wages and other economic outcomes depends on the relative sizes of subpopulations under study. When the disadvantaged group is small, regression estimates are similar to the average loss for disadvantaged individuals. When this group is a numerical majority, regression estimates are similar to the average gain for advantaged individuals. The author analyzes racial test score gaps using ECLS-K data and racial wage gaps using CPS, NLSY79, and NSW data, and shows that the interpretation of regression estimates varies substantially across data sets. Methodologically, he develops a new version of the Oaxaca–Blinder decomposition, in which the unexplained component recovers a parameter referred to as the average outcome gap. Under additional assumptions, this estimand is equivalent to the average treatment effect. Finally, the author reinterprets the Reimers, Cotton, and Fortin decompositions in the context of the program evaluation literature, with attention to the limitations of these approaches.

Publication ILR Review

Date May 1, 2020

URL <https://doi.org/10.1177/0019793919874063>

Volume 73

Issue 3

Pages 705-729

Journal Abbr ILR Review

DOI [10.1177/0019793919874063](https://doi.org/10.1177/0019793919874063)

The Pay Equity Project

But, Men and Women Are Equally Compensated, Right? An Examination of Why an Equal Rights Amendment in New York's Constitution Will End the Wage Gap

Author Amanda B. Slutsky

Abstract This Note proposes an ERA for New York's constitution to end the wage gap between men and women, and uses language from H.J. Res 52 and S.B. No. 1919. To demonstrate why New York needs the amendment, this Note will discuss Maryland's and California's ERAs and equal pay laws to establish the benefits of an ERA and how both ERAs and equal pay laws, together, help shrink the wage gap in those states. With an ERA, New York's courts will analyze sex-based discrimination claims with strict scrutiny, which provides heightened protection because women will be considered a suspect class. Section II provides background information on the original federal ERA and legislation; California equal pay laws and statistics; Maryland equal pay laws and statistics; and finally, New York equal pay laws and statistics. Section III discusses S.B. No. 1919 and critiques its language and adds language from H.J. Res. 52 to compose a draft ERA. It also explains the strict scrutiny analysis used in sex-based discrimination claims in states with ERAs. A constitutional claim provides an alternate route for women who suffer from gender pay inequality in a more plaintifffriendly environment. Maryland and California are better able to protect their citizens against workplace discrimination with an ERA. Thus, an ERA is beneficial because women desperately need the strict scrutiny analysis to end the wage gap.

Publication Journal of Civil Rights and Economic Development

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/sjilc32&i=359>

Volume 32

Issue 3

Pages 341-368

- **Tags:**

- Student Note⁷⁰

You Play Ball Like a Girl: Cultural Implications of the Contact Sports Exemption and Why It Needs to Be Changed

Author Michelle Margaret Smith

Abstract Women in the United States have historically earned significantly less income per year compared to their male counterparts. In 2014, the pay discrepancy was at its lowest point with women earning seventy-nine cents per every dollar men earned. This discrepancy exists even though women now attain college degrees at a higher rate than men and make up 47% of the labor force. In sports, the pay discrepancy is even greater. At the professional level, women earn as little as 1.2% of what their male counterparts earn. This Note addresses how changing the contact sports exemption in Title IX to allow women to play with men would provide women greater opportunities and higher salaries at the professional level.

Publication Cleveland State Law Review

The Pay Equity Project

Date 2018
URL <https://heinonline.org/HOL/P?h=hein.journals/clevslr66&i=693>
Volume 66
Issue 3
Pages 677-703

- **Tags:**
 - Student Note⁷⁰
 - U.S. Women's Soccer¹⁷

Inclusion, Reversal, or Displacement: Classifying Regulatory Approaches to Pay Equity

Author Meg Smith
Author Robyn Layton
Author Andrew Stewart

Abstract The diversity in approaches highlights the complexities and impediments that continue to confront the application of the right to equal remuneration for work of equal value. Identifying consistent themes across the pattern of equal remuneration regulation is not without challenge, although it bears the advantage of illustrating the distinct differences and complexity in the institutional apparatus employed by national and regional governments. We outline here a typology of approaches based on a review of selected member states of the ILO that have been identified as deploying good practice in the area of equal remuneration. 3 Before identifying this typology, we review feminist scholarship classifying gender regimes-that is, the systems of gender relations evident in the policy apparatus adopted by nation states. This is followed by a brief outline of relevant international conventions and a review and explanation of the key areas in which the responses of nation states can be differentiated.

Publication Comparative Labor Law & Policy Journal
Date 2017-2018
URL <https://heinonline.org/HOL/P?h=hein.journals/cllpj39&i=223>
Volume 39
Pages 211-246
Journal Abbr Comp. Lab. L. & Pol'y J.

Legal Writing Professors, Salary Disparities, and the Impossibility of “Improved Status”

Author Amy H. Soled
Abstract This essay first highlights the pay disparities that exist among doctrinal faculty and legal writing professors. It then demonstrates the negative effect those disparities have on the employee and the institution. Finally, it suggests ways to achieve pay parity and improve the status of legal writing professors.
Publication Legal Writing: The Journal of the Legal Writing Institute

The Pay Equity Project

Date 2020
URL <https://www.legalwritingjournal.org/2020/03/15/legal-writing-professors-salary-disparities-and-the-impossibility-of-improved-status/>
Volume 24
Pages 47-53

Hun, I Want You for Dessert: Why Eliminating the Sub-Minimum Wage for Restaurant Servers Will Empower Women

Author Suzanne Specker

Abstract This Article contends that the current two-tiered wage system encourages sexual harassment within the restaurant industry, creating a toxic environment for all restaurant employees, especially women. Part II explores the history of the sub-minimum wage, this pay structure's negative impact on women in the restaurant industry, and the legal climate surrounding restaurant sexual harassment claims. In Part III, this Article examines the various power imbalances at play within the restaurant workplace in order to analyze precisely why the subminimum wage perpetuates sexual harassment. This Article concludes that replacing the subminimum wage with one fair wage would serve as an effective first step in reducing sexual harassment within this industry.

Publication University of Pennsylvania Journal of Law and Social Change

Date 2016

URL <http://heinonline.org/HOL/P?h=hein.journals/hybrid19&i=346>

Volume 19

Pages 335-350

Journal Abbr U. Pa. J.L. & Soc. Change

- **Tags:**
 - Student Note⁷⁰

Dignified Jobs at Decent Wages: Reviving an Economic Equity Model of Employment Discrimination Law

Author Rachel A. Spector

Abstract The original goal of equal employment opportunity laws - most importantly Title VII - was to increase economic opportunity for racial minorities by dismantling discriminatory barriers to attaining "dignified jobs at decent wages." Over time, however, Title VII and equivalent state laws have come to be viewed simply as a penalty for unfair treatment of individuals in the workplace, unconnected to advancing economic opportunity more broadly. Fifty years of national equal employment opportunity law has led to some workplace desegregation, as well as important gains for many women and people of color in accessing professional and executive positions. Yet it has not resulted in a broad expansion of economic opportunity for people of color. The gap in median income between white, black, and Latino households has held steady since 1964, and workers of color remain significantly overrepresented among the unemployed and those earning poverty-

The Pay Equity Project

level wages. Not surprisingly, workers of color - from fast food workers to domestic workers - are leading a growing resistance to the substandard working conditions of the low-wage economy. This article explores how employment discrimination law could once again become relevant to that struggle. It examines the history of equal employment opportunity advocacy from before the civil rights era through the early days of Title VII enforcement, and assesses how particular structural barriers facing today's low-wage workers of color are both similar and distinct from barriers people faced fifty years ago. It also explores how advocates can go beyond the structure of Title VII litigation to embrace new legal mechanisms designed to promote economic opportunity for all, with a focus on opportunity for people of color. In doing so, the article seeks to revive an economic equity model of employment discrimination law, spur a richer conversation around racial discrimination and inequity in the low-wage economy, and plant the seeds for a broader understanding of equal opportunity in employment that encompasses the right to a decent livelihood.

Publication Berkeley Journal of Employment and Labor Law

Date 2015

URL <https://heinonline.org/HOL/P?h=hein.journals/berkjemp36&i=123>

Volume 36

Pages 123-168

Journal Abbr Berkeley J. Emp. & Lab. L.

Measuring the Distribution of Wages in the United States from 1996 through 2010 Using the Occupational Employment Survey

Author James R. Spletzer

Author Elizabeth Weber Handwerker

Abstract The microdata collected by the Occupational Employment Statistics (OES) program provide a unique opportunity to study wage inequality in the United States using employer-provided survey data. These data contain information on establishment characteristics as well as on wages and occupations for the millions of employees who work in the 400,000 establishments surveyed each year. Using these data, we replicate many of the wage variance trends that other authors have found using data from the Current Population Survey (CPS) of households. We show that most of the growth in wage inequality during the 1996-2009 period occurred within the private sector, within particular industry groups such as professional and business services, and within occupational groups such as healthcare occupations. Industry and particularly occupation explain more of overall wage variation in the (employer-reported) OES than in the (employee-reported) CPS. The amount of wage variance explained by occupation is also growing more quickly in the OES than in the CPS. In an examination not possible with the CPS data, we find that within the private sector, wage differences among establishments explain far more of the level and the trend of wage variance than do wage differences among occupations.

Publication Monthly Labor Review

Date 2014

URL <https://heinonline.org/HOL/P?h=hein.journals/month137&i=419>

The Pay Equity Project

Volume 137
Pages 1-20
Journal Abbr Monthly Lab. Rev.

The Need for Ratification of the Equal Rights Amendment: More Rights than None, but Still Not Equal

Author Margaret Stansell

Abstract Part I of this Comment discusses how Congress may indeed have the power to extend their previous ratification deadline and why states also have the right to rescind a previous ratification or rejection of the amendment. Once the path to ratification is clearly defined, the constitutional controversy may be resolved. Based on constitutional and policy analysis, Part I proposes that first, Congress does have the power to set a deadline on constitutional amendments; second, a deadline in the proposing clause of an amendment may be changed by majority vote in both houses of Congress; third, a state may rescind its ratification at any time before the requisite thirty-eight states ratify the amendment; and fourth, if the Senate votes by a simple majority to remove the ERA's ratification deadline and thirty-eight states vote to ratify the amendment, then it will become part of the Constitution. Part II focuses on the benefits of the Equal Rights Amendment and, most importantly, why the ERA is still necessary for women to gain full equal rights-and liberties. Some have claimed that the amendment is unnecessary given the rise of statutory and constitutional protections such as intermediate scrutiny, Title VII of the Civil Rights Act, and other laws.¹⁰ However, this viewpoint fails to recognize and acknowledge facts like the wage gap, discriminatory policies in the workplace, and the difficulty of proving sex discrimination without a facially discriminatory policy." Furthermore, approaching equality between the sexes through piecemeal laws and inconsistent application of protections has created loopholes through which sex-based discrimination can continue to hinder women. Part II examines why the Equal Rights Amendment must be ratified by discussing the shortcomings of intermediate scrutiny and the efficacy of current laws that prohibit sex-based discrimination. Throughout these discussions, this Comment aims to illustrate how the Equal Rights Amendment is still viable, necessary, and must be ratified to secure legal equality on the basis of sex.

Publication UMKC Law Review

Date 2021

URL <https://heinonline.org/HOL/P?h=hein.journals/umkc89&i=799>

Volume 89

Issue 3

Pages 779-800

Journal Abbr UMKC L. Rev.

- **Tags:**
 - Student Note⁷⁰

The Pay Equity Project

State Responsibility for Gender Stereotyping

- Author** Barbara Stark
- Abstract** Part I explains how gender stereotypes originate and are perpetuated; that is, how gender is reproduced. It also sets out the consequences-for men, for women, and for the societies in which they live. Part II explains why barring the state from enforcing sex-role stereotypes is inadequate; it allows the most pernicious stereotypes to flourish. It also explains why this is not surprising. Part III explains why the Convention on the Elimination of All Forms of Discrimination Against Women 6 (CEDAW or Women's Convention) is far more promising. The Article concludes that CEDAW's bar on stereotyping is not only better for women than the Constitution's grant of equal protection, but better for men as well.
- Publication** Journal of Gender, Race & Justice
- Date** 2014
- URL** <http://heinonline.org/HOL/P?h=hein.journals/jgrj17&i=361>
- Volume** 17
- Pages** 333-366
- Journal Abbr** J. Gender Race & Just.

Family Law - The Rehabilitation Illusion: How Alimony Reform in Massachusetts Fails to Compensate for Caregiving

- Author** Julie-Anne Geraghty Stebbins
- Abstract** This Note will examine, from a feminist perspective,¹⁶ the failures of the Alimony Reform Act to fully consider and compensate women for unpaid contributions provided during the course of a marriage. Specifically, this Note will recommend that Massachusetts adopt an amendment to the Alimony Reform Act that provides clarity to the courts about what it means to be "self-sufficient" and measures that standard by the economic standing of the payor spouse. In Part II, this Note will review the evolution of alimony laws in the Commonwealth. Particularly, it chronicles alimony's long standing history in Massachusetts; from a period of great reliance on judicial discretion up to the most recent Alimony Reform movement. Lastly, Part II details the changes the new statutes made, paying particular attention to the newly codified addition of rehabilitative alimony as a statutorily sanctioned alimony option. Part III then compares interpretations of self-sufficiency in Texas and Tennessee, as polarizing examples of how other jurisdictions have determined whether a recipient spouse can be rehabilitated.¹⁷ Texas promotes independence between the parties over economic parity, requiring only that a former spouse be rehabilitated to meet his/her "minimum reasonable needs." On the other hand, Tennessee's legislature has gone to great lengths to make it perfectly clear that both parties' contributions to the household are highly valued.¹⁹ Tennessee's equality-based approach ensures that an award of rehabilitative alimony will not result in the economic disadvantage of a spouse who made 20 career sacrifices for caregiving. Part III concludes with an examination of the similarities of Massachusetts courts to the Tennessee style of interpreting self-sufficiency prior to alimony reform. In Part IV of this Note, gender-based obstacles to equal pay are critically examined as reasons why rehabilitation should be limited to only those spouses who can achieve economic

The Pay Equity Project

success equal to their partners. The persistence of the wage gap and contributing factors, such as unequal pay, gendered career choices, unpaid caregiving work, and negative career consequences of mothering, all act against women's ability to earn the same as men. As a potential solution to the dangers of such an ambiguous standard of rehabilitation, Part IV of this Note recommends that Massachusetts adopt a legislative definition of self-sufficiency that promotes post-divorce financial parity between the spouses. Using Tennessee's rehabilitative alimony statute as an example²¹ this Note proposes language that could be used to eliminate any confusion resulting from the pressure to make alimony reform more predictable.

Publication Western New England Law Review

Date 2014

URL <https://heinonline.org/HOL/P?h=hein.journals/wnelr36&i=407>

Volume 36

Pages 407-436

**Journal
Abbr** W. New Eng. L. Rev.

- **Tags:**
 - Student Note⁷⁰

Finding Female Faculty: Empirically Assessing the State of Women in the Legal Academy

Author Robert Steinbuch

I started researching gender-pay equity issues 25 years ago. Much has changed over the last quarter century, and much has not. As of today, women have not fared as well as men in legal academia. This situation mimics that in society generally, and remains complicated and nuanced. Even today, the state of affairs requires further study of the current and historical landscape. Accordingly, in this paper, I present and analyze the latest data on law faculty gender differences—collected explicitly for this study—for the top three tiers (of four) of U.S. law schools, as well as some key historical information. I also discuss the ample literature addressing bases for the disparity. This paper begins from the premise that the current state of affairs raises a legitimate normative question for many. Critically, however, it does not presume that the variation in employment status between the sexes must be a byproduct of insidious discrimination or any other wrongdoing whatsoever. All sorts of differences exist in society and nature that are perfectly benign. My hope is that the data, statistical analyses, and discussion presented below will contribute to a more in-depth assessment than we often see of the vital questions associated with employment and pay equity issues in legal academia today.

Abstract

Publication Women's Rights Law Reporter

Date 2015

URL <http://heinonline.org/HOL/P?h=hein.journals/worts36&i=393>

Volume 36

Pages 375-423

The Pay Equity Project

**Journal
Abbr** Women's Rts. L. Rep.

Navigating the Gap: Reflections on 20 Years Researching Gender Disparities in the Legal Profession

Author Joyce Sterling

Author Nancy Reichman

Abstract This paper reflects on our work and findings about gender disparities in earnings, as well as the substantial literature created by other scholars in the field, to assess where we are and where we need to go to navigate the gap. Over the last two decades, we have conducted in-depth studies of Colorado lawyers and analyzed data from the AJD national survey. In each study, we identified a bit of new information about earnings, unavailable to us during the data gathering phase of the previous projects, to help explain the persistence of earning disparities.¹⁹ We assumed that if only we could identify and collect the right piece of information, we would be able to unlock the persistent problems of gender disparity in law. Now, almost 20 years later, we are still discussing gender disparities, hidden biases, the challenges of work-family integration and, most importantly, still thinking of our journey as just one step away from meaningfully eliminating the gap. We have been able to document that women lawyers are valued less than men. However, we have been less successful in exposing the black box of compensation and promotion to empirically demonstrate the more invisible and subtle sources of bias that we first identified decades ago. We continue to be hopeful. Field research that allows us to continue our search for the elusive clues would be helpful. Even more so would be women lawyers' collective insistence for transparency in decision-making that will be necessary to affect change.

Publication FIU Law Review

Date 2013-03-20

URL <http://ecollections.law.fiu.edu/lawreview/vol8/iss2/16>

Volume 8

Issue 2

Pages 515-539

**Journal
Abbr** FIU L. Rev.

Title VII and Title IX: A 30,000 Foot View

Author Cari Stern

Abstract Besides being overlooked and the "forgotten sports law topic," there is also a misconception as to what "gender equity in sports" entails. First, there is more to gender equity than Title IX of the Education Amendments of 1972 ("Title IX"). Gender equity in sports spans a number of topics, some of which we will cover today. The main statutes we will be covering are Title IX, Title VII of the Civil Rights Act of 1964 ("Title VII"), the Equal Pay Act and the Equal Protection Clause ("EPC") of the Fourteenth Amendment to the Constitution.

Publication DePaul Journal of Sports Law & Contemporary Problems

The Pay Equity Project

Date 2012-2013
URL <http://heinonline.org/HOL/P?h=hein.journals/jspocpd9&i=163>
Volume 9
Pages 147-158
Journal Abbr DePaul J. Sports L. & Contemp. Probs.

Is Prior Salary a Factor other than Sex?: An Approach to Resolve the Ongoing Debate

Author Elizabeth A. Stevenson

Abstract This Note examines the uncertainty of the Act's "factor other than sex" exception. It does so through the lens of the most prominent case in this area, *Rizo v. Yovino*,^{1 2} in which an employer based an employee's starting salary solely upon her prior pay. Part II discusses the Act, its exceptions, and how the Supreme Court has interpreted it. Part III examines the majority and concurring opinions in *Rizo* and their key differences, as well as the circuit split the decision deepened. Part IV explains how *Rizo* has led to uncertainty and left employers questioning whether they may consider an employee's prior salary when determining pay. It argues that a middle-ground approach is the best way to interpret the law. Finally, Part V concludes that courts should adopt the middle-ground approach to avoid pitfalls of a categorical rule and end the perpetuation of the wage gap based upon use of prior salary. This proposed approach will allow women to take charge of salary negotiations without systemic discrimination while granting employers flexibility to conduct business.

Publication Nebraska Law Review

Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/nebklr98&i=1020>
Volume 98
Issue 4
Pages 996-1025
Journal Abbr Neb. L. Rev.

- **Tags:**
 - Student Note⁷⁰

High School Experiences, the Gender Wage Gap, and the Selection of Occupation

Author Michael Strain

Author Douglas A. Webber

Abstract Using within-high-school variation and controlling for a measure of cognitive ability, this paper finds that high-school leadership experiences explain a significant portion of the residual gender wage gap and selection into management occupations. Our results imply that high-school leadership could

The Pay Equity Project

build non-cognitive, productive skills that are rewarded years later in the labor market and that explain a portion of the systematic difference in pay between men and women. Alternatively, high-school leadership could be a proxy variable for personality characteristics that differ between men and women and that drive higher pay and becoming a manager. Because high school leadership experiences are exogenous to direct labor market experiences, our results leave less room for direct labor market discrimination as a driver of the gender wage gap and occupation selection.

Publication IZA Discussion Paper No. 9277

Date 2015/09/04

URL <https://papers.ssrn.com/abstract=2655317>

An Equal Rights Amendment for the Twenty-First Century: Bringing Global Constitutionalism Home

Author Julie C. Suk

Abstract

The last few years have seen a renewed push to constitutionalize sex equality in the United States. A generation after the federal Equal Rights Amendment (ERA) failed to be ratified by the requisite number of states, the ERA is on the platform of the 2017 Women's March on Washington. Oregon added a sex equality guarantee to its state constitution in 2014, joining 22 state constitutions and most constitutions around the world. Feminist coalitions, Hollywood celebrities, and members of Congress are vocally endorsing an ERA revival. Why is an ERA desired now, when judges have interpreted the Fourteenth Amendment to prohibit sex discrimination? Today's ERA proponents want the Constitution to do something about women's continued economic disadvantages, the unfair treatment of pregnant women and mothers in the workplace, women's underrepresentation in leadership positions, and the inadequate responses to violence against women. Yet, the legal functions they attribute to the proposed constitutional guarantee—such as strict scrutiny for sex distinctions—are unlikely to respond to these post-industrial problems of gender inequality. Nonetheless, this Article proposes a new vision of the ERA's legal function, drawing on the experience of global constitutionalism. Focusing on countries that adopted constitutional amendments on sex equality after the ERA's failure, this Article shows how the constitutional right to sex equality can promote gender balance in positions of political and economic power, combat practices that disadvantage mothers in the workplace, and shift family care policies to increase fathers' participation in childcare. In Europe, constitutional sex equality amendments since the 1990s go beyond outlawing sex discrimination; these new amendments engender and legitimize legislative efforts to disrupt the traditional gendered division of roles in the family and public spheres. Constitutional courts in Germany and France have construed these amendments as articulating actual equality between women and men as a principle by which the constitutional order's legitimacy is measured, rather than as an individually enforced right. In the United States, there are some synergies between European constitutional innovations in gender equality and public policies that are emerging piecemeal at the state and local level. States are leading the way in legislating pregnant worker fairness, paid parental leave, and childcare. A motherhood movement and a wide range of actors from across the political spectrum are driving these new laws.

The Pay Equity Project

These developments can shape an updated vision of constitutional sex equality for the United States. Taking inspiration from global constitutionalism, and recognizing the potential of state constitutionalism, this Article identifies the emerging new infrastructure of social reproduction—rather than antidiscrimination—as the normative core for the twenty-first-century ERA.

Publication Yale Journal of Law and Feminism

Date 2017

URL <http://heinonline.org/HOL/P?h=hein.journals/yjfem28&i=389>

Volume 28

Pages 381-444

**Journal
Abbr** Yale J.L. & Feminism

Local Governance, Pay Equity, and the Pandemic: Applying New York City Human Rights Law to Salary Negotiation

Author Geeta Tewari

In the United States, equal pay is defined as a basic human right. Salary negotiation and other areas of the hiring process must also be structured within this human rights construct in order to fully achieve equality and its corresponding societal benefits. This Article applies New York City human rights law as a case study for how a local government may frame salary negotiation as a human right. In 2016, the New York City Council amended the body of its human rights law to add a ban on questions about salary history during the job interview process. This amendment has ignited debate about whether withholding information about past salary is helpful or harmful to job candidates. To create instead of hindering change, however, we

Abstract should be asking—what additional mechanisms ensure that salary history ban legislation increases pay parity among different groups? Because of the impact salary has on a person's life, well-being, and family, especially heightened for women, as evidenced during the coronavirus pandemic, this Article argues that the right to negotiate salary effectively and with transparency is a human right as plainly as the right to equal pay. This Article further urges local institutions and organizations to adopt this contextual view of the employment process. Especially now, in this global crisis of health, finance, and social justice, the right to equal pay is essential. The processes for accessing this basic human right must be equally considered.

Date 2021

URL <https://papers.ssrn.com/abstract=3817503>

Place Rochester, NY

Examining the gender pay gap among financial planning professionals: A Blinder-Oaxaca decomposition

Author Derek T. Tharp

Author Meghaan Lurtz

Author Katherine S. Mielitz

Author Michael Kitces

The Pay Equity Project

- Author** David Allen Ammerman
- The financial planning industry has been identified as having one of the largest gender pay gaps. This study examines whether male and female financial planners receive equal pay for equal work. Using detailed data on the backgrounds and practices of 710 financial planners, an unadjusted pay gap of 19% was observed between male and female financial planners. Blinder-Oaxaca decomposition analysis suggests that 91% of this pay gap can be explained by a model accounting for differences in important individual characteristics including job role, experience, team structure, hours worked, revenue produced,
- Abstract** professional designation status, marital status, and psychological factors such as degree of motivation by income potential, performance pay, work-life balance, and stable pay; resulting in an unexplained gender pay gap of 1.8%, which is much smaller than the commonly cited pay gap among male and female financial planners. This unexplained pay gap may suggest unequal pay for equal work but could alternatively result from other unobservable differences. Degree of motivation by performance pay and revenue production explained the largest portions of the pay gap. Implications regarding gender-based discrimination in financial planning are discussed.
- Publication** FINANCIAL PLANNING REVIEW
- Date** 2019
- URL** <https://onlinelibrary.wiley.com/doi/abs/10.1002/cfp2.1061>
- Volume** 2
- Issue** 3-4
- Pages** e1061
- DOI** [10.1002/cfp2.1061](https://doi.org/10.1002/cfp2.1061)

Wages and Family Time Allocation

- Author** Alexandros Theloudis
- This paper examines changes in married people's allocation of time since 1980, a period in which female labor supply increased substantially, men's share of household work rose, and the gender wage gap narrowed down. I develop a life-cycle collective household model for market and non-market work, consumption and asset accumulation, which also features lack of commitment to lifetime marriage. Wages in the model shift intra-family bargaining power and induce bargaining effects on outcomes in addition to standard income and substitution effects. I estimate gender-specific preferences and how intra-family bargaining power changes with a narrowing gender gap using data from the PSID. The results suggest that a narrowing gender gap improved women's bargaining power in the family resulting in a shift of household work to their husbands. It also contributed to the increase in female labor market participation. If the gender gap is counterfactually eliminated, the proportion of women in full-time work rises throughout the lifecycle to match approximately that of men. The increase comes from women who cut down household chores and enter the labor market when they previously did not participate.
- Abstract**
- Publication** Luxembourg Institute of Socio-Economic Research (LISER) Working Paper No. 2018-06
- Date** 2018/02/20

The Pay Equity Project

URL <https://papers.ssrn.com/abstract=3126715>

Rizo V. Yovino: Another Step Toward Equality Through the Equal Pay Act

Author Corey Timpson
The article discusses Rizo v. Yovino court case addressing pay equity. The case considered violation of the U.S. Equal Pay Act to consider a new employee's prior

Abstract compensation when determining their starting salary. The court held that employers can't use a woman's salary history to rationalize paying her less than a man doing the same job.

Publication Golden Gate University Law Review

Date January 2019

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=134549105&site=ehost-live>

Volume 49

Issue 1

Pages 29-55

Journal Abbr Golden Gate University Law Review

- **Tags:**
 - Student Note⁷⁰

Opportunity Discrimination: A Hidden Liability Employers Can Fix

Author Elizabeth C. Tippett
I begin in Part II by examining existing law. I first explain why small opportunities generally do not meet the "adverse employment action" requirement under Title VII of the Civil Rights Act. I then illustrate why disparities in opportunity remain legally significant, drawing upon cases where plaintiffs have wielded them to support a causal inference in discrimination claims involving terminations, lost promotions, and pay disparities. I then situate and reconcile those cases with evolving Supreme Court jurisprudence. Part III examines future directions for addressing opportunity discrimination. First, I discuss a recent Washington statute that offers an expanded definition of workplace opportunities. I then offer recommendations for employers seeking to identify and address opportunity discrimination.

Abstract

Publication Employee Rights and Employment Policy Journal

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/emprght23&i=171>

Volume 23

Issue 1

Pages 165-198

Journal Abbr Emp. Rts. & Emp. Pol'y J.

The Pay Equity Project

Gender Inequity throughout the Legal Academy: A Quick Look at the (Surprisingly Limited) Data

- Author** Kristen K. Tiscione
- Abstract** The long-standing overrepresentation of female law faculty in skills teaching and service-oriented positions is well documented.¹ In contrast, the historical underrepresentation of female law faculty in top dean and tenured or tenure-track teaching positions has been widely recognized but difficult to quantify. The American Bar Association has a link in the statistics archives of its website to a chart from Fall 2013 on the gender, ethnicity, and status of law faculty.² The Association of American Law Schools (AALS) links to the same chart on its website.³ This chart replaced a similar chart covering 2008 to 2009 that the ABA has since removed from its website and is no longer available. To my knowledge, this is the extent of the data on gender, ethnicity, and status of law faculty provided by either organization. Although the ABA and the AALS, in turn, publish faculty data reported to the ABA by individual law schools, the data breakdown by gender and ethnicity distinguishes only between full and part-time faculty and does not indicate title or security of position.⁴ As part of its annual questionnaire, the ABA collects this information from law schools but does not release it.⁵ Ongoing access to historical and current information is critical in raising awareness about and making progress on gender equity issues.
- Publication** Journal of Legal Education
- Date** 2019
- URL** <https://heinonline.org/HOL/P?h=hein.journals/jled69&i=120>
- Volume** 69
- Issue** 1
- Pages** 116-122
- Journal Abbr** J. Legal Educ.

Disabling the Gender Pay Gap: Lessons from the Social Model of Disability

- Author** Michelle A. Travis
- Abstract** As we celebrate the fiftieth anniversary of Title VII's prohibition against sex-based compensation discrimination in the workplace, the gender wage gap remains robust and progress toward gender pay equity has stalled. This Article reveals the role that causal narratives play in undermining the law's potential for reducing the gender pay gap. The most recent causal narrative is illustrated by the "women don't ask" and "lean in" storylines, which reveal our society's entrenched view that women themselves are responsible for their own pay inequality. This causal narrative has also embedded itself in subtle but pernicious ways in antidiscrimination doctrine, which helps shield employers from legal liability for gender pay disparities. The disability civil rights movement has faced a similar challenge, and its successful response provides a potential path forward on gender pay issues. The causal narrative that erected barriers for disability rights was engrained in the medical model of disability, which also identified internal deficits as the source of individuals' own limitations. The disability rights movement responded with a reconceptualized "social model," which explains

The Pay Equity Project

disability instead as the result of the environment in which an individual's characteristics interact. The social model of disability provides an alternative causal narrative: one that shifts focus onto the role played by employer practices and organizational norms in producing inequality. This Article explores how a social model approach to women's compensation could help shift the causal focus away from the manner in which women negotiate and onto the institutional practices that produce unequal results. In doing so, the social model may help resuscitate Title VII's disparate impact theory to allow challenges to employment practices that base compensation on employees' individual demands, thereby moving us toward more effective structural solutions to the gender pay divide.

Publication Denver University Law Review
Date 2014
URL <https://heinonline.org/HOL/P?h=hein.journals/denlr91&i=917>
Volume 91
Pages 893-924
Journal Abbr Denv. U. L. Rev.

Feminist-in-Chief? Examining President Obama's Executive Orders on Women's Rights Issues

Author Mary Pat Treuthart

Abstract This begs the question: What are women's rights issues? Certain topics may be more readily associated with the concept of women's rights in the policy arena, but there is no single unassailable definition of the term "women's rights issues." A common description is a "set of policies that concern women as women." 27 Another approach is to characterize women's rights issues as those "where policy consequences are likely to have a more immediate and direct impact on significantly larger numbers of women than of men." 28 At least one scholar proposes that a degree of intentionality is a prerequisite and that women should be the "intended beneficiary, constituency, or object" of a particular action. 29 Mere heightened interest by women in a specific topic would not necessarily categorize it as a women's rights concern; rather, the promotion of greater equality and opportunity for women while recognizing their differences from men is an essential part of the equation.30 Here, being mindful of the aforementioned explanation, this examination will concentrate primarily on executive orders that involve the empowerment of women, gender-based violence, reproductive rights, and employment.

Publication Chicago-Kent Law Review
Date 2016
URL <http://heinonline.org/HOL/P?h=hein.journals/chknt91&i=185>
Volume 91
Pages 171-206
Journal Abbr Chi.-Kent L. Rev.

The Pay Equity Project

The Blurry Limits of the Equal Pay Act's "Factor Other Than Sex": An Argument For Limiting The Use of Salary History and the Benefit to Employers

Author Nicole Tronolone

Abstract This Comment will first provide an overview of the history and text of the EPA, including the Supreme Court's interpretation of the claim structure and available defenses for employers. Next, this Comment will detail the current status of the circuit split on this issue. This Comment will argue that the majority reasoning articulated in the Ninth Circuit's 2020 en banc decision in Rizo is the best approach to resolving the ambiguity surrounding the "factor other than sex" exception to the EPA. Finally, this Comment will analyze the impact the split has on employers as well as the benefits created by broad prohibitions on the use of salary history.

Publication Wake Forest Law Review Online

Date 2021-03-05T15:49:18+00:00

URL <http://www.wakeforestlawreview.com/2021/03/the-blurry-limits-of-the-equal-pay-acts-factor-other-than-sex-an-argument-for-limiting-the-use-of-salary-history-and-the-benefit-to-employers/>

Volume 11

Pages 21-41

- **Tags:**
 - Student Note⁷⁰

You Haven't Come a Long Way, Baby: The Courts' Inability to Eliminate the Gender Wage Gap Fifty-Two Years After the Passage of the Equal Pay Act

Author Morgan A. Tufarolo

Abstract The article discusses the failure of the U.S. Equal Pay Act in bringing the change it meant to implement. Topics discussed include the continuing wage disparity between men and women; different circuit court approaches to resolve Equal Pay Act claims; and the Fifth Circuit court's substantially equal definition to evaluate Equal Pay Act claims.

Publication American University Journal of Gender, Social Policy & the Law

Date June 2016

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=114708787&site=ehost-live>

Volume 24

Issue 2

Pages 305-336

Journal Abbr American University Journal of Gender, Social Policy & the Law

- **Tags:**
 - Student Note⁷⁰

The Pay Equity Project

Moving Closer to Pay Parity by Requiring Wage Transparency: A Private Sector National Standard

- Author** Bridget Underhill
- Abstract** Wage transparency provides employees with information on their adjusted and unadjusted wage rates, so that pay disparity is more likely to be addressed. Part I of this Note explains the problem of pay disparity and its causes." Part II explores why there is a need for the solution of pay transparency.^{1 2} Finally, Part III analyzes examples of why pay transparency works. ³
- Publication** University of Detroit Mercy Law Review
- Date** 2019
- URL** <https://heinonline.org/HOL/P?h=hein.journals/udetmr97&i=159>
- Volume** 97
- Issue** 1
- Pages** 157-186
- Journal Abbr** U. Det. Mercy L. Rev.

- **Tags:**
 - Student Note⁷⁰

Salary History and the Equal Pay Act: An Argument for the Adoption of "Reckless Discrimination" as a Theory of Liability

- Author** Kate Vandenberg
- Abstract** The Equal Pay Act (EPA) purports to prohibit employers from paying female employees less than male employees with similar qualifications; however, the affirmative defenses provided in the EPA are loopholes that perpetuate the gender pay gap. In particular, the fourth affirmative defense allows for wage differentials based on a "factor other than sex." Many federal circuits have read this defense broadly to include wage differentials based on salary history. That is, an employer can pay a female employee less than her male counterparts because she was paid less by her previous employer. While salary history was once viewed as an objective data point for wage setting, research now demonstrates that reliance on salary history merely continues the gender discrimination of previous employers. This Note proposes that a model of recklessness in employment law should be applied to the EPA to cover employers who continue to use salary history to determine new hire salaries. Applying tort concepts, a plaintiff would show that the use of salary history is a gendered employment practice by satisfying two elements: first, her employer knew or should have known that using salary history carries the risk of perpetuating discrimination; second, her employer's burden to reduce the risk of perpetuating discrimination was slight. This model allows a plaintiff to utilize an evolving understanding of gendered employment practices that perpetuate the pay gap in order to undermine the "factor other than sex" loophole in the EPA.
- Publication** Northwestern Journal of Law and Social Policy
- Date** 2020

The Pay Equity Project

URL <https://heinonline.org/HOL/P?h=hein.journals/nwilsopo15&i=246>
Volume 15
Issue 2
Pages 246-264
Journal Abbr Nw. J. L. & Soc. Pol'y

- **Tags:**
 - Student Note⁷⁰

Pay Check

Author Stephanie Francis Ward
Abstract A recent spate of gender discrimination and equal pay lawsuits filed by female law professors has shined a light on the otherwise opaque academic compensation process.
Publication ABA Journal
Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/abaj106&i=360>
Volume 106
Issue 5
Pages 54-59
Journal Abbr A.B.A. J.

The Green Goods and Services Occupational Survey: Initial Results Green Goods and Services

Author Zack Warren
Abstract A new BLS survey provides data on occupations and wages in green establishments; a wage gap between green and nongreen establishments is traced to the occupational mix
Publication Monthly Labor Review
Date 2013
URL <https://heinonline.org/HOL/P?h=hein.journals/month136&i=39>
Volume 136
Pages 26-35
Journal Abbr Monthly Lab. Rev.

The Ghost of Salary Past: Why Salary History Inquiries Perpetuate the Gender Pay Gap and Should be Ousted as a Factor Other than Sex

Author Tone Abbott Watkins

The Pay Equity Project

When filling out job applications, employers routinely ask, "how much money did you make at your last job?" This discrete question has come under judicial scrutiny as women begin to find out one thing: they are making less money than their male counterparts based on their salary history inquiry response. Salary history inquiries adopt and reinforce past discrimination, continuing a cycle where women make less money than men. To make change, this perpetual cycle must be broken, allowing new, wellintentioned actors the ability to make choices that are fair and equal. A ban on salary history inquiries breaks the link in the chain between past systemic gender pay issues and allows employers to base decisions on bona fide occupational qualifications. Compensation discrimination based on sex was banned by the Equal Pay Act of 1963, the first real victory for the equal pay movement. However, the more than half-century old Act has failed to adequately adapt to changes and trends in employment law and address the needs of female employees. This Note exposes the dangers of one of these trends, salary history inquiries, and the perpetual pay gap women suffer from, due-in part-to such inquiries. It first outlines the Equal Pay Act and modern "equal pay for equal work" doctrine, and the use of salary history inquiries under the Act's "any other factor other than sex exception. It then discusses current statistics and myths about the gender pay gap, outlines the salary history inquiry circuit split caused by the Act's grey area, and addresses past federal and state proposals to address that grey area. Finally, this Note concludes by proposing a legislative solution to ban salary history inquiries and reduce the overall gender pay gap.

Abstract

Publication Minnesota Law Review

Date December 2018

URL <http://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=134175412&site=ehost-live>

Volume 103

Issue 2

Pages 1041-1088

Journal Abbr Minnesota Law Review

- **Tags:**
 - Student Note⁷⁰

Firm-Level Monopsony and the Gender Pay Gap

Author Douglas A. Webber

This study uses linked employer–employee data to estimate firm-by-gender specific labor supply elasticities. Using a dynamic model of labor supply, I find evidence that females face a greater degree of search frictions than males.

Abstract However, the majority of the gender gap in labor supply elasticities is driven by across-firm sorting rather than within-firm differences. I find that males face a labor supply elasticity 0.15 points higher than females, which leads to 3.3 percent lower earnings for women. Sixty percent of the elasticity differential can be explained by marriage and child penalties faced by women but not men.

Publication Industrial Relations: A Journal of Economy and Society

Date 2016-04-01

URL <https://onlinelibrary.wiley.com/doi/abs/10.1111/irel.12142>

The Pay Equity Project

Volume 55
Issue 2
Pages 323-345
DOI [10.1111/irel.12142](https://doi.org/10.1111/irel.12142)

Women's Work Is Never Done

Author Carolyn L. Wheeler

Abstract The purpose of this article is to trace the evolution and introduction of three major pieces of legislation addressing discrimination against women in the workplace and discuss how some of the differences in the impetus for their introduction and adoption shaped the nature of the legislation itself, and what consequences that may have had on subsequent enforcement agency and judicial interpretations of the statutes. Specifically this article will consider the unique histories and impacts of the Equal Pay Act (EPA) of 1963, the inclusion of "sex" as a prohibited basis of discrimination in Title VII of the Civil Rights Act of 1964, and the Pregnancy Discrimination Act (PDA) of 1978.

Publication St. Louis University Public Law Review

Date January 2017

URL <https://heinonline.org/HOL/P?h=hein.journals/stlpl36&i=73>

Volume 36

Issue 1

Pages 59-85

Journal Abbr St. Louis University Public Law Review

Maximizing #MeToo: Intersectionality & the Movement

Author Jamillah Bowman Williams

Publication Boston College Law Review

Date 2021

URL <https://heinonline.org/HOL/P?h=hein.journals/bclr62&i=1830>

Volume 62

Issue 6

Pages 1797-1864

Journal Abbr B.C. L. Rev.

Never Ask a Woman Her Wage: The Constitutionality of Salary-History Bans

Author Tyler M. Wood

Abstract For over a half-century, legislatures have struggled to close the pay gap between men and women. Although the gap has shrunk substantially since Congress passed the Equal Pay Act in 1963, in recent years, progress has slowed to a near standstill. Why has the residual gap remained so persistent? Some argue that employers--by asking applicants to reveal their wage histories and then relying on that information to set future wages--have forced women to carry wage discrimination from job to job. Reacting to this argument,

The Pay Equity Project

some states and cities have provided a simple solution: ban salary-history inquiries. This Comment addresses whether these salary-history bans are constitutional. Responding to recent claims that these bans unconstitutionally burden employers' right to free speech--namely, by restricting the questions that employers are allowed to ask applicants--I argue that these bans permissibly restrict only the commercial speech of employers. In making this argument, I seek to prove that--in any jurisdiction--salary-history bans should withstand the intermediate scrutiny afforded to commercial speech restrictions. By assessing the structure, function, and (critically) effectiveness of salary-history bans, this Comment finds that there is sufficient evidence to show that these bans directly and materially serve to shrink the genderwage gap. Therefore, I conclude that such laws are safely within the constitutional authority of the governments that enact them.

Publication University of Chicago Law Review

Date September 2021

URL <https://search.ebscohost.com/login.aspx?direct=true&db=lgs&AN=152242287&site=ehost-live>

Volume 88

Issue 5

Pages 1247-1283

- **Tags:**
 - Student Note⁷⁰

Internalized Oppression: The Impact of Gender and Racial Bias in Employment on the Health Status of Women of Color

Author Ruqaiyah Yearby

Abstract As advocates from the #MeToo and #TimesUp movements work to end sexual harassment and unequal pay in employment, they must not ignore the unique problems women of color face. 1 As noted in Kimberle Crenshaw's theory of intersectionality, women of color face gender and racial bias in employment, thus eradicating gender bias will not make women of color whole because they will still face racial bias. 2 Furthermore, simply focusing on the economic harms of gender and racial bias in employment fails to take into consideration the impact that these biases have on the health status of women of color. Over the last two decades, research has shown that experiencing gender and racial bias is associated with increased rates of hypertension, non-adherence to medication, obesity, smoking, alcohol use, substance abuse, psychological distress, and depression in women of color. 3 This Article broadly reviews studies regarding the influence of experiencing gender and racial bias on women of color's health status, studies and cases discussing gender and racial bias in employment that impacts women of color, and gaps in the scope and application of civil rights laws prohibiting these biases. The Article concludes with legal and policy solutions to address gender and racial bias in employment and its influence on the health status of women of color.

Publication Seton Hall Law Review

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/shlr49&i=1036>

The Pay Equity Project

Volume 49
Issue 5
Pages 1037-1066
Journal Abbr Seton Hall L. Rev.

Reevaluating the Equal Pay Act for the Modern Professional Woman

Author Keiko Lynn Yoshino

Abstract Discriminatory pay practices are not limited to the United States, and, consequently, other countries have adopted diverse approaches to addressing this endemic problem.² According to the International Labor Organization ("ILO"), Sweden and Canada have adopted the best approach—the proactive model.²⁶ This model is the most effective approach because it places responsibility on the employers to review their pay practices, adopt a pay equity action plan to remedy pay discrepancies, and comply within a certain timeframe.²⁷ This Note proposes an amendment to the EPA that incorporates similar proactive model responsibilities on U.S. employers. In an effort to amend the EPA to follow a proactive model, Part II of this Note discusses the remedies for addressing the wage disparity, acknowledges contemporary congressional legislation to ameliorate the deficiencies of the EPA, and introduces the proactive model.²⁸ Part III of this Note addresses the problems associated with relying solely on the EPA's complaint-based model and analyzes Canada and Sweden's proactive model approach.²⁹ Next, Part IV of this Note proposes an EPA amendment that adopts parts of Sweden's and Quebec's proactive models, effectively making employers share in the responsibility of closing the wage gap at the professional level.³⁰

Publication Valparaiso University Law Review

Date 2013

URL <https://heinonline.org/HOL/P?h=hein.journals/valur47&i=613>

Volume 47

Pages 585-626

Journal Abbr Val. U. L. Rev.

- **Tags:**
 - Student Note⁷⁰

Valuing Black Lives: A Constitutional Challenge to the Use of Race-Based Tables in Calculating Tort Damages

Author Kimberly A. Yuracko

Author Ronen Avraham

Abstract This Article challenges a practice in tort law that is ubiquitous, yet little noticed—namely the use of race-based wage, life expectancy, and work-life expectancy tables when calculating damage awards. The practice results in damage awards that are significantly lower for black victims than for white victims and creates an

The Pay Equity Project

incentive for potential tortfeasors to allocate risk disproportionately to minority communities. This Article argues that the use of such tables is not only unfair; it is unconstitutional. Specifically, the Article argues that the use of race-based tables to calculate tort damages violates the Equal Protection Clause of the Fourteenth Amendment. The Article goes on to consider the broader implications of this argument and to explain why the move to truly race-neutral damage awards would require even more radical changes to our current tort system.

Publication California Law Review

Date 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/calr106&i=341>

Volume 106

Issue 2

Pages 325-372

**Journal
Abbr** Calif. L. Rev.

Time's up: Addressing Gender-Based Wage Discrimination in Professional Sports

Author Nicole Zerunyan

Abstract Gender-based wage discrimination in professional sports is widespread. Female athletes, competing individually or as part of a team, are consistently paid substantially less than their male counterparts. To combat such discrimination and eliminate the gender pay gap, Congress passed the Equal Pay Act ("Act") in 1963. While born of good intentions, the Act falls drastically short of its intended goal. Its restrictive language--specifically, its "same establishment" requirement--excludes separately owned teams. As most men's and women's professional sports teams are separately owned, their players are effectively barred from bringing wage-discrimination claims. This Note proposes two ways of addressing that issue: (1) eliminating the "same establishment" requirement or (2) adding a sports-specific provision treating separately owned teams as the same. After more than fifty years, it is time to finally close the pay gap. Time's up!

Publication Loyola of Los Angeles Entertainment Law Review

Date September 2018

URL <https://heinonline.org/HOL/P?h=hein.journals/laent38&i=247>

Volume 38

Issue 3

Pages 229-259

**Journal
Abbr** Loyola of Los Angeles Entertainment Law Review

- **Tags:**
 - U.S. Women's Soccer¹⁷

The Pay Equity Project

Does a 'Gender Wage Gap' Exist at the University of Florida?

Author Terrence Y. Zhang

Abstract To determine the effect of gender on salaries at the University of Florida, this study analyzed over 5,000 individual salaries for academic and non-academic staff at the University of Florida. Gender and Job Title were used as factors for an ANOVA model. The ANOVA model suggested that Gender alone is an insignificant predictor of salary amount, but the model also showed significant interaction between Gender and Job Title. Additionally, pairwise comparisons suggest that within each academic job level, males are paid more than females. A possible explanation for this phenomenon is discussed.

Date 2018/12/05

URL <https://papers.ssrn.com/abstract=3305473>

Place Rochester, NY

Pay Her More! How Sex and Motherhood Play a Role in the Unequal Pay of Women on the World Stage

Author Raquel S. Zilberman

Abstract So, why are women around the world paid so much less than men? And what are countries doing to close the gap? This Comment will first present necessary background information about the evolution of women's rights and the "motherhood penalty." It will then evaluate the steps that Iceland and Rwanda have taken to create pay equity between men and women. 7 Additionally, it will address the United States' failure to implement mandatory family leave and efforts to "ban the box", 8 it will propose how the world can comprehensively combine these principles to reform global hiring systems and create equality for women in the workplace.

Publication San Diego International Law Journal

Date 2019

URL <https://heinonline.org/HOL/P?h=hein.journals/sdintl21&i=298>

Volume 21

Issue 1

Pages 295-330

**Journal
Abbr** San Diego Int'l L.J.

- **Tags:**
 - Student Note⁷⁰

Employment Law -- Equal Pay Legislation -- Oregon Bans Employers from Asking Job Applicants About Prior Salary -- Oregon Equal Pay Act of 2017, 2017 Or. Laws ch. 197, H.B. 2005 (to be codified in scattered sections of Or. Rev. Stat.).

Abstract The article reports on the Oregon Equal Pay Act of 2017 regarding the salary history of job applicants. It discusses the continuing effect of gender-based wage differentials if salary histories are known, the question of equal pay for equal work

The Pay Equity Project

and its effect on sexual discrimination in the workplace, and the possible difficulties in implementing the law.

Publication Harvard Law Review
Date March 2018
URL <https://harvardlawreview.org/2018/03/oregon-equal-pay-act-of-2017/>
Volume 131
Issue 5
Pages 1513-1520
Journal Abbr Harvard Law Review

Equal Rights Amendment Conference Transcription

Abstract So, I'd like to welcome you to "A New Era for the Equal Rights Amendment." My name is MaryAnn Grover, and I'm a member of the planning committee for this event. I have the distinct pleasure of welcoming you all to my alma matter, the University of Richmond School of Law. Thank you all for joining us to ... today to explore the legal implications of the Equal Rights Amendment. It is our hope that Virginia becomes the final state required to enact the Equal Rights Amendment. The passage of the ERA in Virginia, though, raises the questions we'll examine throughout the day today, like "what legal challenges is the ERA likely to face?" and "what effect will the ERA have once it is passed?"

Publication Richmond Public Interest Law Review
Date 2020
URL <https://heinonline.org/HOL/P?h=hein.journals/richlapin23&i=671>
Volume 23
Issue 3
Pages 145-254
Journal Abbr Rich. Pub. Int. L. Rev.