

**BPW
usa**

The National Federation of
Business and Professional
Women's Clubs, Inc. of the
United States of America

MODEST REFORMS
with a
MAJOR IMPACT:

*Measures to Improve the
Status of Working Women*

October 1993

The National Federation of Business and Professional Women's Clubs of the United States of America (BPW/USA), founded in 1919, promotes full participation, equity and economic self-sufficiency for working women through legislative advocacy, member training and support programs and communications. With 80,000 members in 2,800 local organizations represented in every congressional district in the country, BPW/USA includes among its members women and men of every age, race, religion, political party and socioeconomic background.

During our 75th anniversary year, and the 65th anniversary of National Business Women's Week, BPW/USA is proud to advance the following reforms which will aid immeasurably in improving the status of working women. Allowing gender to define occupational patterns and rewards sends the wrong message to millions of working women. Discrimination, whether intentional or unintentional, prevents working women from fully contributing their abilities and knowledge to the productivity of our country. Working women want, and deserve, only what all workers want — jobs that pay a living wage in a non-discriminatory and family-friendly workplace. These modest reforms are an effort to provide such a workplace for the millions of working women hungry not for special treatment but for workplace equity.

Over the past 30 years, women have transformed the American labor force. The influx of women into the workplace is one of the most important changes that has taken place in the labor market, and industry, government and families are still experiencing and adjusting to the effects of this "subtle revolution."

At the turn of the century, only 18 percent, or 5 million, of 28 million workers were women. As recently as 1947, fewer than 17 million of 59 million workers, or 29 percent, were women. Today, though, women comprise 46 percent of the work force, and projections by the U.S. Census Bureau indicate that women will account for 62 percent, or 15 million, of the 26 million net increase in the labor force between 1990 and 2005.

The shift from a homogenous work force to a more diverse employee group has brought significant legislative and judicial change. The law has evolved from actively sanctioning sex discrimination to establishing the principle of equal employment opportunity and mandating the eradication of discrimination through affirmative action. The post-1964 period clearly established the principle, if not the reality, of equal employment opportunity for women. And, many women have benefitted from the enactment of legislation and the Supreme Court decisions which expanded civil rights protection to women as a class. Today, women's employment opportunities have multiplied, yet women are still constrained from full participation in the work force by subtle and overt discrimination, lack of enforcement of existing equal opportunity legislation and workplaces that are still designed for a 1950s employee instead of a 1990s employee. Despite the progress of the past 20 years, women and men are still not afforded the same opportunities in the workplace.

Working women are here to stay, and, in today's evolving global economy, women's full and equal contribution — unhampered by barriers to their full economic participation — is essential. The shift from a manufacturing based economy to a service based economy, along with the increased need for high-skill workers, further highlights the importance of women's full contribution to the labor market. The elimination of discrimination and barriers to women's full participation in the workplace are economic necessities. By the year 2000, 80 percent of all applicants for employment will be women and minorities. Businesses and government must prepare for this increasing diversity by assuring that every employee will have equitable employment opportunities.

REFORM Congressional Oversight Hearings on the Equal Pay Act

In the 30 years since the passage of the Equal Pay Act, women and minorities have made great strides in the workplace. However, despite the increased "human capital" — i.e. education and job experience — of women and minorities, their pay continues to lag behind their white male colleagues' wages by as much as 30 percent. Findings from numerous studies have shown that jobs employing mainly women and minorities are undervalued and underpaid compared to comparable jobs held by white males.

The goal of pay equity legislation was to eliminate sex and race discrimination in the wage-setting process. Simply setting equivalent pay scales for identical jobs, however, has not eradicated the wage gap, in part because of the persistent disparities between male and female wages caused by occupational segregation. Occupational segregation accounts for about 35 to 40 percent of the national pay difference between male and female workers, according to a 1986 study by the National Academy of Sciences.

Women have historically been concentrated in low-paying jobs, and this concentration continues today with almost half of all working women employed in technical, sales and administrative support jobs. Social, educational and occupational barriers still prohibit women from entering and remaining in non-traditional careers. If women choose to swim against the tide and enter a male dominated industry, sexual harassment and ostracism usually drives them back into the female job ghetto. Moreover, women in male-dominated industries receive lower wages than men in comparable positions and are usually concentrated in the lower rungs of the profession.

Occupational segregation and pay inequities are major contributing factors to the lack of economic self-sufficiency of working women. Yet, most women work because their earnings are essential to their own and their families economic survival. In 1992, nearly two-thirds of America's working women were single (25 percent), widowed (4 percent), separated (4 percent) or had spouses whose 1990 earnings were less than \$17,500 (17.7 percent). In 1990, though, female year-round, full-time workers were much more likely than their male counterparts to have low annual earnings, according to a 1991 Current Population Studies report. Women with equivalent or more education and work experience than many employed men are not paid a living wage due to historically discriminatory wage scales.

The market rate for women's wages is disproportionately affected by discriminatory attitudes and practices which devalue women's contributions and experiences. As a result, the expansion of employment opportunities for women has not led to an equivalent expansion of wages or advancement opportunities. Pay equity is the law, but not the reality, and the majority of working women are suffering as a result.

CHALLENGE: BPW/USA calls on the U.S. Congress, specifically the Senate Labor and Human Resources Committee and the House Education and Labor Committee, to hold oversight hearings on the effectiveness of the Equal Pay Act and to investigate other means to secure pay equity and promote women's advancement in the workplace.

REFORM Congressional Oversight Hearings on the Equal Employment Opportunity Commission

Today, 28 years after the establishment of the EEOC, employment discrimination remains a serious problem for millions of women and minorities in the work force. As the workplace becomes increasingly more diverse, in all probability the EEOC will face increasing demands. The agency, however, is not meeting its mandate to ensure non-discriminatory workplaces for all workers. The EEOC is overworked and understaffed and significant reform is essential for effective enforcement of anti-discrimination laws.

The EEOC's record for providing favorable case resolution to claimants is poor, settlement rates are low and non-cause findings have increased. Additionally, despite record increases in the total number of cases filed, the EEOC has failed to engage in classwide actions, a proven mechanism for addressing workplace discrimination. Between 1981 and 1991, the percentage of class-action suits decreased from 45.1 percent to 8.6 percent of EEOC suits.

Moreover, EEOC staffing decreased by 6 percent from 1989 to 1992, despite a 26 percent increase in the case load. Furthermore, the case load is projected to increase approximately 18 percent in 1993, in part due to enforcement of the Americans with Disabilities Act and the Civil Rights Act of 1991. The EEOC currently has a pending work load of 71,000 cases, a 32 percent increase in charges awaiting resolution from fiscal year 1991.

Of 68,000 discrimination charges processed by the EEOC in fiscal year 1992, in only 2.4 percent of cases did the EEOC find "reasonable cause" to believe that discrimination occurred. Nearly 61 percent of cases were dismissed because EEOC found "no cause" to proceed. The noticeable increase in "no cause" findings may result from pressure to avoid low performance ratings given to investigators who fail to meet quarterly deadlines for case closures.

Victims of intentional discrimination deserve their fair and full measure of redress. Unfortunately, however, most victims of workplace discrimination who seek redress find that the process of filing a claim is confusing, time-consuming and complex. It is a clear injustice that victims must essentially put their lives on hold while they seek justice.

The EEOC is currently litigating only 1 percent of charges filed per year. Over the past 12 years, the EEOC has become a reactive agency, as opposed to the proactive agency it was meant to be. The Commission has an intolerable rate of enforcement and needs to be redirected towards fulfilling their purpose as defined almost 30 years ago.

CHALLENGE: BPW/USA calls on the U.S. Congress, specifically the Senate Labor and Human Resources Committee and the House Education and Labor Committee, to hold oversight hearings on the Equal Employment Opportunity Commission and move to ensure that EEOC is meeting its mandate to vigorously enforce existing civil rights laws.

REFORM Congressional Review of the Equal Credit Opportunity Act

BPW was instrumental in the fight to pass the Equal Credit Opportunity Act of 1974 and its amendments in 1976. This law banned discrimination by creditors based on sex or marital status in any credit transaction. However, 20 years later, women are still experiencing discrimination in access to credit. This discrimination has especially severe repercussions for women-owned businesses.

Data from the 1987 Characteristics of Business Owners found that women business owners used substantially less money to start businesses, borrowed less of the initial start-up investment, and were less likely to rely on commercial bank loans. These findings are bolstered by figures from a 1992 National Foundation for Women Business Owners survey, which found that 76 percent of women finance the start-up of their business with personal capital, 38 percent do not have bank credit, 64 percent experience barriers in securing credit from banks and 56 percent expect to finance growth through re-investment of profits, as opposed commercial credit.

Inequitable access to credit remains the most serious barrier to the success of women-owned businesses. Women-owned businesses suffer from a lack of loan sources and a lack of access to the network of financing sources, according to findings from an Access to Capital Symposium sponsored by the National Women's Business Council and the Office of Women's Business Ownership of the U.S. Small Business Administration.

Despite restricted access to credit, women-owned businesses are an economic force to be reckoned with. There were 5.4 million women-owned businesses in 1990. Women have been starting businesses at almost double the rate of men, according to a study by the National Foundation of Women Business Owners. Women-owned businesses employ 11 million workers, or about 10 percent of the entire labor force. This is equal to the number of people employed by all Fortune 500 companies. Moreover, women-owned businesses operate in all industries. Although most women-owned business are still concentrated in retail trade and services, as are most companies, they are as likely as all firms to be doing business in construction, wholesale trade and agribusiness.

Given the critical importance of women-owned businesses to our nation's economic vigor, every effort should be made to ensure their continued success. Expansion is the major goal of 82 percent of women-owned businesses. But, according to a 1992 survey by the National Foundation for Women Business Owners, 65 percent of women-owned businesses rate cash flow as their major concern and 37 percent rate availability of capital as the greatest barrier to growth. Moreover, annual sales and receipts for women-owned businesses are less than for all businesses. Again, inequitable access to financial markets is a key element in the sales and receipt differential between businesses owned by women and those owned by men.

CHALLENGE: BPW/USA calls on the U.S. Congress to hold oversight hearings on the effectiveness of the Equal Credit Opportunity Act and to investigate other means to promote women's access to credit.

REFORM Enactment of the Equal Remedies Act (S.17, H.R.224)

The Equal Remedies Act (S.17, H.R.224) eliminates the caps on damages that were included in the Civil Rights Act of 1991 and allows all victims of intentional discrimination to seek full relief. Victims of intentional discrimination based on race or ethnicity can currently recover compensatory and punitive damages without caps under Section 1981, a post-Civil War statute. However, victims of intentional discrimination based on sex, disability or religious beliefs are not protected by Section 1981.

Victims of intentional discrimination based on sex, disability or religious beliefs are protected only under Title VII of the Civil Rights Act of 1964, which, prior to 1991, limited damages to "make-whole" relief, i.e., back pay, employment and re-instatement. The Civil Rights Act of 1991 amended Title VII and allows victims of intentional discrimination who cannot recover damages under Section 1981 to recover compensatory and punitive damages, in addition to the make-whole relief that has been available. Unlike Section 1981, however, the new provision places arbitrary caps on the amount of damages that can be received. Over 95 percent of all United States employers and over half of all employees are covered either by the lowest cap or are not included under Title VII at all.

The Civil Rights Act of 1991, while a major step forward in civil rights legislation, codifies a two-tier system of justice. The provision of damage caps in the Civil Rights Act of 1991 is pure politics — there is no justifiable legal or economic principle for their inclusion. Laws should not treat victims of intentional discrimination differently, nor should they provide for disparate remedies.

Repeal of the caps on damages will not increase litigation or promote unreasonably high awards. There is no evidence of abuse under the Civil Rights Act of 1964 or Section 1981 that justifies caps on damages. A review by the National Women's Law Center of all reported Section 1981 cases from 1980 through early 1991 showed a total of only 594 cases, less than 60 cases annually nationwide. During the span of this decade, damages were awarded in only 69 cases, and, moreover, only three awards were over \$200,000. Moreover, damages are awarded only in cases of intentional discrimination. Other Federal Civil Rights statutes provide for damages without caps and have no history of abuse. Furthermore, passage of the Equal Remedies Act may cause settlement rates for cases brought under Title VII to increase due to the real costs from discrimination employers will face.

The failure to correct the inequities in the Civil Rights Act sends a message to employers that some types of intentional discrimination are less egregious than others. Caps on damages perpetuate the sentiment that sexual harassment and sex discrimination are not taken seriously by Members of Congress or businesses.

CHALLENGE: BPW/USA calls on Congress to swiftly pass the Equal Remedies Act (S.17, H.R.224) to ensure that all victims of intentional discrimination are provided with full and equal remedies.

REFORM Enactment of the Hughes-Lowey Legislation (H.R.2536-H.R.2540)

A package of five bills (H.R. 2536 - H.R. 2540) to reform the Social Security system has been introduced by Rep. William J. Hughes (D-N.J.) and Rep. Nita M. Lowey (D-N.Y.). This legislation is an important first step in addressing some of the inequities and inadequacies working women experience under the Social Security system.

Numerous studies have documented the fact that poverty is increasingly concentrated among widowed, divorced, and disabled older women. One reason for the high level of poverty among elderly women is their reliance on Social Security benefits as the major source of their retirement income. Older women are almost twice as likely as older men to have Social Security benefits as their only source of income during retirement. Social Security benefits are essential during women's retirement years, yet the system is riddled with inequities that harm working women.

The language of the Social Security Act is gender neutral, however, the system was designed to meet the needs of a traditional 1930s family, not the needs of individuals and families today. The Social Security system reflected the common assumptions of the 1930s: marriages lasted a lifetime and men worked outside the home for wages while women took care of the family and the home. Thus, the Social Security system pays higher benefits to workers with continuous employment and increasing wages and penalizes workers who exit and re-enter the labor force.

The Social Security system was not designed to discriminate against women, but the fact is that it does. Working women continue to bear the disproportionate burden of retirement inequities as a result of their higher family caretaking responsibilities, occupational segregation, low wages and lack of career advancement opportunities. Women's employment patterns have changed significantly over the past 20 years. Today, and for the foreseeable future, women will be in the labor force for the majority of their adult lives. However, without changes in the retirement system, by 2020 two out of five elderly women living alone will still be living on incomes less than the equivalent of \$9,500 in today's dollars.

As long as the basic underlying assumptions of the Social Security program remain outdated, future generations of working women will continue to receive benefits that are significantly lower than men's. The Hughes-Lowey Legislation addresses some of the most serious inequities in the Social Security system. This omnibus legislation will allow disabled widows to build the necessary work history to receive disabled worker benefits, allow disabled widows and widowers to qualify for full benefits regardless of their age, eliminate the two-year waiting period for divorced spouses over age 62, provide Delayed Retirement Credits to working widows who delay retirement and create a caregiver "credit" under Social Security for each year, up to a maximum of five years, working women or men spend caring for dependents.

CHALLENGE: BPW/USA calls on Congress to swiftly pass the Hughes-Lowey legislation (H.R.2536-H.R.2540) to ensure the economic stability of older women within the Social Security system.

Conclusion

Women continue to face numerous barriers to full participation in the work force and economic self-sufficiency. Women continue to struggle to survive on measly paychecks resulting from historically discriminatory wage scales. Women continue to suffer from lax enforcement of equal employment opportunity laws. Older women, after years of caregiving for their families and years of service to businesses, often find their golden years tarnished by fear of not being able to afford the basic necessities. Discrimination, for both women employees and women business owners, remains all too often simply the price of doing business.

Outright discrimination against women in the workplace is already against the law. But policies and procedures continue to perpetuate discriminatory attitudes and behaviors. We can no longer afford to ignore the very real costs of discrimination, however. Discrimination in the workplace is bad business, and allowing it to continue is bad public policy. Workplace discrimination detrimentally affects not only the lives of real women and men but also has negative consequences on society as a whole. American businesses face a dramatically different labor force today which underscores the importance of working women as a business resource. Businesses cannot afford to under-utilize half of their available work force. They must draw on the full potential, creativity and energies of working women to remain competitive in today's work world.

Working together, as employers, employees, and citizens, we can remove the roadblocks encountered by women. We must strive for even-handed opportunities and recognition in the workplace for everyone, and demand that discriminatory practices be eradicated. We must ensure that existing civil rights laws are vigilantly enforced, and new legislation enacted to provide victims of intentional discrimination with equitable remedies. We must work to open financial markets to women to foster the growth of women-owned businesses, an increasingly essential segment of our nation's economy. And, finally, we must enact legislation to rectify the existing inequities in our nation's retirement system.

The industrial revolution has given way to the information age, and the 1950s corporate man has been replaced by women and men of all types. Through this transformation, however, the American dream has remained a constant. The possibility for everyone to go as far as their abilities and efforts will take them is integral to this dream, but the axiom "work hard and you shall succeed" is currently true for only a small segment of our population.

It's time to change this. It's time to implement these modest reforms with a major impact and provide equal opportunity for all working women and men. For 75 years, securing equal employment opportunities for women has been, and continues to be today, the top priority for BPW/USA. It's time for all Americans to share fully in the American dream and experience equity, economic self-sufficiency and full participation in the work force.

CHALLENGE: BPW challenges you to work with us to secure these reforms which will significantly improve the status of working women.

