

# WOMEN VALUED | EMPOWERING WOMEN IN THE WORKPLACE

## THE WORKING WOMAN'S BILL OF RIGHTS | EXECUTIVE SUMMARY A LEGISLATIVE ADVOCACY FRAMEWORK FOR WOMEN'S ECONOMIC EQUALITY

In the United States and around the world, women continue to be uniquely undervalued and disadvantaged in their pursuit of economic security. On average, women continue to be paid less, work lower paying jobs, and endure higher levels of sexual harassment and abuse, all while taking on more family care responsibilities. These barriers intersect, add up, and reinforce each other in ways that profoundly undermine women's ability to achieve equal opportunity in the workplace. The resulting imbalance of power is often exploited, which further undermines women's pursuit of economic security.

To break this cycle, we need an integrated solution with meaningful protections, accommodations, and services that eliminate existing gender-based penalties. We must reimagine the workplace as a place of equal opportunity for ALL women. To do so, the following 13 cross-cutting protections must be meaningfully reflected in our law and enforced.

Thanks to ongoing advocacy, some states and localities are already passing strong legislation in these areas, and others should follow their lead. By setting forth a comprehensive agenda, the Working Woman's Bill of Rights provides (1) a holistic framework for legislative advocacy to achieve economic equality for women, and (2) a checklist to assess progress at the local, state, and national levels. See our extended Bill of Rights (forthcoming) for a more detailed agenda that includes best practices, model legislation, and recommendations.

### **1. A FAIR AND EQUITABLE WORKPLACE FREE OF DISCRIMINATION AND RETALIATION**

Despite existing laws against sex-based employment discrimination and retaliation, women continue to face pervasive forms of sex discrimination in the workplace. And, due to high levels of retaliation,<sup>i</sup> over 85% of individuals do not formally report harassment<sup>ii</sup> for fear of losing their jobs or their ability to live and work in this country. Moreover, because women have many intersecting identities, sex discrimination, combined with racial, ethnic, religious and other forms of discrimination, profoundly impacts women of color. All women, including new mothers, immigrants, farmworkers, day laborers, domestic workers, and independent contractors, must be protected. **To eliminate sex discrimination in the workplace, ALL women must have access to meaningful protections, remedies, and enforcement mechanisms that won't cost them their jobs. Legislation should specifically prohibit and penalize reporting of immigration status when women seek to challenge gender discrimination.**

### **2. FREEDOM FROM SEXUAL HARASSMENT IN THE WORKPLACE**

Perpetrators of sexual harassment typically abuse their power to exploit and perpetuate women's economic insecurity. We must reform workplace culture to eliminate sexual harassment and ensure system-wide accountability for abuse. **To meaningfully eliminate sexual harassment in the workplace, we must eliminate existing legal barriers, create less costly mechanisms for reporting violations, enhance employer responsiveness and accountability through mandatory reporting of complaint data to fair employment enforcement agencies, and ensure effective safeguards and penalties against harassment and retaliation.** Our job is not done until the most vulnerable workers can come forward.

### **3. EQUAL PAY**

It is over 50 years since the Equal Pay Act of 1963 was enacted, yet black women still earn almost 40% less than white men, and Latina and Native American women earn almost 50% less.<sup>iii</sup> The average 20% wage gap between men and women working fulltime has persisted despite the fact that women now achieve higher levels of education than men.<sup>iv</sup> **Women should no longer be denied equal pay based on rationales such as salary history, which perpetuate systemic discrimination.** It is time for salary transparency and corrective action. Employers should be prohibited from relying on prior salaries and required to report pay rates by gender, race, and other key demographic factors to fair employment enforcement agencies. Employees must be protected against retaliation when they share salary information. And when gender inequities are exposed, employers should be required to correct them, not rationalize them.

### **4. A LIVING WAGE & FAIR WAGE PRACTICES**

Poverty remains gendered. In the United States, women are 35% more likely than men to live in poverty and twice as likely to work in low-wage occupations.<sup>v</sup> Women of color, immigrant women, and working mothers are especially likely to work low-wage jobs essential to our economy but typically overlooked.<sup>vi</sup> At only \$7.25 an hour, the federal minimum wage is not nearly enough for working families to meet basic needs such as housing, food, and healthcare, and the sub-minimum wage is even worse.<sup>vii</sup> Tipped workers, 2/3 of whom are women, are twice as likely to live in poverty.<sup>viii</sup> And, since more than 2/3 of minimum wage workers are women,<sup>ix</sup> the minimum wage is truly a women's issue—and one that directly impacts children.<sup>x</sup> Low-wage and immigrant women are especially susceptible to wage-theft, including minimum wage violations, withholding of wages, denial of overtime or benefits, off-the-clock work, and stealing of tips.<sup>xi</sup> All workers deserve to earn a wage that allows them to work and support themselves and their families. **To move women out of poverty, we must enact a living wage alongside stronger safeguards against wage-theft. The sub-minimum wage must go: all industries must be required to pay at least the minimum wage.**

### **5. EQUAL ACCESS TO HIGHER PAYING JOBS, ECONOMIC OPPORTUNITIES, & LEADERSHIP PATHWAYS, FREE FROM SEX STEREOTYPING**

Despite gains in skill and education, women continue to be segregated into lower paying occupations.<sup>xii</sup> Women also continue to be dramatically under-represented in leadership.<sup>xiii</sup> To secure policies that elevate women, we need women to lead the way. **To close the gender wage gap, women must be equipped with the education, training, and opportunity to enter higher paying fields, including fields considered nontraditional for women. This includes access to comprehensive education in science, technology, engineering, and mathematics (STEM); job networks; training and apprenticeships; and English as a Second Language education. Women seeking to start or who are running their own businesses must also have increased access to entrepreneurial and contracting opportunities and business financing.**

### **6. A SAFE WORKPLACE WITH FAIR PRACTICES**

All too often, women, especially low-wage workers, are forced to work in unsafe conditions, are not given adequate safety gear, are denied adequate rest or break-time, and are forced to endure scheduling practices that make it impossible to work and raise a family. Low-wage and immigrant women often suffer from inconsistent and insufficient work hours that result in irregular earnings, making it hard to earn a living, care for families, and obtain public benefits.<sup>xiv</sup> **Women deserve safe and fair working conditions and practices. This includes better enforcement of existing workplace safety requirements, safety education that is language accessible, fair scheduling practices, break time, sick time, and support for on-the-job injuries.**

## **7. WORKPLACE SUPPORT & FREEDOM FROM DISCRIMINATION FOR SURVIVORS OF GENDER-BASED VIOLENCE**

Survivors of domestic violence, sexual assault, and stalking often risk losing their jobs or have difficulty finding a job due to consequences of the abuse.<sup>xv</sup> **A person's status as a survivor of gender-based violence should never be used against them, and individuals should have the right to take measures to safeguard themselves from abuse while maintaining their economic security. Abuse should not endanger their jobs or their ability to support themselves and their families. Survivors should be afforded reasonable accommodations to address the abuse and should have access to unemployment insurance if they have to leave their jobs to escape it.**

## **8. THE ABILITY TO DECIDE IF AND WHEN TO HAVE A CHILD AND TO DO SO SAFELY**

When a woman is denied the ability to choose if and when to have a child, it sets in motion a ripple of self-reinforcing gender-based barriers that will likely impact her entire life. Gender-based disadvantages are reinforced by legal systems that prevent women from controlling their reproduction while turning a blind eye to the costs and realities that women face once they become pregnant and have children. **Safeguarding women's economic opportunity requires safeguarding reproductive choice and access to reproductive and maternal health services.**

## **9. FAIR TREATMENT DURING PREGNANCY, WHILE BREASTFEEDING, & AFTER CHILDBIRTH**

The Pregnancy Discrimination Act has fallen short in protecting women from pregnancy discrimination because employers are still not required to accommodate working mothers or to account for the unique challenges women face when having a child. This means that many women are fired, forced to go on unpaid leave, forced to endure unhealthy and strenuous working conditions, forced to quit breastfeeding their child, or forced to quit their jobs while pregnant or after having a child. Women should not have to pay a price for having children. **To level the playing field, mandatory reasonable accommodations should be afforded for pregnancy, breastfeeding, and child birth. Anti-discrimination protections must apply to individuals who are pregnant, recovering from childbirth, or those with young children.**

## **10. THE ABILITY TO BE CAREGIVERS WITHOUT A FINANCIAL PENALTY**

The U.S. is the only developed country in the world that does not provide any paid family leave.<sup>xvi</sup> As a result, less than 20% of U.S. workers have access to paid leave through their employers, and those with access to unpaid leave generally cannot afford to take it.<sup>xvii</sup> **To address this "motherhood penalty" it is essential that ALL individuals are afforded equal opportunity to take job-protected paid family leave to bond with new children and care for sick family members.**

## **11. THE ABILITY TO WORK OR OBTAIN AN EDUCATION AFTER HAVING A CHILD**

Adding insult to injury, women, many of whom must prematurely return to work after having a child, typically lack access to high quality, affordable child care options and necessary workplace accommodations.<sup>xviii</sup> For low-wage workers, child care costs generally exceed their incomes.<sup>xix</sup> **Women seeking to return to work or pursue an education must have access to high quality, affordable child care. We must increase funding and expand eligibility for subsidized child care assistance and create mechanisms to ensure that the private sector also provides such support.**

## **12. MEANINGFUL ACCESS TO ECONOMIC STABILITY & OPPORTUNITY FOR ALL WOMEN**

To eliminate gender inequality, we must eliminate the underlying vulnerabilities that render women susceptible to exploitation. Low-income and immigrant women, as well as single-woman heads of households, lack access to essential services and benefits necessary to work, raise children, and afford basic necessities.<sup>xx</sup> Due to various factors, including lack of information and complicated

application and eligibility procedures, many women who are eligible for public benefits and services never access them,<sup>xxi</sup> causing benefits to go unclaimed.<sup>xxii</sup> Those who have benefits are constantly at risk of losing them. Women in need must have stable access to support services to cover basic necessities such as food, housing, and healthcare so that they have an opportunity to seek education, employment, and advancement. **In addition to expanding working-family tax credits and enhancing funding for public benefits to assist women at risk, existing public benefits systems should be reformed to enhance eligibility, access, and navigability. Application and annual recertification processes should be simplified. Unnecessary eligibility requirements should be removed (women should be able to pursue an education without being thwarted by public assistance work requirements). Adequate procedural safeguards and language access should be in place to ensure that recipients can maintain their benefits and can challenge termination of benefits. Agencies must act in concert to provide a continuum of care to assist women to navigate these complex processes under adverse conditions.**

## 13. FREEDOM TO ACT COLLECTIVELY

Speaking with co-workers is often a critical way for women to unearth inequities or systemic discrimination. Working collectively with co-workers is often the most effective way to challenge discriminatory practices. **Women must have the right to discuss compensation, organize, join a union, and take action with other employees to improve pay, working conditions, and discriminatory workplace practices. Whether at work, in arbitration, or in the courts, women must have the ability to challenge discrimination collectively.**

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<sup>i</sup> Lilia M. Cortina & Vicki J. Magley, *Raising Voice, Risking Retaliation: Events Following Interpersonal Mistreatment in the Workplace*, 8:4 J. OCCUPATIONAL HEALTH PSYCHOL. 247, 255 (2003).

<sup>ii</sup> U.S. EQUAL EMPL'T OPPORTUNITY COMM'N, SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE: REPORT OF CO-CHAIRS CHAI R. FELDBLUM & VICTORIA A. LIPNIC 16 (June 2016), [https://www.eeoc.gov/eeoc/task\\_force/harassment/report.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm).

<sup>iii</sup> See INST. FOR WOMEN'S POLICY RESEARCH, THE GENDER WAGE GAP: 2016, EARNINGS DIFFERENCES BY GENDER, RACE, AND ETHNICITY (Sept. 2017), [https://iwpr.org/wp-content/uploads/2017/09/C459\\_9.11.17\\_Gender-Wage-Gap-2016-data-update.pdf](https://iwpr.org/wp-content/uploads/2017/09/C459_9.11.17_Gender-Wage-Gap-2016-data-update.pdf); THE NAT'L WOMEN'S LAW CTR., *The Wage Gap: The Who, How, Why, and What To Do* (Sept. 2017), <https://nwlc.org/resources/the-wage-gap-the-who-how-why-and-what-to-do/>.

<sup>iv</sup> Executive Office of the President of the United States, Council of Economic Advisors, Women's Participation in Education and the Workforce (Oct. 14, 2014), [https://obamawhitehouse.archives.gov/sites/default/files/docs/eleven\\_facts\\_about\\_family\\_and\\_work\\_final.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/eleven_facts_about_family_and_work_final.pdf).

<sup>v</sup> Jasmine Tucker & Caitlin Lowell, THE NAT'L WOMEN'S LAW CTR., *National Snapshot: Poverty among Women and Families*, 2015 (Sept. 2016), <https://nwlc.org/wp-content/uploads/2016/09/Poverty-Snapshot-Factsheet-2016.pdf>.

<sup>vi</sup> THE LEADERSHIP CONFERENCE EDUCATION FUND & GEORGETOWN CTR. ON POVERTY AND INEQUALITY, BARE MINIMUM: WHY WE NEED TO RAISE WAGES FOR AMERICA'S LOWEST-PAID FAMILIES 10-11(2018), <http://civilrightsdocs.info/pdf/reports/Bare-Minimum.pdf>, [hereinafter BARE MINIMUM].

<sup>vii</sup> See National Low Income Housing Coalition, Out of Reach: The High Cost of Housing (2018), [http://nlihc.org/sites/default/files/oor/OOR\\_2018.pdf](http://nlihc.org/sites/default/files/oor/OOR_2018.pdf).

<sup>viii</sup> BARE MINIMUM, *supra* note vi.

<sup>ix</sup> See THE NAT'L WOMEN'S LAW CTR., *Women and Minimum Wage, State by State* (Aug. 2017), <https://nwlc.org/resources/women-and-minimum-wage-state-state/>; Jens Manuel Krogstad, PEW RESEARCH CTR., *More Women than Men Earn the Federal Minimum Wage* (May 5, 2014), <http://www.pewresearch.org/fact-tank/2014/05/05/more-women-than-men-earn-the-federal-minimum-wage/>.

<sup>x</sup> The United States has one of the highest child poverty rates among developed nations. See Gonzalo Fanjul, UNICEF, CHILDREN OF THE RECESSION: THE IMPACT OF THE ECONOMIC CRISIS ON CHILD WELL-BEING IN RICH COUNTRIES (2014), <https://www.unicef-irc.org/publications/733-children-of-the-recession-the-impact-of-the-economic-crisis-on-child-well-being-in.html>.

<sup>xi</sup> Llezie Green Coleman, *Exploited at the Intersection: A Critical Race Feminist Analysis of Undocumented Latina Workers and the Role of the Private Attorney General*, 22 VA. J. SOC. POL'Y & L. 397, 401 n. 10 (2015); see also David Cooper & Teresa Kroeger, Economic Policy Institute, Employers Steal Billions from Workers' Paychecks Each Year 3, 20 (May 10, 2017), [file:///C:/Users/skhwaja/Documents/Seher/Legal%20Issues/EPI\\_wage%20theft%20report.pdf](file:///C:/Users/skhwaja/Documents/Seher/Legal%20Issues/EPI_wage%20theft%20report.pdf).

<sup>xii</sup> See Ariane Hegewisch, Hannah Liepmann, Jeff Hayes, Heidi Hartmann, INST. FOR WOMEN'S POLICY RESEARCH, SEPARATE AND NOT EQUAL: GENDER SEGREGATION IN THE LABOR MARKET AND THE GENDER WAGE GAP (Sept. 2010), <https://iwpr.org/publications/separate-and-not-equal-gender-segregation-in-the-labor-market-and-the-gender-wage-gap/>.

<sup>xiii</sup> See Anna Brown, PEW RESEARCH CTR., *Despite Gains, Women Remain Underrepresented Among U.S. Political & Business Leaders* (Mar. 20, 2017), <http://www.pewresearch.org/fact-tank/2017/03/20/despite-gains-women-remain-underrepresented-among-u-s-political-and-business-leaders/>; Judith Warner, CTR. FOR AM. PROGRESS, *Fact Sheet: The Women's Leadership Gap* (Mar. 7, 2014), <https://www.americanprogress.org/issues/women/reports/2014/03/07/85457/fact-sheet-the-womens-leadership-gap/>.

<sup>xiv</sup> See Lisa Dodson, Fran  ois Carr  , and Linda Meric, 9TO5, MOTHERS KNOW BEST: AT THE INTERSECTION OF LOW-WAGE WORK, PUBLIC ASSISTANCE, AND CHILD CARE (June 2017), <http://9to5.org/wp-content/uploads/2017/06/IRreport.pdf>.

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<sup>xv</sup> See Robin Runge, FUTURES WITHOUT VIOLENCE, SOLIDARITY CTR., AFL-CIO, ENDING GENDER-BASED VIOLENCE IN THE WORLD OF WORK IN THE U.S. (Mar. 13, 2017), <https://www.futureswithoutviolence.org/ending-gender-based-violence-in-the-world-of-work/>.

<sup>xvi</sup> See ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD), OECD Family Database (Oct. 26, 2017),

[http://www.oecd.org/els/soc/PF2\\_1\\_Parental\\_leave\\_systems.pdf](http://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf).

<sup>xvii</sup> DEP'T OF LABOR (DOL), DOL Factsheet: Paid Family and Medical Leave (June 2015), <https://www.dol.gov/wb/paidleave/PDF/PaidLeave.pdf>.

<sup>xviii</sup> See MS. FOUNDATION FOR WOMEN & NAT'L WOMEN'S LAW CTR., LISTENING TO WORKERS: CHILD CARE CHALLENGES IN LOW-WAGE JOBS (June 2014), [https://nwlc.org/wp-content/uploads/2015/08/listening\\_to\\_workers\\_child\\_care\\_challenges\\_in\\_low-wage\\_jobs\\_6.24.14.pdf](https://nwlc.org/wp-content/uploads/2015/08/listening_to_workers_child_care_challenges_in_low-wage_jobs_6.24.14.pdf) [hereinafter LISTENING TO WORKERS]; Katie Hamm & Carmel Martin, CTR. FOR AMERICAN PROGRESS, A NEW VISION FOR CHILD CARE IN THE UNITED STATES: A PROPOSED NEW TAX CREDIT TO EXPAND HIGH-QUALITY CHILD CARE (Sept. 2015), <https://cdn.americanprogress.org/wp-content/uploads/2015/08/31111043/Hamm-Childcare-report.pdf>.

<sup>xix</sup> See LISTENING TO WORKERS, *supra* note xiv.

<sup>xx</sup> See Dodson, Carré, and Meric, *supra* note x.

<sup>xxi</sup> Cynthia Hes & Stephanie Román, INST. FOR WOMEN'S POLICY RESEARCH, BRIEFING PAPER: POVERTY, GENDER, AND PUBLIC POLICIES 7 (Feb. 2016), <https://iwpr.org/publications/poverty-gender-and-public-policies/>.

<sup>xxii</sup> WOMEN'S ECONOMIC SEC. CAMPAIGN, AIMING HIGHER: REMOVING BARRIERS TO EDUCATION, TRAINING AND JOBS FOR LOW-INCOME WOMEN 6 (May 2010), <http://www.ungei.org/resources/files/Aiming-Higher-Jobs-Education-Training.pdf>.