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## THE GENDER PAY GAP IN THE UNITED STATES: A HISTORY OF INEQUALITY AND STRUGGLE FOR WOMEN

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**BENNAA YUCEF**

***This Thesis is dedicated to My Family and Friends.***

## **ABSTRACT**

This research aims at shedding the light on the social, economic, and political factors contributing to the evolutionary history of the gender pay gap in the United States between the 1960 and 2013, and providing a comprehensive explanation for the sex-based wage disparities. This paper will draw upon sources; like reports from different research centers in governmental departments, Supreme Court cases, and Congress legislation, among others. Upon the examination of the empirical literature and the data collected, it is revealed that the gender pay gap in the period under study was significantly reduced. This reduction was due to a concerted effect of social, economic, and political aspects. This research work concludes that the root causes of the gender-based pay differences in the United States are the combination of both; the preferences of women regarding family and employment and the systemic sex discrimination in the American labor market.

**Key Words:** Gender Pay Gap, Legislation, Revolution, Discrimination, Preference, Employment, Feminism, Comparable Worth

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## LIST OF ACRONYMS

A.W.L.M:	Association of Women in Law and Medicine
E.E.O.C:	Equal Employment Opportunities Commission
E.P.A:	Equal Pay Act
E.R.A:	Equal Rights Amendment
F.D.A:	Food and Drug Administration
F.E.S.A:	Fair Employment Standards Act
I.L.O:	International Labor Organization
N.A.A.C.P:	National Association for the Advancement of Colored People.
N.A.S:	National Academy of Science
N.F.B.P.W.C:	National Federation of Business and Professional Women's Club
N.O.W:	National Organization for women
N.W.P:	National Women's Party
N.C.P.E:	National Committee on Pay Equity
O.E.C.D:	Organization for Economic Cooperation and Development
S.C.O.T.U.S:	Supreme Court of the United States
W.B:	Women's Bureau
W.T.U.L:	Women's Trade Union League
W.E.A.L:	Women's Equity Action League

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## GENERAL INTRODUCTION

“Our age may properly be called the Era of Woman, because everything which affects her receives consideration quite unknown in past centuries.”<sup>1</sup>This was a quote celebrating the status of women in the American society, by the president of the American Economic Association Richard T. Ely. “A woman deserves equal pay for equal work.”<sup>2</sup> This is another quote urging for treating women equally to men, when it comes to wages. From a superficial comparison of the two quotes, any observer might have judged that the first is a recent statement highlighting the achievements of gender relations of modern day society, and the latter belongs to an activist from the 1960s trying to push for a basic human right such as equal pay for equal work. However, the first statement was made in the year 1893, and the second one belongs to the incumbent U.S. President Barack Hussein Obama. The history of gender relation in America in general and the gender pay gap in particular is a fascinating subject with multiple implications regarding the economy and society. According to Pew Research Center, the gender wage differences or the gender pay gap as it is commonly known represents the disparities in wages between men and women in the labor force. This issue was a cause for several initiatives to address this seemingly unjust treatment of women, including a variety of different legislation starting in the 1960s. The era between 1960 and 2013 was an event-full period filled with several changes at the economic, social, and political levels in the United States. In this four-chapter paper, the choice of this period and the events in it will be discussed in details according to the following order.

There will be some light shedding on the pre 1960s period regarding the social, economic, and political status of women, gender relations and especially the gender pay gap. There will be focus on the barriers that stood in the way of achieving gender equality in a variety of different fields, but with a focus on the obstacles related to employment. At the end of the first chapter there will be an analysis of a variety of different factors and indications at the economic, social, and political levels all suggesting and pointing to an upcoming change in post 1960

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<sup>1</sup>Helen Campbell, *Women Wage-Earners*, (Boston: Cambridge University Press, February 28, 2005). P.3.

<sup>2</sup>Strassel, Kimberly. “Strassel: Obama's Inequality Pitch Falls Flat.” *The Wall Street Journal*, March 27, 2014. Accessed January 16, 2016.  
<http://www.wsj.com/articles/SB10001424052702304418404579465751297102582>

America. This change will include several components; key legislation, the establishment of pro gender equality organizations, and other gender related economic breakthroughs.

Starting in the 1960s, there were different social and economic revolutions that took place in the U.S. It brought several changes in the quantity and quality of the female participation in the American work force, and how that change was instigated by, and a cause of an alteration in the new formed identity and aspirations of women. The 1960s era also witnessed a surge in the spirit of civil rights activism, and it consequently influenced the new feminist movement of the 1970s. This surge also ultimately affected gender relations in general and the sex-based pay disparities in particular. The progress made regarding the gender pay gap, and whether the previously mentioned social and economic revolutions had a substantial effect on these gender-related pay differences is still to be determined.

The era between 1960 and 2013 saw the passage of the most significant and most influential pieces of legislation aimed at addressing the gender pay disparities. Each of these legislation is chosen on the basis of the scope of its efficiency in dealing with factors related to the wage differences, such as employment discrimination, and obstacles regarding education. Each and every one of these legislation had three facets. The first one will be related to its historical background and the legal route that preceded its passage. The second facet will assess the successes it achieved for its designated goals. Finally the last aspect will tackle the shortcomings and the disadvantages it had on the plight to reach gender pay equality.

This research work will also seek to provide a comprehensive explanation to the root causes behind the gender-based wage inequality. The way to do that is by analyzing the two primary perspectives explaining the gender pay disparities and their respective theories in order to see their strengths and weaknesses, and eventually build a framework for an extensive and all-inclusive explanation for the differences in pay between men and women. This chapter will also be dealing with the prospect of Comparable Worth as a viable future solution for the issue of wage discrepancies. At the end of this final part there will be some proposed recommendations on how to best deal with this issue.

The two main questions that this research work seeks to answer are; was the gender pay gap, which stands for the wage differences between men and women, reduced during the period between 1960 and 2013 or not? And if it was reduced what are the factors that may or may not have contributed to the presumed reduction? In doing so, the major goal is to establish a comprehensive explanation to account for the root cause behind such an issue, that define the large objective of achieving gender equality at the economic, social, and political levels in the United States.

This research paper entitled “The Gender Pay Gap in the United States: A history of inequality and Struggle for Women,” will be divided into four different chapters. The first one is about the historical background of the gender pay disparities prior to the 1960s era. The second chapter will be dealing with the social and economic revolutions that started in the 1960s and 1970s, and how it managed to influence the sex-based pay gap. Chapter three will delve into the different laws that were passed in the era under study between 1960 and 2013, in order to demonstrate their impact on the wage gap. The fourth and final chapter will examine the root causes behind the pay gap and analyze the proposed solutions aimed at closing it.

# CHAPTER ONE:

## The Restrictive Era 1900s-1960s

### 1-Introduction

Before the 1960s, and in the era between the 1900s and the civil rights movement, women in the United States of America went through a period that would prove to be of great impact to their participation in the American labor force, and as a consequence to the gender pay gap in general. In this period a myriad of policies, legislation, and personnel practices worked together to diminish the ratio of female to male in the American workforce and to restrict the employment of women to certain fields with very limited promotion ladders. These types of discriminatory policies found support in the widespread social consensus over the roles that men and women should have in society. Women had to push back against what they saw as clear discrimination, and had to organize themselves to fight back for better working conditions and later on to achieve equality with their male counterparts. But their approaches to some of these issues were drastically different, and sometimes even drove them in conflict against one another, rather than facing their mutual adversary, the conservative, male-dominated political establishment.<sup>1</sup>

This chapter will deal with how some of the discriminatory barriers and prohibitions affected women's employment, and demonstrate them in action at the federal, institutional, and individual level. Also, it will describe the role these prohibitions played in impeding the inevitable social and economic changes that affected the gender pay gap in the decades and generations to come. This chapter will illustrate the fight between many of the women's organizations that were established to protect women's rights unfolded. At the end of this part there will be an analysis some of the key legislation and laws that were pushed, proposed, and lobbied for by these different women's groups.

### 2-The Marriage Bars 1920-1950

One of the most obvious forms of prohibitions against women in the

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<sup>1</sup> Conservatism: is a political and social philosophy that is built on establishing traditional culture. Merriam Webster Dictionary. <http://www.merriam-webster.com/dictionary/conservatism>.

workforce are policies adopted in the early 1900s by firms and local school boards, they are called “The Marriage Bars”<sup>2</sup>. These infamous practices manifested themselves in two different ways, “the hire bar [which enabled the employers to not hire married women, and] The retain bar”, which gave the employers the right to fire single women when they got married.<sup>3</sup> At their peak, these two bars, whether they were implemented as policies or as a matter of personnel practices affected the majority of the “female oriented occupations” such as teaching and clerical work.<sup>4</sup> After the establishment of the Women’s Bureau in 1920 in the department of Labor by public law number 259, it had as one of its many purposes, alongside “formulating standards and policies which shall promote the welfare of wage-earning women” and “advance their opportunities for profitable employment”<sup>5</sup>, the investigation into some of the prohibitions that women went through during that time. One of the most notable works of this organization was two extensive surveys that were conducted in 1931 and 1940.<sup>6</sup> These large surveys involved seven cities: Chicago (Illinois), Hartford (Connecticut), New York City (New York), Philadelphia (Pennsylvania), in the 1931 sample, and Los Angeles (California), Kansas City (Missouri), and Philadelphia again in the 1940 sample<sup>7</sup>. They covered school boards and firms hiring office workers.<sup>8</sup> The number of observations in these surveys amounted to a total of 339 firms and 76955 female employees<sup>9</sup>. There were also some interviews with agents and personnel officers.<sup>10</sup> The firms in the 1931 survey were insurance companies, public utilities, and mail order firms.<sup>11</sup> In the 1940 survey manufacturing firms, retail stores, whole sale outlets, small professional offices, and firms in the transportation and communication sector were added.<sup>12</sup> The results are rather shocking as it is revealed in table one and table two. Though the

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<sup>2</sup> Claudia Goldin, *Understanding the Gender Gap: An economic History of Women*. (New York: Oxford University Press, 1990). P160

<sup>3</sup> Claudia Goldin, “Marriage Bars: Discrimination against Married Women Workers 1920’s to 1950’s” (working paper No. 2747, 1988), P.4. Retrieved from The National Bureau of Economic Research website: <http://www.nber.org/papers/w2747>

<sup>4</sup> Ibid.,

<sup>5</sup> Ibid.,

<sup>6</sup> Ibid.,

<sup>7</sup> Claudia Goldin, *Marriage Bars: Discrimination against Married Women Workers*, op.cit., P.36.

<sup>8</sup> Ibid., P37

<sup>9</sup> Ibid.,

<sup>10</sup> Zsuzsa Daczo, “Wage Inequality and the Gender Wage Gap: Are Women Swimming Upstream” (Phd Thesis, University of Maryland, 2012), P.23.

<sup>11</sup> Ibid.,

<sup>12</sup> Ibid.,



percentage of the firms that have a stated policy of not retaining single women when they married was just 12 percent, but 25 percent of all female employees were working in firms which had such a policy.<sup>13</sup>The marriage bar also took another form, a more “discretionary” one<sup>14</sup>, which was revealed through the interviews with the agents and personnel officers of these firms. This discretionary form of the bar allowed firms and school boards to keep good workers when they married, and hire married women when there was a scarce supply of single women.<sup>15</sup>

Therefore, by this token, if we add the discretionary measure case to the percentage of the bar as a stated policy we find that a whopping 35 percent of all female employees were working in firms that would not retain them when they married.<sup>16</sup>In the samples surveyed there were more than 50 percent of firms which had cases of women being dismissed due to their marriage as a condition of policy and discretion.<sup>17</sup> For example in the states of Kansas and Philadelphia there were forty five point five percent of firms with more than seven hundred employees who had this policy that affected women’s employment (See Table1). There were other notable observations regarding the likelihood of firms to implement such policies depending on size and type. For example, in the 1931 survey the firms which are more likely to have the bars are insurance companies, publishing firms, banks, and public utilities.<sup>18</sup>As for the 1940 sample, insurance offices, banks, public utilities and the office portion of manufacturing firms were at the forefront.<sup>19</sup>One thing that both years-1931 and 1940- had in common was that firms with the large number of female employees had the highest probabilities of instituting the marriage bar as a policy.<sup>20</sup> The complex barriers of employment that women faced in the pre 1960s

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<sup>13</sup> Ervin Eugene Lewis, *Personnel Problems of the Teaching Staff*, (New York: The Century Co. 1925), P.25.

<sup>14</sup> Discretionary means: “Firms stated single women were preferred, married women were placed on special probation, or the policy was up to the department head”. Claudia Goldin, 1988, op.cit., P.36.

<sup>15</sup> Laurie Essig, “Does Marriage demand women quit their jobs?” *Forbes*, Nov. 27, 2012, accessed January 16, 2016. <http://www.forbes.com/sites/laurieessig/2012/11/27/does-marriage-demand-women-quit-their-jobs/#1466612fb4c6>

<sup>16</sup> Ibid.,

<sup>17</sup> James J. Davis, *Personnel Research Agencies*, (Washington: U.S. government Printing Office, 1930), P.110.

<sup>18</sup> Ibid., P.111.

<sup>19</sup> Ibid.,

<sup>20</sup> Jeremy I. Bulow, “A Theory of Dual Labor Markets with Application to Industrial Policy, Discrimination, and Keynesian Unemployment,” (working paper No. 1666, 1985). Retrieved from The National Bureau of Economic Research website: <http://www.nber.org/papers/w1666>

era were explained by a variety of different justifications and rationalization, as it is about to be demonstrated.

## **2-2-The Rationale behind the Marriage Prohibitions**

One might wonder about the motives behind firms and school boards' choice to adopt such discriminatory policies, and limiting their source of labor supply to single women and men. The answer, argued Claudia Goldin a leading American economist and a Henry Lee professor of Economics at Harvard University was very simple, they gained the institutions which use such policies, as the marriage bars a lot of money.<sup>21</sup> They no longer had to worry about raising the salaries of their experienced female employees, and the dismissal of workers came in cheaply because of the stated policy-the previously mentioned retain bar- therefore they did not have to pay any compensation.<sup>22</sup> There was another aspect to these practices; they had a social and even a personal "façade" to it. As it has been mentioned before there were some interviews conducted in the surveys with personnel directors, agents of firms, and school board members where the prohibitions thrived, in the period between 1920 and 1950, for the purpose of finding out the "real" reasons that justified these prejudicial practices and the results were telling of an era marred with patriarchy and even blatant racism.<sup>23</sup>

The comments varied from the practical, to the personal. Some said that, "Women who married while employed might become less efficient because they would leave in the near future," others believed that "Men are too selfish and should have to support their wives," the other group of interviewees stated a more personal opinion about the fact that women must plan to stay at home. <sup>24</sup>There were also other stated reasons for why married school teachers were less qualified to hold teaching positions than their male counterpart, some of which are related to the incapability of women, especially teachers to concentrate and give their all in their jobs, while they have children waiting at home. Another reason was a little dig at pregnant women. Some of the employers stated that "Married women with children should be

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<sup>21</sup> Claudia Goldin, 1983. "The Changing Economic Role of Women: A Quantitative Approach". *The Journal of Interdisciplinary History* 13 (4). The MIT Press: 707-33. doi:10.2307/203887. P.720.

<sup>22</sup> Ibid.,

<sup>23</sup> Discrimination against blacks and Jews were rampant and the interviewees were very candid about that. Claudia Goldin, *Marriage Bars*, op.cit., p.7.

<sup>24</sup> James J. Davis, op.cit., p.17.

home taking care of their own,” others were more blunt in their responses saying that “married women are less efficient”<sup>25</sup>

### **3-The Effects of Protective Labor Laws: 1900-1950**

There were other groups of women in the pre 1950s era that faced another sort of discrimination, disguised under the form of protection. These forms of prohibitions proved to be more lasting than the marriage bars. They were called “Protective Legislation” and they affected especially young women and working daughters, by viewing them, and sometimes rightly so, as “vulnerable” and requiring protection.<sup>26</sup> This protection was generally from long working hours, harsh working conditions and night work. From that perspective, many states have passed legislation to protect women from harsh working conditions, working at night, and long hours<sup>27</sup>. Though the proponents of these “family friendly laws” probably had their hearts in the right place, and meant well by proposing them, many equal rights activists had a different take on this subject.<sup>28</sup>

By 1900 a quarter of all single female workers aged between sixteen and twenty four years old had left their families and parents homes in rural areas of the country to live in the metropolis, seeking better employment opportunities that were lacking in their hometowns.<sup>29</sup> This group of young and usually naïve girls was easily under the risk of being exploited by their employees.<sup>30</sup> The other group, called the “working daughters”, had it somehow better. They lived in the comfort of being under the roof of their parents, so they were not subjected to cruel conditions of the city and the ruthless treatment of opportunist employees.<sup>31</sup> The nuanced difference between these two groups is that, the term “working daughters” was chosen to highlight the fact that they gave their income to their parents, and the young single females group is to highlight their age and family status. But what many social

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<sup>25</sup> Ibid.,

<sup>26</sup> Daniel Blackburn, “Labor law: Its role, trends and potential,” (*Labor Education* Vol.3, No.2, 2006), P.35.

[http://www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@actrav/documents/publication/wcms\\_111442.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@actrav/documents/publication/wcms_111442.pdf)

<sup>27</sup> Ibid.,

<sup>28</sup> Ibid.,

<sup>29</sup> Ahmad Ahsan, “Are All Labor Regulations Equal? Evidence from Indian Manufacturing,” (*Discussion Paper* No. 3394, March 2008), P.24. <http://ftp.iza.org/dp3394.pdf>

<sup>30</sup> Ibid., P.25.

<sup>31</sup> Ibid.,

reformers saw in them as a case for activism was the fact that these working daughters had to give up school and sacrifice their leisure time to provide for their parents, yet they received next to nothing for their labor.<sup>32</sup>

One of the most immediate dangers that faced workers in general and women employees in particular was long working hours; hence naturally it was a legitimate target for social reformers and protective legislation proponents. Economic historians, such as Helen Campbell, have traced the emergence of laws regulating daily hours of work to the mid 1800s.<sup>33</sup> By the 1919, forty states in the United States had put a limitation on working hours.<sup>34</sup> These regulations and enforceable laws applied almost exclusively to women in such fields as manufacturing, sales, laundries, telephone and telegraph, and cotton and woolen textiles.<sup>35</sup> Many states had set a ten-hour work day, and no more than five states had a maximum hour day below that number, these statistics are illustrated in Table 3.

One of the most memorable cases regarding maximum hours legislation for men and women, and a landmark decision by the U.S Supreme Court was “Muller v. Oregon, 1908”, which according to Claudia Goldin “left a legacy beyond the decision to uphold the Oregon 10-hour law”.<sup>36</sup> What made this particular case special was another case that preceded it. It was called “New York v. Lochner, 1905”. In this case, the Supreme Court struck down regulations of conditions of employment prescribing hours of work and wages, and the rationale behind it was that they undermined the “freedom of contract”.<sup>37</sup> This term was coined by Justice Rufus Peckham in the “New York v. Lochner, 1905” case, and it revolved around the idea that, every individual or group of individuals’ right to make contracts freely will not be jeopardized by the U.S. government, except for some notable exceptions. The exact words of Justice Peckham were: “parties capable of entering into a contract and giving their consent to its terms ought not to be curbed by the state, save to protect the health, welfare, and morals of the community or to prevent criminal

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<sup>32</sup> Pauli Murray, “Economic and Educational Inequality Based on Sex: An Overview” 5 *Val. U. L. Rev.* 237 (1971), P.237. Available at: <http://scholar.valpo.edu/vulr/vol5/iss2/2>

<sup>33</sup> Helen Campbell, *Women Wage-Earners* (Boston: Cambridge University Press, February 28, 2005). P.33.

<sup>34</sup> *Ibid.*, P.34.

<sup>35</sup> *Ibid.*,

<sup>37</sup> *Ibid.*,

<sup>37</sup> Kermitt Hall, *The Oxford Companion to the supreme court of the United States*, (New York: Oxford University Press, 2005).P.223.

activities”<sup>38</sup>The Supreme Court in the “Muller v. Oregon” case in 1908 upheld a ten-hour maximum law that, three years prior, it struck down.<sup>39</sup>The law stated that:

No female [shall] be employed in any mechanical establishment, or factory, or laundry in this State more than ten hours during any one day. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than ten hours during the twenty-four hours of any one day.<sup>40</sup>

This decision affected the prospect of expanding women’s employment to other male-dominated field, but the reason why the Supreme Court held this law to be constitutional is because of a legal brief by a lawyer called Louis Brandeis.<sup>41</sup>The young lawyer argued in his hundred pages legal brief that woman has a special place as “the bearers of society’s future children” and that women lack the bargaining abilities and skills “to represent their own interests responsibly in the contacting process”<sup>42</sup> The passage of this law in the present environment of litigious nature would be inconceivable, and near impossible due to the newly formed social consensus of a notion of equality between the sexes. Back in the early 1900s, it was also public opinion that led to the passing of such laws. But in that environment of patriarchy and prevailing paternalistic values it was built on the notion that women had a particular “place” in society that should remain that way. The notion of women’s place in society was built, as William. H Chaffe best articulated, around the belief that women will develop an instamatic acceptance that some particular jobs, attitudes, and relationship roles are acceptable to one sex but not the other.<sup>43</sup>

He continued to argue that both sexes “will develop an interior sense of themselves as part of a larger category of people for whom certain activities are either expected or forbidden”<sup>44</sup>The maximum hours legislation which were enforceable only on women, had its path paved by the “Muller v. Oregon 1908” and “New York v. Lochner 1905” Cases, and throughout the pre-civil and equal rights

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<sup>38</sup> Ibid., P. 224.

<sup>39</sup> Ibid., P.144.

<sup>40</sup> Retrieved from : <https://www.law.cornell.edu/supremecourt/text/208/412>

<sup>41</sup> Claudia Goldin, *Understanding the Gender Gap: An Economic History of American Women*, op.cit., p.129.

<sup>42</sup> Kermitt Hall. op.cit., P.144.

<sup>43</sup> William H. Chafe, *Women and Equality: Changing Patterns in American Culture* (New York: Oxford University Press, 1977), p.8.

<sup>44</sup> Ibid.,

movements of the 1950s and 1960s, such as the National Association for the Advancement of Colored People (N.A.A.C.P), it further widened the already large gender pay gap for the obvious reason of: restricting the number of working hours for women but not for men. Another piece of legislation, under which the previous two laws will fade away in comparison to what it did to the gender pay gap and to women's employment was presented to congress in 1932. It was dubbed by economist and lawyer John Thomas McGuire as "the most piece of legislation."<sup>45</sup>Section 213 of the Economy Act of 1932 was passed as a measure of rationing jobs, which were draining due to the crash of 1929 and the Great Depression that immediately followed it.<sup>46</sup> In the midst of the Depression in the 1930s there were about ten million women working outside their homes, three millions of which were married.<sup>47</sup>

Therefore this particular legislation of the Economy Act had a devastating effect on the employment of women and the gender gap because it bluntly stated that "in a household where there was a husband and a wife residing, one of them had to forfeit their government job."<sup>48</sup> This meant that each married woman had to leave her job in the federal government, if her husband was employed in it, and vice versa. Though the text clearly states that both sexes were targeted by this law, yet the majority of its victims were women. Despite the activism and the efforts put in by many social reformers and feminists like the National Women's Party, a whopping 1900 federal employees were laid off, 1425 of which were women.<sup>49</sup>Section 213 of the Economy Act lasted only about six years before it was finally repealed in July of 1938, leaving a legacy of discrimination, and a bitter feeling in the hearts of many people, and especially among women who were affected by this law, because only 0.1% of them were admitted back to their previous held jobs.<sup>50</sup> Women in the pre-civil rights era occupied a very special and intriguing position in the American

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<sup>45</sup> John Thomas McGuire (2008). "The Most Unjust Piece of Legislation": Section 213 of the Economy Act of 1932 and Feminism during the New Deal. *Journal of Policy History*, 20, pp 516-541. doi:10.1353/jph.0.0026. P.531.

<sup>46</sup> Claudia Goldin, *Marriage Bars*, op.cit., p.30.

<sup>47</sup> Holly Armstrong, "Women in the New Deal Era: An in-depth study of women's roles and attitudes during the Great Depression," (PhD Thesis, University of South Florida, Sarasota-Manatee, History Department, April 2012), P.5.

<sup>48</sup> Ibid.,

<sup>49</sup> Ibid., P.6.

<sup>50</sup> Ibid.,

society, argued Claudia Goldin; they were clearly and fully assimilated in society, but endured the same variety of discriminatory treatments inflicted upon ethnic, religious, and other minorities.<sup>51</sup> Furthermore, women were less organized as a group, when compared to their male counterparts.<sup>52</sup> Only a tiny 6.3% of all women working in manufacturing were unionized in 1914, whereas more than double that amount of male workers were organized in a union.<sup>53</sup>

Women in that era had a tough choice to make, especially those who wanted to pursue independent and profitable careers, they had to choose between a life in the home or an employment related one, as Anthropologist Margret Mead articulated: “A female had two choices either to be a woman, and therefore less an achieving individual or an achieving individual and therefore less a woman.”<sup>54</sup> Each of these choices had some rather depressing consequences as well as social and economic gains. Because as Mead argued that if a woman opted for a home-centered life, she would increase her odds of being loved by her surroundings and if she chose the second option she might gain a profitable occupation, but loose on the family front.<sup>55</sup> This dichotomy that was presented by Margret Mead made women stand in a very uncomfortable position, between family life on one hand and professional life on the other. These seemingly hard and difficult choices were not always available for all women; some of them were usually pressured into opting for the first option by societal expectations, parental leverage, and a very inhospitable political and economic landscape.<sup>56</sup> But throughout these years of gender inequality and discrimination there were some signs, subtle and clear, of an upcoming whirlwind of change, just prior to the 1960s.

#### **4-Winds of Change**

One of the earliest breakthroughs for women’s rights was the passage of the Nineteenth Amendment in 1919. It gave women in the United States the right to vote and to choose their public representatives and it gave them protection from any

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<sup>51</sup> Claudia Goldin, *Understanding the Gender Gap*, op.cit., p.185.

<sup>52</sup> Ibid., P.192.

<sup>53</sup> Ibid.,

<sup>54</sup> William H. Chafe, op.cit., p. 15.

<sup>56</sup> Ibid.,

<sup>57</sup> Ibid.,

<sup>58</sup> “Nineteenth Amendment” <https://www.gpo.gov/fdsys/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-20.pdf>

infringements upon this right that might be caused by the federal government or by any of its states, as it declares: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of sex. Congress shall have power to enforce this article by appropriate legislation”<sup>57</sup>This amendment to the United States’ Constitution enabled women’s rights organizations to form coalitions in Congress like the Women’s Joint congressional committee, which was an American coalition of existing women’ rights organizations and their main goal was “lobbying around women’s issues at the national level.”<sup>58</sup> The reason why change in the status of women in the economy and the efforts to achieve gender equality took until the 1950 to start i.e. almost thirty years after the amendment was ratified, remains unclear given the fact that women gained the right to vote, and put their preferred representatives in positions of power like Congress and the presidency, with this particular amendment thirty one years ago. One theory suggests that women had a sense of personal insecurities and have seen the rise in divorce rates in the American society, and they were not financially safe in their own homes. Therefore, argued John Lott, they needed “an insurance policy” and the federal government stepped in to play that role of.<sup>59</sup>Arguably this shift from distrusting societal norms to giving the government a bigger role to play was, at least in part, the reason why the fruits of the voting right amendment took so long to be picked. The Nineteenth Amendment validity was upheld unanimously by the Supreme Court case “Leser v. Garnett 1922”, and the Justice who wrote the Court’s opinion was Louis Brandeis, the lawyer who was so articulate in briefing the Supreme Court in the anti equality case “Muller v. Oregon 1908.”<sup>60</sup> Most states ratified the Nineteenth Amendment immediately after its first draft was made, others took some very long time to do so, the last states to ratify it were: Maryland (1958), Virginia (1952), Alabama (1953) Florida (1969), Georgia and Louisiana(1970), North Carolina (1971), and finally Mississippi(1984) was the last state to ratify the Nineteenth Amendment.<sup>61</sup> The voting rights that was given to women by the Nineteenth Amendment was a major breakthrough in the fight to make their voices

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<sup>58</sup> Ibid.,

<sup>59</sup> John Lott, Jr. Lawrence Kenny, “Did Women’s Suffrage Change the Size and Scope of Government?” (Chicago: The University of Chicago Press, 1999), P1163.

<sup>60</sup> Ibid.,

<sup>61</sup> Randy E. Barnett, “*The Case for a Federalism Amendment,*” *The Wall Street Journal*, April 23, 2009. Accessed Jan. 16, 2016. <http://www.wsj.com/articles/SB124044199838345461>



heard in the American society, however, it was only a first step to achieve gender equality. This last mission needed a more organized work at the political level, which was the objective of a newly formed political entity, as it is about to be demonstrated.

#### **4-1-The Establishment of the National Women’s Party and the Equal Rights Amendment: 1916.**

One of the milestones in the women’s struggle for equality of treatment under the law, and especially in pay, was the establishment of the National Women’s Party. This party took on its shoulders the burden of fighting to achieve absolute gender equality in all social, political, and economic levels.<sup>62</sup>The National Women’s Party was established in 1916 by feminist activists Alice Paul (1885-1977)<sup>63</sup> and Lucy Burns (1879-1966)<sup>64</sup>, who were taught some rather militant and aggressive tactics by the British suffragette movement (1872-1928)<sup>65</sup>, for the primary reason of giving women the right to vote.<sup>66</sup>The main goal behind their work was an intention to change the dominant definition of womanhood, and to shake the status quo that was prescribed by, what they saw, as a “patriarchal” establishment.<sup>67</sup>They sought to build a new sense of identity which is severed from the old “prevailing definitions of womanhood.”<sup>68</sup>In order for the N.W.P to achieve their goals, they used some rather new tactics to the American traditions of politics.

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<sup>62</sup>“Historical overview of the National Women’s Party,” The Library of Congress, accessed Jan. 28, 2016. P.3. <https://www.loc.gov/collections/static/women-of-protest/images/history.pdf>

<sup>63</sup> Alice Paul: (1885-1977) she was an American feminist and the leader of the suffrage movement in the U.S. in 1910-1919. Wikipedia contributors, "Alice Paul," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Alice\\_Paul&oldid=707284202](https://en.wikipedia.org/w/index.php?title=Alice_Paul&oldid=707284202) (accessed February 28, 2016).

<sup>64</sup> Lucy Burns: (1879-1966) she was an American feminist and the co-leader of the suffrage movement alongside Alice Paul in the U.S. in 1910-1919. Wikipedia contributors, "Lucy Burns," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Lucy\\_Burns&oldid=704114173](https://en.wikipedia.org/w/index.php?title=Lucy_Burns&oldid=704114173) (accessed February 28, 2016).

<sup>65</sup> British suffragette movement: It was a militant suffrage movement that took place in Britain in 1872-1906. Wikipedia contributors, "Women's suffrage in the United Kingdom," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Women%27s\\_suffrage\\_in\\_the\\_United\\_Kingdom&oldid=703242146](https://en.wikipedia.org/w/index.php?title=Women%27s_suffrage_in_the_United_Kingdom&oldid=703242146) (accessed February 28, 2016).

<sup>66</sup> Donald L. Haggerty, “*National Woman’s Party Papers: The Suffrage Years 1913 – 1920*,” (Sanford, N.C.: Microfilming Corporation of America, 1981), P.37.

<sup>67</sup> Margo Anderson, “The History of Women and the History of Statistics,” *Journal of Women’s History* Vol.4, No.1, 1992, (New York: EBSCO, 2002) P.25.

<sup>68</sup> *Ibid.*,

#### **4-1-1-The N.W.P's Work**

On the verge of American entry in World War One (1914-1918), and in the presidency of Woodrow Wilson (1856-1924), The N.W.P introduced to the American political activism arena a relatively new form of protest in the unlikelyst of places; they started picketing at the White House. The N.W.P, armed with the First Amendment of the U.S. constitution that gave American citizens the right to speak, assemble, and dissent peacefully without being intimidated by any government official or institution,<sup>69</sup> took the streets and to the gates of the White House in 1918 to speak about what they saw as a clear government hypocrisy, in its claim of being “the Arsenal of Democracy”<sup>70</sup> to the rest of the world, while restricting its female citizens from voting in its home soil.<sup>71</sup>

After being subject to enormous pressure from the public, the U.S. government gave in to the voices demanding the voting rights for women, and the efforts of the activists, led by the N.W.P culminated in the passage of the Nineteenth Amendment.<sup>72</sup> However, the ambitions of the N.W.P were far bigger, they sought a legal action that would dwarf the impact of the 1919 amendment, and this action came in the form of a proposition to make women completely and utterly equal to women in all levels, as it is about to be discussed.

#### **4-1-2-The next Step for the N.W.P: The Equal Rights Amendment 1923**

After they were boosted with a major victory in the passage of the Nineteenth Amendment, The N.W.P shifted its attention to it perceived to be a larger and more important fight; an amendment to the United States constitution guaranteeing full and absolute gender equality.<sup>73</sup>In support of this effort, Alice Paul

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<sup>69</sup> Donald L. Haggerty, op.cit., P.33.

<sup>70</sup> Arsenal of democracy: it was a slogan made by President Franklin D. Roosevelt during the Second World War in 1940. Wikipedia contributors, "Arsenal of Democracy," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Arsenal\\_of\\_Democracy&oldid=691473595](https://en.wikipedia.org/w/index.php?title=Arsenal_of_Democracy&oldid=691473595) (accessed February 28, 2016).

<sup>71</sup> “Historical overview of the National Women’s Party,” *The Library of Congress, American Memory Women of Protest: Photographs from the Records of the National Woman’s Party*. P3

<sup>72</sup> Cynthia Crossen, “When Worse Than A Woman Who Voted Was One Who Smoked,” *The Wall Street Journal*, Jan. 7, 2008. Accessed Jan. 16, 2016. <http://www.wsj.com/articles/SB119967117828471383>

<sup>73</sup> Cynthia Harrison, “*On Account of Sex: The Politics of Women's Issues, 1945-1968*,” (Berkeley: University of California Press, 1988), P.40. <http://ark.cdlib.org/ark:/13030/ft367nb2ts/>

the founder of The N.W.P introduced to the U.S Congress what will become to be known as the Equal Rights Amendment.<sup>74</sup> It stated that men and women are equal under the American law, and that Congress will take legislative action to make sure that this status of equality is achieved. Its final wording was split in three different sections; the first one stated that: “Men and Women shall have equal rights throughout the United States and every place under its jurisdiction,” it was followed by the second installment that said: “Congress shall have the power to enforce the law by appropriate legislation,” and finally Section three concluded the proposed Amendment’s wording that: “This amendment shall take effect two years after the date of ratification”<sup>75</sup> The amendment eventually died in 1977, because it fell three states short of the necessary thirty-eight states to be ratified, the rejecting states were Florida, Illinois, Louisiana, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, and finally Virginia.<sup>76</sup> The rescinding<sup>77</sup> states on the other hand were: Nebraska, Idaho, Tennessee, South Dakota, and Kentucky.<sup>78</sup>

Though the amendment eventually died in the late 1970s, due to the lack of sufficient ratifying states, it triggered a vital conversation on the national level about gender inequality, and women’s rights. Some women wanted to remain under the umbrella of protective legislation, and keep the prospect of “reasonable working hours and better working conditions.”<sup>79</sup> Others wanted to pursue a much larger goal: absolute equality between the sexes. A lot of people thought that these two aims cannot go hand in hand, as Associate Justice of the United States Supreme Court Felix Frankfurter argued: “Equal rights and protective legislation were incompatible, and that embracing equal rights meant abandoning protective legislation.”<sup>80</sup> This could be viewed by neutral observers to be a valid point, because one of the main reasons why the Equal Rights Amendment fell short of ratification is because other women groups felt that it would have catastrophic results on the working class

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<sup>74</sup> Ibid.,

<sup>75</sup> Ibid.,

<sup>76</sup> Wikipedia contributors, "Equal Rights Amendment," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Equal\\_Rights\\_Amendment&oldid=706681914](https://en.wikipedia.org/w/index.php?title=Equal_Rights_Amendment&oldid=706681914) (accessed February 28, 2016).

<sup>77</sup> Rescinding: To declare that a law is no longer binding. "Rescind." Merriam-Webster.com. Accessed February 28, 2016. <http://www.merriam-webster.com/dictionary/rescind>.

<sup>78</sup> Ibid.,

<sup>79</sup> Linda M. Blum, op.cit., p.22.

<sup>80</sup> Goldin, Claudia. *Understanding the Gender Gap: An economic History of Women*. op.cit., p.P198

women.<sup>81</sup> This is due to the new status they will be under, which in principle would be, if someone is looking to be treated equally to another person, this would mean not only they have the same rights and obligations, but also that neither one of them should receive special treatment, and protective legislation fell under the umbrella of special treatment.

There was also a rather intense debate around the issue of gender equality, and this particular amendment in the U.S political arena. Proponents of the Equal Rights Amendment (E.R.A) introduced their case armed mainly with the argument that discrimination based on sex is unfair.<sup>82</sup> Opponents of the Amendment and proponents of protective legislation for women said that passing this law would create unisex bathrooms, and would render rape legal.<sup>83</sup> As a consequence many pro-protective legislation organizations, like the Women's Bureau (1920)<sup>84</sup> tried to insert some modifications to the E.R.A, mainly what is called the "Hayden Rider Amendment" which states that: "The provisions of this article shall not be construed to impair any rights, benefits, or exemptions conferred by law upon persons of the female sex."<sup>85</sup> This section tried to preserve the special status that women received under the umbrella of protective labor laws.

This was presumed to be a middle ground, and a compromise that neither camp accepted.<sup>86</sup> The Hayden Rider "attachment" to the Equal Rights Amendment proved to be a deadly one, because it made the initial supporters of the E.R.A see this new combination as "equality...but" which to them was unacceptable.<sup>87</sup> This clash of ideologies between the two conflicting groups- the pro and anti E.R.A- defined and highlighted the struggle between the two camps on who will get the custody rights of the new born women's rights movement. Another change that was starting to unravel outside the political realm of gender relations but would prove to

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<sup>81</sup> Cynthia Harrison, op.cit., p.40.

<sup>82</sup> Ibid.,41.

<sup>83</sup> Ibid., P.31.

<sup>84</sup> Women's Bureau: It was established in the Department of Labor in 1920, to promote welfare for wage earning women, among other women related issues. "Our History: An overview 1920-2012," Department of Labor's Women's Bureau, accessed Feb. 12, 2016.

[http://www.dol.gov/wb/info\\_about\\_wb/interwb.htm](http://www.dol.gov/wb/info_about_wb/interwb.htm)

<sup>85</sup> Cynthia Harrison, op.cit., p.32.

<sup>86</sup> Ibid.,

<sup>87</sup> Ibid.,

be of great importance, this change was concerning the size and quantity of women's employment.

#### **4-2-The Increase in Women's Employment Participation Rates: 1930-1960**

There were also signs of the upcoming change that was about to hit the female economic status in the United States. Between the 1930s and 1950s, married women's participation in the American work force jumped from 10% to 25%, due in part to the abandoning of the institutions of the previously discussed marriage bars.<sup>88</sup>In addition to the huge numbers entering the labor force, women found incentives to get married while employed because of the changing nature of the new jobs, from the hard blue-collar jobs<sup>89</sup> to the easier white-collar<sup>90</sup> ones, and unlike these new jobs the old jobs were "dirty, dangerous, repetitive and had long hours per day and days per week."<sup>91</sup> The statistics on the number of married women who were employed were very staggering, they skyrocketed from just 8% in 1890, to 26% in 1930 and to a dazzling 47% in 1950.<sup>92</sup> This "revolutionary" change in the participation rate of women in the labor force was credited by many scholars to a myriad of reasons. Some attributed this evolutionary growth to the increased demand of "white collar occupations" like office and clerical workers.<sup>93</sup>This explanation had a strong backing when it comes to the percentage of clerical workers in this particular era. The number rose from about 24% in 1900 to 52% in 1930.<sup>94</sup>This was one of the elements of the four tenets that Catherine Hakim<sup>95</sup>

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<sup>88</sup> Goldin, Claudia. 1983. *The Changing Economic Role of Women: A Quantitative Approach*. *The Journal of Interdisciplinary History* 13 (4). (The MIT Press: 707–33. 1983),P.doi:10.2307/203887. P.731.

<sup>89</sup> Blue Collar Jobs: are jobs that involve manual labor. Wikipedia contributors, "Blue-collar worker," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Blue-collar\\_worker&oldid=707313514](https://en.wikipedia.org/w/index.php?title=Blue-collar_worker&oldid=707313514)(accessed February 28, 2016).

<sup>90</sup> White-Collar Jobs: They are jobs related to managerial, professional, or administrative work Wikipedia contributors, "White-collar worker," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=White-collar\\_worker&oldid=707314130](https://en.wikipedia.org/w/index.php?title=White-collar_worker&oldid=707314130) (accessed February 28, 2016).

<sup>91</sup> Richard A. Easterlin, "What Will 1984 Be Like? Socioeconomic Implications of Recent Twists in Age Structure". (*Demography* 15 (4). Springer: 397–432, 1978), P.412. <http://www.jstor.org/stable/2061197>

<sup>92</sup> Richard A. Easterlin, op.cit., p.410.

<sup>93</sup> Catherine Hakim, *Women, careers, and work-life preferences* (British Journal of Guidance & Counseling, Vol. 34, No. 3, August 2006), P.287.

<sup>94</sup> Ibid.,

<sup>95</sup> Catherine Hakim: is a British Sociologist specializing in gender and women issues. Wikipedia contributors, "Catherine Hakim," *Wikipedia, The Free Encyclopedia*,

articulated in her preference theory, which would explain, at least in part, the the huge influx of married women to the American work force.<sup>96</sup>Claudia Goldin argued that it was also about the “increased supply of high school graduates.”<sup>97</sup>But they both agreed on another factor which is the creation of part-time work in the 1940s.<sup>98</sup>According to Hakim this helped people who are not totally committed to working life at the cost of other family and social related aspects.<sup>99</sup>Though the numbers of married employed women increased substantially, they remained in second place to their husbands when it came to the biggest earner in the household.<sup>100</sup>Husband’s income, despite the substantial growth in the female labor supply, rose considerably and significantly when compared to women.<sup>101</sup> One explanation has been offered to account for this seemingly contradictory observation, which is related to women’s expectations and desires from employment.<sup>102</sup>

A lot of women did not expect or predict to have long, prosperous careers, therefore naturally the energy and willingness to invest in education and on-the-job training was very shy.<sup>103</sup>In addition to their expectations, there were also some institutional factors contributing to these findings. In a “Women’s Bureau” survey conducted by the Department of Labor in 1957, a group of college graduate women said that a big chunk of them were asked about their typing abilities during a job interview, despite their high academic qualifications and the intended job descriptions.<sup>104</sup> For example, one of the United States Supreme Court Justices Sandra Day O’Connor said that after graduating as the top of her class from one of the most prestigious law schools, not just in the United States but the world, Stanford University the only job that she could get her hands on is a

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[https://en.wikipedia.org/w/index.php?title=Catherine\\_Hakim&oldid=686647586](https://en.wikipedia.org/w/index.php?title=Catherine_Hakim&oldid=686647586)(accessed February 28, 2016).

<sup>96</sup> Goldin, Claudia. *The Changing Economic Role of Women*. op.cit., p.720.

<sup>97</sup> Mickey Moran, “The status of the Equal Rights Movement during the Great Depression,” (History Department, Loyla University, n.d. Web. 23 Feb 2016), P.6.

<http://cas.loyno.edu/sites/chn.loyno.edu/files/1930's%20America-Feminist%20Void.pdf>

<sup>98</sup> Ibid., P.7.

<sup>99</sup> Catherine Hakim, *Women, careers, and work-life preferences*, op.cit., P.287.

<sup>100</sup> Holly Armstrong, op.cit., p.22.

<sup>101</sup> Ibid.,

<sup>102</sup> Louise Michelle Newman, op.cit., P.30.

<sup>103</sup> Ibid.,

<sup>104</sup> “*Our History: An overview 1920-2012*,” Department of Labor’s Women’s Bureau, accessed Feb. 12, 2016. [http://www.dol.gov/wb/info\\_about\\_wb/interwb.htm](http://www.dol.gov/wb/info_about_wb/interwb.htm)

secretary.<sup>105</sup> Even that, she continued, got through personal mediators, and no law firm in her home state of California presented her with an offer to work in her field of expertise.<sup>106</sup> The proposed solution to accommodate such large numbers of women entering the American labor force was, a bill that was aimed to have a limited scope of influence, as it is about to be demonstrated.

#### **4-3-Specific Bills for Specific Ills: 1945.**

Though the increase in participation of married women may stand out as the most important historical change in the female labor force, as it has been seen earlier, there was another push by many women's movements for a bill that would have an impact of similar magnitude on, not just women's work but also the gender pay gap in general. This bill was called "Specific Bills for Specific Ills"<sup>107</sup> The change that was brought about by the influx of women to the workforce was accompanied by many factors. It became the reason for the "decline in the stability of the family", the changed perspective of gender relations, and the elevated new position of women in the hierarchy of political power and influence.<sup>108</sup>

The "specific bills" effort came just after the end of the Second World War (1939-45), and it was mainly aimed at providing women with equal pay for equal work in the private sector.<sup>109</sup> It came as a sort of compensation to the efforts put in by working women during the war, by raising their wages and providing them with a more hospitable work place.<sup>110</sup> There was a major shift in the way women were viewed after the end of World War two, not just from an economic point of view, but also from a social one as well. They were now praised for their "maturity and steadiness"<sup>111</sup> and even their ability to work in traditionally male-held occupations. As senators Claude Pepper, a democrat from the state of Florida, and Morse Wayne, a republican from the state of Oregon<sup>112</sup> said: "Women in producing the weapons of war have, in many industries and occupations demonstrated their ability to turn the

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<sup>105</sup> Ibid.,

<sup>106</sup> Ibid.,

<sup>107</sup> Cynthia Harrison, op.cit., p.40.

<sup>108</sup> Goldin, Claudia. *Understanding the Gender Gap*, op.cit., P.119.

<sup>109</sup> Ibid., P.40.

<sup>110</sup> Ibid.,

<sup>111</sup> Ibid., P6

<sup>112</sup> Cynthia Harrison, op.cit., P.44.

same day's work as do men".<sup>113</sup>Therefore, they continued: "women should not be treated as second class citizens."<sup>114</sup>These pro-equality sentiments were adopted by many circles and spheres, not just among politicians; they became more and more popular. The majority of public opinion polls were always in support of this kind of legislation.<sup>115</sup>Employers as well did not just praise women by stating that they were "naturally courteous, well bred, and have a less chatty nature,"<sup>116</sup>they actually looked particularly for female workers due to the newly created service and clerical jobs.<sup>117</sup>The press also played its part in advocating for the passage of the equal pay bill. An example was *The New York Herald Tribune*, and its call to help the "widows of the war" in their strife to be the only bread provider for their offspring.<sup>118</sup>There were also countless studies done on this subject, notably that of the University of Columbia in 1957, which it called "womanpower".<sup>119</sup>The findings concluded that women were in fact "essential" and "distinctive" workers.<sup>120</sup>Among this overwhelming support, this bill looked likely to pass, but there were mainly three difficult hurdles and obstacles in its way. The first one was the returning male soldiers who would face "job shortages" and the psychological unrest of being unemployed. <sup>121</sup>Therefore naturally, the government wanted to put these war veterans back to work and assimilate them back to the normal public life.<sup>122</sup>There was a sentiment split in public opinion on what should the new role of women be, the first camp argued that this new place that female workers acquired during the war should be made permanent, the other camp said that, since the "real breadwinners" are back women should be returning to their homes to be "the keepers of the hearth."<sup>123</sup>

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<sup>113</sup> *ibid*

<sup>114</sup> Ruth Milkman, *Women's Work and Economics Crisis: Some Lessons of the Great Depression*, (University of California - Berkley, Sociology, April 1976), P.84.

<sup>115</sup> *Ibid.*,

<sup>116</sup> Mickey Moran, *The status of the Equal Rights Movement during the Great Depression*, (History Department, Loyla University, n.d. Web. 23 Feb 2016), P.7.

<http://cas.loyno.edu/sites/chn.loyno.edu/files/1930's%20America-Feminist%20Void.pdf>

<sup>117</sup> *Ibid.*,

<sup>118</sup> Solomon W. Polachek, *op.cit.*, p.22.

<sup>119</sup> *Ibid.*, P.49.

<sup>120</sup> Suzanne M. Bianchi and Daphne Spain, *American women: three decades of change*. (U.S. Department of Commerce, Bureau of the Census, 1983), p.13.

<sup>121</sup> Louise Michelle Newman, *op.cit.*, P.30.

<sup>122</sup> *Ibid.*,

<sup>123</sup> Linda M. Blum, *op.cit.*, p.22.



The second obstacle was the fierce opposition from the conservative establishment, lead mainly by the Republican Party which in the 1946 elections won both the Senate and the House of Representatives.<sup>124</sup> Most of these conservative republicans and some democrats viewed the bill with suspicion, claiming that it made the government bigger, and that was against their political ideology, but most importantly they believed that “the bill involves a major interference with the freedom of American industry.”<sup>125</sup> Therefore, naturally they did not want any of that. Even among some democrats there were some very strong opinions against equal pay for women, one example of this attitude was a Senator from the state of North Carolina called Graham Barker<sup>126</sup>. Barker, the chairman of the house education and labor committee stated his absolute opposing to the equal pay efforts labeling and branding it to be “ridicules”<sup>127</sup>. The third and what proved to be the most lethal to the equal pay efforts was the split between the women who favored the E.R.A, and set it as their major and ultimate political goal, and those who wanted to achieve what they thought were a more realistic objective in the equal pay bill, mainly the Women’s Bureau.<sup>128</sup> They did not look to form a new position for women the market place, but rather to push the employers to pay their female employees, not just a fair pay, but the same pay that men received doing the same exact work.<sup>129</sup> The E.R.A proponents would have probably agreed with the principle of equal pay for equal work, but since the movement behind it was instigated by their nemesis and adversary - the Women’s Bureau- they were reluctant, to say the least to even entertain that idea.<sup>130</sup>

As Claudia Goldin argued, whenever there was some kind of economic crisis, it was usually accompanied by a form of social degradation and stagnancy.<sup>131</sup> Like what happened in the recession of 1893, when the unemployment rate reached a record high of 12.33 percent back then.<sup>132</sup> The government in response

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<sup>124</sup> Ibid.,

<sup>125</sup> William H. Chafe, op.cit., p.47.

<sup>126</sup> Ibid., P.42.

<sup>127</sup> Ibid., P.46.

<sup>128</sup> “*Our History: An overview 1920-2012,*” Department of Labor’s Women’s Bureau, accessed Feb. 12, 2016. [http://www.dol.gov/wb/info\\_about\\_wb/interwb.htm](http://www.dol.gov/wb/info_about_wb/interwb.htm)

<sup>129</sup> Ibid.,

<sup>130</sup> Ibid.,

<sup>131</sup> Claudia Goldin, *Marriage Bars*, op.cit., p.11.

<sup>132</sup> Ibid.,

issued a federal survey to give some assurances to the public and the male workers in particular that women were not the cause of the unprecedented joblessness rate.<sup>133</sup>This is also what happened in the Great Depression years of the 1930s, when the marriage bars reached their peak, as we have seen earlier. But after the Second World War the United States economy started to recover again, and went through what became to be known as “the postwar economic boom”<sup>134</sup>, there was a tendency among the American public for some progressive change to take place in social, political, and economic life.<sup>135</sup>

There was also a lot of support, even from the White House to tackle the issue of gender pay equity, as President Dwight David Eisenhower (1890-1969) said during his address to Congress in the year of 1956: “Legislation to apply the principle of equal pay for equal work without discrimination because of sex is a matter of simple justice.”<sup>136</sup>He continued to articulate his desire to do something about it by saying: “I earnestly urge the Congress to move swiftly to implement these needed labor measures.”<sup>137</sup>The equal pay movement was gaining real momentum, unlike that of the E.R.A. proponents, and the upcoming decades would unravel some rather interesting “battles” of different ideologies, principles, and approaches, like the one we have seen between the two belligerent feminist groups (The pro-E.R.A movement versus the anti-E.R.A groups) and the one between the Liberal Progressive camps against the conservative establishment.

## 5-Conclusion

In pre civil rights America, women in general and married women in particular had only two choices to make , either give up on a career and have a home, a husband, and be a house wife; a part of “the cult of domesticity”<sup>138</sup>or have a career and live a life of celibacy due the application of the marriage bars. Single women on the other hand did not face that dilemma, yet they received, what many pro equality advocates now view as a more damaging treatment. Though they were

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<sup>133</sup> Ibid.,

<sup>134</sup> Wikipedia contributors, "Post–World War II economic expansion," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Post%E2%80%93World\\_War\\_II\\_economic\\_expansion&oldid=705312437](https://en.wikipedia.org/w/index.php?title=Post%E2%80%93World_War_II_economic_expansion&oldid=705312437) (accessed February 28, 2016).

<sup>135</sup> Suzanne M. Bianchi and Daphne Spain, op.cit., p.14

<sup>136</sup> Cynthia Harrison, op.cit., P.50.

<sup>137</sup> Ibid.,

<sup>138</sup> William H. Chafe, op.cit., p.27.

protected from harsh working conditions, long hours, and employers' exploitation, they were restricted from "opportunities to acquire higher-paying jobs."<sup>139</sup> Many of these family-friendly laws and protective legislation were demanded and defended by women for obvious reasons concerning the health and the well-being of female workers. Yet other groups of women including equal rights activist Alice Paul had far more ambitious goals, like getting the federal government to pass the Nineteenth Amendment in 1919. Unlike the pro-protective legislation advocacy group, the N.W.P wanted full and absolute gender equality. But what might have been their biggest victory since their inception if passed, was an amendment to the United States constitution making inequality between the sexes illegal. The E.R.A proposed in 1923, as it was named was also disputed not only by conservative men, but also from women who feared that it would eradicate some of the benefits of protective labor laws. In the end The E.R.A got ratified by only 35 states, three short of the necessary 38. This dichotomy of women's preferences in the way to achieve more favorable gender equilibrium often drove the two camps to a conflict that was counterproductive to both their efforts. Another major turning point in the history of the struggle to close the gender gap was the formidable numbers of women workers pouring into the labor market between the 1945s and 1950s. The sheer size of this female influx to the labor force helped tip the balance of pay equity in favor of a smaller more manageable wage gap.<sup>140</sup> Therefore the increase in the number of female employees brought a quantitative change, but there was still a persistent pay gap. So the women's movement needed a more qualitative change. The first attempt of many to come in this regard was the introduction of the "Specific bills for specific ills" bill, it came just after the Second World War ended, and its main aim was working through the United States federal and judicial systems to overcome the injustices of pay inequality, and avoid what they perceived was the ineffective, militant strategies of the radical pro-E.R.A groups. The following decades starting from the 1960s onward witnessed a revolutionary change in demographics and social perceptions of gender roles that would have a tremendous impact on the gender pay gap in the U.S. In the following chapter we will see how the outcomes of this "not-so-quiet revolution" unfolded.

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<sup>139</sup> George J. Borjas, *Labor Economics* (New York: McGraw-Hill, 2013), P.409.

<sup>140</sup> *Ibid.*,

# CHAPTER TWO:

## The Not-So-Quiet Revolution 1960-2013

### 1-Introduction

As it has been demonstrated in chapter one, the influx of married women into the American labor force was the most significant change to affect the labor market since the foundation of the United States. Married women became more and more accepted in the workforce, because of the complete end of the marriage bars, and the availability of white-collar jobs, like clerical work and office work. The number of married women entering the labor force continued its unprecedented rise throughout the 1960s to the new millennia reaching record high figures. Yet, despite these incredible numbers of working women entering the workforce, their relative incomes comparable to those of men did not rise accordingly or sufficiently. This means that despite the rise of their numbers, their collective wages when added together and compared to those of men collectively, there was no significant change. Most of the economic historians, including; Blau, Kahn, and Goldin agree that, though there was some increase in the ratio of female to male wages in the beginning of the 1960s, it was credited almost entirely to the rise in the quantity of women enrolling in the labor force and not to the quality of the occupations they opted for, because many of the higher-paying portion was still male-dominated.

This chapter will discuss all these aspects and demonstrate how they affected the gender pay gap, plus it will also provide other interpretations regarding the impact of the changing political and social perspective on women's position and standing in the eyes of the American public. This chapter will also be dealing with the factors that made this particular period of time so revolutionary in nature, not just for women and the American gender relations, but also for the entire economic and political landscape. It will delve into the intricate web of different social phenomena, like marriage, divorce, child-care, and how can the different family-related decisions affect the resolutions and outcomes concerning the labor force and eventually income. This chapter will also discuss in details the resurgent feminist movement in the 1960s and 1970s and beyond, and how they organized themselves

to hijack and fight for the cause of gender pay equality. At the end of this part, we will see the evolutionary path that the gender pay gap took in a period of about fifty years starting from the beginnings of the 1960s, and an evaluation of this course of events will be made to illustrate if any improvements and breakthroughs have been made.

## **2-The Broaden Horizons of Women**

The influx of women into the labor force in the 1950s and 1960s may have caught that generation of female workers off guard, but the next generation of girls having witnessed the abundance of economic opportunities for educated individuals, and what their predecessors have missed out on, they started making more investments regarding education and on the job training.<sup>1</sup> In order to do that, women in the 1960s shifted their perspectives on the way they viewed employment and work. They no longer want a temporary job, but instead they want long lasting, good-paying respectable careers. The nuanced difference in the definitions of these two terms -jobs and careers- has been well articulated by many economic scholars, but the one that “fits the bill,” and relates most to this particular subject of research is that of Claudia Goldin: “The distinction between “jobs” and “careers” concerns the degree to which the individual believes she will be in the labor force for a sufficient time to engage in substantial human capital investments both in formal schooling and on-the job training.”<sup>2</sup> This changed idea about work was about no longer wanting to work just for money and to provide for the family, but also for defining women’s newly formed identity and place in society. As a consequence of these strong and overwhelming sentiments of worthiness and entitlement women after the 1960s broke into many previously restricted fields of education and employment. In table one it is clear that, the 1960s women’s numbers in almost all college majors were very low, for example they were just ten percent (10%) of all students entering medical schools, four percent (4%) of those opting for law, a shy one percent (1%) of students choosing dentistry and three percent (3%) in business administration (see table one). But these numbers skyrocketed in the upcoming two and three decades, for medicine the percentage jumped to thirty percent (30%) in the

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<sup>1</sup> CONSAD Research Corporation, *An Analysis of Reasons for the Disparity in Wages Between Men and Women* (U.S. Department of Labor Employment Standards Administration, 2009), p.7.

<sup>2</sup> Claudia Goldin, *The Quiet Revolution*, op.cit., p.2.

1980s, the number for law was much higher, it reached thirty six percent (36%) in the 1980s and it peaked to parity in the year 2000. The numbers for dentistry were somehow smaller, because by the year 1980 female students who chose to be dentist were only nineteen percent of the entire class, the major of business administration on the other hand showed great improvement, from a meager three percent (3%) in 1960 female students surge to twenty eight percent (28%) in 1980. As for the employment of women trends, they have also shown similar patterns of growth. The progress in the field of the judiciary for example was one of the most impressive changes, the number of lawyers and judges were a puny five percent (5%) in 1970, climbed to thirteen point six percent (13.6%) in 1980, reaching a record number of twenty nine point seven percent in the year 2000. The same can be said about medical doctors or physicians, they were nine point one percent (9.1%) in 1970, and they rose by five percentage points in 1980, reaching twenty seven point nine percent (27.9%) in 2000.

**Table One The Ratio of Women to all Students and workers**

Field	1960	1980	2000
<b><i>College</i></b>			
Medicine	10%	30%	49%
Law	4%	36%	50%
Dentistry	1%	19%	38%
Business Administration	3%	28%	41%
Architects	1%	19%	40%
<b><i>Employment</i></b>			
Judges	5.1%	14.6%	29.7
Lawyers	5.1%	14.6%	29.7
Physicians	9.1%	14.1%	27.9
Professors	16.3%	28.4%	48%
Managers	16.4%	29%	46.7%

**Source:** August Norton, *Gender Inequality. In American Society: How It Really Works*. Erik Olin Wright, 1-40. (Wisconsin: W.W. Norton & Company, 2011), P.P.24-25.

Comparable patterns can be observed in architecture, veterinary, and most of the engineering fields.<sup>3</sup> After these “breakthroughs” that women had by entering previously exclusively male-dominated fields, they started opting out of what were

<sup>3</sup> Charles, and David B. Grusky, *Occupational Ghettos: the Worldwide Segregation of Women and Men*. (California: Stanford University Press, 2004), P.5.

previously their most frequented majors in college, which were usually in the sphere of languages, literature and teaching.<sup>4</sup> These huge changes in the economic and social status of women, demonstrated in the large numbers entering the American workforce and universities through new, sophisticated, and highly profitable fields of employment and education, were not just signs of the changing demographics of a new era, but also a cause and at the same time a result of a different kind of change.

## **2-1 Changed Identity: Marriage and Divorce**

There were many indicators of the newly formed identity that was being forged by several social, economic, and political factors in the 1960s onward. One of these indicators is one that might had little impact on the economic status of women, or any significant effect on the gender pay gap, but it had captured the general sentiments of women in that time. Name retention, or surname keeping upon marriage to be precise was starting to be a popular trend among women, especially educated and professional ones in the late 1960s.<sup>5</sup> Before that date, the absolute majority of women took their spouses' last name when they got married, due to the fact of it being the norm in the American society and even in most of the world's marriage traditions.<sup>6</sup> The statistics were very telling of a new trend emerging in the mid 1970s. In 1975 two percent (2%) of the women in New York City and Massachusetts and another sample taken from the Harvard alumni records containing other American States (Maryland, Utah) chose to keep their name upon marriage, the figure went on to jump to twenty percent (20%) just five years later.<sup>7</sup> The total number of women who kept their surnames upon marriage continued to rise until it finally reached a platform of a staggering thirty three percent (33%) in 2001.<sup>8</sup> One possible explanation of this desire of women to keep their names after marriage arises from the fact that women in the 1970s and 1980s started to enter and possess degrees of the most sophisticated and highly respected institutions in the United States.

These feelings of achievement, and even some tangible ones like the books and articles they have published and other forms of educational and professional

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<sup>4</sup> Ibid.,

<sup>5</sup> Claudia Goldin and Maria Shim, op.cit., P.143.

<sup>6</sup> William H. Chafe, op.cit., P.118.

<sup>7</sup> Claudia Goldin and Maria Shim, op.cit., P.149.

<sup>8</sup> Ibid.,

attainments were the object of personal pride and independence, so as a result women wanted their own “print” all over them. Therefore a lot of female professionals saw in taking their husbands’ names upon marriage a threat that would jeopardize their intellectual and individual property. In keeping their “maiden name”<sup>9</sup> after marriage, it was a “means to preserve their personal identity along with their professional one.”<sup>10</sup> Another aspect to the women’s changed identities was regarding marriage and divorce.

## **2-2-Marriage and Divorce**

Marriage and children have always been a big part of women’s identity and have always played a big role in shaping and forming their life goals and future decisions. This role, however, was about to change dramatically in the 1960s. There were two main factors that worked in concert to change women’s perspectives on the dichotomy of paid employment and family, and tip the balance in favor of the former. These two factors were the increase in the age at first marriage and the uptick in divorce rates in the 1960s.<sup>11</sup> Prior to 1960, women were marrying at a relatively young age, for example, the percentage of women born between the 1930s and 1940s who were married before they turned twenty three years old was fifty percent (50%), while it was just thirty percent (30%) for those born in 1957.<sup>12</sup> However, the median age for first marriage in 1965 dropped to twenty six years old.<sup>13</sup> With delaying the age at first marriage, women were able to devote more time for educated and professional advancement.

Divorce also had a huge part to play in shaping the new identity of women. After the 1960s divorce rates were starting to rise substantially making the percentage of households with a married couple decline from seventy eight percent (78%) to sixty one (61%) in 1983.<sup>14</sup> While the number of heads of households who happened to be female more than doubled in the same period.<sup>15</sup> By watching these

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<sup>9</sup> Maiden name: is the surname that girls are born with. Merriam-Webster.com.

<sup>10</sup> Ibid.,

<sup>11</sup> George A. Akerlof and Rachel E. Kranton, “Economics and Identity,” (*The Quarterly Journal of Economics*, Vol 115, No.3, August 2000), P.715.

<sup>12</sup> Francine D. Blau and Lawrence M. Kahn, “Swimming Upstream: Trends in the Gender Wage Differential in the 1980s” (*Journal of Labor Economics*, January 1997, Vol. 15, No. 1, Part 1.), p.30.

<sup>13</sup> Ibid.,

<sup>14</sup> Claudia Goldin and Maria Shim, op.cit., p.144.

<sup>15</sup> Ibid.,



numbers take a foothold in reality, women started to look at marriage differently, there was a sentiment of self-reliance and independency growing inside them in that time. These variety of different circumstances and social events helped in molding a new identity for women in society; independent, self-reliant, and career-inclined.<sup>16</sup> These different changes in the midst of women were not happening in a vacuum, there were other parallel events taking place simultaneously, like the ones which have been dealt with so far, increased labor force participation of women, their breakthrough to respected college majors, and their newly-formed perceptions about their identity and marriage, however the one change that would stand out among their mix, and would prove to be a major turning point in the history of, not just women, but gender relations in general, was the Contraceptive Revolution, as it is about to be demonstrated.

### **3-The Contraceptive Revolution: 1960-2013**

In an article in the Economist journal entitled “*Oral Contraceptive: The Liberator, 1999*” the author said that: “there is one invention that historians a thousand years in the future will look back on and say, that defined the twentieth century.”<sup>17</sup> He was of course talking about “Norethynodrel,” or what came to be famously known as the “pill”.<sup>18</sup> Back in 1952 the breakthrough came in a laboratory, when a group of researchers, headed by chemist Frank Colton built on the discoveries of his predecessors that progesterone can deter the process of ovulation.<sup>19</sup> This led him develop a chemical synthetic hormone which can be swallowed directly, and after a series of testing and developments, the drug was finally ready, and it was ultimately approved by the Food and Drug Administration (F.D.A) in 1960.<sup>20</sup> What made this “pill” so special was that unlike previous contraceptive methods, such as diaphragms and condoms, it provided far greater guarantees in eliminating the risk of unplanned pregnancy. Because, when they were put to the test, the oral contraceptive had a risk rate of just zero point one percent (0.1%) when used perfectly, whereas both the diaphragm and condoms had

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<sup>16</sup> George A. Akerlof and Rachel E. Kranton, op.cit., p.716.

<sup>17</sup> “Oral Contraceptives: The Liberator.” *Economist*, December 23, 1999, accessed January 23, 2016. <http://www.economist.com/node/347484>

<sup>18</sup> Norethynodrel: a progesterone derivative used in oral contraceptives. [thefreedictionary.com](http://thefreedictionary.com)

<sup>19</sup> Progesterone: a female hormone. Ovulation: The release of egg cells in a female’s ovary [thefreedictionary.com](http://thefreedictionary.com)

<sup>20</sup> Claudia Goldin, and Lawrence F. Katz, 2002, op.cit., p.731.

respectively, a six percent (6%) and three percent (3%) risk of a positive result of pregnancy.<sup>21</sup> This near certainty percentages that the “pill” gave women triggered its vast and speedy spread among married women across the United States. Just five years after its official approval by the F.D.A near forty one percent (41%) of married women under the age of thirty that were on some form of contraception opted for the “pill.”<sup>22</sup>

However what made the “pill” so revolutionary was not just its diffusion among married women, but its new intended market of single young women. Yet there were many obstacles concerning the legality and the social tolerance of this state of the art drug, especially those related to age and societal norms, and the sensitive and highly controversial issues that would result from them, like teenage pregnancy and sexual promiscuity. Back in 1873, Congress had passed a law, famously known as the “Comstock law,” it was named after Anthony Comstock, a United States politician, and it prohibited “the trade in, and circulation of obscene literature and articles of immoral use.”<sup>23</sup> And for most of the pre 1960s, contraception in general and their use by single women in particular felt under the umbrella of “articles of immoral use”.<sup>24</sup> Hence single women had to come up with ways to get their doctors to prescribe the “pill” for them, usually through using deceptive measures, like telling their physicians, that they were engaged or had irregular periods.<sup>25</sup> This was probably due to the conservative political atmosphere in the United States at that time.<sup>26</sup>

The inclination of single women under the age of twenty one to use lying to get contraceptives was mainly because they could not get it otherwise without their parents consent, due to the fact that they were legally minors. But that was about to change with the passage of some rather influential and really coincidental laws. The first was the Twenty Sixth Amendment to the U.S constitution; it was passed by Congress on March 1971, it lowered the previous voting age, which was twenty one

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<sup>21</sup> Ibid.,

<sup>22</sup> Ibid.,

<sup>23</sup> Wikipedia contributors, "Comstock laws," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Comstock\\_laws&oldid=703665954](https://en.wikipedia.org/w/index.php?title=Comstock_laws&oldid=703665954)(accessed February 18, 2016).

<sup>24</sup> Ibid.,

<sup>25</sup> Catherine Hakim, *Diversity in Tastes, Values, and Preferences (Econ Journal Watch*, Vol. 5, No. 2, May 2008), P.204.

<sup>26</sup> Francine D. Blau and Lawrence M. Kahn, op.cit., P.31.

by three years, and it stated that: “The rights of citizens of the United States who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.”<sup>27</sup>

The adoption of this amendment by Congress had two root causes behind it, the first was related to the public pressure over the rising opposing sentiments against the Vietnam War, to which the government drafted 18 year old to fight in, yet did not give that same demographic the right to vote.<sup>28</sup> The second reason was purely legal, in that Congress cleared the confusion that was caused by the Supreme Court decision in the “Oregon v. Mitchell 1970” case, in which it ruled that “Congress did not have the power to so act with respect to state elections but did have the authority to set the voting age at eighteen in federal elections for Congress and the presidency.”<sup>29</sup> This amendment officially lowered the age of maturity to eighteen years old.

However, the mature-minor doctrine was more relevant to the spread of the pill, due to its specific wording targeting medical and surgical procedures. The doctrine gave the power and the ability to consent without the need to consult the parents in several health-related issues. It stated that “any of the following persons may consent, either orally or otherwise, to any surgical or medical treatment or procedure not prohibited by the law that is suggested, recommended, prescribed or directed by a licensed Physicians, [and one of these persons was]: Any female, regardless of age or marital status, for herself when given in connection with pregnancy or childbirth, except the unnatural interruption of pregnancy.”<sup>30</sup> The results of these legislative reforms were almost immediate, just five years later in 1976 a staggering seventy three percent (73%) of all single females 18 to 19 years old on contraceptives had accessed the “pill,” and the percentage among all single, non-virgin women aged 18 to 19 years old was sixty percent (60%).<sup>31</sup> They also

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<sup>27</sup> “Amendment XXVI,” accessed January 15, 2016.

<https://www.law.cornell.edu/constitution/amendmentxxvi>

<sup>28</sup> “The 26<sup>th</sup> Amendment,” accessed January 15, 2016. <http://www.history.com/topics/the-26th-amendment>

<sup>29</sup> Kermit L. Hall, op.cit., P.741.

<sup>30</sup> “Consent Generally,” accessed January 15, 2016. <http://law.justia.com/codes/arkansas/2010/title-20/subtitle-2/chapter-9/subchapter-6/20-9-602>

<sup>31</sup> Catherine Hakim, *Five Feminist Myths about Women's Employment (The British Journal of Sociology*, Vol. 46, No. 3, Sep 1995), pp. 429-455), p.430. Accessed: February 15, 2016. <http://www.catherinehakim.org/wp-content/uploads/2011/07/BJS-Sep1995-Fivefeministmyths.pdf>

lowered the legal age to obtain contraceptive services without parental consent to 17, 15, and even 14 in some states (see Appendix 2). These tremendous changes in the legal and social scenery regarding contraceptive women had a huge effect on their educational and economic aspirations and subsequently the gender pay gap.

### **3-1-The Effects of the Pill on the Gender Pay Gap**

The distribution of the pill among young, single women had a three dimensional effect on the pay gap. These dimensions were highly intertwined and mutually reciprocal in nature. The first one was the time at first marriage; the second was career investment, and the third was the type and quality of spouses.<sup>32</sup> The effects of the pill on each of these dimensions will be discussed individually and then their combined, and cumulative impact on the economic position of women and eventually on the pay gap. Prior to the introduction of the “pill,” single young women especially those entering college were living in an environment of great uncertainty regarding pregnancy due to the fact that the previous “protective” measures involved a great deal of risk, as it has been shown with numbers of condoms and diaphragms. And when pregnancy occurs, the couple usually ended up being married.<sup>33</sup>

What the pill did was that, it gave single young women especially those who are sexually active, the possibility of delaying marriage without the “penalty” of abstaining from sex. With almost the elimination of the risk of unplanned pregnancy and the delay of marriage, women could then plan for a future of economic prosperity and independency by making human capital investments; like advanced college degrees, or taking on-job training for better employment opportunities.<sup>34</sup> But what was probably the biggest achievement of the “pill” was creating for highly educated professional women, who opted to delay marriage for the prospect of a profitable and respectable career, the ability and the choice to not compromise on

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<sup>32</sup> Thomas J. Billitteri, *Gender Pay Gap: Are women paid fairly in the workplace?* (Cqresearcher Press, Vol 18, No. 11, 2008), P.254, accessed February 10, 2016

[http://studysites.sagepub.com/healeyregc6e/study/chapter/cq/87318\\_05gender.pdf](http://studysites.sagepub.com/healeyregc6e/study/chapter/cq/87318_05gender.pdf)

<sup>33</sup> George A. Akerlof and Rachel E. Kranton, op.cit., P.747.

<sup>34</sup> Bernard Asbell, *The Pill: A Biography of the Drug That Changed the World.* (New York: Random House, 1995), P.25.

the quality of their future matches.<sup>35</sup> The economist Lawrence F. Katz<sup>36</sup> argued that “when marriage is delayed, mismatch in the marriage market, a potential career cost is reduced,” [and what made the quality of the marriage partner improve was the] “delay in marriage and better information at the time of marriage.”<sup>37</sup> As a consequence of delaying marriage without the risk of paying harsh penalties, such as unplanned pregnancy, undesirable husbands, and abstinence from sex, women made substantial human capital investments allowing them to enter highly profitable fields of study and employment such as law, medicine, and engineering, which instigated the rise of the relative earnings compared to men, continuing the long process of reducing the gender pay gap. These revolutionary changes would not have occurred without a sense of independency and a new trend of activism by a group of women and some male sympathizers and allies. These sentiments of rebellious nature railing against the status quo were fostered in, and defended by a large movement, which gained ground and support both at the social and political levels in the 1960s, it was called the feminist movement.

#### **4-The Feminist Movement and Affirmative Action: 1960-1980**

In 1963 a woman by the name of Betty Friedan published a ground breaking book called the “Feminine Mystique,” which made a tremendous impact, not just on women but, really defined the 1960s revolutionary temperament and the need for change.<sup>38</sup> In *The New York Times* review of the book, the author said that this book: “...changed the world so comprehensively that it’s hard to remember how much change was called for.”<sup>39</sup> This book with its articulate and provocative wording and at the same time intense scholarly and empirical work convinced, and was a tool to convince a large chunk of female activists and also some male sympathizers to join the “feminist cause,” which is that women ought not to just have the same rights as men, but should fight for them, and that the main cause for women’s historical and

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<sup>35</sup> Gary S. Becker, *A Theory of Marriage* (working paper No. 2970, 1974) Retrieved from The National Bureau of Economic Research website: <http://www.nber.org/chapters/c2970>

<sup>36</sup> Lawrence F. Katz is an Elisabeth Allison Professor of Economics at the University of Harvard.

<sup>37</sup> Lawrence F. Katz, Claudia Goldin, *The Most Egalitarian of All Professions: Pharmacy and the Evolution of a Family-Friendly Occupation*, (working paper No. 18410, 2012). Retrieved from The National Bureau of Economic Research website: <http://www.nber.org/papers/w18410>

<sup>38</sup> Betty Friedan, *The feminine mystique* (New York: W. W. Norton & Company, 2001), P.1.

<sup>39</sup> Claudia Goldin, *The Rising (and then Declining) Significance of Gender*, (working paper No. 8915, 2002). P.12. Retrieved from The National Bureau of Economic Research website: <http://www.nber.org/papers/w8915>

economic suffering was their opposite sex' sense of patriarchy.<sup>40</sup> With such a radical ideological stance, opposition and eventually confrontations were inevitable.

The interesting thing is that they did not just come from other ideological entities, but within the same camp. To provide a clear idea about the feminist movement and the different processes and turning points that it went through, especially those related to socio-economic issues, a quick glance at its history needs to be taken. As it has been stated in chapter one, nearly all women's advocacy groups, like the National Women's Party (N.W.P) and the Women's Bureau (W.B) were relatively united behind a common goal, which was the right to vote and the nineteenth amendment. But after its passage and ratification, differences in opinions and perspectives started to emerge, mainly because the Equal Rights Amendment (E.R.A) and some other economic issues. These differences ended up creating two conflicting camps, the first one led by the N.W.P and E.R.A proponents, which were usually elite groups of white, middle to upper-class professional and educated women, in the likes of the National Federation of Business and Professional Women's Club (N.F.B.P.W.C) and the Association of Women in Law and Medicine (A.W.L.M).<sup>41</sup> On the other camp headed by the Women's Bureau, we find trade union women and women of color, who supported protective labor laws and opposed the E.R.A. The rhetoric of both camps towards the other camp was highly aggressive, and mutually vindictive. One of the leading figures from the opponents of the E.R.A and the head of the Women's Trade Union League (WTUL) Mary Anderson branded the N.W.P's ideology as "a kind of hysterical feminism with a slogan for a program."<sup>42</sup>

The other camp fired back claiming that they –N.W.P- were the "real" and "true" feminists, and that the other camp was a group of "sellouts" to the women cause.<sup>43</sup> During what was known as the "first wave feminism" the issues were related to voting rights and equal access to high positions, but the "second wave," as

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<sup>40</sup> Betty Friedan, op.cit., p.259.

<sup>41</sup> Linda M. Blum, *Between Feminism and Labor: The Significance of the Comparable Worth Movement*. (California: University of Berkeley Press, 1991), P.22.  
<http://ark.cdlib.org/ark:/13030/ft3b69n89t/>

<sup>42</sup> William Lawrence O'Neill, *Feminism in America: A History* (New Jersey: Transaction Publishers, 2009), P.281.

<sup>43</sup> Paula Giddings, *When and Where I Enter: the Impact of Black Women on Race and Sex in America* (New York: HarperCollins Publishers Inc., 1984), P.295.

Chavez argued, dealt with issues of equal pay, class conflicts, and race relations.<sup>44</sup> These topics were encompassed in one of the issues that proved to be very divisive not just within the feminist camp, but also for the entire United States of America, it was called Affirmative Action.

#### **4-1-Affirmative Action: 1964-2013**

Affirmative Action was a series of actions taken by businesses, universities and schools which received some sort of federal funding to remove systemic barriers restricting the employment or the school enrollment of women and people of color.<sup>45</sup> The original intent behind the Affirmative Action reforms was to address systemic injustices towards racial minorities, mainly African-Americans, but due to the loud voices and the resurgence of the feminist movement, sex was added to the protected groups under Title VII of the 1964 Civil Rights Act.<sup>46</sup> In a commencement address at the University of Texas, President Lyndon Johnson gave a fiery speech about how the U.S. should redeem itself from centuries of injustices inflicted upon black people and implicitly women. He articulated a strategy of giving these previously marginalized groups a head start so that the race would be completely fair. He said that:

Freedom is not enough. You do not wipe out scars of centuries by saying, “now you’re free to go where you want and do as you desire.” You do not take a person who for years has been hobbled by chains and liberate him, bring him up to the starting line of a race, and then say “you’re free to compete” and justly believe you have been completely fair. Thus it is not enough to open the gates of opportunities. All our citizens must have the ability to walk through these gates; and this is the next and most profound stage of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equality but human ability, not just equality as a theory but equality as a fact and equality as a result.<sup>47</sup>

This statement by the incumbent President back then, though it gave the black community, which suffered from the legacy of slavery and segregation, a

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<sup>44</sup>Lydia Chavez, “*Women's Movement, Its Ideals Accepted, Faces Subtler Issues,*” *The New York Times*, 17 July, 1987. Web. Accessed January 23, 2016.

<sup>45</sup>Linda M. Blum, op.cit., p.22.

<sup>46</sup>Ibid., P.25.

<sup>47</sup>Lyndon B. Johnson, “*To Fulfill These Rights.*” President Lyndon B. Johnson's Commencement Address at Howard University. Howard University, Texas. June 4, 1965. Speech. <http://www.lbjlib.utexas.edu/johnson/archives.hom/speeches.hom/650604.asp>

small victory and improved their employment numbers in the public sector, it provided little improvement in the numbers of working women in the same sector.<sup>48</sup> The main reason for the insignificant effect of affirmative action on the economic status of women was the absence or the limited urgency in responding to sex discrimination complaints when compared to the race related ones.<sup>49</sup>

After the addition of the term sex in the Civil Rights Act of 1964 in Title VII, a commission by the name of the Equal Employment Opportunities Commission (E.E.O.C) was established in 1964 to make sure that the terms of this law are enforceable and legally binding.<sup>50</sup> The EEOC did its part in rigorously and vigorously dealing with complaints related to race, but when it came to issues of sex, the role it played was less than thorough. This can be seen in the number of complaints related to sex and those related to race, between 1965 and 1983 there were nearly twenty four thousands (24000) complaints about sex discrimination, while a far smaller number of complaints were filed regarding race.<sup>51</sup> There was a sentiment building up inside many female activists in that time about the lack of any organized efforts to speak on behalf of women like those of the civil rights group have done for the African-American community. That organization was the National Organization for Women or (N.O.W), it was for women what the National Association for the Advancement of Colored People (N.A.A.C.P) was for blacks.<sup>52</sup>

In its statement of purpose, the N.O.W declared that their intentions and goals behind forming this organization was “to take action through intersectional grassroots activism to promote feminist ideals, lead social change, eliminate discrimination and achieve and protect the equal rights of all women and girls in all aspects of social, political, and economic life.”<sup>53</sup> Many scholars like Goldin, Katz,<sup>54</sup> Blau, and Kahn considered the foundation of the N.O.W to be the birth place of the

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<sup>48</sup> Linda M. Blum, op.cit., p.26.

<sup>49</sup> Barbara F. Reskin and Heidi I. Hartmann, *Women's Work, Men's Work: Sex Segregation on the Job* (Washington, D.C.: National Academy Press, 1986), P.38.

<sup>50</sup> Claudia Goldin, *Understanding the Gender Gap*, op.cit., p.191.

<sup>51</sup> Ibid.,

<sup>52</sup> Betty Friedan, “The National Organization for Women’s Statement of Purpose,” (accessed January 19, 2016), <http://now.org/about/history/statement-of-purpose/>

<sup>53</sup> Ibid.,

<sup>54</sup> Claudia Goldin, and Lawrence F. Katz, 2002, op.cit., p.23



“second wave of feminism.”<sup>55</sup>

The Organization included members of the two belligerent camps after the failure of the E.R.A., and it succeeded in directing their attentions and efforts to a new issue that captured the national attention; the gender pay gap. The N.O.W. under a new slogan “59 cents<sup>56</sup>” wanted to address the gender based-wage disparities, through establishing political ties with influential figures in both Congress and the White House, building grassroots support and consensus about the illegitimate nature of sex discrimination, and encouraging litigious proceedings in tackling the pay gap.<sup>57</sup>

The N.O.W. with the help of other organizations, like the W.B. helped in pushing for a change to address the persistent pay gap in the U.S. at the legislative, executive, and judicial levels as well as at the private and public sectors, the following chapter will deal with just that.

### **5-The Evolutionary Path of the Gender Pay Gap: 1960-2013**

One of the most if not the most important way to demonstrate gender equality at the economic level is the ratio of wages of both men and women. There are different ways to refer to this form of measurement; wage differential, wage disparities, and the ratio of male to female incomes.<sup>58</sup> As it has been shown in the slogan of the National Organization of Women, “59cents,” female activists were not very happy with their current situation. As a consequence they upheld that particular sign in the 1970s to show discontent with the economic status quo back then. But in a recent campaign for pay equity, the slogan was changed to “77 cents,”<sup>59</sup> which means there was a significant improvement in regards to women’s wages and income, compared to those of men.

The evolutionary path of the converging gender pay gap that was caused by

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<sup>55</sup> Francine D. Blau, and Lawrence M. Kahn, op.cit., p.17.

<sup>56</sup> 59 cents: It stands for how much money women made for each dollar a man made.

<sup>57</sup> Betty Friedan, 1966, op.cit.,

<sup>58</sup> Wikipedia contributors, "Gender pay gap in the United States," *Wikipedia, The Free Encyclopedia*, (accessed February 18, 2016).

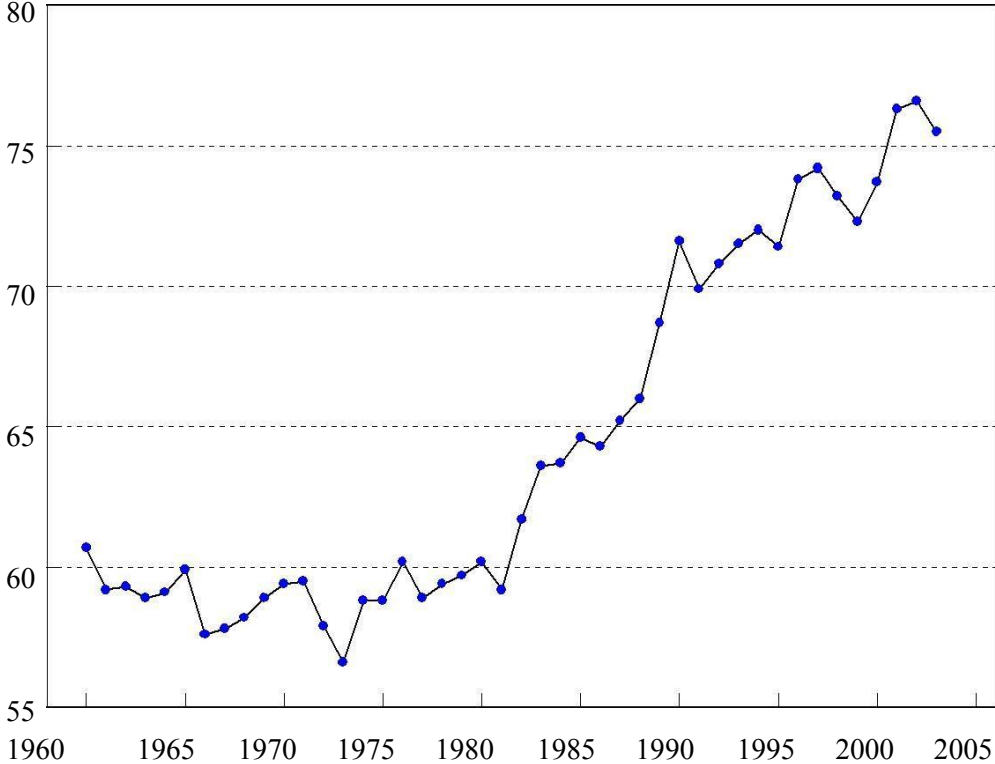
[https://en.wikipedia.org/w/index.php?title=Gender\\_pay\\_gap\\_in\\_the\\_United\\_States&oldid=705662367](https://en.wikipedia.org/w/index.php?title=Gender_pay_gap_in_the_United_States&oldid=705662367)

<sup>59</sup> The Editorial Board, “A Showdown on the Pay Gap,” *The New York Times*, 12 September, 2014. Web. Accessed January 23, 2016. [http://www.nytimes.com/2014/09/13/opinion/a-showdown-on-the-pay-gap.html?\\_r=0](http://www.nytimes.com/2014/09/13/opinion/a-showdown-on-the-pay-gap.html?_r=0)

the revolutionary changes mentioned earlier had unstable and unpredictable patterns between the 1960s and 2013, with periods of prolonged stagnation and others of incredible surge, as it is demonstrated in the following graph. The graph of the ratio of women’s earnings compared to those of men has been hovering around the fifty nine cents figure from the 1960s until the beginning of the 1980s. After that, the figure had a soaring rise reaching an incredible seventy two percent (72%) in a period of less than ten years, a jump of thirteen percentage points -see the Figure-A-

**Figure One**

**Woman’s Earnings as a Percentage of Men’s Earnings: 1960 to 2005**



**Source:** Claudia Goldin, *The Quiet Revolution that Transformed Women’s Employment, Education, and Family*, op.cit., p.40.

The upcoming decade of the 1990s and the early years of the new millennia witnessed a slow but steady rise relatively to that of the 1980s, hitting a plateau of about seventy seven percent (77%) in 2003 and 2004. The improved economic status of women that led to the increase in their wages in the period between the 1980s and 1990s, and subsequently to the continued reduction of the gender pay gap was attributed by many scholars to the labor market experience of women and their

“attachment” to paid work. <sup>60</sup>However, both the increased experience and devotion to work cannot be the sole reasons for explaining the continued closure of the pay gap, but they are rather, I would argue, the results of other underlying factors, which have been discussed in this chapter, like labor force participation, human capital investments, and the resurgent feminism. The increased participation and the investments that women made in education and on the job training made women more attached to their work, which led to more returns on experience. This effect was further magnified by the resurging feminism of the 1960s and 1970s, which sow in women the feelings of longing towards, and seeking independency at the social and economic levels, and paid labor provided an abundance of that. These mutually and reciprocally influential factors and their concerted combined effects is, as a matter of fact only a part of the puzzle that explains the improved economic status of women and the near convergence of their collective wages with those of their male counterpart. The other part of this complicated riddle, which was of equal importance, as I would argue, was the legal and political battles that were waged against the gender pay gap from the 1960s to 2013, which will be dealt with in the following chapter.

## **6-Conclusion**

At the beginning of the 1960s, there were a series of interconnected, mutually and reciprocally influential events that changed the nature of gender relations, and precisely the gender pay gap in America. The first instigator of this change was the altered perspective of women on themselves that made them want to embark on a road that they could not take before; this can be understood from the numbers of female students in the fields of law, medicine, and business administration. These changes among others would not have happened without the influence of the rising feminist movement in the 1960s and 1970s. The feelings of victimization were one of the driving forces of the feminist author Betty Friedan, who was credited alongside her book, the “Feminine Mystique,” with the rise of the “second wave of feminism.”<sup>61</sup> However what was probably the most influential factor for the changed balance of power between the sexes was the contraceptive

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<sup>60</sup> Francine D. Blau and Lawrence M. Kahn, op.cit., p30-31.

<sup>61</sup> Janet Maslin, *Looking Back at a Domestic Cri de Coeur*, *The New York Times*, February 18, 2013. Web. Accessed January 23, 2016. [http://www.nytimes.com/2013/02/19/books/betty-friedans-feminine-mystique-50-years-later.html?\\_r=0](http://www.nytimes.com/2013/02/19/books/betty-friedans-feminine-mystique-50-years-later.html?_r=0)

revolution that was triggered by the Food and Drug Administration's approval of the oral contraceptive, or as it became known as the "Pill." The "Pill" was credited with eliminating penalties and obstacles that previously impeded women from making large human capital investments in education and work-related training, such as pregnancy and undesirable husbands. The index to measure the gender pay gap, which is a simple mathematical formula to calculate wage disparities between the sexes, has show tremendous improvements in the period between the 1960 and 2013. The previously mentioned factors, like the feminist movement that was accompanied by a large shift in the consciousness of women and the conscience of the political establishment, in addition to the contraceptive revolution and its effects on the rise of women's participation numbers in previously male-dominated fields were definitely contributing to the contraction of the gender pay gap to a more manageable size, but there was another cause that had comparable or even larger impact in the fight against and the ultimate reduction of sex-based wage disparities. This cause took the form of a series of different and consecutive pieces of legislation, which was aimed at addressing sex discrimination, sex-based occupational segregation and gender wage disparities among other issues. The effects and the historical background of the landmark pieces of legislation will be the subject of the following chapter.

# **CHAPTER THREE:**

## **The Legislative History against the Gender Pay Gap: 1960-2013**

### **1-Introduction**

The Political history of the gender pay gap was heavily influenced by the social revolution that took place in the United States in the 1960s era. The revolutionary mindset that was established by the activism of civil rights reformers, and especially the feminist movement, did not stop with changing the hearts and minds of ordinary American citizens about the concerns of pay disparities, but it started knocking on the doors of the buildings in Capitol Hill (Congress), and Sixteen Hundred Pennsylvania Avenue (The White House) in the country's capital demanding vigorously that their concerns be addressed and solved. Despite this whirlwind of overwhelming enthusiasm and support for this seemingly just cause there was also a zealous opposition to any possible amendment, action, or even an attempt to change the economic and political status quo of gender relations back in the 1960s.

The following chapter will be concerned with discussing the results and the historical journey of some of the most important and influential pieces of legislation, describing the legal pathway they had undertaken, and highlight the roles different presidents and their administrations played in passing and advocating for those laws. It will also deal with the accomplishment and the successes of Acts, such as The Equal Pay Act of 1963, made in advancing the cause of gender equality, mainly in addressing the sex-base pay disparities. It will tackle as well as the disadvantages that these laws had on the same cause, and any other possible inconveniences that they may have generated. At the end of this chapter there will be a short discussion of some of the other passed laws that were deemed to be not influential enough to be discussed at length, the reason why will also be shown, in addition to one possible future legislation aimed at addressing gender discrimination in general and the gender pay gap in particular.

## **2-The Equal Pay Act of 1963**

During his second year in office, the United States President John Fitzgerald Kennedy (1917-1963) signed into law a bill that would prove to be a landmark decision to the gender pay gap proponents and to the equality movement in general. This bill was called the Equal Pay Act of 1963. The E.P.A, as it became to be known, prohibited any employer from discriminating against employees working in their firms or institutions on account of their gender, by compensating workers doing jobs which had the same level skill, effort, responsibility, and working conditions.<sup>1</sup>

However, with any law that encompasses such a large and broad issue, such as the pay gap and since this was meant to have federal jurisdiction, it must have some exemptions to these prohibitions, and the E.P.A is no exception. These exceptions involved making a distinction between the prohibition of sex-based discrimination in pay that has no credible, compelling, or justifiable reason in one hand, and on the other hand respecting the internal systems that determine the difference in pay between employees, which are specifically stated as, a seniority system<sup>2</sup>, a merit system,<sup>3</sup> a system which compensates its employees based on the quantity and/or quality of production, and the fourth and final exception is that the differentiation in pay can be acceptable if is based on any determinant outside of sex.<sup>4</sup>

Before the bill reached John F. Kennedy's desk for signing, this piece of legislation intended at rectifying the equal pay related issues had some rather intriguing historical background.

### **2-1-The Historical Background of the Equal Pay Act of 1963**

The concept of "equal pay for equal work" was not introduced during the efforts to push through the E.P.A; as a matter of fact it dates back to the days of the Second World War, as Harris Kessler claimed. He stated that in 1942 the National

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<sup>1</sup> "The Equal Pay Act of 1963." (EPA). U.S. Equal Opportunity Employment Commission, Web. 03 Dec. 2014. <http://www.eeoc.gov/laws/statutes/epa.cfm>

<sup>2</sup> Seniority system: is a system in which a person can take precedence in pay or bonus because of his or her longer time spent on the job. <http://www.thefreedictionary.com/Seniority+System>

<sup>3</sup> Merit system: Is a system in which pay or promotion is given according to performance. <http://www.thefreedictionary.com/merit+system>

<sup>4</sup> Ibid.,

War Labor Board issued a federal order called “General Order No. 16,” which entailed and promoted an “equal pay for equal work” principle, but not to promote gender equality, rather to “protect the wages of male workers from encroachment by lower paid females.”<sup>5</sup> Others believed that this doctrine had a deceitful original intention, in the sense that it was first proposed as a ploy to counter the overwhelming popularity of the E.R.A among women in the political arena in 1945.<sup>6</sup> The original intent for the foundational doctrine of the E.P.A was also very different from the one it ended up to be.

The original wording of the E.P.A text included the phrase “equal pay for comparable worth” as opposed to the official version of “equal pay for equal work.”<sup>7</sup> This terminology of the much anticipated act intended at achieving pay equity in the American workforce would have, probably, made the passage of such a piece of legislation very unlikely, due to a variety of different reasons mainly the opposition from the conservative establishment and the Women’s Bureau, who favored keeping the protective labor laws.<sup>8</sup>

Therefore many of the outspoken liberals, like the incumbent U.S. President at that time John F. Kennedy made their support and endorsement of the E.P.A very public, in part because it was not a threat to the existing, and very popular protective labor legislation.<sup>9</sup> The passage of the E.P.A in 1963 made some rather important breakthroughs for women in the labor force, and it had accomplished a lot of successes in that regard, as it is about to be demonstrated.

## **2-2-The Successes of the Equal Pay Act of 1963**

In the fiftieth anniversary of the E.P.A the White House under the Obama (1961- ) administration released a forty pages statement commemorating and assessing a fifty years period since the passage of the Act in 1963. The statement was entitled “Fifty Years after the E.P.A: Assessing the Past, Taking Stock of the

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<sup>5</sup> Alice Kessler-Harris, *In Pursuit of Equity* (New York: Oxford University Press, 2001), p.201.

<sup>6</sup> Ibid., P.289.

<sup>7</sup> Claudia Goldin, *Understanding the Gender Gap*, op.cit., p.201.

<sup>8</sup> Ibid.,

<sup>9</sup> National Equal Pay Task Force, *Fifty Years After the Equal Pay Act* (Washington D.C.: CreateSpace Independent Publishing Platform, 2014), p.25.

[https://www.whitehouse.gov/sites/default/files/image/image\\_file/equal\\_pay-task\\_force\\_progress\\_report\\_june\\_10\\_2013.pdf](https://www.whitehouse.gov/sites/default/files/image/image_file/equal_pay-task_force_progress_report_june_10_2013.pdf)

Future.”<sup>10</sup> There was an overwhelming consensus in Washington D.C, whether it was the President or the U.S. Congress that the E.P.A was a vital and necessary measure to deal with overt sex-based wage discrimination that was rampant in the American workforce on the pre 1960s era, like the institutions of the marriage related bars dealt with in the first chapter.<sup>11</sup> Indeed the act paved the way for women to enter the U.S. labor market in unparalleled and unprecedented numbers. This change can be clearly seen in the numbers of women who had gained access not only to the previously male-dominated fields of study and education, such as law, medicine, and engineering, but also to the top level positions in the hierarchy of the political elites in the government, the judiciary, and Congress.<sup>12</sup> Despite these marvelous breakthroughs that women made in the short aftermath of the passage of the E.P.A legislation, and the privileges they gained from it, like their increased numbers and percentages in the labor force, and subsequently the increase in their collective earnings, many economic and legal scholars believed that this Act failed to address some very important issues, and that it had numerous legal loopholes and economic short comings, as it is about to be discussed.

### **2-3-The Shortcomings of the Equal Pay Act of 1963**

One of the most vocal legal opponents of the E.P.A. was law professor at the University of Maine by the name of Elizabeth Wyman.<sup>13</sup> Professor Wyman argued; in an extensive research work about the effectiveness of the E.P.A that, this piece of legislation has done almost nothing to fix the enduring problems that emerge from the gender-based wage disparities.<sup>14</sup> The main area in which the act was found to be lacking was the area that is most important, as Wyman argued, which is the vigorous enforcement of its equal opportunity provisions, namely the ability of the act to deal with, or combat sex-based occupational segregation by spreading its administrative mandate past the jurisdiction of the previous Fair Employment Standards Act

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<sup>10</sup> Ibid.,

<sup>11</sup> Beth Pearsall, “50 Years after the Equal Pay Act, Parity Eludes Us,” *he American Association of University Women (AAUW)*, March 18, 2013, accessed January 16, 2016.

<http://www.aauw.org/article/50-years-after-the-equal-pay-act-parity-eludes-us/>

<sup>12</sup> Deborah J. Vagins, “Half a Century Later, Mad Men's Peggy Olson Is Still Waiting for Paycheck Fairness,” *Huffington post*, May 26, 2015 accessed January 16, 2016.

[http://www.huffingtonpost.com/deborah-j-vagins/half-a-century-later-mad\\_b\\_6948052.html](http://www.huffingtonpost.com/deborah-j-vagins/half-a-century-later-mad_b_6948052.html)

<sup>13</sup> Elizabeth J. Wyman, “The current legal framework of sex/gender discrimination law,” *LexisNexis*, June 13, 2003. Accessed January 17, 2016. <https://litigation-essentials.lexisnexis.com/>

<sup>14</sup> Ibid.,



(F.E.S.A).<sup>15</sup> This meant that her opposition and criticism of the E.P.A was directed at the limitation of the possibility of its implementation. The E.P.A, as it is the case with every first step, had its flaws and shortcomings, whether in its initial wording or whether its intended and planned objectives have been met or not, however, what can be said with complete certainty is that the E.P.A initiated a movement that would gain a lot of momentum in the ensuing years and decades, and this can be clearly seen in the passage of the following act- Title VII of the Civil Rights Act of 1964-

### **3-Title VII of the Civil Rights Act of 1964**

In the same year that he completed the signing of the E.P.A to be a binding statute in the United States federal system, President John F. Kennedy was assassinated, only to be replaced by his Vice-President Lyndon B. Johnson (1908-1973), as it is mandated by the act of succession in the U.S. constitution, on November 22 1963.<sup>16</sup> As President, Lyndon B. Johnson would be remembered in history as the person who signed the Civil Rights Act of 1964, which gave equal civil rights to the oppressed minorities in the U.S. like African-Americans and Latinos, but it also had an impact on women in general and the fight against the pay gap in particular. The terms used in the wording of Title VII were very clear about its willingness to fight the sex-based discrimination in hiring and segregation, it made it an unlawful workplace procedure to: “discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual’s race, color, religion, sex, or national origin.”<sup>17</sup>

The Title also had its saying about the one of the root causes for the wage gap, which is the sex-based occupational segregation. The second section of the prohibited employer practices made it an unlawful practice for an employer to “limit, segregate, or classify [his or her] employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities because of such individual’s race, color, religion, sex, or national

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<sup>15</sup> Christina Hoff Sommers, “Fair Pay Isn’t Always Equal Pay,” *The New York Times*, Sep. 21, 2010. Accessed January 16, 2016. <http://www.nytimes.com/2010/09/22/opinion/22Sommers.html>

<sup>16</sup> Wikipedia contributors, "John F. Kennedy," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=John\\_F.\\_Kennedy&oldid=706161311](https://en.wikipedia.org/w/index.php?title=John_F._Kennedy&oldid=706161311)(accessed February 22, 2016).

<sup>17</sup> Title VII of the Civil Rights Act of 1964, <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

origin.”<sup>18</sup> Being a part of the Civil Rights Act, Title VII shared the historical background of being part of a revolutionary period that became to be known as the civil rights era of the 1960s in the United States of America, but it also had a special story of its own, the details of which are in its own historical background.

### **3-1-The Historical Background of Title VII of the Civil Rights Act of 1964**

As it is indicated by the Roman numerals, Title VII was the seventh installment of the Civil Rights bill of the 1964. The bill was the fruit of many decades of struggle by equality activists such as Martin Luther King Jr. and Rosa Parks among others that fought hard to be treated equally under the American law. Women as a group also sought and fought to be included in such a legislation, which eventually happened but only at the last “second” before the act was passed.<sup>19</sup> Because, until the very last day the term “sex” was not included in the first draft of the document, due to a variety of different social, economic, and most importantly political reasons.<sup>20</sup> The primary opposition to the inclusion of the word “sex” in Title VII came from the conservative establishment from both the Democratic and Republican Parties, which already disagreed with President Kennedy’s Civil Rights Act in the first place.<sup>21</sup> Their resistance and hostility towards this piece of legislation coming from the conservatives was not very surprising, due to their stated ideologies, what were not anticipated however, were the obstructive actions that came from many of the women’s organizations in the late 1960s, such as the Women’s Bureau. Their stated reason for this obstruction was that if the word “sex” was included in the wording of the act, it would jeopardize the struggles of the African-American community and the civil rights movement in general.<sup>22</sup> In addition to this altruistic mindset of some of the women’s organizations and their willingness to postpone their own agenda to push that of black people, there was another factor, which made them oppose the inclusion of the term “sex.” This factor was more like a prediction that such a measure would threaten the privileges and

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<sup>18</sup> Ibid.,

<sup>19</sup> Claudia Goldin, *op.cit.*, p.201.

<sup>20</sup> Francis J. Vaas, *Title VII: Legislative History*, (Boston College Law Review. Vol.7. 431 1966), P 435. <http://lawdigitalcommons.bc.edu/bclr/vol7/iss3/3>

<sup>21</sup> Ibid., P.436.

<sup>22</sup> Joni Hersch: *Fifty Years Later: The Legacy of the Civil Rights Act of 1964*. Vanderbilt University Law School. (Working Paper Number 14-33, 2014). P.21. Retrieved from The Social Science Research Network Electronic Paper Collection: <http://ssrn.com/abstract=2523481>

exemptions that women had under protective labor laws.<sup>23</sup>The gender provision ended up in the final and official draft of the Civil Rights Act of 1964, and it was a major victory for women who sought equality and the continued closure of the pay gap. The legacy of Title VII was a mixture of successes and failures to the women's rights movement, and it had its positives and negatives to the issue of the gender pay gap in the period between 1964 and 2013.

### **3-2-The Successes of Title VII: 1964-2013**

In an article published in the Center for American Progress website in 2004, the author assessed the legacy of the forty years since the passage of the Civil Rights Act, and found that there were a lot to be celebrated by women's organizations, feminists, and women in general.<sup>24</sup> One of the most obvious and immediate changes that the act brought was the removal of the "male only" job notices from the public arena, and making them illegal to use.<sup>25</sup> The act also provided women with some tools they never had before. For instance, women who were discharged of their occupations due to child-bearing or child-rearing had then the opportunity to file charges against their former employers under the umbrella of the newly formed Equal Employment Opportunities Commission (E.E.O.C).<sup>26</sup> However, despite this noticeable progress that Title VII made to the cause of gender equality, it had some shortcomings as well.

### **3-3-The Shortcomings of Title VII of the Civil Rights Act of 1964**

The Title VII's provisions had some limitations that gave its supporters frustration and disappointment. Given the circumstances Title VII was passed in and the overwhelming focus of the energy and enforcement provisions on addressing the racial and ethnic concerns of the African-American community in particular and people of color in general, it was only natural that discrimination based on sex

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<sup>23</sup> Caroline Bird, *Born Female: The High Cost of Keeping Women Down* (New York: Oxford University Press, 1978), P.6.

<sup>24</sup> Steven Greenhouse, "Supreme Court Raises Bar to Prove Job Discrimination," *The New York Times*, June. 24, 2013. Accessed January 16, 2016. <http://www.nytimes.com/2015/04/14/opinion/women-still->

<sup>25</sup> Ibid.,

<sup>26</sup> "The Civil Rights Act 40 Years Later," *Center for American Progress*, July 2, 2004, accessed January 23, 2016. <https://www.americanprogress.org/issues/women/news/2004/07/02/891/the-civil-rights-act-40-years-later/>

would come as a second priority.<sup>27</sup> Another limitation of the act was that its provisions would only apply to companies and institutions which had under their disposal fifteen workers or more.<sup>28</sup> This means that companies and institutions with less than fifteen workers were not under the jurisdiction of the act, and therefore could still carry out discriminatory practices. This was further exacerbated by the fact that ninety nine point seven (99.7%) of all the employers' institutions were "small businesses," or in other words with less than fifteen employees, according to a 2005 study conducted by the U.S. Department of Labor.<sup>29</sup>

Other drawbacks included the insufficient funds designated to the enforcement of its provisions, and most importantly the surge in the number of lawsuits that were filed under Title VII, which were met by the extremely limited count of personnel to deal with them.<sup>30</sup> According to Joni Hersch, a professor at the Vanderbilt University law school, Title VII did improve the wages of women in the American workforce and enhanced their positions in it, at the same time admitting to its limitation to address some of the fundamental issues like occupational segregation.<sup>31</sup> Despite their limitations Title VII of the Civil Rights Act and its predecessor the E.P.A of 1963 were great breakthroughs to the women's rights movement in its fight against the stubborn gender-based wage gap and the rampant occupational segregation, and they provided a fertile landscape for new and more effective laws like the one to be discussed next, Title IX of 1972.

#### **4-Title IX of 1972**

Another ground-breaking legislation against the gender pay gap came in the form of addressing one of its most influential contributors: Educational disparities. After the passage of both the E.P.A of 1963 and Title VII of the Civil Rights Act in 1964, the women's rights movement started to gain an important momentum, and began to diversify its tactics and goals to attack the pay gap from a variety of different angles. Education was a very important and central factor to advancing the cause of equality in the American society in the 1960s and 1970s, that is why

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<sup>27</sup> Joni Hersch op.cit., P.25.

<sup>28</sup> Title VII of the Civil Rights Act of 1964, <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

<sup>29</sup> Molly K. Merrick, "The Future of the Gender Wage Gap in the American Workforce" (MA diss., University of Western Kentucky, 2011). [http://digitalcommons.wku.edu/stu\\_hon\\_theses/281](http://digitalcommons.wku.edu/stu_hon_theses/281)

<sup>30</sup> Joni Hersch, op.cit., p.46.

<sup>31</sup> Ibid.,

women wanted to invade the positions of higher education that were previously exclusively restricted to the male students.<sup>32</sup>

Therefore to serve this particular cause and to carry on the spirit of the civil rights activism of bringing the excluded minorities back to the mainstream of equal employment and opportunity, Title IX was passed in 1972 to ban the gender-based discrimination in the education programs that were assisted by the federal government. The act stated that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”<sup>33</sup> The provisions of the law had some notable exceptions for the enforcement of this act, in fact in the final draft there were nine institutions which were exempt from following its dictations, the most important are the educational institutions of religious organizations with a set of beliefs which are conflicting with its provisions, institutions that from their inception admit one sex only as a stated policy, and those related to providing training to the military or the marines.<sup>34</sup> Before the act saw the light of day in 1972, it was preceded by several attempts to address sex equity in higher education, as it is about to be demonstrated in its historical background.

#### **4-1-The Historical Background of Title IX of 1972**

Prior to the passage of Title IX, women were subjected to a variety of different discriminatory treatments when it came to education. like the complete or partial exclusion to educational programs. This was particularly true for elite universities, colleges, and schools some of which did not accept women to be in their ranks at all, and the others that did permit the acceptance of women to their programs excluded them from important fields of study such as medicine and law.<sup>35</sup> This status of women was not acceptable to one particular politician in the U.S. Congress by the name of Edith Green, the Representative from the state of Oregon introduced to the American Political Arena, what it is believed to be “the first

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<sup>32</sup> United States Department of Justice, “Title IX: 25 Years of Progress,” *U.S. Department of Education*, June 1997, p.26. Available at: <http://www2.ed.gov/pubs/TitleIX/index.html>.

<sup>33</sup> *Ibid.*,

<sup>34</sup> “Title IX, Education Amendments of 1972,” United States Department of Labor, accessed January 19, 2016, <http://www.dol.gov/oasam/regs/statutes/titleix.htm>

<sup>35</sup> Joni Hersch, *op.cit.*, p.36.

legislative step towards the enactment of Title IX.”<sup>36</sup> This first step was a bill that contained the first ever mention of gender equality when it comes to higher education, the bill was called “The E.O.E.A” which was a coordinated effort by economists Edith Green, Patsy Mink, and Senator Birch Bayh.<sup>37</sup> This law provided ambitious women who wanted to pursue higher education with the opportunities and the legal tools to do just that, and the results of this piece of legislation were immediately present.

#### **4-2-The Successes of Title IX**

The statistics of the impact of Title IX on women’s progress in the field of education were quiet astonishing. The details are taken from two reports assessing the legacy of the act in two distinct periods; both of them were commissioned by the United States Department of Justice and the Education Development Center in 2009 and 1997 respectively.<sup>38</sup> After twenty five years since its passage there were already significant changes. In 1973 the percentage of college enrollment among female high school graduates was only forty three percent (43%), but in 1994 the figure jumped to sixty three percent (63%).<sup>39</sup> The figure of women in possession of a bachelor’s degree also improved significantly, it leaped from just eighteen percent (18%) in 1971 to twenty seven percent (27%) in 1994.<sup>40</sup>

However, what were more astonishing were the findings of the U.S. Department of Justice report. It stated that the number of women who had at least a high school education surged from only a modest fifty nine percent (59%) in 1970 to a whopping eighty seven percent (87%) in 2009, this report cited the statistics that were published by the White House. In some categories women had even outnumbered their male counterparts in the first time in American history, for example in the rates of higher graduations, the rates of high school failures, and

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<sup>36</sup> Ibid.,

<sup>37</sup> “Women's Sports: How Title IX Was Won,” Women’s Health, June 13, 2006. Accessed January 17, 2016. <http://www.womenshealthmag.com/life/title-ix-history>

<sup>38</sup> United States Department of Justice, “Title IX: 25 Years of Progress,” *U.S. Department of Education*, June 1997, p.26. Available at: <http://www2.ed.gov/pubs/TitleIX/index.html>.

<sup>39</sup> Ibid.,

<sup>40</sup> Christina Tchen, “*Women in America: Indicators of Social and Economic Well-Being*,” (The White House, 2011), P.19. Accessed January 23, 2016. [https://www.whitehouse.gov/sites/default/files/rss\\_viewer/Women\\_in\\_America.pdf](https://www.whitehouse.gov/sites/default/files/rss_viewer/Women_in_America.pdf)

earning advanced degrees.<sup>41</sup> The benefits of these numbers of women entering the higher levels of education and subsequently increasing the returns to human capital, which will contribute eventually on their earnings and the pay gap, can be largely credited to the enforcement of Title IX provisions. Nonetheless, despite its large benefits and contributions to the social and economic well-being of women, Title IX was not free of weaknesses, which brought about scathing criticism from a variety of different sources. The details of these shortcomings had been rooted in different parts and provisions within the Title.

#### **4-3-The Shortcomings of Title IX of 1972**

In 2002 the United States secretary of education Rod Paige ordered the formation of an independent federal commission to investigate the effects and consequences of Title IX on the status of women in education in particular, and its side effects on society in general.<sup>42</sup> The commission's stated purpose revolved around seven key issues, one of which was whether or not Title IX provisions were promoting the educational opportunities for men and women on an equal basis.<sup>43</sup> The problem was not whether the act was functioning or not, but whether it was functioning too well. The new feared concept was called reverse discrimination, which means to discriminate against men in favor of women.<sup>44</sup> The finding came through the testimony of some boards of college specializing in athletics' scholarships.<sup>45</sup> One of the most frightening testimonies was the one that stated that: "There was a troubling loss of athletic opportunities for male athletes at the collegiate level, particularly in Olympic sports such as track and field gymnastics, and wrestling."<sup>46</sup> The proponents of Title IX were happy and ecstatic at the progress and the breakthroughs that women made in higher education attainments, and the increase in scholarships programs, however they also thought that it was unacceptable that these successes would come at the expense of their male

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<sup>41</sup> Ibid, P.19.

<sup>42</sup> Adam Epstein, op.cit., p.46.

<sup>43</sup> Ibid.,

<sup>44</sup> Nadra Kareem Nittle, "Does Reverse Racism Exist?" *About news*, October 26, 2015, accessed January 23, 2016.

[http://racrelations.about.com/od/understandingrac1/a/DoesReverseRacismExist\\_2.htm](http://racrelations.about.com/od/understandingrac1/a/DoesReverseRacismExist_2.htm)

<sup>45</sup> Adam Epstein, op.cit., p.178.

<sup>46</sup> Hans Bader, "Title IX: From Pro-Female Reform to an Anti-Male One," *The Wall Street Journal*, June 11, 2015. Accessed January 16, 2016. <http://www.wsj.com/articles/title-ix-from-pro-female-reform-to-an-anti-male-one-1433967147>

counterparts. This is why one of the recommendations of the commission on Opportunities in Athletics was to “strengthen the enforcement of Title IX toward the goal of ending discrimination against girls and women in athletics, and updated so that athletic opportunities for boys and men are preserved.”<sup>47</sup> These observations and others were clear indications that women’s status in the U.S. economy and legal system was starting to improve in comparison to what it was in the pre 1960s era, when it was unthinkable and inconceivable to pass a legislation that would undermine the supremacy of men in all fields, especially educational-related athletic scholarships. The last piece of legislation that is going to be dealt with in this paper, however, is arguably the most significant of them all, simply because its provisions affected and amended the majority of the previously mentioned federal laws, as it is about to be demonstrated.<sup>48</sup>

### **5-The Lilly Ledbetter Fair Pay Act of 2009**

After defeating the republican nominee Senator John McCain (1936- ) in the 2008 presidential election, which witnessed the inauguration of the first ever African-American head of state, President Barack Hussein Obama had a very busy start.<sup>49</sup> At his desk in the Oval office laid a bill that would drastically change the lives of many working women in the United States. This bill was called the Lilly Ledbetter Fair Pay Act of 2009, it was the first bill to be signed by the newly elected president, and he was very happy to do that, as he state that: “It is fitting that with the very first bill I sign... we are upholding one of the nation’s first principals: that we are all created equal and each deserve a chance to pursue our own version of happiness.”<sup>50</sup>

The main change that this act brought was regarding the period upon which a person can file for a discrimination charge when he or she receives his or her last

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<sup>47</sup> Ibid.,

<sup>48</sup> Jessica Gavora, “How Title IX Became a Political Weapon,” *The Wall Street Journal* June 7, 2015. Accessed January 16, 2016. <http://www.wsj.com/articles/how-title-ix-became-a-political-weapon-1433715320>

<sup>49</sup> Wikipedia contributors, "United States presidential election, 2008," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=United\\_States\\_presidential\\_election,\\_2008&oldid=704830543](https://en.wikipedia.org/w/index.php?title=United_States_presidential_election,_2008&oldid=704830543) (accessed February 18, 2016).

<sup>50</sup> Miranda Houchins, “This Day In History: Equal Pay Trailblazer Lilly Ledbetter turns 77,” *The White House*, April 14, 2015, accessed January 16, 2016. <https://www.whitehouse.gov/blog/2015/04/14/day-history-equal-pay-trailblazer-lilly-ledbetter-turns-77>



pay check.<sup>51</sup> This can be seen in the text that congress put forth explaining the reason and the rationale behind their actions. In their evaluation about the decision of the U.S Supreme Court decision regarding the case of (Ledbetter V. Goodyear 2006), The U.S congress found that ruling had undermined the protections already in place in U.S laws against unequal treatment in compensation and wages between men and women, and that this decision by the S.C.O.T.U.S “ignores” the reality of wage discrimination as it is against the application of the civil rights laws intended by Congress.”<sup>52</sup>

The passage of the Act was a major victory for Lilly Ledbetter, a shift and area manager at the Goodyear tire and Rubber company from Jacksonville, Alabama, as she ended up receiving three point six (3.6) million dollars as compensation for “insufficient wages” by the Alabama District Court .<sup>53</sup> The legacy of this act went beyond the substantial cash settlement that she got, and even beyond her own personnel retribution, it was a victory for all women. This act however would not have passed without the original case, and some very curious background story.

### **5-1-The Historical Background of the Lilly Ledbetter Fair Pay Act of 2009**

The story of the act started when the protagonist of this piece of legislation, Lilly Ledbetter began working as a plant supervisor in Goodyear Tire and Rubber Company in June 1979.<sup>54</sup> Mrs. Ledbetter was the only woman in a male dominated factory, so naturally she was always trying to fit in with the group, and did not want to stand out and cause problems to herself or to the hegemony of the fabric of employees, as she was quoted saying in her testimony in front of Congress in 2006.<sup>55</sup> But towards the end of her career, she started to have doubts and skepticism about being at the receiving end of a discriminatory treatment in compensation by

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<sup>51</sup> Jeremy A. Weinberg, “Blameless Ignorance? The Ledbetter Act and Limitation Periods for Title VII Pay Discrimination Claims,” *New York University Law Review*, Volume 84, Number 6, December 2009), P1762.

<sup>52</sup> Miranda Houchins, op.cit.,

<sup>53</sup> Heidi Brown, “Equal Payback For Lilly Ledbetter,” *Forbes*, April 28, 2009, accessed January 16, 2016. <http://www.forbes.com/2009/04/28/equal-pay-discrimination-forbes-woman-leadership-wages.html>

<sup>54</sup> Miranda Houchins, op.cit.,

<sup>55</sup> U.S. Congress. House of Representatives: Lilly Lebetter Fair Pay Act of 2007. By George Miller. Committee of the Whole House 2007-51. Washington D.C. United States Government Printing Office, 2007. <https://www.congress.gov/110/crpt/hrpt237/CRPT-110hrpt237.pdf> Accessed 18 Feb. 2016

her employers. These feelings of mistrust and uncertainty were finally confirmed when an anonymous person sent her a letter revealing how much money, other supervisors of the same rank as her own, were paid and how they were receiving better and superior pay checks as the ones she did.

The details of this seemingly undeniable act of discrimination were revealed in the hearing of the court case she filed. In the letter she got from that anonymous source stated that Lilly Ledbetter got paid 3700 dollars per month while other male counterparts received roughly about 4300 to even 5200 dollars per month for doing the same job, which is between fifteen to forty percent (15 to 40 %) in pay difference.<sup>56</sup> When the Goodyear company was asked about whether the allegations made by Mrs. Ledbetter were true or false, it did not deny the claims, however the justified the disparities in pay by stating that their system of raises depends entirely on performance levels, implying that the men's scores were far better than those of the plaintiff's.<sup>57</sup> The District Court of Alabama rejected this claim by the company and decided to rule in favor of Ledbetter, awarding her nearly three million dollars in wage compensation, citing title VII's discrimination clause, and declared victory for equality, or so everyone thought, until the Company filed an appeal to the S.C.O.T.U.S claiming that Ledbetter filed her suit after the necessary 180 days mentioned in Title VII.<sup>58</sup>

The S.C.O.T.U.S did not disappoint the company, in a 5-4 split decision it decided to rule against Ledbetter, releasing a wave of dissent not just from Lilly's supporters and sympathizers, but also from one of the justices of the Supreme Court.<sup>59</sup> Justice Ruth Bader Ginsburg in her dissent of the court's decision wrote: "This would prove disastrous for victims of pay discrimination who will frequently fail to file a timely charge because they are often Unaware of the fact that they have been victimized."<sup>60</sup> And on the fact that the court cited Title VII on their decision,

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<sup>56</sup> Ibid.,

<sup>57</sup> Miranda Houchins, op.cit.,

<sup>58</sup> "Ledbetter v. Goodyear Equal Pay Hearing: Lilly Ledbetter," YouTube video, 5:22, posted by "EdLabor Democrats," June 13, 2011, <https://www.youtube.com/watch?v=jRpYoUu5XH0>

<sup>59</sup> Miranda Houchins, op.cit.,

<sup>60</sup> Lilly M. Ledbetter, Petitioner v. The Goodyear Tire & Rubber Company, Inc. [2007] U.S. 550 (S.C.O.T.U.S), p.17. <https://www.law.cornell.edu/supct/pdf/05-1074P.ZD>

Ginsburg wrote: “this was a parsimonious reading of Title VII.”<sup>61</sup> These feelings of victimization and dissent from Ledbetter and her supporters were transformed into activism for the cause of fighting for their entitlements. As a consequence, Lilly took her grievances over to Congress, and several hearings later, a bill carrying her name was proposed to close, what she labeled as a loophole in Title VII, and to take back her rights.<sup>62</sup> The bill was finally approved by Congress and ultimately signed by President Obama in January 29<sup>th</sup> 2009.<sup>63</sup> The long term effects of the Lilly Ledbetter Fair Pay Act are yet to be seen due to its recent and novel time of passage; however it had some rather surprising effects already. In addition to the reparation it gave Mrs. Ledbetter, the Act opened up a new horizon for women, and provided them with yet another tool and weapon to fight the sex-based discrimination and the ever persistent and stubborn gender pay gap.

### **5-2-The Successes of the Lilly Ledbetter Fair Pay Act of 2009**

The legacy of the Lilly Ledbetter Fair Pay Act of 2009 went beyond restoring the rights and dignity of Lilly Ledbetter herself, it has created an environment of entitlement for women and an atmosphere of legal security, where they can be litigious and fight for their rights without being threatened or intimidated by vindictive actions from their employers. The proof for this can be seen in the number of cases, which can be directly linked To the Act of 2009, like the case of Mary Lou Mikula.<sup>64</sup> Mikula had a very similar story to that of Ledbetter, she was working for the Alleghany County police Department in 2001, and then submitted a discrimination charge under Title VII of the civil Rights Act of 1964, when she found out that a male colleague who was occupying the same job as she was received 7000 dollars above her wage per year.<sup>65</sup>

Like her predecessor Lilly, the court ruled in favor of the Police Department of Alleghany, but when the Ledbetter Fair Pay Act was passed, Mary filed the suit again this time under the new act, and as a result she won the approval of the court

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<sup>61</sup> U.S. Congress. House of Representatives: Lilly Ledbetter Fair Pay Act of 2007. By George Miller. Committee of the Whole House 2007-51. Washington D.C. United States Government Printing Office, 2007. <https://www.congress.gov/110/crpt/hrpt237/CRPT-110hrpt237.pdf> Accessed 18 Feb. 2016

<sup>62</sup> Ibid.,

<sup>63</sup> Ibid.,

<sup>64</sup> Mary Lou Mikula, plaintiff-Appellant, v. Allegheny County of Pennsylvania [2009] U.S. 07-4023 (S.C.O.T.U.S), p.1. <http://www.eeac.org/briefs/MikulavAlleghenyCounty.pdf>

<sup>65</sup> Ibid.,P.12.

for her claim.<sup>66</sup> Another success story was that of a group of professors at the Pennsylvania State University. After they established that there was in fact a disparity between the wages of men and women at the college of Medicine, a group of female faculty members filed a charge of discrimination against the practices of the University in a case that became to be known as Schengrund V. Penn. State University 2009).<sup>67</sup> Under the Ledbetter Act the court made the University to pay their female faculty members up to two years of back pay.<sup>68</sup> These happy ending stories -at least for the plaintiffs- would not have happened without the passage of the Act of 2009. However, despite these advantages that women received, there were some other deficiencies and drawbacks that I would like to highlight.

### **5-3-The Shortcomings of the Lilly Ledbetter Fair Pay Act of 2009**

The criticism that was aimed at this legislation came from all directions and from conservatives and women alike. The criticism that the women provided was the fact that under the Ledbetter Fair Pay Act the only discrimination that is prohibited is the discrimination in wages, leaving a large loophole for discrimination in bonuses and other forms of monetary compensation, which can play a very important role in determining the differences in income of both sexes.<sup>69</sup> This means that if an employer wanted to award two employees of opposite genders a large or small bonus arbitrarily, he can do that without being classified or considered to be doing a discriminatory act under the Lilly Ledbetter Fair Pay Act of 2009.

Another defect of the act, that conservatives especially like to talk about, is the idea that under this particular law it became easier for people, and sometimes undeserving individuals and groups to exploit its provision to collect money in compensation payments, or as Senator Kimberly Strassel articulated in a *Wall Street Journal* article: “the law was never anything more than a trial-lawyer payout.”<sup>70</sup> In spite of conflicting views regarding the efficiency of the Lilly Ledbetter Fair Pay

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<sup>66</sup> Ibid.,

<sup>67</sup> Cara-Lynne Schengrund V. Penn. State University , [2009] Civil Action No. 4:07-CV-718. Accessed Jan. 16, 2016. <https://casetext.com/case/schengrund-v-pennsylvania-state-university-2>

<sup>68</sup> Ibid.,

<sup>69</sup> Jeremy A. Weinberg, op.cit., p.1766.

<sup>70</sup> Kimberly Strassel, “Strassel: Obama's Inequality Pitch Falls Flat,” *The Wall Street Journal*, March 27, 2014. Accessed January 16, 2016. <http://www.wsj.com/articles/SB10001424052702304418404579465751297102582>

Act to address gender pay inequality in the United States, it certainly was an important milestone in the fight to reduce and eventually close the gender pay gap.

## **6-Honorable Mentions**

### **6-1-The Executive Order No. 11375: 1967**

The executive order was an amendment to a previous order issued by President Lyndon B. Johnson on October the thirteenth 1967.<sup>71</sup> The part of the executive order number 11246 that was amended by the new one was section (101) of part (I), which became as follows: “It is the policy of the government of the United States to provide equal opportunity in federal employment for all qualified persons, to prohibit discrimination in employment because of race, color, religion, sex, or national origin.”<sup>72</sup> This means that this law made it the business of the federal government to fight the unequal treatment based on race, color, religion, sex, or national origin in hiring opportunities in federal related positions. Though this kind of prohibition against discrimination was already provided by the previous landmark legislation of both the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964, what made this executive order special was that it extended these provisions to be implemented on people employed in executive, administrative, and professional positions.<sup>73</sup> Though it was very limited in scope, the Executive Order Number 11375 had some notable accomplishments.

#### **6-1-1-Accomplishments**

One of the great successes of Executive Order number 11375 was the major federal investigation launched by the United States government of almost three hundred and fifty (350) institutions, mainly colleges and universities on an alleged sex discrimination charges regarding the employment disparities which was raised and filed by the National Organization for Women (N.O.W) and the Women’s Equity Action League (W.E.A.L).<sup>74</sup>The goals of the two women’s organizations

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<sup>71</sup> Lyndon B. Johnson, “Executive Order 11375- Amending Executive Order No. 11246, Relating to Equal Employment Opportunity,” October 13, 1967. Web by Gerhard Peters, The American Presidency Project. Accessed January 16, 2016. <http://www.presidency.ucsb.edu/ws/?pid=60553>

<sup>72</sup> Ibid.,

<sup>73</sup> Ibid.,

<sup>74</sup> Harold Ross, “Sadie Hawkins was K.I.A.” *Huffington post*, Mars. 30, 2013. Accessed January 16, 2016. [http://www.huffingtonpost.com/harold-ross/women-in-combat\\_b\\_2563653.html](http://www.huffingtonpost.com/harold-ross/women-in-combat_b_2563653.html)<sup>74</sup>

behind this initiative were many, but most importantly was the stated objective of reaching and achieving “salary equity between men and women in similar academic positions, [and] to raise the number of women admitted to all levels of higher education.”<sup>75</sup> The Executive order was yet another signature of the activism for equality, and another step taken to achieve that purpose.

### **6-2-The Civil Rights Act of 1991**

As it is indicated by the date in the name of the Act, this piece of legislation was passed in January third 1991, during the Presidency of George H.W. Bush.<sup>76</sup> Like its civil rights predecessor, the Act of 1991 sought to prohibit and prevent discrimination in employment or treatment based on the employee’s race, color, gender, religion and ethnic background, however, what was new about this particular law was the fact that the 1991 legislation pursued a far more ambitious goal.<sup>77</sup> The Civil Rights Act of 1991 text stated that it is meant to “strengthen and improve federal civil rights laws, to provide for damages in case of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes.”<sup>78</sup>

The unprecedented turf that this legislation broke into was the compensation for intentional discrimination, this means that women or any plaintiff for that matter can now file charges claiming that he or she was intentionally discriminated against, citing the Civil Rights Act of 1991 provisions could earn them about three hundred thousand dollars (300,000\$) as compensation for any damages they were subjected to.<sup>79</sup> This civil rights legislation was another tool for women and minorities to be protected from employment, hiring, and compensation discrimination.

### **6-3-The Paycheck Fairness Act (Pending Ratification)**

One of the key issues that impeded real change in the fight against the gender pay gap was the fact of not know how much a male employee is making in

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<sup>75</sup> Ibid.,

<sup>76</sup> Civil Rights Act of 1991, Pub. L. No. 102-166, sec. 102, 42 Stat. 1981 (1991). Accessed December 10, 2015 <http://uscode.house.gov/statutes/pl/102/166.pdf>

<sup>77</sup> Ibid.,

<sup>78</sup> Leland Ware, “The Supreme Court Endorses the Disparate Impact Analysis in Housing Discrimination Cases,” *Huffington post*, June. 26, 2015. Accessed January 16, 2016.

[http://www.huffingtonpost.com/leland-ware/the-supreme-court-endorse\\_b\\_7672348.html](http://www.huffingtonpost.com/leland-ware/the-supreme-court-endorse_b_7672348.html)

<sup>79</sup> Ibid.,

comparison to his female colleague doing the same job. This was visible in the case of Lilly Ledbetter, because if she had known earlier how much money her male colleagues were making, the 2009 Act would have been probably passed in 1971, in the very first day she started working. That is the majority of the employers make sure that their employees do not show their paychecks to one another.<sup>80</sup> The Paycheck Fairness Act legislation would include provisions that mandate employers to prove and show that the differences in pay between their employees are due to other variables besides sex, and most importantly it would make sure that no legal action would be taken against any employee who shares information about his or her wage.<sup>81</sup>

The act also includes other sections regarding the intention and the willingness to bolster punitive and disciplinary measures regarding any possible future infringement on equal pay, and a training program aimed at enhancing women's negotiating skills.<sup>82</sup> This bill was first introduced in 1997, but it has yet to pass both houses (the House of Representatives and the Senate) in Congress, despite many attempts to do that, it came close to passing in 2009 when it was approved by the House of Representatives, but failed to reach the Senate mainly because of strong opposition from the Republican Conservative Party.<sup>83</sup> The passage of such a bill would definitely solve one of the most important issues around the quest to reduce and eventually close the gender pay gap, which is wage transparency.

## **7-Conclusion**

The E.P.A of 1963 was heralded as the birth day and dawn of a new era, where wage disparities between the sexes were a problem that needed to be fixed. Other laws had a more immediate effect like Title VII, because just after a short period from its signing the job notices with the expression "male only" written on them were immediately removed. The Lilly Ledbetter Fair Pay Act of 2009 provided women with yet another tool to combat sex discrimination and the subsequent gender pay gap. The provisions of the 2009 legislation equipped female employees

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<sup>80</sup> Heidi Hartmann, "Pass the Paycheck Fairness Act," *The New York Times*, June. 24, 2013. Accessed January 16, 2016. March 31, 2013

<sup>81</sup> Ibid.,

<sup>82</sup> Joanne Lipman, "Let's Expose the Gender Pay Gap," *The New York Times*, Aug. 13, 2015. Accessed January 16, 2016.

<sup>83</sup> Ibid.,

with the legal advantage and the equal protection under the law from any vindictive action that might arise from employers who are discriminating against them in pay. Despite these upsides to the passed legislation aimed at undertaking the issue of age inequality there were some rather frustrating downsides. These drawbacks or disadvantages manifested themselves in three different shapes. The first was the fact that the laws and provisions of these acts were too narrow in their scope. This can be clearly seen in the criticism leveled at the Lilly Ledbetter Act of 2009, though the Act prohibited the discrimination in wages between men and women who were performing the same job, it did not cover the bonus system, leaving a large loophole for favoritism. The second downside to these laws was the fact that they lacked vigorous enforcement. This is especially true for earlier acts like the Equal Pay Act and Title VII; this is due, at least in part, to the supremacy and priority of race-related discrimination over the sex-based one. The third and final grievance that is directed at the Equal pay legislation (all of them) is the principle that these acts are now being used by undeserving and ineligible individuals to collect legal compensations by evoking the privileges these acts guarantee. This is especially true with later laws, like the Civil Rights Act of 1991 and the Lilly Ledbetter Fair Pay Act of 2009. Another issue also emerged, which is the concept of “reverse discrimination.” It came to the surface with the passage of Title IX in 1972. These shortcomings and defects that rose during the implementation of these laws, and even prior to that are the result of a combination of inaccurate assessments, unintended calculations, and most importantly the lack of an all encompassing framework that explains the root cause of the problem which is the gender pay gap. The search and pursuit of such an explanation will be the subject of the following chapter.



# CHAPTER FOUR:

## Explaining the Gender Pay Gap and Predicting its Future

### 1-Introduction

The influence and the effects that the reformist legislation discussed in the previous chapter were clearly felt in the political and especially economic realm of women. The size and the scope were measured by the tremendous changes in the status of gender equality in America. This improvement can be clearly seen in the figures related to the gender pay gap and the index of occupational segregation in the period between the 1960s and the beginnings of the new millennium. There were definitely improvements but were very limited. These limitations arose, at least in part, from the different assessments of the nature and the scope of the actual problem which is the gender pay gap. As it was articulated by American author Dorothea Brande, “A problem clearly stated is a problem half solved”.<sup>1</sup>

However, the issue that emerged from trying to “clearly state” this problem is very complicated and deeply divisive. This Chapter will be concerned with laying down the two main perspectives in diagnosing the root causes of the gender pay gap, analyzing and evaluating each one separately, and then providing an all-encompassing and comprising explanation for the actual underlying source of the sex-based wage disparities. It will also deal with the doctrine of comparable worth and the prospect of using this doctrine as a future solution to the issue of gender pay gap, assessing its advantages and shortcomings in addition to some possible proposed solutions and remedies to this important economic, social, and political issue. There were two main groups with opposing views at each side of the spectrum. The first group, led mainly by the feminists and their sympathizers, claimed that the gender gap is primarily because of gender and that other variables which explain this gap in pay are of no significant value. The second group argued

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<sup>1</sup> David Newman, *The Manager's Pocket Guide to Using Consultants*, (Massachusetts: HRD Press, Ink 2007), P.103.

that gender plays a non-important role if any, and that the pay gap is largely explained by other factors. Both of these claims will be discussed in details in this chapter.

## **2-The Gender Pay Gap Is Because Of Gender**

Results from a 2001 census conducted by the United States Department of Labor found that women made up almost fifty percent of the American workforce, and about eighty percent of women in the twenty five to forty four years old demographics work for pay, and a substantial number of eighty five to ninety percent of college graduates who happened to be females were in the workforce.<sup>2</sup> However, as we have seen in chapter one and two, there has been always a persistent, albeit narrowing, gap in pay between the sexes. Although the two belligerent camps disagree almost entirely on the role of gender in explaining the phenomenon of the pay gap, they agree that pay differences between women and men are because of “the limited number of women in the higher-paying upper levels of organizations”<sup>3</sup> The feminist camp armed with a plethora of arguments and studies all revolving around the same idea, which adopts at its core that gender is the main reason for these pay disparities, created a framework based on two different concepts, which became to be known as “the Glass ceiling effect” and “the Glass walls effect”, which will be discussed separately and in detail.

### **2-1-The Glass Ceiling Effect**

As previously mentioned in chapter one, the marriage bars that were adopted in the pre 1960s era had a long lasting effect on women’s employment, even after they completely vanished after the 1950s. One of these effects was the impression that married women left on employers, that they would leave work as soon as they “tie the knot”. This sentiment left employers in the ensuing decades with a lot of ambiguities in distinguishing when hiring, between those who would stay working after marriage and those would quit.<sup>4</sup> Subsequently, the employers gave women lower-echelon, entry-level, and lower-paying jobs.<sup>5</sup> Assuming that, these measures

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<sup>2</sup> Claudia Goldin, op.cit., p.1.

<sup>3</sup> Mohamad G. Alkadry, and Leslie E. Tower, “Unequal Pay: The Role of Gender;” (*Public Administration Review*, 66, 888-898), P.888. Web. 10 Feb. 2016.

<sup>4</sup> Claudia Goldin, 2002, op.cit., p.4.

<sup>5</sup> Mohamad G. Alkadry, and Leslie E. Tower, op.cit., p.889.

would minimize the risks of losing important assets, such as key-level employees, after having invested time, money and energy in training them. This gave rise to what became to be known as “The Glass Ceiling effect”, which according to the “ABC of women worker’s rights and gender equality” is the combination of “invisible and artificial barriers that militate against women’s access to top, decision- making, and managerial positions, arising chiefly from a persistent masculine bias in organizational culture”.<sup>6</sup>

These arguments have a strong foothold in empirical literature. In a 1997 study conducted by Bonnie Mani entitled “*Gender and the Federal Senior Executive Service: Where is the Glass Ceiling?*” found that, even with decades of affirmative action endeavors and several attempts to provide equal opportunities for both genders, of all senior and executive service jobs in the sample under study, women were eighty five percent of clerical jobs and just thirteen percent of the senior level positions.<sup>7</sup>This means that the concentration of working women in the labor market is in lower paying jobs, which would further widen already existing gender pay gap. The findings of Mani are backed by another study, this time by professors Mohamad Alkadry, Kimberly Nolf, and Erin Condo. In 2002 the trio reported that from all West Virginia State Government employees women represented eighty five point seven percent (85.7%) of what they labeled it as “administrative support jobs,” like: secretaries, assistants and office workers, but occupied only thirty percent (30%) of “officials and administrators,” and a meager six percent (6%) of all employees earning more than fifty thousand Dollars (50.000\$) per year.<sup>8</sup>The main driver or motive behind these statistics is a perspective on women, that the first camp claimed, was intrinsic in society and inherently discriminatory in nature.

As Camilla Strivers framed it “Women are viewed in society as caring and sensible individuals, whereas images of leaders in the public sector are associated with characteristics that are mostly masculine.”<sup>9</sup>However, there is a more nuanced

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<sup>6</sup> Evy Messell, *ABC of women workers’ rights and gender equality*, (Geneva: International Labour Office, 2000), p.94.

<sup>7</sup> Heather Getha Taylor, *Room at the Top? The Views of Women in the Senior Executive Service* (PhD thesis, Syracuse University, 2003), p.9.

<sup>8</sup> Mohamad G. Alkadry, Kimberly Nolf, and Erin Condo. *Pay Equity in West Virginia State Government*. (*Public Affairs Reporter* 19 ( 2 ): 1 – 6 , 2002), P.5. <http://ipa.wvu.edu/r/download/43208>

<sup>9</sup> Camilla Stivers, *Gender Images and Public Administration: Legitimacy and the Administrative State*, (*Administrative Theory & Praxis* Vol. 15, No. 2, 1993), P.84. <http://www.jstor.org/stable/25611067>.

approach to seeing these facts. As it had been demonstrated earlier in chapter two, women as a group in the United States workforce had less full-time experience than their male counterparts, but more part-time experience. Women also took more job breaks due to a myriad of reasons, including child-bearing, and child-rearing (see chapter two). Another factor is that female workers were less likely than male workers to move for long distances related to work, as Mary Noonan concluded in her 2001 study.<sup>10</sup> These factors constitute the Glass Ceiling effect that traps women in lower-paying jobs, which further exacerbates the gender pay gap.

## 2-2-The Glass Walls Effect

This term (Glass Walls) is defined in the terminology of the International Labor Office as, “the concentration of women in certain sectors, and are unable to jump the gap between secretarial/administrative and managerial functions regardless of their educational attainments or experience.”<sup>11</sup> Unlike the “Glass Ceiling effect” which is a barrier to women’s advancement and mobility within the hierarchical ladder of a particular occupation, the “Glass Walls effect” keeps women opting for higher-paying fields. In this model, women are segregated in “traditionally female agencies.”<sup>12</sup> There are multiple studies that back the concept of a Glass Wall. In their conclusions economists Meredith Newman and Mohamad Alkadry found that sixty five point seven percent (65.7%) of employees in agencies such as welfare, health and education were female workers.<sup>13</sup> Economic professors Will Miller, Brinck Kerr, and Margaret Reid also found in their sampling of the federal agencies that, women are concentrated in areas where there is a large share of clerical jobs.<sup>14</sup> In a large scale examination that involved six different U.S. states (California, Alabama, Arizona, Texas, Utah, and Wisconsin) accomplished by a group of scholars and academics led by Amal Kavar and Rita Mae Kelly, observed that “female-

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<sup>10</sup> Mary C. Noonan, *The Impact of Domestic Work on Men’s and Women’s Wages*, (*Journal of Marriage and Family* 63 (4): 1134 – 45, 2001), p.  
<http://deepblue.lib.umich.edu/bitstream/handle/2027.42/72357/j.1741-3737.2001.01134.x.pdf?sequence=1>

<sup>11</sup> Evy Messell, op.cit., p.94.

<sup>12</sup> Mohamad G. Alkadry, and Leslie E. Tower, op.cit., p.890.

<sup>13</sup> Mohamad G. Alkadry et al. 2002, op.cit., p.81.

<sup>14</sup> Will Miller, Brinck Kerr and Margaret Reid, *A National Study of Gender-Based Occupational Segregation in Municipal Bureaucracies: Persistence of Glass Walls?* *Public Administration Review* 59(3), 218-230. [http://www.jstor.org/stable/3109950?origin=crossref&seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/3109950?origin=crossref&seq=1#page_scan_tab_contents)

dominated jobs had lower average wages than male dominated jobs.”<sup>15</sup>The feminist camp, after providing this large empirical evidence, went on to attack the cornerstone or the backbone of arguments that explains the pay gap between the sexes ignoring the factor of gender, which is the “human capital” argument. This approach gave rise to the term “wage discrimination” which is defined as: “...part of the difference in wages by sex that is not explained by differences in observables, such as work experience, education, and training. Rather, the wage difference is explained by a disparity by sex in the returns to these variables.”<sup>16</sup>

This means that according to the first camp gender, or more precisely gender discrimination is the only viable explanation for the unexplained variables that account for the gender pay gap. In order to prove their claims, Feminists have forged a theory that would fit the empirical data in their possession, which was called “The Pollution Theory.”

### **2-3-The Pollution Theory**

The framework according to which the previous literature is shaped, and molded into an argument for the role of gender, is a theory called “the Pollution Theory of Discrimination.” It was called the pollution theory because, its foundation revolves around the idea that men would like to maintain their jobs and careers women-free, because the presence of female workers would lower the standards, or “pollute” their prestige, according to these male employees.<sup>17</sup>According to Claudia Goldin, the principle of this theory takes effect in two distinct phases, the first phase involves a particular occupation the access to which is exclusively preserved to men, due to the high qualifications standard it requires. The second phase is marked by the application of women who desire to enter these male-dominated occupations.<sup>18</sup> The example that was given to illustrate this theory was the occupation of fire fighting. According to the theory put forth by Professor Goldin, firefighting went through two different phases:

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<sup>15</sup>Rita Mae Kelly, Mary E Guy, Jayne Bayes, Georgia Duerst-Lahti, Amal Kawar , and Jeanie R . Stanley. “*Public Managers in States: A Comparison of Career Advancement by Sex,*” (*Public Administration Review* 51 (6). 576–93), P.593. <http://www.jstor.org/stable/976594>.

<sup>16</sup>Claudia Goldin, 2002, op.cit., p.16.

<sup>17</sup>Ibid., P.29.

<sup>18</sup> Claudia Goldin, *A Pollution Theory of Discrimination: Male and Female Differences in Occupations and Earnings*, (working paper No. 8985, 2001). P.2. Retrieved from The National Bureau of Economic Research website: <http://www.nber.org/papers/w8985>

### **2-3-A-Phase One:**

In which the tests to get in -to be a fire fighter- were very demanding physically and psychologically, involving a variety of different tasks, like carrying heavy objects, climbing stairs, and running long distances. In this period, men monopolized all positions.<sup>19</sup> In the sense that, the absolute majority of the employees were men. Then it came the second phase.

### **2-3-B-Phase Two:**

In this phase, there were many technological breakthroughs concerning the equipments and tools used in fighting fires, which enabled women to pass the new, less demanding tests.<sup>20</sup> Now, using the Pollution Theory model, the men felt threatened that “the prestige” of their occupation, that used to involve strength, stamina, and aggressiveness, which made them push for harsher tests.<sup>21</sup> What the feminists’ camp took from the Pollution Theory was that, since women would meet inhospitable environments in male-dominated occupations, all jobs will be segregated, despite the similar qualifications of both genders.

### **2-3-C-The Proposed Solutions of the Pollution Theory:**

After examining the “symptoms” of their analysis of the pay gap, the feminists provided a “diagnosis” of this phenomenon based on the concept that gender is the root cause. In doing so, the solutions and measures taken to tackle and rectify the problem are shaped, naturally according to this diagnosis. One of the main points of agreement among the feminists’ camp was to strengthen the enforcement of the already existing laws that provide and seek equal opportunities regarding employment and pay between the sexes, like the one discussed in chapter three. Another suggestion is to adopt affirmative action strategies that would boost the number of women in higher-paying ranks in the usually male-dominated fields.<sup>22</sup> In addition to reforming the job environment, making it more family-friendly, by taking measures such as, more flexible hours that can be divided into a more flexible and manageable schedule, administering more paid leaves for family care and

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<sup>19</sup> Ibid., P.3.

<sup>20</sup> Claudia Goldin, 2002, op.cit., p.17.

<sup>21</sup> Claudia Goldin, 2001, op.cit., p.3.

<sup>22</sup> Mohamad G. Alkadry, and Leslie E. Tower, op.cit., p.890.

absences for sickness, and encouraging and stimulating men to take family leave more often, which will lower the burden of reaching a good balance between personal and professional life for women.<sup>23</sup> These views however, are hardly ever agreed upon. They are widely contested and even rejected by another camp; it will be referred to here as the second or the scholars' camp. Its view states that gender has a miniscule part to play in explaining the gap and they cite different other factors, as it is about to be shown in the following discussion.

### **3-The Gender Pay Gap is *Not* Because of Gender**

There was a great emphasis from the feminist's camp on the role that gender plays in determining the pay gap and that sex discrimination whether it was direct, like the marriage bars in the pre 1960s, or had a more subtle form, like the effects of the "Glass Ceiling" and the "Glass Walls," is the root cause of this disparity in pay between the sexes. However, the second camp argued that, there are other more important factors at play. Mainly, that there actually enduring sex differences in many different areas that shape women and men's judgment, preferences, and eventually labor and position outcomes. The analysis of these inherent differences in judgments is well articulated by Carol Gilligan's famous book *"In a Different Voice. 2003"* She claimed that her findings, that both sexes have different approaches to solving problems, however this does not imply the superiority of males but rather "men and women follow different voices."<sup>24</sup> She continued her statement by saying that "men tend to organize social relationships in a hierarchical order and subscribe to a morality of rights and justice, [whereas] women value interpersonal connectedness, care, sensibility, and responsibility to people."<sup>25</sup>

The second camp based its framework for explaining the pay gap on this disparity in judgment and preferences, and back this particular claim with some rather convincing empirical evidence, as it is about to be highlighted. In the first step of the build-up for their argument, the scholars in the second camp wanted to discredit the talking-points of the feminists' camp, which are as it has been shown earlier that, women would be in far greater numbers in the top positions if employers

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<sup>23</sup> Ibid.,

<sup>24</sup> Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development*, (Massachusetts: Harvard University Press, 2003), p.17.

<sup>25</sup> Ibid.,

provided more family-friendly arrangements, like part-time working hours and maternal leaves. They-the second camp led by Sociologists David Grusky (1956- ) and Mary Charles (1960- ) - argued that these arrangements “do not make any major positive difference to gender equality in the labor market; on the contrary [they continued that these particular adjustments would have the opposite effect of] further exacerbating these problems.”<sup>26</sup> A very important concept emerged from these findings that are “the male stereotype of the career,” which is defined as: “an occupation or activity that is pursued continuously, with long full-time hours, and with a high level of dedication, virtually to the exclusion of any major investment of time and energy in family work and family life.”<sup>27</sup> The criteria that these occupations require, such as high levels of energy and a particular type of lifestyles, cannot be met by the majority of female workers, due to a variety of different reasons. One of the most important of these reasons is that, some of these high-echelon jobs usually encompass a great amount of mobility and travel at short notice; therefore employees must always possess characteristics such as dedication, creativity, and the willingness to invest intensive work energy, which cannot be available among women who opt for part-time work.<sup>28</sup> Another factor is that most women who are already in these top positions are childless despite being married, which is a harsh penalty that men, unlike women, did not necessarily have to pay to reach those same level positions.<sup>29</sup> This can be viewed as a counter argument to the Glass Ceiling effect. When it comes to the Glass Wall argument, i.e. occupational segregation, a study conducted by Maria Charles and David Grusky in 2004 found that there is “no direct causal link between economic and social development and occupational segregation,”<sup>30</sup> and subsequently the gender pay gap. These findings were further substantiated by the International Labor Organization (ILO) and the Organization for Economic Cooperation and Development (OECD), in their assessment of their member countries- including the United States of America- in addition to Russia, Brazil, China, India, Indonesia, and South Africa, they found that China is the country with the lowest level of occupational segregation, and

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<sup>26</sup> Mary Charles, and David B. Grusky, *Occupational Ghettos: the Worldwide Segregation of Women and Men*. (California: Stanford University Press, 2004), p15.

<sup>27</sup> Ibid.,

<sup>28</sup> Catherine Hakim, op.cit., p.282.

<sup>29</sup> Ibid.,

<sup>30</sup> Mary Charles, and David B. Grusky, op.cit., p.13.



Swaziland and Sri Lanka are the two countries with the lowest gender pay gap.<sup>31</sup> This led the second camp to conclude that when women are entering the work force in larger numbers, it means that the levels of occupational segregation and gender-based wage disparities are more likely to be higher.<sup>32</sup> They also stated that family-friendly policies, unlike the feminists' camp conclusions, diminish the status of gender equality in the labor force.<sup>33</sup> These two statements and conclusions have a strong foothold in reality, because after the pouring of female workers into the American labor force in unprecedented numbers back in the post 1960s, there was a significantly large index of occupational segregation, as it has been stated in chapter two. Though these statistics were not enduring or lasting for that matter, especially after the 1980s, due to the different measures taken to rectify them -mainly through affirmative action and equal pay legislation- but they serve the conclusions of the second camp. As for the second derivation, it can also be argued that, as it had been established in chapter two, family friendly policies such as, part-time hours, paid sick-leaves, and maternal leaves can take its toll on the wages.<sup>34</sup> Like the feminists' camp, the scholars in the second camp also have designed and come up with a theory that explains the disparity in wages between men and women, and the sex- based occupational segregation, it was called the Preference Theory, the details and origins of which will be discussed next.

### **3-1-The Preference Theory**

The Preference Theory was put forth by Catherine Hakim, a British sociologist who sought to analyze and anticipate the different patterns that women exhibit and demonstrate in the labor force and social and family life.<sup>35</sup> There are four central tenets, on which the Preference Theory is built; the first is a historical one that stresses five different and mutually separate historical events that are reciprocal in nature, and they include: The contraceptive revolution, the equal opportunities

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<sup>31</sup> Catherine Hakim, 2006, op.cit., p.284.

<sup>32</sup> Catherine Hakim, "Diversity in Tastes, Values, and Preferences" (*Econ Journal Watch*, Vol. 5, No. 2, May 2008), p.209.

<sup>33</sup> Ibid.,

<sup>34</sup> Catherine Hakim, *Five Feminist Myths about Women's Employment (The British Journal of Sociology*, Vol. 46, No. 3, Sep 1995), pp. 429-455), P.430. Accessed: February 15, 2016. <http://www.catherinehakim.org/wp-content/uploads/2011/07/BJs-Sep1995-Fivefeministmyths.pdf> <sup>35</sup> Wikipedia contributors, "Preference theory," *Wikipedia, The Free Encyclopedia*, [https://en.wikipedia.org/w/index.php?title=Preference\\_theory&oldid=702822220](https://en.wikipedia.org/w/index.php?title=Preference_theory&oldid=702822220)(accessed February 19, 2016).

revolution and the introduction of equal rights legislation, the expansion of white-collar jobs, and last but not least, the creation of part-time jobs.<sup>36</sup> Another precept to the Preference Theory was that women's arrangement of priorities and inclinations when it comes to family and employment vary considerably, but can be categorized into three main groups; the first one are the home-centered women, which make up about ten to thirty percent of all women, and according to Catherine Hakim, they prioritize family life and caring for children over paid employment, and they prefer a life of domesticity and any qualification they may possess, such as educational degrees, they are gained for cultural reasons.<sup>37</sup> The other group represents the majority of women; this group is made up of what Hakim called the adaptive women. They represent forty to eighty percent of all women in society, and this group contains women, who want to reach a balanced and healthy equilibrium between family life and work life, they also pursue qualifications in order to work, but they are not willing to be entirely devoted to their occupations.<sup>38</sup> The third and final group, tend to be childless, totally committed to the working life, and as a consequence they make heavy human capital investments to enhance their chances for future employment.<sup>39</sup> As any other theory the Preference Theory had its own proposed solutions and predictions.

### **3-3-The Predictions and the Proposed Solutions of the Preference Theory**

The assumption the second camp makes is that, when it comes to getting a job at a particular company or firm, it is small details, which can be detected during the job interviews or within applications that end up landing someone that particular position.<sup>40</sup> Therefore, since most women are always reaching for a healthy equilibrium between work and family life, and consequently are unwilling to work for longer hours and travel extensively, unlike their male counterparts, therefore they end up losing the top positions to those who are willing to sacrifice: in this case men.<sup>41</sup> Hence the only foreseeable future for the pay gap according to the Preference Theory is that, it will continue to exist throughout the twenty first

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<sup>36</sup> Catherine Hakim, 2006, op.cit., p.287.

<sup>37</sup> Catherine Hakim, 2008, op.cit., p.210

<sup>38</sup> Ibid.,

<sup>39</sup> Ibid.,

<sup>40</sup> Linda Babcock and Sara Laschever, *Women Don't Ask: Negotiation and the Gender Divide*. (New Jersey: Princeton University Press, 2003), p.290.

<sup>41</sup> Ibid.,

century, and that men will have the bulk of the top positions, because they are willing to put more on the plate than women.<sup>42</sup> With every theory on the pay gap there are recommendations directed at mending and correcting this problem. They are usually targeting the upper-levels of policy makers, and the Preference theory is no exception. However, what is different about this particular theory is that it identifies three groups to be the object of these intended policies, rather than “the “one-size-fits-all” ones, as Hakim called them.<sup>43</sup>

#### **4-The Simple Truth about the Gender Pay Gap**

The truth about any particular subject is always more nuanced than it appears to be, it does not submit to the polarizing effects of two extremes. Having stated this, the middle ground is also not always the right position to take no matter how tempting it might be to stay neutral, or be “politically correct”. Therefore after the analysis of the empirical literature of both camps, the following conclusions were made. The main argument of the feminists’ camp is the concept of sex discrimination, which is coming from a deduction that gender is the root cause behind the wage gap after the control of “all” the empirically verified variables such as, human capital, job experience, and tenure. There is a loophole, however, that emerges from this kind of deductive reasoning, which can be interpreted differently, and sometimes rightly so, by other observers, like the second scholars’ camp and their interpretation via the different preferences of women. But what this paper finds to be the case here is that gender *was* a contributing factor to determining who gets to the top managerial positions, but its influence is starting to fade away due to many factors, such as the changing attitudes towards women, the different laws and anti-discrimination measures taken by the United States federal government...Etc. Nonetheless, it still persists as a contributing factor. What is more influential nevertheless, is the choices and preferences between work and family life that both sexes make in the labor market that will have the ultimate effect on the outcome of their careers and consequently the gender pay gap. The proposed solutions by this work are a mixture of enforcing present laws and designing policies to fit all of the different preferences of women, and not just one individual group. The policy model to fit these goals

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<sup>42</sup> Catherine Hakim, 2008, op.cit., p.290

<sup>43</sup> Ibid.,

needs to be thoroughly investigated, and clearly there is a great deal of rigorous research needed in order to achieve this goal.

### **5-Comparable Worth and the Future of the Pay Gap: 1970-2013**

Whatever is the reason for the disparities of the gender distribution and compensation in the American work force and labor market, whether it is systemic sex-based discrimination, or the different preferences that men and women opt for, or both with varying degrees, the statistics and the data that account for these disparities are staggeringly overwhelming and rarely if ever disputed, as it has been established so far. Therefore, as a consequence to tackle what appears to be a clear manifestation of gender inequality, several attempts had been made to remedy and ease the concerns of women -the receiving end of the perceived injustice of the pay gap. The ones which stand out among these efforts were the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, and most recently the Lilly Ledbetter Fair Pay Act of 2009. These pieces of legislation, as it has been discussed in the previous chapter revolved around the principle and the doctrine of “equal pay for equal work”, however a more ambitious doctrine was starting to gain momentum and a wide range of support, especially among feminists in the State of Washington that would soon spread nationwide.<sup>44</sup> The doctrine was called Comparable Worth and its main principle was “equal pay for *comparable* work.”<sup>45</sup> In theory, the term comparable worth means that every job, especially those which are segregated along the lines of gender, can be assessed for value or worth, and its holder can be compensated in pay accordingly.<sup>46</sup> This indicates that, unlike “equal pay for equal work” that stated if someone was doing the exact same job, he or she must receive an equal pay, Comparable Worth is advocating for “measuring” the worth of two distinctly different jobs and then determining the amount of money is considered to be appropriate or suitable for each one. The factors that are the subject of this evaluation are: job responsibility, level of skill required, the efforts put in, and the working conditions.<sup>47</sup> These factors are then put together as “score points” in order to

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<sup>44</sup> June Ellenoff O'Neill, “Comparable Worth”, *The concise Encyclopedia of Economics*. 1993. Library of Economics and Liberty. 17 February 2016.

<http://www.econlib.org/library/Enc1/ComparableWorth.html>

<sup>45</sup> Ibid.,

<sup>46</sup> Thomas J. Billitteri, op.cit., p.254

<sup>47</sup> Claudia Goldin, op.cit., p.209.

determine the exact value and worth of any given job.<sup>48</sup> The most common application of Comparable Worth starts with defining and giving clear descriptions to what does it mean to say “a man’s job,” and a “woman’s job.” A man’s job or a male-dominated occupation is the one which seventy percent of its employees or more are men, and a “woman’s job” or a female-dominated occupation is, consequently where only thirty percent of its workers are males<sup>49</sup>. After establishing these definitions and giving a clear cut boundaries to these concepts, Comparable Worth then uses the scores of the previously analyzed factors (skills, responsibility...etc) to raise the wages of women to the level of those of comparable men in a “proportional manner.”<sup>50</sup>The Comparable Worth doctrine was born out of a feeling of frustration and disillusion among women, with a persistently stubborn gender-based pay gap, however there were some rather conflicting views, not just about its scientific validity, but also its efficiency in tackling the main issue, which is the gender gap in pay and occupations. These views and the arguments they present will be analyzed in details in two separate parts.

### **5-1-The Arguments for Comparable Worth**

At the heart of the idea of Comparable Worth lies the issue of social and economic justice between the sexes. Proponents of the doctrine of Comparable Worth claim that the implementation of such a policy would eliminate what many women, especially feminists label as wage discrimination, and put an end to the persistent gender pay gap.<sup>51</sup> Their main argument is that if a particular firm had among its employees, two supervisors of different genders, both of them had under their watch the exact same number of workers, they report or communicate information to the same hierarchy of directors, work the same quantity of hours, and their respective positions have the same importance, these two supervisors should be paid the same wage regardless of their different duties.<sup>52</sup> According to its supporters, the adoption of Comparable Worth would help rectify the historical undervaluation

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<sup>48</sup> Ibid.,

<sup>49</sup> Joan Acker, *Doing Comparable Worth: Gender, Class, and Pay Equity* (Philadelphia: Temple University Press, 1989), P.199. <https://www.questia.com/read/55550416/doing-comparable-worth-gender-class-and-pay-equity> (accessed February 19, 2016).

<sup>50</sup> Ibid.,

<sup>51</sup> Thomas J. Billitteri, op.cit., p.253.

<sup>52</sup> Heather Getha Taylor, *Room at the Top? The Views of Women in the Senior Executive Service* (PhD thesis, Syracuse University, 2003), P.9.

of the traditionally female dominated occupations, such as nursing, teaching, secretarial work...Etc, and would eradicate any existing prejudices against them.<sup>53</sup>The implementation of this doctrine would also pave the way for more equality between jobs, when an impartial assessment and an evenhanded valuation recognize that the jobs possess an interchangeable importance or worth to the employers.<sup>54</sup> Comparable Worth would also help raise the wages of, not just women but also minorities because, according to a report done by Donald Treiman and Heidi Hartmann, entitled "*Women, Work, and Wages: Equal Pay for Jobs of Equal Value*": "jobs held mainly by women and minorities pay less at least in part because they are held by women and minorities." But what was decisively the backbone of the support that this doctrine relies on, came from the National Academy of Science Committee, when the Academy issued a one hundred and forty nine page report under a contract with the United States E.E.O.C, concluding that even though the enhancement and the application of occupation evaluation plan is generally a long and expensive process, it is considered by the Committee of the N.A.S to have "a potential that deserves further experimentation and development."<sup>55</sup> Despite the wide support from all different sources, whether they are from the top positions in the political field, or the most sophisticated academic institutions in the U.S, Comparable Worth was faced with scathing opposition from a variety of different sources as well. The opponents had different answers to the questions that surrounded this doctrine like, who will be the one to determine: what is equal value?

## **5-2-Arguments against Comparable Worth**

Opponents of the Comparable Worth doctrine have one area of agreement with the people who support it, which is that the implementation of such policies, like job evaluation would likely raise the wages of women who work in the traditionally female-dominated occupations, but they say that this is not necessarily a good thing for women.<sup>56</sup> One of the loudest voices against comparable worth in the

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<sup>53</sup> Thomas J. Billitteri, op.cit., p.252.

<sup>54</sup> Ibid., P.9.

<sup>55</sup> Donald J. Treiman and Heidi I. Hartmann, *Women, Work, and Wages: Equal Pay for Jobs of Equal Value*, (Washington, D.C: National Academy Press, 1981), P.96. Accessed February 10, 2016. <http://www.nap.edu/catalog/91.html>

<sup>56</sup> Thomas J. Billitteri, op.cit., p.253.

United States was June Ellenoff O’Neil<sup>57</sup>, her argument, like many economists including Steven E. Rhodes and Warren Farrell, was that the principles of Comparable Worth are incompatible and irreconcilable with the principles of a free market economy.<sup>58</sup> The majority of Comparable Worth supports, as it has mentioned previously, rely on the idea that female-dominated jobs have been historically undervalued, because women’s roles in society have been categorized as roles of support and assistance, rather than those related to leadership and management.<sup>59</sup> Therefore, as a consequence of these stereotypes, women are paid less because they are working in “female jobs”, and these “female jobs” pay less because they are held and done by women.<sup>60</sup> The notion that sex discrimination is the major and most important contributor to the existence of the pay gap is highly present in the literature of the proponents of Comparable Worth, and often times it is used to account for the unexplained variables in the differences in pay. This is due, at least in part, to the findings of the National Academy of Science, which stated that these unnoted and unaccounted-for disparities imply “the probability of discriminatory process unless the contrary can be shown.”<sup>61</sup> However, the opposition camp contests the findings of the proponents that there needs to be a drastic move like Comparable Worth in order to close the persistent gender pay gap. The second camp presents the evidence of evolutionary path of the gender pay gap, that its trend demonstrate that there is a converging pattern without the need to implement such a “radical policy.”<sup>62</sup> This fact has been dealt with in the second chapter of this paper, in the sense that the figure of gender-based pay gap was around the forty one percent (41%) in the 1960s, and by the beginning of the new millennia it was reduced to just twenty two percent (22%).<sup>63</sup> The opponents also say that there might be examples and occurrences of sex discriminatory practices in the American labor market, but it is not that rife or common so that it is made to be a major factor contributing to the

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<sup>57</sup> June O’Neil was an economics professor at the City University of New York’s Baruch College, and a former director of both the Congressional Budget Office and the Office of Policy and Research at the U.S. Commission on Civil Rights. June Ellenoff O’Neill, op.cit.,

<sup>58</sup> June Ellenoff O’Neill, op.cit.,

<sup>59</sup> Steven E. Rhoads, *Incomparable worth Pay equity meets the market* (New York: Cambridge University Press, 1993), P.2.

<sup>60</sup> Ibid., P.9.

<sup>61</sup> Ibid.,

<sup>62</sup> Claudia Goldin, *A Grand Gender Convergence: Its Last Chapter*, (*American Economic Review*, 104(4): 1091–1119, 2014), P.1117.

[http://scholar.harvard.edu/files/goldin/files/goldin\\_aeapress\\_2014\\_1.pdf](http://scholar.harvard.edu/files/goldin/files/goldin_aeapress_2014_1.pdf)

<sup>63</sup> Donald J. Treiman and Heidi I. Hartmann, op.cit., p.85.

wage gap or occupational segregation.<sup>64</sup> Another area of dispute is the techniques that would be used to implement Comparable Worth and precisely, how to evaluate the different jobs held by both sexes.

The opponents argued that, in addition to the futility to come upon an instance where anyone can say with accuracy that men and women are doing a similar job, in the same exact place and at the exact same period of time, there are, as June O'Neil stated in her testimony in front of Congress, "no uniform way to rank occupations by worth,"<sup>65</sup> which is an accepted statement even by the National Academy of Science, despite the latter's recommendation to implement the policy. O'Neil continued her rant against Comparable Worth saying that she finds it to be, "a truly demeaning policy for women," and that the implementation of such a policy would "convey the message that women are unable to challenge for the top positions which are usually male-dominated."<sup>66</sup> The opposition to the propositions of the doctrine claims that the over-emphasis on sex discrimination against women will lead to policies that are characterized by reverse sex-discrimination. Because the proponents of Comparable Worth are seldom, if ever in pursuit of pay raises in favor of the occupations held mainly by men.<sup>67</sup> Economists believe that despite the good intentions and the legitimate interests of Comparable Worth proponents to only raise the wages of the female-dominated occupations without diminishing the pay of those held mostly by men, it just cannot work this way, because according to the labor market equilibrium, if there is an increase in the real wages of certain fields, there will be an automatic decrease in others.<sup>68</sup> Critics go far as to say that the implementation of Comparable Worth would actually have the opposite effects of the intended objectives. They argued that the application of the doctrine as a policy involves two main stages, the first one is that it would create a scenario for a labor market in which jobs desired by everyone due to their psychological fulfillment like, teaching and social work, would have higher wages and jobs that involves "lower fulfillment" attributes, such as garbage collectors, sewers workers, and masons

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<sup>64</sup> Steven E. Rhoads, op.cit., p.9.

<sup>65</sup> June Ellenoff O'Neill, op.cit.,

<sup>66</sup> Ibid.,

<sup>67</sup> Warren Farrell, *Why Men Earn More* (New York: AMACOM for the American Management Association, 2005), p.213.

<sup>68</sup> Steven E. Rhoads, op.cit., p.31.



would have lower wages.<sup>69</sup> In the second stage, there was a significant reduction in the employment of women due to the fact that, they became very costly and expensive to hire given the large supply of female workers.<sup>70</sup> To simplify this economic formula, Comparable Worth would raise the pay of the female-dominated fields, such as teaching and office work, this would make women head towards these comfortable and now high-paying jobs, in large numbers. The supply of female teachers and office workers will naturally exceed the demand, which will subsequently have two effects; the first one is that, it will stop employers from hiring women because they are too expensive and the second effect is that it will make more women unemployed due to the deficit between the supply and demand in the labor market. As long as there is a big dispute over the actual causes that are contributing to the gender pay gap, whether it was overt sex discrimination, voluntary preferences of men and women, or what is more likely; a combination of both, the solutions and the policies adopted to remedy it are also going to be the subject of an even larger dispute and controversy. When it comes to the Comparable Worth doctrine, it has been established that the implementation of such a policy would likely see the wages of the female employees rise, and brought closer to their male counterparts, and such a development would help close the pay gap in this regard, however the underdeveloped and unsophisticated techniques used in the job-evaluation process will always be an issue that impedes real progress in the quest for gender equality. In addition to the side effects such a policy would have on the employment of women in particular and the flow of the free labor market in general. Clearly there is a need for rigorous research on the subject of the gender pay gap, Comparable worth and the related policies and proposed solutions.

## **6-Conclusion**

The area in which the feminists' camp and the scholars' camp agree upon is the fact that there are actual and tangible pay disparities and occupational segregation between the sexes, mainly because the statistical evidence and the compiled data surrounding these two important issues are simply irrefutable. These statements and the fact that these two economic indications exist are not even contested by the even the most vocal voices opposing equal pay actions and

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<sup>69</sup> Warren Farrell, *op.cit.*, p.211.

<sup>70</sup> *Ibid.*,

initiatives. However, what is the main source and cause of disagreement among the previously mentioned conflicting camps is the root originators of these issues and providing an empirically-based and a logical explanation for their occurrences. The feminists' camp claim that since there is a significant pay gap between men and women which cannot be explained by empirically verified variables, such as human capital or working hours, this can only mean a disparate treatment based on gender, or in other words sex discrimination. Whereas, the second camp argue that gender and consequently sex-bases discrimination is not a relevant factor since all of the pay gap between men and women can be explained by tangible and verifiable contributors like the ones mentioned earlier, and whatever percentage of the remaining gap that those variables cannot account for are due to the different choices and preference each sex opt for. Both of these conflicting sides had put forward their own particular theories that would explain and put their arguments within a scientific framework.

The feminists' camp's theory was called the Pollution Theory and the second camp's framework was called the Preference Theory. Both of these theories had some rather convincing arguments, which were backed by a significantly large compile of empirical evidence; however what this research paper is suggesting is that, both of these theories, despite their sophistication, lie on opposite sides of the far end of the spectrum. The reason why that is there is plentiful and abundant evidence of perceived sex discrimination that can be seen in the successive rulings of The Supreme Court like the cases under the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, and the Lilly Ledbetter Fair Pay Act of 2009 (see chapter three). But the claim that feminists like to make, that there are no real and distinct differences in the preferences of men and women that would account for a significant part of the explanation of the gender pay gap is also rejected by the empirical evidence (see the previous discussion in the preference theory). This work admits to the need for a new theory that will account for both of these factors in a rational way, without any political or partisan motivations or intentions. Due to the fact that the explanation involves both the role of gender and the preferences of both sexes in employment and labor market choices, any proposed solution needs to consider and deal with these two factors equally and proportionally. The findings of this paper also conclude that, the implementation of the doctrine of Comparable

Worth may help raise the wages of women and consequently lead to the closing of the gender pay gap, but the side effects of such a doctrine would have a devastating effect on the employment of women.

## GENERAL CONCLUSION

The disparities between men and women in their wages and the sex-based occupational segregation have been in place in the United States economy and the American society all through its history. This paper was concerned with the historical journey of the gender pay gap from the beginning of the 1960s to 2013, and the underlying economic, political, and social factors that contributed to its ultimate reduction from forty one percent (41%) in 1960 to twenty two point eight percent (22.8%) in 2013. The main issue that was addressed in this research paper was the root causes behind the gender-based pay gap, and how identifying such a cause would eventually help provide a comprehensive solution to the wage disparities issue.

The focus of this work revolved around the effects of three main aspects on the pay gap separately, and then how their combined interrelationship affected the sex-based wage gap. The first one was the changed social identity of women in particular and gender relations in general in America, and how it evolved through the period under study. This involved the trend of surname keeping, the increase in divorce rates and in the age at first marriage. The second was the economic one, which involved the increased numbers of women participating in the U.S. labor market in comparison to those of their male counterparts. The third and final aspect was the political transformation of the post 1960 period, which was accompanied by landmark legislation targeting the gender pay gap. The aim was to highlight the evolutionary path of the gender-based wage differences, and to provide an explanation for the root cause behind them.

This research paper concluded that the ratio of female to male earnings or the gender pay gap had a converging evolutionary path throughout the 1960s and 1980s, reaching a plateau in 2013 around the (22.8 %) figure. The second main finding was that the evidence showed that equal pay legislation intended at rectifying the sex-based pay differences was a contributing factor to the continued closure of the pay gap. This finding had two significations; the first was that the issue of women's wages compared to those of men became a major policy concern from the 1960s onward, and the second and most important signification was that the evidence provided by the large number of cases, supreme court rulings, and the actions taken

by Congress indicate that sex discrimination is a contributing factor in accounting for pay disparities between men and women. This second conclusion was part of the final finding of this work, which is that both; sex discrimination subtracted from the legal precedents, and the preferences of women deducted from the choices they made in the labor market are factors in explaining the disparities in wages between the sexes. This paper dealt with the proposed policy solutions to address the issue of pay inequality, mainly the doctrine of Comparable Worth, and concluded that, though the doctrine would significantly raise the wages of female dominated occupations, but its underdeveloped job evaluation techniques as suggested by the overwhelming number of scientific observations, and even by the admission of its proponent, is a major obstacle in its implementation. This paper admits to the need for a new theory to account for all the variables contributing to the gender-based wage disparities. Because the existence of such a theory would provide a factual and legitimate framework on which future policy measures to address inequality would be built.

Due to the limitation in time and sources, and though this research reached its aim, this paper only tapped the surface of a large and complicated subject such as the gender pay gap. Finally this paper sought to provide a historical overview of the gender pay gap in the United States in the period between 1960 and 2013, which was an era filled with dramatic changes at the economic, social, and political levels.

## APPENDICES

### APPENDIX -1-

#### Marriage Bars among School Boards, 1928 to 1951 and Firms Hiring Office Workers, 1931 and 1940

Do Not Retain			Do Not Hire		
Single Women When Married			Married Women		
Year	Weighted	Not Weighted	Weighted	Not Weighted	
Teachers					
1928	47.3%	52.2%		61.9 %	61.0%
1930/31	52.2	62.9		72.2	76.6
1942	58.4	70.0		77.7	87.0
1950/51	9.4	10.0		19.5	18.0
Clerical Workers					
(Policy)			(Policy)		
1931(178)	25.0%	12.0%		36.0%	29.2%
Phila, (44)	26.4	14.3		40.4	31.8
1940					
Phila. (106)	26.6	23.6		41.1	50.9
Kansas					
City (83)	28.4	15.7		41.7	31.3
Los Angeles(139)	9.4	8.6		24.4	15.8
(Policy & Discretionary)			(Policy & Discretionary)		
1931	34.7%	27.3%		51.7%	52.8%
Philadelphia	36.9	35.7		60.7	59.1
1940					
Philadelphia	34.5	34.9		58.5	60.4
Kansa City	46.0	30.1		57.8	43.4
Los Angeles	25.1	15.7		38.8	26. 6

**Sources:** Claudia Goldin, *“Understanding the Gender Gap: An economic History of Women.”* (New York: Oxford University Press, 1990)

## APPENDIX -2-

### State Laws Regarding Contraceptive Services to Minors and the Age of Majority, 1969–74

Age of Majority Earliest Legal Age to Obtain Contraceptive Services without Parental Consent

STATE	1969	1971	1974	1969	1971	1974
<b>Alabama</b>						
<b>Arizona</b>	21	21	21	21	21	17
<b>Arkansas</b>	19	19	19	19	19	14 or 19
<b>California</b>	21	21	21	21	21	18
<b>Colorado</b>	18	18	18	18	18	14
<b>Connecticut</b>	21	21	21	21	21	15
<b>Delaware</b>	21	21	21	21	21	14
<b>District of Columbia</b>	21	21	21	21	21	18
<b>Florida</b>	21	21	21	21	21	18
<b>Georgia</b>	21	21	21	21	21	14
<b>Idaho</b>	21	21	21	21	21	14
<b>Illinois</b>	21	21	21	21	21	14
<b>Indiana</b>	20	20	20	20	20	20
<b>Iowa</b>	18	18	18	18	18	14
<b>Kansas</b>	21	21	21	21	21	14
<b>Kentucky</b>	21	21	21	21	21	18
<b>Louisiana</b>	21	21	21	21	21	14 or 18
<b>Maine</b>	21	21	21	21	21	14
<b>Maryland</b>	18	18	18	18	18	14 or 18
<b>Massachusetts</b>	21	21	21	21	21	14
<b>Michigan</b>	21	21	21	21	21	18
<b>Minnesota</b>	21	21	21	21	21	14
<b>Mississippi</b>	21	21	21	21	21	18
<b>Missouri</b>	21	21	21	21	21	14
<b>Montana</b>	21	21	21	21	21	18
<b>Nebraska</b>	21	21	21	21	21	14 or 18
<b>Nevada</b>	21	21	21	21	21	16
<b>New Hampshire</b>	21	21	21	21	21	18
<b>New Jersey</b>	20	20	20	20	20	18
<b>New Mexico</b>	18	18	18	18	18	14
<b>New York</b>	21	21	21	21	21	14 or 18
<b>North Carolina</b>	21	21	21	21	21	15
<b>North Dakota</b>	21	21	21	21	21	18
<b>Ohio</b>	21	21	21	21	21	18
<b>Oklahoma</b>	21	21	21	21	21	16
<b>Oregon</b>	21	21	21	21	21	18
<b>Pennsylvania</b>	21	21	21	21	21	14
<b>Rhode Island</b>	18	18	18	18	18	18
<b>South Carolina</b>	21	21	21	21	21	18
<b>South Dakota</b>	21	21	21	21	21	18

<b>Tennessee</b>	21	21	21	21	21	14
<b>Texas</b>	21	21	21	21	21	18
<b>Utah</b>	21	21	21	21	21	14 or 18
<b>Vermont</b>	21	21	21	21	21	21
<b>Virginia</b>	18	18	18	18	18	18
<b>Washington</b>	21	21	21	21	21	21
<b>West Virginia</b>	21	21	21	21	21	21
<b>Wisconsin</b>	21	21	21	21	21	21
<b>Wyoming</b>	21	21	21	21	21	21

**Source:** Lawrence F. Katz. “*The Power of the Pill: Oral Contraceptives and Women’s Career and Marriage Decisions.*” (Journal of Political Economy, 2002, vol. 110, no. 4)



**APPENDIX-3-**  
**Marriage Bars by Sector and Size of Firm. Clerical Sector**

Size of Firm (number of female clerical employees) :								
1931								
Policy			Policy and Discretionary			Distributions by		
Do Not Hire	Do Not Retain		Do Not Hire	Do Not Retain		Firms	Female Employees	
11 - 20	0.0%	0.0%		0.0%	0.0%		1.1%	0.1%
21 - 50	25.9	10.9		46.7	21.0		27.5	3.3
51 - 100	40.4	8.4		63.5	28.9		24.2	6.0
101 - 200	17.4	3.5		41.8	26.0		18.5	9.4
201 - 400	31.0	22.2		59.5	47.5		11.8	11.3
401 - 700	39.0	32.2		89.8	45.7		5.1	8.6
701 +	39.5	30.4		45.6	33.5		11.8	61.3
No. of Obs.							178	51597
1940 (Kansas City and Philadelphia)								
11 - 20	41.0%	17.9%		43.6%	25.6%		24.2%	3.7%
21 - 50	43.6	18.2		49.1	25.5		34.2	11.2
51 - 100	46.9	25.0		65.6	56.3		19.9	15.7
101 - 200	50.0	25.0		75.0	43.8		9.9	13.8
201 - 400	62.5	50.0		62.5	62.5		5.0	12.0
401 +	27.3	18.2		54.5	27.3		6.8	43.6
No. of Obs.							161	25358
Sector:								
1931						Number of Firms		
Insurance	61.1%	45.7%		73.21%	59.5%		58	
Publishing	37.0	34.7		56.1	36.0		34	
Banking	35.4	21.2		41.9	30.2		27	
Pub. Util.	32.9	13.5		93.9	42.9		13	
Investment	11.3	1.4		26.6	9.8		27	
Advertising	11.1	0.0		28.2	0.0		13	
1940 (Kansas City and Philadelphia)								
Insurance	50.0%	42.3%		53.8%	53.8%		26	
Publishing	33.3	13.3		46.7	33.3		15	
Banking	54.5	9.1		72.7	45.4		11	
Pub. Util.	50.0	33.3		66.7	50.0		6	
Investment	16.7	16.7		50.0	16.7		6	
Manufact.	57.6	22.0		67.8	37.3		59	
Sales	17.2	10.3		24.1	13.8		29	

**Source:** Claudia Goldin, "Marriage Bars: Discrimination against Married Women Workers 1920's to 1950's," (working paper No. 2747, 1988), P.4. Retrieved from The National Bureau of Economic Research website: <http://www.nber.org/papers/w2747>

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## ملخص

يهدف هذا البحث إلى إلقاء الضوء على العوامل الاجتماعية والاقتصادية والسياسية التي تساهم في التطور التاريخي للفجوة في الأجر بين الجنسين في الولايات المتحدة بين عامي 1960 و 2013، وتقديم شرح شامل للتفاوت في الأجر على أساس الجنس. هذا البحث سوف يستعين بمصادر؛ مثل التقارير من الدوائر الحكومية، وحالات المحكمة العليا، وتشريعات الكونغرس. بناء على فحص البيانات التي تم جمعها، تبين أن الفجوة في الأجر بين الجنسين في الفترة قيد الدراسة انخفضت بشكل ملحوظ. هذا البحث يستنتج أن الأسباب الجذرية للإختلاف في الأجر على أساس الجنس في الولايات المتحدة هي مزيج من تفضيلات النساء فيما يتعلق بالأسرة والعمل مع وجود تمييز هيكلية على أساس الجنس في سوق العمل الأمريكية.

**الكلمات المفتاحية:** فجوة الأجر بين الجنسين. التشريع. الثورة. التمييز. التفضيل، التوظيف، نظرية المساواة بين الجنسين، القيمة القابلة للمقارنة

## Summary

This research aims at shedding the light on the social, economic, and political factors contributing to the evolutionary history of the gender pay gap in the United States between the 1960 and 2013, and providing a comprehensive explanation for the sex-based wage disparities. This paper will draw upon sources; like reports from governmental departments, Supreme Court cases, and Congress legislation. Upon the examination of the data collected, it is revealed that the gender pay gap in the period under study was significantly reduced. This research work concludes that the root causes of the gender-based pay differences in the United States are the combination of both; the preferences of women regarding family and employment and the systemic sex discrimination in the American labor market.

**Key Words:** Gender Pay Gap, Legislation, Revolution, Discrimination, Preference, Employment, Feminism, Comparable Worth

## Résumé

Cette recherche vise à faire la lumière sur les facteurs sociaux, économiques et politiques qui contribuent à l'évolution historique de l'écart salarial entre les sexes aux États-Unis entre 1960 et 2013, et de fournir une explication détaillée de la disparité des salaires sur la base du sexe. Cette étude se base sur les rapports des ministères, et des cas de la Cour suprême, et la législation du Congrès Américain. Sur la base de l'examen des données recueillies, ce travail démontre que l'écart de rémunération entre les sexes dans la période étudiée a diminué de manière significative. Ce travail de recherche conclut que les causes profondes des différences de rémunération entre les sexes dans les États-Unis sont la combinaison des deux; les préférences des femmes en ce qui concerne la famille et de l'emploi et de la discrimination sexuelle systémique dans le marché du travail américain.

**Mots Clés:** L'écart salarial entre les femmes et les hommes, Législation, Révolution, Discrimination, Préférence, Emploi, Féminisme, Valeur Comparable

## **SUMMARY OF DISSERTATION**

# **THE GENDER PAY GAP IN THE UNITED STATES: A HISTORY OF INEQUALITY AND STRUGGLE FOR WOMEN**

## **INTRODUCTION**

The history of gender relation in America in general and the gender pay gap in particular is a fascinating subject with a variety of different implications concerning the economy and society. The Pew Research Center defines the gender wage differences or the gender pay gap as it is commonly known as the disparities in wages between men and women in the labor force. This issue was an instigator for several actions to address this ostensibly unjust treatment of women, including a variety of different legislation starting in the 1960s. The era between 1960 and 2013 was a period filled with several changes at the economic, social, and political levels in the United States. The two main questions that this research work seeks to answer are; was the gender pay gap reduced during the period between 1960 and 2013 or not? And if it was reduced what are the factors that may or may not have contributed to the presumed reduction? By accomplishing this, the major goal is to establish a comprehensive explanation to account for the root cause behind such an issue, that define the large objective of achieving gender equality at the economic, social, and political levels in the United States.

This research work entitled “The Gender Pay Gap in the United States: A history of inequality and Struggle for Women,” will be split into four different chapters. The first one will be concerned with the historical background of the gender pay disparities prior to the 1960s era. The second chapter will be dealing with the social and economic revolutions that started in the 1960s and 1970s, and how it managed to influence the sex-based pay gap. The third chapter will discuss the different laws that were passed in the era under study between 1960 and 2013, in order to showcase their impact on the wage gap. The fourth and final chapter will examine the real reasons behind the pay gap and analyze the proposed solutions destined at eliminating it.

This research focused on the social, economic, and political factors contributing to the evolutionary history of the gender pay gap in the United States between the 1960 and 2013, and sought to provide a comprehensive explanation for the sex-based pay disparities. This paper will draw upon sources; like reports from different research centers in governmental departments, Supreme Court cases, and Congress legislation, among others.

## **CHAPTER ONE: The Restrictive Era 1900s-1960s**

The first chapter was concerned with the way some of the discriminatory barriers and prohibitions influenced women's employment, and show them in action at the federal, institutional, and individual level. Also, it described the role these barriers played in curbing the inevitable social and economic changes that affected the gender pay gap in the decades and generations to come. This chapter explained the fight between many of the women's organizations that were established to protect women's rights. At the end of this part there was an analysis of some of the key legislation and laws that were pushed, proposed, and lobbied for by these different women's groups. This chapter concluded that women in general and married women in particular had but two choices to make, the first was give up on a career and have a home, a husband, and be a house wife, or have a career and live a life of celibacy due the institution of the marriage bars. Single women on the other hand did not face that problem, however they were subjected to, what many equality advocates perceived as a more harmful treatment. Though they were protected from harsh working conditions, long hours, and employers' exploitation, they were restricted from opportunities to get sophisticated occupations. Many of these family-friendly laws and protective legislation were demanded and defended by women for obvious reasons regarding the health and the well-being of female workers. Unlike the pro-protective legislation advocacy group, the National Women's Party wanted full and absolute gender equality. But what might have been their biggest victory since their beginning if ratified, was an amendment to the United States constitution urging for the total and complete equality between the sexes. The dichotomy of women's preferences between work-life balance and equality often drove the two sides to a conflict that was counterproductive to both their aspirations. Another important milestone in the fight to close the gender gap was the large numbers of female workers entering the American labor market between the 1945s and 1950s.

The sheer size of this female influx to the labor force helped to reduce the size of pay differences to a smaller and more manageable wage gap. Therefore the increase in the number of female employees brought a quantitative change, but there was still a persistent pay gap. The following decades starting from the 1960s onward witnessed a revolutionary change in demographics and social perceptions of gender roles that would have a tremendous impact on the gender pay gap in the U.S.

## **CHAPTER TWO: The Not-so-quiet Revolution 1960-2013**

The second chapter discussed all the social and economic changes after the 1960s and demonstrated how they affected the gender pay gap, plus it also provided other interpretations regarding the impact of the changing political and social perspective on women's position and standing in the eyes of the American public. This chapter also dealt with the factors that made this particular period of time so revolutionary in nature, not just for women and the American gender relations, but also for the entire economic and political landscape. It delved into the intricate web of different social phenomena, like marriage, divorce, child-care, and how can the different family-related decisions affect the resolutions and outcomes concerning the labor force and eventually income. This chapter discussed in details the resurgent feminist movement in the 1960s and 1970s and beyond, and how they organized themselves to hijack and fight for the cause of gender pay equality. At the end of this part, we saw the evolutionary path that the gender pay gap took in a period of about fifty years starting from the beginnings of the 1960s, and an evaluation of this course of events was made to illustrate if any improvements and breakthroughs have been made. The second chapter concluded that the first instigator of the change that occurred in the post 1960s was due to the changed view of women on themselves that made them want to start on a path that they could not take before; this can be understood from the numbers of female students in the fields of law, medicine, and business administration. This sentiment of "worthiness" was further expanded to reach the fundamental social unit, the family. It manifested itself in the increase of the divorce rates and the large decrease in the families with a married couple. These changes among others that happened in this period of time would not have happened without the influence of the rising feminist movement in the 1960s and 1970s. The feelings of victimization were one of the driving forces of the feminist author Betty Friedan, who was credited alongside her book, the "Feminine Mystique," with the

rise of the “second wave of feminism.” However what was probably the most influential factor for the changed balance of power between the sexes was the contraceptive revolution that was triggered by the Food and Drug Administration’s approval of the oral contraceptive, or as it became known as the “Pill.” The “Pill” was credited with eliminating penalties and obstacles that previously impeded women from making large human capital investments in education and work-related training, such as pregnancy and undesirable husbands.

The index to measure the gender pay gap, which is a simple mathematical formula to calculate wage disparities between the sexes, has show tremendous improvements in the period between the 1960 and 2013. These were significant improvements for the path to reach and achieve gender equality in pay, and they were signs of a closing convergence in wages between the sexes. The previously mentioned factors, like the feminist movement that was accompanied by a large shift in the consciousness of women and the conscience of the political establishment, in addition to the contraceptive revolution and its effects on the rise of women’s participation numbers in previously male-dominated fields were definitely contributing and highly influential ingredients to the contraction of the gender pay gap to a more manageable size, but there was another cause that had comparable or even larger impact in the fight against and the ultimate reduction of sex-based wage disparities. This cause took the form of a series of different and consecutive pieces of legislation, which was aimed at addressing sex discrimination, sex-based occupational segregation and gender wage disparities among other issues.

### **CHAPTER THREE: The Legislative History against the Gender Pay Gap: 1960 2013**

The third chapter was concerned with discussing the results and the historical journey of some of the most important and influential pieces of legislation, describing the legal pathway they had undertaken, and highlight the roles different presidents and their administrations played in passing and advocating for those laws. It also dealt with the accomplishment and the successes of Acts, such as The Equal Pay Act of 1963, made in advancing the cause of gender equality, mainly in addressing the sex-base pay disparities. It tackled as well as the disadvantages that these laws had on the same cause, and any other possible inconveniences that they

may have generated. At the end of this chapter there was a short discussion of some of the other passed laws that were deemed to be not influential enough to be discussed at length, the reason why was also shown. In addition there was a possible legislation aimed at addressing gender discrimination in general and the gender pay gap in particular. The findings of the third chapter stated that despite the upsides to the passed legislation aimed at undertaking the issue of age inequality there were some rather frustrating downsides. These drawbacks or disadvantages manifested themselves in three different shapes. The first was the fact that the laws and provisions of these acts were too narrow in their scope. This can be clearly seen in the criticism leveled at the Lilly Ledbetter Act of 2009, though the Act prohibited the discrimination in wages between men and women who were performing the same job, it did not cover the bonus system, leaving a large loophole for favoritism. The second downside to these laws was the fact that they lacked vigorous enforcement. This is especially true for earlier acts like the Equal Pay Act and Title VII; this is due, at least in part, to the supremacy and priority of race-related discrimination over the sex-based one. The third and final grievance that is directed at the Equal pay legislation is the principle that these acts are now being used by undeserving and ineligible individuals to collect legal compensations by evoking the privileges these acts guarantee. This is especially true with later laws, like the Civil Rights Act of 1991 and the Lilly Ledbetter Fair Pay Act of 2009. Another issue also emerged, which is the concept of “reverse discrimination.” It came to the surface with the passage of Title IX in 1972. These shortcomings and defects that rose during the implementation of these laws, and even prior to that are the result of a combination of inaccurate assessments, unintended calculations, and most importantly the lack of an all encompassing framework that explains the root cause of the problem which is the gender pay gap.

## **CHAPTER FOUR: Explaining the Gender Pay Gap and Predicting its Future**

The fourth and final chapter was concerned with laying down the two main perspectives in diagnosing the root causes of the gender pay gap, analyzing and evaluating each one separately, and then providing an all-encompassing and comprising explanation for the actual underlying source of the sex-based wage



disparities. It also dealt with the doctrine of comparable worth and the prospect of using this doctrine as a future solution to the issue of gender pay gap, assessing its advantages and shortcomings in addition to some possible proposed solutions and remedies to this important economic, social, and political issue. There were two main groups with opposing views at each side of the spectrum. The first group, led mainly by the feminists and their sympathizers, claimed that the gender gap is primarily because of gender and that other variables which explain this gap in pay are of no significant value. The second group argued that gender plays a non-important role if any, and that the pay gap is largely explained by other factors. The fourth chapter found that the area in which the feminists' camp and the scholars' camp agree upon is the fact that there are actual and tangible pay disparities and occupational segregation between the sexes, mainly because the statistical evidence and the compiled data surrounding these two important issues are simply irrefutable. These statements and the fact that these two economic indications exist are not even contested by even the most vocal voices opposing equal pay actions and initiatives. However, what is the main source and cause of disagreement among the previously mentioned conflicting camps is the root originators of these issues and providing an empirically-based and a logical explanation for their occurrences. The feminists' camp claim that since there is a significant pay gap between men and women which cannot be explained by empirically verified variables, such as human capital or working hours, this can only mean a disparate treatment based on gender, or in other words sex discrimination. Whereas, the second camp argue that gender and consequently sex-bases discrimination is not a relevant factor since all of the pay gap between men and women can be explained by tangible and verifiable contributors like the ones mentioned earlier, and whatever percentage of the remaining gap that those variables cannot account for are due to the different choices and preference each sex opt for. Both of these conflicting sides had put forward their own particular theories that would explain and put their arguments within a scientific framework.

## **CONCLUSION**

The truth about any particular subject is always more nuanced than it appears to be, it does not submit to the polarizing effects of two extremes. Having stated this, the middle ground is also not always the right position to take no matter how

tempting it might be to stay neutral, or be “politically correct”. Therefore after the analysis of the empirical literature of both camps, the following conclusions were made. The main argument of the feminists’ camp is the concept of sex discrimination, which is coming from a deduction that gender is the root cause behind the wage gap after the control of “all” the empirically verified variables such as, human capital, job experience, and tenure. There is a loophole, however, that emerges from this kind of deductive reasoning, which can be interpreted differently, and sometimes rightly so, by other observers, like the second scholars’ camp and their interpretation via the different preferences of women.

But what this paper finds to be the case here is that gender *was* a contributing factor to determining who gets to the top managerial positions, but its influence is starting to fade away due to many factors, such as the changing attitudes towards women, the different laws and anti-discrimination measures taken by the United States federal government...Etc. Nonetheless, it still persists as a contributing factor. What is more influential nevertheless, is the choices and preferences between work and family life that both sexes make in the labor market that will have the ultimate effect on the outcome of their careers and consequently the gender pay gap. The proposed solutions by this work are a mixture of enforcing present laws and designing policies to fit all of the different preferences of women, and not just one individual group.

The policy model to fit these goals needs to be thoroughly investigated, and clearly there is a great deal of rigorous research needed in order to achieve this goal. The area in which the feminists’ camp and the scholars’ camp agree upon is the fact that there are actual and tangible pay disparities and occupational segregation between the sexes, mainly because the statistical evidence and the compiled data surrounding these two important issues are simply irrefutable. These statements and the fact that these two economic indications exist are not even contested by the even the most vocal voices opposing equal pay actions and initiatives. However, what is the main source and cause of disagreement among the previously mentioned conflicting camps is the root originators of these issues and providing an empirically-based and a logical explanation for their occurrences. The feminists’ camp claim that since there is a significant pay gap between men and women which cannot be explained by empirically verified variables, such as human capital or

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This work admits to the need for a new theory that will account for both of these factors in a rational way, without any political or partisan motivations or intentions. Due to the fact that the explanation involves both the role of gender and the preferences of both sexes in employment and labor market choices, any proposed solution needs to consider and deal with these two factors equally and proportionally. The findings of this paper also conclude that, the implementation of the doctrine of Comparable Worth may help raise the wages of women and consequently lead to the closing of the gender pay gap, but the side effects of such a doctrine would have a devastating effect on the employment of women.

The disparities between men and women in their wages and the sex-based occupational segregation have been in place in the United States economy and the American society all through its history. This paper was concerned with the historical journey of the gender pay gap from the beginning of the 1960s to 2013, and the underlying economic, political, and social factors that contributed to its ultimate reduction. The main issue that was addressed in this research paper was the root causes behind the gender-based pay gap, and how identifying such a cause would eventually help provide a comprehensive solution to the wage disparities issue. The focus of this work revolved around the effects of three main aspects on the pay gap separately, and then how their combined interrelationship affected the sex-based wage gap.

The first one was the changed social identity of women in particular and gender relations in general in America, and how it evolved through the period under study. This involved the trend of surname keeping, the increase in divorce rates and

in the age at first marriage. The second was the economic one, which involved the increased numbers of women participating in the U.S. labor market in comparison to those of their male counterparts. The third and final aspect was the political transformation of the post 1960 period, which was accompanied by landmark legislation targeting the gender pay gap. The aim was to highlight the evolutionary path of the gender-based wage differences, and to provide an explanation for the root cause behind them. This research paper concluded that the ratio of female to male earnings or the gender pay gap had a converging evolutionary path throughout the 1960s and 1980s, reaching a plateau in 2013 around the (22.8 %) figure.

The second main finding was that the evidence showed that equal pay legislation intended at rectifying the sex-based pay differences was a contributing factor to the continued closure of the pay gap. This finding had two significations; the first was that the issue of women's wages compared to those of men became a major policy concern from the 1960s onward, and the second and most important signification was that the evidence provided by the large number of cases, supreme court rulings, and the actions taken by Congress indicate that sex discrimination is a contributing factor in accounting for pay disparities between men and women.

This second conclusion was part of the final finding of this work, which is that both; sex discrimination subtracted from the legal precedents, and the preferences of women deducted from the choices they made in the labor market are factors in explaining the disparities in wages between the sexes. This paper dealt with the proposed policy solutions to address the issue of pay inequality, mainly the doctrine of Comparable Worth, and concluded that, though the doctrine would significantly raise the wages of female dominated occupations, but its underdeveloped job evaluation techniques as suggested by the overwhelming number of scientific observations, and even by the admission of its proponent, is a major obstacle in its implementation.

This paper admits to the need for a new theory to account for all the variables contributing to the gender-based wage disparities. Because the existence of such a theory would provide a factual and legitimate framework on which future policy measures to address inequality would be built. Due to the limitation in time and sources, and though this research reached its aim, this paper only tapped the surface

of a large and complicated subject such as the gender pay gap. Finally this paper sought to provide a historical overview of the gender pay gap in the United States in the period between 1960 and 2013, which was an era filled with dramatic changes at the economic, social, and political levels.

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