

Valuing Families in the 21st Century: Solving the Work-Family Crisis

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This year, as in every recent political season, candidates are showering us with promises of a better future and touting their commitment to family values. Yet when it comes to valuing the work of families, ensuring fair and flexible workplaces, and investing in the care of children and their future, American politicians and our policies fall pitifully short. Just look at where the United States ranks compared to countries around the globe. Worldwide, 178 countries guarantee some leave with pay to women in connection with childbirth.¹ Seventy-four ensure paid paternity leave or the right to paid parental leave for fathers. In contrast, nearly half of new mothers in the United States lack access to *any* form of paid parental leave.² The United States shares the dubious distinction with Papua New Guinea and Swaziland of being one of the only countries on earth not to guarantee paid maternity leave.

61 percent of Jewish organizations offer no paternity leave at all — paid or unpaid.

These statistics are discouraging, and they demonstrate how little we, as a country and as a community, have done to support the real and often invisible work of caregiving. Fortunately, there's a burgeoning movement to push our workplace policies into the 21st century so that they finally catch up to the way people live and work today.

States and cities are leading the way in workplace policy changes:

- **Parental and family leave**

The federal Family and Medical Leave Act (FMLA) of 1993 guarantees up to 12 weeks of unpaid time off to certain eligible workers to care for themselves or a seriously ill family member, or to bond with a new child. But because of carve-outs, and because the leave is unpaid, nearly half of the private workforce cannot take advantage of the law's protections. Nearly a dozen states have extended the FMLA's protections to more people, and two, California and New Jersey, have implemented paid family leave insurance to help workers cover their expenses while caring for their loved ones. New York is poised to follow suit.

- **Sick days**

There is no federal law on sick leave; but Connecticut, the District of Columbia, San Francisco, and Seattle have all passed laws to guarantee a minimal amount of paid time off for workers to deal with sickness and medical care for themselves and their families. Dozens of other states and cities have considered similar legislation.

- **Flexible work arrangements**

While flexible work options — from job-sharing to telecommuting — are still scarce for most people who need them, thirteen states and the District of Columbia have begun to require flexibility in time off for workers to take their family members to doctor appointments and for parents to participate in their children's school activities.

- **Combating caregiver discrimination**

Civil rights legislation is a familiar and useful tool for combating employment discrimination in the United States. New efforts to expand existing laws are in the works that will provide workplace equity for family caregivers and for

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The United States also distinguishes itself as one of only a handful of countries that does not universally guarantee paid sick leave for all workers — including time to care for sick family members. In fact, 163 other countries guarantee a minimum number of paid sick days, with many providing a week or more per year for personal health needs.³ In the United States, where parental leave, sick time, child-care arrangements, and flexible work schedules have been left largely to employers and employees to work out on an individual basis, many workers struggle to care for and provide for their families.

Given the core values of the Jewish community, particularly the emphasis on family, caregiving, and learning, it may come as a surprise that Jewish organizations, as employers, also perform poorly on this issue. A recent survey of more than 200 Jewish organizations found that 65 percent offer no paid maternity leave to their employees.⁴ Of the 35 percent of organizations in the study that do offer paid maternity leave, only 7 percent provide twelve weeks or more, and a full 10 percent of all responding organizations reported providing *no* maternity leave at all, paid or unpaid. Fathers are even worse off:

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¹ Jody Heymann and Alison Earle, *Raising the Global Floor: Dismantling the Myth that We Can't Afford Good Working Conditions for Everyone*, Stanford University Press (2010).

For a global map of maternity benefits, see "How The Zero Weeks Of Paid Maternity Leave In The U.S. Compare Globally" by Amanda Peterson Beadle, thinkprogress.org, May 24, 2012


² Linda Laughlin, "Maternity Leave and Employment Patterns of First-Time Mothers: 1961-2008," U.S. Census Bureau, *Current Population Reports* (Oct. 2011)

³ *Raising the Global Floor*, 107

⁴ Shifra Bronznick, Didi Goldenhar and Rachel Ellison, *Better Work: Better Life: Practices and Policies in Jewish Organizations*, AWP (May 2010), available at advancingwomen.org

pregnant women who need minor workplace adjustments in order to stay healthy and stay on the job.

Too many Americans today face impossible choices between caring for their families and

keeping them financially afloat. This is a persistent and systemic problem with serious consequences for public health, gender equality, education, and our economy. It's time that we all start to focus on the solutions. 



Sex Discrimination in the Workplace: It's Not Over After All These Years

ARIELA MIGDAL


Despite the fact that core civil rights protections against employment discrimination have been in place for decades, and despite the fact that women have entered the workplace in droves, mistreatment of women workers persists.¹ Women still make only 77 cents for every dollar earned by men half a century after Congress enacted the Equal Pay Act in 1963, the first of a series of federal laws designed to ensure that women workers are treated equally. Pregnant workers, new mothers, and women working in traditionally male arenas face particularly acute discrimination.

Women who work in male-dominated sectors like shipping, police work, and baggage handling face different forms of pregnancy discrimination than do office workers. Many white-collar workers can expect to work through pregnancy without requiring any temporary job modifications apart from flexibility to attend doctors' appointments. But jobs in male-dominated sectors — as well as some jobs in traditionally female sectors like home care, nursing, and waitressing — frequently involve lifting, standing for long periods, and the inability to take frequent breaks. Women who work in these types of jobs sometimes require minor, temporary adjustments when they are pregnant. Even though employers routinely grant adjustments of similar scope to non-pregnant workers, such as workers who are injured “on the job,” they often deny those same modifications to pregnant women, forcing them to take unpaid leave or exit the workplace entirely.

Employers' policies toward breastfeeding mothers reflect an assumption that women, once they become mothers, should be home with their children. The American Civil Liberties Union (ACLU) recently settled a case brought on behalf of a teacher in Colorado who was fired after she asserted her right to pump her breast milk on the job. Fortunately, the new health-care reform law — the Patient Protection and Affordable Care Act — contains provisions requiring employers to give hourly employees reasonable unpaid breaks and

to also provide a private place, other than a bathroom, to pump. How women are treated on the job is intricately linked to opportunities for achieving workplace equality.

Even today, many women claim that their employers still make personnel decisions based on gender stereotypes, like the assumption that men are the breadwinners and women work for “extra” money, rather than to support their families. Proving that individual decisions to pay women less than their male co-workers is motivated by discrimination is very difficult. While some women workers are turning to class action suits to challenge company-wide practices, the Supreme Court — in ruling on the claims of thousands of women workers at Wal-Mart around the country last year in the case of *Wal-Mart Stores, Inc. v. Dukes* — made it more difficult for workers to use class actions to challenge systemic discrimination.

Discriminatory decisions — about remuneration and working conditions — are frequently hidden, sometimes even from the women who are the victims of the disparities. This was the case for Lilly Ledbetter, a woman who, for years, did not know that she was being paid less than her male colleagues at Goodyear & Tire Rubber Company. By the time she learned of the discrimination and brought suit, the U.S. Supreme Court ruled that it was too late, despite decades of court decisions to the contrary. While Congress and President Barack Obama took steps toward correcting these injustices when they enacted the Lilly Ledbetter Fair Pay Act of 2009, more work remains to be done. Women's rights activists, including my colleagues at the ACLU, are working to pass a bill called the Paycheck Fairness Act, which would prohibit retaliation against workers who ask about possible wage inequities and give women other tools to help close the persistent gender pay gap. Women won't gain equal footing at work until we, as a society, are ready to call these practices discrimination, and force employers to abandon them. 

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¹ In the mid-1950s, fewer than 40 percent of women ages 24-54 worked in the labor market, whereas by 2000 more than 70 percent did. See “Stretched to Limit, Women Stall March to Work” by Eduardo Porter in *The New York Times*, March 2, 2006. Legislative changes include the Equal Pay Act of 1963, which prohibited wage discrimination; Title VII of the Civil Rights Act of 1964, which prohibited sex discrimination in employment; and the Pregnancy Discrimination Act of 1978, which prohibited discrimination in employment based on pregnancy and related conditions.