

Equal Pay Expanded and Enforced Throughout the United States

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Abstract

Society has made substantial efforts to ensure equal pay for equal work. However, gender pay disparity still exists in the United States. Women are paid significantly less than men. The pay disparity widens for minority women. Countries around the world have created policies that enforce equal pay for equal work regardless of gender. Women have the potential to contribute greatly to the economy and the morality of a state. The United States' government must enact laws that protect women from pay disparity. I propose an annual audit that will examine every company and its employees. This audit would be conducted until the United States is able to establish gender equality in the workforce.

Keywords: Gender Pay Disparity, Laws, Annual Audit

The 2017 earnings ratio of women's median earnings compared to men's median earnings was 80%.¹ This means that women make 80% of a man's salary with the same job functions. In states such as Louisiana, the gender pay ratio is 69%, and in Utah, the gender pay ratio is 71%.² In various professions, the gender pay gap is explicit. For example, the median earning for male accountants is \$71,320, while female accountants earn \$60,280.3".³ Male physicians and surgeons make an average of \$243,072, while women's earnings are \$171,800, there are 274,511 women employed as physicians and surgeons.⁴ As stated earlier, the gender pay disparity in 2017 was a ratio of 80%, while in 2014 that percentage was 78.6%.⁵ The United States was only able to shrink the gender pay ratio by 2.4% in three years. It is hypothesized that it would take until the year 2059 for men and women to be equally paid.⁶ According to a STEM Study, "men outnumber women in technical fields by more than four to one."⁷ Additionally, according to a study from the Federal National Math and Science Initiative, "women [hold] only 23% of US jobs focused primarily on skills in science, technology, engineering and math in 2008."⁸ A study published in the American Sociological Review cites that white men are three times more likely to be called for an interview than women.⁹

¹ *The Simple Truth about the Gender Pay Gap*, <https://www.aauw.org/research/the-simple-truth-about-the-gender-pay-gap/> (last visited Feb. 28, 2019)

² See *id.*

³ See *id.*

⁴ See *id.*

⁵ *Breaking Down the Gender Wage Gap*, https://www.dol.gov/wb/media/gender_wage_gap.pdf

⁶ Ariane Hegewisch, *The Gender Wage Gap: 2017 Earnings Differences by Race and Ethnicity*, (Mar. 7, 2018), <https://iwpr.org/publications/gender-wage-gap-2017-race-ethnicity/>

⁷ Kevin Fogarty, *STEM Study Shows Hiring Managers Favor Men Over Women*, (Mar. 28, 2014), https://www.eetimes.com/document.asp?doc_id=1321681

⁸ See *id.*

⁹ Emily Peck, *Well-Off White Men are 3 Times More Likely Than Woman to Get Job Interviews*, (Jan. 6, 2017), https://www.huffpost.com/entry/women-motherhood-penalty_n_586d69fae4b0c4be0af2c02c

The public is well aware of the marked gender pay gap in the United States. While legislation, such as the Equal Pay Act of 1963, achieved some progress, present legislation is insufficient to solve the existing problem. In order to address the remaining gap, Congress should enact a yearly audit of every company's salaries and job functions. The audit would serve as an impartial method to reveal any gender pay disparity that may exist within companies. Furthermore, Congress would reserve the right to monetarily fine the company if it does not diminish the pay gap by the following year's audit. Solving the gender pay gap would promote and encourage women in the workforce, allowing them to contribute greatly to a company's work environment and revenue while also persuading younger women to strive for higher goals within the American workforce.

I. BACKGROUND

A. *Historic Overview of Women's Rights*

The movement for gender equality has progressed steadily since its commencement; however, gender inequality continues to plague modern times. Gender inequalities date to 1777, the year after the United States gained its independence, when the states passed a law that took away women's right to vote.¹⁰ While women spent the subsequent decades fighting to regain their vote, various other inequalities emerged, inequalities such as limitations on the types of jobs women were allowed to pursue and restrictions on women owning property. In 1920, the 19th amendment of the Constitution was ratified, granting women the right to vote. Although laws continued to establish and strive for equality, fundamental rights were still being disregarded. In 1942, the National War Labor Board enforced a law that required equal pay for women who directly replaced a job that was previously held by a man.¹¹ However, the first Congressional attempt to address equal pay was in 1945 when "Congress introduced the Women's Equal Pay Act, but it failed to pass, despite valiant efforts from

¹⁰ *Timeline for Women's Rights*, <http://www.digitalhistory.uh.edu/timelines/timelinetopics.cfm?tltopicid=3> (last visited Feb. 28, 2019)

¹¹ *Equal Pay for Equal Work: The War Labor Board on Gender Inequalities*, <http://historymatters.gmu.edu/d/5144/>, (last visited Feb. 28, 2019)

advocates to win support.”¹² It was not until 1963 when the Equal Pay Act was legislated through Congress that women won a victory in the battle for equal pay. In 1975, Ruth Bader Ginsburg appeared before the Supreme Court and argued that discrimination on the basis of sex was an illegitimate argument. *Duren v. Missouri* 1979 successfully established that excluding women from a jury is a violation of the Sixth and Fourteenth Amendments, a case also argued by Ruth Bader Ginsburg.¹³ *Kirchberg v. Feenstra* 1981 successfully “invalidated a law that gives a husband the right to control a marital property without his wife’s consent.”^{14,15} In 1996, the last remaining undergraduate all-male public

university was found unconstitutional; Justice Ruth Bader Ginsburg “made it clear gender equality is a constitutional right.”¹⁶ It was not until 1981 when the first woman, Sandra Day O’Connor, was appointed as a Supreme Court Justice.¹⁷ In *Ledbetter v. Goodyear Tire & Rubber Company* 2007, Ledbetter sued her employer, Goodyear Tire & Rubber Company, after learning she was being paid less than her male counterparts.¹⁸ Ledbetter lost the Supreme Court case, but Congress passed the Lilly Ledbetter Fair Pay Act of 2009 to help address work pay discrimination.¹⁹ Additionally, Nancy Pelosi was the first female speaker of the House in

¹² Kenneth Quinnell, *The Anniversary of the Equal Pay Act Reminds Us to Keep Working to Close the Gender Pay Gap*, (Jun. 11, 2018), <https://aflcio.org/2018/6/11/anniversary-equal-pay-act-reminds-us-keep-working-close-gender-pay-gap>

¹³ *Duren v. Missouri* 439 U.S. 357 (1979)

Duren was convicted of first-degree murder and first-degree robbery. Duren went on to argue that his sixth and fourteenth amendment rights were violated when his jury panel was made up of all men. Duren proffered that the section of the jury was not a fair selection of his peers as 54% of the population in Jackson County. The jury selection panel was 48 men and 5 women. The Supreme Court found in favor of Duren and wrote that there was no justification in why a state should exempt women from jury service.

¹⁴ *Kirchberg v. Feenstra* 450 U.S. 455 (1981)

Joan Feenstra filed a lawsuit against her husband on the grounds he had molested their daughter. Her husband, Harold, hired an attorney to represent him. In order to pay for the attorney Harold authorized Kirchberg to mortgage Harold’s joint home. This was allowed under the Head and Master provisions of Louisiana law. Joan was unaware of the transaction until after Harold and Joan separated and Kirchberg demanded payment from the mortgaged home. Joan Feenstra filed a lawsuit arguing that the Louisiana law that allowed her husband ownership of the land was unconstitutional. The Supreme Court found in favor of Joan Feenstra on the basis that the Louisiana law violated the Equal Protection Clause and the Fourteenth Amendment.

¹⁵ *Timeline of Major Supreme Court Decisions on Women’s Rights*, <https://www.aclu.org/other/timeline-major-supreme-court-decisions-womens-rights> (lasted visited on Feb. 28, 2019)

¹⁶ Emma Sarran Webster and Caitlin Wolper, *7 Essential Ruth Bader Ginsburg Supreme Court Rulings to Know About*, (May 4, 2018), <https://www.teenvogue.com/story/ruth-bader-ginsburg-supreme-court-rulings-to-know-about>

¹⁷ *Timeline for Women’s Rights*, <http://www.digitalhistory.uh.edu/timelines/timelinetopics.cfm?tltopicid=3> (last visited on Feb. 28, 2019)

¹⁸ *Ledbetter v. Goodyear Tire & Rubber Company* 550 U.S. 618 (11th Circ. 2007)

Lilly Ledbetter filed a suit against Goodyear Tire & Rubber Company. Ledbetter had been working for Goodyear Tire & Rubber Company for nineteen years. Over the nineteen years, Ledbetter would consistently receive salary reviews and low raises compared to other employees. Ledbetter came to believe the premises regarding her unfair treatment and the lower salary were due to her gender. Ledbetter won the case against Goodyear Tire & Rubber Company. However, Goodyear appealed on the basis that a Title VII provision that requires discrimination charges to be filed within 180 days of the alleged discrimination by the company. During the original trial, the jury reviewed the nineteen years in total for discrimination when based on Title VII the judge should have only reviewed the past 180 days which included only one salary check. The decision was reversed on the basis that there was not enough evidence to justify discrimination based on one salary.

¹⁹ *Equal Pay Act of 1963 and Lilly Ledbetter Fair Pay Act of 2009*, https://www.eeoc.gov/eeoc/publications/brochure-equal_pay_and_ledbetter_act.cfm (last visited on Feb. 28, 2019)

2007.²⁰ Subsequently, in 2016, Hillary Clinton was the first woman to lead a major political party.²¹ On a state level, in 2018, Jahana Hayes was elected as the first-ever black woman to represent Connecticut in Congress. The movement for women's equality has gained more attention in today's society. Major successes occur every day. These women demonstrate the abilities of all women and how their achievements can further support for gender equality.

B. Current Presiding Case and Legislative Law

a. Understanding the Civil Rights Act of 1964

Currently, there is some legislation implemented designed to promote women's rights. The Civil Rights Act of 1964 is another legislative law created to end "segregation in public places and [ban] employment discrimination on the basis of race, color, religion, sex or national origin."^{22, 23} Furthermore, if a woman feels her right to minimum wage and overtime is violated, she may have a claim of legal action before the United States Department of Labor, the Federal District Court, and State and Local agencies courts.²⁴ There are laws that

²⁰ Susan Milligan, *Stepping Through History, A timeline of women's rights from 1769 to the 2017 Women's March on Washington*, (Jan. 20, 2017), <https://www.usnews.com/news/the-report/articles/2017-01-20/timeline-the-womens-rights-movement-in-the-us>

²¹ *Id.*

²² Civil Rights Act of 1964

The Civil Rights Act was legislated in order to end segregation in public places based on race, religion, or national origin and to end discrimination based on race, religion, national origin, and gender by employers and labor unions. Additionally, it gave the Equal Employment Opportunity Commission (EEOC) the power to file lawsuits on behalf of workers. The Civil Rights Act is the federal presiding law; however, in many states, there are additional classifications of people that are protected.

²³ *Civil Rights Act of 1964*, <https://www.history.com/topics/black-history/civil-rights-act> (last visited on Feb. 28, 2019)

²⁴ *Rights of Women Workers*, <https://www.aclu.org/other/rights-women-workers?redirect=cpreirect/13124> (Feb. 28, 2019)

attempt to protect gender equality within the workforce; however, these laws are not good enough: there is still a wage gap.

b. Understanding the Equal Pay Act of 1963

Currently, equal pay is allegedly protected by the Equal Pay Act of 1963 enacted in the Kennedy Administration²⁵. The objectives of this act are to prevent sex discrimination and prohibit employers from paying wages to their employees based on the employee's sex.²⁶ Presently proposed in Congress is the Paycheck Fairness Act, which would attempt to close the shortcomings in the Equal Pay Act.^{27,28}

c. The shortcomings of the Equal Pay Act of 1963

²⁵ The Equal Pay Act of 1963

Enacted under the John F. Kennedy administration. The law was enacted to prohibit sex discrimination. Within the law, it is established that employers may not establish pay between employees doing similar work on the basis of sex. Payments may be based on a seniority system, a merit system, a system which measures earnings by quantity or quality of production or any other factor than sex.

²⁶ *The Equal Pact of 1963* <https://www.eeoc.gov/laws/statutes/epa.cfm> (Last visited May 5, 2019)

²⁷ Paycheck Fairness Act

This bill is an updated version of the Equal Pay Act of 1963. The ACLU specifically describes what the bill would do which is "including requiring employers to demonstrate that wage differentials are based on factors other than sex; prohibiting retaliating against workers who inquire about their employers' wage practices or disclose their wages; permitting reasonable comparisons between employees within clearly defined geographical areas to determine fair wages; strengthening penalties for equal pay violations; directing the Department of Labor to assist employers and college wage-related data, and authorizing additional training for Equal Employment Opportunity Commission staff to better identify and handle wage disputes." The Bill was first introduced in 1997.

²⁸ <http://www.nationalpartnership.org/our-work/resources/workplace/fair-pay/the-paycheck-fairness-act.pdf>

The foundations of the Equal Pay Act of 1963 have intentions of promoting equality amongst genders; however, the act has failed to ensure companies abide by the law. There are numerous theories on why the Equal Pay Act does not reduce the gender pay gap; however, this section focuses on how employers use the ambiguity of the language to find loopholes. Although the act enforces that there cannot be discrimination on the basis of sex, it allows companies to pay men more than women by masking their discrimination by using any other factor as a basis for discrimination.²⁹ When companies act in this manner, it is extremely difficult for women to prove they have been discriminated against.³⁰

Another issue with the Equal Pay Act is the lack of accountability held by the Equal Employment Opportunity Commission (EEOC).³¹ The act is not heavily enforced by the Equal Employment Opportunity Commission, which makes it easier for companies to create a gender gap. Although the Paycheck Fairness Act is said to clarify some of the ambiguities in the Equal Pay Act, the Paycheck Fairness Act has been stalled since 2009.³² Additionally, the Equal Pay Act states that one cannot be paid less than another employee who does equal work based on gender differences. Companies manipulate this terminology in order to “slice and dice so much that it seems like no one is available for you to compare yourself to, so, therefore, you’re never paid *less* because you’re a unique individual, even when you’re doing something very similar to someone else.”³³

Another significant fault within the Equal Pay Act is that there is only retroactive pay for only two years prior to discovery of sex-based discrimination.³⁴ Without punitive damages, companies are going to continue to discriminate. Additionally, some companies prohibit employees from disclosing salaries to other employees, which allows a pay gap to exist without anyone knowing.³⁵ Employees can be terminated for discussing salaries.

C. Women in the workforce bettering each company every day

Women working within companies have proven to produce great benefits. The *Center for Creative Leadership* specifically cited that “having a higher percentage of female talent in an organization predict[s]: more job satisfaction, more organizational dedication, more meaningful work, and less burnout.”³⁶ Women add a sense of creativity and diversity to organizations. Having a diverse workforce allows for new and innovative ideas. Additionally, a study conducted by the *Center for Creative Leadership* uncovered “that having more women in the workplace was also positively related to employee engagement and retention.”³⁷ Women not only benefit the company, but also the community and environment of the company. A study conducted by the Harvard Business Review discovered that “for every 10% increase in women working, we see

²⁹ Morgan Brinlee, *Why Didn't The Equal Pay Act Close The Gender Gap? 50 Years Later, America Still Has a Major Problem*, (Apr. 12, 2016), <https://www.bustle.com/articles/154078-why-didnt-the-equal-pay-act-close-the-gender-pay-gap-50-years-later-america-still>

³⁰ See id.

³¹ See id.

³² Beth Pearsall, *50 Years after the Equal Pay Act, Parity Eludes Us*, (Mar. 18, 2013), <https://www.aaup.org/article/50-years-after-the-equal-pay-act-parity-eludes-us/>

³³ Fatima Goss Graves, *The Surprising Legal Loopholes Preventing Equal Pay for Women*, (Apr. 10, 2018), <https://www.instyle.com/news/surprising-legal-loopholes-preventing-equal-pay-women>

³⁴ Diana Arguello, *Closing Loopholes in the 50 Year Old Equal Pay Act*, (Jun 7, 2013). <https://www.lclaa.org/lclaa-blog/entry/closing-loopholes-in-the-50-year-old-equal-pay-act>

³⁵ See id.

³⁶ *What Women Want – And Why You Want Women – In the Workplace*, <https://www.ccl.org/articles/white-papers/7-reasons-want-women-workplace/> (last visited Feb. 28, 2019)

³⁷ See id.

a 5% increase in wages [for both men and women].”³⁸ The study was not able to find the exact reason for the positive correlation with women working and increased wages; it did, however, predict some of the reasoning. The Harvard Business Review concluded

When fewer women participate in the labor force, the economy operates without the talents and abilities of 51% of the population. If cities want to take advantage of the real wage gains that result from more women in the workforce, they should ask women what they want and find ways to meet their needs.³⁹

Furthermore, women bring specific skills to the workforce. These skills were illustrated by Hult International Business School, where it was concluded that the advantages of women in business include “[a] diverse workforce in an innovative workforce; women excel at the soft skills needed for business leadership; women represent huge economic power and offer important consumer insight.” The Hult International Business School details the benefits of diversity in the workforce: “Challenging each other and collaborating with people who think differently can breed creativity and promote the innovative ideas that push organizations forward.”⁴⁰ Having soft skills are fundamental for effective business leadership. Hult International Business School states that “CEOs consistently cite soft skills as the most desirable professional attributes.”⁴¹ A study done in 2016 concluded that “women outperform men in 11 of 12 key emotional intelligence competencies.”⁴² A study conducted by McKinsey & Company found that gender-

diverse companies are 15% more likely to outperform.⁴³ Women in the workforce strengthen the environment of a company, benefit the overall economy in the United States, and economically improve individual companies. Finally, Linda Scott, professor emeritus of marketing at the University of Oxford states, “Statistically speaking, the relationship between the economic opportunity for women and national competitiveness is direct and positive. Countries that score higher on national competitiveness measures are making fuller use of their resources, and those happen to be countries where women are more fully integrated into the workplace.”⁴⁴

D. Women in the workforce strengthening our youth's ideals and society moral

Women in the workforce have the implicit value of encouraging younger generations of women to strive for larger goals in the workforce. Noorjahan Akbar, “an award-winning human rights advocate who set up the first women’s cyber café in Kabul Afghanistan and founded Free Women Writers, a group of activists working on gender equality issues in Afghanistan stated I have seen in my work in rural areas in Afghanistan that in families where a woman brings money home, she has a bigger bargaining chip and is able to negotiate more rights for herself and her daughters. Mothers who work are also more likely to support the education of their daughters because they have seen firsthand the impact economic self-sufficiency has made in their lives and the lives of those around them.”⁴⁵

Women in the workforce encourage more females to pursue education.⁴⁶ Children idealize their parents; if daughters see their mother as successful, they will attempt to follow in her footsteps.

³⁸ Amanda Weinstein, *When More Women Join the Workforce, Wages Rise – Including for Men*, (Jan. 31, 2018), <https://hbr.org/2018/01/when-more-women-join-the-workforce-wages-rise-including-for-men>

There were two theories used for the basis of this study. The economic theory “suggests that two things could happen: If more women are choosing to work because attitudes about work have changed, then this would increase labor supply and reduce wages as more people compete for jobs. But if women are joining the workforce because there are more job opportunities, then we should wages increase because the shift in labor participation is caused by increased demand.”

³⁹ See id.

⁴⁰ See id.

⁴¹ See id.

⁴² See id.

⁴³ Vivian Hunt, Dennis Layton, and Sara Prince, *Why diversity matters*, (Jan. 2015), <https://www.mckinsey.com/~media/McKinsey/Business%20Functions/Organization/Our%20Insights/Why%20diversity%20matters/Why%20diversity%20matters.ashx>

⁴⁴ *Women in the workforce transform economies*, <https://www.washingtonpost.com/sf/brand-connect/wp/enterprise/women-in-the-workforce-transform-economies/> (last visited Feb. 28, 2019)

⁴⁵ See id.

⁴⁶ See id.

II. PROPOSING AN ANNUAL AUDIT OF GENDER PAY DISPARITY

There are various solutions and theories proposed to solve the gender pay gap. The solution presented within this section incorporates many of the foundations of prior recommendations. One proposed solution is that Congress embed within the Paycheck Fairness Act an annual audit of every company in the United States with fifteen or more employees. The audit would include a workforce profile with each employee's salary and job functions. There would be a specific committee within the government tasked to analyze the audit's report and record the findings in a national database. Finally, the committee would debrief the company with their findings. If it is uncovered that a particular company has a gender pay gap, the company would have until the next year's audit to reduce the gap by at least 50%. If this is not achieved, the company would face punitive damages. Additionally, the record would be public knowledge in order to establish transparency, as suggested by Forbes.⁴⁷ This would encourage companies not to factor in gender when determining salaries, which would ultimately solve the issue of the gender pay gap.

A. Which committee would have the responsibility of the proposed annual audit?

The Education and Labor Committee would be the most reasonable choice. The Education and Labor Committee has many rights they must work to protect. One area specifically is "equal employment opportunity

and civil rights in employment".⁴⁸ In order for an annual audit to be conducted, a committee in Congress must be made. Representatives such as Ayanna Pressley of Massachusetts, Alexandria Ocasio-Cortez of New York, and Sharic Davids of Kansas, all of whom are identified as pro-equality, are Congresswomen who would be interested in the equal pay issue and supportive of an annual audit. Once the annual audit is proposed, it would be assigned to a committee, which would more than likely be the Education and Labor Committee. The proposal would not be asking the Education and Labor Committee to conduct the annual audit; instead, another entity such as the Equal Employment Opportunity Commission (EEOC) would conduct the audit and report the findings to the Education and Labor Committee. This would eliminate concerns regarding the government being solely responsible for the annual audit. The Education and Labor Committee is the best-suggested option for the committee that would monitor the annual audit.

B. The Equal Employment Opportunity Commission's involvement in the annual audit

The Equal Employment Opportunity Commission is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. It is also

⁴⁷ Kim Elseer, *Two Solutions For The Gender Gap That Can Be Implemented Today*, (Nov. 19, 2015) <https://www.forbes.com/sites/kimelsesser/2015/11/19/two-solutions-for-the-gender-pay-gap-that-can-be-implemented-today/#6db69f902d35>

⁴⁸ *Education & Labor Committee*, <https://edlabor.house.gov/about/jurisdiction> (last visited Feb. 28, 2019)

There are many issues in the jurisdiction of the Education and Labor Committee. Included in the education section of the committee are initiatives such as No Child Left Behind and Individuals with Disabilities Education Act, oversight of the U.S. Department of Education, educational research, school lunch, and child nutrition programs, and LIHEP. Furthermore, the committee aims its attention toward pension and retirement, job training, adult education, workforce developing initiatives, wages and hours of labor, and all matters dealing between employers and employees.

illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.⁴⁹

Additionally, the EEOC has the authority to investigate discrimination charges, which is why the jurisdiction of the annual audit would fall under the EEOC's authority. The EEOC would have to hire a team of experts to review the audit from each company. After a careful analysis of the audit, the findings would be reported to the Education and Labor Committee in order to keep the data public. The EEOC would then report their findings to the company. If a pay gap is identified, the company would be officially reprimanded with a first offense warning. In terms of economic feasibility, the EEOC would have to set an individual budget in order to pay the employees in the group responsible for the annual audit. Funding would also be collected from companies that failed to diminish the gender pay disparity.

C. The annual audit has great beneficial anticipated effects.

The annual audit has the potential to eliminate the gender pay gap entirely. Once companies are forced to pay monetary penalties, they will become more aware of the issue. The annual audit would establish norms throughout the workforce, which would influence a change in behavior. The proposed annual audit would continue to advance the development of a movement that began years ago. Initially, the audit would be a shock for most companies; however, eventually companies would adapt and the audit would become a formality. Additionally, the proposed audit would alleviate some of the worries managers have with the pay gap. If the audit discovers a pay gap, the victims of the discrimination would feel inclined to sue to remedy the discrimination. In order to protect companies from lawsuits, the audit would include a stipulation that employees cannot bring class-action lawsuits against companies based on the findings from the annual audit. This is because the annual audit would be a general finding. However, if an individual is able to prove discrimination particularly against her, lawsuits would be accepted. These are some of the anticipated effects of the proposed annual audit.

⁴⁹ *U.S. Equal Employment Opportunity Commission*, <https://www.eeoc.gov/eeoc/> (last visited Feb. 28, 2019)

D. The gender pay gap is not unique to the United States; however, many other countries are well ahead of taking proactive steps to prevent it.

Discrimination on the basis of sex is not exclusive to the United States. Nations around the world have the same dilemma. However, the United States is well behind the curve when it comes to solving gender pay disparity. Countries such as Austria, Belgium, Sweden, Denmark, and Portugal use a pay data report—which is very similar to the proposed annual audit—to monitor companies.⁵⁰ Other countries such as Spain, Denmark, and Belgium use a process called “gender audit.”⁵¹ This audit works in terms of a social audit to uncover the effectiveness of gender equality programs.⁵² Additionally, other countries have implemented consequences if a company fails to address a pay gap.⁵³ This system is very similar to the monetary fine proposed in the annual audit. For example, in Denmark, if a company fails to comply with the gender audit, the company is forced to publicize their pay data.⁵⁴ In addition to salaries, some countries have begun to analyze bonuses.⁵⁵ The United Kingdom has very strong control over the gender pay gap. It requires companies to publicize any differences in salaries and/or bonuses between men and women; if the company does not, it is considered unlawful and

⁵⁰ International Approaches to Closing the Gender Wage Gap (Apr. 4, 2017) <https://www.americanprogress.org/issues/women/reports/2017/04/04/429825/international-approaches-closing-gender-wage-gap/>

This website also discusses various other aspects in terms of gender discrimination in the workplace resolutions used by other countries. Some countries have also prohibiting pay secrecy and employer retaliation. This means that employers are allowed to speak to one another about their salaries without receiving a consequence for doing so. These laws protect employers. Additionally, 2011 was the first time a country required companies to publish pay data, this country was Austria. Countries such as Belgium and Finland also followed.

⁵¹ See Id.

⁵² See Id.

⁵³ See Id.

⁵⁴ See Id.

⁵⁵ See Id.

the company faces consequences.⁵⁶ In 2018, France enacted a similar law and regulation.⁵⁷ Each of these countries has taken proactive steps to reduce gender discrimination in the workforce.

a. What is the European Institute for Gender Equality?

The European Institute for Gender Equality (EIGE) was established by the European Union with the goal of promoting and strengthening gender equality through national and European policies. Their vision statement is “Making equality between women and men a reality for all Europeans and beyond.”⁵⁸ Countries included in this institute are Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, and Greece.

III. COUNTERARGUMENT AND REFUTATION

A. Governments should not interfere with business regulation.

Many Americans believe that the government should not play a large role in regulating businesses. Equality is a fundamental platform of the United States, and the government has allowed businesses to self-regulate thus far. Allowing businesses to self-regulate has failed. In order to address society’s fears of too much political involvement, the annual audit will involve the Equal Employment Opportunity Commission (EEOC). The EEOC would conduct the annual audit; the government would merely record the results. Countries such as the United Kingdom, Denmark, and France, who have implemented governmental control over monitoring pay equity, have demonstrated the benefits of gender equality.

B. Women do not deserve equal pay because women have many external factors contributing to their lives.

⁵⁶ Countries Implement New Gender Pay Gap Measures (Nov. 27, 2018) <https://www.natlawreview.com/article/countries-implement-new-gender-pay-gap-measures>

⁵⁷ See *Id.*

⁵⁸ About EIGE <https://eige.europa.eu/about> (last visited May 5, 2019)

Other common counterarguments are: “women leave the workforce to have children, women choose lower-paying jobs, men work harder than women, women are less educated than men, women are not primary wage earners, equal pay requirements are unjust or anti-capitalist, and the wage gap does not exist.”⁵⁹ Each of those counterarguments rests on opinion with no statistical evidence. There are various studies directly cited in the above sections that indicate that women in the workforce benefit companies, the United States economy, and future generations. A common argument most anti-equal pay supporters will make is that women take time off to have children. This argument is negated by the fact that women have the biological capacity to carry and birth children, which is not a basis for discrimination. The maternity leave argument is used as a scapegoat to avoid addressing the stereotypes that are the foundation of discrimination.

C. Attempting to change societal norms is difficult and most of the time unachievable.

Furthermore, women have historically been paid less than men, and it is difficult to change something that has been normalized. At one point in United States history, Black people were enslaved; this was once a normalized idea that has now been demolished and completely prohibited by law. At another point in the United States history, Chinese people were prevented from entering the country; that also has been demolished. These examples demonstrate that once-held norms can be changed.

IV. BROADER IMPLICATIONS

When we appreciate our differences, we create a stronger social consciousness. A stronger social conscience would include a world of inclusion and acceptance. A stronger social conscience will help eliminate not only the issue of gender inequalities but also discrimination based on age, race, and religion. There are many judgments formed on biological differences; however, with a strong social conscience,

⁵⁹ Sarah Freidmann, *Nine Frustrating Arguments About the Pay Gap, And how to Debunk Each one*, (Apr. 4, 2017), <https://www.bustle.com/p/nine-frustrating-arguments-about-the-pay-gap-how-to-debunk-each-one-48864>

those judgments and stereotypes would no longer exist. The first step to developing a stronger social conscience is adopting laws that encourage acceptance, such as an annual audit to prevent a gender wage gap. By addressing the gender wage difference now, future generations will not see a difference between men and women. We must enforce equality if we want to see change—not only change in gender discrimination, but all discrimination. Equality is not something that will change overnight; it will take time and unity to correct.

V. CONCLUSION

Fifty-six years after the Equal Pay Act, there is still a gender pay gap. Women consistently receive 80% of a man's salary. Equally-qualified women are being paid significantly less due solely to their sex. Equal pay encourages women to join the workforce. When women are employed, those specific companies will see improvements to their finances and work environments. Additionally, women in the workforce improve the economy in the United States. Women in the workforce encourage younger generations to strive for higher levels of education and encourage them to work as well. Congress must enact an annual audit to ensure companies are punished if a gender wage disparity exists within their company. Congress could use the Paycheck Fairness Act as a platform to propose an annual audit conducted by the Equal Employment Opportunity Commission. Each year, a team of experts would audit each company and analyze the findings. The findings would then be reported to the Education and Labor Committee in order to keep an official record. Finally, if a gender pay gap is discovered, a company would have until the next audit to reduce the gap by half or the company would suffer punitive damages. The proposed annual audit would help diminish the gender disparity from a systematic standpoint. Women would be encouraged to join the workforce, inspiring younger generations to do the same. The proposed annual audit for the United States is very similar to laws in other countries also attempting to solve the gender pay gap. These laws implemented in other countries have begun to show improvements in eliminating sex-based discrimination. The proposed annual audit is a precise combination of other countries' approaches and would be a workable solution for addressing the gender pay gap in the United States.

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