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Blue-Collar Mother / White-Collar Daughter *A Perspective on U.S. Policies Toward Working Mothers*

U.S. policies designed to provide access and equality for women in the workforce through the lens of a blue-collar mother and white-collar daughter is presented. The Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, The Equal Employment Opportunity Act of 1972, The Pregnancy Discrimination Act of 1978, and The Family Medical Leave Act of 1993 are considered along with recently proposed initiatives in Congress. Although federal legislation has provided access for women to enter the workplace, as well as provided minimal job protection for family leave, inequities persist and provide evidence that reforms are necessary to promote the needs of working mothers.

This article examines the challenges of working mothers from the perspective of a white-collar daughter reflecting upon her own experiences and those of her blue-collar mother. The purpose and impact of federal legislation salient to working mothers is examined chronologically within this context. Congress has enacted legislation relevant to working mothers on six different occasions over the past forty years: the *Equal Pay Act* of 1963, Title VII of the *Civil Rights Act* of 1964, the *Equal Employment Opportunity Act* of 1972, the *Pregnancy Discrimination Act* of 1978, the *Family Medical Leave Act* 1993, and the *Lilly Ledbetter Act* of 2009. As a result of the passage of Title VII of the *Civil Rights Act* and the *Equal Employment Opportunity Act* of 1972 access and job opportunities for women have improved as women entered male-dominated professions. My mother was able to enter a blue-collar position in the shipbuilding industry that provides a living wage to support a family and I was able to enter a white-collar position in academia. In addition, through the *Pregnancy Discrimination Act* of 1978 and the *Family Medical Leave Act* of 1993, working mothers today have job protection that was non-existent to

my mother's generation. Nevertheless, inequities persist within the workplace. Gender stereotypes, pay inequity, unpaid maternity leave, and the high costs of childcare are persistent challenges for working mothers.

Blue-collar mother/ white-collar daughter

My mother became a widow at twenty-one years of age in 1971. As a young mother on the job market she sought a position that paid well enough for her to support herself and a toddler.

She submitted applications for employment on several occasions at the local shipyard and was repeatedly informed that there were clerical position vacancies but that women would not be hired to work on the waterfront. "On the waterfront" referred to the blue-collar skilled positions held by men in the shipyard. Two years later she was hired as a ship-fitter. The timing of her hire is significant because in 1972 the Maritime Administration required private shipyards to develop affirmative action plans to address the underrepresentation of women and minorities (Clynch and Gaudin, 1982: 114). As soon as she heard that women were being hired on the waterfront she submitted applications on a monthly basis until she was offered a job.

She came of age during the height of second wave feminism when equality in the workplace was one of the primary goals. Whether or not she considered herself a feminist is irrelevant—her existence in the workplace is feminism in action. She had to prove that she could "do a man's job" in the shipyard in the early 1970s and continues to do so three decades later. The temperature in her shop can reach above 100 degrees Fahrenheit in the summer and well below freezing in the winter. Working with steel requires the metal to be heated with a torch at temperatures that can reach up to 300 degrees Fahrenheit. She has carried and rolled sheets of metal and poly. She has also worked special assignments that require her to work in physically confining and narrow spaces.

In addition to the physical demands of work, she endured mental and emotional stress precipitated by her male colleagues, family members, and society in general. During her early years in the shipyard, male colleagues were threatened by the presence of the new females because they viewed women as stealing jobs that men needed to support a family. She fought back and reminded them that she was also supporting a family. Nevertheless, she was in a losing situation because the men who told her that women belong at home were the very same men who complained about women on welfare. In addition, she was marginalized by traditional homemakers and members of her own family for working outside the home. The perception was that she had selected work over her child. The only alternative to working or living on welfare was to get married to a stable breadwinner. The reality was that she did not trust, nor did she want to risk, dependence on another man for financial support.

In stark contrast to my blue-collar mother, I work in a white-collar position as a tenure-track college professor. My physical work setting is quite comfort-

able, I have autonomy over my schedule, and I enjoy a considerable degree of creative freedom. Like many women of my generation I was naive enough in my early twenties to believe that there was a level playing field among men and women at work. Also, like many women of my own generation, the birth of my own daughter forced me to consider the struggles of my mother's generation. I was not conscious of the ramifications of unintentional gender bias or the shortcomings of existing legislation until I became a mother. While federal legislation has provided access, legal recourse for discrimination and minimal job protection to care for oneself or immediate family member, considerable reform is still necessary along the categories of equal pay, paid maternity leave, and affordable childcare. Federal legislation that affects the lives of working mothers is addressed in chronological order the proceeding pages. The origin, positive impact, and limitations of the legislation are addressed.

The *Equal Pay Act* of 1963

The *Equal Pay Act* was passed in 1963 as an amendment to the *Fair Labor Standards Act* of 1938 to ensure equal pay for equal work among men and women performing the same jobs. Although the *Equal Pay Act* does not directly address motherhood in the language of the legislation, the potential to earn an income equal to that of a man empowers mothers to provide for their children. Despite the purpose of the legislation, salary inequities persist four decades later. According to the U.S. Census Bureau Current Population Survey, women who worked full-time earned 57 cents on the dollar earned by men in 1973 compared to 77 cents on the dollar in 2005 (Isaacs, 2007: 2). Similarly, in the field of higher education, the American Association of University Professors reported gaps in pay between men and women at all ranks in 2007-2008. The gap was 8.6 percent for lecturers, 2.9 percent for instructors, 6.8 percent for assistant professors, 6.8 percent for associates, and 12.1 percent for full professors with women earning \$93,349 and men earning \$106,195 as full professors ("What Professors Earn," 2008: A20).

The typical market-based arguments for pay disparity are based on supply-demand and on the experience of job-seekers in the market-place. The sex segregation argument attempts to justify inequity based on appeals to the market mechanisms of supply and demand. It is often argued that women enter occupations that society deems appropriate, such as teaching and nursing, and that salaries are low due to an abundant supply of workers. For example, in higher education there are fewer women in hard sciences than social sciences and women are more likely to teach at associate or baccalaureate colleges (Wilson, 2004: A9). However, when one examines actual market conditions for many of the sex segregated jobs the argument that there is an over-supply of workers must be rejected in many professions. In fact, perusing the classified ads on any given day reveals that there is often a shortage of workers in certain occupations dominated by females, particularly nursing and K-12 teaching positions.

Another argument commonly used to explain pay inequities between men and women is the mommy track/maternal wall. The typical argument is that women enter and exit the labor force to bear and raise children, and that due to their family responsibilities as primary caregivers they are more likely to work part-time, resulting in lost experience or seniority. There is evidence that women are more likely to work part-time. According to the U.S. Bureau of Labor Statistics, 24.7 percent of women worked part-time compared to only 10.5 percent of men in 2007 (70). Likewise, there is evidence that women, particularly mothers, are more likely work in contingent positions or at less prestigious universities to balance work and family. In 2003 part-time faculty were more likely to be female (48 percent). Women were 10-15 percent less likely to be in tenure-eligible positions regardless of institution type (“Inequities Persist,” 2005: 28). On the other hand, there is also evidence that women earn less than men even when they have comparable experience and education. In higher education, even when variables such as rank, credentials, publications, discipline, and grant funding are controlled for, the salaries of male professors still outpace their female counterparts (Toepell, 2003: 94).

In addition, discriminatory stereotypes lend partial explanation to the “mommy penalty.” One experimental design using hypothetical job applicants who self identified as male, female, and mother found that mothers were held to higher performance standards, perceived as less competent and committed, less likely to be hired, and if hired, offered much lower starting salaries than non-mothers (Correll, Benard and Paik, 2007: 1316). Such stereotypes also exist within academia. A comparison of male and female faculty members who had a child born within five years of the Ph.D. revealed that males were 38 percent more likely than females to receive tenure (Mason and Goulden, 2004: 11). For some women the birth of a child had resulted in lower performance ratings. One faculty member reported getting lower ratings after the birth of her child despite more publications and improved teaching evaluations than the year prior (Toepell, 2003: 97).

Although legislation cannot change gender stereotypes, it can provide legal recourse for women who have experienced pay discrimination. However, one of the weaknesses of the *Equal Pay Act* is that affirmative defenses provided by employers for pay differentials have been interpreted too broadly (e.g. salary negotiation skills or previous salary). On January 6, 2009, Representative Rosa DeLauro (D-CT) introduced the Paycheck Fairness Act (H.R. 12) in the House of Representatives. Former First Lady and Senator, Hillary Clinton (D-NY), introduced a similar bill (S. 182) in the Senate on January 8, 2009. The bill would amend the *Fair Labor Standards Act* and strengthen the *Equal Pay Act* by providing punitive damages where plaintiffs demonstrate sex-based pay discrimination. It would also allow for class action lawsuits, prohibit retaliation, restrict affirmative defenses, and improve collection of pay information and enforcement. The proposed *Paycheck Fairness Act* (H.R. 12) was appended to the *Lilly Ledbetter Fair Pay Act* (H.R. 11) to strengthen discrimination claims.

The companion bill S. 181 is addressed later under the *Lilly Ledbetter Fair Pay Act* of 2009.

Title VII of the *Civil Rights Act* 1964 and the *Equal Employment Opportunity Act* of 1972

Most U.S. citizens are aware that Title VII of the *Civil Rights Act* of 1964 prohibits discrimination in the workplace. However, far fewer are aware that the inclusion of sex in the language of the legislation was the result of sexism in the first place. The word sex was introduced in the legislation as an amendment by House Representative Howard Smith (D-VA) in an effort to derail the legislation. In fact, everyone who supported Smith's amendment voted against the bill in its entirety (Deitch, 1993: 186).

When it was apparent that employers were not implementing the legislation and that there was a lack of enforcement on the part of the federal government, women's groups mobilized to demand implementation. These efforts served as a catalyst for the formation of the National Organization for Women and represent the emergence of the second wave feminists (Deitch 199). In 1971 The U.S. Supreme Court extended Title VII to prohibit discrimination against working mothers. The court ruled in *Phillips v. Martin Marietta Corp.*, 400 U.S. 542 (1971) that sex discrimination against working mothers is prohibited even if the employer does not discriminate against childless women. In addition, the *Equal Employment Opportunity Act* of 1972 increased the authority of the Equal Employment Opportunity Commission (EEOC) to enforce compliance of Title VII.

As a result of the legislation, legal action, and regulatory compliance, women have gained greater access to the workplace, particularly in positions once denied to women. According to a recent report by the U.S. Bureau of Labor Statistics (2008), labor force participation rates of women working full-time were at 43 percent in 1970 compared to 59 percent in 2007. In comparison, participation rates of mothers (working full time and part-time) with children under age 18 increased from 47 percent in 1975 to 71 percent in 2007 (1).

Within my mother's occupational category, the number of women in blue-collar positions in the shipbuilding industry has increased. The Maritime Administration had enforcement leverage because private shipyards were dependent on federal contracts—noncompliance could be enforced by not awarding contracts. Private shipyards were willing to comply in order to avoid disrupting work flow or losing contracts. In 1972 there were 413 women in blue-collar jobs in 30 private shipyards across the nation. By 1977 that number had increased to 4,920 (Clynch and Gaudin, 1982: 115). According to the U.S. Bureau of Labor Statistics (2008), women comprised 17.3 of the labor force in the shipbuilding industry by 2006 (40).

Within my occupational category, the number of female faculty has also increased. Using data from the 1993 National Study of Postsecondary Faculty, Martin Finkelstein, Robert Seal, and Jack H. Schuster (1998) found

that women have made substantial gains in acquiring faculty positions across institutional types and program areas. Representing 41 percent of the total new faculty cohort, women accounted for 47.9 percent of new entries into research universities (an area of previous under-representation) while the new entries of women in liberal arts colleges have gained statistical parity with their male counterparts. Nevertheless, underrepresentation of women at prestigious universities continues as 70 percent of the professors at those institutions are male (Wilson, 2004: A8).

The Pregnancy Discrimination Act of 1978

The *Pregnancy Discrimination Act* of 1978 amends Title VII of the *Civil Rights Act* to prohibit discrimination on the basis of pregnancy, childbirth and related medical conditions. The number of pregnancy discrimination charges filed with the EEOC reached a record high at 5,587 in 2007m (“Pregnancy Discrimination Charges”). Typical cases of pregnancy discrimination include demoting or firing a woman due to her pregnancy or denying service credit for maternity leave. A few recent cases reveal that employers are still confused, ignorant, or have a blatant disregard for the law. For example, in 2008, Centenary College in Shreveport, Louisiana was ordered to pay \$200,000 to the former head coach of the women’s basketball team who had returned to work only ten days after the birth of her child but was told that she could no longer serve as a head coach because she was a new mother. Ironically, a Motherhood Maternity store in Miami, Florida, was charged with pregnancy discrimination for terminating a pregnant employee and denying employment opportunities to three other women who were pregnant. The suit was resolved through consent decree and Motherhood Maternity paid \$375,000 to the four women who were subjected to discrimination. The largest settlement in recent years was \$48.9 million paid by Verizon, Inc. to female employees across the U.S. who were denied service credit during leaves of absence for pregnancy and maternity leave.

The Family Medical Leave Act of 1993

Legislation to protect employees from losing their jobs as a result of the birth of a child, caring for a sick parent, or extended leave to care for oneself had been introduced in the 1980s and the early 1990s and was vetoed by former Presidents Reagan and G.H.W. Bush. Eventually, Congress passed the *Family Medical Leave Act* (FMLA) in 1993 and it was signed into law by former President Clinton. The legislation requires organizations with fifty or more employees to provide twelve weeks of unpaid leave for an employee who must care for themselves or an immediate family member. The legislation is limited to employees who work 1,250 hours per year and does not cover part-time workers with less than 25 hours per week. In addition, those who cannot afford time off without pay are disadvantaged. Many mothers return to work prior to twelve weeks out of economic necessity.

Although I occupied a white-collar academic position, I could not afford to take twelve weeks of unpaid leave under FMLA. Instead, I developed a modified plan which allowed me to teach online six days after giving birth. I returned physically to the classroom when my daughter was one month old. This allowed me to be compensated for a few hours each day combined with unpaid FMLA for the remaining hours. Given the choice, I would have preferred to stay home during the first six months, if not the first year, of my child's life. Given a good salary, I could have supported my husband who was willing to stay home with the baby. At my former employer I had neither. Had I lived in nearly any other country (with the exception of Liberia, Swaziland and Papua New Guinea) paid maternal leave would have been provided. Among the 169 countries that offer paid leave, 98 provide 14 or more weeks (Heymann, Earle, and Hayes, 2007).

While some private and public organizations voluntarily offer paid maternity leave, the absence of legislation means the absence of income for many women on maternity leave. Cognizant of this fact, Senator James Web (D-VA) introduced Senate Bill 354 on January 29, 2009 to provide four weeks of paid parental leave for federal employees through the Family Medical Leave Act, which currently provides twelve weeks of unpaid leave. Representative Carolyn Maloney (D-NY) introduced similar legislation (H.R. 626) in the House of Representatives. At the time of this writing, H.R. 626 passed the House with a vote of 258-154 and was sent to the Senate where it remains in committee. Unfortunately, the proposed legislation only applies to federal employees. From a political perspective, however, a bill narrowly tailored to federal employees has a greater chance of passage than a bill directed at all employers. If the paid parental leave bill becomes law it is a step in the right direction and increases the possibility for future deliberation on expansion of the law.

The Lilly Ledbetter Fair Pay Act of 2009

In 2007, the Supreme Court restricted the right of women to bring suit under the *Equal Pay Act* through *Ledbetter v. Goodyear Tire & Rubber Co.*, 200 U.S. 321 (2007). Ledbetter filed a formal complaint with the EEOC in July 1998 against Goodyear for sex discrimination in violation of Title VII of the *Civil Rights Act* 1964. Upon her retirement that same year she filed suit and claimed that male supervisors had given her poor performance evaluations because of her sex, resulting in less pay than her male colleagues—which ultimately had a negative impact on her pension. The District Court jury awarded back pay and damages to Ledbetter, however, upon appeal Goodyear argued that the pay discrimination claim could not include pay decisions prior to 1997—180 days prior to her initial contact with EEOC.

When Ledbetter was hired in 1979 her pay was equal to that of her male colleagues. By 1997 the pay discrepancies were apparent between Ledbetter and her male colleagues. As the only female area manager, Ledbetter earned \$3,727 per month while pay for the male area managers ranged from \$4,286

to \$5,236 per month (1). Goodyear claimed that the pay disparity was the result of poor performance evaluations, even though Ledbetter received a “Top Performance Award” in 1996 (18).

In her dissenting opinion, Justice Ruth Bader Ginsberg noted that pay disparities occur in small increments over time and that “comparative pay information is often hidden from the employee’s view,” making it difficult to detect discrimination. She also asserted that pay disparities such as Ledbetter’s case are akin to hostile work environments in which discriminatory conduct occurs over months, sometimes years, and cited *National Railroad Passenger Corporation v. Morgan*, 536 U. S. 101,117 (2002) as establishing precedent that distinguishes between “discreet acts and acts that are cumulative in impact” (5).

Shortly after the court’s decision, the House of Representatives passed the *Lilly Ledbetter Fair Pay Act* of 2007; however, Senate Republicans blocked the bill in April, 2008. Senator Barbara Mikulski (D-MD) re-introduced the bill (S. 181) on January 8, 2009 and it was passed into law as the *Ledbetter Fair Pay Act* of 2009, signed by President Obama on January 29, 2009. The *Ledbetter Fair Pay Act* clarifies that each discriminatory paycheck is a violation of law and that workers have a right to file discrimination charges within 180 days of receiving any discriminatory paycheck rather than within 180 days of the first discriminatory paycheck when employees are often unaware of the pay disparities. The strengthened legal recourse available to employees serves as an incentive for employers to be aware of and avoid pay discrimination in the first place. For working mothers who have been disadvantaged by the “mommy penalty” the potential for equal pay for equal work is increased.

Limited childcare legislation

The importance of quality affordable childcare is evident given the fact that 63 percent of women in the workforce had children less than six years of age in 2006 (U.S. Bureau of Labor Statistics, 2008: 19). Although the issue is certainly significant to all working mothers, the provision of affordable quality child care has been less important to members of Congress. In fact, the only time that the U.S. government truly embraced early childhood care as a public good was during World War II when broad funding was provided under the *Lanham Act* to assist mothers as they replaced men in the factories (Berggren, 2007: 152). Funding was eliminated after the war and national policies to assist blue-collar and white-collar mothers with child care remain minimal.

Working women of my mother’s generation had fewer child care options than working mothers today. Between 1977 and 1992 the number of child care centers doubled (Casper and O’Connell, 1998). My mother used a variety of babysitters until I was old enough to enter pre-school. I became a latchkey child once I started elementary school. Although working mothers today have a greater selection of child care alternatives, prices have steadily increased. The monthly costs for full-time care of my toddler are more than half of what I pay each month for rent. According to the National Association

of Child Care Resource and Referral Agencies (2009), the average annual cost in 2008 for full-time care at a center was \$15,895 for an infant and \$11,678 for a four-year old.

Currently the *Child Care and Development Block Grant Act* (Child Care and Development Fund), as part of the *Omnibus Budget Reconciliation Act* of 1990, provides federal support for day care to the states to provide assistance to low income parents and recipients of public assistance in the form of *Temporary Assistance to Needy Families* (TANF). States are required to dedicate at least 70 percent of the matching funds for parents on public assistance. Similarly, Head Start is well known because it provides subsidized childcare for low-income families to promote school readiness. Regardless, many working class mothers, often barely above the poverty line, do not qualify. Tax credits are also provided for childcare, however, that may or may not be beneficial each year when taxes are filed. Furthermore, the tax credits are of little assistance to lower middle-income families when a childcare bill is due at the beginning of each month.

Conclusion

The opportunities available to women have increased considerably over the past four decades as a result of Title VII of the *Civil Rights Act* and the *Equal Employment Opportunity Act*. This increases the ability of working mothers to pursue occupations that provide wages to maintain a decent standard of living. In addition, though the *Pregnancy Discrimination Act* and the *Family Medical Leave Act*, working mothers still have some degree of job protection when they become pregnant and/or find it necessary to care for a sick child. Nevertheless, many working mothers find that they cannot afford to take twelve weeks of unpaid leave after birth or to provide care to a child who suffers from a serious illness. In addition, women continue to experience pay discrimination and it may be years before the effects of the *Ledbetter Fair Pay Act* materialize. Childcare also continues to be interpreted under the framework of individual responsibility rather than care as a public good. Federal subsidies for early child care are typically limited to welfare-to-work initiatives, in which the goal is not to level the playing field for working mothers (otherwise, participation would be extended) but to reduce reliance on public assistance. As long as these conditions persist, working mothers are at a disadvantage. Coalitions of collective action are necessary to continue to improve conditions for ourselves and future generations. We must continue to fight for equal pay, affordable childcare, and paid maternity leave—these are the issues that are salient to working mothers.

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