

# Gender and Work



# Gender and Work:

## *Exploring Intersectionality, Resistance, and Identity*

Edited by

Miglena Sternadori and Carrie Prentice

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Gender and Work: Exploring Intersectionality, Resistance, and Identity

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# TABLE OF CONTENTS

Introduction .....	1
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## **I. Historical Underpinnings of the Gendered Workplace**

Chapter One.....	8
What's Wrong With Leaning In? Alice Kessler-Harris	

Chapter Two .....	19
Shifting Markets, Shifting Meanings: Repositioning the ERA in Feminist Dialogues Allison Schwartz	

Chapter Three .....	42
Work, Work, Work: Women's Paid, Unpaid, and Literary Labors in a Historicized Reading of Diana Garcia's Labor Poetry Kristina Popiel	

Chapter Four.....	59
The Unique Environment for Women's Work in Institutions for the Feeble-minded, 1876-1916: Prestige, Authority, and Respect Katrina Jirik	

Chapter Five .....	76
Whose "Y" Is It? Defining Meaningful Work in the Competition for Women's Souls, 1865-1907 Thomas James Harlow	

## **II. Case Studies and Social Scientific Approaches**

Chapter Six .....	90
Policies and Practices to Level the Playing Field for Women Faculty: The Case of North Dakota State University Canan Bilen-Green, Karen Froelich, and Charlene Wolf-Hall	

Chapter Seven.....	111
The Unfinished Work of Feminism: An Analysis of Online User-Generated Comments Responding to Public Opinion Polls about Gender Equality Kelly McKay-Semmler and Shane Semmler	
Chapter Eight.....	127
When Your Spouse is Your Co-Worker: Managing the Work-Life Boundaries in Academic Couples Carolyn Prentice, Ilmira Dulyanova, and Laura Pollom	
Chapter Nine.....	145
Explaining the Gender Wage Gap: The Role of Discrimination and the Mining Industry Blessing Ugwuanyi and Chian Jones Ritten	
Chapter Ten .....	167
Taking Time “Off”: Gender and Race as Factors affecting Young Adults’ Attitudes toward Workers Requesting Parental Leave Kayla R. Nalan-Sheffield, S. Jean Caraway, Haley N. Schwenk, Renata J. Surette, and Justin Fang	
<b>III. Gendered Work in Literature and Popular Culture</b>	
Chapter Eleven .....	184
Women’s Work: Motherhood and the Modern Woman in Barbara Kingsolver Kiera Ball	
Chapter Twelve .....	198
The Intersection of L. T. Meade’s Professional and Domestic Victorian Celebrity Jacqueline H. Harris	
Chapter Thirteen.....	211
The Class-Bending Love Affair with the Factory Girl: Rejecting the Western Capitalist Fantasy in Clara Viebig’s “The Cigar Factory Girl” and “Margret’s Pilgrimage” Rebecca Elaine Steele	

Chapter Fourteen .....	228
The Value in Women's Education and Employment in post-Revolutionary America: Hannah Webster Foster's <i>The Coquette</i> and <i>The Boarding School</i> Caroline Martin	
Chapter Fifteen .....	242
Weaving Expectations and Bonds in Women's Work: Teaching Queenship in <i>Brave</i> Sarah Chase Crosby	
Chapter Sixteen .....	254
Women's Production and Reproduction in <i>Downton Abbey</i> : Parallels across Time and Space Lara Carlson	
Contributors.....	268



INTRODUCTION:  
ON MODERN WORKPLACES  
AND OLD-FASHIONED SISTERHOOD

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One needs only glance at a few news magazines to see the resurgence of an old culture war in the West—namely, the question of women’s work outside the home. It is in some ways hard to believe that this issue, debated as far back as the 18<sup>th</sup> and 19<sup>th</sup> centuries, continues to hold our attention in 2016. The foci have clearly changed, considering that few people nowadays emphasize the supposedly deleterious effects of a mother’s work on her offspring or point to women’s alleged emotional instability as an obstacle to career success. Still, the conversation remains stubbornly gendered: Is it possible for a woman to “have it all,” in the sense of combining family and work? How feasible is it to marry, have kids, *and* be a well-paid professional in a position of authority?

There are more than two sides in this culture war, but to simplify things, the debate is frequently cast as a battle between the stances of two empowered women: Sheryl Sandberg, chief operating officer of Facebook, who advised working women to “lean in” (the title of her homonymous book<sup>1</sup>), and Anne Marie Slaughter, who quit her top post in the State Department because of trouble at home and wrote a much-cited essay challenging the notion that women can “have it all.”<sup>2</sup> Both women were attacked and criticized—most often by other women—for what they purportedly meant, sidelining their argument that the modern workplace is not welcoming to women because it reflects an outdated assumption: that

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<sup>1</sup> Sandberg, S. (2013). *Lean in: Women, work, and the will to lead*. Random House.

<sup>2</sup> Slaughter, A. M. (2012, July/August). Why women still can’t have it all. *The Atlantic Monthly*. Retrieved from [www.theatlantic.com](http://www.theatlantic.com).

employees are men with stay-at-home wives or no familial obligations. The “options” most often discussed—“Should women make the sacrifices needed to earn a place in a masculine work culture?” or “Should they quit in protest of the system’s rigged nature?”—ignore the fact that for many women, as well as men, work is not a choice but a matter of financial necessity and a crucial source of personal, creative fulfillment.

Cognizant of this newly re-erupted culture war, the steering committee of The University of South Dakota’s biennial conference on women’s and gender studies picked “Gender and Work” as the theme of the 2015 event. For some of us, this subject was deeply personal. It was a committee member who had experienced a hostile work environment and was set to leave the institution before the conference dates who offered the initial and strongest arguments for this theme. Others soon agreed, pitching in ideas about how to explore all the nuanced meanings of “work” in the context of feminism and gender equality. The call for papers ultimately identified the following six subthemes:

- (1) The work of feminism: What are the main tasks still facing feminism? How do various feminist groups construct their identities through the lens of “work to be done”? How does feminism’s work intersect with the goals of other social movements, such as sustainability and eco-feminism?
- (2) Gendered meanings of work: What is women’s work? What is men’s work? What is a work of art? What is a work of heart?
- (3) Work-related intersections of gender, class, and race: What creative negotiations of gender, race, and class occur in various work environments? How do class and race influence gendered definitions of women’s and men’s work? How are these gendered meanings being resisted or re-defined?
- (4) Gendered pay: How do class and race influence the wage gap? How have these influences changed over time? What other social and cultural factors influence compensation? What is fair compensation for work outside the formal workplace, including childcare, housework, and research work (especially conducted by graduate students)?
- (5) Labor, unionization, and Title IX: How does the unionization of college athletes affect colleges’ Title IX enforcement and compliance? How does Title IX apply to the academic workplace, and does it protect pregnant graduate students and faculty?
- (6) Work and stress: How do gendered work environments affect women’s and men’s health? How do gendered ways of coping with stress affect long-term health outcomes? How does the stress

resulting from gender, race, and class discrimination affect decisions to leave the formal workplace or transition to part-time work? What are the effects of telecommuting on the dynamics of the gendered workplace?

The call for papers was intentionally interdisciplinary and broad, but most of the submissions were discipline-specific and reflective of the general lean-in-versus-lean-out discourse. The conference's keynote speaker, Alice Kessler-Harris—a distinguished professor of American history at Columbia University—offered an engaging exploration of the meaning of “leaning-in,” concluding that women's work success must serve as an impetus for far-ranging and sweeping changes to make workplaces more welcoming. The plenary session featured the efforts of a team of dedicated female academics at North Dakota State University, who emphasized awareness of implicit biases against women and a slew of decisive actions to level the playing field for women faculty. NDSU's gender-equity project, described in the sixth chapter of this collection, was supported by a \$3.8-million grant from the National Science Foundation, with far-reaching implications. Sadly, at the plenary session we saw no administrators, whom we had wistfully imagined listening and contemplating ways to change the culture at our own institution. In spite of the theme's far-reaching implications, the audience was limited; most attendees were feminist scholars from the Upper Plains.

The goal of the present collection is to share some of the most interesting and worthwhile presentations with a wider audience in the U.S. and internationally. The selected manuscripts contain thought-provoking perspectives and findings. Some, concentrated in the first section of the book, add much needed historical context and perspectives. Allison Schwartz's chapter exploring the failure of the ERA campaign as a function of women's economic insecurities and skepticism about law's power to eliminate gender inequalities provides unusually perceptive insights into the discrepancy between highly publicized political battles and the immeasurable subtleties of actual public opinion. Kristina Popiel's historicized reading of Diana Garcia's labor poetry follows the plight of female migrant workers, whose “unfinished lines to tend” represent the brutal reality of waged work and compulsory labor of care for others. Thomas Harlow's chapter on the origins and philosophy of the Young Women's Christian Association offers food for thought and more reasons to feel grateful to any parent who has ever utilized YWCA's affordable childcare and after-school services. And Kate Jirik's chapter about women's surprising leadership in institutions for the care of the feeble-

minded more than a century ago reminds us that women's work successes may have been hindered but also occasionally facilitated by assumptions about their nurturing nature.

The second part of the collection comprises several insightful manuscripts from the fields of communication, economics, and management. For anyone who thought the gender wage gap is mostly reflective of career interruptions for motherhood, Blessing Ugwuanyi and Chian Jones Ritten's paper is an eye-opening read. It offers quantitative evidence that when educational attainment, years of workforce experience, and choice of occupation and industry are taken into account, in states like Texas and North Dakota women should be making *more*—not less—than men. We also learn from the chapter by Carolyn Prentice, Ilmira Dulyanova, and Laura Pollom that working alongside one's academic spouse makes work-life balance more achievable for some, but also comes with a reputational cost, especially for female scholars. The chapter by Kayla Nalan-Sheffield and colleagues offers mostly optimistic findings, suggesting there are few differences in young adults' attitudes toward male and female employees requesting parental leave.

The third section of the collection consists of chapters exploring how female characters in literary and popular texts (including Disney's film *Brave* and the PBS TV series *Downton Abbey*) have created and resolved their own fictional lean-in-versus-lean-out choices, offering both inspiration and caution to female readers. Unsurprisingly, this section reminds us that motherhood and work have long been cast as mutually exclusive; yet, there is nothing inherently unmotherly about women's work or inherently unworkable about motherhood. As Kiera Ball emphasizes in her chapter on Barbara Kingsolver's literary characters, sometimes seeming impossibilities are resolved when women work together instead of competing with one another. Being community-oriented is what is usually expected of women, but it apparently pays to play along. Little wonder that, as Jackie Harris emphasizes in her chapter on writer's L.T. Meade's celebrity, even the most industrious professional may end up stereotyped in the public eye as nothing more than an Angel of the House. Sadly, sometimes the only way a woman manages to "have it all" (read: sexual reproduction and satisfying work) is by carefully managing the public perceptions of her life, as Lara Carson suggests in her close reading of *Downton Abbey*.

It is important to remember, however, as Caroline Martin reminds us in her analysis of Hannah Webster Foster's novels, that women's employment was not always defined as paid work or domestic labor but as any activity (preferably useful but sometimes pleasurable) with which a

woman might choose to occupy her time. Sometimes, women's work is to weave peace in families and kingdoms, wisely effecting change through what seems like gendered labor, as Sara Chase notes in her analysis of Disney's film *Brave*. And sometimes, women's most important work is her own journey—such as freeing herself from sexual repression—as Rebecca Steele suggests in her chapter about Clara Viebig's novels challenging the idealized trope of the poor, chaste working girl, whose main “commodity” is her virtue.

The scholarly interest in women's work and the implicit obstacles they face—often dubbed “glass floor,” “glass ceiling,” and “glass walls”—is not a fad, considering that the next several decades are seen as crucial to eliminating gender inequality. One of the most ambitious (and probably unrealistic) goals on the United Nations' global agenda is to achieve gender equality worldwide by 2030.<sup>3</sup> In the U.S., the Institute for Women's Policy Research predicts that the gender pay gap will close in 2058 for the nation; however, in some states, it may take until the 2100s for women to earn as much as men.<sup>4</sup> In the context of this social change, this collection offers valuable insights into the work-related intersections of gender, class, and race by using a variety of theoretical and methodological approaches. Case studies of the gendered workplace are presented side by side with manuscripts that weave the literary and historical contexts needed to understand contemporary patterns of labor market discrimination and equity. We hope these essays will inspire new research agendas and spark future scholarship that embraces and theorizes social justice for women and men alike.

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<sup>3</sup> Kaufman, E. (2015, September 28). United Nations sets goal to achieve gender equality by 2030. *The New York Times*. Retrieved from [www.nytimes.com](http://www.nytimes.com).

<sup>4</sup> [www.statusofwomendata.org](http://www.statusofwomendata.org).



# **I.**

## **HISTORICAL UNDERPINNINGS OF THE GENDERED WORKPLACE**

## CHAPTER ONE

### WHAT IS WRONG WITH LEANING IN?<sup>1</sup>

ALICE KESSLER-HARRIS

COLUMBIA UNIVERSITY

I have discovered in the last 30 or 40 years that the perspectives through which historians look at history change dramatically—not just from generation to generation, but sometimes from year to year, or from graduate-student generation to graduate-student generation, that is, every six or seven years. My favorite illustration of how perspectives change comes from a story a kindergarten teacher told me. She walked into class one day, and because she wanted to teach the class about the evils of alcohol, she brought a little wiggly worm, a tumbler of water, and a tumbler of pure alcohol. She popped the worm into the water, and it swam around happily, and the six-year-olds sitting around her giggled. Then, she took the worm out of the glass, and popped it into the glass of alcohol, and the worm shriveled, crumbled, and disappeared. She looked at the class, which was staring at her horrified, and to a little boy standing in the back she said, “So what does this mean, Danny?” He looked at her and said, “Well, it means if you drink alcohol, you don’t get no worms!”

Now, that wasn’t quite the lesson that she wanted to teach, but it is a lesson that works nevertheless for what I want to say. I would like to start by describing an event that occurred a few months ago. I went to a conference in New York City, organized by The Baffler, a magazine that covers controversial topics, called “Feminism for What? Equality in the Workplace after *Lean In*.” You all know about *Lean In*—the book that Sheryl Sandberg, the chief operating officer of Facebook, wrote to encourage women to take charge, put themselves forward, and take leadership positions. What I heard at the conference was a debate between and among feminists—those who supported individual strategies for

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<sup>1</sup> Dr. Kessler-Harris delivered this keynote address at the 2015 Women and Gender Studies conference at the University of South Dakota. She retains copyright of this talk, which is printed with permission.

getting ahead, on the one side, and, on the other side, feminists who argued that those strategies were counterproductive, that supporting those strategies was negative. They would, argued the naysayers, encourage some women to get ahead, and that would be fine, but the cost of getting ahead would be to draw attention away from collective strategies that would ameliorate some of the larger problems faced by all women—or many women—in our society. These big issues include things like poverty, unemployment, family disintegration or dysfunction, and rising inequality—the spreading gap between rich and poor.

To my mind, the biggest problem of them all is the loss of dignity that comes with the limits on the democratic voice faced by people who live in poverty, on unemployment insurance, or on transfer payments. These problems, argued one large group in that meeting, required collective solutions—solutions that came from the bottom up, that were encompassing rather than derived from the interests of individual women. These collective solutions are indirectly referenced in *Lean In*, but Sheryl Sandberg sees them as pipe dreams that are never going to happen. She favors encouraging women to make the best of themselves, to go after top positions, and she argues that only when women have power will they be able to change the conditions of the world in which they live. We women, she argues, should have three concerns: how we can climb to the top; how we can balance family and work; and how we can reduce the stress level involved in getting to leadership positions.

Now, that is a very different perception of feminism than the one that many in my generation embraced a few decades ago. I finished graduate school in 1968, and by 1969, I was deeply involved in the women's movement. I am part of the generation that saw and participated in the second wave's efforts to transform the society. Many in my generation started out not by thinking about individual solutions, but by thinking more collectively.

Among the panelists at the conference “Feminism for What?” many would have disagreed with me, with each other, and with Sheryl Sandberg. Linda Hirshman, a lawyer and a journalist, who is the author of *Get to Work* (2007), asked what was really the crucial question, “Well, who could object to leaning in? Who could object to women pushing themselves up to the top?” But then she paused, and said, “What's the harm in leaning-in? What harm does it impose?” She had answers to that question. She argued that leaning-in supported the social stratification of women in that it encouraged those women who wanted to get ahead to lean on and rely on poorer, less privileged, women, whom they needed to hold down to achieve the top positions they wanted. Leaning-in, in other words, would

encourage people to adopt strategies that not only supported themselves but also supported the economic and social causes responsible for undermining the collective well-being of all women or of most women. The very idea of leaning-in derived from the notion that capitalism and the marketplace could and should benefit from competition instead of from cooperation and a sense of the collective good.

There is, of course, some truth in the notion that competition is beneficial. But if so, then perhaps leaning-in is incompatible with feminism; arguably, the pushing forward of an individual undermines collective well-being—which is exactly the opposite of what many in our generation hoped to accomplish. I am, you will notice, here attacking capitalism, but not all of it. I am attacking what you might call the excesses of free-market capitalism, which argues that the only thing that matters is an individual's relationship to the marketplace and, also, that the marketplace will govern what is fair and what is just. That debate reflects a huge division among women. It is a debate that we had in the 1970s and which, to some extent, at least, continues today. It goes to the roots of our sense of ourselves as a nation, and perhaps even further than that. Are we, I want to ask, individuals—each pursuing our own interests, and in the manner of Jeremy Bentham, hoping that in the end, the pursuit of self-interest will enhance the collective good—the good of all of us as a nation? Philosophers call that negative liberty. Isaiah Berlin makes the argument that individuals who are allowed to pursue their own good require simply to be left alone; they want liberty, but they want negative liberty; they want no intervention in what they can do. That reasoning, you will recognize, of course, underlies and sustains the current widespread support for a free market. “Just keep your government hands off my Medicare” is one of its favorite slogans. Just keep your hands off, and the market will take care of everything; everything will take care of itself.

But second-wave feminism had another root as well; that root was vested in a much more shared notion—you might call it a collective notion of what the nation as a whole might accomplish. Isaiah Berlin calls this positive liberty, an active effort to make sure that everybody has sufficient economic resources and economic security to participate effectively in public life. We feminists believed in something that we called sisterhood, the idea of solidarity, the notion that we were in some sense each other's keepers, that our struggle was to be inclusionary, not exclusionary.

We can put this another way. In the 20<sup>th</sup> century, T.H. Marshall, a British social theorist who has become very influential in welfare state theory, argued that the extension of what he called social rights would be necessary to preserve the civil and political rights we had won and

benefited from in the 19<sup>th</sup> and the earlier part of the 20<sup>th</sup> century. These civil and political rights—freedom of speech, of religion, of association, and the right to vote we all take for granted—had extended formal democracy to almost everybody. But, he argued, to activate and make those rights real would require an extension of what he called social rights. There was no way, he thought, that a nation could maintain democracy unless its citizens shared in a modicum of equality. To preserve and extend real democracy, a society had to be prepared to provide citizens with sufficient food, decent housing, jobs as needed, and a good or at least, a reasonable education. In short, society had to provide those things that would enable individuals to function effectively as political and civil citizens. It was no good to offer democratic freedoms without the education and the economic security that would enable people to participate fully in their government and their polity.

Women activists have embraced the idea of social rights for all for more than a century. Female abolitionists, for example, identified the sisterhood of all women in the persona of the mother. They argued that no mother should be enslaved—that in their shared motherhood resided the capacity of all women to identify with each other. During the Progressive Period women like Jane Addams, Lillian Wald, and the founders of the social settlements believed that only reforming municipal politics as a whole could provide the children of immigrants with healthy environments that included clean water, sanitation, and safe playgrounds. Children, they believed, had a right to access kindergartens to give them a good start in life. And educating immigrant women would encourage them to learn American standards of cleanliness and care, to consume healthy foods, and to raise children strong enough to serve their new country. Intuitively, generations of women have understood that protecting the general well-being-- maintaining what Berlin calls positive liberty—would enhance the capacity of individuals to participate as citizens in the polity. Exercising political and civil liberty, in short, required that housing, safety, and health first be protected. Insofar as women, in various movements and combinations, have attempted to provide the resources to promote these social ends, they have done their share to honor a vision of collective progress as the heart of democracy.

During the Great Depression of the 1930s, questions of positive liberty rose to the surface. The economic crisis prompted a pioneering president to ask how, in the face of 25% unemployment rate, family desertion, housing evictions, and bread lines, democracy could be preserved. A rising Communist Party was only one of many forms of radicalism that sought answers to confront the challenges posed to American liberty by the

tearing apart of its social fabric. To respond to the challenge, Franklin Delano Roosevelt proposed what he called a New Deal—a social framework that would provide some of the collective needs of a desperate people and thus shore up the foundation stones of a continuing democracy. It was the genius of New Dealers to argue that paying attention to social needs would require restraining capitalism. For the moment, at least, the idea of negative liberty was abandoned. Corporate leaders were asked to limit their freedom of operations for the collective good, their profits deemed momentarily less important than providing wider employment for the population. Higher corporate taxation, regulated wages, and government-sponsored work programs followed. So did old-age pension, aid to families with dependent children, and unemployment insurance.

It was no accident that when the federal government stepped into the position of providing positive liberty, many of its new programs were designed by women who had come out of the Progressive Period's tradition of collective responsibility. These women included secretary of labor Frances Perkins; Mary Dewson, who had worked in the Massachusetts Minimum Wage Commission; Grace Abbott, the head of the Children's Bureau, who designed the Aid to Families with Dependent Children program; Edith Abbott, a designer of the Social Security Act; and Eleanor Roosevelt herself, who had been a part of the Women's Trade Union League. Out of the New Deal came the notion of maintaining a reasonable standard of living for all.

The idea of an American standard of living survived the presidency of Republican President Dwight D. Eisenhower, and lasted for some 60 years. Eisenhower, as he took office in 1953, committed himself to participating in what has become known as the welfare state. In his decade and into the following years, a consensus arose as to identifying all of America's citizens as brothers and sisters, committed to a shared and prosperous survival. That commitment fueled the rejuvenation of an active civil rights movement. It prompted President Lyndon Baines Johnson to support civil rights legislation in the face of still active racism, and it inspired his war on poverty. To paraphrase Johnson, "You need an even space at the starting gate to have an even competition." Many, especially activists in civil rights and the women's movement believed that the government could and should help to foster equality by providing that even space through programs such as Headstart, job training, more effective and more generous welfare benefits for single mothers, and affirmative action programs.

In spite of this widespread support for the equalization of opportunity, an overwhelming tension remained, and remains, in American society—a

tension between collective responsibility and individual success that many women felt as the women's movement was beginning. On the one hand, a large part of the women's movement emerged in the early 1960s out of a desire to provide women with opportunities they had previously lacked. The 1963 report of John Kennedy's Presidential Commission on the Status of Women said as much. The 1963 Equal Pay Act emerged from the combined efforts of policymakers and female members of Congress. The Equal Employment Opportunity Commission, which started work in 1965, only slowly included policing gender discrimination as part of an agenda that it initially limited to race. When it did so, it acted under pressure from the newly organized National Organization for Women. At the same time, an equally important feminist sensibility insisted on the collective good: a just and fair society for all women, they argued, would involve eliminating poverty, providing better schools for all; altering the patriarchal structure of the family; re-shaping gendered sensibilities.

By the early 1970s, the feminist demand to open up the starting gate—then called liberal feminism—encouraged women to break down barriers to graduate and professional education. In 1968, only 2.5 percent of the nation's physicians and 3.5 percent of the nation's lawyers were female. For the most part, law, architecture, medical and dental schools had been closed to women. As women clamored at the gates, admissions barriers began to fall. Legislative pressure (including the infamous Title IX) pried open the gates of prestigious Ivy-League institutions and professional schools. Women, in numbers, soon began to benefit from the new openings, and to use their newly won education to make strides in the labor market. These gains especially benefited white, middle-class women who were positioned to succeed in the free-market competitive race to which they had, at last, been admitted.

As women increasingly became educated, as their numbers in colleges increased to more than 50 percent of college enrollees throughout the U.S. (they started at about 37-39 percent and were initially channeled into very narrow directions), many of us women eagerly took advantage of liberal feminism. I am one of the people who benefited from this. We moved forward in our chosen fields. And, as we challenged the stereotypes and caricatures that had kept us in limited jobs, some of us moved to the top. In my History Department at Columbia University, there was only one tenured woman as late as the mid-1970s. But by the early 1980s, the number of women in the pipeline began to expand, and women are now about a third of the tenured faculty and full professors.

At every step of our progress, and in every field, we benefited from affirmative action legislation, which forced employers to report the

numbers of women and minorities they hired, and which prevented trade unions and union members (still an important segment of the workforce), from discriminating against women. We benefited as well from Title IX, of the Education Amendments of 1972, which mandated that any university that took advantage of federal funding had to provide equal opportunity for women in sports and other activities. And we were already beginning to fight for equality in pensions, for medical insurance that covered pregnancy and childbirth, and for fair child-support payments for divorced women. As the 1980s and the Reagan years opened, we were positioned to fight for something we could call economic equality—something that would include family medical leaves, comparable pay for comparable worth, and an end to glass ceilings. If we had not yet won, we thought we were on the way to winning.

We were wrong. We were just plain wrong because, by the 1990s, it was clear that whatever our victories were, they were limited to a relatively privileged group of women—those educated well enough to take advantage of the open opportunities and those willing or able to sacrifice family lives for labor-market satisfactions. For most women, the old rules still applied. They were channeled into limited segments of the labor market (teaching, food service, low-level office work, cleaning homes and offices, child care). For these jobs, pay remained low—often minimum wage—and collectively less than 80 percent of the pay of comparable male workers. Single mothers with small children were increasingly expected to contribute to their own support, at wages that could not sustain families and without adequate childcare, public transportation, or housing. In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act abruptly terminated the right of individuals to government help, even in the face of dire necessity. For two decades, the numbers of children in poverty climbed.

For women with children, even judicial decisions preventing discrimination did not guarantee an even playing field. Their futures were constrained by explicit and implicit sanctions against “employees” thought to be unable to commit fully to the workforce. A woman (single or partnered) with children under 18 might find that her wages lagged somewhere between 7 and 10 percent below the wages of a comparable woman with no children. Economists called this a maternal penalty. Fathers, in contrast, benefited from a paternal boost. Their wages tended to fall some 5 percent above those of men without small children. The continuing wage gap illustrated the good and bad results of liberal feminist efforts. In 1968, a fully employed woman might expect to earn 59 cents for every dollar earned by a fully employed man. By 1980, she was

making 73 cents to his dollar, and then 77 cents in 1990. The numbers climbed a little higher—to 79 cents in the year 2000—and then started to fall. We are now back down to 77 cents to the male dollar.

And then, there was the glass ceiling. While occupational segregation—that is, the channeling of men and women into different kinds of jobs—had diminished dramatically over the years, with women entering formerly male enclaves, in the trades, in the financial industry, and in law and medicine, they still had difficulty advancing to the highest slots. They had entered middle management; they were getting jobs in the academic community, in hospitals (even as doctors), in law firms, and in banks. In each field, the data showed that women disproportionately occupied its lowest rungs. They lagged as neurosurgeons, cardiologists, law partners, and chaired professors in prestigious institutions; they remained only marginally represented among chief executive officers and chief financial officers. In the lowest-paid rungs, women still constituted some 95 percent of cleaning personnel, some 97 percent of child care providers, and more than 80 percent of home health aides

By the year 2000, a new set of concerns had entered the fray. Instead of recognizing that women had in some sense won a victory and opening the doors to welcome them, employers, and then women themselves began to raise questions about children. Some opted for the “mommy track” in law firms. This allowed women to work only 40 hours a week instead of the usual 60 or 70, but at the cost of an eventual partnership. Academic women asked to delay the tenure clock for those who gave birth or adopted infants. The price was to demonstrate a more robust vita when the clock chimed a year or two later. Such compromises struck a painful chord among many. People began to talk about the “opt-out” revolution as some of the most affluent decided to withdraw from the labor force to spend time with children. Liberal feminists imported nannies if they could afford it, or paid for expensive childcare. Those solutions were available only to the affluent. Some argued that men should stay at home, but that, too, was a solution available only to high-income earners in a world where a two-income family had become the norm. And, even though by 2010 almost 30 percent of two-income families boasted female breadwinners, who earned more than their male partners, in few of those families could women alone support the unit. A patchwork of unpaid family and medical leave, of employer-provided paid days off for care, of juggling family and child care options, and of part-time work have offered temporary solutions. In the face of this continuing problem, Sheryl Sandberg suggests that women “lean in.” By making the most of themselves, she suggests, by moving up

the ladder, women will not only make progress in the workforce, but they will be able to shape their life circumstances.

The historical evidence suggests the many problems with this kind of thinking. Making a few women better off, opening the doors so that some women who are individually motivated can take advantage of the opportunities before them is, indeed, a very good thing. But we have seen over the past 40 years that it is not enough. It is not enough by a long shot. The larger solutions to the problems of family-work balance, to who is going to take care of the children, and to how women are going to become full democratic citizens of this country lie in shared or collective responsibility. To make that happen, we have to begin to acknowledge the social and political barriers that prevent women from getting to the starting gate. We need, for example, to struggle with the broader question of inequality; we need to work at eliminating poverty; we need to invest in low-cost housing, safe neighborhoods, and an infrastructure of public transportation that will enable poor people to get to work. We need to think about community-controlled, inexpensive child care as well as care for the sick and elderly, and we need to provide good health care for all. We need to think about expanding access to first class education for the poor, and providing job training or retraining programs for the unemployed. We need to work on creating real jobs, and we need to raise the minimum wage to a level on which a family can, at least, survive. In short, we need adequate support systems for not just a few women, but for everyone.

About two years ago, I was a guest at a rather large dinner in Sheryl Sandberg's home—a beautiful, elaborate home, as you can imagine. While we were all having drinks, the nanny brought down Sandberg's two children to greet the guests. They very politely shook all our hands and then the nanny whisked them off. "Oh, yes," I thought. "You can lean in if you have a nanny—if we all had nannies." How, then, do we think about caring for the children? Well, maybe we need to think about it in the way that some European countries have. The French have a system where every child over nine months—not just the child of the poor and not just the child of the working mother—is entitled to a place in a crèche; families pay a little bit if they can afford to, but for the most part, the system is state-supported. Such universal programs create a footing promising some level of equality. We still live in a country where maternity leave is mostly unpaid. That is great if male providers take care of families, but that hardly exists anymore. The number of families with a sole male breadwinners is down to about 6 percent. We need job-related benefits that do not target a

few individual women but apply universally—in other words, universal benefits.

And here I think of another “leaner-in”—Marissa Mayer, the president of Yahoo—who famously turned the office next to hers into a nursery, so she could work next door and nurse her baby. Everybody said, “Isn’t that’s wonderful! That’s how women can do it.” And in the very next breath, literally within a week after that became public, she as the chief executive made the decision to prohibit Yahoo’s employees from working from their homes, which they had been able to do for a certain number of hours a week. She could bring her baby to the office, but they had to leave their babies at home. There is a fundamental question of democracy when some women can work and care for children in very privileged ways and others have no way to find childcare. This struggle is especially true for poor women and only marginally less so for most middle-class women.

There have been efforts to resolve this for a long time. In 1973, a group called Union Wage, originating in California, decided that it—with the mandate for collective responsibility behind it—was going to put forth a platform around which it would organize union women and try to persuade unions to take the lead. What was its platform? Union Wage proposed a minimum wage of \$4 an hour, equal to about \$20 an hour in today’s money. It advocated a guaranteed annual income (initially proposed by President Richard Nixon, passed by Congress in 1972, and then vetoed by Nixon, for complicated reasons). Union Wage also wanted a family assistance program (another of Nixon’s programs, which he then abandoned because he feared that poor people who took advantage of its benefits would alienate the middle classes on whose taxes government depended), and federally legislated, paid maternity leaves that every employer would have to provide. They asked for parental leaves, to benefit new fathers as well as new mothers. They also suggested attaching an inflation escalator to social security benefits—a proposal that was actually enacted and that particularly helped to bring elderly widows, who often lived on half of their deceased husbands’ Social Security, out of poverty. Union Wage’s multiple requests for universal (not means-tested) benefits stemmed from a conception of shared responsibility to children, and a notion that some degree of equality would be essential to a healthy democratic society. Presciently, that ephemeral organization acknowledged that depriving poor and undereducated women, of economic security, puts them and their children at a permanent disadvantage, excluding them from exercising a voice and a role as citizens.

We return then to our earlier question: what harm does leaning-in do? “Leaning-in” I suggest, commits us to a particular competitive imagination. It encourages us to believe that if we individually get ahead, if we push our children or some women forward, we are fulfilling a feminist dream. Leaning-in engages us in a world where the market rules, and where women—if they make it—will succeed by promoting a world of expanding inequality. Such a world inevitably values the self-interest of individuals over the well-being of many. If we all lean in, we will have made the world better for ourselves, but we won’t have made a better world. If that is good, it is not good enough.

I want to hope, as Sheryl Sandberg says, that if women become powerful, they will engage in constructing a more humane world, in which we all want to live. But the historical record belies that hope. Think of Margaret Thatcher, for example, or Marissa Mayer—women who achieved power and did not use it to spread the wealth, to benefit women, and to create a more humane world. How much better would it be if, in addition to leaning in, we also decided that we would participate in a larger program—perhaps environmental feminism, or what we used to call social feminism—that reflected the collective, shared mentality that we inherited from our feminist foremothers. In thinking of these women, I am led to optimism and to the hope that this notion of collective responsibility still exists somewhere at the bottom of our consciences. As male and female feminists who value inclusionary, anti-racist, and gender-encompassing policies we might still hope to create the increasingly humane world that we all seek.

## CHAPTER TWO

# SHIFTING MARKETS, SHIFTING MEANINGS: REPOSITIONING THE ERA IN FEMINIST DIALOGUES

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1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
3. This amendment shall take effect two years after the date of ratification.

—Complete Text of the Equal Rights Amendment

I recently had the opportunity to teach U.S. Women's History for the first time.<sup>1</sup> Several weeks into the course, eager to engage my students in the issues that had captivated me as a college student, we took up a debate about whether the Equal Rights Amendment should have passed in the 1920s. As we reflected on students' positions and the historical implications of the ERA debate, a student spoke up: The ERA never passed? She was not the only one with this question. Others had never heard of the amendment until that day. I have since come to think of her

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<sup>1</sup> I am especially grateful to my co-advisors, Barbara Welke and Elaine Tyler May, for their continued feedback and support. I am thankful for the comments I received from the participants in the Biennial Women and Gender Research Conference, as well as the workshops at the University of Minnesota. I am incredibly grateful to the Wall Street women who allowed me to interview them. Thank you to Martha McDonald, who read drafts and whose perspective I always appreciate.

question as a powerful metaphor for the uneasy position the ERA maintains within historical narratives of women's labor and legal history. My students' uncertainty was not unlike the ERA itself. The competing narratives surrounding the ERA have prevented scholars and students from converting the distinct struggles over the constitutional amendment into a usable past.<sup>2</sup> Rather than reading the ERA as a strong indicator of the shifting relationship among a changing capitalist economy, the labor women performed, and the legislation they supported, the ERA evokes confusion and defeat. My students' confusion reflected the complicated (and, at times, contradictory) responses that battles for legal equality provoke from women themselves.

Instead of focusing on the 19<sup>th</sup> Amendment that day, the ERA exercise seemed useful for showing the often slippery but instrumental role law had in shaping gender equality. Students engaged with the same questions that have haunted debates surrounding the ERA. Some argued the amendment would only protect employers, while others struggled with the implications of casting women, to borrow from the language of the 1908 Brandeis Brief supporting restrictions on the length of women's work shifts, as "wards of the state."<sup>3</sup> Most agreed that the working conditions women faced in factories during the 1920s demanded legislation that protected their wages and their safety. The debate ended with all students reconsidering their original positions. One Continuing Education student in the class lingered.<sup>4</sup> She was rethinking her position from many years ago. "I remember the ERA," she said. At the time, it seemed irrelevant to her. She remembered her friends saying the ERA was not for black women. They said it was for white women. We discussed the ways in which race was eclipsed in ERA struggles beginning in the 1920s, and how that erasure persisted in most narratives of the ERA in the 1970s.

I was struck by how her perspective was squandered because feminists had cast aside the ERA as a loss. Despite wage labor being a necessity for most black women during the 1920s and 1970s, rarely was their or this woman's perspective captured in feminist ERA narratives. Shirley

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<sup>2</sup> Robert G. Moeller uses the term usable past to describe how Germans transformed their past into public memory. The prominence of the ERA in public and historical discourses offers a key site for feminists to create a usable past. See: Robert G. Moeller *War Stories: The Search for a Usable Past in the Federal Republic of Germany* (Berkeley: University of California Press, 2003).

<sup>3</sup> Nancy Woloch, *Muller v. Oregon: A Brief History with Documents* (Bedford Cultural Editions Series) (St. Martin's Press, 1996).

<sup>4</sup> Through the School of Continuing Education, the University of Minnesota offers residents who are 60 years or older the opportunity to audit courses for free.

Chisholm, Pauli Murray, and larger organizations, like the National Black Feminist Organization, are typically cited in scholarship on the ERA.<sup>5</sup> These names and organizations are incited to represent the views of all black women—yet, this woman conveyed a perspective that had been lost because of the assumption of monolithic support. The ERA did not speak to the needs of some black women. Similarly, prominent feminist leaders and organizations—NOW, Betty Friedan, the National Federation of Professional and Business women, women in the welfare movement and, eventually, the AFL-CIO—all used to underscore widespread support for the ERA in the face of conservative opposition. This simplification conceals the nuances of women's views and the ways in which their labor imbued the law with a new meaning. Unlike my class, this essay does not return to the debates surrounding the ERA. Its defeat and polarizing history have shrouded the proposed amendment in uncertainty and blame. By focusing on women's labor rather than their political views, this essay explores how and why the ERA's passage was less certain than feminists once perceived.

The portrayal of the ERA as gaining widespread support has tended to reinforce views of the amendment as a metaphor for an emerging New Right rather than one that highlights the complexities surrounding the regulation of gender equality in the workplace. My essay steers away from debates that hoist blame on feminists or Phyllis Schlafly's followers, to perceive the ERA not as a loss, but as lost. Amidst high unemployment, a fluctuating dollar, a rising cost of living, and declining wages, many women were expected to work to support their families during the 1970s. By using work as a lens, the ERA campaign is recast as critical to not only the narratives of the New Right, but also to those defining an era that made women's wages vital to economic survival. Through analyzing women's labor, their complicated relationships to one another and the legislation become visible. From that perspective, homemakers no longer appear as a static, monolithic symbol of traditional values but rather as economic

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<sup>5</sup> Some works that discuss the relationship between black women and the ERA include: Julie A. Gallagher, *Black Women and Politics in New York City (Women in American History)* (University of Illinois Press, 2014); Serena Mayeri, *Reasoning from Race: Feminism, Law, and the Civil Rights Revolution* (Cambridge: Harvard University Press, 2011); Bettye Collier-Thomas and V.P. Franklin, eds., *Sisters in the Struggle: African-American Women in the Civil Rights & Black Power Movements* (New York: New York University Press, 2001).; and Winifred Breines, *The Trouble Between Us: An Uneasy History of White and Black Women in the Feminist Movement* (New York: Oxford University Press, 2007).

actors responding to a turbulent market that was busily remaking their labor within the home.

This essay takes the law to be a dynamic system that both reflects and constitutes society.<sup>6</sup> Contextualizing women's attitudes toward the ERA within the changing labor market illuminates law's fluid nature and disadvantaged groups' ability to infer power from it. Although gendered assumptions have always shaped America's legal system, the ERA campaign demonstrates the role women played in enacting laws that redefined their social position.<sup>7</sup> When Congress passed the ERA in 1972, ratification seemed like a matter of common sense. By 1982, as women had continued to experience inequality in the workplace, in spite of ostensibly feminist legislation, many no longer saw a change to the Constitution as the best means of guaranteeing equality.

The ERA's status as a "lost law" (and not a loss) can reveal the law's unstable and unpredictable power in shaping and reconfiguring the constraints that limited women within society. Laws that are typically used to delineate women's history are those forced upon women or those that they fought for and won. But women's fight for gender equality was tied to hundreds of forfeited laws; laws that have, in a sense, been lost to

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<sup>6</sup> The idea of law and society as mutually constitutive was one of the operating principles of Critical Legal History as laid out in Robert W. Gordon's now seminal 1984 *Stanford Law Review* article. See, Robert W. Gordon, "Critical Legal Histories," *Stanford Law Review* 57 (1984): 57-125. Recent influential works in legal history that treat law and society as mutually constitutive include, Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton: Princeton University Press, 2011); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2014); and Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York, 2008).

<sup>7</sup> I am drawing from an important group of scholars who make connections between gender and the making of law. Some of these works include: Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and Obligations of Citizenship* (New York: Hill and Wang, 1998); Barbara Young Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (New York: Cambridge University Press, 2010); Felicia Kornbluh, *The Battle for Welfare Rights: Politics and Poverty in Modern America* (Philadelphia: University of Pennsylvania Press, 2007), Alice Kessler-Harris, *In Pursuit of Equity* (New York: Oxford University Press, 2001), and Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998).