AFRICA CENTER FOR PROJECT MANAGEMENT

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COURSE: POSTGRADUATE DIPLOMA IN HUMAN RESOURCES MANAGEMENT

ASIGNMENT: 8

1. **Do you think there will ever be equal employment in the workforce?**

Even though Men and Woman constantly work and compete in this society for recognition and rewards. Nowadays Woman is given equal opportunities in every profession from Business to Defense. But there is an historical saying that Men are stronger and smatter than Woman, Which is true to some extinct but when we compare today's world we say that its totally disagreeable statement. In every profession woman are showing there talent and hard work and making others praise them. Recently in a study conducted by an UK University there are few things that should be noted, Men are 30-40% stronger than Woman and Woman are 10% more smatter than Men (Sunderland University, 2007).

Today we can see that Customer Service and Other Office oriented jobs are mainly dominated by woman, in which aggression levels are not accepted, where as Engineering and Construction oriented jobs are dominated by Man. By this we can understand that Men are more aggressive than Woman. Governments all around the world actively encouraged woman to take part in country development expect some Gulf countries where woman are only allowed to work in offices but not in other sectors. Woman are excelling now a days in every profession, they are leading countries and business, Recently Germany elected its first woman president and companies like Pepsi Co. and other Fortune 500 are managed by Woman CEO's. Women are made as brand ambassadors for many International brands like Cannon, Sony etc…

But still in some parts of the world women are criticized and not able to perform, the recent assassination of former and the first women president of Pakistan Benazir Bhutto, which shocked the entire world (New York Times, 2008). Many influential women around the world are assassinated for dominating men. Although many western countries already started respecting women in every action they perform. Social relationships of women with men are weakening resulting divorces. Domestic violence against women in the Western countries like United States increased a lot since 1980's. Women are sexually abused by Men, making them restricted to some part of the society. Statistics prove that three out of every four women were subject to abuse: 9% of which was done by ex-husbands, 35% by boyfriends and 32% by ex-boyfriends (Domestic Violence-Report of an Inter-Agency Working Party, 1992), Governments passed strict rules even death sentence in Republic of China for abusing women. Facing all these problems still women are equally competing with men in all areas. Some of the most influential women in the world are Oprah, Hillary, Mother Theresa, Benazir Bhutto, Indira Ghandi, Angelina Jolie, and many others.

Besides that, Over the last 90 years women have battled to become equal with men in all aspects of life and work. Women have made enormous advances in education and career but equality in pay and promotions in the workplace still elude them. It is well documented, widely known and discussed that women earn less.

Equal opportunity means that all people will be treated equally or similarly and not disadvantaged by prejudices or bias. This means that the best person for a job or a

promotion is the person who earns that position based on qualifications, experience and knowledge.

Workplace diversity values everyone's differences. Diversity is about learning from each other regardless of our cultural background and bringing those differences into the workplace to broaden experiences and knowledge. Diversity includes not only race but gender, ethnicity, personality, age, education and background

The concept of equal employment emerged during the civil rights era to make minorities and women equal to their white-male counterparts. Although Title VII of the Civil Rights Act aims to protect employees from discrimination on the basis of skin color, religion, race, sex, and national origin, many felt additional legislation needed to be implemented to further protect individuals. Therefore, the Equal Employment Opportunity Commission (EEOC) was developed specifically to address issues of discrimination and unequal employment practices.

In addition to the protected classes addressed in Title VII, the Equal Employment Opportunity law protects discrimination based on sexual orientation, age, individuals with disabilities, marital status, parental/pregnancy status, and military/veteran status.

Equal employment practices are important for both individuals and organizations. On an individual basis, EEO laws accomplish many things. First, EEO helps establish a baseline for acceptable behavior, which is important considering the vast array of lifestyles, values, and attitudes individuals have. Secondly, EEO practices help individuals feel they are being treated fairly and equally, which can increase an individual's level of commitment, satisfaction, and loyalty to their employer. A third reason involves a person's mental mindset and sense of personal worth and well-being. An individual that feels confident in all

situations, even ones where he or she is a minority, will help the individual's sense of overall worth and ability to comfortably contribute.

When considering the important of equal employment practices for organizations, it is easy to see the benefits of EEO laws. First, an organization that can confidently state that they practice equal employment has a greater advantage to attracting qualified and dedicated candidates. Secondly, an organization that is EEO compliant decreases the chances of facing a discrimination or wrongful discharge lawsuit. Finally, an organization that ensures equal employment for all increases the chances that it will have a diverse workforce, which has many positive implications for teams, departments, and overall organizational productivity and creativity.

There are many legal consequences associated with violating an antidiscrimination law. Companies can experience financial impacts resulting from settlements and court fees. Businesses may also see a decrease in customer and employee loyalty. Furthermore, other companies may tend to avoid doing business with employers who intentionally discriminate against employees.

If an employee feels he or she has been treated unfairly, the individual can file a complaint with the EEOC. The EEOC will then investigate and determine whether a pattern of discrimination is evident. The EEOC protects employees against both types of

discrimination, but the consequences of committing disparate treatment (intentional discrimination) are more sever because it involved motive.

If an employment procedure or practice unintentionally discriminates against employees, disparate impact is said to have occurred. When the EEOC investigates claims of disparate impact, the employer is held legally responsible to provide substantial evidence to support the continued use of the employment practice. Such evidence may include the existence of bona fide occupational qualifications (BFOQs), which are discriminatory qualifications that are legally justified on the basis of business necessity, social appropriateness or propriety, and safe and efficient job performance.

Businesses that evaluate their employment practices according to the following guidelines can ensure they develop and implement legal, ethical, fair, and justified employment standards. This list is not meant to be inclusive, but rather a guideline of areas to evaluate to ensure compliance with EEO laws.

When recruiting applicants for a position, submit advertisements in a variety of sources (web, newspaper, job board, flyers, etc.). The greater number and variety of sources utilized ensures that a broader range of candidates are notified and have the opportunity to apply. If a business focuses on a single method of advertisement, the company is missing a population that might not have access to that particular communication channel.

When selecting qualified candidates from a large applicant pool, it is critical to standardize selection processes. The more subjectivity involved in the selection process, the more likely

a hiring manager will allow (albeit intentionally or unintentionally) his or her biases to sway selection decisions. Furthermore, a more objective and standardized process helps ensure accuracy of screening results and increases retention.

When a position opens up and an employer wants to promote from within, formal steps need to be taken to ensure all qualified candidates have an equal opportunity to be notified and apply for the position. These steps include posting the position for a specified period of time, placing the notice of vacancy in a highly-populated area or in a popular mode of communication, developing standardized screening tests and techniques to promote the most qualified employee, and thoroughly debriefing unselected candidates as to the reasoning and rationale.

When implementing a formal grievance process, a company must enforce a strict confidentiality clause. Without trust in anonymity, employees can be intimidated by the thought of retaliation, especially those of protected classes. Furthermore, utilizing a third-party mediator significantly increases the likelihood of positive and fair dispute outcomes.

When making compensation decisions, a company must ensure that the compensation strategy is well-documented and there is ample evidence to support the fact that the company is abiding by the written policy. Furthermore, provide employees a copy of the strategy to enable all employees to make the most of opportunities that will yield higher compensation.

Implement a formal documentation process for unsatisfactory behavior and formal warnings. Furthermore, businesses should identify standards of behavior and performance expectations that can be used as evidence for temporary suspensions, loss of bonuses, and potential terminations.

In the nineteenth century women became involved in organizations dedicated to social reform. In 1903 The National Women's Trade Union League (WTUL) is established to advocate for improved wages and working conditions for women. In 1920 The Women's Bureau of the Department of Labor was formed to create equal rights and a safe workplace for women. In 1956 a group called Financial Women's Association (FWA), was formed. It is an organization established by a group of Wall Street women. The goal was: to advance professionalism in finance and in the financial services industry with special emphasis on the role and development of women, to attain greater recognition for women's achievements in business, and to encourage women to seek career opportunities in finance and business. In 1966 the National Organization for Women (NOW) was founded by a group of feminists including Betty Friedan. The largest women's rights group in the U.S., NOW seeks to end sexual discrimination, especially in the workplace, by means of legislative lobbying, litigation, and public demonstrations. NOW has 500,000 contributing members and 550 chapters in all 50 states and the District of Columbia. Founded in 1972, the National Association of Female Executives (NAFE) provides education, networking and public advocacy to empower its members to achieve career success and financial security. Members are women executives, business owners, entrepreneurs and others who are committed to NAFE's mission: the advancement of women in the workplace. Many of these organizations led to legal action and protecting women's rights as workers and empowered women in the workplace.

Laws protecting women's rights as workers

International laws protecting women's rights as workers exist through the efforts of various international bodies. On June 16, 2011, the International Labour Organization (ILO) passed C189 Domestic Workers Convention, 2011, binding signatories to regulations intended to end abuses of migrant domestic workers. It was anticipated that the Convention would put pressure on non-ratifying countries to support changes to their own laws to meet the change in international standards protecting domestic workers. Also in 2011, Hong Kong's High Court struck down a law preventing domestic workers from having residency rights granted to other foreign workers, a move that affected an estimated 100,000 domestic workers in Hong Kong.

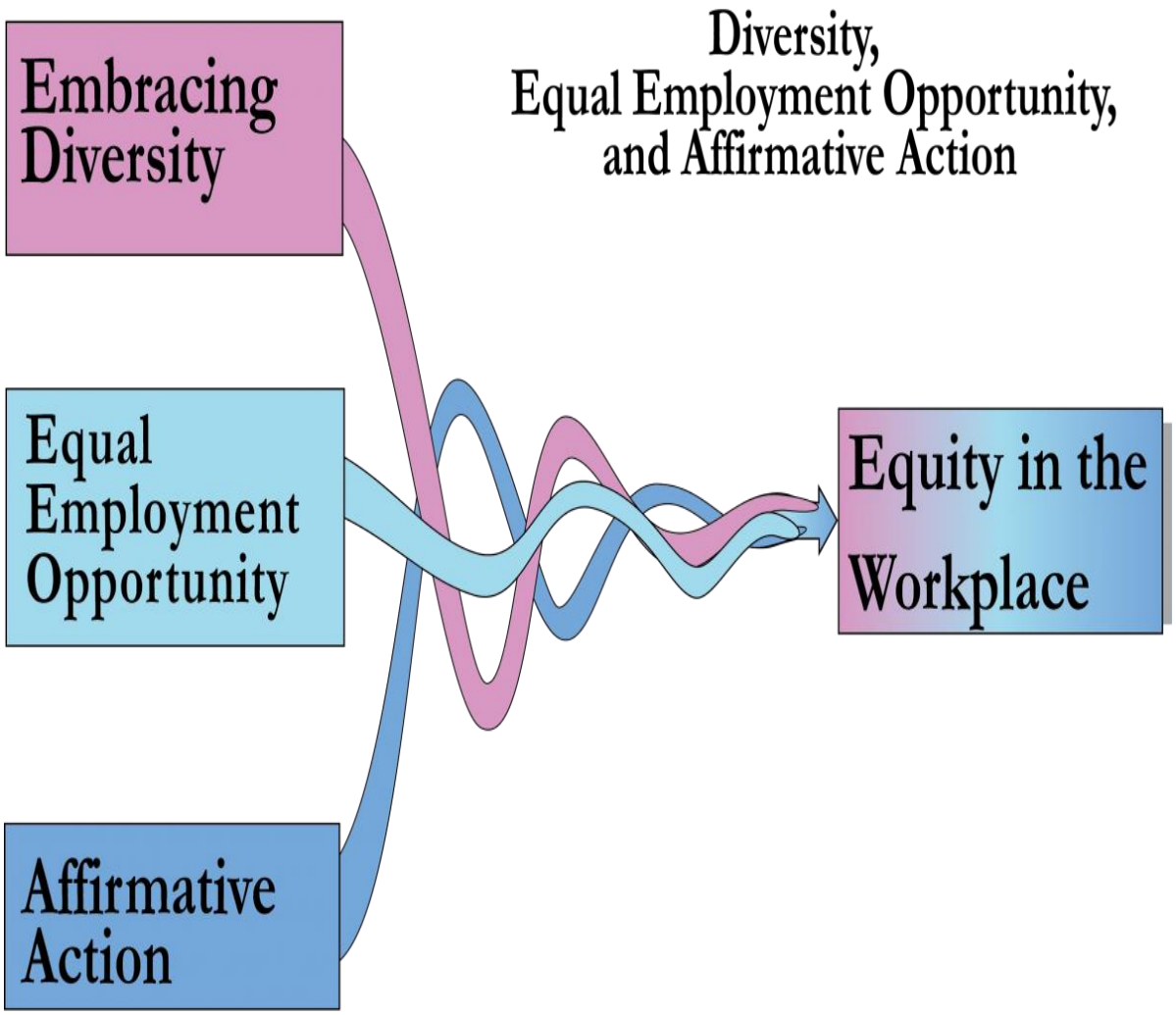
The ILO has previously ratified the Equal Remuneration Convention in 1951, which came into force in 1953, the Discrimination (Employment and Occupation) Convention, which went into force in 1960 and the Maternity Protection Convention, 2000, which went into force in 2002. In 1966, the United Nations General Assembly adopted the International Covenant on Economic, Social and Cultural Rights, which went into force in 1976. UNESCO also adopted the Convention against Discrimination in Education in 1960, which came into force in 1962.[22] The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the United Nations General Assembly, went into force in 2003. The Home Work

Convention, adopted by the ILO, went into force in 2000;the Convention protects the rights of persons doing paid work out of their home, which is frequently women workers. It offers equal protection regarding working conditions, safety, remuneration, social security protection, access to training, minimum age of employment, and maternity protection.

Human trafficking often targets young women who are abducted and sent outside their own country to work as domestic workers, often in conditions of extreme exploitation. A number of international laws have been ratified to address human trafficking of women and children.

Maternity protection measures are put in place to insure that women will not be discriminated against in the workplace once they return from having a child. They should also not be exposed to any health hazards while they are pregnant and at work. They are allowed time off for maternity leave as well, which allows them to bond with their child; this aspect of development is crucial for infants to gain proper attachment skills. Employers are expected to hold to these policies. Yet many women on maternity leave receive very small amounts of time off to allow for their health along with their babies' health. The amount of time allowed for maternity leave as well as the pay for maternity leave varies by country, with Sweden having the longest amount off with 68 weeks and the United States being one of the worst, with the typical period being 12 weeks without pay.

Diversity and equal employment opportunities



Embracing Diversity, Equal Employment Opportunity (EEO), and Affirmative Action (AA) are three components of UC Berkeley's work toward creating Equity in the Workplace for its employees. Equity in the Workplace is characterized by:

- A diverse productive workforce
- A more equitable and accessible work environment
- An inclusive environment where all employees are valued
- A work environment free from discrimination
- A level playing field for employee success

Although there is overlap between Diversity, EEO, and AA, they refer generally to three different areas of activity.

Embracing Diversity refers to a comprehensive organizational and managerial process for developing an environment that maximizes the potential of all employees by valuing diversity. Diversity refers to human qualities that are different from our own and those of groups to which we belong, but are manifested in other individuals and groups. Dimensions of diversity include, but are not limited to: age, ethnicity, gender, physical abilities/qualities, race, sexual orientation, educational background, geographic location, income, marital or partner status, military experience, parental status, religious beliefs, work experience and job classification. An approach that embraces diversity:

- Focuses on developing an environment that maximizes the potential of all employees by valuing diversity interpersonally and institutionally
- Includes categories broader than those addressed by Affirmative Action (ethnicity, race, gender, disabled status and veteran status)
- Recognizes and profits from the increasing diversity of the workforce

Equal Employment Opportunity is a term used by the federal government to refer to employment practices that ensure nondiscrimination based on race, color, national origin, sex, sexual orientation, gender identity, physical or mental ability, religion, medical condition, ancestry, marital status, pregnancy, genetic information, veteran status or age. The principle behind EEO is that everyone should have the same access to opportunities in the workplace.

- Eliminates discrimination in human resource policies and practices
- Provides equal access and opportunity - no one excluded from participation

Affirmative Action is one aspect of the federal government's efforts to ensure equal employment opportunity for minorities, women, veterans, and individuals with disabilities. It encompasses:

- Good faith efforts to remedy underutilization,
- Widespread and diverse outreach in the recruitment process
- Job-related criteria with minimal adverse or exclusionary impact, and
- Fair evaluation of all job applicants.

2. **Do you think there is a correlation between how women are treated in society and how women are treated in the workforce**?

Before the rise of feminism, women had very few options. Teaching, nursing, and being a secretary were considered suitable careers for young unmarried women, but older women, married or not, were generally considered to be battleaxes. Only comparatively recently have married women been allowed to keep a nursing or teaching job...previously, any woman who got married was required to quit. This was written into contracts of the time. Becoming a nun was an option for Catholic women, and it gave them lifelong security.

However, unless a woman had a rich father who was willing to support her all her life, a woman NEEDED to have a husband for financial security. Women could not get credit in their own names, they had to have a male co-signer to open a checking account or get a loan. There were other legal and social barriers. So even if women didn't particularly want to be married, or stay in a bad or abusive marriage, they had to, or else they would starve to death.

Nowadays, women don't have to stay with an abusive husband, but can live on their own. So, they are no longer willing to put up with bad marriages just to survive. The number of happy relationships and marriages is probably about the same. It's just that instead of being estranged, or in a bad marriage, women can make their own way in life, whether they claim to be feminists or not.

yes because feminism gave women the choice to go out an find a career or be a housewife. they didnt have to find a husband and have kids and depend on a man for thier well being if they didnt want to - they had a choice in life. So because of feminism, women were able to get out of a really bad marriage. Before, less women had the agency to get out of a bad marriage because they could not support themselves and thier children on thier own. So in that sense its a good thing. Im not saying that increasing divorse rates are necessarily good. Im just saying that because of feminism, women could improve thier lot in life.

ON the other hand divorse has also risen because in this fast paced world ppl are too lazy to put work into thier marriages and stay in love. Lots of ppl are saying that humans are not ment for long term monogamous relationships. But I think that if you actually pick the right person instead of just settling , and then put work into keeping your marriage alive, and staying in love, then being happily married for life is absolutely possible. My grandparents had the best marriage i have ever seen. They always told me that its cause partly cause of luck (ie they picked the right person) and mostly cause they knew that marriage requires maintence - they went out on dates a lot etc. ppl think that love conquers all and that as soon as you are in live you dont have to work at your relationship but its not true.

those do have a correlation with eachother...but only because women have become more and more independent over the years and feel that they should be treated equally in a marriage. So if her man is beating the crap out of her...or is cheating on her...or has a drinking/drug problem...she has that option to leave his ***, take what's her's, and begin her own life.

Back in the days...a woman who was married didn't own anything. It was all her husbands...and divorces were almost unheard of. Plus...women had a hard enough time finding a job, they really couldn't own houses unless it was passed down to them or given to them, and had no say in politics.

So even if a womans husband was bad news she wouldn't leave because if she did she would be left with nothing and no where to go.

I wouldn't necessarily blame divorce on the rise of feminism...It was only a matter of time until the female population felt that they too deserved to be happy and be married to someone who treated them with respect.

Also, there is a clear correlation between the rise in feminism and dysfunctional families, single parenthood, child abuse, elder abuse, general youth crime and many other ill-sections of society.

We can thank feminism for people, specifically women, taking full advantage of better divorce access, because divorce is a REWARDING experience for women.

It is only the rarest of occasion that a men comes out 'on top' or even 'equal' during a divorce, the vast majority of men lose their home & access to their children while the woman typically wins unearned money, possessions and the children which she then abuses her ex with by using the kids as pawns.

There are IMO 4 major ways women are discriminated against. At the heart of all of them are both assumptions on how a gender "should" be and a failure by everyone to evaluate people regardless of gender.

I have not worked everywhere and done every job so this is mainly from my perspective. But, for starters, as far as my field is concerned Nursing is a women intensive field however if you look at the top all you see is men. It doesn't make much sense given the workforce pool however there are noted reasons behind this.

1. Most prominent is the often upheld complaint that women are still considered The Best Caregiver. It is often us pulling second shift at home, doing the lion's share of home management and either when we have children or our relatives become sick it's us that must put our career on hold to care for them. Some of this is a slowly changing societal view but some simply can't be fixed due to structural issues like the total lack of family leave in the U.S.

2. Women are less likely to get advanced degrees. Partially because of reason #1, partially because of society views. Regardless this is slowly but surely changing especially in certain fields like medical doctors where more women are graduating then men. *yeah us!* (see edit note)

3. Women are judged not by the words on our resume but how we look. If you're young and cute you get the pretty treatment. You can find lots of jobs but no one is going to take your ideas seriously. If your older and dowdy you'll get taken seriously even when you shouldn't be. To some degree men experience this too but it is often more pronounced with women and sometimes more ridiculously superficial. To illustrate I've included a link to a popular story about an anchorman in Australia who wore the same suit (and no one noticed) for a year. Male News Anchor Wears Same Suit for a Year to Protest Sexism

4. Women are not allowed to be aggressive. If a man walks into a board meeting and lays out an agenda and tells his company this is how it will be (period). He's said to be driven, in charge, maybe stern at worst.

If a women does it; she's a b*tch or a feminist with an agenda or (worst of all IMO), she's hormonal and PMSing. We've all heard someone say this and it's really just so wrong and not true but it's also something even women do to each other so this is a universal gender problem.

(Fun nursing fact: Testosterone is just as potent as Estrogen as a hormone)

This also shows up in that women are often paid less compared to men in similar positions and we are very bad at asking for a high salary or raise even if we think it's earned. This is a real issue and part of why a women's dollar is less than a man's. I'm including a link to a fantastic program initiated in Boston to help women overcome this so you see I'm not just making it up. (Also I'm happy to see such a program even existing and want to promote it.

These 4 areas cover most of the basic ways we are treated differently. Obviously this is not every situation everywhere but a blanket generalization. And of course society views are changing and the work force is becoming more equal. Still, there is work to be done. Women are still held down from achieving positions of power and expertise and we still disproportionately make up workers in minimum and lower class jobs as well as the part time worker force which is too bad as I'm sure much talent and inspiration has been wasted.

In the United States, women's bodies are constantly sexualized and objectified. Ironically, however, the women in control of those bodies are expected to refrain from actually using them to express any kind of sexuality. That's largely because "purity culture"—essentially, the assumption that women need to remain chaste, and present an image of modesty to the outside world—is deeply ingrained in American society. The worldview is instilled in many American kids beginning at a young age through abstinence-only education, and constantly reinforced as women move through the adult world, too.

This approach to female sexuality has far-reaching consequences. Indeed, even though proponents of abstinence until marriage claim it's a directive that applies equally to both genders, purity culture has an outsized impact on women. Here are five examples of that unfair dynamic:

1. Women are more likely to get fired for having sex outside of marriage.

Employees at private religious institutions often have to sign some sort of sexual morality agreement that requires them to abstain from sex outside of marriage. But it's much easier to catch women violating that rule, since unmarried female employees who become pregnant have visible markers of their sexual activity. On Monday, Mother Jones published a round-up of the most recent cases of pregnant women getting fired for this reason—including several cases in which women were let go even though they were engaged to be married to the fathers of their unborn children.

2. Young women are blamed for our teen pregnancy rate.

Rather than addressing the root issues of unintended pregnancy, like combating poverty and ensuring greater access to sexual health resources, our country's efforts in this area typically focus on blaming individual young women for making bad choices. Teens who become pregnant are often held up as symbols of young adults who have failed. High schools that are committed to emphasizing abstinence sometimes bar pregnant girls from going to prom or appearing in the yearbook. And messages about making smart sexual choices are often specifically targeted to girls, ignoring boys' equal role in practicing safe sex.

3. Girls and women are responsible for avoiding men's gaze by covering up their bodies.

Starting from a very young age, girls constantly receive messages about their responsibility to cover up their bodies, particularly when they might end up "distracting the boys" with their revealing clothing. School dress codes typically define inappropriate clothing in a way that specifically targets girls' hemlines and necklines, without putting equal burden on young men. That attitude forces

women to work at preventing themselves from being ogled, rather than teaching men to avoid ogling in the first place. This dynamic persists into adulthood, too, as women are simultaneously encouraged to present themselves as objects of men's desire and condemned when they look too "slutty." Some women have actually lost their jobs because their bosses decided that being around them was too big of a "temptation."

4. Women's access to basic health care services is consistently called into question.

Thanks to women's reproductive systems, they require more specialized health services than men do. They need preventative services like birth control to avoid pregnancy, cancer prevention tools like Pap smears and HPV shots, and maternity care when they choose to start a family. That's why, before Obamacare was in place, women were often forced to spend much more on their health needs. But even now that the reform law has taken effect, conservatives continue to attack women's health care based on the idea that it's unnecessary to fund their decision to be promiscuous. All of the efforts to roll back access to birth control and abortion services have a simple ethos in common: the idea that the government shouldn't "subsidize" women's sex lives because women shouldn't be sexually active in the first place.

5. Once women give their consent, they're not allowed to withdraw it.

Our societal assumptions about women's purity and chastity are directly related to rape culture. Why? Because purity culture rests upon a worldview that once a women has sex outside of marriage, she's dirty. In that context, only virginal women can be raped—and any kind of other women who claims her consent was violated can't be trusted, because she was probably using her sexuality in a way that was "asking for it." Maybe her skirt was too short, or she was flirting too much, or she initiated a casual hookup. Her earlier decision to exercise her sexuality erases her credibility and her consent. The consequences of this particular approach to women's sexuality are evident every time a

rape victim attempts to come forward and is met with blame and harassment instead of support and trust.

3. **What recommendations do you have for women in the workforce?**

As an employer or business owner, you are concerned with results: making a profit, increasing your return on investment (ROI), and expanding the strength of your brand. But your greatest asset in achieving these goals is not your product or your business plan: it's your workforce. Your workforce consists of your company's employees: from entry level workers to administrators and upper level executives. Thinking of creative ways to nurture your workforce can help your business thrive financially and socially.

Identify your business's weaknesses. Whether you have just one employee or a workforce of hundreds, consider what the weak points of your business might be. Truly engaged business leaders are honest about their company's flaws and take steps to tackle them as opposed to ignoring them or minimizing the complexity of their problems.

Conduct a SWOT analysis to address your company's weaknesses honestly. SWOT stands for Strengths, Weaknesses, Opportunities and Threats. Perhaps your company excelled in sales last year, but lost a number of employees to a competing firm. Maybe you had the opportunity to partner with a nationally renowned brand but you lost the partnership due to shareholder pressure.
View hiring and recruiting as an opportunity to tackle some of your challenges as opposed to simply filling a need. Identify what goals you have as a company and look to your employees as stakeholders in your company's success.

Decide when you will hire new talent. The timing of recruiting might seem unimportant, but it can actually have an important impact on your business. Most employers hire during an upturn in the economy, but research has shown that hiring during a downturn -- a practice called counter-cyclical hiring-- can also help your business.[4]

Although you might be most concerned with minimizing costs during a downturn, this period can yield highly qualified applicants who will be a great investment for your company in the long term

Craft a compelling job ad. Attracting highly qualified talent will require some effort on your part, especially if your company is smaller and not as well known as your competitors. Your job ad should be a broader reflection of your company's values and broader culture.

Spread awareness about your job opportunities. Posting the job ad on popular job engine sites like Monster, Glassdoor, Indeed (or OpportunityKnocks and Idealist if you are non-profit) might seems like an obvious place to start, but you should also consider if you have any potential candidates on file already. Has anyone expressed interest in your business or profession when you weren't hiring?

- Looking at resumes that you have already on file might be helpful because you won't have to sift through hundreds of resumes you will receive when you post the job publicly.
- If you belong to a trade association or other professional organization, advertise the job through them as well. Let your network of colleagues at other companies know you are searching for new talent.
- Ask your employees if they know of friends or family members who might be interested in the job.

Conduct effective interviews. It can be difficult to get a truly in-depth view of a candidate over the course of an interview. But you should prepare for the interview so you can use it to its fullest potential.

Clearly communicate your company's story. At each point of the recruiting and hiring process, make sure you have clearly expressed your company's core values and goals. Define what you stand for and what kind of culture you create for your employees.

Build trust with your employees. The most effective method for doing this is to clearly communicate with your employees instead of withholding important information from them.

Explain the decisions you make with your employees and include their input. If you are taking the company in a new direction or pursuing a different venture, discuss this with them and make sure they know why. This will increase their own investment in the company.

Mentor your employees. Mentorship programs can have significant benefits for employees, from promoting retention to increasing productivity. Establishing a mentorship program between senior employees and newer hires will help your employees feel connected to the broader goals and values of the company.[15]

In addition to providing guidance and advice, mentors can help keep mentees accountable for meeting certain targets or completing different projects

Evaluate your employees. Establish a method of measuring employee performance so you can continuously make accommodating changes in staff, training, resources, or project structure. Keep in mind that developing a workforce is always a work-in-progress.

- Make your expectations clear. If you require that your employees reach a certain sales quota or win a minimum number of grants, then make this very clear to them early on in their hiring.

- Prepare your employees for performance reviews. Do not spring these reviews on employees out of the blue. Instead, you should have a standing date (say, twice every year, one in March and the other in October), so your employees will have time to prepare. Maintaining these forms of internal communication will help your employees contribute their best work to your company.
- Clearly communicate with your employees when they are not meeting expectations or when they could improve.

Protect your workforce from potential crises. While you probably have a clear vision for the growth of your company, you should anticipate potential pitfalls or obstacles. Anticipate ways you could restructure departments or merge different roles in the event of significant profit loss.

Value continual learning. Your employees will get more meaning from their work when they have the freedom to learn more and acquire new skills. Additional training should be positioned as a means to challenge your employees and to trust them with more responsibilities and a broader knowledge set.

- Encourage your employees to participate in conferences, seminars and even take extra courses or pursue an higher degree in their field.

Foster a social environment. Employees are far more likely to thrive in environments where they feel a personal connection to their colleagues and administrators. While you don't have to be close friends with your employees, you should foster an environment where your employees feel comfortable around each other.

- In addition to the standard holiday parties, consider having more informal happy hours, bowling nights, or outings to local places such as museums, theaters and sporting events.

Create a socially responsible culture. While your first focus is on making a profit and meeting your shareholder's expectations, you should consider the broader social imprint of your company. Valuing social welfare and making a profit are not mutually exclusive goals.

- Consider participating in corporate philanthropy programs with local non-profits or area foundations.

- Establish a volunteer program for employees where they can take a day every quarter to represent your company at a local non-profit.

- Keep in mind that it can take a long time to change your company's culture and improve the overall workforce. Be patient and make sure your employees know that you respect and value their contributions.

What Percentage of Women Work?

Current:

"In 1950 about one in three women participated in the labor force. By 1998, nearly three of every five women of working age were in the labor force. Among women age 16 and over, the labor force participation rate was 33.9 percent in 1950, compared with 59.8 percent in 1998.

63.3 percent of women age 16 to 24 worked in 1998 versus 43.9 percent in 1950.

76.3 percent of women age 25 to 34 worked in 1998 versus 34.0 percent in 1950.

77.1 percent of women age 35 to 44 worked in 1998 versus 39.1 percent in 1950.

76.2 percent of women age 45 to 54 worked in 1998 versus 37.9 percent in 1950.

51.2 percent of women age 55 to 64 worked in 1998 versus 27 percent in 1950.

8.6 percent of women age 65+ worked in 1998 versus 9.7 percent in 1950.

Source: U.S. Department of Labor: Changes in Women's Work Participation

Current:

"As more women are added to the labor force, their share will approach that of men. In 2008, women will make up about 48 percent of the labor force and men 52 percent. In 1988, the respective shares were 45 and 55 percent."

Women and Absenteeism

Current:

As you might expect because of home and family matters, "in 1998, about 4 percent of full-time workers were absent from their job during an average work week — meaning they worked less than 35 hours during the week because of injury, illness, or a variety of other reasons. About 5.1 percent

of women (including 5.6 percent of women aged 20 to 24) were absent in the average week, compared with 2.7 percent of men Among those absent, women were somewhat more likely to be absent for reasons other than injury or illness.

One-third of women's compared with less than one-quarter of men's absences were attributed to other reasons."

Prediction:

The number of women will continue to increase in the workforce. Women will continue to have primary responsibility for home and family matters, thus affecting work attendance negatively.

What Employers Can Do:

Employers will be challenged to provide family-friendly solutions for working people who need flexibility for child care and elder care. These solutions may include:

- job sharing,
- part-time employment,
- staff working from home or telecommuting,
- flexible starting and stop times and flexible core business hours, and
- periodic paid and unpaid work interruptions for child care and elder care.

Attendance systems that are inflexible will drive qualified and committed employees to employers that address family issues with creativity and concern.

Employers need to pay more attention to the Equal Employment Opportunity guidelines. They exist to create equity and too many employers are still working them as a numbers game because of reporting requirements.

As recommended by the Women Employed Institute, make women more aware of careers that offer higher pay opportunities. Most women's jobs are clustered in "female" occupations that pay poorly. Promote and educate women about these opportunities so women pursue opportunities for education in these higher paying opportunities.

Catalyst, which monitors the progress of women in the workplace, reported that as of 1998, only 2.7 percent of the highest-paid officers at Fortune 500 companies were women. Women continue to dominate lower paying domestic, clerical support, and administrative-type occupations.

Next, you'll take a look at how women have progressed in earnings and education and consider employers' opportunities to escalate the progress.

Interested in Women's Earnings and Education?

"The median weekly earnings of women age 35-44 as a percentage of men's increased from 58.3 percent to 73.0 percent from 1979 to 1993, a rise of 14.7 percentage points.

There also was an increase in the female-to-male earnings ratio among those age 45 to 54 from 1979 to 1993."

"In 1998, women in managerial and professional occupations earned much more per week than women in other occupations. Their median weekly earnings were 56 percent greater than those of technical, sales, and administrative support workers, the next-highest category."

"A look at women's earnings over the past 20 years shows a mixed picture of progress. Women's inflation-adjusted earnings have increased nearly 14 percent since 1979, whereas men's have declined by about 7 percent. But while women's earnings have improved relative to men's, full-time working women found themselves making only about 76 percent of what men earned in 1998. Earnings for women with college degrees shot up almost 22 percent over the past two decades but, for women without post-secondary education, there was little advancement."

"Women employed full time in professional specialty occupations earned $682 in 1998, more than women employed in any other major occupational category. Within this occupation group, women working as physicians, pharmacists and lawyers had the highest median earnings.

"Women's share of employment in occupations typified by high earnings has grown. In 1998, 46.4 percent of full-time wage and salary workers in executive, administrative, and managerial occupations were women, up from 34.2 percent in 1983, the first year for which comparable data are available. Over the same time period, women as a proportion of professional specialty workers rose from 46.8 percent to 51.6 percent.

"In contrast, there was relatively little change in women's share of full-time wage and salary employment in the remaining occupational groups. In 1983, women held 77.7 percent of administrative support occupations; in 1998, they still held 76.3 percent of those jobs." Women represented 7.9 percent of precision production, craft, and repair workers, in 1983 and in 1998.

Current:

"Among 1998 high school graduates, more women than men enrolled in college. As of October, 938,000 young women who graduated from high school in 1998 were in college while 906,000 young men were enrolled." The trend of more women attending college continues.

Prediction:

Pay to women will continue to lag the pay men earn in similar careers, even when the woman has more education. The trend of more women attending college will continue, although I'll look at the majors they are pursuing later in this feature.

Chosen studies are affecting both their pay and their employability potential.

Employers, most importantly, need to be knowledgable about the pay gap that still exists between men and women doing comparable work. Managers, at all levels, who control salaries and budgets, need to make a commitment to paying people, regardless of gender, the same amount of money for comparable work.

Women need to stay in touch with their own workplace. If a woman knows she is making less money than a man, and all other issues appear to be equal, she owes it to herself to take the case to her boss and to Human Resources. She can help to create a more gender-friendly workplace and promote her own worth.

Employers need to pay more attention to the Equal Employment Opportunity guidelines. They exist to create equity and too many employers are still working them as if they are a numbers game because of tracking and reporting requirements. I'd be so happy to see a genuine commitment to paying people equitably based on contribution.

As recommended by the Women Employed Institute, make women more aware of careers that offer higher pay opportunities. Most women's jobs are clustered in "female" occupations that pay poorly. Promote and educate women about these opportunities so women pursue opportunities for education in these higher paying opportunities.

Catalyst, which monitors the progress of women in the workplace, reported that as of 1998, only 2.7 percent of the highest-paid officers at Fortune 500 companies were women. Women continue to dominate lower paying domestic, clerical support, and administrative-type occupations.

{p}Next, let's take a look at current numbers of women in science and technology careers, predicted to offer great opportunities in the next decades. Then, we'll consider what employers can do to encourage the participation of women in these careers.

"According to the 2001 Current Population Survey (CPS) data, one out of ten employed engineers was a woman, while two of ten employed engineering technologists and technicians were women. Among engineering specialties, industrial, chemical, and metallurgical/materials engineers were the only occupations in which women were more highly represented than the overall percentage of total women engineers.

Among natural scientists, women represented 51.6 percent of medical scientists and 44.4 percent of biological and life scientists but accounted for a smaller portion of geologists and geodesists (24.0 percent), physicists and astronomers (7.7 percent).

"Employment of women has lagged in most of the high-tech occupations that show promise for future growth. Software and hardware providers have gained acceptance as mechanisms for preparing high-technology workers for employment opportunities in the field. The challenges for women are to find more pathways into high-tech occupations, and into opportunities in the new certification universe. They also need to enter high-tech occupations in greater numbers."

An increasing number of colleges are enrolling more women than men in their medical schools. "Women comprised just over 45 percent of applicants and new students at U.S. medical schools in 1999-2000. The proportion of women medical residents increased from 28 percent of all residents in 1989 to 38 percent in 1999 according to the Association of American Medical Colleges. *Women in US Academic Medicine Statistics 1999-2000."*

In the field of veterinary medicine, the progress of women is even further along. "Now most students at veterinary schools are women, and by 2005, women will become the majority in the profession, says the American Veterinary Medical Association. While the number of female veterinarians in the United States has more than doubled since 1991, to 24,356, the number of male veterinarians has fallen 15 percent, to 33,461."

Prediction:

Here's the challenge. Traditionally, career fields that became the purview of women became marginalized in terms of pay, prospects, and status. It's not the purpose of this article to trace that

history but instead to think about careers that were once male-dominated that are now overwhelmingly populated by women: clerical positions, administrative jobs, nursing, teaching, social work, and retail positions. Will veterinary medicine and the medical field, especially family practice, general, and internal medicine follow the same path?

The answer, unfortunately, is 'yes.' When women dominate a field, the field becomes less appealing and attractive as an occupation.

Additionally, while women are making progress, as a society, the statistics show the percentage of women moving into education for high technology and hard science careers is declining in 2002. (See the "Wired News" article below, as an example.

What Employers Can Do:

This is a tough area in which to make recommendations for employers. So much of an individual's set of interests and values is formulated early in life via the home and peer environment and school experiences and successes. While the world is making progress, as a society, girls and boys are still raised, counseled, and treated very differently. (This article, "Why Girls Don't Compute," from "Wired News," highlights some of the challenges.) There are, however, efforts employers can make.

Offer women training and education opportunities that will prepare them for promotion to positions in technology and science.

Hire an equal number of women into employer-sponsored training and education programs that will prepare them for a career path in higher paying, technology-related positions.

Expose women to technology and work with computers. Many have just not had the opportunity and may have an unrealistic understanding of the skills and knowledge required to successfully operate a computer.

Work with your local elementary school, middle school, high school, community college, and college to ensure that programs and educational opportunities are in place that exposes girls to technology, math, and science, in addition to the helping careers, early. Ensure that clubs, science project competitions, and all other opportunities, reach out equally to girls.

In this work environment, given the challenges employers face in creating flexible work environments and promoting women in careers with high pay and high status, is it any wonder that women are starting their own businesses in droves?

Interested in Women in Business?

Current:

"Women-owned businesses are privately held firms in which women own 51 percent or more of the firm. The U.S. Census Bureau's latest Survey of Women-Owned Business Enterprises (SWOBE) reported that women-owned 5,417,034 U.S. non-farm businesses in 1997. Women-owned businesses made up 26.0 percent of the nation's 20.8 million non-farm businesses, employed 7.1 million paid workers, and generated $818.7 billion in sales and receipts.

"For businesses owned by minority women, Hispanic women-owned 337,708 firms; black women-owned 312,884 firms; Asian and Pacific Islander women-owned 247,966 firms; and American Indian and Alaska Native women-owned 53,593 firms. White non-Hispanic women-owned 4,487,589 million firms.

"Over half (55 percent) of women-owned firms were in the services industry in 1997. Within the services industry, women were most likely to operate firms in business services (769,250 firms) and personal services (634,225 firms). The combined sales and receipts for these two sectors totaled $78.3 billion.

"Women-owned businesses had total sales and receipts of $818.7 billion in 1997. The four industries that produced the largest total revenues for women-owned businesses in 1997 were wholesale trade, services, retail trade, and manufacturing. Women-owned firms operating in wholesale trade--durable and non-durable goods--recorded receipts of $188.5 billion.

"Those operating in services--for example, hotels and other lodging places; personal services; business services; auto repair, services, and parking; miscellaneous repair services; motion pictures; amusement and recreation services; health services; legal services; and educational services--had sales of $186.2 billion. Women-owned firms in retail trade had sales of $152.0 billion and those in manufacturing had sales of $113.7 billion.

"Nearly three-fourths (72 percent) of minority women-owned firms operated in the services (531,532 firms) and retail trade (133,924 firms) industries. Firms owned by minority women recorded total sales and receipts of $84.7 billion in 1997. Those owned by Asian and Pacific Islander women earned $38.1 billion; Hispanic women, $27.3 billion; black women, $13.6 billion; and American Indian and Alaska Native women, $6.8 billion."

Prediction:

Employers will be unable to meet the flexibility requirements of many women. Women-owned businesses will become the career of choice for many women. Women-owned employer firms grew by 37 percent from 1997 to 2002, four times the growth rate of all employer firms.

While the majority of firms started by women since 1997 are in the service industry, there are a growing number of women starting firms in nontraditional industries such as construction and finance. The Center for Women's Business Research provides an article based on unpublished census data and other original research sources to present these figures.

What Employers Can Do:

Employers can follow the recommendations made in the first three parts of this article to stem the tide of talented women starting their own businesses. But, the tidal wave has started and will be difficult to stop. Women are increasingly in touch with the flexibility, empowerment, and challenge inherent in owning and operating a small business, large business, or even a home-based business or sole-proprietorship. Increasingly, employers will compete with this option for talented female employees.

Why Diversity at work place matters.

From encouraging better team performance to improving your ability to hire, here are five reasons why HR needs to focus on D&I

While diversity and inclusion (D&I) has been on the radar of smart organisations for years, in recent months the impetus for true inclusion has grown significantly, with high-profile initiatives such as gender pay gap reporting in the UK, and the widespread reporting of sexual harassment in the film industry, pushing the agenda forward significantly.

Here are the top five reasons why it's vital that D&I is top of your organisation's people agenda.

1. You'll have a better understanding of your customers

Let's start with one of the most obvious business cases for better D&I: to enable your organisation to understand the customers it serves. In 2014, the nearly 12 million disabled people in the UK were estimated to have a combined disposable income of around £80 billion. Yet 2017 figures suggest that only 3.4 million disabled people are in employment. The organisations who employ disabled workers will, arguably, be able to design products and services that suit their needs – potentially giving them a significant competitive edge. The same reasoning applies to customers in other demographic groups, too.

Organisations are slowly realising the business benefits of diversity. Nearly half (49%) of employers surveyed for LinkedIn's Global Recruiting Trends 2018 said they focus on diversity to better represent their customers. Other key reasons cited by respondents included 'to improve company culture' (78%) and 'to improve company performance' (62%).

2. Diverse teams perform better

Cognitively diverse teams solve problems faster than teams of cognitively similar people, according to 2017 research published in *Harvard Business Review*. The researchers noted that, while many organisations might already be cognitively diverse, "people like to fit in, so they are cautious about sticking their necks out. When we have a strong, homogeneous culture, we stifle the natural cognitive diversity in groups through the pressure to conform."

Meanwhile a 2013 report by Deloitte found that when employees 'think their organisation is committed to and supportive of diversity, and they feel included', their ability to innovate increases by 83%.

Diverse teams have also been found to make decisions 60% faster than non-diverse teams. "Unfortunately, non-inclusive decision-making is all too common," says report author Erik Larson. "All-male teams make about 38% of the decisions in a typical large company, and

the gap is even worse among less diverse firms like those in Silicon Valley's technology industry."

3. Greater innovation and creativity

Having a workforce comprised of people with different backgrounds, experiences and skills means the ideas generated by these teams won't be homogenous – they'll be innovative and creative. And this can have a significant impact on an organisation's bottom line; US public companies with a diverse executive board have a 95% higher return on equity than those with non-diverse boards, according to a McKinsey study.

4. It'll be easier to hire and retain talent

Supporting employee networks for specific demographic groups – based on gender, sexuality, ethnicity or religion, for example – has a direct link to employee retention and engagement, a 2017 study by Women Ahead found. On the report's launch, Women Ahead founder and CEO Liz Dimmock, said: "Networks aren't just a nice thing to talk about. They're a really key business enabler that leads to bottom line performance, productivity and innovation."

Some organisations are looking beyond D&I to the concept of 'belonging' – a key focus cited by 57% of organisations surveyed for LinkedIn's Global Recruiting Trends 2018. "Here's why: diversity is being invited to the party, inclusion is being asked to dance, and belonging is dancing like no one's watching," said the report. "Belonging is the feeling of psychological safety that allows employees to be their best selves at work. Even at the most diverse of companies, employees will disengage and leave if they don't feel included and accepted."

5. It'll boost your employer brand

With larger UK organisations required to publicly disclose their gender pay gaps for the first time in April 2018, there is more public awareness than ever of companies' D&I initiatives (or lack of them).

In a 2017 survey by PwC, 54% of women and 45% of men surveyed said they researched if a company had D&I policies in place when deciding to accept a position with their most recent employer. A further 61% of women and 48% of men said they assessed the diversity of the company's leadership team when deciding to accept an offer.

So it makes sense that, according to a recent Glassdoor study, more than a third (35%) of hiring decision-makers at UK organisations expect to increase their investment in D&I. More than half (59%) said that a lack of investment in D&I was a barrier to attracting high-quality candidates, while a fifth (20%) said D&I initiatives were among the most significant factors that influenced a candidate's decision to join an organisation.

4. Do you think there will be a new glass ceiling in the future? If so, who will it impact?

The glass ceiling is the invisible barrier that prevents women and minorities from rising to the highest ranks in a corporation. What you may not realize is just how pervasive the glass ceiling still is, even several years into the 21st century. You may also be unaware of the steps you can take to fight this subtle form of discrimination. Here is what every working woman should know about the glass ceiling effect.
The glass ceiling effect is the pervasive resistance to the efforts of women and minorities to reach the top ranks of management in major corporations. It is unclear exactly who named the phenomenon, but the term was heavily used during the mid-1980s. Women who entered the workforce in large numbers during the late 1970s and early 1980s found themselves unable to advance beyond a certain level of management.

In the 1980s, the term "glass ceiling" was often used in tandem with another term, "mommy track." At that time, it was common for women of childbearing age to be considered less motivated and less disciplined than male employees or older females. The perception was that women would take extensive time off or leave the workforce altogether once they had children. If women did return to work, they were believed to be less dedicated employees because of their maternal duties. Thus, many companies shunted young women onto the "mommy track," a sort of sideline in which promotions and raises never resulted in the woman being granted duties that could have a real effect on the company.

The mommy track was made largely obsolete by a combination of factors.
The Family and Medical Leave Act of 1993 compels employers to grant any eligible employee, male or female, 12 weeks of unpaid leave within any 12 month period for, among other conditions, the birth or adoption of a child. This Act enables women to remain in the workforce following childbirth by allowing them a reasonable period of time to stay at home. Furthermore, the inclusion of men in the protections of the Act allows fathers to stay at home as well. If the family can afford to live on one income for long enough, the parents can alternate their leave, resulting in one parent or the other being at home for the first six months of the child's life.

Legal challenges and a change in thinking have led many employers to offer additional leave time, some with pay, to new parents as well. Increasingly, companies are also offering additional perks to encourage employees of both genders to find a balance between work and home life. Some of these perks include flexible scheduling, the ability to bring a child to work for the day and even employer-run daycare facilities.

While the issue of the mommy track has largely been addressed, the problem of the glass ceiling effect remains. Women are no longer shunted into a completely different career track. Instead, they find themselves almost - but not quite - reaching the top ranks. The glass ceiling is so named because it is a point beyond which women cannot reach or a ceiling on their advancement. The ceiling is made of glass because the woman can see beyond. In today's lawsuit-driven society, employers hesitate to create a written policy that blatantly discriminates against women.
Instead, many of the companies where a glass ceiling exists seem as stymied as the rest of us by how to effectively crack the barrier. It appears that long-standing biases and prejudices are now the cause of the glass ceiling.

Minority men are also affected by this phenomenon. Some Asian groups have taken to calling it the bamboo ceiling, as they are repeatedly passed over for promotions in favor of less-qualified white

men.

A 2003 report by the federal Glass Ceiling Commission showed that only seven to nine percent of upper management at Fortune 1000 firms were women. According to a 2005 article by Paul Igasak on the Wall Street Journal's Career Journal site, a similar study showed that 97 percent of top executives at the same companies were white. Clearly, the effect is extremely pervasive throughout all sorts of industries.

Unfortunately, there are no guaranteed strategies that will help an individual break through the glass ceiling. Although there are certainly exceptions to every rule, by and large both women and minorities should expect that their climb to the top will be difficult. You may need to prove yourself twice as much as your male coworkers, especially if you happen to be both female and a minority. Take on extra assignments, particularly those that are high-profile. Make a point of bonding with the supervisor a level up from your own. Document all of your achievements and present them succinctly at each review.

Become a part of the managerial network, even if it feels a bit too "boys club" for your tastes. In short, prove that you are not only highly qualified, but that you are one of them.

Alternatively, consider working for a female-owned company or start your own. There are a lot of grant programs that are specifically designed to help female-owned businesses get off the ground. If you choose to work for a female-owned company, however, remember that this is no guarantee that your struggles will be any less. Some women who become successful develop a hard edge and bitterness and feel that they clawed their way to the top and so should every woman after them. Of course, other female top executives feel the exact opposite and strive to make things easier for women who follow.

Likewise, many top male executives enjoy the status quo and relish their position of power and have personal biases against women who try to intrude on what they see as their territory. Other top male executives see the system as antiquated and unfair and actively strive to break the glass ceiling from above. In short, whether your company is dominated by men or women at the top ranks, personalities are individual and varied. Your path to the top will be unique and will require that you read the situation and work within the system as much as possible.

Recent headlines tell the story that the popular media wants us to believe about women in the executive suite: "Women Gain Numbers, Respect in Board Rooms," "New Career Trend: She Goes, He Follows," "Women Entrepreneurs Have Come a Long Way,"Women are Liberating a Citadel of Male Power," and "You've Come a Long Way, Baby."

Clever as the headlines are, these depictions of women's success in the corporate world are misleading. Increasingly, women are bumping into a "glass ceiling." Ann Morrison describes the problem: the glass ceiling is a barrier "so subtle that it is transparent, yet so strong that it prevents women from moving up the corporate hierarchy." From their vantage point on the corporate ladder, women can see the high-level corporate positions but are kept from "reaching the top" *(Breaking the Glass Ceiling).*

According to Morrison and her colleagues, the glass ceiling "is not simply a barrier for an individual, based on the person's inability to handle a higher-level job. Rather, the glass ceiling *applies to women as a group* who are kept from advancing higher *because they are women.'*

What causes the "glass ceiling?" Here is what women executives think.

Job Segregation Runs Rampant

Just as the overall labor market remains sharply segregated by sex, women executives are concentrated into certain types of jobs - mostly staff and support jobs - that offer little opportunity for getting to the top. A 1986 *Wall Street Journal* survey found "The highest ranking women in most industries are in non-operating areas such as personnel, public relations, or, occasionally, finance specialties that seldom lead to the most powerful top-management posts." Women are locked out of jobs in the "business mainstream," the route taken by CEOs and presidents. But even when women can get a line job, it is not likely to be "in a crucial part of the business" or the type of job that can "mark them as leaders."

Old-Boy Network Still Strong

According to one executive recruiter, the biggest barrier to women in top management levels is the "bunch of guys sitting together around a table" making all the decisions. In short, when deciding who to promote into management, male corporate leaders tend to select people as much like themselves as possible - so it is no surprise that women are frequently not even considered at promotion time. Instead, the men at the top look to former colleagues and old school ties; in both areas, women have been virtually absent.

Women executives are frequently excluded from social activities and often describe the "clubbiness" among the men that exists at the top. The corporate executive suites are "the ultimate boys' clubs."

Even on a more formal level, women report there are "certain kinds of meetings" they don't get invited to because they are not seen as policy makers. Corporate women don't travel on business as frequently as men, according to surveys by Korn/Ferry Intemational (1982) and *Wall Street Joumal*/Gallup (1984). Studies confirm these differences in status and the different treatment of women. One study found that among executives at the same level, men "managed greater numbers of people, had more freedom to hire and fire, and had more direct control of the company's assets" than women (Harlan and Weiss).

Sex Discrimination Is Pervasive

In the *Wall Street Journal*/Gallup survey, women managers were asked what they consider to be the most serious obstacle in their business careers. *Only 3% cited "family responsibilities,"* but half named reasons related to their gender, including: "male chauvinism, attitudes toward a female boss, slow advancement for women, and the *simple fact of being a woman.*" In the survey by Korn/Ferry International, executive women were asked to name the greatest obstacle they had to overcome to achieve success; the most frequent response was simply "being a woman" (40%). In a recent poll of 12,000 workers by the *Los Angeles Times*, two-thirds reported sex discrimination; 60% saw signs of racism.

More than 80% of the executive women in the *Wall Street Journal*/Gallup study said they believe there are disadvantages to being a woman in the business world. Men, they say, "don't take them seriously." In the same survey, 61% of the women executives reported having been mistaken for a secretary at a business meeting; 25% said they had been thwarted on their way up the ladder by male attitudes toward women. A significant majority - 70% - believed they are paid less than men of equal ability.

Sexual Harassment Is Widespread

Sexual harassment remains a serious problem for women in the managerial ranks. In a 1988 survey of Fortune 500 executives by *Working Woman* magazine, 90% of large corporations reported sexual harassment complaints by women employees. The survey found that "more than a third of the companies had been sued by victims, a quarter had been sued repeatedly." But, according to the same study, only 20% of offenders lose their jobs; 4 in 5 are merely reprimanded.

Sexual harassment "puts a woman in her place," so a corporate environment that tolerates sexual harassment intimidates and demoralizes women executives. Many women hesitate to speak out, fearing it will jeopardize their careers.

Enforcement of Anti-Discrimination Laws Is Lax

The Reagan and Bush Administrations have gutted the federal government's commitment to affirmative action. As a result, equality has dropped off the corporate agenda. A 1983 survey of 800 business leaders by Sirota & Alpen Associates found that *out of 25 human resource priorities, affirmative action for women and minorities ranked 23rd.*

With an increasingly conservative majority, the Supreme Court has issued a series of seven decisions on equal employment opportunity laws that make it harder for women and minorities to successfully wage discrimination lawsuits. Collectively, these decisions represent a major shift in employment laws put in place during the past 25 years. According to the *Civil Rights Monitor,* the Court!s latest decisions "make it harder for women and minorities to prove discrimination, make it easier for those opposed to civil rights consent decrees to challenge them, narrow the coverage of civil rights statutes, and limit the award of attorney's fees" *(Civil Rights Monitor).*

Finally, men in corporate management tend not to perceive discrimination as a real problem, thereby making it virtually impossible to implement effective remedies. According to an exhaustive study by John P. Fernandez, white men consistently ranked problems encountered by women executives as insignificant compared to how women ranked them. So without constant pressure from the outside and strong legal remedies, the very real problems of race and sex discrimination in the executive suite may never be adequately addressed.

Unfortunately, there are no guaranteed strategies that will help an individual break through the glass ceiling. Although there are certainly exceptions to every rule, by and large both women and minorities should expect that their climb to the top will be difficult. You may need to prove yourself twice as much as your male coworkers, especially if you happen to be both female and a minority. Take on extra assignments, particularly those that are high-profile. Make a point of bonding with the supervisor a level up from your own. Document all of your achievements and present them succinctly at each review.
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Likewise, many top male executives enjoy the status quo and relish their position of power and have personal biases against women who try to intrude on what they see as their territory. Other top male executives see the system as antiquated and unfair and actively strive to break the glass ceiling from above. In short, whether your company is dominated by men or women at the top ranks, personalities are individual and varied. Your path to the top will be unique and will require that you read the situation and work within the system as much as possible.

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"Companies have to think about how they can nurture that ambition. The only way is to hold chairmen and chief executives responsible. Good governance is good governance and it shouldn't be gender-specific."

A separate recent report by the London School of Economics for cosmetics company Avon predicted a doubling in young female entrepreneurs over the next decade, with 72% of the 2,000 16-24-year-old women questioned saying the idea of being their own boss appealed to them.

Karren Brady, vice-chairman of West Ham United and an Avon mentor, said she believed young women would "define the next generation of entrepreneurship and rewrite the rules in this perceived male-dominated world".

Liz Gardiner, head of policy at Working Families, a charity which campaigns for parents and carers, said the trend towards more women entrepreneurs sent out a message about the need for change to the overall design of work. "One of the reasons women want to set up businesses is because they have more control over the hours they work," she said.

She said there was plenty of evidence that in many UK workplaces there was discrimination, "particularly against those who choose to be mothers, and also against those who choose non-traditional patterns of work".

Lord Davies's report into why Britain's boardrooms are so male-dominated, to be published later this week, will reportedly urge FTSE 100 companies to set voluntary targets for appointing female executives rather than imposing quotas, a policy that operates successfully in Norway and other countries.

Just under half of women responding to the ILM survey were in favour of boardroom quotas, although enthusiasm for the idea rose among the over 45s, with two-thirds of older women workers supporting the idea.

De Valk said imposing boardroom quotas would be an admission of failure for business leaders. "If early predictions about the Lord Davies review are correct, UK businesses have two years to increase the number of women on their boards," she said.

"Rather than waiting for external legislation, now is the time for employers to set voluntary targets for female representation at board and senior management level, and hold people accountable for meeting them. Business leaders must take responsibility for building an effective talent pipeline, and make it a commercial priority to proactively identify, develop and promote potential leaders of both sexes."

Anna Bird, acting chief executive of the Fawcett Society, said: "The report highlights just how far the UK has got to go on workplace equality between women and men. A lot of things come together to keep women out of leadership roles.

"Outdated stereotypes about men and women's different roles in the workplace have an insidious effect on our cultural attitudes about who should do which jobs.

"The lack of high profile women role models can make it hard for both women and men to imagine women running the show.

"The world of work has not caught up with the needs of modern families where both parents work, with few senior positions offering flexibility around working hours – and it is still on the whole women who require flexibility in order to manage childcare commitments, thus restricting their career. Sexism, including women being passed over for top jobs, serves to further reinforce the glass ceiling.

"All this can limit women's expectations for their career and acts as a brake on ambition."

She went on: "Many years of tapping away at the glass ceiling have left it stubbornly intact. It is time we put aside our drip-drip tactics and took bold action to achieve real change.

"Boardroom quotas are a radical – but not unthinkable means of bringing about a dramatic shift in the role of women in business.

"They are not an end in themselves, and must be part of a package of measures designed to create a more representative and successful business norm – for example there must also be wider awareness of incidental discrimination, and action to tackle it. But one only has to look at the success enjoyed by those countries that have embraced quotas to see it makes business sense.

Two decades ago, people began using the “glass ceiling” catchphrase to describe organizations’ failure to promote women into top leadership roles. Eagly and Carli, of Northwestern University and Wellesley College, argue in this article (based on a forthcoming book from Harvard Business School Press) that the metaphor has outlived its usefulness. In fact, it leads managers to overlook interventions that would attack the problem at its roots, wherever it occurs. A labyrinth is a more fitting image to help organizations understand and address the obstacles to women’s progress.

Rather than depicting just one absolute barrier at the penultimate stage of a distinguished career, a labyrinth conveys the complexity and variety of challenges that can appear along the way. Passage through a labyrinth requires persistence, awareness of one’s progress, and a careful analysis of the puzzles that lie ahead. Routes to the center exist but are full of twists and turns, both expected and unexpected.

Vestiges of prejudice against women, issues of leadership style and authenticity, and family responsibilities are just a few of the challenges. For instance, married mothers now devote even more time to primary child care per week than they did in earlier generations (12.9 hours of close interaction versus 10.6), despite the fact that fathers, too, put in a lot more hours than they used to (6.5 versus 2.6). Pressures for intensive parenting and the increasing demands of most high-level careers have left women with very little time to socialize with colleagues and build professional networks—that is, to accumulate the social capital that is essential to managers who want to move up.

The remedies proposed—such as changing the long-hours culture, using open-recruitment tools, and preparing women for line management with appropriately demanding assignments—are wide ranging, but together they have a chance of achieving leadership equity in our time.

If one has misdiagnosed a problem, then one is unlikely to prescribe an effective cure. This is the situation regarding the scarcity of women in top leadership. Because people with the best of intentions have misread the symptoms, the solutions that managers are investing in are not making enough of a difference.

That there is a problem is not in doubt. Despite years of progress by women in the workforce (they now occupy more than 40% of all managerial positions in the United States), within the C-suite they remain as rare as hens’ teeth. Consider the most highly paid executives of *Fortune* 500 companies—those with titles such as chairman, president, chief executive officer, and chief operating officer. Of this group, only 6% are women. Most notably, only 2% of the CEOs are women, and only 15% of the seats on the boards of directors are held by women. The situation is not much different in other industrialized countries. In the 50 largest publicly traded corporations in each nation of the European Union, women make up, on average, 11% of the top executives and 4% of the CEOs and heads of

boards. Just seven companies, or 1%, of *Fortune* magazine's Global 500 have female CEOs. What is to blame for the pronounced lack of women in positions of power and authority?

In 1986 the *Wall Street Journal*'s Carol Hymowitz and Timothy Schellhardt gave the world an answer: "Even those few women who rose steadily through the ranks eventually crashed into an invisible barrier. The executive suite seemed within their grasp, but they just couldn't break through the glass ceiling." The metaphor, driven home by the article's accompanying illustration, resonated; it captured the frustration of a goal within sight but somehow unattainable. To be sure, there was a time when the barriers were absolute. Even within the career spans of 1980s-era executives, access to top posts had been explicitly denied. Consider comments made by President Richard Nixon, recorded on White House audiotapes and made public through the Freedom of Information Act. When explaining why he would not appoint a woman to the U.S. Supreme Court, Nixon said, "I don't think a woman should be in any government job whatsoever…mainly because they are erratic. And emotional. Men are erratic and emotional, too, but the point is a woman is more likely to be." In a culture where such opinions were widely held, women had virtually no chance of attaining influential leadership roles.

Times have changed, however, and the glass ceiling metaphor is now more wrong than right. For one thing, it describes an absolute barrier at a specific high level in organizations. The fact that there have been female chief executives, university presidents, state governors, and presidents of nations gives the lie to that charge. At the same time, the metaphor implies that women and men have equal access to entry- and midlevel positions. They do not. The image of a transparent obstruction also suggests that women are being misled about their opportunities, because the impediment is not easy for them to see from a distance. But some impediments are not subtle. Worst of all, by depicting a single, unvarying obstacle, the glass ceiling fails to incorporate the complexity and variety of challenges that women can face in their leadership journeys. In truth, women are not turned away only as they reach the penultimate stage of a distinguished career. They disappear in various numbers at many points leading up to that stage.

5. What can employers do to help women in the workforce?

The Mother's Day budget announcement that parents would not be eligible for Paid Parental Leave from both the government and their employer was saddening to say the least. This counter-intuitive policy shows the government is disregarding research around the benefits of quality time in the first year where mothers can bond and establish breastfeeding with their child.

Apart from supporting campaigns to encourage the government to revisit their policy there is wider responsibility the business community should acknowledge. PPL combined with other programs to support and help retain staff, have real impacts on productivity and make employees happier and more engaged. These should be part of the push to address gender equity in the workplace and support working parents, contributing to the economy especially mothers. Here are 5 things businesses can consider:

Internships for parents to return to work after a career break

Employers since the dawn of time having been using internships as a 'try before they buy' short term program to recruit graduates. It saves a bucket in recruitment costs, recruits skilled staff and the participants have an opportunity to find out what it's really like on the 'inside'. Some internships are paid and others are not, but the idea is that both the candidate and the employer benefit from the opportunity. For mums it can be a confidence builder, an opportunity to rule in or out a career direction and a chance to reflect on the skills and experience developed as a former full time worker and more recently a mum. The Fair Work Act would need to be amended to accommodate unpaid internships for parents but what is to stop organizations from implementing paid internships now?

Help with child care

Childcare is an emotive issue for many first time parents. Compound that with an impending return to work date and no response from the local childcare service, things become very stressful. Employers can ease this stress through on-site childcare, guaranteed childcare spots or support with childcare costs. If parents are unhappy with their child care choices they find it difficult to focus, are less productive and find their work and home relationships suffer. A parent accessing quality childcare has a direct impact on a successful transition back to work for parents.

Offer (genuine) flexibility

You can't talk about flexibility in a workplace without some organisations considering substantial cultural change. Leaving before 6:00pm in some organizations would be seen as a lack of commitment. But many organizations are moving away from 'face time' being a measure of productivity. Flexibility can be offered in terms of hours, place of work, type of contract and type of work. Organizations that employee these benefits successfully, know and understand their employees, how they work and establish flexibility built around their strengths and weaknesses.

Career development support

Having a baby is a huge transitional point in a mother's life and most times, her career too. No matter how long you have taken off after having a baby, life has fundamentally changed. It can make parents think differently about their roles, organisation and contribution to society and responsibility to their new child. There is also the added layer of emotions, which may be anything from wild jubilation at returning to their role through to guilt and the stress. Having a supportive program built into Parental Leave can provide organisations with mechanisms to touch base, provide support and direction to the new mum and opportunities to address issues like, flexibility, career direction,

workload. It can be time of reflection where programs can provide opportunities for re-training or updating skills in order to build confidence in preparation for a return to work.

Rename PPL Entitlements to be a return to work incentive scheme

Employers could use some of Google or Apple's creative channelling to allow parents access to both schemes even if the legislation is passed through the Senate. Employer contributions could be re-packaged as a Double Irish Dutch Back to Work sandwich, a return to work 'bonus' or a professional development contribution. Employers are offering these policies to incentivise a return to work for their employees. They have made a significant investment in developing and training their staff and they want to develop a long-term return on their investment, which is what Paid Parental Leave offers. Neither parents nor employers should be penalised for offering incentivised program which directly impact women's labour participation rate.

It's a tough climb to the c-suite — especially for women.

Women make up only 4.6% of CEOs in S&P 500 companies, according to 2015 numbers from advocacy group Catalyst. Women accounted for only 3.3% of CEOs in the top 100 companies in Silicon Valley in 2014, according to numbers from Fenwick.

It's not as though these companies have a small pool of women to choose from. In fact, women make up 45% of the labor force in S&P 500 companies. But that percentage dwindles on each step of the corporate ladder, meaning that there are fewer female candidates in the pipeline when it comes time to name a new manager, board member, or executive.

And that's ultimately bad business for companies.

One Massachusetts Institute of Technologystudy found that an even gender split increased a company's revenue by 41%, and a Catalyst study found that companies with more women on their boards performed better when it came to sales, equity, and invested capital.

In short: more women at the top can lead to better business.

And as we celebrate Women's Equality Day on 2015, women should be asking themselves what they can do to help other women in their companies rise to the top.

Robin Ely, a professor at Harvard Business School, told *Mashable* that research suggests that, despite stereotypes, women don't fall victim to the so-called "queen bee" phenomenon — and that most women at the top do want to help women.

"Senior women are very committed to the advancement of other women, but they don't necessarily know what needs to be done," Ely said.

Here's what women — at all levels of management — can do to help other women to rise through the ranks.

Identify — and address — second-generation bias

Even the most staunch feminists can be plagued by subconscious stereotypes.

Sexism in the modern workplace is far more subtle, but it can still prevent women from promotions. It persists in the form of second-generation bias: policies that apply to everyone and appear gender-neutral on paper, but disproportionately disadvantage women in practice.

We want our leaders to be strong, assertive, and confident — but countless studies have shown that women can face backlash — whether it's being labelled as a "bitch" or getting passed over for a promotion — for not complying to feminine stereotypes.

"Second-generation bias, is — by its very nature — subtle and inadvertent," Ely, who co-authored a study on the second-generation bias, told *Mashable*.

Though it's subtle, it can have profound effects on how we regard women in the workplace.

Second-generation bias can also seep into company policies. Take Netflix's new and news-making parental leave policy for instance, which offers new mothers and fathers unlimited leave in the first year after their child is born.

While the policy was lauded by some, it was criticized by others who feared that women who actually took the full-time off would be penalized when it came time for promotion.

So what can women do to combat this bias?

Educate themselves and others, Ely says. And the best way to do that is for women to come together, talk about their experiences in the workplace, and strategize solutions.

"As you go up the hierarchy, you find fewer and fewer women. They don't have many opportunities to come together and really learn from each other," Ely told *Mashable.* " They very often don't realize how much of what they experience is gendered, and how much they have in common with other women in their level."

But when women form affinity groups, they can make a deeper impact. Women can band together to identify these biases, and speak up that company policies and practices need to be revised.

Be a mentor, not a competitor

At companies where women are the minority, it might seem tempting to fall into the trap of competing with other women. But that misses the point.

"One person's success does not mean another person's failure," Patricia Foster, the program director of Bentley University's Center for Women and Business, told *Mashable*.

"Women should make an active decision not to engage in that competition and support one another." One easy way to support other women is through a mentorship relationship.

A good mentor can provide career advice, counsel during stressful times, and unwavering support. And you don't have to be a member of the c-suite to provide guidance to another female employee, either. Ely says that women should seek out mentors who are only one step ahead in their career —

their advice can be invaluable since they made it to the next step in the management hierarchy fairly recently.

And you can have more than one mentor as well. Seek out mentors with varied experience to get varied perspectives on your career.

"I'm a woman who has had a varied career path, so I can give excellent advice from that perspective," Ely said. "I think you gain wisdom and value from people with varied backgrounds."

Some companies set up their own mentoring programs, which can pair employees with mentors. If your company doesn't have a mentoring program, then seek one out. And be bold enough to ask an older employee to provide that advice.

Taking the measure of the labyrinth that confronts women leaders, we see that it begins with prejudices that benefit men and penalize women, continues with particular resistance to women's leadership, includes questions of leadership style and authenticity, and—most dramatically for many women—features the challenge of balancing work and family responsibilities. It becomes clear that a woman's situation as she reaches her peak career years is the result of many turns at many challenging junctures. Only a few individual women have made the right combination of moves to land at the center of power—but as for the rest, there is usually no single turning point where their progress was diverted and the prize was lost.

What's to be done in the face of such a multifaceted problem? A solution that is often proposed is for governments to implement and enforce antidiscrimination legislation and thereby require organizations to eliminate inequitable practices. However, analysis of discrimination cases that have gone to court has shown that legal remedies can be elusive when gender inequality results from norms embedded in organizational structure and culture. The more effective approach is for organizations to appreciate the subtlety and complexity of the problem and to attack its many roots simultaneously. More specifically, if a company wants to see more women arrive in its executive suite, it should do the following:

Increase people's awareness of the psychological drivers of prejudice toward female leaders, and work to dispel those perceptions.

Raising awareness of ingrained bias has been the aim of many diversity-training initiatives, and no doubt they have been more helpful than harmful. There is the danger they will be undermined, however, if their lessons are not underscored by what managers say and do in the course of day-to-day work.

Change the long-hours norm.

Especially in the context of knowledge work, it can be hard to assess individuals' relative contributions, and managers may resort to "hours spent at work" as the prime indicator of someone's worth to the organization. To the extent an organization can shift the focus to objective measures of productivity, women with family demands on their time but highly productive work habits will receive the rewards and encouragement they deserve.

Reduce the subjectivity of performance evaluation.

Greater objectivity in evaluations also combats the effects of lingering prejudice in both hiring and promotion. To ensure fairness, criteria should be explicit and evaluation processes designed to limit the influence of decision makers' conscious and unconscious biases.

Use open-recruitment tools, such as advertising and employment agencies, rather than relying on informal social networks and referrals to fill positions.

Recruitment from within organizations also should be transparent, with postings of open positions in appropriate venues. Research has shown that such personnel practices increase the numbers of women in managerial roles.

Ensure a critical mass of women in executive positions—not just one or two women—to head off the problems that come with tokenism.

Token women tend to be pegged into narrow stereotypical roles such as "seductress," "mother," "pet," or "iron maiden." (Or more colorfully, as one woman banker put it, "When you start out in banking, you are a slut or a geisha.") Pigeonholing like this limits women's options and makes it difficult for them to rise to positions of responsibility. When women are not a small minority, their identities as women become less salient, and colleagues are more likely to react to them in terms of their individual competencies.

Avoid having a sole female member of any team.

Top management tends to divide its small population of women managers among many projects in the interests of introducing diversity to them all. But several studies have found that, so outnumbered, the women tend to be ignored by the men. A female vice president of a manufacturing company described how, when she or another woman ventures an idea in a meeting, it tends to be overlooked: "It immediately gets lost in the conversation. Then two minutes later, a man makes the same suggestion, and it's 'Wow! What a great idea!' And you sit there and think, 'What just happened?'" As women reach positions of higher power and authority, they increasingly find themselves in gender-imbalanced groups—and some find themselves, for the first time, seriously marginalized. This is part of the reason that the glass ceiling metaphor resonates with so many. But in fact, the problem can be present at any level.

Help shore up social capital.

As we've discussed, the call of family responsibilities is mainly to blame for women's underinvestment in networking. When time is scarce, this social activity is the first thing to go by the wayside. Organizations can help women appreciate why it deserves more attention. In particular, women gain from strong and supportive mentoring relationships and connections with powerful networks. When a well-placed individual who possesses greater legitimacy (often a man) takes an interest in a woman's career, her efforts to build social capital can proceed far more efficiently.

Prepare women for line management with appropriately demanding assignments.

Women, like men, must have the benefit of developmental job experiences if they are to qualify for promotions. But, as one woman executive wrote, "Women have been shunted off into support areas for the last 30 years, rather than being in the business of doing business, so the pool of women trained to assume leadership positions in any large company is very small." Her point was that women should be taught in business school to insist on line jobs when they enter the workforce. One

company that has taken up the challenge has been Procter & Gamble. According to a report by Claudia Deutsch in the New York Times, the company was experiencing an executive attrition rate that was twice as high for women as for men. Some of the women reported having to change companies to land jobs that provided challenging work. P&G's subsequent efforts to bring more women into line management both improved its overall retention of women and increased the number of women in senior management.

Establish family-friendly human resources practices.

These may include flextime, job sharing, telecommuting, elder care provisions, adoption benefits, dependent child care options, and employee-sponsored on-site child care. Such support can allow women to stay in their jobs during the most demanding years of child rearing, build social capital, keep up to date in their fields, and eventually compete for higher positions. A study of 72 large U.S. firms showed (controlling for other variables) that family-friendly HR practices in place in 1994 increased the proportion of women in senior management over the subsequent five years.

Allow employees who have significant parental responsibility more time to prove themselves worthy of promotion.

This recommendation is particularly directed to organizations, many of them professional services firms, that have established "up or out" career progressions. People not ready for promotion at the same time as the top performers in their cohort aren't simply left in place—they're asked to leave. But many parents (most often mothers), while fully capable of reaching that level of achievement, need extra time—perhaps a year or two—to get there. Forcing them off the promotion path not only reduces the number of women reaching top management positions, but also constitutes a failure by the firm to capitalize on its early investment in them.

Welcome women back.

It makes sense to give highperforming women who step away from the workforce an opportunity to return to responsible positions when their circumstances change. Some companies have established "alumni" programs, often because they see former employees as potential sources of new business. A few companies have gone further to activate these networks for other purposes, as well. (Procter & Gamble taps alumni for innovation purposes; Booz Allen sees its alumni ranks as a source of subcontractors.) Keeping lines of communication open can convey the message that a return may be possible.

Encourage male participation in family-friendly benefits.

Dangers lurk in family-friendly benefits that are used only by women. Exercising options such as generous parental leave and part-time work slows down women's careers. More profoundly, having many more women than men take such benefits can harm the careers of women in general because of the expectation that they may well exercise those options. Any effort toward greater family friendliness should actively recruit male participation to avoid inadvertently making it harder for women to gain access to essential managerial roles.

Managers can be forgiven if they find the foregoing list a tall order. It's a wide-ranging set of interventions and still far from exhaustive. The point, however, is just that: Organizations will succeed in filling half their top management slots with women—and women who are the true performance equals of their male counterparts—only by attacking all the reasons they are absent

today. Glass ceiling–inspired programs and projects can do just so much if the leakage of talented women is happening on every lower floor of the building. Individually, each of these interventions has been shown to make a difference. Collectively, we believe, they can make all the difference.

6. **Do you support affirmative action? Explain why.**

Affirmative action dates back to the 1960s when President Kennedy signed an **executive order** requiring all those who contracted with the US Government to take steps to make sure that all employees (and those seeking employment with the contractor) be treated without discrimination due to race, creed, color or national origin. The requirements were later amended to prevent discrimination on the grounds of sex.

Despite many protestations to the contrary, America is still a class, gender and race based society where it is easier to get ahead if you are white, male and middle class. In a country where your **name matters** (studies have shown that people with 'black' names find it harder to get a job interview than those with 'white' names) and where women are still in the **minority** in the senior ranks of the professions, affirmative action is sadly still a necessity.

Affirmative action is, perhaps, most controversial when it comes to the question of quotas. Whether in employment or access to college why should someone with a higher score be overlooked in favor of someone who has not done quite as well? At first glance it does seem unfair but what affirmative action has done is level the playing field. It makes sure that people who have **potential** but whose life circumstances have meant they have been unable to realize it still have access to all the opportunities they deserve.

1- Affirmative Action Ensures Diversity Across the Board
America as a nation is growing ever more

diverse. Non-Hispanic whites are projected to be in the minority of the US population by 2050. Minority groups are more fertile with white births accounting for only just over 8% of American population growth from 2000-10. Allied to this change is the fact that interracial marriages have become more common with 29% of whites who have a family member married to someone of a different race. These changes mean that there will inevitably be more mixed race and minority children.

These children will grow up to be the adults who drive the social and economic productivity of the United States. If we limit the very best of opportunities in education we will have a limited pool of intelligent and able white middle class students to become our doctors, engineers, bankers, entrepreneurs and military leaders. It would seem far better to enable affirmative action now so that the US has a wide range of candidates with the potential to excel in these positions when the time comes.

While affirmative action will have the benefit of ensuring that there is a diverse range of candidates to fill the necessary future positions of influence it will also ensure that these positions are filled with people who understand the complex needs of a **culturally diverse society**. People who have struggled to be accepted will be best placed to eliminate the cultural and societal barriers that they had to overcome. Once that happens and our diverse population is truly able to access all opportunities affirmative action will have fulfilled its goal and will no longer be needed.

2. Affirmative action will be needed as long as there is an education gap

Affirmative Action will be necessary as long as an US education gap exists America is becoming an increasingly educated country. At the time of the Second World War less than 5% of Americans had a

college degree, now almost 30% do. This is a fantastic increase, not only for the individuals concerned who already reap the benefits of higher pay and better employment opportunities but also for the nation – we all benefit from being better educated. These increased rates of education are not reflected across society, however. While almost 30% of Americans have a college degree only 17% of black Americans and 13% of Hispanic Americans have the same level of education.
This gap in educational attainment has **negative impacts** on society and the quality of the US workforce. It also, sadly, becomes self-perpetuating as minority families start to believe that higher education is not a suitable aspiration for their children. Affirmative action is the only way to eliminate that gap and ensure that Americans of all races have the ability to achieve their maximum potential.

3. Affirmative action helps make sure that people are qualified for the work they need to do

Affirmative Action Ensures Qualified people get the job. What one man can do another man can do.
As the previous two points made clear American society is becoming ever more diverse and by 2050 more than **50%** of the population will be non-white.

Over recent decades America has reaped the benefits of having a more educated workforce. The more educated the general population the more competitive the **national economy**. This leads to, in general, increased wages

and therefore an increase in tax revenue. It also promotes better health and an increase in educational aspiration for younger generations. At the same time the number of people doing drugs or in jail decreases and families tend to be less reliant on social security. Education benefits everyone!

If, however, the education gap is allowed to continue to exist the inequalities in opportunities available to those people from minorities will only increase.

The concomitant effect will be that there will not be enough people from the privileged classes with the aptitude to complete the education necessary to fill those positions for which a college degree is a requirement. It is therefore in the interests of our society at large to promote affirmative action to ensure that enough members of our society have the level of education we need them to have to continue to allow America to **prosper** and be competitive on the world stage.

4. Diversity gives rise to innovation

The diversity arising from affirmative action will spur innovation
When Forbes Insights undertook a survey on diversity in business 85% of all respondents agreed that **diversity** in the workforce is a key driver of innovation in business because it brings a range of skills and perspectives to the table that interact in a way that promotes alternative thinking which leads to fresh ideas. The most successful enterprises believe that it is necessary to build in diversity from the **ground up**. In companies where everyone approaches a problem from the same cultural and intellectual standpoint it can be harder for the team to come up with truly unique and effective solutions. Analysis of companies that actively promote diversity shows that they **benefit** from increased freedom of thought within their teams coupled with and assisted by a greater cross-pollination of ideas and an improvement in corporate cultural intelligence. This only works, however, if the organization in question creates a working environment where new ideas are nurtured and workers are encouraged to discuss them openly.

Research in **Denmark** looked for correlations between the diversity of firms and their patent activity. They found that firms with a diverse workforce were more likely to apply for patents and worked in a broader range of fields.

Affirmative action ensures that there are enough people from minorities with the qualifications to enable them to make a meaningful contribution to these companies and drive the success of their employers and the American economy.

5. Diversity makes good financial sense

Affirmative Action will make it rain
Simply put companies that look like their consumer base do better. As America changes companies need to change too.

When the Supreme Court considered the question of affirmative action in *Grutter v Bollinger* more than 60 Fortune 500 companies wrote to the Court in Support of **affirmative action**. They said *"It is essential that they [*students*] be educated in an environment where they are exposed to diverse people, ideas, perspectives… the increasing diversity in the American population demands the cross-cultural experience and understanding gained from such an education.'*

This statement reflects the common knowledge that diversity is good for the bottom line. Generally speaking the more diverse a company is the more **profitable** it is likely to be. A review of the Standard and Poors 500 showed that companies that put diversity and equal employment high on their agenda and performed well in regard to employment opportunities for women and minorities had a stock market performance 2.5 times better than those of the ones who did not see the promotion of diversity as a priority. Even more starkly, a 2012 report showed that there was a **95%** higher return on equity for public companies with a diverse executive board when compared to those without.

Increasing diversity has also been shown to make it easier to recruit 't**op talen**t' and encourages successful employees to stay with the company leading to a loyal, productive and innovative workforce. Companies with a diverse workforce and a diverse supply chain are better able to reflect their consumer demographic and create and market products that are appropriate to a more diverse society.

6. Diversity makes our nation more secure

Diversity is a matter of national security
In an increasingly diverse society it is easy for minority groups to feel victimized and oppressed. Where poor minorities are corralled into ghettos and isolated from the rest of society unrest ad criminality inevitably follow.

This leads to **higher levels of policing** and increases the chances of negative interactions between minority groups and the police. Where police are used to seeing criminal behavior from some members of a minority group they will start to look for it in other members of the same group and this will in turn result in an increase in 'stop and frisk' incidents between police and minorities. Non-criminal minority members will start to feel victimized and a vicious circle starts to establish itself with minorities becoming increasingly distrustful of law enforcement and vice-versa. In the worst case scenario this can lead to events like the recent Ferguson Riots. The only way to address this is to allow minority groups to reclaim their relationship with the police.
Law enforcement agencies acknowledge that having a diverse set of employees that **mirrors the community** they serve can only be a benefit to them. By 2003 over 23% of all law enforcement officers were from minorities, a significant increase from 14% in 1987. The public tend to have more faith in and more **positive experiences** with the police when the officers of the force are dawn from a more diverse pool of applicants as a diverse force is acknowledged to be more sensitive to the cultures and traditions of minority ethnic groups. Diversity helps police departments to become more responsive to community needs and allows them to undertake specific initiatives such as, for example, the use of liaison officers with specific communities. Where diverse law enforcement agencies are able to put such practices and relationships to good use tensions decline and minority relationships with the police improve leading to a more law abiding, fair society.

Diversity is important not just nationally but internationally as well. In recent years we have seen the threat to American borders change from an identified enemy (the Soviet Union) to an amorphous threat from terrorist groups such as Al Qaeda, ISIS and rogue states such as North Korea.

America is home to many minority groups and almost all of their members are patriotic Americans. It is important, however, that minorities see that they have a valued part to play in the American dream to ensure that they remain

invested in our nation. An example from history is the work of the Manhattan Project. The US was able to lead the world and develop the Bomb before any other nation in part because of the efforts of immigrant scientists escaping the ethnic **tyranny of the Nazi** regime.
The US military support affirmative action as necessary for national security. They believe that a diverse officer corps trained to command diverse enlisted men is an essential requirement of the modern military. To move away from this would be to move back towards the **racial tensions** seen in the days of Vietnam where white officers commanded ethnically diverse men. The military state that it is impossible to *'maintain the diversity it has achieved or make further progress unless it retains its ability to recruit and educate a diverse officer corps…there is **no race-neutral** alternative'*

7. Diversity in college benefits all students

College kids love diversity. Varity is the spice of life, right.
Studies have shown that affirmative action leading to greater diversity within colleges **improves the outcomes** and the college experiences of all students and also improves the quality of the teaching they receive. Less than 10% of faculty members thought that the quality of students had declined as a result of affirmative action while more than 80% thought it had had no impact on quality of students or the teaching institution at all. Less than 3% thought that diversity impeded discussion of substantive issues at college or gave rise to tension. More than 2/3 of the respondents thought that all students benefited from a diverse environment by being exposed to different perspectives and examining their own thoughts and beliefs.

Faculty do not lower their standards or expectations for affirmative action students, indeed lecturers report that they would find it very difficult to teach some subjects (constitutional law, for example) in the **absence** of a diverse student body to encourage discussion, understanding and debate. Exposure to such a range of different viewpoints and the inculcation of an ability and desire to challenge pre-conceived beliefs in the safe environment of a college can help to prepare students of all ethnic origins but perhaps particularly the white majority to operate comfortably and effectively in the multi-ethnic world.

8. 'Neutral' policies just don't work

Reducing access to opportunity in some states like California has already had detrimental impacts which will last generations

Looking at examples of states where affirmative action is not in place we can see what would happen if it were to end. In 1996 California passed a motion that prohibits preferential treatment on the grounds of race – effectively ending affirmative action in the state. Since that time the number of students from minority ethnic groups attending university has **dropped in percentage terms** from 81% of applicants in 1995 to 64% in 2011. In UCLA the number of black students has fallen by 52% and Hispanic students by 43%.

Universities in California use other policies to try to increase diversity within their schools such as working on outreach to low income communities but they are not as efficient. Class based admissions systems in California led to a **70% decrease** in the number of Black and American Indian students enrolling in the School of Law. Because neutral policies are applied to a non-neutral society where race is still important they are **inherently unequal**. Minority applicants simply cannot compete on the same playing field as non-minorities.

9. Stopping affirmative action will cause problems in the long run

Getting rid of affirmative action will have dire future consequences

Considering all the benefits of affirmative action outlined in this article it is vital that this process be continued for the foreseeable future. The past decades have brought huge advantages in terms of increasing diversity in the workplace, in university, in the military and in law enforcement. As our nation becomes ever more diverse it is vital to continue to ensure not only that representatives of minority communities are able to function at all levels and in all positions within society but that non-minority community members are able to relate to them. Failure to ensure this will only lead to an increasing stratification of American society and an increase in racial tensions.

America is **not alone** in promoting affirmative action. The European Union, India, Brazil and Malaysia have acknowledged the need to ensure that there is a fair representation of society throughout their institutions and have legislated for it. It would be perverse for the United States, having been a leader in affirmative action, to move away from this effective and necessary policy just as other countries around the world start to see the benefits.

10. Most Americans support affirmative action

Most American overwhelmingly approve of affirmative action
Affirmative action is a popular policy with the support of the majority of the American public. The ACLA claim that reviews in 2007 showed that support for affirmative action has broadly increased from a figure of 58% of the population in 1995 (in itself a substantial figure) to a huge **70% of all Americans** by 2007. This support is present even in minority groups, such as As**ian Americans,** who are typically perceived as gaining very little benefit from affirmative action programs.

While support for affirmative action has decreased in recent years it still runs at very high levels. The support is also fairly broadly spread amongst different interest groups although, understandably, there is a greater degree of support for affirmative action in minority communities.

In 2014 a review by **Pew** found that only 30% of respondents felt that affirmative action was a negative program for society. 84% of black respondents and 80% of Hispanic respondents were in favor of affirmative action and a majority (5%) of white respondents also indicated that they had a favorable view of the policy. While affirmative action has more support amongst Democrats than Republicans it is still favored by a large minority (43%) of Republicans.

America is a diverse nation and becoming more so every year. By 2050 there will be no ethnic minority in the United States. Reflecting that diversity in our institutions of government, law enforcement, the military, business and education results in increased results and improved performance. Most decent Americans abhor racial, gender or sexual discrimination and would agree that it has no place in modern society. However, most members of the elite classes simply cannot comprehend or understand the nature of the insidious discrimination many of their compatriots deal with on a daily basis such as stop and frisk based solely on the color of their skin.

America is, sadly, still an unequal society. Women may be allowed to work but their pay lags behind men doing the same work with the same qualifications by an average of **78%**. Black men and women may no longer be segregated from the rest of society but they are still treated very differently in the workplace with 16.1% of all black Americans being **unemployed** compared with 8.7% of whites and 12.4% of Hispanics. More than 60 years after the Civil Rights Act came into force discrimination still exists, albeit in a much more subtle way.

Affirmative action in college admissions for African Americans has been losing support in the United States for some time, with new "colorblind" methods of ending gaining ground in the courts. In this powerful defense of affirmative action, Richard Rothstein explains why pretending color doesn't matter doesn't actually work and why it is unfair. Rothstein is a research associate at the Economic Policy Institute, a non-profit created in 1986 to broaden the discussion about economic policy to include the interests of low- and middle-income workers. He is also senior fellow of the Chief Justice Earl Warren Institute on Law and Social Policy at the University of California (Berkeley) School of Law, and he is the author of books including "Grading Education: Getting Accountability Right, and "Class and Schools: Using Social, Economic and Educational Reform to Close the Black-White Achievement Gap." He was a national education writer for The New York Times as well. This first appeared in the American Prospect.
By Richard Rothstein

Chief Justice John Roberts says that "the way to stop discrimination on the basis of race is to stop discriminating on the basis of race." In university admissions, this means becoming "colorblind," taking no affirmative action to favor African Americans. Apparently intimidated by Roberts's Supreme Court plurality, many university officials, liberals, and civil-rights advocates have exchanged their former support of affirmative action for policies that appear closer to Roberts's.

In effect, these newer plans say that the way to stop discrimination on the basis of race is to pretend colorblindness but devise subterfuges to favor African Americans. One approach is to favor low-income students regardless of race. Another adopts the Supreme Court's embrace of diversity as educationally beneficial, prompting universities to enroll disadvantaged minority students for this purpose while making no obvious attempt to remedy historic wrongs. Some persuade themselves that these are the best possible policies.

In recent years, Justice Ruth Bader Ginsburg has been one of the few leading public figures, on or off the Court, unabashedly willing to challenge Roberts's colorblindness. In a case decided in April, she gained a new ally in Justice Sonia Sotomayor for an uncompromising defense of affirmative action.

Instead of "winks, nods, and disguises," Ginsburg has called for race-conscious policy to offset the still-enduring effects of slavery and the subsequent unconstitutional exploitation of its descendants under Jim Crow. "Only an ostrich could regard the supposedly neutral alternatives as race unconscious," Ginsburg has said, and only a contorted legal mind "could conclude that an admissions plan designed to produce racial diversity is not race conscious." Sotomayor recently added (mocking Roberts's aphorism) that "the way to stop discrimination on the basis of race is to speak openly and candidly on the subject of race, and to apply the Constitution with eyes open to the unfortunate effects of centuries of racial discrimination."

Of the books by African-American law professors here under review, Randall Kennedy's *For Discrimination: Race, Affirmative Action, and the Law* explains why race-conscious college admissions policies are a reasonable and modest remedy for these unfortunate effects. Sheryll Cashin's *Place, Not Race* is a well-argued plea for ostrich-like plans.

In contrast to this plea, Cashin's previous book, *The Failures of Integration*, was an impassioned call for housing policy that would finally incorporate black families into American society. It was anything but colorblind. "Indirect approaches are no substitute for a frontal attack on what is ailing us as a nation," she wrote, concluding that "the rest of society should stop fearing us [blacks] and ordering themselves in a way that is designed to avoid us where we exist in numbers. America created slavery, Jim Crow, and the black ghetto. America has shaped stereotypes grounded in fear of black people. … America has to get beyond fear of black people and fear of difference to begin to order itself in a way that is consistent with its ideals."

Now, however, writing about affirmative action in college admissions—an issue considerably less contentious than desegregation of the suburbs—Cashin has become convinced that race-conscious policy isn't such a good idea after all. It incites resistance to black progress that she believes might not otherwise exist. Failing to speak openly and candidly on the subject of race leads Cashin to pander to white hostility: "Social psychologists link much opposition to health care expansion to high levels of racial resentment. Again, I am not saying that opponents are racist." What else could she be saying?

Convinced that race-based affirmative action is politically dead, Cashin seeks an alternative more palatable to white opponents. She concludes that race-based affirmative action gives unfair advantage to middle-class African Americans who don't need it, while low-income youth of all races do.

Cashin certainly has cause for concern, as elite colleges fulfill goals for black enrollment with children of well-educated African and Afro-Caribbean immigrants rather than descendants of American slaves—too many Barack Obamas and not enough Michelles. Cashin illustrates with her own family—though with origins in American slavery, it is a well-established member of a multi-generational black elite—and concludes with a letter to her 6-year-old twin sons, students at a Mandarin immersion school. She tells them that her proposal will deny them undeserved privileges they can manage without: "I would trade the benefit to you of affirmative action for a country that does not fear and demonize people who look like you," she writes, as though such a deal were on offer.

Cashin, an "integration pioneer" from childhood—she attended predominantly white schools—is now a Georgetown University professor, having graduated *summa cum laude* in electrical engineering from Vanderbilt, studied law at Oxford, and clerked for Thurgood Marshall at the Supreme Court. Her husband, like her, is a "professional parent of color." Her sons' paternal great-grandparents built a profitable corporation (it continues to this day with family leadership) and had five children, of whom four became doctors and the fifth a lawyer. On Cashin's side, the boys' great-grandparents went to Fisk University, as did their grandfather, who went on to medical school; their great-grandmother was a high-school principal.

It's fair to say that giving Cashin's sons admission advantages to elite colleges would be unjust. They don't need it. Cashin is also right to point to a gulf between their inherited advantages and the handicaps suffered by the lowest-income African Americans living in high-poverty neighborhoods where the "undertow" of gangs, violence, profiling police, racially skewed criminal justice, parents with little literacy, and widespread unemployment stack the odds against youth who may try to escape.

Cashin wants to extend university preferences to such youth and to those of all races and ethnicities in similar circumstances. Her ground here is shakier. While other groups

experience hardship and discrimination, few nonblack young people suffer handicaps of similar intensity—as her previous book made clear. What's more, Cashin's understanding of the country's, and African Americans', social-class distribution is without nuance; she focuses only on the poor and the affluent, insisting that African Americans in the latter group can compete without special favors. Yet her college admissions recommendations mostly overlook a substantial, nonaffluent African-American middle class, sitting between the very poor and the rich. These are children not of inherited wealth and status but of ordinary lawyers, engineers, administrative workers, civil servants, paraprofessionals, police, firemen, bus drivers, or blue-collar workers—children of men like Michelle Obama's father, who worked in Chicago's water plant, or Randall Kennedy's father, a postal clerk who completed only two years of college. This working and middle class of African Americans both needs and deserves affirmative action to level the playing field after centuries of discrimination.

To comprehend what is missed by recruiting residents of poor neighborhoods while ignoring the middle class, consider the University of Texas's "Ten Percent Plan," Cashin's favored place-based program. In 1996, after a federal appeals court banned the consideration of race in admissions, the university replaced affirmative action with an ingenious scheme that exploited pervasive racial segregation of Texas high schools. Admission was offered to the tenth of each school's graduating class with the best grades. Because so many Texas African Americans attend predominantly black schools (in predominantly low-income neighborhoods), the plan generated a 2003 freshman class that was 4.5 percent black.

The following year, however, the Supreme Court permitted including race in a more holistic evaluation of applicants, to create diversity. Texas preserved its Ten Percent Plan but supplemented it with race-conscious affirmative action that enrolled additional black applicants. In 2013, 3.4 percent of entering students were African-American Ten Percenters, while an additional 1.2 percent were African Americans admitted for diversity purposes. The diversity admittees were more likely to hail from middle-class families and less likely to hail from extremely low-income families than the Ten Percenters. When the university was challenged in the Supreme Court, its lawyers acknowledged that one goal of the diversity plan was to recruit more middle-class blacks.

Justice Samuel Alito was contemptuous: “I thought the whole purpose of affirmative action was to help students who come from underprivileged backgrounds,” Alito chided the university’s lawyers, “[but now you say] it’s faulty because it doesn’t admit enough … who come from privileged backgrounds.”

Cashin sides with Alito. She calls preferences for middle-class blacks “unseemly.” Yet if middle-class blacks need no affirmative action, why are their numbers still uncomfortably low? While more than 8 percent of all Texas families are African American with incomes above the Texas median, only 1.2 percent of entering students were African Americans admitted for diversity purposes. Is this because middle-class blacks are unqualified for selective institutions like the University of Texas?

Perhaps Cashin downplays affirmative action for blacks who are neither affluent nor trapped in high-poverty neighborhoods because she has been distracted by the attention we now pay to the struggling middle class in this age of growing inequality. It is certainly the case that middle-class incomes have not grown as they should with rising productivity. Many working families have been forced to downsize their housing in the post-bubble recession, and many middle-class workers have taken lower-paying jobs as the workforce has de-industrialized. Yet not all but the super-rich have become poor. The median family income remains about $55,000, and 60 percent of families earn between about $30,000 and $120,000 annually. Contrasting only the affluent with those in poor neighborhoods ignores most American families.

Even for low-income families, other groups’ disadvantages—though serious—are not similar to those faced by African Americans. Although the number of high-poverty white communities is growing (many are rural; solicitude for these prompted Texas Republicans to support the Ten Percent Plan), poor whites are less likely to live in high-poverty neighborhoods than poor blacks. Nationwide, 7 percent of poor whites live in high-poverty neighborhoods, while 23 percent of poor blacks do so. Patrick Sharkey’s *Stuck in Place* showed that multigenerational concentrated poverty remains an almost uniquely black phenomenon; white children in poor neighborhoods are likely to live in middle-class neighborhoods as adults, whereas black children in poor neighborhoods are likely to remain in such surroundings as adults. In other words, poor whites are more likely to be temporarily poor, while poor blacks are more likely to be permanently so.

The “place-based” preferences Cashin supports will therefore recruit low-income African Americans and some immigrant or even second-generation Hispanics but few other low-income students. They will also recruit some middle-class African Americans, who are more likely to live in disadvantaged neighborhoods than nonblack middle-class families. In this sense, by primarily benefiting African Americans, they are indeed the kind of policy-by-disguise that Ginsburg denounced.

But most middle-class African Americans no longer live in predominantly black neighborhoods. They will not benefit from place-based plans that Cashin supports—and they will be underrepresented without race-conscious affirmative action. That is because African American families with middle-class incomes are quite different from white families with similar incomes. Colorblind policies giving a boost to low-income students falsely assume that family income differences can distinguish social class. They cannot.

Median black family income was 61 percent of the white median in 2010. Yet black median family wealth (net worth, or assets minus debts) was an astonishingly low 5 percent of the white median. I recently asked Thomas Shapiro, co-author of Black Wealth/White Wealth (1995), to estimate relative wealth by race for middle-class families. Calculating relative wealth for black and white families with annual incomes of $60,000—slightly above the national median—from his most recent data in 2007, he found that black middle-class wealth was only 22 percent of whites’. This gap has undoubtedly widened since 2007 because the housing collapse harmed blacks—who were targeted disproportionately for exploitative subprime loans and exposed to foreclosure—more than whites.

In short, middle-class African Americans and whites are in different financial straits. Total family wealth (including the ability to borrow from home equity) has more impact than income on high-school graduates’ ability to afford college. Wealth also influences children’s early expectations that they will attend and complete college. White middle-class children are more likely to prepare for, apply to, and graduate from college than black children with similar family incomes. Sheryll Cashin’s six-year-olds may know they will attend elite schools. Typical middle-class African-American children do not.

Cashin agrees that admissions officers should take a special look at applicants (of all races) whose families have low wealth but makes clear she considers this of lesser importance than

residence in a high-poverty neighborhood. Nor does she explain how low wealth should be to entitle an applicant who does not live in such a neighborhood to consideration. Although typical middle-class black families have far less wealth than typical middle-class white families, they are not always without wealth at all.

Black middle-class children are more likely to be first in their families to aim for college—again, more Michelle Obama than Sheryll Cashin. When colorblind affirmative-action proponents seek first-generation college applicants in high-poverty neighborhoods, they risk skipping over this important pool of middle-class African Americans. Moreover, while most middle-class African Americans now live in non–majority black neighborhoods, they are more likely to live adjacent to low-income neighborhoods. In new research, Patrick Sharkey finds that 32 percent of middle- and upper-income black families live in neighborhoods bordering severely disadvantaged neighborhoods, while only 6 percent of income-similar white families do so. The undertow that Cashin appropriately fears for low-income African Americans—the lure of drugs, gangs, oppositional behavior—pulls as well on middle-class black youth living nearby. Those who successfully resist may have strength of character surpassing that of white youth from families with similar incomes whose adolescence was better protected.

One wonders, too, if the attraction for many liberals of extending colorblind preferences to disadvantaged youth of all races and ethnicities is due, in part, to a misunderstanding of demographic trends. With enormous immigration flows to the U.S. in recent decades—particularly from Mexico and Central America—many jump too quickly to conclude that a growing share of Americans will be so socioeconomically disadvantaged that the nation will not be able to fulfill its needs for educated labor by relying primarily on middle-class students.

Cashin's book enacts this fallacy. From a prediction that the United States will soon become "majority-minority," she asserts that future college-educated leaders must increasingly be drawn from low-income communities.

The majority-minority forecast typically adds projected numbers of African Americans, Hispanics, Asians, Native Americans, and a few others, finding that soon these will make up a majority of American schoolchildren and thereafter of the nation's citizens. Yet what

defines “minority”? Early in the 20th century, Italians, Poles, Greeks, Jews, and others were deemed nonwhite. By the third generation, these groups had assimilated and joined the “white” majority. The “majority–minority” claim assumes that few new immigrants will follow suit.

Although we can’t be certain what will occur, some data belie this assumption. For example, Latino immigrants who had resided in California for at least 30 years had a 65 percent home ownership rate prior to the burst of the housing bubble. That rate is undoubtedly lower after the bubble burst, but it is still an extraordinary illustration of Latinos’ assimilation to the middle-class majority.

Like many earlier European immigrant groups, new immigrants are also assimilating in later generations by intermarriage. In 2010, 26 percent of all Hispanic newlyweds married non-Hispanics; for those born here, the rate was 36 percent and for the third generation, the rate rises still higher. Calling offspring of such unions “minorities” is misleading. Over time, nativists may see assimilated Hispanics as part of the “white” majority, as they came to accept swarthy Italians, Poles, Greeks, and Jews. We will be a majority-majority country for some time to come.

Certainly, Hispanics suffer discrimination, some of it severe—police harassment of black and brown adolescents, accompanied by high incarceration rates, and the nativist-driven rollback of bilingual education programs come to mind—but the undeniable hardship faced by recent, non–English speaking, unskilled, low-wage immigrants is not equivalent to blacks’ centuries of lower-caste status. The problems are different, and the remedies must also be different, including in some, but not all cases, affirmative action. It is also appropriate for universities seeking diversity to make special efforts to recruit and accept Hispanic students, but these efforts should not be confused with the proper constitutional requirement that universities extend preferences to African Americans to repair centuries of state-sponsored exploitation.

We cannot reasonably aspire to a meritocracy where all children—poor, middle-class, and affluent—have equal chances of landing in adulthood at every point in the social-class distribution. Higher social-class status will always confer advantages on children; we can only hope to mitigate them. A more realistic aspiration would be to assist children of African

Americans who have climbed a few steps up the ladder in climbing a bit further, and in so doing providing leadership to the black community as a whole.

Yet knowing merely that middle-class African Americans have accumulated less wealth, live in less-advantaged neighborhoods, or more recently joined the middle class does not itself justify granting them preferences. Many opponents of affirmative action believe these disparities are either blacks' fault or the result of ill-defined, unfortunate historical experiences for which blame can no longer be assigned. Affirmative action's defense requires showing how these disparities result from clear constitutional violations—what Justice Ginsburg calls an "overtly discriminatory past, the legacy of centuries of law-sanctioned inequality" (emphasis added). The defense also requires showing that these violations' effects have not so dissipated over time that a victim class is no longer identifiable or a remedy practical. An 1883 Supreme Court opinion pontificated that "when a man has emerged from slavery … there must be some stage in the progress of his elevation when he takes the rank of a mere citizen and ceases to be the special favorite of the laws." Two decades after emancipation, the Court's view that the stage had already arrived was ridiculously premature. Is it still?

It is a question neither Cashin nor Kennedy addresses: Why are there too few middle-class African Americans in selective universities, and what is the moral, legal, and historical justification for putting a thumb on the scale to compensate? Are direct effects of past discrimination still so pervasive that the 14th Amendment requires affirmative action?

Answers cannot duck the need to review the history of slavery, Jim Crow, and state-sponsored exploitation of African Americans, and how effects of these policies persist. Consider the example of most relevance to middle-class African-American enrollment in selective universities—the family wealth disparities by race described above. Discussions of affirmative action are empty without the background of how these wealth disparities arose.

In the last century, federal agencies subsidized white suburban development by guaranteeing loans to mass-production builders who created places like Levittown on Long Island, Lakewood in California, and similar uncounted suburbs in metropolitan areas nationwide. Homes were inexpensive and theoretically affordable to black and white workers alike, especially to returning World War II veterans. But the Federal Housing and

Veterans administrations encouraged and usually required these builders to refuse sales to African Americans. Whites who were permitted to buy benefited from ensuing decades of equity appreciation; this wealth helped finance college for their children and was later bequeathed to them. Black families, prohibited by federal policy from buying into these initially low-priced suburbs, lost out.

Levittown is a nationally representative example. The federal government guaranteed construction loans for Levitt & Sons with a whites-only proviso. William Levitt sold his houses to whites beginning in 1947 for $7,000, about two-and-a-half times the national median family income. White veterans could get V.A. or FHA loans with no down payments. Today, these homes typically sell for $400,000, about seven times the median income, and mortgages typically require down payments of up to 20 percent. Although African Americans are now permitted to purchase in Levittown, it's become unaffordable. By 2010 Levittown, in a metropolitan region with a large black population, was still less than 1 percent black. White Levittowners can today easily save for college. Blacks denied access to the community are much less likely to be able to do so.

Government policy also impeded African Americans' ability to accumulate wealth from saved income. As documented last year in Ira Katznelson's *Fear Itself*, the New Deal, from undisguised racism and compromise with Southern Democrats, prevented African Americans from realizing the benefits of labor-market reforms like the minimum wage, Social Security, and the National Labor Relations Act by excluding occupations (such as agriculture and domestic service) in which African Americans predominated. The government certified unions for exclusive bargaining even when unions barred African Americans from membership or restricted them to the lowest-paid jobs. These policies further contributed to differences in white and black workers' wealth accumulation, and their ability to share that wealth with their college-going heirs.

Kennedy, a professor at Harvard Law School, also clerked for Thurgood Marshall at the Supreme Court—like Cashin. Kennedy's *For Discrimination* does little to explain why the playing field needs leveling— it assumes familiarity with the enduring effects of centuries of discrimination—but does a superb job of defending affirmative action against its

commonplace criticisms, while acknowledging that the criticisms are not wholly without foundation. Kennedy is, for example, ambivalent about "diversity" alternatives. He likes that they cause colleges to embrace black students; for the first time, he writes, being black is "seen as a valuable credential." He acknowledges that diverse classrooms improve learning but also embraces the complaint of Professor Lino Graglia that diversity is "little more than an invitation to fraud by nearly all colleges and universities" that are prohibited from employing race-conscious methods to increase African-American enrollments. Kennedy shares Professor Sanford Levinson's worries about "costs to intellectual honesty of the felt need to shoehorn one's arguments [for racial justice] into the language of 'diversity.'"

The book's flaw is its assumption that contemporary readers understand the unfortunate effects of centuries of racial discrimination. For most Americans who deny that these effects remain powerful, Kennedy's arguments will be unpersuasive. Fortunately, other prominent voices are, for the first time in a long time, making the historical case. Sotomayor is one. Another is reporter **Nikole Hannah-Jones**, who has published a series over the past two years at the independent investigative journalism site ProPublica, focusing on official responsibility for ongoing residential segregation in New York's Westchester County. Yet another is *Atlantic*writer Ta-Nehisi Coates, whose widely heralded **recent article** (and accompanying **video**) demonstrated how federally sponsored housing discrimination in the North Lawndale neighborhood of Chicago in the 1960s limited all sorts of opportunities for African Americans, their children, and their grandchildren. Coates calls for consideration of "reparations" as a remedy; affirmative action is a perfectly reasonable expression of such a remedy, and Kennedy's *For Discrimination* well explains why it is so reasonable.
We cannot calculate specific debts owed to African Americans (in almost all cases, now impossible to identify) whose government denied them the opportunity, in violation of constitutional rights, to purchase suburban homes and then benefit from equity appreciation. But in principle, we can calculate some consequences of our racial history. Kennedy quotes Martin Luther King Jr.'s assertion that unpaid wages due slaves, had they been free plantation laborers, are calculable. Wage losses stemming from exclusion of identifiable African Americans from federal minimum wage or collective-bargaining protection might also be determined. But repayment to these workers (or their heirs) of such losses is politically if not practically inconceivable. In this context, extending small

college-admission preferences to otherwise qualified descendants of slaves and those subject to Jim Crow laws is a modest step.

The most prominent academic challenge to affirmative action nowadays comes from Richard Sander, a University of California, Los Angeles, professor who claims that when affirmative-action beneficiaries are admitted to law schools for which they were not qualified by test scores and grade point averages, they can't keep up academically, and that fewer pass bar exams than if they had attended lower-ranked schools to which they would have been admitted without preferences. Sander concludes that affirmative action perversely reduces the supply of black lawyers.

Although the claim has been unpersuasive to most social scientists, Kennedy is willing to concede Sander's point for argument's sake but says, so what? Assume there would be more black lawyers overall if more attended lower-ranked schools and fewer were plucked by elite institutions. Which are more needed—a greater number of black lawyers doing wills, divorces, and criminal defense or, even with a lesser total of black lawyers, more judges, corporate executives, and cabinet members who can lead and inspire others to follow? It's an old argument, recalling century-old debates between followers of Booker T. Washington and of W.E.B. DuBois. The former urged African Americans to prove themselves to whites by competence in lower-middle-class trades where they were unthreatening. The latter called for nurturing the "talented tenth" to advance the black community's fight for liberation. Randall Kennedy unequivocally sits in DuBois's camp.

It's refreshing that Kennedy confronts not only ostrich-like pronouncements that affirmative action isn't really about race but also the facile assurances of some proponents that affirmative action has only benefits, no costs. Actually, costs are borne both by beneficiaries and others. Do successful African Americans, even those who would have gained admission solely by regular criteria, feel stigmatized because whites suspect they owe their positions to special preferences and are unqualified for positions they hold? Kennedy acknowledges they do and acknowledges that he suffers himself from such stigma. Is putting up with a bit of stigma a small price for opportunities opened to African Americans with nonstandard qualifications to lead? Yes, he concludes.

As for costs to others, Kennedy ridicules Barack Obama's claim in *The Audacity of Hope* that affirmative action "can open up opportunities otherwise closed to qualified minorities without diminishing opportunities for white students." Kennedy retorts, "How can that be?" If college places are limited and affirmative action admits a handful of African Americans who wouldn't otherwise attend, an equal number of non-favored applicants must be rejected. However small that number might be relative to the thousands of qualified applicants denied admission because of space limitations, arguments for affirmative action should acknowledge this cost.

Kennedy notes that affirmative action's opponents assert that many, if not most, beneficiaries have not themselves suffered discrimination. This is less true than most people think, because inherited wealth plays a large role in financing college. But as elsewhere, Kennedy acknowledges complexity. Some beneficiaries of affirmative action may not "deserve" it. But why, he asks (citing Professor Kwame Anthony Appiah), are we so much more worried that we might overcompensate than undercompensate victims?

Then there is Kennedy's defense, which is so obvious it barely merits mention—except it remains obvious to too few. Non-merit-based preferences are pervasive in American life. At universities, they include football and violin players, alumni children, and students from regions producing few applicants. Affirmative-action opponents effectively claim that the 14th Amendment permits deviation from academic merit for all discriminatory preferences—except race.

Just as there are small costs to whites for race-based affirmative action, there are small costs to Massachusetts students when Harvard seeks out farmers' sons from Idaho. Applicants in non-favored categories can dispute the wisdom of preferences, whether for race or other characteristics, but cannot claim they suffered unfair discrimination if institutions are transparent about their missions and how particular student characteristics advance them. As Kennedy wryly observes, nobody seems worried about the stigma attached to Idaho students by those who suspect they didn't really "deserve" to be admitted.

It's apparent that I am tempted to judge Kennedy's the more persuasive book, despite its failure to explain the justice of the affirmative action he defends. But I should not dismiss Cashin's work too easily. She could be right that affirmative action is so politically toxic that

defending it helps perpetuate white resistance to racial progress. If so, and if we seek policy to advance African Americans' interests indirectly or deceptively, she makes strong arguments. For example, she describes successful efforts (Amherst College's is the most notable) to recruit hidden talent in low-income communities and to transform these colleges' cultures and financial structures to make more economically diverse student bodies work. Cashin's book is worth reading for this presentation alone.

If we grant Cashin's premise that race-based affirmative action is politically inconceivable, now and forever, the alternative to granting preferences only to low-income students may be no racial diversity at all at selective institutions. Given that choice, her proposals are wise, even if they ignore middle-class African Americans for whom preferences really should be designed.

But perhaps we should not reflexively grant the premise. "Things change," Kennedy reminds us. "The composition of the Supreme Court evolves." Certainly the Court now leads the country rightward on matters of racial justice, but the tide has turned so many times that not inconceivably it may again. Although voters in Michigan, California, and other states have adopted constitutional amendments prohibiting race-based affirmative action, opinion polls continue to find a majority, even of whites, supporting it. When policy dissembles, it invites perverse results. One is that liberals make a change in the Court less likely if they accommodate too easily to its present prejudices and provide no leadership for a different future.

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In her award-winning novel *Americanah*, Chimamanda Ngozi Adichie assumes the role of a Nigerian blogger telling American blacks what their white friends should have a responsibility to say:

Many whites with the same qualifications but Negro skin would not have the jobs they have. But don't ever say this publicly. Let your white friend say it. If you make the mistake of saying this, you will be accused of a curiosity called "playing the race card." Nobody quite knows what this means. … If the "slavery was so long ago" thing comes up, have your white friend say that lots of white folks are still inheriting money that their families made a hundred years ago. So if that legacy lives, why not the legacy of slavery?

It is remarkable, indeed depressing, that Justice Ginsburg is the only prominent white leader still making a consistent case for race-conscious policy. This vacuum may be what propels Sheryll Cashin to seek a colorblind, second-best alternative, foreseeing, as she puts it, the "inevitable demise of race-based affirmative action" because opposition to it is "widely held and not going away," while its advocates "stymie possibilities for transformative change." It should not fall upon Randall Kennedy, Sonia Sotomayor, or Ta-Nehisi Coates to be our most vocal advocates of remedies for racial injustice. Only if white policymakers, not Ginsburg alone, step up will Cashin's predictions be unfulfilled.

7. **How is the Title VII of the 1964 Civil Rights Act different from the Civil Rights Act of 1991?**

Title VII of the Civil Rights Act of 1964 is a federal law that protects employees against discrimination based on certain specified characteristics: race, color, national origin, sex, and religion. Under Title VII, an employer may not discriminate with regard to any term, condition, or privilege of employment. Areas that may give rise to violations include recruiting, hiring, promoting, transferring, training, disciplining, discharging, assigning work, measuring performance, or providing benefits.

Title VII applies to employers in both the private and public sectors that have 15 or more employees. It also applies to the federal government, employment agencies, and labor organizations. Title VII is enforced by the Equal Employment Opportunity Commission.

No person employed by a company covered by Title VII, or applying to work for that company, can be denied employment or treated differently with regard to any workplace decision on the basis of perceived racial, religious, national, sexual, or religious characteristics. No employee can be treated differently based on his or her association with someone who has one of these protected characteristics.

Additionally, employment decisions may not be made on the basis of stereotypes or assumptions related to any protected characteristic. For example, it is unlawful for a supervisor to refuse to promote a Vietnamese person to a management position because he or she believes that Asian people are not good leaders.

Discriminatory Policies in Violation of Title VII

Employment policies and practices may be discriminatory under Title VII based on disparate treatment or disparate impact. Disparate treatment involves intentional discrimination by an employer. For example, a football league with the policy that women may not hold any decision-making position with the league probably would violate Title VII's prohibition against sex discrimination. Similarly, employees who belong to a protected group cannot be segregated or physically isolated from either other employees or clients. For example, it is illegal for a major corporation to assign only white people to positions at an office in a predominantly white area or to assign primarily Asian employees to positions at an office in an area with a high Asian population.

An exception to the general rule against disparate treatment exists when the lack of a protected characteristic is a bona fide occupational qualification (BFOQ) for a particular job. An employer may successfully defend on the grounds that although a particular requirement seems intentionally discriminatory, it is a BFOQ for a job. For example, if a movie role calls for an actor to play Abraham Lincoln, the casting director may choose to consider only white males, even though this seems to discriminate on the basis of race and sex.

Title VII also prohibits apparently neutral job policies that have a disproportionate impact on protected groups. However, an employer that institutes a policy alleged to have a disparate

impact may defend itself on the grounds that the policy is important for job performance or is a business necessity.

A seemingly neutral policy of soliciting applications only from sources where all of the potential job candidates are of the same race could have a disparate impact. For example, if an employer has a policy of hiring only applicants who belong to a private country club that has an all-white male membership, this policy would have a disparate impact, adversely affecting minorities and women.

Title VII also prohibits harassment based on the victim's membership in a protected class. Harassment must be unwelcome and either severe or pervasive to be actionable. If you are harassed, it is important to notify the perpetrator that you find his or her behavior offensive and to notify the employer. A failure to give an employer notice can adversely affect a discrimination claim. For example, if a coworker propositions you for sexual favors repeatedly, you should report the sexual harassment to your Human Resources department or follow grievance procedures outlined in your employment handbook to give your employer a chance to correct the situation before filing a claim with the EEOC.

It is illegal for an employer to retaliate against you for opposing discrimination under Title VII, for participating in an EEOC investigation of a discrimination claim, or for making a discrimination claim yourself.

Meanwhile,

The **Civil Rights Act of 1991** is a United States labor law, passed in response to United States Supreme Court decisions that limited the **rights** of employees who had sued their employers for discrimination. ... President Bush had used his veto against the more comprehensive **Civil Rights Act** of 1990.

The **Civil Rights Act of 1991** is a United States labor law, passed in response to United States Supreme Court decisions that limited the rights of employees who had sued their employers for discrimination. The Act represented the first effort since the passage of the Civil Rights Act of 1964 to modify some of the basic procedural and substantive rights provided by federal law in employment discrimination cases. It provided the right to trial by jury on discrimination claims and introduced the possibility of emotional distress damages and limited the amount that a jury could award. It added provisions to Title VII of the Civil Rights Act of 1964 protections expanding the rights of women to sue and collect compensatory and punitive damages for sexual discrimination or harassment.

The 1991 Act combined elements from two different civil right acts of the past: the Civil Rights Act of 1866, better known by the number assigned to it in the codification of federal laws as Section 1981, and the employment-related provisions of the Civil Rights Act of 1964, generally referred to as Title VII. The two statutes, passed nearly a century apart, approached the issue of employment discrimination very differently: Section 1981 prohibited only discrimination based on race or color, but Title VII also prohibited discrimination on the basis of sex, religion, and national origin. Section 1981, which had lain dormant and unenforced for a century after its passage, allowed plaintiffs to seek compensatory damages and trial by jury. Title VII, passed in the 1960s when it was assumed

that Southern juries could not render a fair verdict, allowed only trial by the court and provided for only traditional equitable remedies: back pay, reinstatement, and injunctions against future acts of discrimination. By the time the 1991 Act was passed, both allowed for an award of attorneys fees. The 1991 Act expanded the remedies available to victims of discrimination by amending Title VII of the 1964 Act.

Congress had amended Title VII once before, in 1972, when it broadened the coverage of the Act. It was moved to overhaul Title VII in 1991 and to harmonize it with Section 1981 jurisprudence, with a series of controversial Supreme Court decisions:

- *Patterson v. McLean Credit Union*, 491 U.S. 164 (1988), which held that an employee could not sue for damages caused by racial harassment on the job because even if the employer's conduct were discriminatory, the employer had not denied the employee the "same right... to make and enforce contracts... as is enjoyed by white citizens," the language that Congress chose in passing the law in 1866.
- *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989), which made it more difficult for employees of Wards Cove Packing Company to prove that an employer's personnel practices, neutral on their face, had an unlawful disparate impact on them by requiring that they identify the particular policy or requirement that allegedly produced inequalities in the workplace and show that it, in isolation, had that effect.
- *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), which held that the burden of proof shifted, once an employee had proved that an unlawful consideration had played a part in the employer's personnel decision, to the employer to prove that it would have made the same decision if it had not been motivated by that unlawful factor, but such proof by the employer would constitute a complete defense for the employer.
- *Martin v. Wilks*, 490 U.S. 755 (1989), which permitted white firefighters who had not been party to the litigation, establishing a consent decree governing hiring and promotion of black firefighters in the Birmingham, Alabama, Fire Department, to bring suit to challenge the decree.

The Patterson case had attracted much criticism since it appeared to leave employees who had been victimized by racial harassment on the job with no effective remedies, as they could not prove a violation of Section 1981 and could rarely show any wage losses that they could recover under Title VII. In addition, the Court's narrow reading of the phrase "make or enforce contracts" eliminated any liability under Section 1981 for lost promotions and most other personnel decisions that did not constitute a refusal and that was the end to hire or a discharge on the basis of race or color.

Congress addressed the issue by redefining the phrase "make and enforce contracts" to include "the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship." Congress also clarified that Section 1981 applied to both governmental and private discrimination, the issue that the Supreme Court originally announced it would decide in Patterson.

Congress also believed that the Wards Cove case made it too difficult to prove disparate impact claims under Title VII. The Act was amended to provide that an employee could prove a case by showing either that an individual practice or group of practices resulted in "a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity." Congress added, however, "The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

While the majority in Congress supported the burden-shifting rule in Price Waterhouse, it was uncomfortable with an employer's ability to prove that it would have made the same decision in any event, as a complete defense in a case in which it had been shown that race or gender or another unlawful factor played a significant role in its decision. Congress amended the Act to provide that the employer's proof that it would have made the same decision in any case was a defense to back pay, reinstatement and other remedies but not to liability per se. The practical effect of this change was to allow a party that proved that the employer discriminated but could not show that it made any practical difference in the outcome could still recover attorney's fees after showing that the employer discriminated, even if no other remedy was awarded.

Finally, Congress limited the rights of non-parties to attack consent decrees by barring any challenges by parties who knew or should have known of the decree or who were adequately represented by the original parties.

The Court also authorizes jury trials on Title VII claims and allows Title VII plaintiffs to recover emotional distress and punitive damages, while imposing caps on such relief under Title VII. The 1991 Act also made technical changes affecting the length of time allowed to challenge unlawful seniority provisions, to sue the federal government for discrimination, and to bring age discrimination claims, but it allowed successful plaintiffs to recover expert witness fees as part of an award of attorney's fees and to collect interest on any judgment against the federal government.

Civil Rights Act of 1991 was the most complete civil rights legislation since the Civil Rights Act of 1964.

Civil Rights Act of 1991

Civil Rights Act of 1991 was the most complete civil rights legislation since the Civil Rights Act of 1964. The federal law was passed into law by Congress on Nov. 21, 1991, following two years of debate, and prohibited discrimination for job applicants and workers, based on race, gender, religion, color or ethnic characteristics.

More Facts: Civil Rights Act of 1991

While the 1991 Act was an amendment of the 1964 law, it did not replace it. Instead, the Civil Rights Act (CRA) of 1991 strengthened the previous law, particularly in terms of the liability on employers and the burden of proof. The new legislation also:

- Modified some basic procedural and substantive rights under federal law in the area of employment discrimination
- Offers a trial by jury option in discrimination cases
- Presented the first opportunity to collect emotional distress damages
    - Limited how much juries could dole out

The new CRA was largely in response to a 1989 decision of the Supreme Court that diminished workers' ability to sue employers for discriminatory reasons. The 1991 legislation not only brought back some of this capability for employees but also added new methods of suing employers. For these reasons, many people view the Civil Rights Act of 1991 as being a loss for corporations regarding their interests regarding discrimination law.

Civil Rights Act of 1964

The 1964 CRA prohibited workplace discrimination based on religion, sex, color, and also on national origin. The legislation did not enable damages or compensation, other than retroactive pay or similar, that the injured party could collect. The passage of the 1964 law was a step forward in affirmative action as it encouraged the hiring of females and minorities in companies and institutions. The response from some organizations was to alter their employment tests so that underprivileged minorities would get better scores.

Findings

In recent decisions on employment discrimination cases, as they relate to federal law, the U.S. Congress has limited the range and usefulness of civil rights safeguards. Solutions and protections under federal legislation are not enough to prevent illegal discrimination, as well as falling short on compensation available to victims, contends Congress.

Purposes

The Civil Rights Act of 1991 was enacted to:

- Provide suitable solutions for purposeful discrimination and illegal employment harassment
- Categorize the terms "job-related" and "business necessity" articulated by the Supreme Court in Griggs v. Duke Power Co., 401 U.S. 424 (1971) and in decisions before Wards Cove Packing Co. v. Atonio, 490 U.S. 652 (1989)
- Clearly state statutory authority and guidelines for disparate impact suit judgments under the 1964 CRA's Title VIII
- Extend the range of civil rights statutes after recent Supreme Court decisions so that victims would get enough safeguards from discriminatory treatment

Effects of the Ruling

The decision in the Ward's Cove case was the main motivator behind the 1991 CRA being passed. The court ruling had blurred legal precedents regarding which party in this kind of suit has the burden of proof in the courtroom. The ruling made it, so employees with civil rights claims had to build persuasive court cases based on a cohesive list of facts. For the plaintiffs, the expectation was that they provide persuasive facts that met all legal necessities, instead of providing a more general claim and leaving it up to the company's to use facts to disprove it.

The Ward's Cove ruling shifted the burden of proof from employer to employee, which made it more difficult to provide discrimination. If the plaintiff illustrated that an employer action did harm to a protected group, then an employer had to prove that its actions were a "business necessity." The Supreme Court decided plaintiffs had to do more than illustrating disparate income; they had to show a direct link between the employer activities and the discriminatory result. The Court also replaced the defense of business necessity with a broader one of business justification. The decision was overturned by the Civil Rights Act of 1991.

Democratic Failure

When Representative Augustus F. Hawkins and Senator Edward M. Kennedy introduced a civil rights bill called the Kennedy-Hawkins Civil Rights Act of 1990, it was received with controversy. This debate over it continued right up until President George Bush vetoed it in the fall of 1990. Bush had been against the 1964 CRA and had also opposed a bill introduced by the Democratic Party under worries that it could result in racial hiring measures. This anxiety came after the Kennedy-Hawkins Civil Rights bill's regulation that punitive and compensatory damages were payable to employees when discrimination was proven in court. The fear was that companies would avoid this legal risk by creating hiring quotas.

With more sexual harassment cases popping up across the U.S. and the unpopularity of Bush's decision, Bush provided a civil rights bill to the House that was similar to the 1990 bill. Interestingly, a small number of civil rights advocates expressed outcry over the bill because it was in favor of the middle-class, well-educated middle-class minority adults and didn't help the underclass.

Republic Compromise

In the Republican version of the bill that President Bush submitted, he included the guideline that moved the burden of proof in cases involving discrimination to the employer rather than the employee, but he did not include the retroactivity clause. But because of the similarity between the two bills, the Republicans were critics as much of this bill as the former one. This led to Bush ultimately saying he would veto the bill, however, what stopped him was the harsh political influence of the Clarence Thomas Supreme Court nomination hearings, which involved Anita Hill accusing Thomas of workplace sexual harassment. This was not a time for Bush to veto the bill.

Mixed-Message Law

When passing the Civil Rights Act of 1991, Democrats included a provision strictly limiting employers from taking race, ethnic, gender, or religious factors into consideration during employment activities. Republicans opposed to it stated that this undid federal affirmative action initiatives. Meanwhile, Democratic favoring the bill explained that was not their intention, and they responded by including a "saving clause" that strengthened the legality of affirmative action provided it did not go against the CRA. Others criticized the bill still, saying this addition did little as no definition of affirmative action had been made.

Features of the 1991 CRA

This 1991 legislation included:

- The ability to provide the injured parties with punitive and compensatory damages
- Employee can select a trial by jury rather than just judge alone
    - 1964 CRA allowed only for judge decisions
- Provided the employee the ability to collect these damages if the case had a jury
- Maximum set for damages, which applies to each person suing
    - If three people from one company are suing, then the amount awarded increases threefold
- Strengthened the 1964 law regarding employment discrimination based on race, color, gender, and religion being unlawful

However, the Civil Rights Act of 1991 did not apply its rules to business with less than 15 employees. It also did not address employment discrimination based on sexual orientation. Essentially, the 1991 CRA covers employment law and provides big repercussions if discrimination is proven.

Discrimination as Factor, Not Cause

When the Civil Rights Act of 1964 passed, it still allowed race and gender to be employment factors, so long as color, gender and religious attributes were proven not to have played a role. With the passage of the Civil Rights Act of 1991, however, any discriminatory consideration was illegal in employment activities, whether or not the case could be proven for it not causing harm to the plaintiff. But, while the new CRA punishes for discriminatory employment practices, discrimination lawsuits are rarely straightforward.

Most of these cases are "mixed-motive" or "dual-motive," meaning an employee can sue the employer for gender playing a role in the discriminatory workplace action. This means that even if

the employer can prove another factor was involved, the company may lose the case still, as per the 1991 Act. The jury, though, could not award the highest amount of damages to the injured party.

For example, if a security company stated specific height and weight criteria for jobs were excluding women and Hispanic people from applying or being hired, the company could be sued for damages, even if the company provided it did not intend to discriminate. Although it would be hard for a company to prove they required these specific attributes for job performance, it is possible.

Retroactivity

When the 1991 CRA passed, it means that employment discrimination cases currently pending in the legal system were not covered by the Act. In other words, it was not retroactive. However certain attorneys, law teachers, and civil rights proponents criticized this situation as the Act was passed to help the pending cases.

Ambiguous Protections

- What is Affirmative Action?

Those people in favor or retroactivity have criticized the Civil Rights Act of 1991 for its failure to give "affirmative action" a specific meaning, in spite of the legislation containing a saving clause for gender and race. In addition to gender and race, ethnic background, color, and religious stance were all also amongst the factors prohibited for use by employment firms and employers.

- Racial Hiring Quotas: Allowed or Not?

Following the 1991 CRA, some businesses withdrew employee tests and replaced them with scores that favored disadvantaged minorities. The law was ambiguous as it stated in one section that this skewed scoring was illegal while it seemed to allow it when it is beneficial for protected groups by upholding affirmative action.

- What is Sex Discrimination?

Also, the Act did not define sexual harassment, so it was not clear how employers could prove their case in employment-related disputes with sex discrimination claims. In fact, there was not even a mention of sexual harassment in the 1991 CRA.

Accomplishments of the Act

As for what the act has accomplished, it is publicly viewed by many people today to have advanced the rights of women and minority persons. It also was part of the process in creating educational policies, so men would better understand stereotypes about women that had been part of society for so long. The Act aided in stopping obvious sexual harassment in work environments too.

Given these views on the Civil Rights Act of 1991, it is clear that lawmakers had an intent to dispel employment discrimination and there has not, at least at this point, been any worse-case situations resulting from the Act's passage. There has not, for example, been any disbanding of affirmative action programming or racial hiring quotas by all companies.

The 1991 CRA has instead driven up the number of discrimination cases against employers. Over 42,000 complaints of civil rights violations had been filed in U.S. District Courts in 1998, which was a whopping 125 percent increase from 1990. In comparison, noncivil rights cases rose by under 8 percent. Of the increase in civil rights lawsuits, two-thirds of them were in employment discrimination. See the Bureau of Statistics for a full report.

As you can see, the effects of the 1991 CRA have been far-reaching and substantial for small businesses and corporations. It may be small companies that are most affected by the legislation as they have more limited resources than corporations if they face a lawsuit, and often they lack employment procedures.

Proof of Unlawful Employment Practices in Disparate Impact Cases
Here are the different standards of proof:

- If a complainant shows that employment practices (one or several) lead to a disparate impact based on gender, religion, color, race, or national background, and the employer fails to show that this practice is required as a business necessity, then it is considered unlawful
- If, however, the party complaining shows that several employment practices create a disparate impact, this party need not show exactly which practice(s) with in the group led to the resulting disparate impact
- When the respondent proves that a certain employment practice in a group of employment practices in no ways adds up to disparate impact, the respondent has no requirement to show this practice was necessary by business necessity
- Should the court decide that the complainant can provide which practice(s) led to the disparate impact, this complainant must show which exact practice(s) let to the impact

This can be shown during discovery, for example

- Business necessity only need be shown by the respondent when the complainant illustrates that certain practice(s) have led to the disparate income
- If a complainant shows that a different employment practice(s) would be fine for a respondent too then, it means this overrides the business necessity illustrated by employment practice(s), and such practice(s) are then deemed illegal
- Using a defense that employment practice occurs by business necessity is only allowed against a claim under Title VII of the 1991 Act
- Under the 1991 changes to Title VII, employing a person who uses drugs knowingly or possesses illegal drugs is deemed an unlawful employment practice under this title only if this rule is adopted or applied with the intention to discriminate due to sex, national origin, color, religion, or race
- If the employees are not balanced by way of gender, color, race, religion, or national background within an employer's workforce, the alone does not constitute a prima facie case of unlawful disparate impact.

Finality of Litigated or Consent Judgment or Orders
A paper notice from a source of the suggested litigated or consent judgment or order is given to the person for whom the judgment or order may affect them, and an opportunity is given to object to that order or judgment. If the court determines that enough effort was put toward providing notice to the person, then a determination must be made before entering the order or judgment. The exception is if the order or judgment was entered before the date of when the Act's subsection about this was made; in that case, the determination can be done at any time.

This finality section applies to (1) the rights of parties to the action involved in the entered judgment or order, or (2) people in a represented class in the action, or (3) people in a group who wanted to be represented by the action, or (4) people in a group who had relief sought for them by the federal government. If an activity happens that may go against an employment practice it will be brought to the court that entered that order or judgment. These guidelines are in place so that an order or judgment will not be challenged on the grounds it was done fraudulently or via collusion, or that it was invalid or not the correct jurisdiction.

Alternative Means of Dispute Resolution
If disputes come from this title or Federal guidelines, alternative means of resolutions can be sought, provided they are appropriate and legal. Examples are:

- Conciliation
- Mediation
- Mini-trials
- Settlement negotiations
- Arbitration
- Fact finding
- Facilitation

Discriminatory Practices Prohibited
Section 302 of the 1991 CRA's Title III outlines prohibited discriminatory activities. Personnel actions affecting employees must not discriminate based on sex, color, race, religion, or national origin, as per the 1964 CRA's section 717. Age discrimination is banned as per the Age Discrimination Employment Act of 1967, while disability or handicap discrimination is disallowed within the guidelines of the Rehabilitation Act of 1973 (section 501) and the Americans with Disabilities Act of 1990 (sections 102 F

Government Employee Rights
Title III of the act covers government employee rights. Senate employees must act without discrimination based on sex, race, color, religion, or national origin, given that the CRA 1991 extended fair employment law coverage. Senate personnel were now covered by federal law so they could make Employment discrimination claims either via in-house procedure or a limited right of appeal to a federal court.

As per Title III, a "Senate Employee" is one of the following:

1. An employee who is paid by the secretary of state
2. An employee of the Architect of the Capitol, who is assigned to the Superintendent of the Senate Office Buildings or the Senate Restaurants
3. Any applicant for a position lasting 90 days or longer and occupied by someone in (1) or (2)
4. A person formerly an employee in (1) or (2) and who has a claim of a violation coming from their Senate employment. A "violation" refers to a practice that defies Title III's section 302.

CBOCS West, Inc. v. Humphries, No. 06-1431 (2008)
In this case, Humphries put forward the claim that his employer let him go from the workplace because of his race and because he complained to managers that a black co-employment was dismissed based on race too. Humphries sued under Title VII and 42 U.S.C. 1981, the case was dismissed for procedural reasons. The court decision was that an employee could retaliate against a private employer when this action gives all people the same right to create and carry out contracts enjoyed by white citizens.

Desert Palace, Inc. v. Costa, No. 02-679, (2003)
The Supreme Court decided in the Costa case that an employer may not be liable in a mixed-motive case if it is shown to the court that they would have made the same decision even if forbidden a discriminatory reason to play a role. Lesser courts still hold that a plaintiff must prove an unallowable consideration was motivational in any disagreeable employment activity; this must be

illustrated by direct evidence. In this case, the employee made claims of sexual discrimination and sexual harassment. The court determined that the sexual discrimination claim would go before a jury. The Supreme Court considered how the Civil Rights Act of 1991 affected how the jury is given its instructions in mixed-motive cases like the Costa case. The instructions were:

- If you determine the plaintiff's sex was a motivator in how the defendant treated the plaintiff, then the plaintiff may, by all means, receive your verdict, even if the defendant's behavior was also influenced by a legal reason
- If you determine the way the defendant treated the plaintiff was motivated by lawful reasons and sex, you must decide whether the plaintiff ought to receive damages
- Entitlement of the plaintiff to damages goes ahead unless the defendant proves by overwhelming evidence that the defendant would have acted similarly toward the plaintiff even if the plaintiff's sex had no role in the employment action

In Desert Palace, Inc. v. Costa, No. 02-679, (2003), the jury's verdict was for the plaintiff. This ruling was upheld by the Supreme Court, who stated the trial court did not misuse its discretionary power in instructing the jury in mixed-motive cases. The Supreme Court based its decision on the 1991 amendment to the CRA that revoked any rule of direct evidence regarding discrimination before the jury could issue a verdict in favor of the plaintiff in a mixed-motive case. Thus, it is easier following the Costa case for employees to win discrimination lawsuits where an unlawful decision based on gender, national origin, race, or color, is one of many factors, which includes an allowable factor, in a disagreeable employment decision.

Whether you have a small business, a large corporation, or a business entity that falls somewhere in-between the two, you must consider how federal legislation, such as the Civil Rights Act of 1991, affects business practices, if you want to avoid legal issues down the road. Therefore, it is ideal to seek legal advice on employment law. Connecting with a respected attorney need not be difficult, at least not when you post your legal need in our UpCounsel marketplace. Doing so will provide you with access to lawyers who have the experience to help you create a workplace that is free of discrimination and harassment. The lawyers work for top firms, such as Google, with an average of 14 years of legal experience, and are graduates of highly esteemed schools that include Harvard Law.

8. **Do you think that some women are not hired for upper level management positions because a female may become pregnant and may take a significant amount of time off which may hurt the organization? Do you agree with this notion?**

Yes, I do agree, today there is a lot of discrimination by employers in several work places intentionally not promoting work diversity due to many factors mentioned below.

Sadly, forty years after the PDA became law, discrimination is still quite common. Between 1997 and 2011, the U.S. Equal Employment Opportunity Commission saw a 50 percent increase in the number of pregnancy discrimination charges filed. The number of charges filed hasn't changed very much since then.

9. What other law suits can you think of regarding unequal pay and benefits for women?

Equal pay refers to the right of all employees to receive the same level of pay as someone performing

work of equal value. In this sense, pay refers to any and every part of an employee's pay package, terms of employment and benefits, such as bonuses and pension contributions

Equal pay is a legal obligation. Specific rules apply to ensure that men and women are paid comparable amounts. There should never be a difference in the pay of a man and woman doing work of equal value that can be explained in terms of difference in their sex.

Employers must also ensure that discussions about equal pay are protected. No one should be victimised following a request for information about pay for the purpose of making a claim of discrimination with regards to pay (based on any protected characteristic).

The Equality Act 2010 sets out three ways in which an individual's work can be determined to be equal to that of another employee:

- **Like work -** if their work is broadly similar and the differences that do exist are not of practical importance in relation to the terms of the work. Practical importance refers to something that people do in practice as part of their job (such as additional responsibilities they have or skills they bring to bear on their work) and not just something in their job description. When comparing two employees using this criterion, it is important to consider the frequency with which differences in work occur in practice and the nature and extent of those differences.
- **Of equal value** - if the work of each employee is equal in terms of the demands made on them. These demands should reflect factors, such as effort, skill and decision-making, level of responsibility, knowledge and working conditions.
- **Rated as equivalent** - this occurs if a job evaluation has rated two jobs as equivalent. It is important to note the job evaluation must itself be non-discriminatory. An evaluation that, for example, placed less weight on attributes commonly associated with female roles could not be used to justify treating two different jobs as inequivalent.

Where possible you should use an analytical job-evaluation process to establish equivalent jobs and jobs of equal value, as this can be the best defence in an equal-pay claim.

1. Comparators

A person wishing to make an equal-pay claim must select another person to compare their work with. The person they compare themselves to is called a comparator. Employers have no say in an individual's choice of comparator when the individual makes a claim. The comparator needs to be a real person and not hypothetical.

A comparator could be:

- someone the person making the claim currently works with
- the predecessor in the claimant's job
- someone the claimant used to work in the same employment with before a TUPE transfer to the current employer

An individual may claim equal pay with someone who works:

- for the same employer at the same workplace
- for the same employer but at a different workplace, where common terms of employment apply
- for an associated employer
- for another employer in the same establishment or service, particularly if there is a common source for the decisions about pay (ie the difference in pay is attributable to one source) and there is a single body able to adjust pay gaps.

2. Sex-equality clause and rule

Under the Equality Act 2010, the terms of an individual's employment are treated as including a sex-equality clause (if they don't already include one). A sex-equality clause is the provision that ensures the terms of the employment of one individual are comparable with those of another person who is of the opposite sex and performing work of equal value (as defined above). It has the following effect:

- where a term of the claimant's employment is less favourable then a corresponding term of the comparator's, the claimant's terms are modified so they are no less favourable (the claimant's terms are brought up to match the comparator's: the comparator's terms cannot be brought down)
- if the claimant doesn't have a term which corresponds with a term in the comparator's employment and benefits the comparator, then the claimant's terms are modified to include such a term

In the same vein, the terms of an occupational pension are treated as having a sex-equality rule, to ensure terms are as favourable to the claimant as they are to the comparator.

3. Disclosure of gender-pay information

In 2011, the government introduced a voluntary reporting scheme, 'Think, Act, Report', to encourage companies to report gender-pay information. Following a relatively low uptake, the government has decided to introduce regulations that will require companies with 250 or more employees to carry out equal-pay reviews and publish information relating to their gender pay gap.

Provisions in the Small Business, Enterprise and Employment Act 2015 mean these regulations (outlined in Section 78 of the Equality Act 2010) must come into force before the end of March 2016. The 2015 act states:

> 'The secretary of state must, as soon as possible and no later than 12 months after the passing of this act, make regulations under Section 78 of the Equality Act 2010 (gender pay gap information) for the purpose of requiring the publication of information showing whether there are differences

in the pay of males and females. The secretary of state must consult such persons as the secretary of state thinks appropriate on the details of such regulations prior to publication.'

Section 78 of the Equality Act relates to the disclosure of information and will determine, amongst other items:

- how to calculate the number of employees
- what information will be required
- when it is to be published
- the form and manner in which it is to be published

The section also provides that failure to comply is punishable by a fine, likely to be around £5000. Beyond that, details of the regulations are pending and will be subject to a public consultation launched by the government on 14 July 2015 (to be completed on 6 September 2015). The response to the consultation will help inform the development of new regulations on gender pay gap reporting. The government's Equalities Office has confirmed that following this first consultation, it will seek views on the draft regulations the following winter.

Below are some of the key actions you should consider to improve equality of pay in your firm.

Low-risk pay systems

It is an employer's responsibility to ensure their pay system is free of gender bias. This helps to reduce the risk of an equal-pay claim being made. The Equality and Human Rights Commission (EHRC) provides detailed guidance on low-risk pay systems . Here is a summary:

- **Transparent:** Pay systems that are not transparent are at particular risk of being found to be discriminatory. A transparent pay and benefit system is one that anyone - employer, employee, trade union - can understand. In particular, people should be able to identify how each element of their pay contributes to their total earnings in a pay period. The Equality Act 2010 makes pay-secrecy clauses in employment contracts unenforceable and protects employees from victimisation if they seek to ascertain what other employees earn. The reporting of information relating to a firm's gender pay gap has been voluntary thus far (unless the firm has had an equal-pay claim upheld against it at an employment tribunal). However, reporting of equal-pay gaps will be legally required for firms of 250 or more people in the future
- **Systematic:** The more systematic and simple your pay and bonus system is, the easier it will be for people to understand it, and the lower the risk will be that gender imbalances will creep in. It helps if you have a clear pay structure and publish it. Small firms may find this easier, as their pay systems tend to be less complex.
- **Inclusive:** A single reward structure for all employees reduces the risk of challenge.
- **Well-managed:** Keeping pay structures up to date and maintaining a systematic document trail whenever decisions are made about pay will also reduce the risk of challenge. This may be a particular issue for small firms without a separate human resources department and who may have fewer formal, written policies than larger firms.
- **Sensitive to job demands:** Equal-pay claims are based on the performance of equal work. This includes job demands (eg the types of skills, knowledge and effort required on the job). Therefore, in deciding pay structures, it is important firms do not just consider job roles, but take into consideration other factors, such as job demands. For medium and large firms this

may involve implementing a non-discriminatory, analytic job evaluation (see other resources for more information).
- **Monitored:** In order to manage risk, it's important to monitor pay outcomes across all equality groups. This allows action to be taken before something becomes a problem.

Equality impact assessments

Firms should consider carrying out an equality impact assessment whenever changes are made to the organisation's pay structure. This should assess whether individuals with particular protected characteristics are adversely affected by the change and, if so, whether this impact is disproportionate. Any potentially discriminatory policy changes should then be rectified.

Discussions about pay

Under the Equality Act 2010, discussions about pay are protected. Everyone should be able to talk about equal pay. This provision covers not just gender, but all protected characteristics. Terms of employment which appear to make it harder for an employee to disclose information about the terms of their employment or seek information about a colleague's terms of employment are unenforceable when the employee is seeking to make a disclosure or seeks information about pay.

Furthermore, employers must ensure that no employee is victimised for:

- seeing information that would be relevant to a pay disclosure
- making, or seeking to make, a pay disclosure
- receiving information disclosed in a pay disclosure[8]

Voluntary and mandatory equal-pay audits

An equal-pay audit is a process of comparing the work of men and women performing equal work, highlighting any pay gaps, assessing the reasons for these differences in pay, and devising a plan to close any unlawful pay gap. Although most legal cases to date in the field of pay and reward relate to gender, unequal pay affects employees from a range of different protected equality groups (eg BAME employees and disabled employees). As a result, many organisations undertaking equal-pay audits take the opportunity to examine differences not only between women and men, but also between other groups protected under the Equality Act 2010. An equal-pay audit should include all staff (be they salaried partners, directors, senior associates, associates, senior assistants, assistants, paralegals, legal executives or trainees) and support staff in any departments (including administration, human resources, marketing, finance and IT).

Equal-pay audits are not merely data-collection processes. They are a commitment to address any differences in pay for which there is no material reason. As such, the audit must have the authority to deliver any change necessary. If you don't conduct equal pay reviews, then inequalities in pay can remain hidden and you are less likely to know whether you are at risk of equal-pay claims.

Employment tribunals have the power to order an organisation in breach of equal-pay legislation to complete a compulsory pay audit (provided the claim was submitted after 30 September 2014). However, a recent addition to the Small Business, Enterprise and Employment Act 2015 enabling Section 78 of the Equality Act 2010 to come into force is likely to make equal-pay reviews and their reporting mandatory for businesses employing 250 or more people.

As such, law firms may find themselves in one of three situations:

- **for most law firms of 250 or more people:** there is a growing need to prepare for the introduction of mandatory equal-pay reviews (more on this in section
- **for some law firms who have had a successful equal-pay claim made against them:** there may be a requirement to conduct a pay audit (see section
- **for firms employing fewer than 250 people:** conducting a voluntary equal-pay audit still presents an opportunity to examine pay at the firm and resolve any differences before they become a problem

Mandatory pay audits

An employment tribunal may require an employer losing an equal-pay claim to conduct an equal-pay audit, unless specific exemptions apply. The employer must then publish the results of the audit on their website and notify employees.[9]

The employer will not be required to carry out a pay audit if:

- an audit carried out in the last three years meets the requirements (ie includes information about the pay of the employees involved in the audit, identifies any differences in pay and reasons for those differences, includes plan's to prevent equal-pay breeches occurring or continuing)
- can identify whether action is needed without an audit
- the instance of unequal pay found by the tribunal provides no reason to think there may be other instances of unequal pay
- the disadvantages of conducting an audit would outweigh the benefits

Known for feisty quotes and progressive politics well ahead of her time, Rep. Bella Abzug (D-NY) initiated a bill to commemorate the day the Nineteenth Amendment, which guarantees women the right to vote, became law. The U.S. Congress declared August 26th **Women's Equality Day** in 1971. Eight years prior, the **Equal Pay Act** was signed by President Kennedy with the intention of ending gender-based pay discrimination. Together, Women's Equality Day and the Equal Pay Act signaled an important step forward in the nation's commitment to women exercising their right to participate meaningfully in civil and political affairs and become thriving citizens in socioeconomic spheres.

And yet 40 years later, women are still robbed of 23 cents for every dollar a man makes in the U.S. Even with the passage of five groundbreaking laws to prevent discrimination in the workplace – e.g., the Civil Rights Act and the Fair Labor Standards Act – the gender pay gap is still an intractable problem. This primer explores the historical, legal and legislative background of gender and pay discrimination issues in the U.S. using a gender lens. It looks at how the pay gap relates to larger ideas about ourselves as workers and the forces at play in work-life issues. Finally, it

presents prominent sociological arguments for why the pay gap exists and persists, as well as best practices from peer nations that are worthy of consideration in a U.S. context.

1. **What is the Equal Pay Act?**

In short, the **Equal Pay Act (EPA)** prohibits pay discrimination based on sex and states that men and women must be paid equally for substantially equal work performed in the same establishment. All forms of compensation are included — salary, bonuses, vacation and holiday pay, and other benefits, to name a few. The Act also allows individuals to file for pay discrimination claims under Title VII of the Civil Rights Act. Employers are legally prohibited from retaliating against employees who take action against discriminatory practices in the

workplace. However, the law allows for pay differentials when individuals are evaluated based on criteria such as seniority, production levels, and merit. Administered and enforced by the U.S. Equal Employment Opportunity Commission (EEOC), the EPA was signed into law in 1963 as part of the Fair Labor Standards Act of 1938. Its employee protections and prohibitions against discrimination align it with other federal laws such as Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA) of 1967, and Title I of the Americans with Disabilities Act (ADA) of 1990.

2. **History & timeline**

Although many women – women of color, immigrant women and poor and working class women, to name a few – have worked outside the home or been paid for their labor since the country's beginning, the world of paid work has primarily existed as part of men's "public" sphere in the American psyche. Up until WWII when unprecedented numbers of women entered the workforce, women were expected to exist in the "private" sphere, performing unpaid work. Recognizing that women largely replaced male workers in war labor industry, the National War Labor Board in 1942 encouraged industry leaders to make "adjustments which [would] equalize wage or salary rates paid to females with the rates paid to males for comparable quality and quantity of work on the same or similar operation."

More and more women entered the world of paid labor thereafter, and pay discrimination based on sex remained rampant and blatant. Women made 59% of what men earned in 1963. In the early 1960s, job advertisements were listed by sex. Not surprisingly, most high-salary positions were allocated to men, and even when the same position was advertised to both sexes, a two-tiered scale ensured male candidates would be paid more than their female counterparts.

Rep. Winifred Stanley (R-NY) proposed the first bill to amend the National Labor Relations Act to end gender wage discrimination in 1944, but the bill expired after it was referred to the Committee on Labor. In 1950, Rep. Katharine St. George (R-NY), renowned for coining the phrase "equal pay for equal work," negotiated a compromise bill that would also permit the passage of the Equal Rights Amendment. This bill also failed. Ever persistent, St. George proposed a work bill in 1959 that called for equal pay for comparable work. It stalled for considerable time because of debates over the definition of "comparable." As St. George remarked in an oral history interview: "I always felt… women were discriminated against in employment… I think women are quite capable of holding their own if they're given the opportunity. What I wanted them to have was the opportunity."

The bill's language held up and ultimately became part of the EPA. On June 10, 1963, President John F. Kennedy signed the Equal Pay Act, and the law took effect on June

11, 1964 as part of Kennedy's New Frontier Program.

TIMELINE		
Date	**Status**	**Legislation**
December 10, 1923	First introduced	**Equal Rights Amendment:** "Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex" – these words are the heart of the Equal Rights Amendment (ERA). In 1923, Alice Paul, a women's rights activist whose suffragist campaign culminated in passage of the Nineteenth Amendment, wrote the ERA. Congress passed the amendment in 1972 and sent it on to the states for ratification. In 1982, it came closest to being ratified when thirty-five of the thirty-eight states required for inclusion in the Constitution passed it. The amendment has been reintroduced into (and defeated by) every Congress since then. In the 113th Congress (2013 – 2015), the ERA was
August 1, 2013	Reintroduced	

		reintroduced as H.J. Res 56 by Rep. Carolyn Maloney (D-NY), who continues to call for the prohibition of “denying or abridging equal rights under law by the United States or any State on account of sex” as it was originally proposed in 1923.
June 25, 1938	Enacted	**Fair Labor Standards Act:** On June 25, 1938, the Fair Labor Standards Act (FLSA) was signed into law by President Franklin D. Roosevelt. Designed to eliminate “labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency, and general well-being of workers,” the FLSA was the last piece of New Deal legislation passed. It establishes minimum wage, overtime pay, recordkeeping and child labor standards. The law impacts full-time and part-time workers of both private and Federal, State and local government sectors. It is administered and enforced by the Wage and Hour Division of the U.S. Department of Labor.
June 10, 1963	Enacted	**Equal Pay Act:** On June 10, 1963, President Kennedy signed the Equal Pay Act, as part of the Fair Labor Standards Act, into law. The EPA“prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort and responsibility under similar working conditions.” Administered and enforced by the Equal Employment Opportunity Commission (EEOC), the EPA attempts to fulfill the aspiration of equal pay for equal work and reduce the gender pay gap.

July 2, 1964	Enacted	**Title VII of the Civil Rights Act:** On July, 2, 1964, the Civil Rights Act, originally proposed by President John F. Kennedy, was signed into law by President Lyndon B. Johnson. Enforced by the Equal Employment Opportunity Commission (EEOC), Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on color, race, sex, religion and national origin in workplaces having more than 15 employees, including local, State and Federal government offices, employment agencies and labor organizations. The law covers
December 15, 1967	Enacted	**Age Discrimination in Employment Act (ADEA):** On December 15, 1967, the Age Discrimination in Employment Act (ADEA) was signed into law by President Lyndon B. Johnson. The ADEA prohibits employment discrimination against workers 40-years old or older and affects various employment-related issues, ranging from job application, hiring procedures, job training to terms, conditions, and privileges of employment, etc. Enforced by the Equal Employment Opportunity Commission (EEOC), the law applies to employers with 20 or more employees and to federal government, interstate agencies, employment agencies and labor unions.

June 23, 1972	Enacted	**Title IX of the Education Amendments:** On June 23, 1972, Title IX of the Education Amendments was signed into law by President Richard Nixon and it added strength to the women's rights movement. Commonly known for prohibiting sex discrimination in athletic activities in schools, Title IX applies to other areas of education that receive federal funding, including higher education, career education, programs related to standardized testing and employment, etc.
July 26, 1990	Enacted	**Title I of the Americans with Disabilities Act (ADA):** On July 26, 1990, the Americans with Disabilities Act (ADA) was signed into law by President George H. W. Bush. The ADA prohibits discrimination based on disability, and specifically, Title I of the ADA prohibits a range of employment-related discriminatory issues, ranging from job application, hiring procedures, job training to terms and conditions of employment, etc. Various employers with 15 or more employees - private and public sector employers, employment agencies and labor unions – must comply with this law. The ADA is enforced by several Federal agencies, including the Equal Employment Opportunity Commission (EEOC) for the employment-associated provisions.

April 20, 2005	Re-introduced	**Paycheck Fairness Act:** On April 20, 2005, Sen. Hilary Clinton (D- NY), Rep. Rosa DeLauro (D-CT) and Sen. Tom Daschle (D-SD) proposed the Paycheck Fairness Act. Its purpose: to increase the penalties for equal pay violations and to prohibit retaliation against whistle-blowers. This bill has experienced a number of turbulent moments since its inception. Of recent developments, the House passed the Paycheck Fairness Act with large bipartisan support in January 2009, but in June 2012, it failed to move forward due to a procedural vote on the Senate floor. On January 23, 2013, it was reintroduced by Sen. Barbara Mikulski (D-MD) and Rep. Rosa DeLauro (D-CT). The proposed bill seeks to amend the Equal Pay Act and to revise the current remedies, enforcements and exceptions to violations of the prohibitions against sex discrimination in the payment of wages. In addition, the Act calls for a study of data collected by the Equal Employment Opportunity Commission (EEOC) and proposes voluntary guidelines to show employers how to evaluate jobs with the goal of eliminating inequalities.
January 29, 2009	Enacted	**Lilly Ledbetter Fair Pay Act:** On January 29, 2009, President Obama signed the Lilly Ledbetter Fair Pay Act into law. The Act was constructed after its namesake endured discrimination for years but was unaware of it until long after she retired because her former employee prohibited employees from sharing or discussing information on their wages. The Act removes the statute of limitation on filing for gender pay discrimination to EEOC, which was originally stipulated as 180 days after receiving a paycheck based on gender pay inequal.

June 20, 2012	Not put to a vote	**Equal Employment Opportunity Restoration Act:** The Equal Employment Opportunity Restoration Act of 2012 (EEORA) was introduced in the House and the Senate on June 20, 2012. The

		EEORA sought to restore employees' ability to challenge discriminatory employment practices as a group. This was in reaction to the 5-4 Supreme Court decision in *Wal-Mart Stores, Inc. v. Dukes*, which allowed Wal-Mart's efforts to obstruct employees' ability to mount class action lawsuits against the company. The bill was sponsored by Rep. Rosa DeLauro (D-CT) and Sen. Alan Franken (D-MN).
January 28, 2013	Reintroduced	**Fair Pay Act:** The Fair Pay Act of 2013 was introduced in the House on January 28, 2013 and in the Senate on January 29, 2013. The Act seeks to end wage discrimination against those who work in female- or minority-dominated jobs by establishing equal pay for equivalent work; it prohibits wage discrimination based on sex, race, or national origin. The Fair Pay Act makes exceptions for different wages based on seniority, merit, or quantity/quality of work and contains an exemption for small businesses. The bill is sponsored by Rep. Eleanor Norton (D-DC) and Sen. Thomas Harkin (D-IA).
March 5, 2013	Referred to Committee	**Fair Minimum Wage Act:** The Fair Minimum Wage Act of 2013 was introduced in the House on March 6, 2013 and in the Senate on March 5, 2013. The Act seeks to increase the Federal minimum wage for employees to $8.20 per hour; after one year it would rise to $9.15 per hour, then to $10.10 per hour after two years. Thereafter, the increase would be an amount based on increases in the Consumer Price Index (CPI) annually. The bill is sponsored by Sen. Tom Harkin (D-Iowa) and Rep. George Miller (D-CA).

June 4, 2013	Not passed by NY State Senate	**New York Women's Equality Act:** In New York state, the Women's Equality Coalition - representing the Equal Pay Coalition NYC, New York Women's Agenda, and New York State Pay Equity Coalition - initiated the Women's Equality Act, which was supported and released by Governor Cuomo on June 4, 2013. The bill, comprised of 10 sections, promoted gender pay equity and sought an end to discrimination based on family status or pregnancy, among others. On June 21, 2013, the NY State Assembly passed the entire Women's Equality Act omnibus bill. However, the NY State Senate did not pass the reproductive health protection section, although it passed all the other sections.

3. **Why the EPA is relevant today**

In 2013, the gender pay gap (unadjusted), or "a measure of unequal pay for women compared to men," is still prevalent and persistent in the U.S. When the EPA was signed in 1963, women earned on average 59% of what men were paid – that is, 59 cents for every dollar men made. Fast forward 50 years: women earn on average 77% of what men are paid, or 77 cents for every dollar men make. That is an increase of less than 4 cents per decade. A recent analysis by the InstituteforWomen'sPolicyResearch on the trajectory of the gender pay gap from 1960-2012 is an

excellent illustration of how progress in shrinking the gap has stalled since 2002. While many blatantly sexist discriminatory practices in the workplace might have dissipated or transmutated over the years, unequal pay has not.

The gender pay gap affects all women, though it has never affected all women equally. According to a study that compared cross-racial/ethnic gender pay differentials in 2012, the median weekly earnings of women of all racial/ethnic groups were less than that of their male counterparts: 12% less among Hispanic or Latino/a, 10% less among African Americans, 19% less among Whites, and 27% less among Asian Americans. The median weekly wages of white men are higher than all others, as can be seen in this chart.

	Women's earnings as a percentage of earnings by men of same race/ethnicity	**Women's earnings as a percentage of white men's earnings**
Hispanic or Latina	88%	59%
African American	90%	68%
White	81%	81%
Asian American	73%	88%

4. **Measuring the pay gap**

There are different methods, but the basic idea is to calculate the difference between men's and women's typical earnings and to report the difference in relation to men's earnings, i.e., the highest earnings.

Median earnings are used to calculate the difference because they represent the middle value of earnings of all workers across the whole economy.

Pay Gap = (Men's median earnings – Women's median earnings) / Men's median earnings

For example, according to the Census Bureau and the Bureau of Labor Statistics, men's median annual earnings in 2011 was $48,202 and women's median annual earnings was $37,118. The 2011 gender pay gap: ($48,202 -
$37,118) / $48,202 = 23%.

Earnings ratios can be used to express the same idea. The earnings ratio is calculated by dividing women's median earnings by men's median earnings.

Earnings Ratio = Women's median earnings / Men's median earnings

The earnings ratio in 2011: $37,118 / $48,202 = 77%.

Economists use different earnings measurements such as hourly, weekly or annual wages. Some observe long-term patterns, using data from various points in history. Others focus on what they call “adjusted” pay gaps, that is, the pay gap after factoring in and adjusting for individual characteristics such as age, gender, family size, education level, job experience, and industry, among other variables. In the U.S., these adjusted figures tend to narrow the gender pay gap. For example, according to one study, researchers found that after adjusting for those individual characteristics, the gender pay gap was 19%, and when they additionally controlled for industries and occupations, the gap became 9%.

5. **Why is there a gap?**

What more can be gleaned from looking at the pay gap? One major fact is the highly “gendered” look of our workplace, also known as occupational segregation. Men (approximately 49%) work in industries predominantly occupied by men, and women (41%) work in industries predominantly occupied by women. Male-dominated industries tend to offer more better-paid positions versus more poorly paid positions in female-dominated industries – a phenomenon observed by some as a “jobs gap.”

Regardless of which gender dominates the industry, across almost all occupations men’searningsarehigherthan women’s. The following analysis is based on a 2011 study by the InstituteforWomen’sPolicyResearch. Women are highly visible in two occupational categories of *secretaries and administrative assistants* and *receptionists and information clerks*, occupying 96% and 93% of the workforce, respectively. But a gender pay gap of 9.4% adheres among *secretaries and administrative assistants* and 3.3% among *receptionists and information clerks*. Bigger wage gaps occur in occupations that could be stepping stones to better-paid, management positions, such as *first-line supervisors/managers of retail sales workers* or *accountants and auditors*. Female first-line supervisors/managers made 74% of what their male peers made, and female accountants/auditors made 75% of what their male peers made.

Common Occupations for Women	Percentage of female workers in occupation (%)	Women’s earnings as a percentage of white men’s	Gender pay gap (%)

Secretaries and administrative assistants	95.7	90.6	9.4
Receptionists and information clerks	92.5	96.7	3.3
Registered nurses	90.5	86.5	13.5

Nursing, psychiatric and home health aides	87.0	87.5	12.5
Accountants and auditors	59.1	74.9	25.1
First-line supervisors/managers of retail sales workers	45.5	73.9	26.1

The biggest gender pay gap appears in high-paying occupations. For example, female personal financial advisors' median weekly earnings are $962, whereas the same figure for their male counterparts is $1,647, a 41.6% gap. The pay gap for female medical and legal professionals and chief executives hovers between 23% (chief executives) and 29% (physicians/surgeons) despite great inroads in these traditionally male-dominated industries. Among low-paying occupations, the gender pay gap tends to be smaller. Women still make less than men, however, with the sole exception of the *combined food preparation and serving workers, including fast food* occupational category.

Highest paying occupations for women	**Percentage of female workers in occupation (%)**	**Women's earning as percentage of men's (%)**	**Gender pay gap (%)**
Physicians and surgeons	31.2	71.0	29.0
Chief executives	25.6	72.1	27.9
Lawyers	35.0	77.1	22.9
Personal financial advisors	32.8	58.4	41.6

Combined food preparation and serving workers, including fast	60.3	112.1	- 12.1

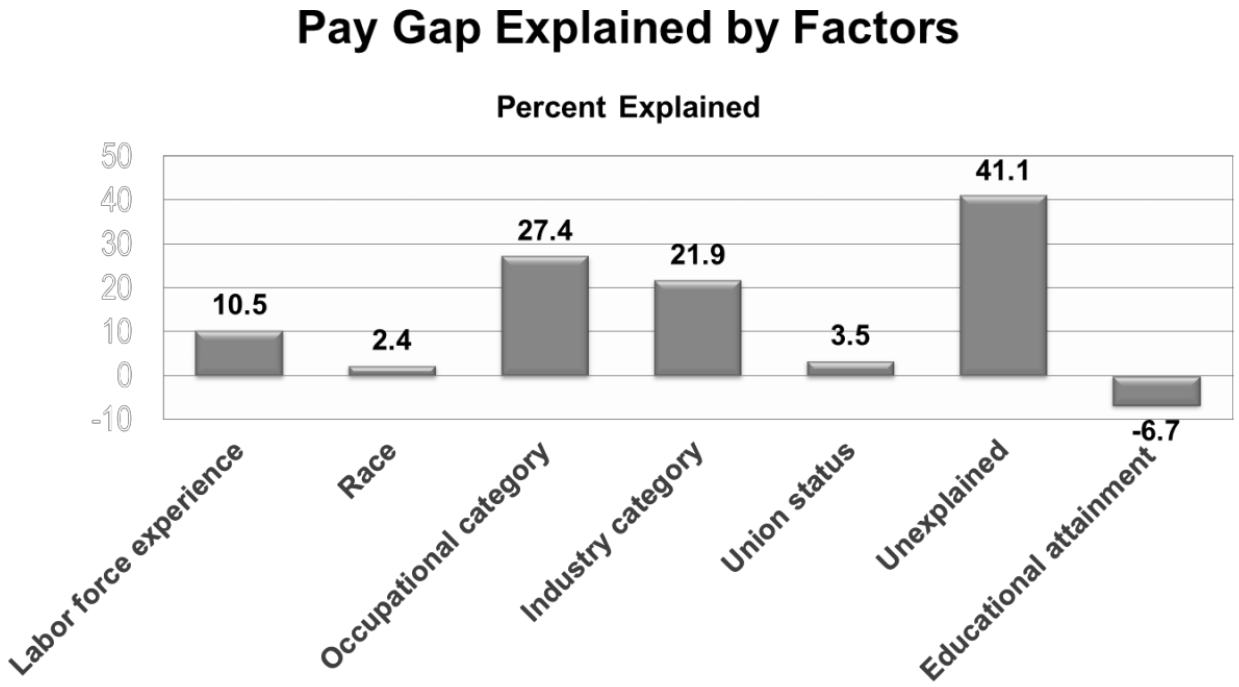
Traditionally, economists consider two theories to explain the gender pay gap. The first, **human capital theory**, puts the emphasis on women's choices to explain why their pay is less than men's pay. It hypothesizes that individual characteristics or qualifications – e.g., age, education, training, work experience and history – are responsible for differences in pay between all workers. This theory says that some workers are paid less because, for example, they lack the needed level of education, training or work experience compared to their competitors. The theory further suggests that women's wages tend to be lower because they choose to work fewer hours due to family and childcare responsibilities, choose occupations and industries that offer lower wages but more flexibility or expect their career paths to be discontinuous. All those choices lead to women accumulating less human capital; as a result, the theory goes, women are paid less than men because they do not achieve the qualifications required to assume positions in true competition with men.

The second theory, called the **discrimination theory**, hypothesizes that prejudicial and discriminatory practices in the workplace are the main culprits of the pay gap. It suggests that discriminatory practices induce differential treatments, which then may lead to biased assessments and expectations on productivity, performance evaluation, and appraisal towards one group of workers over others. Intentional and unintentional discriminatory practices are common and are often present at the beginning of the employer/employee relationship, as numerous racial bias studies show. High-end restaurants in Philadelphia were less reluctant to offer job interviews and make job offers to female candidates for wait-staff positions over similarly qualified male candidates, one study revealed. In another, researchers found that when female musicians auditioned for symphony orchestras, their chance of being hired went up when they auditioned behind a screen, concealing their identity from their interviewers.

Scholars' opinions vary on exactly what proportions of the gender pay gap can be explained by differences in human capital or discrimination in the labor market, but there is a general consensus that data supports both theories. One 2007 study by renown labor economists Francine Blau and Lawrence Kahn explains that about 41% of the gender pay gap (20.3%) was due to "unexplained" sources (e.g., discrimination) and the rest due to individual characteristics (e.g., union status, industry and occupational category, etc.), as the following graph shows.

Factors	Pay Gap Explained
Labor force experience	10.5
Race	2.4

Occupational category	27.4
Industry experience	21.9
Union status	3.5
Unexplained	41.1
Educational attainment	-6.7



6. **Problem for women: constrained choices in context**

The human capital theory is based on the premise of "compensating wage differentials." That is, people who value and need flexibility in work hours or conditions, etc. will choose occupations that offer workplace flexibility, hence exchanging high-wage/low-flexibility work for low-wage/high-flexibility work. In reality, workers who occupy high-pay positions tend to enjoy more flexibility and benefits embedded in their positions, something to which many low-pay scale workers do not have access. For instance, while there is no overt motherhood penalty, women who take advantage of **family-friendly policies** – e.g., flexible hours – seem to suffer in the form of slow wage increase and threat of job loss. The notion of low-wage workers being able to negotiate and choose work conditions freely appears to fall short on evidence, especially in the context of an industry-level misallocation of workplace flexibility and employees' needs.

Furthermore, women tend to reap lower returns on their investments made for college and professional degrees. Even when women pursue high-level education and choose high-earning career paths such as medicine, law and business, women still do not fare well compared to men, especially in the long-run. One study looked at the post-graduation gender pay gap among the University of Michigan Law 1972-75 cohort.

Initially, the pay gap was small. After 15 years, women made only about 60% of what their male counterparts made. Holding constant various lifestyle choices these classmates made over the years – e.g., lengths of part-time work, years of practicing law, types of law practiced, family composition, etc. – researchers still found 13% advantage for male cohort members, not attributable to personal characteristics. In a similar study, researchers found a growing trend in pay difference among newly- trained physicians in New York State: in 1999, male physicians made $3,600 more than comparable female physicians, and in 2008, the difference increased to $16,819. In another study, comparing financial costs and benefits of becoming physicians or physician assistants, researchers found that female primary physicians would have been financially better-off if they had chosen to be physician assistants instead. But the same result did not occur for male primary physicians.

The fact that women outclass men when it comes to educational attainment has been well-documented in the U.S. Women are more likely to have a college degree than men (46% vs. 36%) and are highly represented in professional and graduate degree programs. However, these educational investments do not seem to yield the same level of financial return for women, reflecting the impenetrability of the "**glass ceiling**" felt even among the highly-educated female workforce in the U.S. The fact that women of color experience an even greater pay gap adds another layer of "impenetrability." For example, African American and Latina women's mobility into upper-tier positions is more strained than that of white women holding professional and managerial-level positions, as one study showed.

Looking at the low-wage end of the spectrum, American workers have been struggling with the growing problem of precarious work and job insecurity. Precarious work, defined as "employment that is uncertain, unpredictable, and risky from the point of view of the worker" impacts both men and women workers, particularly of occupy low-wage occupations, and their sense of economic insecurity and precarious employment relations has increased even within an expanding economy.

7. **The gender pay gap outside the U.S.**

The gender pay gap is a global phenomenon, and advanced economy countries are no exceptions. Although exact figures on pay differentials fluctuate depending on which years or measures are studied, there appear to be patterns among industrialized nations, particularly member states of the Organization for Economic Co-operation and Development (OECD). According to one 2013 OECD report, the range of gender pay gap among the top 25 industrialized countries is from 6.1% to 28.7%. Countries such as Spain (6.1%), Poland (6.2%), Hungary (6.4%), New Zealand (6.8%), Norway (8.1%) and Belgium (8.9%) tend to have low percentages of pay differentials between men and women, while Japan (28.7%) and Germany (20.8%) tend to report high figures. Of the latest OECD
statistics available online, the median gender wage gap ranges from 4.2% (New Zealand) to 37.5% (South Korea). The U.S.'s figure is 17.8% which is higher than the OECD average of 15.0%.

Contextually, the U.S. is notorious for having poor workplace policies compared to other industrialized nations. Its policies on parental leave, sick leave, vacations, and other social programs such as childcare are considered substandard and ungenerous by many scholars who study comparative, international social policies. According to researchers investigating longitudinal data sets from the WorldEconomicForum'shigh-income economies, the U.S. is the only country among its peer nations that does not have a nationwide program for paid leave for new parents or guarantee paid leave for

new mothers – with the exception of the states of California, Washington, and New Jersey, which have state-level programs for paid family leave. Nor is there a federal-level policy on paid leave for personal illness or to address family members' illness. Most advanced-economy countries offer work-family friendly policies such as paid leave for new parents, paid leave to take care of children's health issues, breastfeeding breaks, and a weekly day of rest – not to mention nationalized or subsidized childcare. The U.S. only offers breast-feeding breaks. These work-family policies have direct impact on how individuals participate in the workforce and what is included in their cost-benefit calculations. That is, a particular set of choices a woman makes about how many hours to work, which industry to work in, where to work, how much job-related training to pursue, how to obtain affordable childcare, etc., occur within a context of constraints. Their decisions related to work participation are made among these constrained choices.

8. Next steps

Many legislative measures have been enacted and pursued since the EPA was passed. For example, in 1964, the Civil Rights Act was passed to prohibit discrimination in employment on the basis of race, color, religion, national origin, and sex. Its scope is in much broader terms than the EPA, and Title VII of the Civil Rights Act makes it illegal to discriminate based on sex in pay and benefits. Other legislative changes include:

- Title IX
- Paycheck Fairness Act
- Lilly Ledbetter Fair Pay Act

10. **Should hiring be based exclusively on merit? Justify your thoughts.**

Many factors go into creating a strong workforce, and diversity of perspective is a key one.

According to David Rock and Heidi Grant, a more diverse team is a smarter team — and a more successful team. As they write in the Harvard Business Review, "A 2015 McKinsey report on 366 public companies found that those in the top quartile for ethnic and racial diversity in management were 35 percent more likely to have financial returns above their industry mean, and those in the top quartile for gender diversity were 15 percent more likely to have returns above the industry mean."

According to Rock and Grant, diverse teams have several winning attributes going for them. They tend to be more fact-focused, they tend to process those facts more carefully, and they tend to be more innovative in their approaches.

Mike Myatt, writing for Forbes, says more diverse teams are also better reflections of the real world. As a result, they can better respond to the needs of a variety of customers and market segments. Myatt also notes that more diverse teams are more amenable to robust, civil debate, which allows the team to avoid ideological blind spots and arrive at more informed decisions.

With the benefits of diversity in mind, we have to ask: Why are so many tech companies falling short? Even the most diverse tech companies are nowhere near equal.

At Voxbone, we've challenged ourselves not to be one of those companies. We've poured much effort into creating a diverse company culture, and we've expanded our concept of diversity beyond gender and ethnicity to include culture, religion, and nationality.

As a result, we've made significant strides in creating a more diverse workforce. For example, 35 percent of our employees are women, which is in line with the average for US tech companies (34 percent) and better than the UK average (17 percent).

Key to reaching this level of diversity was our decision to not impose a strict hiring policy on our HR department. Instead, we've been able to achieve competitive diversity levels simply by hiring the best people while still being conscious of the gender balance in our teams and our organization overall.

3 Lessons on Building a More Diverse Workforce

Here are a few of the tips and lessons we've picked up along the way. Hopefully, they will help your company find similar success in building a more diverse workforce:

1. Motherhood Isn't a Disruption

Don’t be afraid to hire women who are at the age where they may wish to start a family. In this day and age, women can pursue their desires to start families and still contribute to the workforce with relatively minimal interruption, provided your organization offers the proper support. By understanding that motherhood is not a disruption, we’ve been able to cultivate a family-friendly workplace that appeals to a more diverse segment of candidates and makes existing employees feel more fulfilled.

2. Encourage Women and Men to Find Work/Life Balance Equally

By investing energy and resources into creating a flexible workplace, you can build a work environment that allows employees of any gender to find the work/life balance they need while still hitting ambitious professional targets.

We’ve found that workplace flexibility initiatives are most successful when they start at the top. If employees see the leaders of the company taking advantage of flexible work arrangements, they will follow suit.

3. Establish Core Values to Guide Your Hiring

Hiring solely on the basis of race or gender is by definition prejudicial, and it is unlikely to lead to the best hires for your company.

Instead, work with the executive team to establish a set of core values that guide your hiring. Then, assess all candidates through the lens of those values. Doing so will ensure that you’re making hires who are great fits for the company, regardless of their demographic characteristics.

Diversity Hiring Is Merit Hiring

Diversity hiring as “hiring based on merit with special care taken to ensure procedures are free from biases related to a candidate’s age, race, gender, religion, sexual orientation, and other personal characteristics that are unrelated to their job performance.”

So, when organizational leaders wonder how to create more diverse workforces, the answer is simpler than they think: Hiring qualified and motivated employees without bias will naturally lead to a more diverse workforce.

For many, this answer may feel unsatisfying, but the fact is a hiring policy that turns qualified people away in the name of diversity can only damage your company. Hiring based on merit is the best place to start, and it is how you can remain ahead of the diversity curve.

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- Equal Employment Opportunity Restoration Act
- Fair Pay Act
- Fair Minimum Wage Act
- New York Women's Equality Act

By now, we know a lack of diversity and inclusion is a systemic problem in today's workforce, and our hiring and recruiting processes are largely to blame.

According to Harvard behavioral economist and *What Works: Gender Equality by Design* author Iris Bohnet, "The easiest place to remove bias from the hiring process is in recruitment." It makes sense: Hiring and recruiting is where organizations build the next generation of their business.

Those of us who have followed the HR technology talent acquisition space for a long time know that hiring and recruiting is ripe for disruption. About $5.7 billion was invested in HR technology from 2015 to 2017, and talent acquisition gets about a third of that share.

One of the biggest problems the talent acquisition market needs to solve is biased hiring and recruiting. As most of us know, some unconscious biases can stem from seemingly harmless things like unstructured interviews or relying too heavily on employee referrals. Some biases can stem from any of the 10 cognitive biases outlined by Gartner, which can include things like confirmation bias, information bias, overconfidence, and the ostrich effect.

To HR technology's credit, it has helped make improvements to unconscious and cognitive bias in hiring and recruiting by simply taking the human element out of some of the processes that were inherently biased. But, with these improvements come a whole new set of problems.

The flaws that are readily apparent with HR technology obviously stem from any kind of technology bias in which people become data points, as most HR technologies don't solve for their own technological biases. These biases can be data points like what school a candidate went to, what skills they list on their resume, the words used in an organization's job description, or even a candidate's name.

"The fact is, Latisha and Jamal do not get the same number of callbacks as Emily and Greg," Bohnet said in another article. "You need to look at what each person brings to the table."

To put a finer point on it, a recent study published in the *Harvard Business Review* found "when there was only one woman or minority candidate in a pool of four finalists, their odds of being hired were statistically zero." However, when the candidate pool of underrepresented minorities went up to two or three, their chances of being evaluated on merit increased by 50 to 70 percent.

Obviously, there are skills and competencies these HR technologies just can't account for today. But there are flaws that go much deeper than just the readily apparent biases that come with HR technology.

Popular professional networking sites lend themselves to a lot of the same problems organizations had before HR technology (and yes, I realize the irony of telling you this on LinkedIn). The truth is, hiring and recruiting can often become a game of who knows who on these sites. They enable recruiters and employers to fall back into old habits of only talking to and considering candidates who look like them and share their worldview. Sound familiar?

The fact is, if HR technology is going to help remove bias from hiring and recruiting wholesale, it needs to go a level deeper than normal technology bias or the biases that come from relying on professional networking sites. Organizations need to be able to hire based on a candidate's actual merit — not a set of data points or homogenous connections.

That's why myself and a team of seasoned experts decided to build Censia. At Censia, we know outdated recruitment technologies are blocking the best candidates through everyday bias. We help companies break bias by using the unmatched depth and breadth of Censia's intelligent candidate discovery technology and global talent data platform. With Censia, companies get the right candidates, based on merit, with radical efficiency.

Our approach is different because we use over 140 data points to build candidate profiles that far exceed the typical evaluation of talent. Our data helps us better identify candidates who will be successful based on factors that others are missing, so when companies build out their talent pipelines, their selections are blind to race, gender, ethnicity, sexual orientation, veteran status, and disability. Censia also allows companies to set an underrepresented minority slate percentage per role.

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