

Commission on Gender Equity

Final Report

Recommendations to create greater parity for women in society

INTRODUCTION

Millennial women are more educated, more politically active and more financially savvy than their predecessors yet they still lag behind in earnings and retirement savings and hold substantially fewer elected offices than their male counterparts. More than one-third of women between the age of 25 and 34 hold a bachelor's degree however millennial women are more likely to live in poverty than adult women of any other generation and more than one in five millennial women lives below the poverty line.¹ Research has shown that companies led by women CEOs are more profitable² and that female policymakers are more effective at driving consensus and passing legislation, yet women hold only five percent of corporate c-suites³ and just one-quarter, on average, of legislative offices.

In addition, the release of numerous profiles detailing physical and verbal assaults by high-profile men and the endorsement of celebrity advocates has brought heightened awareness of the #MeToo movement and the pervasiveness of sexual harassment in the workplace and beyond. It is estimated that one in six women will be the victim of sexual violence, including an attempted or completed rape during her lifetime.⁴

It is imperative that the unique health, political, and professional challenges faced by women be met with innovative and sustainable solutions. The Millennial Policy Initiative Commission on Gender Equity (Commission) aims to identify solutions for challenges that plague all women, including those from racial and ethnic minorities, of lower socioeconomic statuses, and transgender women, all of whom suffer disproportionate rates of sexual violence, unequal pay, and maternal mortality.

The members of the Commission convened for four months to assess and identify four key policy solutions to create greater parity for women in society:

- 1. Ratify quota systems for political party committees at the national, state, and local level.**
- 2. Implement statewide salary history bans.**
- 3. Adopt comprehensive packages to prohibit sexual harassment, inclusive of training programs, reporting mechanisms, and anti-retaliation safeguards.**
- 4. Create culturally-competent health training and expand healthcare access.**

POLITICAL PARITY AND REPRESENTATION

Global analysis of political gender parity

Around the world, women are taking center stage in the political arena. Women like Angela Merkel, the Prime Minister of Germany, and Jacinda Ardern, the newly-elected Prime Minister of New Zealand have recently been heralded as global leaders for their compassion and thoughtful decisions on tough global issues. Increasingly, studies show that when women lead, they lead with compassion and often legislate through gender lenses that ultimately help transform significant structural issues in our society. Although there has been a rise in political leadership held by women in many developing countries, the United States falls behind when it comes to women holding political office. The Inter-Parliamentary Union (IPU) conducted a study to analyze the rate of gender

balance in national legislatures and found that, in the Nordic countries, gender parity in representation has almost been achieved. Nearly 42 percent of legislators in that region are women. In the remainder of Europe, the figure is 27.6 percent.⁵ Sub-Saharan African legislatures also contain more female representatives than the U.S. Congress — 23.8 percent.⁶ The United States has an unimpressive ranking - 102 out of the 188 countries examined by the IPU, falling behind Rwanda (61.3 percent women), Mexico (42.6 percent), Afghanistan (27.7 percent), and the United Arab Emirates (22.5 percent).⁷ Though American women make up slightly more than half of the population, they represent only one-quarter of officials elected to state legislatures. According to the Pew Research Center, there are 15 female world leaders currently in office, nine of whom are their country's first woman head of state. Surprisingly, the United States has yet to have its first female president although Democratic Presidential Nominee Hillary Clinton gave many hopes of shattering that glass ceiling when she unsuccessfully ran for U.S. President in 2016.

Benefits of women in politics

Studies have shown that many benefits result from engaging women in politics. Women legislators are more collaborative and consensus driven, which leads them to sponsor more bills, pass more legislation, and negotiate more “pork barrel” projects for their districts than male legislators.⁸ One congressional study that evaluated the efficacy of representatives, beginning in 2009, found that the average female legislator had 2.31 of her bills enacted, compared with men, who turned just 1.57 bills into law.⁹ Additionally, on average, female legislators sent nine percent more funds back to their home districts than their male colleagues. Districts represented by women received an additional \$49 million annually on average compared to their male-represented counterparts.¹⁰ In addition, when women serve in elected leadership roles, they typically advocate and implement legislation that overwhelmingly supports women, children, and the greater social welfare.¹¹

Challenges women face running for office

Women remain underrepresented at the federal, state, and local levels for many reasons. Women are still less likely than men to participate in activities that encourage them to step into leadership roles and reinforce their political aspirations, which is a trend that researchers have found starts in high school and college.¹² Women do not have as many connections to financial resources as men, the political establishment keeps women on the outside, and gendered institutions in our society keep women from breaking glass ceilings.¹³ When it comes to career and family, women typically take on more household responsibilities than men, leaving less time to devote to outside activities. Lastly, women are less likely than men to be asked to run for office, even though studies show that when women do step up to run, they win their races at the same or higher rates than male candidates.¹⁴ These issues and others undermine the pursuit of political leadership.

The Commission recommends that quota systems aimed at achieving gender parity be implemented. Gender quotas are a form of affirmative action with the goal of recruiting more women into political office. From 1992 to 2010, countries with nationally mandated quotas had two to five percent more women in their legislatures than countries without quotas.¹⁵ Overall, 126 countries have implemented a quota system of some sort according to the Quota Project, which leaves the U.S. in a small minority of countries without affirmative policies to promote gender diversity in government.¹⁶

County and state political committees should develop quotas mandating that a greater proportion of women run for office and hold party leadership roles. State political parties should partner with national, state, and local organizations focused on recruitment and training to ensure that a pipeline of women candidates is developed for future elections. While this is happening in some state and local political parties, it is not happening everywhere and the Commission recommends that a training program framework be set up to replicate the models that are currently doing this successfully. This would not be a federal mandate, but a pledge taken by state political parties to demonstrate their commitment to a more equitable government.

Currently, the Democratic National Committee bylaws mandate that every state party must prescribe and enforce gender parity in their state party and county party leadership, with persons of different genders serving in the top two leadership roles within the county party. (DNC bylaws 3.1.e and 9.16)¹⁷ The Republican National Committee (RNC) currently has zero references to gender parity in their bylaws at the federal, state and local levels.¹⁸ As a

result, 76 percent of the 494 women who ran for the House and Senate in 2018 are Democrats.¹⁹

The Commission recommends that gender parity bylaws be extended to both major political parties, state and local affiliates and college and high school political chapters. Empowering women in political leadership early on leads to an increase in the number of women candidates seeking offices in the future. In addition to quota systems, the Commission also recommended that high schools and colleges expand their civic engagement and public service curricula to educate young women on the opportunities and responsibilities of leadership within and out of politics.

While quotas have worked in the past, there also have to be systems in place to ensure that quotas are upheld in the early stages of political development, women are selected to run for competitive seats, and women are connected with more financial resources to support their campaigns. Finally, gender parity bylaws need to be inclusive of non-gender and gender non-conforming individuals, providing them with greater opportunities to pursue and excel in political leadership roles.

THE GENDER WAGE GAP

According to income data released by the U.S. Census Bureau in 2017, the gender wage gap continues to persist, with only a nominal increase of 1.1 percent in the female-to-male earnings ratio in 2016 as compared to 2015 – the first annual increase in the gender earnings ratio since 2007.²⁰ On average, women earned 80.5 cents for every dollar a man earned in 2016, but there is considerable variation when race is taken into account.²¹ Hispanic women earned the least, just 54 cents for every dollar earned by a non-Hispanic white man. In comparison, Black women earned 63 cents, white women earned 79 cents, and Asian-American women earned 87 cents.²²

While the U.S. Census Bureau continues to exclude gender identity from its American Community Surveys, findings from the U.S. Transgender Survey, released in December 2016, provide perspective on the employment experiences of the transgender population.²³ According to the report, transgender individuals experience a 15 percent unemployment rate and 30 percent of employed transgender individuals report having been fired, denied a promotion or have experienced another form of employment discrimination as a result of their gender identity or expression.²⁴

It is important to note that the slight narrowing of the wage gap reflected in U.S. Census Bureau data is not necessarily a sign of progress; in fact, it can be explained in part by the decline in men's wages.²⁵ Significant barriers to women's earning potential remain, and include factors such as the devaluation of occupations historically held by women, pay and promotion, discrimination, career interruptions stemming from societal expectations that place a higher burden on women to perform caregiving tasks, and hiring decisions based on applicants' salary histories, which have a disproportionate impact on female applicants due to their lower wages.²⁶ Federal law already prohibits pay discrimination based on sex; however, we argue that reliance on salary histories when determining pay, retaliation of employers against employees who engage in wage discussions, and the wage gaps between employees of different genders performing comparable work, among other factors, contribute to the prevailing wage disparities. These earnings penalties result in fewer women being able to afford homes, having less saved for retirement and emergencies, being entitled to less in social security retirement benefits, and becoming even more economically vulnerable as they mature.²⁷

The Commission recommends that state and municipal governments enact policy measures that address wage disparities resulting from the aforementioned employer practices if they do not currently have salary bans and other protections in place. As of June 2018, 17 states and municipalities have enacted salary history bans, with some states enacting legislation with even more comprehensive pay equity provisions.²⁸ These policies should serve as a model for other states and municipalities to consider.

Specific provisions of existing salary bans prohibit employers in those states or municipalities from requesting the current compensation and salary histories of job applicants, from considering any known salary history in their hiring decisions that may have been voluntarily disclosed by the applicant, and requesting salary history information of an applicant from a third party. Certain provisions also make it illegal for an employer to prohibit its employees from discussing the amount of their wages with other employees and prohibit employers from retaliating

against employees for engaging in wage discussions.²⁹ The practice of requesting an applicant’s salary history and relying on that information when making hiring decisions is problematic because of the high likelihood that a female applicant has been paid a lower salary than her male counterpart in her previous job, and “to the extent employers consider applicants’ salary history in setting salaries of new hires, historical patterns of gender bias and discrimination repeat themselves, causing women to continue earning less than their male counterparts and less than they would have earned, but for their gender.”³⁰

Legislation enacted by the state of Massachusetts that took effect on July 1, 2018 not only prohibits the practice of requesting salary information, but also addresses pay disparities between women and men with different job titles by defining “comparable work.”³¹ According to this law, “comparable work” refers to “work that is substantially similar in that it requires substantially similar skill, effort and responsibility and is performed under similar working conditions; provided, however, that a job title or job description alone shall not determine comparability,” and further defines “working conditions.”³² Using this definition, the legislation prohibits employers from paying “any person in its employ a salary or wage rate less than the rates paid to its employees of a different gender for comparable work.”³³ This is an important policy solution for other states to consider, as it goes beyond the traditional view of equal pay being reserved for “equal” work – in other words, the same job title. By acknowledging that certain jobs have historically been predominated by one gender, this legislation attempts to close a long-standing statutory loophole.

The proliferation of state and municipal policies addressing pay equity in the last few years is promising; however, we must build upon this momentum in order to truly start narrowing the persistent gender wage gap. There are numerous legal loopholes that states can address, many of which have been described in this report, and there are thoroughly vetted examples of legislation that can be used as a model in these efforts. By implementing additional pay equity policies and protections, state legislatures and municipal governments will play an integral role in improving the economic mobility and spending power of women, which will serve to advance the U.S. economy as a whole.

SEXUAL HARASSMENT IN THE WORKPLACE: A PROGRESSIVE MODEL FROM NEW YORK CITY

The #MeToo movement, founded by Tarana Burke, has increased awareness and mobilization around sexual harassment and gender-based violence. According to a 2016 federal Equal Employment Opportunity Commission Report, only 7-13% percent of survivors of sexual harassment file complaints.³⁴ Often, survivors of sexual harassment fear repercussions if they report their experiences, fear that they will not be believed, and deserve the right to take the time they need to overcome trauma. In order to eliminate sexual harassment and gender-based violence, particularly in the workplace, both culture shift and public policies need to center survivors’ health and well-being, improve bystander intervention, and provide seamless reporting mechanisms.

Gender equity can only be achieved when both culture and public policy are aligned to end sexist, misogynist, homophobic, and transphobic practices. Title VII under the U.S. Equal Employment Opportunity Commission defines sex-based discrimination as “against an individual because of gender identity, including transgender status, or because of sexual orientation.”³⁵ It is important that all gender equity policies reflect this broad definition of gender-based discrimination.

The New York City Council recently passed the “Stop Sexual Harassment in NYC Act,” a comprehensive 11-point legislative package aimed to be the most progressive and far-reaching workplace sexual harassment legislation in the country and serves as a model for multi-prong policies to eliminate workplace harassment for all people.³⁶

Key provisions of the Stop Sexual Harassment in NYC Act include:

- **Human Rights Law:** Every employee, regardless of sector and size of organization, is protected by sexual harassment provisions of New York City’s human rights law;
- **Statute of Limitations:** Employees can report sexual harassment up to three years after the incident;
- **Training:** The Human Rights Commission will design an interactive training that includes bystander intervention, reporting procedures, and scenarios on what constitutes sexual harassment and gender-based violence. Every workplace has to provide these trainings, and for businesses with 15 or more employees, these train-

ings must occur regularly. Additionally, training is required for managers and supervisors;

- **Visibility:** Employers are required to post a sexual harassment policy within their businesses; and,
- **Public Accountability:** City agencies and departments must report the number of complaints they receive annually, survey employees about the effectiveness of the annual sexual harassment trainings and assess their ability to take steps towards eliminating sexual harassment, and conduct risk assessments on factors that contribute to hostile workplace environments.

New York City’s legislative model reflects recommendations provided by the National Women’s Law Center (NWL-C).³⁷ The Commission supports these recommendations, including expanding protections for as many employees as possible across sectors and businesses. Currently, Alaska, Colorado, the District of Columbia, Hawaii, Maine, Michigan, Minnesota, Montana, New Jersey, Oklahoma, Oregon, South Dakota, Vermont, and Wisconsin have anti-discrimination laws that cover employers with one or more employees.³⁸ This ensures legal protection for small businesses, start-ups, and restaurant workers.

New York City’s legislation does not explicitly expand protection for independent contractors or freelancers. The NWLC highly recommends this expansion because healthcare and domestic workers, who are primarily immigrants and women of color, are often classified as independent contractors and have little protection under the law. Each municipality and state treats independent contractors differently under their fair employment protections. The Commission believes that it is imperative to design anti-sexual harassment legislation to expand coverage for all workers.

The NWLC also recommends disclosure and reporting of harassment claims, charges, and lawsuits to ensure transparency as both prevention and resolution measures. Additionally, transparency via reporting eliminates employer-imposed secrecy and reduces power imbalance by providing the survivor with the autonomy in deciding how to proceed with a settlement without jeopardizing their employment.

The most effective sexual harassment and bystander prevention trainings occur during regular intervals for employees to continue their learning and serve as checkpoints on assessing workplace culture. One-off trainings are ineffective, and New York City is addressing this barrier by designing requirements for evaluation and assessment.

Sexual harassment in the workplace is preventable and to fully eliminate it, cities and states must expand their protections, reporting mechanisms, and training procedures to be as far-reaching as possible.

REPRODUCTIVE RIGHTS & JUSTICE

In 2018, there is an incredible amount at stake for reproductive rights and justice. The Trump Administration has made clear that its goal is to overturn *Roe v. Wade* with the nomination of a Supreme Court justice, which would have implications not just for abortion access in our country but could impact rights to contraception and rights to have children. The administration has already restricted contraception access and made drastic changes to sex education and family planning with overhauls to the Affordable Care Act, the Teen Pregnancy Prevention Program,³⁹ and Title X⁴⁰ – including a domestic gag rule that threatens care for four million patients. In 2018, the U.S. Supreme decided *NIFLA v. Becerra*, ruling that “crisis pregnancy centers” do not have to provide complete and truthful information to pregnant women seeking care.⁴¹ Meanwhile, states have continued to create obstacles to care, with 26 states enacting anti-choice measures in 2017⁴² and 29 states having abortion restrictions on the books not based on scientific evidence.⁴³ Should *Roe v. Wade* be overturned, four states have trigger laws where abortion will be automatically banned⁴⁴; and access to abortion care is already severely limited in many states, disproportionately impacting low-income women, rural women, and women of color. The United States also now has the worst rate of maternal mortality in the developed world⁴⁵ – and is the only country where that number is rising. It is clear that both legal rights and access to comprehensive healthcare are at risk, particularly for marginalized communities like the LGBTQ+-identifying, people of color, immigrants, and low-income families.

In spite of recent policy changes, the American demographic strongly supports the right of women and families to make family planning decisions without government interference. Nearly all Americans support access to contraception⁴⁶ and majorities in both political parties support *Roe v. Wade*.⁴⁷ In anticipation of court battles to come

and federal inaction, states have started taking proactive and bold measures to protect access and choice. Progressive and impactful policies around reproductive justice should account for the range of challenges and needs facing women, pregnant people, and families, from the effective prevention of unintended pregnancy, to healthy pregnancies, to safe and legal abortion.

The Commission urges policymakers and state and local leaders to consider the following policies to ensure access and equity for their communities:

- Codify the protections of *Roe v. Wade* in state law and removing outdated laws criminalizing people seeking abortions;
- Require insurance coverage for abortion and contraception in private health plans without cost sharing, including over-the-counter methods;
- Require insurance coverage for abortion and contraception for low-income women and public employees through Medicaid and state plans;
- Allow patients to obtain up to a year's supply of contraception at one time;
- Regulate "crisis pregnancy centers" to ensure pregnant people receive comprehensive and accurate information about the range of healthcare options;
- Improve the conditions of pregnant people, including through workplace discrimination laws and standards for incarcerated pregnant women;
- Create comprehensive, medically accurate, and culturally-competent sexual education standards for providers and students, including competencies for LGBTQ+ communities;
- Combat harmful policies such as mandatory waiting periods, required and biased counseling, and unnecessary targeted regulation of abortion providers;
- Create review committees to investigate pregnancy-related deaths, particularly for women of color; and,
- Create paid leave policies that encourage maternal and family health.

CONCLUSION

It is indisputable that women make vital contributions to our society. This Commission understands the critical need to dismantle patriarchal structures, to equip women with equitable education, compensation and health-care, and to protect them from gender-based discrimination and sexual violence regardless of their racial or ethnic background, sexual orientation, and socioeconomic status. Its members recognize the substantial contributions that women make as leaders and that our nation will thrive when women have meaningful representation from the state house to the White House. The elevation and equity of all Americans, including women, is central to our democracy.

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