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Author(s): Catherine C. Reese and Donna M. Handley

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The Quietest Revolution: State Gender Pay Equity Proposals, 1990-2016

Catherine C. Reese
Arkansas State University

Donna M. Handley
Arkansas State University

What gender pay equity laws have been introduced or passed in the U.S. states in the past quarter century? To what extent does the presence of pay equity law(s) relate to the number of women in legislative positions and the political culture of the state? Is there a relationship between these three factors? The authors examine these questions in regard to gender pay equity laws in the fifty states by briefly reviewing the literature and then researching laws and studies introduced in the states and their respective cultures. Findings indicate that several states evaluated but did not pass any major legislation regarding pay equity laws in the 1990s, while nine states have passed pay equity legislation since the turn of the century. In this exploratory analysis, both the percentage of legislators that is female and the political culture of a state do appear to have some degree of impact on the passage of gender pay equity laws. The authors conclude with recommendations for further causal investigation in the coming years once the laws have been in place and the effects of implementation can be determined.

Introduction

Setting the Stage for Pay Equity

In 1977, approximately 20,000 people attended the National Women's Conference in Houston, Texas, funded by the U.S. government. The nation watched as attendees - including Maya Angelou, Gloria Steinem, Coretta Scott King, Democrats and Republicans, Americans and non-Americans - asked for the ratification of the Equal Rights Amendment, to ban discrimination on the basis of sex, and addressed women's issues including affordable healthcare, sexual and domestic violence, paid family leave and childcare, abortion rights, and equal pay for equal work (Dastagir 2017). Forty years later, in 2017, women emerged again and flooded the streets of Washington, D.C. for the Women's March, asking yet again for many of the same policy issues to be addressed. One would assume that progress has surely been made on these issues over the course of four decades.

On the “equal pay for equal work” policy issue, alarming news is also reported by the Institute for Women’s Policy Research (IWPR), which tracks the gender wage gap over time in a series of fact sheets updated twice annually (IWPR 2016). Their research indicates that “it will take 44 years – or until 2059 – for women to finally reach pay parity. For women of color, the rate of change is even slower: Hispanic women will have to wait until 2233 and Black women will wait until 2124 for equal pay” (IWPR 2018). Over the past five decades, scholars have sought to explain the various factors that impact the gender pay gap, but the conversation and causality discussions must continue. In this study, we review the literature on this topic, and then approach the issues from a state policy standpoint, focusing specifically on the presence of women in state legislatures, as well as the political culture of the states that female legislators represent, in order to further address questions regarding the continued gender pay gap. The authors hope that this investigation can help to determine how the resolution of the gender pay gap can be facilitated sooner rather than later.

Public policy may be defined as something that government either does or does not do (Dye 1972). Both the federal and the state governments communicate a message about their priorities through the passage of laws and budget allocations to fund those laws. After the passage of the Civil Rights Act of 1964 and the Equal Pay Act of 1963, the “United States was a world leader in implementing equal employment opportunity policy as the first economically advanced nation to pass and implement antidiscrimination laws and regulations” (Blau and Kahn 1996 cited in Blau and Kahn 2016, 44). Steps have been taken to incorporate affirmative action policies and other measures to help reduce the differences between how men and women are treated in the workplace. However, since the 1960s and 70s, Americans have seen a number of federal and state initiatives centered on women’s rights and policy issues rise and fall in the political arena.

Just because policies are approved, does not mean that they are enforced appropriately and uniformly. Some states have passed major gender pay equity laws over the past twenty-five years, although many have not. Nearly all states have at least introduced minor gender pay equity laws (proclaiming Equal Pay Days, assigning commissions to review the subject, etc.). Literature suggests that states will be more likely to adopt gender pay equity laws if there are more women in the state legislature (Bratton and Haynie 1999; Reese and Warner 2010), even if only for reasons related to descriptive representation; in essence, “a diverse membership is expected to shape a different issue agenda” (Squire 1992, 70). With the average

legislative membership for women hovering in the high teens for many years, however, it seems entirely possible that the proportion of women in state legislatures may not have yet reached a sufficient critical mass. The Center for American Women and Politics at Rutgers University reports that since 1971, “the number of women serving in state legislatures has more than quintupled,” moving from a total of 344 women serving (4.5%) in 1971 to a total of 1,871 women serving (25.3%) in 2018 (Center for American Women and Politics 2018). However, it is also important to note that since 1993, the Center reported that women broke the 20% representation benchmark for a total of 1,524 total women in the legislature at 20.5%, and in the 25 years since then, the numbers have plateaued and women currently are representing 25.3% of the total legislature in 2018 with a total of 1,871 women serving (Center for American Women and Politics 2018).

Another factor posited to influence whether a specific law is passed is the political culture of the state. The research of Reese and Warner (2012), for example, showed that states with a moralistic (central belief: government is for improving the greater good) political culture are most likely to pass gender pay equity measures, followed by those with a traditionalistic (central belief: the purpose of government is to support the power structures that already exist), and then individualistic political cultures (central belief: government exists to help legislators advance their careers).

We believe that the United States has a better chance of closing in the gender pay gap if there is an increased number of women legislators in office, as well as a political culture that supports and enacts pay equity legislation. In order to assess the current status of this salient topic, the purpose of this research is to (1) review the gender pay equity research to explain its continued relevance in today’s policy arena, (2) research and report the status of Gender Pay Equity (GPE) laws in the United States including assessing state trends in proposal and passage of related legislation and (3) analyze any relationship between the passage of these laws and (a) the gender composition of the legislature and (b) the political culture of the states. Findings of this research are designed to predict the states that have the potential to include the greatest number of female legislators as well as a culture of passing gender pay equity laws, in order to further our knowledge in the impact of public policy and state culture in order to reduce the gender pay inequalities that remain in the United States.

Background: Why Does the Gender Pay Gap Still Exist?

In the United States women earn an average of \$0.78 compared to an average man's \$1.00; this is how gender pay equity is analyzed. Why do women and men earn such different pay, particularly when the U.S. Equal Pay Act was passed over fifty years ago?

A variety of factors may account for the gender pay differential. In the past, different levels of education contributed greatly to the pay gap (Alkadry and Tower 2006; Blau and Kahn 2006; Dinovitzer, Reichman, and Sterling 2009; Kelly 1991). In 2011, the U.S. Government Accountability Office (GAO) confirmed that women are reversing that trend: "women have surpassed men with respect to obtaining high school diplomas and college degrees. Younger women - those from age 25-34 - now complete high school and college at somewhat higher rates than men." In addition, "37 percent of these younger women held a bachelor's degree or higher, compared with 29 percent of younger men" (GAO 2011). As a result, Pew Research analysis of census data confirms the wave of younger women who are "the first in modern history to start their work lives at near parity with men. In 2012, among workers ages 25 to 34, women's hourly earnings were 93 percent those of men" (Pew Research Center 2013). As a result, educational attainment should be a decreasing factor that contributes to the pay gap, especially for young professionals.

Other research indicates that women's choices, primarily their chosen occupation and/or their choice to have children, may be responsible for the inequities in pay. In the past, women have traditionally chosen lower-paying jobs, a factor called "occupational segregation." This means that women have traditionally selected such fields as teaching, nursing and child care, while men have earned considerably higher salaries in fields like mathematics, economics, science and engineering (Blau, Simpson, and Anderson 1998; Dey and Hill 2007; Dinovitzer, Reichman, and Sterling 2009; Lewis and Nice 1994; Willoughby 1991). However, American women's graduation rates in STEM fields have increased substantially over the past thirty years. Increasing attempts to increase women's presence in the STEM fields have focused on the K-12 educational environment (Sassler et al. 2017), and it is paying off. In 1980, women were awarded 37.2% of all bachelor's degrees in the fields of science and engineering; as of 2010, they received 50.3% of all bachelor's degrees in those fields (National Science Foundation 2017; Sassler et al. 2017).

In a related trend, Blau and Kahn (2016) have more recently asserted that while men and women tend to work in different occupations, “they also tend to be employed at different levels of the hierarchy within occupations” (28). In the case of Fortune 500 companies, the law profession, and academia, the number of females in top level positions is very low (Blau and Kahn 2016). It is difficult to explain this lack of female representation at the top, whether it is the “pipeline” argument relating to the time it takes for women to move up to top level positions, or whether it might be the “glass ceiling” argument that relates to discrimination or work-family conflict (Blau and Kahn 2016). There are, however, economists in particular who hold that all of the wage gap is due to women’s occupational choices (see Goldin et al. 2017).

Making a choice between work and family has also been a traditional explanation for the differences in pay between women and men. “Before World War II, most women left the labor market permanently when they got married and had children” (Blau and Kahn 2007, 42). In the years since, women have been intermittently returning to the labor market after their children were in school or grown, but more recently women have been reported as remaining in the workplace “even when they had small children at home” (Blau and Kahn 2007). However, there remains evidence that there is a higher exit level for women; Gayle, Golan and Miller conducted a study in 2012 and attributed the lack of women in executive management positions due to the “greater likelihood of leaving the occupation” (Blau and Kahn 2016; Gayle, Golan, and Miller 2012). Regardless of the reason for leaving their positions, Blau and Kahn (2016) note that the lack of representation at the top can have a tremendous impact on gender wage differences, which explains why we are still talking about this in the 21st century.

Blau and Kahn (2016) have also included the more recent topics of psychological attributes or noncognitive skills as another area of research that may contribute to gender differences in pay outcomes. Additional research is needed to verify the connection between these differences and skills and their impact on male/female pay differences. However, the primary concept relates to the inference that males traditionally have advantages in negotiation skills, along with overcoming risk aversion, while women may have advantages in the arena of interpersonal skills (Blau and Kahn 2016). Goleman (2014) argues that a leader must have emotional intelligence - including the traits of self-awareness, self-regulation, motivation, empathy, and social skills - in addition to intellectual abilities and technical skills in order to truly lead and connect with others. Perhaps

additional research in this area may lead to an enhanced value in interpersonal skills and play a role in the pay equity discussion.

Recent Developments on Pay Equity

Gender pay equity in the twenty-teens has moreover been in the national news and state news, and even on social media, in both positive and negative lights, several times. President Barack Obama stated in his inaugural speech on 21 January 2013 that, “Our journey is not complete until our wives, our mothers and daughters can earn a living equal to their efforts.” On the other side of the coin, Congresswoman Marsha Blackburn (R-TN) commented on “Meet the Press” in May 2013 that women do not want equal pay for equal work, or at least that they do not want related decisions to be made in Washington, D.C. (Benen 2013). Miss Utah, a finalist in the Miss USA pageant in June 2013, notoriously flubbed her answer to a question posed to her about equal pay (Hannon 2013). The U.S. White House developed a policy section on Equal Pay (www.whitehouse.gov/issues/pay), although the page is apparently now down (White House 2015). The Equal Pay Act of 1963 celebrated its golden anniversary in June 2013. In 2016, the U.S. Women’s Soccer Team took a strong international stand against pay inequity (Baxter 2016). On January 21, 2017, worldwide marches involving over 2.5 million people were undertaken to call attention to pay equity and other related issues. Finally, and on the other hand, in 2017 Polish politician Janusz Korwin-Mikke was vilified for contending that women should not be paid equally to men since they are “weaker...smaller...[and] less intelligent” (Taylor 2017). Also, in 2017, the *#metoo* movement began, in which women on Facebook and other social media expressed their solidarity in being people who had been raped or otherwise sexually assaulted (<https://metoomvmt.org/>). Other events such as the debate over gender pay equity in Hollywood have occurred in 2017 as well (<http://www.imdb.com/news/ni61861365>).

Representation of Women in the Legislature

We now shift our research to the representation of women in the legislative branch of government in order to identify the potential impact they could have on the passage of equal pay legislation. As we suspected, women are historically underrepresented in elected positions at all levels of government in the U.S. The Center for American Women and Politics at Rutgers University reports that as of 2018 a total of 1,871 women make up 25.3% of U.S. legislatures (Center for American Women and Politics 2018).

The record-setting number regarding women serving as American Governors took place in 2004, and again in 2007 when a total of 9 women were serving simultaneously in the Governor's office (Center for American Women and Politics 2018). In this respect, the United States keeps company with such countries as Kenya, Paraguay, Madagascar, the United Arab Emirates and Morocco and holds a distinctly average position, worldwide (www.ipu.org 2013). Does it matter in a substantive sense when women are underrepresented in terms of political power? Research suggests that it does.

Specifically, both gender and race of legislators are found to matter in a case study of the influence of African American legislators in Mississippi (Orey et al. 2006). In that case study, African American women and men are found to be more likely to introduce bills favoring social outcomes, relatively more progressive, or more aligned with the goals of the Democratic Party. Further, Stucky, Miller, and Murphy (2008) examine legislative policy preferences on gun control and find that women legislators have distinctly divergent views from the white male control group. Cammisa and Reingold (2004) evaluate the position of women in state legislatures and suggest that it is time to integrate women's studies and state political analyses. In 1993, Berkman and O'Connor (1993) review female legislators' impacts on abortion policy at the state level and find that women are able to affect policy in this area. Osborn's (2012) book focuses on the role of political parties in shaping women's representation in the state legislatures. Overall, research indicates that women have a particular impact on state-level public policy.

The State Political Culture Debate

Political culture is a concept pioneered by Daniel Elazar (1972) that holds that the settlement of various regions of the U.S. by particular groups helps determine their attitudes toward politics. Traditional state settlers, for example, are often Irish-Scottish-English and have an ambivalent attitude toward government and politics; they settled the South. Southern Europeans, who view politics negatively, as a means to an end, and primarily as a way to advance their own careers, settled the Midwest. Finally, Puritans, then Germans and Scandinavians, who have a positive view of politics and believe the main purpose of government is to serve the public good and improve people's lives, first settled moralistic states, primarily in New England and the Upper Midwest.

The concept of political culture has been continually tested over the years for a variety of state-level policy issues. Dincer and Johnston (2017), for

example, found that moralistic states were less corrupt than individualistic and traditionalistic ones, with political culture explaining more than 25% of variation in state-level corruption patterns. Pyeatt and Yanus (2016) analyzed state legislative districts and found that some, in line with the state political culture, were much more women-friendly than others. Fisher (2016) asserted that political culture was a significant determinant of support for Donald Trump in the 2016 Republican primaries, with traditionalistic and individualistic states being more likely to support Trump than moralistic ones. Others have recently explored the effects of political culture on attitudes toward employee rights (Mentzer 2017), religious tolerance (Stewart, Edgell, and Delehanty 2017), and the mortality of African Americans and American Indians (Kunitz, McKee, and Nolte 2010), among other policy issues. Overall, research indicates that political culture can be an important determinant of state-level public policies.

Timeline: Federal and State Laws and Policies

1960s. The timeline begins when President John F. Kennedy signed the Equal Pay Act of 1963, which mandates equal pay for equal – or substantially similar – work. That, and Title VII of the Civil Rights Act of 1964 signed into law by his successor, President Lyndon B. Johnson, which prohibits discrimination on the basis of sex, are the two main national laws pertinent to a discussion of wage equity. They set the stage for the subsequent policy analysis and evaluations that would come in later years.

1970s. The 1970s included legislation that impacted women in regard to housing discrimination, as well as pregnancy discrimination and benefits. The only action taken in regard to women’s rights in regard to pay involved the 1973 case of *Pittsburgh Press v. Pittsburgh Commission on Human Relations*, in which the Supreme Court “banned sex-segregated ‘help wanted’” advertising as a violation of Title VII of the Civil Rights Act of 1964 (National Women’s History Project 2018). In addition, the U.S. Supreme Court handed down the *Roe v. Wade* decision in 1973, protecting a woman’s right to terminate an early pregnancy.

1980s. Moving on to the 1980s, we see a couple of U.S. Supreme Court actions on pay equity. One of the earliest pay equity court decisions involved the state of Oregon in *County of Washington v. Gunther* (1981), in which female prison guards (“matrons”) were paid less to guard female prisoners than male guards (“deputy sheriffs”) were to guard male prisoners. The U.S.

Supreme Court in this case found for the matrons, but also specifically declined to come out in favor of gender pay equity (Billitteri 2008).

In *AFSCME v. the State of Washington* (1985) the state had conducted a massive classification and compensation/job evaluation study that showed that women's jobs in state employment were systematically undervalued by a total of \$800 million; funds were committed to rectify the situation. However, when a new governor was elected, the highly conservative Democrat Dixy Lee Ray, the first female governor of the state, she refused to spend the funds for the workers, who were mostly women, even though the state had a budget surplus. When the AFSCME filed suit on behalf of those workers after an Equal Employment Opportunity Commission (EEOC) complaint failed to progress, the first level of courts found for the workers. However, the 9th U.S. Circuit Court of appeals overturned that ruling in an opinion written by future U.S. Supreme Court Justice Anthony Kennedy (Billitteri 2008). In the end, the state of Washington settled with the employees to avoid additional litigation.

Neither of these cases entirely advocated gender pay equity, and neither did any that came afterward, but these came the closest to addressing the issue of the pay gap.

1990s. During the 1990s, there were a few single-state studies/reports that were issued on gender pay equity. Many were the impetus of laws passed in the 1990s directing the formation of commissions to investigate the subject. For example, the Legislative Commission on the Economic Status of Women issued the report, *Pay Equity: The Minnesota Experience*, in 1994. This report firmly establishes Minnesota as the U.S. state leader in terms of pay equity. The commission notes that the entire cost of achieving pay equity was about 4% of total annual payroll. It identified a class as male-dominated if greater than 80% of its job holders were male, and female-dominated if 70% or more were female. The commission points out that "[t]he average salary for women in Minnesota state government is now [in 1994] 84 percent of the average salary for men in Minnesota state government" (11). The report implies that the state's pay gap has lessened at least in part because of its GPE program.

In addition to Minnesota, Table 1 lists states classified according to the number of bills they introduced on the topic of pay equity or comparable worth (searches were conducted for both terms). Most bills involved the forming of commissions to study the issue. Several involved states passing

their own equal pay acts. However, in many cases, the bills introduced can be characterized as symbolic or commemorative. For example, some bills were urging Congress to do something about the pay issue and one in Utah condemned gender pay inequities at the state and national level. The vast majority of states showed minimal activity; however, nearly all states (all but four) introduced at least one gender pay equity bill. States demonstrating relatively high levels of legislative activity include Michigan, New York, Rhode Island, Hawaii, Massachusetts, and Minnesota; of these, Massachusetts and Minnesota had already passed major gender pay equity laws.

Table 1: Number of Pay Equity Bills Introduced in U.S. State Legislatures in the 1990s

Numerical Range	States
40+	MI, NY
30-39	RI
20-29	HI, MA, MN
10-19	CA, IL, PA
1-9	AL, AK, AZ, AR, CO, CT, DE, FL, GA, ID, IN, IA, KS, KY, LA, ME, MD, MS, MO, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, SD, TN, TX, UT, VT, VA, WA, WV
None	MT, SC, WI, WY

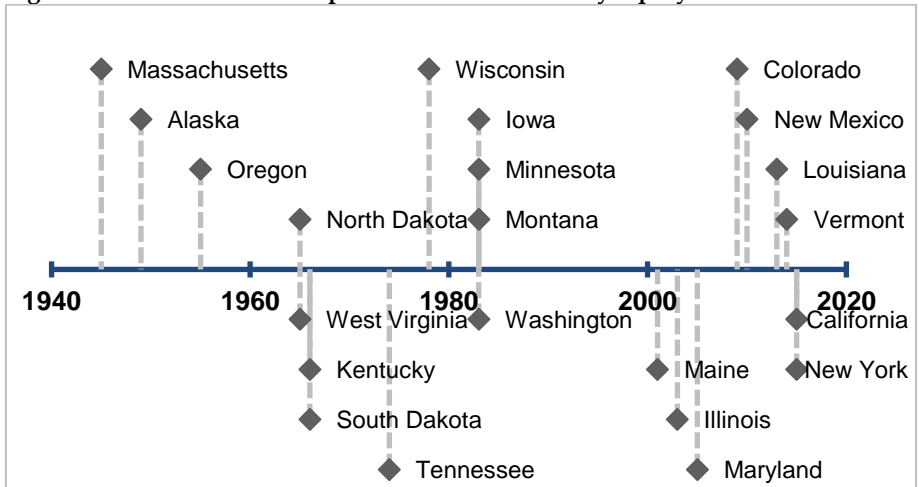
Source: Searches by the author in Lexis/Nexis under the terms “pay equity” and “comparable worth” under State Bill Tracking, by year.

According to the National Council of State Legislatures (NCSL), seven states do not have any form of equal pay laws. Most of the states that do have equal pay laws have provisions that are similar in content to the U.S. Equal Pay Act of 1963; in other words, they only guarantee equal pay for equal work and do not advocate the further step of evaluating GPE. In many cases, however, even these states do extend women’s rights since they most often cover employers smaller than those covered by the federal Civil Rights Act of 1964, which only applies to employers of 15 or more employees.

Some states do not have gender pay equity laws on the books but have made major adjustments to the pay of female-dominated job classes nonetheless. On the other hand, some states that have laws have apparently not used them. Officials in all of the states were emailed, beginning with the Secretaries of State, to try and arrive at a current picture of pay equity practices in the U.S. states; see Figure 1, which shows that no states enacted

major pay equity laws in the 1990s, while nine – Maine, Maryland, Colorado, New Mexico, Vermont, Louisiana, California, New York, and Massachusetts – did so since the turn of this century. In addition, the Governor of Missouri signed an Executive Order in 2015 directing that best practices in pay equity be studied and implemented (Regen 2016); this action is not considered a major GPE law and is similar to what many states authorized in the 1990s.¹

Figure 1: Timeline of the Adoption of State Gender Pay Equity Laws



The 2000s. Overall, the 2000s saw more gender pay equity laws introduced than in the 1990s, with a particularly high activity level in New York, Illinois, Rhode Island, Massachusetts, Michigan, Pennsylvania, Iowa and Tennessee. None of these states with high legislative activity levels are states that passed major pay equity laws; rather, Maine, Maryland, Colorado and Illinois enacted laws via the legislative process in the 2000s.

Table 2 lists states classified again according to the number of bills they introduced on the topic of pay equity. The number of bills introduced in the 2000s is clearly higher than in the 1990s. Most of the 2000s bills involved minor /symbolic items, the most popular being the designation of statewide Equal Pay Days. Very few bills were actually signed into law; as is usually the case, most died in committee. An example of one that was signed into law involved Tennessee creating May 9 as Equal Pay Day. Another in

¹ The report was issued in 2016 and gave best practices for public and private employers. See Women’s Foundation 2018 for more detail.

Arkansas requires new levels of equal employment hiring reporting. In Maine, a law requiring equal pay for equal work was passed, and the first Tuesday in April was designated as Equal Pay Day. Interestingly, very few of the state equal pay days seem to correspond to the national one, perhaps because it is unofficial. The concept of the Equal Pay Day, which nationally is set for a Tuesday in April to concretize the concept that women must work four extra months to make what men made in the previous year, has been around since 1996. Illinois passed its Equal Pay Act in 2003. Overall, much of the equal pay-related legislation passed in the 2000s, as in the 1990s, was merely symbolic.

Table 2: Number of Pay Equity Bills Introduced in U.S. State Legislatures in the 2000s (through 2009)

Numerical Range	States
70+	NY
60-69	--
50-59	IL, RI
40-49	MA, MI, PA
30-39	IA, TN
20-29	CA, MN, NJ
10-19	AL, FL, GA, HI, LA, MS, MO, MT, NC, SC, VT, WV, WI
1-9	AZ, AR, CO, CT, DE, ID, IN, KS, KY, ME, MD, NE, NV, NM, OH, OK, SD, TX, WA, WY
None	AK, NH, ND, OR, UT, VA

Source: Searches by the author in Lexis/Nexis under the terms “pay equity” and “comparable worth” under State Bill Tracking, by year.

Colorado created a Pay Equity Commission, along with the establishment of its Pay Equity Day in 2007. The commission issued a report in 2008, with the overall twin goals of eliminating barriers to addressing pay inequities and establishing the state of Colorado “as an employer, as a model of pay equity” (3). The report discusses pay equity as a poverty reduction strategy and presents it as a way to save tax dollars in the long run.

Hawaii’s Pay Equity Commission report, which was very brief, simply called for the legislature to be more specific about what it wanted the commission to do – the state had said to evaluate the state of women’s pay, but the commission thought that was unclear because it could mean private sector wages or just public sector wages and asked the legislature to clarify the assignment and fund a study (Pay Equity Task Force 2007).

In New Mexico, Burk in a 2008 report analyzed the gender wage gaps in six state departments, and she defined male- and female-dominated job classes much more stringently, with any wage gap greater than 1.5% as being significant and worthy of attention at the public level. Interestingly, she concludes that job segregation in New Mexico does exist, but does not lead at present to any gender pay disparities that affect women negatively. She recommends additional research and reporting.

A federal action to note in this area is a law that served as President Barack Obama's first act in office, signing the Lilly Ledbetter Fair Pay Act. Ledbetter reversed the U.S. Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co.* (2007), which had effectively made it impossible for women to sue for wage discrimination by imposing strict time limits on when an allegation could be made (National Women's Law Center [NWLC] 2013; Billitteri 2008).

The National Conference of State Legislatures (NCSL) began tracking equal pay legislation in 2009 and provides some information on bills that were actually enacted that year. Eight bills became law in 2009, and their topics were as follows: (1) in Alabama, an Equal Pay Commission was created; (2) in Connecticut, penalties for discrimination were enhanced; (3) in Illinois, amendments were made to the state's Equal Pay Act; (4) in Illinois, amendments were made to the state's Human Rights Act; (5) in Maine, employers cannot now prohibit employees from disclosing their own pay; (6) in Maryland, penalties for discrimination were enhanced; (7) in Nevada, an Equal Pay Day was proclaimed; and (8) in Vermont, an Equal Pay Day was also proclaimed.

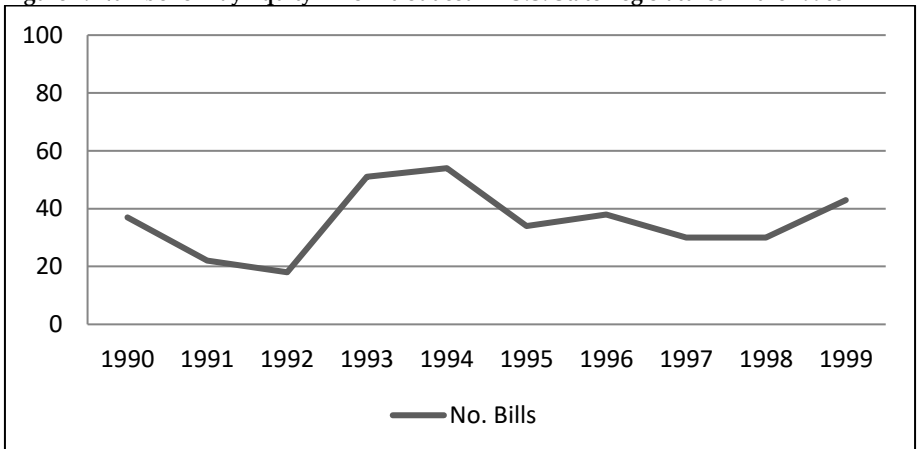
The U.S. House passed the Paycheck Fairness Act (PFA) in 2009, but the U.S. Senate did not pass it and has not passed it to date. The NWLC reports that a 20% wage gap attributable to gender discrimination exists and suggests that a law like the Paycheck Fairness Act would help strengthen the Equal Pay Act of 1963 and eliminate various loopholes presently exploited by businesses. Other bills introduced in recent years include the Fair Pay Act, which would implement pay equity on the national level and the Equal Remedies Act, which would provide financial deterrents to gender discrimination by businesses (NWLC 2013). Giappoini and McEvoy (2006), in their analysis of the proposed Fair Pay Act, introduced by Democrat Tom Harkin of Iowa, argue that such an act is both unlikely to pass Congress because of sociocultural biases and undesirable compared to the option of simply enforcing the laws that are already on the books (e.g., the Equal Pay

Act of 1963). In 2013, the act was blocked by House Republicans, one of whom referred to the idea of the PFA as a “liberal plot” to make the Republican party appear to be anti-woman (Bassett 2013).

The Tennessee Economic Council on Women in 2009 also presented a report on the state’s wage gap primarily aimed at educating the public on the issue, noting both that women in Tennessee earn less than women nationally and that wages also vary substantially within the state by county.

Gender pay equity was supposed to be the civil rights issue of the 1980s (Moore and Abraham 1992; Stewart 1985), and then it was labeled as the hot topic of the 1990s; after that, reports of its demise were said to be greatly exaggerated (Moore and Abraham 1992; Moore and Abraham 1994; Scheibal 1988). Central research questions are: Are the U.S. states paying any attention today to the issue? Are any laws being introduced? Are any laws actually being passed? Evidently there is no analysis of state bills or laws from the early 1990s through 2009. It is important to note that most of the laws we are discussing so far directly affect public sector workers only. As of 2010, the only state that had passed a law requiring pay equity in the private sector was Maine (Richards 2001), although several attempts had been made in Iowa.² Figures 2, 3, and 4 show the number of bills introduced in state legislatures in the 1990s, 2000s, and 2010s (so far), respectively.

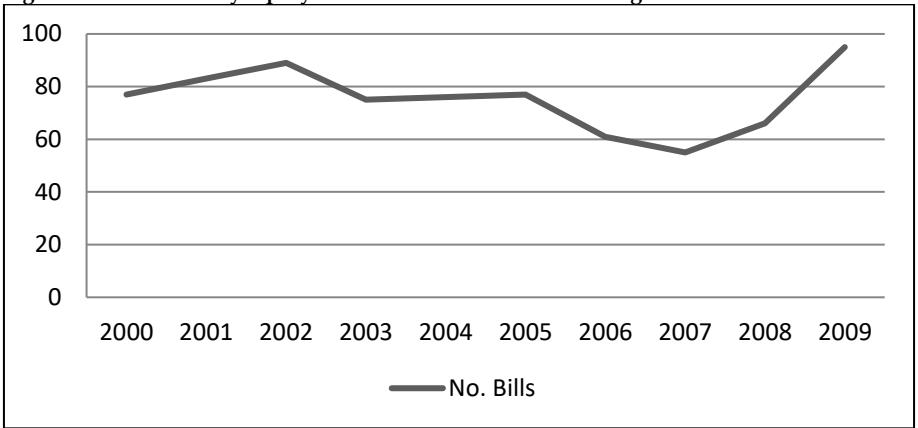
Figure 2: Number of Pay Equity Bills Introduced in U.S. State Legislatures in the 1990s



Source: Searches by the author in Lexis/Nexis under the terms “pay equity” and “comparable worth” under State Bill Tracking, by year.

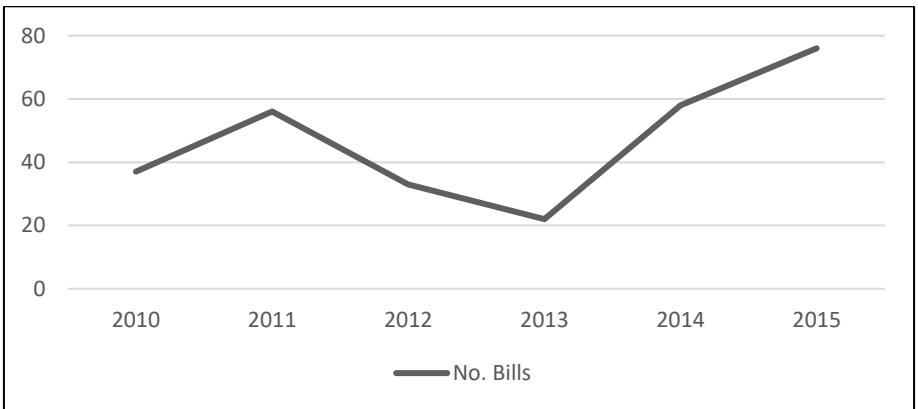
² This is according to an e-mail received from Iowa officials on July 13, 2010.

Figure 3: Number of Pay Equity Bills Introduced in U.S. State Legislatures in the 2000s



Source: Searches by the author in Lexis/Nexis under the terms “pay equity” and “comparable worth” under State Bill Tracking, by year.

Figure 4: Number of Pay Equity Bills Introduced in U.S. State Legislatures in the 2010s



Source: Searches by the author in Lexis/Nexis under the terms “pay equity” and “comparable worth” under State Bill Tracking, by year.

The 2010s so far. The NCSL also tracked legislative activity in 2010, when seven state laws were passed as follows: (1) Colorado, Delaware, Illinois, Michigan and Pennsylvania all proclaimed an Equal Pay Day and (2) New Mexico passed a law mandating fair and equal pay for all New Mexicans, and (3) West Virginia expanded its Equal Pay Commission. Approximately 37 bills on the subject of equal pay were introduced in the states in that year. The clear legislative leader in GPE legislation introduced in 2010 was New Mexico.

In 2011 the NCSL reported that four relevant state laws were passed as follows: (1) Colorado proclaimed April 12 as Equal Pay Day, (2) Hawaii passed a resolution urging Congress to pass a law providing more effective remedies for those facing gender-based pay discrimination, (3) Illinois—in the only substantive legislation of the year—amended its Equal Pay Act to include a civil penalty of up to \$5,000 for violations of the act, and (4) Pennsylvania also designated its Equal Pay Day as April 12. Approximately 56 bills were introduced on the subject in the states in 2011. Most failed, some were pended, and at least one was vetoed. The most activity was in the State of New York, where 10 bills on the subject were introduced and most were pended.

In 2012 activity in the area declined, with a total of only about 33 bills introduced on the subject of pay equity in the states. Of those, five were passed: (1) Colorado proclaimed April 17 as Equal Pay Day, (2) Illinois amended its Equal Pay Act of 2003 by expanding the definition of employer, (3) Michigan adopted April 17 as Pay Equity Day, (4) New Jersey urged Congress to pass the Paycheck Fairness Act, and (5) Rhode Island designated a Pay Equity Day on April 17.

Louisiana and Vermont passed gender pay equity laws during their 2013 legislative sessions. In addition, and in contrast, the governor of Texas, Rick Perry vetoed a bill in June 2013 that would have lent a great amount of support to women's struggle for pay equity by enabling them to take legal action against wage discrimination (Covert 2013). Only 22 gender pay equity bills were introduced in 2013.

In 2014, 58 bills related to gender pay equity were introduced in the state legislatures. Illinois amended its Equal Pay Act, Louisiana amended its Pay for Women Act, and New Hampshire authorized a law that made it illegal to prohibit employees from talking about pay.

In 2015, 76 bills related to gender pay equity were introduced in the state legislatures. Connecticut, New York, Oregon, and Massachusetts all passed laws prohibiting retaliation by employers for employees discussing their pay. Delaware mandated that those contracting with the state must pay equally for equal work. New York introduced an actual comparable worth bill, which did not pass; rather, the state provided for equal pay regardless of sex (Rosenberg 2015). Also, the Governor of Missouri enacted a mild form of gender pay equity via Executive Order in that he recommended that a commission be formed to identify best practices in gender pay equity and

that organizations should do their best to implement said best practices (Regan 2016). This executive order resulted in a report stating that the gender wage gap in Missouri is \$0.22, larger than the national average wage gap (Cho 2017).

However, the really big news of 2015 came from the Golden State. Specifically, California passed the most far-reaching gender pay equity law to date in the U.S. The law provides (1) that equal pay laws do not have to compare men and women in the same job or at the same place, (2) that employers cannot prohibit their employees from discussing pay, (3) that employers must keep pay records for a longer period of time to help ensure pay transparency, and (4) that complaints invoking the new law could be enforced via the California Division of Labor Standards Enforcement (McGreevy and Megerian 2015).

In 2016 Massachusetts passed a new gender pay equity law that (1) promotes salary transparency, (2) forbids companies from prohibiting discussion of wages, (3) forbids potential employers from asking about salary history, and (4) provides legal incentives to organizations to conduct salary or “classification and compensation” reviews (Leung 2016). Seen as a tremendous effort by legislators to come together across the aisle, the law is seen as a way to secure economic security for Massachusetts women and families, and promote more “equal, inclusive, and thriving workplaces” (Governor’s Press Office 2016). State Treasurer Deb Goldberg noted that “When women are paid what they are worth, families are stronger, our state is stronger, and our economy thrives” (Governor’s Press Office, 2016).

Overall, 282 gender pay equity bills were introduced from 2010-2016. The directives included in many of the bills indicate more specific actions taken beyond just the symbolism of previous decades. At this point, it remains to be seen whether other states will follow the lead of California in favor of more substantive gender pay equity bills. Table 3 shows a breakdown of the types of laws passed thus far in the 2010s.³

Analysis

Two state characteristics are suggested by the literature to be associated with whether GPE laws are passed: (1) the percentage of the state legislature

³ Thus, around 9.2% of bills introduced in this area were actually passed in the 2010s.

Table 3: Number of States Passing Different Types of Gender Pay Equity Laws Thus Far in the 2010s (2000-2015)

Year	Creation of Equal Pay Day	Amendment of Fair Pay Law	Recommendation to Congress	Forbid Retaliation for Discussing Pay	Major Gender Pay Equity Law	Misc.
2010	5	1				1
2011	2	1	1			
2012	3	1	1			
2013					2	
2014		1		1		
2015				4	1	1
Total	10	4	2	5	3	2

Source: Derived from National Council of State Legislatures data, 2010-2015.

that is female (see Bratton and Haynie 1999; Orey et al. 2006) and (2) the political culture of the state (see Elazar 1972; Mead 2004; Reese and Warner 2012). In 1990, the average percentage of females in the state legislatures was 17.6%, with a range of 2.1% in Louisiana to 33.3% in Vermont. In contrast, by 2016 the average was 24.4%, with a range of 13.3% in Wyoming to 42% in Colorado. Thus, the overall percentage of female legislators has increased over time, albeit gradually, as Figure 5 shows. Figure 6 shows the states by whether they had GPE laws in 1990, and Figure 7 in 2014.

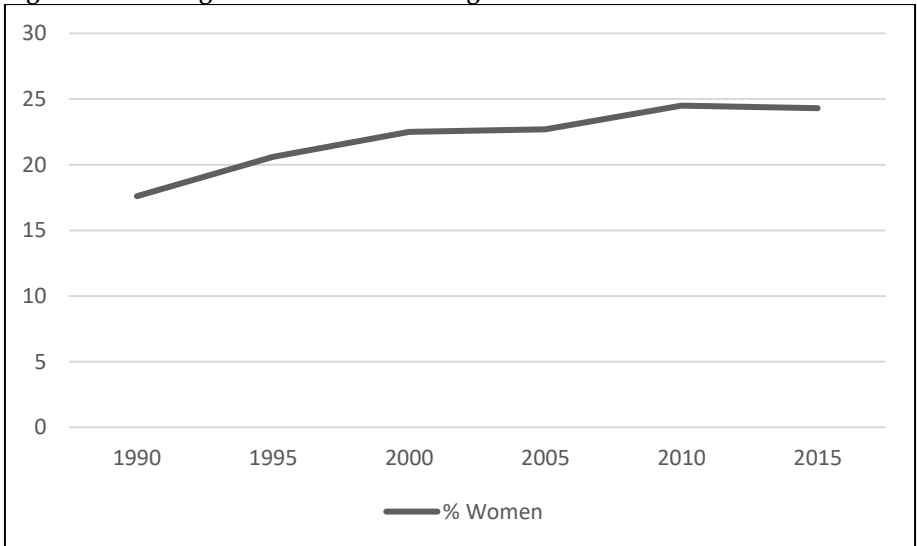
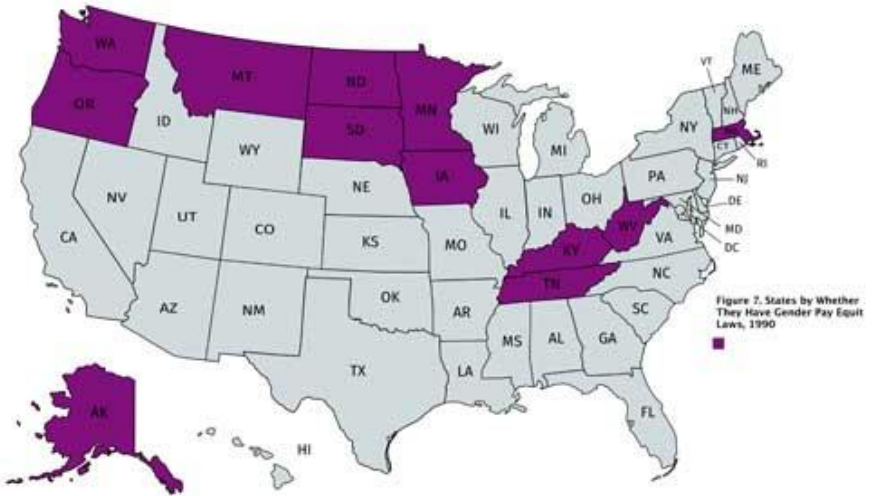
Figure 5: Percentage of Women in State Legislatures over Time

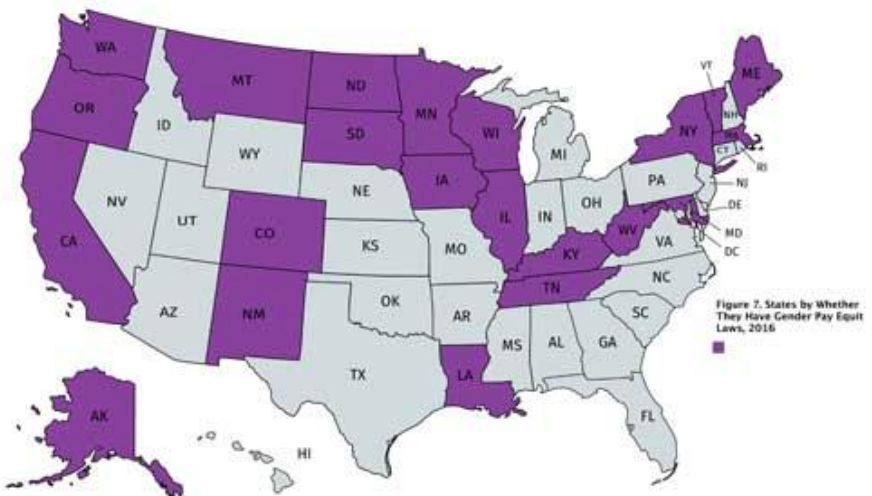
Figure 6: States by Whether They Have Gender Pay Equity Laws, as of 1990



Created with mapbox.com ©

Note: Dark color means a law is in effect; it does not mean that the state has used the law.

Figure 7: States by Whether They Have Gender Pay Equity Laws, as of 2016



Created with mapbox.com ©

Note: Dark color means a law is in effect; it does not mean that the state has used the law.

The idea that having women in the legislature makes a substantive difference in the types of laws passed has been established (see Reese and Warner 2012). However, is the proportion of female legislators in a state legislature related to whether a state passes a GPE law? Table 4 shows the results of the following hypothesis:

Hypothesis 1: There is no difference between the percentage of women in the legislature of states with and without pay equity laws.

The states are divided into two groups, those states that have passed GPE laws and those that have not. Then t-tests are used to discover the statistical probability that the means vary significantly for the two groups. Although the relationships are in the expected direction, the null hypothesis cannot be rejected in either 1990 or 2012, as the results of the t-tests are not statistically significant. In other words, the percentage of women in the legislature did not appear at those points in time to be related to whether a GPE law has been passed.

However, once the current data are analyzed for 2016, the t-test reveals that the null hypotheses can be rejected. Thus, the relationship between the proportion of women in the state legislatures and whether a state had passed a GPE law now appears to be both positive and statistically significant. We posit that this is because, “the policy impact of women legislators is mediated by legislative institutions and women’s positions within them” (Poggione 2004, 313); thus, women require a critical mass not only to get bills passed, but even to get them on the floor (also see Swers 2002 for similar findings at the national level).

Table 4: Major Pay Equity Laws by Percentage of Women in Legislature

Year	PE Law	Number	SD	t-score	Probability Range	Statistical Sig
1990	No	37	16.7	8.2	-.06 - 0.58	No
	Yes	13	18.0	6.0		
2012	No	33	23.1	6.9	-1.1 - 0.28	No
	Yes	17	25.3	6.5		
2016	No	27	22.5	6.0	-7.4 - -0.9	0.05
	Yes	23	26.7	7.6		

Hypothesis 2: There is no relationship between the dominant political culture that characterizes a state and whether a state has or has not passed a GPE law.

Table 5 shows the results of the testing of the second hypothesis. Specifically, moralistic states appear to be more likely than either

individualistic states or traditionalistic states to pass GPE laws, which fit with the basic definition of the moralistic political culture. Traditionalistic states are the next most likely, followed by individualistic. In the 1990s, no individualistic states had passed GPE laws; by 2016, four had. There does appear to be a correlation between political culture and the passage – or not – of GPE laws. This goes along with the finding of Mead (2004), who suggests that moralistic states or those primarily in New England, are the best performers as regards the particular public policy area of welfare reform.

Table 5: Major Pay Equity Laws by Dominant Political Culture

Year	PE Law	Individual	Traditional	Moralistic	Total
1990	No	10	15	12	37
	Yes	0	4	9	13
2014	No	9	13	9	31
	Yes	1	6	12	19
2016	No	7	13	8	27
	Yes	3	6	13	23

Note: Per the research of Reese & Warner (2012), an ANOVA showed that the differences in means among the three basic political cultures are all statistically significant at the .003 level.

Discussion

The states that have GPE laws on the books but apparently do not use them include Alaska, Montana, North Dakota, South Dakota, Wisconsin, Colorado, Kentucky, Louisiana, Tennessee, West Virginia and Maine. The citizens of some of these states are probably unaware that they have these laws in place. In some cases, this may be because the laws were passed so long ago; in Alaska, for instance, the law was passed in 1949. Public awareness campaigns could help remedy this situation and perhaps get people in these states interested in using the laws that were passed for them.

This research shows that moralistic states are the most likely to pass GPE laws, followed by the traditionalistic ones; however, it must be noted that none of the traditionalistic (Southern) states with gender pay equity laws on the books have used them yet. Political culture remains a potent predictor of public policy.

This research also shows that states with more women legislators are more likely to pass gender pay equity laws. Of the states passing GPE since the turn of this century, all have higher percentages of women in their legislatures than the average in 2016 of 24.4% except for Louisiana (15.3%,

one of the lowest in the nation).⁴ The percentage of women in the legislatures matters more now than it did in the past, at least in most states. Statistically speaking, women in state-level elected office matter now, for the first time in U.S. history.

There is evidence from the vast policy diffusion literature going back to Walker in 1969, which suggests that policies are likely to spread from state-to-state if the adopting states are relatively professionalized and the policies are relatively successful in solving whatever issue they sought to influence (Shipan and Volden 2012, Shipan and Volden 2014). As only 8 U.S. states have actually implemented a pay-related increase based on underpayment by gender thus far, it may well be that there are not enough states to copy yet.

On the other hand, the passage of President Obama's Lilly Ledbetter Fair Pay Act in 2009 seems to have inspired several states – including New Hampshire, Connecticut, New York, Oregon, and Massachusetts – to pass laws prohibiting organizations from insisting on pay secrecy. And prior to that, the passage of the federal Equal Pay Day in 1996 seems to have inspired Alabama, Nevada, Vermont, Colorado, Delaware, Illinois, Michigan, Pennsylvania, and Rhode Island to pass laws proclaiming their own Equal Pay Days. Thus, there is a degree of minor or ineffectual policy diffusion, but the major laws that actually make a difference in pay appear to be diffusing at a remarkably glacial pace. Some of the events of the 2010s, particularly the March on Washington, which happened in part to draw attention to GPE issues, may make a difference, as well as the recent passage of a comprehensive GPE law by one state, California.

Major objectives of this project were to (1) research and report the status of GPE laws in the United States including assessing state trends in proposal and passage of related legislation and (2) analyze any relationship between the passage of these laws and (a) the gender composition of the legislature and (b) the political culture of the states.

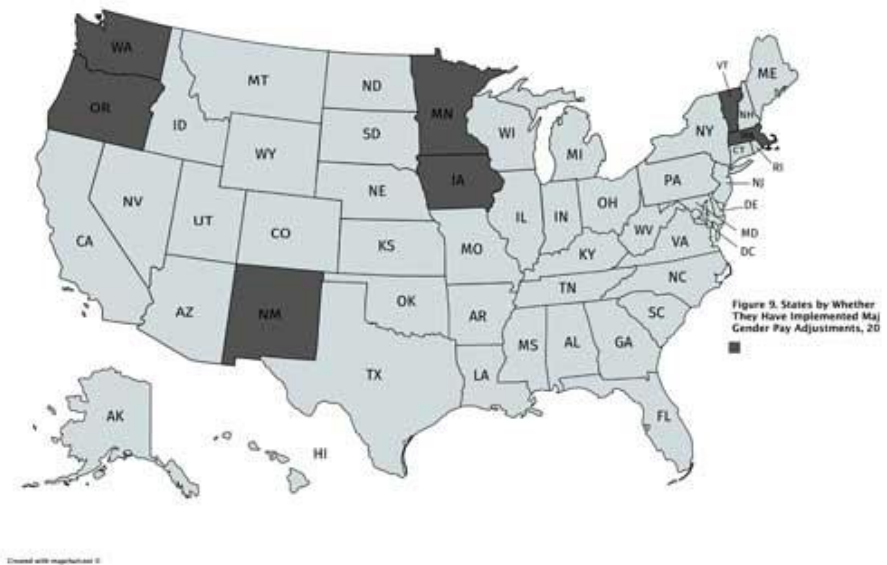
The overall trend since 1990 is upward for the passage of GPE legislation. More laws have been both introduced and passed in the states since 2000, including the passage of major GPE laws in nine states. The total

⁴ Thus, it is possible that the relationship in this study that shows the relationship between the percentage of women in the legislature and the passage of early GPE laws to be statistically insignificant could be due to the passage of around half of the extant GPE laws prior to 1990.

number of states that have gender pay equity laws in place is now twenty-two.

However, all states that have the laws in place to enforce pay equity have not used them, as Figure 8 indicates. Figure 8 shows that the number of states that have actually used their laws to implement adjustments to the pay of their employees is still only eight, as reported by Reese and Warner in 2012. More specifically, these eight are the only ones that have implemented gender-related pay increases of an amount of 2% or greater of total payroll, which has been defined in the past as a cut-off point for the significance of financial commitment (see Killingsworth 2002; Reese and Warner 2012).⁵

Figure 8: U.S. States that Have Made Major Gender Pay Equity Adjustments, as of 2016



Major is defined as 2% or greater of total public payroll.

Again, the laws that affect GPE to date are primarily aimed at public sector employees. Research has already established that gender pay equity – or lack thereof – is a much worse issue in the private sector (see Llorens et al.

⁵ Other states have implemented smaller gender pay adjustments: California did a 1% adjustment; Hawaii did a 0.1% adjustment; Illinois 0.7%; Michigan 1%; New Jersey 0.4%; New York 1%; and Pennsylvania 0.3%.

2008; Reese and Warner 2012), as well as much worse for women of color (see Reese 2019, “Women of Color”). In fact, the best evidence that the public sector does a clearly superior job treating employees fairly may lie in the GPE ratio for Washington D.C., which is around 93% for administrative positions.⁶ The gender pay gap for all U.S. positions is thus around 22%, for U.S. public sector positions around 15% [although the gap varies immensely by state] (Reese and Warner 2012), and for federal employees only 7% (MSPB 2011).

Conclusions

This research has been exploratory and aimed at filling a gap with respect to the fact that gender pay equity laws have not been previously reported or analyzed post 1990. The evidence suggests that GPE is an issue with increasing salience. Around one-half of states presently have GPE laws, and around one-third of those have used them. Most activity at the state level is recent and seldom reported. Are we in the midst of the quietest revolution ever?

Public Policy Suggestions

If public policy is what government either does or does not do, and if we assume a goal of treating people fairly, then the time is ripe for legislative action on gender pay equity, given the overwhelming recent attention to the issue. The U.S. has not been a leader in this area since the 1960s (see Reese 2018, iBook) and its gender pay gap is average, but there have been several studies indicating that the adoption of gender pay equity in this country would provide an economic boost, both in this nation and worldwide (see Bassett 2012; OECD 2012; www.closethegap.org 2013). Passage of the Paycheck Fairness Act by the U.S. Congress would help in this endeavor.

Gender pay equity has always been an important topic and is now becoming a hot topic that is becoming more than just a symbol of fairness and women’s rights. To date, the only relief for women and their families has come from the states, and relatively few of them. It is up to U.S. citizens to demand the enforcement of extant laws, to campaign for laws in the states without them, to elect more women to legislative office, and to keep pressure on Washington to pass and enforce the Paycheck Fairness Act, if they should wish the gender-related pay gap to shrink to a negligible size.

⁶ Figure derived from MSPB 2011 data.

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