



Testimony on the Paycheck Fairness Act

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**Testimony before the House
Committee on Education and Labor**

April 24, 2007

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Mr. Chairman, members of the Committee, I am honored to be invited to testify before your Committee today on the subject of the Paycheck Fairness Act. I have followed and written about this and related issues for many years. I am the coauthor of two books on women in the labor force, "Women's Figures: An Illustrated Guide to the Economic Progress of Women in America," and "The Feminist Dilemma: When Success Is Not Enough."

Currently I am a senior fellow at the Hudson Institute. From February 2003 until April 2005 I was chief economist at the U.S. Department of Labor. From 2001 until 2003 I served at the Council of Economic Advisers as chief of staff and special adviser. Previously, I was a resident fellow at the American Enterprise Institute. I have served as Deputy Executive Secretary of the Domestic Policy Council under President George H.W. Bush.

In 2007, the United States leads the industrialized world in job creation, and the unemployment rate for adult women is among the lowest in the industrialized world. In contrast, unemployment rates for women in most other countries are far higher. In February, the latest month for which comparable data are available, American women had an unemployment rate of 4.3 percent,

while unemployment rates for women in the Eurozone were 8.9 percent; in France, 9.7 percent; in Germany, 8.3 percent; and in Spain, 11.9 percent. Only Japan had a lower rate than the United States, and its economy is characterized by a slower rate of GDP growth.

Even though American women are so successful, some are concerned that they are falling behind. Some believe, with the best of intentions, that if wage guidelines were to be implemented, women would make even more progress. Representative DeLauro has said that women make only 77% of men's wages, and that is why she has reintroduced the "Paycheck Fairness Act," which she also introduced in the previous Congress. The bill would require the government to set wage guidelines for different occupations, with the goal of equalizing wages of men and women.

But Representative DeLauro's claim of unequal pay is exaggerated and distorted. Worse, her remedy might cause employers to favor hiring men, to avoid the possibility of being sued or boycotted under federal "guidelines."

Men and women generally have equal pay for equal work now – if they have the same jobs, responsibilities, and skills. Congresswoman DeLauro and Chairman Miller are paid identically, as are many other men and women with the same job. Two entry-level cashiers at a supermarket, one male and one

female, are usually paid the same, as are male and female first-year associates at law firms. If they believe they are underpaid, they can sue for discrimination under current law – as Walmart employees are doing now.

The 77% figure cited by Representative DeLauro comes from comparing the 2005 full-time median annual earnings of women with men compiled by the Census Bureau. The 2006 Department of Labor data show that women's full-time median weekly earnings are 81% of men's. Comparing men and women who work 40 hours weekly yields a ratio of 88%.

These wage ratios are computed from aggregate government data and do not take into account differences in education, job title and responsibility, regional labor markets, work experience, occupation, and time in the workforce. When economic studies include these major determinants of income, rather than simple averages of all men and women's salaries, the pay gap shrinks even more. A report by Jody Feder and Linda Levine of the Congressional Research Service entitled "Pay Equity Legislation in the 110th Congress,"¹ declared that "Although these disparities between seemingly comparable men and women sometimes are taken as proof of sex-based wage inequities, the data have not been adjusted to

¹ Jody Feder and Linda Levine, "Pay Equity Legislation in the 110th Congress," *CRS Report for Congress RL31867*, Washington, DC: Congressional Research Service, Updated January 5, 2007.

reflect gender differences in *all* characteristics that can legitimately affect relative wages (e.g. college major or uninterrupted years of employment).”

Academic studies of gender discrimination focus on the measurement of the “gender wage gap,” the difference between men’s and women’s earnings. Dozens of studies of the gender wage gap have been published in academic journals over the past two decades. These studies attempt to measure the contributing effects of all the factors that could plausibly explain the wage gap through an econometric technique called regression analysis. The remaining portion of the wage gap that cannot be explained by measurable variables is frequently termed “discrimination.” Generally, the more explanatory variables that are included in the econometric regression analysis, the more of the wage gap that can be explained, and the less is the residual portion attributable to “discrimination.” An analysis that omits relevant variables finds a greater unexplained residual.

When no variables (such as education, job title, regional labor market, work experience, occupation, and number of hours worked) are used to explain the wage ratio, the wage gap between men and women appears to be large. However, simple wage ratios do not take into account other determinants of income. They are computed using purely mathematical calculations of U.S. labor market data published by the Bureau of Labor Statistics of the U.S. Department

of Labor. Comparisons of men's and women's wages need to be made carefully, because there are differences in hours worked by men and women.

Regression analysis gives us a powerful tool with which to examine the wage gap in the context of important determinants of income. Regression analysis is a statistical technique that allows us to account for other important variables in determining compensation, such as education, job title, regional labor market, experience, occupation, number of children, and time in the workforce.

Let's take an example of how regression analysis allows us to distinguish different factors that affect earnings. A female nurse might earn less than a male orthopedic surgeon. But this would not be termed "unfair" or "discrimination" because the profession of surgeon requires more years of education, the surgeon might work different hours from the nurse, and the nurse might have fewer continuous years of work experience due to family considerations.

The standard literature in analyzing wage gaps between men and women is centered on measuring these varying factors. Professors such as Francine Blau and Lawrence Kahn,² Charles Brown and Mary Corcoran,³ David Macpherson

² Francine D. Blau and Lawrence M. Kahn, "The US Gender Pay Gap in the 1990s: Slowing Convergence," *National Bureau of Economic Research*, Working Paper 10853, October 2004.

and Barry Hirsch,⁴ and Jane Waldfogel⁵ all take these factors into account to a greater or lesser degree. There are no peer-reviewed academic studies that measure the wage gap between men and women without using regression analysis to account for the major factors affecting wages.

To take one study as an example, Professor June O'Neill, in an article published in 2003 in the economics profession's flagship journal *The American Economic Review*,⁶ shows that the observed unadjusted wage ratio between women and men in 2000 is 78.2 percent. When data on demographics, education, scores on the Armed Forces Qualification Test, and work experience are added, the wage ratio rises to 91.4. The addition of variables measuring workplace and occupational characteristics, as well as child-related factors, causes the wage ratio to rise to 95.1 percent. When the percentage female in the occupation is added, the wage ratio becomes 97.5 percent, an insignificant difference.

³ Charles Brown and Mary Corcoran, "Sex-Based Differences in School Content and the Male/Female Wage Gap," *Journal of Labor Economics* 15 (July 1997 Part 1): 431-65

⁴ David A. Macpherson and Barry T. Hirsch, "Wages and Gender Composition: Why Do Women's Jobs Pay Less?" *Journal of Labor Economics* 13 (July 1995): 426-71.

⁵ Jane Waldfogel, "Working Mothers Then and Now: A Cross-Cohort Analysis of the Effects of Maternity Leave on Women's Pay," in *Gender and Family Issues in the Workplace*, edited by Francine D. Blau and Ronald G. Ehrenberg (New York: Russell Sage Foundation, 1997).

⁶ June O'Neill, "The Gender Gap in Wages, Circa 2000," *American Economic Review*, Vol. 93, No.2, Papers and Proceedings of the One Hundred Fifteenth Annual Meeting of the American Economic Association, Washington, D.C., January 3-5, 2003 (May 2003), 309-314.

In another study, Professors Marianne Bertrand of the University of Chicago and Kevin Hallock of Cornell University found almost no difference in the pay of male and female top corporate executives when accounting for size of firm, position in the company, age, seniority, and experience.⁷

Lower pay can reflect decisions – by men and women--about field of study, occupation, and time in the workforce. Those who don't finish high school earn less. College graduates who major in humanities rather than the sciences have lower incomes. More women than men choose humanities majors.

Employers pay workers who have taken time out of the work force less than those with more experience on the job, and many women work less for family reasons. A choice of more time out of the workforce with less money rather than more time in the workforce with more income is not a social problem. A society that gives men and women these choices, as does ours, is something to applaud.

The "Paycheck Fairness Act" would have Washington interfere with employers' ability to set wages. Section 7 of the proposed bill reads "The Secretary of Labor shall develop guidelines to enable employers to evaluate job

⁷ Marianne Bertrand and Kevin Hallock, "The Gender Gap in Top Corporate Jobs," *Industrial and Labor Relations Review*, October 2001.

categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and responsibility...”

These factors are not only difficult to measure, but favor white collar and service jobs over manual, blue collar work. The bill’s language omits experience, risk, inflexibility of work schedule, or physical strength, factors that increase men’s wages relative to women’s. The bill does not include effort, so there is little leeway to promote those who work harder.

Although the guidelines in the Paycheck Fairness Act would be “voluntary,” this can be a slippery slope that leads to compulsory standards. Any president could instruct Federal agencies to do business only with those firms that meet the guidelines.

Rather than helping women, the Paycheck Fairness Act would hurt them by increasing the costs of hiring. Employers would be likely to choose male over female candidates to avoid litigation.

America leads the world in job creation, and almost 60% of women work. The latest unemployment rate for adult women, at 3.4%, is lower than that for men, at 3.5%. Women are closing the pay gap not because of government statutes and regulations, but because their education is increasing and they are

spending more time in the workforce. Women they earn well over half of all B.A.s and M.A.s awarded, and nearly half of professional degrees in law and medicine.

The Paycheck Fairness Act would have the government – not you, and not your boss – to determine how much you make. This is the most radical idea in American labor law today.

Some support the Paycheck Fairness Act because, 40 years after the Equal Pay Act, average full-time female workers' wages are still lower than men's. However, this so-called wage gap is not necessarily due to discrimination. Decisions about field of study, occupation, and time in the workforce can lead to lower compensation, both for men and women. Those who choose college majors in the humanities rather than in the sciences tend to earn less. Many women choose humanities majors, and will for that reason make less than both men and women who choose to major in computer science. On the other hand, those women who choose computer science and engineering have higher incomes than either men or women who major in the humanities.

Men and women who take time out of the workforce to look after children, and in order to do so choose jobs with fewer hours or more flexible schedules, frequently have lower incomes than those who stay in the workforce

continuously and work longer hours. Some choose not to return to paid work, preferring to be homemakers.

Some jobs command more than others because people are willing to pay more for them. Many jobs are dirty and dangerous, such as oil drilling, construction work, mining, and roofing. Other highly paid occupations have long inflexible hours, such as truckers, plumbers, and electricians. According to data from the Bureau of Labor Statistics, these jobs are primarily performed by men. Women are not excluded from these or other jobs, but often select professions with a more pleasant environment and potentially more flexible schedules, such as teaching and office work. Many of these jobs pay less.

Proponents of wage guidelines, such as the National Committee on Pay Equity, cite approvingly on their websites examples of where pay equity has been used. One example cited was in Hawaii in 1995, where nurses, mostly female, were given \$11,500 annual raises to bring their salaries in line with those of adult corrections workers, mostly male. But working conditions in prisons are far more dangerous and unpleasant than the atmosphere in hospitals. Another example cited was in Oregon, where the NCPE deemed female clerical specialists were underpaid by \$7,000 a year when compared with male senior sewer workers. Everyone, given a choice of working in an office or a sewer at the

same salary, would choose the office. You have to pay people more to work with and in sewers.

We already have laws that require equal pay for equal work. These laws are enforced by the U.S. Equal Employment Opportunities Commission and the U.S. Department of Labor. We don't need laws that set guidelines for wages by occupation, which would mean equal wages for work of equal value. That would have hurt women, the very people the proposed law purports to help, by discouraging hiring.

Thank you for giving me the opportunity to appear before you today. I would be glad to answer any questions.