

Reworking Women’s Work: Legal and Policy Solutions for Alleviating Poverty Among Working Women

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ABSTRACT

Women, especially women of color, are more likely to live in poverty, work low-wage jobs, and are less likely to exit poverty through work. This Note explores the question of why working women are stuck in poverty and proposes work-related solutions to remedy poverty among women. First, this Note proposes three possible factors that contribute to poverty among working women: poor job quality, lack of education and job training, and lack of support for women’s family responsibilities. Three facets of poor job quality stand out as particularly harmful to women: occupational segregation, low wages, and discrimination. These three facets are further explored in a case study of the restaurant industry, a field dominated by women, many of whom live in poverty. Second, this Note proposes policy solutions to remedy working women’s poor job quality, increase educational opportunities and job training for women, and provide support for women’s family responsibilities. Federal, state, and local policy and legislation can be used to advance pro-worker and pro-women agendas. National and grass-roots organizing can also benefit working women to rally support for policy. The restaurant case study is revisited by proposing specific solutions tailored to women working in the industry. Women have always worked and will continue to work, and they deserve quality jobs that do not relegate them to a life in poverty.

I. INTRODUCTION	640
II. PROBLEMS THAT KEEP WORKING WOMEN IN POVERTY	643
A. Poor Job Quality Disadvantages Working Women.	643
1. Occupational Segregation	644

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2. Wages	645
3. Discrimination	647
4. Case Study: The Restaurant Industry	648
<i>B. Lack of Access to Education and Job Training Keeps Working Women from Higher-Paying Job</i>	650
<i>C. Lack of Support for Childcare and Family Responsibilities Limit Women's Job Opportunities</i>	651
III. SOLUTIONS TO HELP ALLEVIATE POVERTY AMONG WORKING WOMEN	653
<i>A. Improving Job Quality Ensures Working Women Do Not Face Additional Obstacles in the Workplace</i>	654
<i>B. Increasing Access to Education and Job Training Expands Working Women's Job Opportunities</i>	658
<i>C. Providing Support for Childcare and Family Responsibilities Ensures Working Women Can Participate in the Workforce</i>	659
1. Childcare	659
2. Family and Medical Leave	660
IV. CONCLUSION	662

I. INTRODUCTION

In the 1970s and 1980s, the “Welfare Queen” became the paradigmatic example of welfare use and abuse in America, prompting a call from politicians and citizens for welfare reform.¹ The Welfare Queen was a stand-in for Black women who were perceived as too lazy to work and who instead relied on public benefits to get by. Although the idea of the Welfare Queen has since been debunked,² the belief that women, particularly Black women, abuse the welfare system instead of getting jobs persists.³ Partly in response to this mistaken belief, the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) imposed work requirements in order to receive welfare benefits to encourage recipients to

1. Bryce Covert, *The Myth of the Welfare Queen*, NEW REPUBLIC (July 2, 2019), <https://newrepublic.com/article/154404/myth-welfare-queen>.

2. *Id.* See also Kathryn J. Edin, *The Myths of Dependence and Self-Sufficiency: Women, Welfare, and Low-Wage Work*, 17 FOCUS 1, 2–3 (1995) (finding that welfare use does not equate to dependency because the benefits are so low that recipients must supplement their welfare income with other income and that “many unskilled or semiskilled single mothers use welfare as one part of a broader strategy to improve” their situations).

3. President Trump’s 2018 Budget Message stated that “[w]e must reform our welfare system so that it does not discourage able-bodied adults from working.” OFF. OF MGMT. & BUDGET, BUDGET OF THE U.S. GOV’T: A NEW FOUNDATION FOR AMERICAN GREATNESS 2 (2018), <https://www.govinfo.gov/content/pkg/BUDGET-2018-BUD/pdf/BUDGET-2018-BUD.pdf>; Scott W. Stern, *COVID-19 and the Revival of the “Welfare Queen” Myth*, BOSTON REV. (Apr. 17, 2020), <https://www.bostonreview.net/articles/scott-w-stern-covid-19-and-welfare-queens/> (connecting the legacy of the welfare queen to conservatives’ opposition to public assistance during the COVID-19 pandemic).

transition off of welfare and into work.⁴ The 1996 welfare reform was ultimately a failure, with poverty increasing among working families, particularly families headed by single mothers.⁵ Working mothers who were no longer receiving benefits had difficulty finding employment that paid enough to lift them out of poverty.⁶ In the late 20th Century, a trend known as the “feminization of poverty” was identified, reflecting how women—particularly women who lived in “female headed” or “women-maintained” households—were more likely to live in poverty than men.⁷

Women are overrepresented in low-wage jobs. In 2018, women represented 47% of the workforce but made up 64% of the low-paid workforce.⁸ The “low-paid workforce” is defined as the 40 lowest-paying jobs.⁹ In 2018, 56% of individuals living in poverty in the United States were women, despite women making up only 50.9% of the total US population.¹⁰ In addition, in 2018, 12.9% of women lived in poverty compared to 10.6% of men.¹¹ Women of color are also disproportionately overrepresented among women living in poverty: Black women make up 12.8% of all women but represent 22.3% of the women in poverty, and Latinas make up 18.1% of all women but represent 27.1% of women living in poverty.¹² “Living in poverty” means making a yearly income at or below the Federal Poverty Line. In 2022, for a one-person household, the poverty line is \$13,950; for a four-person household, the poverty line is \$27,750.¹³ The Government Accountability Office found that “about 20 percent of families with a worker earning up to the federal minimum wage (currently \$7.25 per hour), 13 percent of families with a worker earning above federal minimum wage to \$12.00 per hour,

4. *The Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, U.S. DEP'T OF HEALTH & HUM. SERVS., OFF. OF THE ASSISTANT SEC'Y FOR PLAN. & EVALUATION (Aug. 31, 1996), <https://aspe.hhs.gov/reports/personal-responsibility-work-opportunity-reconciliation-act-1996#:~:text=The%20new%20law%20includes%20the,%244%20billion%20over%2010%20years.>

5. Heather Boushey, *The Effects of the Personal Responsibility and Work Opportunity Reconciliation Act on Working Families*, ECON. POL'Y INST. (Mar. 4, 2002), https://www.epi.org/publication/webfeatures_viewpoints_tanf_testimony/.

6. *Id.*

7. Audrey Rowe, *The Feminization of Poverty: An Issue for the 90's*, 4 YALE L.J. & FEMINISM 73, 73 (1991).

8. JASMINE TUCKER & JULIE VOGTMAN, NAT'L WOMEN'S L. CTR., WHEN HARD WORK IS NOT ENOUGH: WOMEN IN LOW-PAID JOBS 1 n.1 (2020), <https://nwlc.org/resource/when-hard-work-is-not-enough-women-in-low-paid-jobs/>.

9. *Id.*

10. ROBIN BLEIWEIS ET AL., CTR. FOR AM. PROGRESS, THE BASIC FACTS ABOUT WOMEN IN POVERTY 1, 2 (2020), <https://www.americanprogress.org/article/basic-facts-women-poverty/>. Author's calculation of women's percent of US population based on the 2019 Current Population Survey, Annual Social and Economic Supplement. See *Current Population Survey, Annual Social and Economic Supplement (2019)*, U.S. CENSUS BUREAU, https://data.census.gov/mdat/#/search?ds=CPSASEC2019&cv=A_SEX&wt=MARSUPWT.

11. BLEIWEIS ET AL., *supra* note 10, at 2.

12. *Id.* at 3.

13. *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs*, U.S. DEP'T OF HEALTH & HUM. SERVS., OFF. OF THE ASSISTANT SEC'Y FOR PLAN. & EVALUATION (Jan. 12, 2022), <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines.>

and 5 percent of families with a worker earning \$12.01 to \$16 per hour [lived] in poverty” in the years reviewed (1995, 2000, 2005, 2010, 2015, and 2016).¹⁴

Despite evidence of its failure, the 1996 welfare reform act and its work requirements have been in place for over a quarter-century now, and staunch political opposition to welfare reform likely forecloses the repeal of the work requirements. Furthermore, for other low-wage women who may not have children, state and federal policymakers have proposed imposing, or have already instituted, a work requirement for individuals who receive SNAP (food stamps) benefits or Medicaid coverage.¹⁵ Thus, in order to obtain benefits, women living in poverty will likely have to continue to work in jobs unlikely to lift them out of poverty.¹⁶ As a report by the National Women’s Law Center put it, “hard work is not enough” for women in low-paid jobs.¹⁷ But why are women living in poverty stuck in these low-wage jobs, and what can be done about it?

Part II of this Note explores the problems that keep working women¹⁸ in poverty, including poor job quality caused by occupational segregation, low wages, and discrimination; lack of education and job training; and lack of support for family responsibilities. Part III of this Note proposes legal and policy solutions to help lift working women out of poverty, including better jobs with higher wages and more flexibility; support for obtaining education and job training; and support for family responsibilities. In both Parts, this Note will highlight the racial differences inherent in these problems and identify solutions that will benefit all women. This Note builds upon previous research and reports by focusing specifically on work-related solutions to alleviating poverty among women, rather than proposing other beneficial solutions such as welfare reform. While most research focuses on women in the workforce generally, this Note discusses women in the low-wage workforce who experience poverty.

14. GOV’T ACCOUNTABILITY OFF., *LOW WAGE WORKERS: POVERTY AND USE OF SELECTED FEDERAL SOCIAL SAFETY NET PROGRAMS PERSIST AMONG WORKING FAMILIES ii* (2017), <https://www.gao.gov/assets/gao-17-677.pdf>.

15. KRISTEN F. BUTCHER & DIANE WHITMORE SCHANZENBACH, *CTR. ON BUDGET & POL’Y PRIORITIES, MOST WORKERS IN LOW-WAGE LABOR MARKET WORK SUBSTANTIAL HOURS, IN VOLATILE JOBS 1* (2018), <https://www.cbpp.org/sites/default/files/atoms/files/7-24-18pov.pdf>.

16. See David Brody et al., *More Than Just Nickels and Dimes: A Cross-National Analysis of Working Poverty in Affluent Democracies*, 57 *SOC. PROBLEMS* 559, 569 (2010) (finding that the United States had the highest rate of working poverty among the 18 affluent democracies analyzed); BUTCHER & WHITMORE SCHANZENBACH, *supra* note 15, at 1 (finding that people with low education are working a substantial amount but their earnings are low, experience less wage growth, and face work volatility).

17. TUCKER & VOGTMAN, *supra* note 8.

18. The author recognizes that not every individual identifies as either male or female and that gender is a spectrum. Because most research focuses on the differences between men and women in the labor market, an exploration of the disadvantages individuals who identify as non-binary or a gender other than male or female may experience in the labor market is outside the scope of this Note. Further research should be done to explore how individuals who identify as a gender other than male or female may experience disadvantages in the labor market that contribute to poverty.

II. PROBLEMS THAT KEEP WORKING WOMEN IN POVERTY

Women have always worked, but women's work has largely been unrecognized and undervalued. Women have also been historically disadvantaged and excluded from opportunities that would help improve their economic situation. This Part examines some of the work-related problems that have forced women into and kept women in poverty. First, this Part examines poor job quality as a cause and reinforcement of poverty, including occupational segregation, low wages, and discrimination. Second, this Part examines lack of access to education and job training as one reason women cannot obtain higher paying jobs. Finally, this Part examines lack of support for childcare and family responsibilities as potential reasons why women are more likely to live in poverty and work low-wage jobs.

A. Poor Job Quality Disadvantages Working Women

Poor job quality is one reason why working women continue to live in poverty. Occupational segregation, low wages, and discrimination are three problems that face working women that contribute to living in poverty.

The impetus of the 1996 welfare reform law was to help welfare recipients exit poverty through work. However, research shows that women are unlikely to exit "in-work poverty" through a path that actually lifts them out of poverty, such as gaining employment in a higher-paying job. White women and Black women were less likely to exit in-work poverty through an "immediate recovery" pathway, characterized by a direct exit out of in-work poverty in stable employment outside of poverty, compared to white men.¹⁹ Rather, women of all races and ethnicities were more likely to exit in-work poverty by experiencing an unstable transition out of in-work poverty "characterized by alternate years in and out of employment" with "the years out of employment . . . accompanied by absolute poverty" or remaining employed and exiting absolute poverty but remaining at a constant risk of in-work poverty.²⁰ All women also had a higher likelihood of leaving in-work poverty by entering "impoverished non-employment."²¹ These findings show that women are less likely to exit in-work poverty by transitioning into a higher-paying job and instead are more likely to experience no actual improvement in economic position if they "exit" in-work poverty.²²

The work-related problems discussed in this Part—occupational segregation, low wages, and discrimination—are explored as reasons why women are unlikely to exit in-work poverty. Occupational segregation is one reason why women are more likely to work in low-wage jobs and less likely to transition into higher-

19. Emanuela Struffolino & Zachary Van Winkle, *Gender and Race Difference in Pathways Out of In-Work poverty in the US*, 99 SOC. SCI. RSCH. 1, 12 (2021), <https://doi.org/10.1016/j.ssresearch.2021.102585>.

20. *Id.* at 10, 12.

21. *Id.* at 12.

22. *See id.*

paying jobs, and low wages and discrimination are reasons why women are unable to escape poverty through work. This Part concludes with a case study of women in the restaurant industry to demonstrate how these problems manifest in low-wage restaurant jobs occupied by women.

1. Occupational Segregation

Women may be stuck in low-wage jobs because of occupational segregation. Occupational sex (or gender)²³ segregation describes the separation of men and women into certain jobs that can lead to overrepresentation and domination of one gender in an occupation.²⁴ Occupational segregation is a major contributor to the gender wage gap.²⁵ Women are overrepresented in many low-wage jobs,²⁶ but there is also a wage penalty for women working in female-dominated occupations.²⁷ One study found that industries most responsible for employment growth and most accessible to women, such as the service industry, pay wages that are insufficient to support women-headed households, requiring women to obtain additional financial resources to live above the poverty line.²⁸ Women are underrepresented in many higher-wage jobs,²⁹ and still face a wage gap compared to men.³⁰ Thus, no matter whether women work in predominantly female jobs or manage to enter a predominantly-male field earning higher wages, women nevertheless earn lower wages. The gender wage gap will be discussed further in the next section.

A study of job referrals for the Temporary Assistance for Needy Families (“TANF”) recipients found that referrals reflected traditional gender occupational segregation, with women more likely to be referred to “traditional” female jobs such as medical clerks, clerical work, childcare, and hospitality, while only few women were referred to less traditionally-female jobs like truck driving and

23. Although sex and gender are increasingly recognized in everyday usage as distinct concepts, the literature on sex/gender discrimination use the terms interchangeably and, thus, the author also uses the terms interchangeably in this Note.

24. See, e.g., Barbara F. Reskin, *Introduction* to NAT’L RSCH. COUNCIL ET AL., *SEX SEGREGATION IN THE WORKPLACE: TRENDS, EXPLANATIONS, AND REMEDIES* 1–2 (Barbara F. Reskin ed., Nat’l Acad. Press, 1984).

25. ARIANE HEGEWISCH & HEIDI HARTMANN, INST. FOR WOMEN’S POL’Y RSCH., *OCCUPATIONAL SEGREGATION AND THE GENDER WAGE GAP: A JOB HALF DONE* 13 (2014), <https://iwpr.org/wp-content/uploads/2020/08/C419.pdf>.

26. JULIE VOGTMAN, NAT’L WOMEN’S L. CTR., *UNDERVALUED: A BRIEF HISTORY OF WOMEN’S CARE WORK AND CHILD CARE POLICY IN THE UNITED STATES* 4 (2017), https://nwlc.org/wp-content/uploads/2017/12/final_nwlc_Undervalued2017.pdf (finding that women, and disproportionately women of color and immigrant women, make up 94% of the child care field and make wages just above the poverty line for a three-person household).

27. HEGEWISCH & HARTMANN, *supra* note 25, at 16.

28. Joan Smith, *The Paradox of Women’s Poverty: Wage-Earning Women and Economic Transformation*, 10 *WOMEN & POVERTY* 291, 307 (1984).

29. E.g., FATIMA GROSS ET AL., NAT’L WOMEN’S L. CTR., *WOMEN IN CONSTRUCTION: STILL BREAKING GROUND* 2 (2014), https://nwlc.org/wp-content/uploads/2015/08/final_nwlc_women_inconstruction_report.pdf (finding that women made up only 2.6 percent of construction workers).

30. HEGEWISCH & HARTMANN, *supra* note 25, at 17.

computer technology.³¹ These “nontraditional” jobs are generally higher-paying than the jobs women are more likely to be segregated into.³² Thus, women already living in poverty were funneled into low-wage jobs that were insufficient to lift them out of poverty, while men were funneled into higher-wage jobs.

2. Wages

As the National Women's Law Center explains, “[n]ot surprisingly, compared to workers overall, people working in low-paid jobs are more likely to be poor, or near poor.”³³ Both low wages and the gender wage gap contribute to women in low-income jobs living in poverty.

First, women are often more likely to work in low-wage jobs, defined as jobs that pay less than \$12 an hour. These low-wage jobs include, for example, jobs in childcare, personal care and home health, the restaurants industry, housekeeping, and recreation and amusement.³⁴ In 2018, 16% of women who worked low-wage jobs had incomes below the federal poverty line, and 42% of low-paid women had incomes below 200% of the federal poverty line.³⁵ Low-wage jobs clearly put women in a precarious financial situation, causing them to live at or near the poverty line. And contrary to common belief, research supports that it is not low employment rates that cause women to live in poverty but low wages because women, mothers, and single mothers who work full time are among the least likely workers to work in jobs that pay wages above the federal poverty line.³⁶ Simply put, low-wage jobs are insufficient to lift women out of poverty.

Between 1995 and 2016, low-wage workers were consistently employed in the same five industries: leisure and hospitality, education and health, professional and business services, wholesale and retail trade, and manufacturing.³⁷ In 2022, women made up 50.5% of the leisure and hospitality industry; 74.6% of the education and health services industry; 42.4% of the professional and business services industry; 45.0% of the wholesale and retail trade; and 29.3% of the manufacturing industry.³⁸ In addition, “[l]ow wage workers were also highly concentrated in six occupational categories in 2016—food preparation and serving, sales, office and administrative support, building and grounds cleaning and maintenance, personal care and service, and transportation and

31. Cynthia Negrey et al., *Job Training Under Welfare Reform: Opportunities and Obstacles to Economic Self-Sufficiency among Low-Income Women*, 7 GEO. J. ON POVERTY L. & POL'Y 347, 357 (2000).

32. *See id.* at 350.

33. TUCKER & VOGTMAN, *supra* note 8, at 8.

34. *Id.* at 3, 15–16.

35. *Id.* at 17–18.

36. Karen Christopher, *Single Motherhood, Employment, or Social Assistance: Why Are U.S. Women Poorer Than Women in Other Affluent Nations?*, 6 J. POVERTY 61, 75 (2002).

37. GOV'T ACCOUNTABILITY OFF., *supra* note 14, at 17.

38. *Labor Force Statistics from the Current Population Survey: Employed Persons by Detailed Industry, Sex, Race, and Hispanic or Latino ethnicity*, U.S. BUREAU OF LAB. STATS., <https://www.bls.gov/cps/cpsaat18.htm> (last modified Jan. 25, 2023).

material moving.”³⁹ Below, [Table 1](#) shows the percent of women in each of these occupations in 2022, along with the overall median weekly earnings and the median weekly earnings for women and men.

TABLE 1: COMPOSITION AND EARNINGS OF WOMEN IN OCCUPATIONS WITH HIGHEST CONCENTRATION OF LOW-WAGE WORKERS, 2022

	Percent of women in the industry ⁴⁰	Median weekly earnings, total ⁴¹	Median weekly earnings, women	Median weekly earnings, men	Difference between women and men’s earnings
Food Preparation and Serving	53.3	\$622	\$598	\$663	–\$65
Sales	49.4	\$941	\$783	\$1,139	–\$356
Office and Administrative Support	71.9	\$847	\$818	\$933	–\$115
Building and Grounds Cleaning and Maintenance	42.0	\$671	\$596	\$716	–\$120
Personal Care and Service	77.1	\$686	\$655	\$789	–\$134
Transportation and Material Moving	21.8	\$796	\$687	\$842	–\$155

Further, women face a wage gap compared to men. The gender wage gap is one possible reason why women are more likely to live in poverty than men. Employers devalue work and pay lower wages in predominately female jobs simply because the workers are women.⁴² The gender disparity is even greater for women of color: Black women earned only 64 cents and both Latina and Native American women earned only 57 cents for every dollar paid to white men.⁴³

39. GOV’T ACCOUNTABILITY OFF., *supra* note 14, at 19.

40. *Labor Force Statistics from the Current Population Survey: Employed Persons by Detailed Occupation, Sex, Race, and Hispanic or Latino ethnicity*, U.S. BUREAU OF LAB. STATS., <https://www.bls.gov/cps/cpsaat11.htm> (last modified Jan. 25, 2023).

41. Median weekly earnings, total, women, and men from *Labor Force Statistics from the Current Population Survey: Median Weekly Earnings of Full-Time Wage and Salary Workers by Detailed Occupation and Sex*, U.S. BUREAU OF LAB. STATS., <https://www.bls.gov/cps/cpsaat39.htm> (last modified Jan. 25, 2023).

42. Asaf Levanon et al., *Occupational Feminization and Pay: Assessing Causal Dynamics Using 1950-2000 U.S. Census Data*, 88 SOC. FORCES 865, 865 (2009).

43. JASMINE TUCKER, NAT’L WOMEN’S L. CTR., *THE WAGE GAP ROBS WOMEN OF ECONOMIC SECURITY AS THE HARSH IMPACT OF COVID-19 CONTINUES 3* (2022), <https://nwlc.org/wp-content/uploads/2022/03/Equal-Pay-Day-Factsheet-2022.pdf>.

Table 1 shows that women earn less each week than men, even in low-wage occupations where women make up the majority of workers (food preparation and serving, office and administrative support, and personal care and services). These significant earnings gaps between men and women may be one reason why women are more likely to live in poverty: even in the lowest-wage jobs, women earn less than men.

3. Discrimination

Working women face discrimination in many ways that cause and perpetuate poverty. Women, especially women of color, face discrimination when trying to get jobs. Discrimination can contribute to women's poverty because it may "limit or discourage women from advancing into higher paid careers and may contribute to the persistent gender wage gap."⁴⁴ Occupational segregation reflects a type of gender discrimination in the workplace, but gender discrimination also can be refusing to hire women because of their sex; gender stereotypes about women in the workplace, such as the view that women are inferior to men; and institutional policies that discriminate against women and discourage them from taking a certain job, such as jobs that do not provide family leave.⁴⁵ Research shows that employers favor male candidates over female candidates,⁴⁶ despite sex-based decisions being prohibited by antidiscrimination laws such as the Title VII of the Civil Rights Act of 1964.⁴⁷ Because women may be excluded from higher-paying jobs because of discrimination, women may be more likely to live in poverty compared to men.

Another example of sex discrimination in the workplace is sexual harassment. The U.S. Equal Employment Opportunity Commission (EEOC) defines sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature ... [or] offensive remarks about a person's sex."⁴⁸ Sexual harassment against women, especially women of color, in low-wage jobs is prevalent.⁴⁹ Among sexual harassment claims filed with the EEOC between 2005 and 2015, the largest number of claims, 14.2 percent, were from workers in the accommodation and food services

44. ELYSE SHAW, ARIANE HEGEWISCH, M. PHIL, & CYNTHIA HESS, INST. FOR WOMEN'S POL'Y RSCH., *SEXUAL HARASSMENT AND ASSAULT AT WORK: UNDERSTANDING THE COSTS 1* (2018), https://iwpr.org/wp-content/uploads/2020/09/IWPR-sexual-harassment-brief_FINAL.pdf.

45. See Donna Bobbitt-Zeher, *Gender Discrimination at Work: Connecting Gender Stereotypes, Institutional Policies, and Gender Composition of Workplace*, 25 *GENDER & SOC.* 764, 767, 771, 773, 776, 778 (2011).

46. See generally Emily Chien & Brian H. Kleiner, *Sex Discrimination in Hiring*, 18 *EQUAL OPPORTUNITIES INT'L* 32 (1999).

47. See 42 U.S.C. § 2000e-2(a).

48. *Sexual Harassment*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, <https://www.eeoc.gov/sexual-harassment> (last visited May 4, 2023).

49. Jocelyn Frye, *Not Just the Rich and Famous: The Pervasiveness of Sexual Harassment Across Industries Affects All Workers*, *CTR. FOR AM. PROGRESS* (Nov. 20, 2017), <https://www.americanprogress.org/article/not-just-rich-famous/>.

industry.⁵⁰ Women currently and historically have made up the majority of workers in the accommodation and food services industry.⁵¹

Sexual harassment can have detrimental effects that impact the economic situations of women and perpetuate women living in poverty. Instead of trying to remedy harassment in the workplace, which can often be futile, women may choose to quit their jobs to find another, which can result in a period of unemployment, lost wages, and ending up in a lower-paying job.⁵² Therefore, sexual harassment can cause women already in low-paying jobs to fall deeper into poverty.

4. Case Study: The Restaurant Industry

The restaurant industry is a particularly salient example of all identified problems working women living in poverty face. Restaurant workers, particularly tipped restaurant workers, are likely to experience occupational segregation, low wages, and discrimination.⁵³ Restaurant workers occupy seven of the ten lowest-paid occupations as reported by the Bureau of Labor Statistics.⁵⁴ In 2014, one-in-six restaurant workers, or 16.7%, lived below the official poverty line.⁵⁵ In 2014, women made up 52.3% of the restaurant industry⁵⁶ and 66.6% of tipped workers.⁵⁷ The federal tipped sub-minimum wage has been set at \$2.13 per hour since 1991, and in 2014, the median wage for a tipped worker is \$9 an hour, including tips.⁵⁸ At \$9 an hour, working 40 hours per week for 52 weeks a year, a tipped restaurant worker would make \$18,720 per year, before taxes and assuming the worker does not take any time off. This worker would be above the federal poverty line if living in a one- or two-person household. But if the worker was the

50. *Id.*

51. *Id.* (citing *Labor Force Statistics from the Current Population Survey: Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity*, U.S. BUREAU OF LAB. STATS., <https://www.bls.gov/cps/cpsaat18.htm> (last modified Jan. 25, 2023)).

52. Heather McLaughlin et al., *The Economic and Career Effects of Sexual Harassment on Working Women*, 31 GENDER & SOC'Y 333, 347–49 (2017).

53. THE RESTAURANT OPPORTUNITIES CTRS. UNITED, *THE GLASS FLOOR: SEXUAL HARASSMENT IN THE RESTAURANT INDUSTRY 1* (2014), <https://nature.berkeley.edu/agroecologylab/wp-content/uploads/2020/06/The-Glass-Floor-Sexual-Harassment-in-the-Restaurant-Industry.pdf>.

54. *Id.*

55. HEIDI SHIERHOLZ, ECON. POL'Y INST., *LOW WAGES AND FEW BENEFITS MEAN MANY RESTAURANT WORKERS CAN'T MAKE ENDS MEET 3* (2014), <https://www.epi.org/publication/restaurant-workers/#:~:text=Twice%20the%20official%20poverty%20threshold,share%20outside%20the%20restaurant%20industry.>

56. *Id.* at 7.

57. Alyssa Davis & David Cooper, *The Way We Pay Tipped Workers Disproportionately Harms Women*, ECON. POL'Y INST. (Mar. 25, 2015), <https://www.epi.org/publication/the-way-we-pay-tipped-workers-disproportionately-harms-women/>.

58. THE RESTAURANT OPPORTUNITIES CTRS. UNITED, *supra* note 53, at 1. *But see New Data: On Average, Tipped Workers Report Earning More than \$15-Per-Hour*, MINIMUM WAGE (Apr. 15, 2021), <https://minimumwage.com/2021/04/15-per-hour-earnings-are-already-here-for-tipped-workers/> (finding that in 2020, the average hourly wage for a tipped worker was \$15.50).

sole earner for a household of three persons or more, they would be below the poverty line.⁵⁹

An analysis of data from the 2013–2015 Current Population Survey found that among tipped workers in states that had the federal tipped sub-minimum wage, 14.8% of tipped workers lived in poverty, compared to 6.7% of non-tipped workers.⁶⁰ Research shows that there is also discrimination inherent in how customers tip: white servers are more likely to receive higher tips than Black workers,⁶¹ and women who do not conform to traditional gender stereotypes, such as appearance, may receive lower tips.⁶² Thus, tipping discrimination may be compounded for Black women.

Many restaurant jobs have often been considered “women’s work,” and women have historically been segregated into restaurant jobs that are more traditionally “feminine,” and lower paying, such as waitressing.⁶³ Despite the prevalence of women in the restaurant industry, men are more likely to be hired in high-price restaurants.⁶⁴ In high-price restaurants, average hourly earnings are 47% higher than earnings in medium-price restaurants and 68% higher than earnings in low-price restaurants.⁶⁵

Harassment, particularly sexual harassment, is prevalent against women in the restaurant industry. In a survey of over 500 current and former women who worked in the restaurant industry, 71% had experienced harassment.⁶⁶ Not only are tipped workers more likely to live in poverty, they are also more likely to experience sexual harassment and discrimination. Tipped workers in the restaurant industry who are paid a subminimum wage experience harassment at a higher rate and more frequently than non-tipped workers, 76% compared to 52%, by both customers and fellow employees or supervisors.⁶⁷ Tipped workers experienced many types of harassment—including sexist behavior, sexually hostile behavior, intrusive sexual attention, sexual coercion, and sexually assaultive behavior—at a higher rate than non-tipped workers.⁶⁸ Tipped workers face a

59. See *U.S. Federal Poverty Guidelines*, *supra* note 13.

60. Elise Gould & David Cooper, *Seven Facts About Tipped Workers and the Tipped Minimum Wage*, ECON. POL'Y INST. (May 31, 2018), <https://www.epi.org/blog/seven-facts-about-tipped-workers-and-the-tipped-minimum-wage/>.

61. Michael Lynn et al., *Consumer Racial Discrimination in Tipping: A Replication and Extension*, 38 J. APPLIED SOC. PSYCH. 1045, 1055 (2008).

62. Lu-in Wang, *At the Tipping Point: Race and Gender Discrimination in a Common Economic Transaction*, 21 VA. J. SOC. POL'Y & L. 101, 135–36 (2014).

63. See Elaine J. Hall, *Waiting/Waitressing: Engendering the Work of Table Servers*, 7 GENDER & SOC'Y 329, 332 (1993).

64. David Neumark, *Sex Discrimination in Restaurant Hiring: An Audit Study*, 111 Q.J. ECONOMICS 915, 927 (1997).

65. *Id.* at 932.

66. CATHARINE A. MACKINNON & LOUISE F. FITZGERALD, ONE FAIR WAGE, THE TIPPING POINT: HOW THE SUBMINIMUM WAGE KEEPS INCOMES LOW AND HARASSMENT HIGH 6, 7 (2021), https://onefairwage.site/wp-content/uploads/2021/03/OFW_TheTippingPoint_3-1.pdf.

67. *Id.* at 2–3, 13.

68. *Id.* at 8.

Catch-22 when experiencing on-the-job harassment: they can receive the tips, an essential component of their wages, but endure harassment, or refuse to tolerate harassment but sacrifice the tips. Among the over 500 female restaurant workers surveyed, more than 20% chose to leave the restaurant industry in response to harassment.⁶⁹ Thirty-three percent of women who experienced harassment did not report the harassment for fear of losing their job.⁷⁰ For women who did report, 98% of the women experienced at least one incident of managerial retaliation, including additional harassment, having their hours cut, being forced to split tips, or being sent home early every night.⁷¹ Thus, reporting harassment may have additional economic penalties for women already in precarious financial situations.

From being segregated in lower-wage positions, earning low, subminimum wages, and experiencing discrimination in wages and working conditions, women working in the restaurant industry face many problems that negatively affect their economic situation and can perpetuate poverty.

B. Lack of Access to Education and Job Training Keeps Working Women from Higher-Paying Job

Education is often considered a way to obtain a better, higher-paying job. Indeed, research shows that the higher level of education a woman obtains, the higher her wages will be.⁷² However, women with only a high school education or less are overrepresented in low-wage jobs, representing 21% of low-wage and 24% of the lowest-wage female workers while making up only 11% of total female workers.⁷³ In 2018, the most women in the low-paid workforce, 35%, had only a high school diploma or equivalent, followed by 27% of low-paid women who had completed only some college but received no degree.⁷⁴

Women are often unable to obtain education or training that would give them the credentials or skills to qualify them for higher-paying jobs. Both secondary and higher education are often unobtainable for low-income women.⁷⁵ Similarly, while job training is one way that women can earn a higher wage,

the implementation of work requirements has forced a shift in the nature of poor women's participation in workforce development programs.

69. *Id.* at 14.

70. *Id.* at 17.

71. *Id.* at 18–19.

72. Marlene Kim, *Women Paid Low Wages: Who They Are and Where They Work*, MONTHLY LAB. REV. 27 (2000), <https://www.bls.gov/opub/mlr/2000/09/art3full.pdf>.

73. JASMINE TUCKER & KAYLA PATRICK, NAT'L WOMEN'S L. CTR., *LOW-WAGE JOBS ARE WOMEN'S JOBS: THE OVERREPRESENTATION OF WOMEN IN LOW-WAGE WORK* 5 (2017) (estimates based on 2018 Current Population Survey).

74. TUCKER & VOGTMAN, *supra* note 8, at 5.

75. See Vivyan C. Adair, *Fulfilling the Promise of Higher Education*, in *RECLAIMING CLASS: WOMEN, POVERTY, AND THE PROMISE OF HIGHER EDUCATION IN AMERICA* 240, 242, 248 (Vivyan C. Adair & Sandra L. Dahlberg eds., 2003).

PRWORA emphasizes short-term “job readiness” training and immediate work placement instead of longer-term educational investments. Although job training is not completely inaccessible to TANF clients, fewer women have access to meaningful job training because of work requirements, time limits and limits on the proportions of people who can participate in job training. In addition, it has become less feasible for women to balance work, training, childcare, and other responsibilities.⁷⁶

For example, women are underrepresented in federal construction apprenticeship programs and are less likely to complete the programs than men.⁷⁷ Without opportunities to receive education or job training that would enable them to obtain higher-paying jobs, women are more often stuck in low-wage jobs without opportunities to advance.

C. Lack of Support for Childcare and Family Responsibilities Limit Women's Job Opportunities

When finding and retaining jobs, women with family responsibilities face additional obstacles that can cause them to experience poverty. Twenty-seven percent of women in low-paid jobs have at least one child under the age of 18.⁷⁸ Women with children are increasingly “the sole or primary “breadwinners” in their families, bringing in at least half of family earnings.”⁷⁹ Black women are the most likely to be the primary breadwinners for their families, while white women are the least likely to be the primary breadwinners.⁸⁰ Furthermore, women in the bottom quintile of income are much more likely to be the primary breadwinners.⁸¹ Despite women with children increasingly becoming the primary financial supporter in their households, in 2018, 57% of mothers in the low-paid workforce were near or below the poverty line, and nearly two-thirds of women of color with children in the low-paid workforce were poor or near poor.⁸²

Single mothers are especially likely to live in poverty and work-low wage jobs.⁸³ Lack of support for childcare threatens single mothers' financial security: a single mother with two children earning \$10 per hour without paid sick time would fall below the federal poverty line if she had to miss three days of work

76. Negrey et al., *supra* note 31, at 350.

77. GROSS ET AL., *supra* note 29, at 3.

78. TUCKER & VOGTMAN, *supra* note 8, at 6.

79. SARAH JANE GLYNN, CTR. FOR AM. PROGRESS, BREADWINNING MOTHERS ARE INCREASINGLY THE U.S. NORM 1 (2016), <https://www.americanprogress.org/article/breadwinning-mothers-are-increasingly-the-u-s-norm/>.

80. *Id.* at 6.

81. *Id.* at 8.

82. TUCKER & VOGTMAN, *supra* note 8, at 10.

83. Katie Wright, *5 Things to Know About Single Mothers in Poverty*, CTR. FOR AM. PROGRESS (May 11, 2012), <https://www.americanprogress.org/article/5-things-to-know-about-single-mothers-in-poverty/>.

without pay to take care of a sick child.⁸⁴ Childcare support is critical to lifting working single mothers out of poverty.

In addition to facing discrimination just based on being a woman, women with family responsibilities also face discrimination in employment based on their status as a mother or caretaker for family members. Among equally qualified candidates, women who were mothers were recommended for lower starting salaries, judged to be less competent, and less likely to be recommended for hire than non-mothers.⁸⁵ Men with children, however, may experience a “fatherhood” premium, earning more wages because men are traditionally seen as the primary breadwinners who need higher wages to support their families.⁸⁶

Childcare is often too expensive for working women to afford, but women also face financial insecurity if they choose to stop working in order to take care of their children.⁸⁷ An estimated \$28.9 billion is lost in wages annually by working families who do not have access to affordable childcare and paid family and medical leave.⁸⁸ Paying for childcare can alone force poor families into poverty, with research showing that one-third of poor families are pushed into poverty because of childcare expenses.⁸⁹

Furthermore, many working women living in poverty lack access to paid family and medical leave and paid sick leave. While the Family and Medical Leave Act provides eligible workers with up to 12 weeks of unpaid, job-protected leave to care for a child or family member or address their own medical needs, millions of workers cannot afford to take unpaid leave.⁹⁰ The FMLA is simply insufficient to support the personal and family responsibilities of working women. This is particularly true for Black women who have a higher labor force participation relative to other groups of women.⁹¹ For example, 1.1 million Black women need leave in a typical year but do not take it, and when Black women do take unpaid or poorly paid leave, they lose an estimated \$3.9 billion in lost wages each year.⁹²

84. ELISE GOULD, KAI FILION, & ANDREW GREEN, ECON. POL’Y INST., THE NEED FOR PAID SICK DAYS 2 (June 29, 2011), <https://files.epi.org/temp2011/BriefingPaper319-2.pdf>.

85. Shelley J. Correll et al., *Getting a Job: Is There a Motherhood Penalty?*, 112 AM. J. SOCIO. 1297, 1316 (2007).

86. *Id.* at 1317.

87. VOGTMAN, *supra* note 26, at 4; LEILA SCHOCHET, CTR. FOR AM. PROGRESS, THE CHILD CARE CRISIS IS KEEPING WOMEN OUT OF THE WORKFORCE 3 (2019), <https://www.americanprogress.org/article/child-care-crisis-keeping-women-workforce/>.

88. CHILD AWARE OF AM., PARENTS AND THE HIGH COST OF CHILD CARE 9 (2016), https://www.childcareaware.org/wp-content/uploads/2017/01/CCA_High_Cost_Report_01-17-17_final.pdf.

89. MARYBETH J. MATTINGLY & CHRISTOPHER T. WIMER, UNIV. N.H. CARSEY SCH. OF PUB. POL’Y, CHILD CARE EXPENSES PUSH MANY FAMILIES INTO POVERTY 1 (2017), <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1303&context=carsey>.

90. NAT’L P’SHP FOR WOMEN & FAMILIES, KEY FACTS: THE FAMILY AND MEDICAL LEAVE ACT 1, 3 (2023).

91. *Id.* at 4 (citing *Labor force characteristics by race and ethnicity, 2021*, U.S. BUREAU OF LAB. STATS. (Jan. 2023), <https://www.bls.gov/opub/reports/race-and-ethnicity/2021/home.htm>).

92. *Id.*

In 2018, 93% of low-wage workers did not have access to paid family leave.⁹³ Without paid leave, almost 1 in 5 working women have reported losing a job due to sickness or caring for a child; nearly 25% of women take 10 or fewer days of parental leave; and families who lose income to take care of a child are more likely to experience hardships like food insecurity.⁹⁴

In 2022, over 60% of low-wage workers did not have access to paid sick leave.⁹⁵ There is a gender difference between male and female workers having access to paid sick leave: in a survey of hourly retail and food service workers, 58% of women lacked paid sick leave, compared to only 52% of men.⁹⁶ The Shift Project found that compared to all workers, women without paid sick leave faced greater economic fragility, including being unable to cover an unexpected \$400 expense, falling behind on bills, being exposed to hunger hardship, deferring medical care, and having difficulty covering expenses.⁹⁷

III. SOLUTIONS TO HELP ALLEVIATE POVERTY AMONG WORKING WOMEN

A variety of legal and policy solutions exist to help working women escape poverty. First, this Part proposes solutions to poor job quality that would help alleviate poverty among women. Second, this Part proposes solutions to lack of educational opportunities for women. Finally, this Part proposes solutions to lack of support for women's childcare and family responsibilities. This Part builds upon past scholarship by identifying specific policies and legislation that may serve as a blueprint for activists, legislators, and supporters to alleviate poverty among working women.

For all the following pieces of legislation discussed, pro-women and pro-worker organizations should come together to form a coalition to help get the bills passed. These organizations could include the National Women's Law Center, the National Partnership for Women and Families, the National Employment Law Project, the Center for American Progress, and the Institute for Women's Policy Research. To ensure that women of color are represented in the coalition, organizations such as the NAACP should also be included. The coalition could organize a letter-writing campaign, encouraging supporters to write letters to lawmakers to express support for the bills. The coalition could also organize a lobby day to connect with lawmakers to rally support for the bills. Furthermore, any campaign such as in the media or to supporters should include to the extent possible the voices of women who would be benefitted by these proposals. For example, low-

93. PRONITA GUPTA ET AL., *CTR. FOR L. & SOC. POL'Y, PAID FAMILY AND MEDICAL LEAVE IS CRITICAL FOR LOW-WAGE WORKERS AND THEIR FAMILIES 1* (2018).

94. *Id.* at 2.

95. Elise Gould, *Over 60% of Low-Wage Workers Still Don't Have Access to Paid Sick Days on the Job*, *ECON. POL'Y INST.* (Sept. 23, 2022, 2:47 PM), <https://www.epi.org/blog/over-60-of-low-wage-workers-still-dont-have-access-to-paid-sick-days-on-the-job/>.

96. DANIEL SCHNEIDER & KRISTEN HARKNETT, *THE SHIFT PROJECT, ESSENTIAL AND VULNERABLE: SERVICE-SECTOR WORKERS AND PAID SICK LEAVE 3* (2020).

97. *Id.* at 2.

income women, especially women of color, could be asked to share their stories to be included in any organizing campaign. It is important to elevate the voices of the women these solutions would impact to show the benefits of these proposals.

A. Improving Job Quality Ensures Working Women Do Not Face Additional Obstacles in the Workplace

Many solutions exist to remedy the work-related problems women in low-wage jobs face. Local, state, and federal legislation can make valuable change to alleviate poverty among working women. Several proposed pieces of national legislation would benefit low-wage workers, including the BE HEARD in the Workplace Act, the EMPOWER Act, the Raise the Wage Act, the Schedules that Work Act, and the Protecting the Right to Organize Act. None of these bills have been reintroduced in the 118th Congressional session that began in January 2023. More advocacy from individuals and organizations is necessary to encourage Congressmembers to introduce and pass these key pieces of legislation that will help alleviate poverty among working women.

The Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination in the Workplace (BE HEARD) Act would expand protections against discrimination and harassment in the workplace and raise the minimum age for tipped employees.⁹⁸ The Act would extend federal antidiscrimination laws to cover all employees, regardless of the size of the workplace, including independent contractors, interns, fellows, volunteers, and trainees.⁹⁹ The Act would also clarify that unlawful sex discrimination includes harassment and other types of discrimination based on sexual orientation and gender identity. In *Bostock v. Clayton County*, the Supreme Court held that Title VII's protection against sex discrimination included protection against discrimination based on sexual orientation and gender identity.¹⁰⁰ However, the majority opinion, written by Justice Gorsuch and joined by Justices Roberts, Ginsburg, Breyer, Sotomayor, and Kagan, garnered significant criticism from the dissenting Justices Alito, Kavanaugh, and Thomas.¹⁰¹ Even with the current composition of the Court, should the *Bostock* decision be challenged in the future, there would likely still be a majority to uphold the decision, assuming Justice Ketanji Brown Jackson, who replaced Justice Breyer, would vote with the *Bostock* majority. However, *Bostock* could still be overruled in the future, so the BE HEARD Act's amendment of "sex" in Title VII to include sexual orientation and gender identity may be necessary.¹⁰² All women,

98. H.R. 5994, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/5994>.

99. NAT'L WOMEN'S L. CTR., THE BE HEARD IN THE WORKPLACE ACT: ADDRESSING HARASSMENT TO ACHIEVE EQUALITY, SAFETY, AND DIGNITY ON THE JOB 1 (2019).

100. 140 S. CT. 1731 (2020).

101. *Id.* at 1754.

102. See H.R. 5994, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/5994/text> ("Sec 201. Clarifying Sexual Orientation Discrimination and Gender Identity Discrimination are Unlawful Sex Discrimination," amending 42 U.S.C. § 2000e-2(a)).

including transgender women and women of all sexual orientations, should be protected against discrimination based on their identities in the workplace. Because discrimination and harassment are prevalent among women in low-wage jobs (see discussion *supra* Part II.A.3) ensuring that all women are protected from discrimination in the workplace is essential to ensuring that their economic situation is not put at risk. The bill was introduced in the 116th and 117th Congresses but has yet to be introduced in the 118th Congress.

The Ending the Monopoly of Power Over Workplace Harassment through Education and Reporting (EMPOWER) Act seeks to deter, prevent, reduce, and respond to harassment in the workplace.¹⁰³ The EMPOWER Act would end the use of nondisparagement and nondisclosure agreements in employment agreements; require public companies to report the number of settlements and judgments related to workplace harassment; end the practice of companies using tax deductions to write off legal fees associated with workplace harassment settlements; and require the development and dissemination of workplace training programs to educate all workers about workplace harassment and how to prevent and report it.¹⁰⁴ As explained *supra* at Part II.A.3, workplace harassment is prevalent in low-wage jobs and can have detrimental economic effects for women, causing them to experience retaliation, lost wages, or a transfer to lower-paying jobs. Passing the EMPOWER Act would provide more protections for women against harassment and remedies for those who do experience harassment. It does not appear that the bill was reintroduced in the 118th Congress.

The Raise the Wage Act would increase the federal minimum wage for regular employees, tipped employees, and newly-hired employees who are less than 20 years old as well as set forth a schedule of annual increases in the federal minimum wage for individuals with disabilities.¹⁰⁵ The Act would gradually increase the federal minimum wage to \$15 per hour by 2025 and index it to median wage growth after, as well as eliminate the subminimum wage for tipped workers.¹⁰⁶ As reported by the Congressional Budget Office, raising the minimum wage to \$15 per hour by 2025 would raise the wages of 27.3 million workers and lift 1.3 million families out of poverty.¹⁰⁷ Research shows that in states that have already

103. H.R. 1521, 116th Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/1521>.

104. NAT'L P'SHIP FOR WOMEN & FAMILIES, THE EMPOWER ACT: LEGISLATION TO COMBAT WORKPLACE HARASSMENT 1–2 (2019), <https://nationalpartnership.org/wp-content/uploads/2023/04/the-empower-act.pdf>.

105. H.R. 603, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/603>.

106. JUSTIN SCHWEITZER, CTR. FOR AM. PROGRESS, ENDING THE TIPPED MINIMUM WAGE WILL REDUCE POVERTY AND INEQUALITY 1 (2021), <https://www.americanprogress.org/article/ending-tipped-minimum-wage-will-reduce-poverty-inequality/#:~:text=The%20poverty%20rate%20in%20key,in%20one%20fair%20wage%20states>.

107. CONG. BUDGET OFF., THE EFFECTS ON EMPLOYMENT AND FAMILY INCOME OF INCREASING THE FEDERAL MINIMUM WAGE 1 (2019), <https://www.cbo.gov/system/files/2019-07/CBO-55410-MinimumWage2019.pdf> (27.3 based on author's calculations).

eliminated the tipped subminimum wage (“one fair wage” states), poverty decreased among tipped workers in “key industries.” These industries are the primary employers of tipped workers including “gambling, and recreation industries; traveler accommodation; restaurants and other food services; drinking places, alcoholic beverages; barber shops; beauty salons; nail salons and other personal care services.”¹⁰⁸ The bill has been introduced in each session of Congress since 2017 but has not yet been introduced in the 118th Congress.

The Schedules that Work Act would allow employees to request changes to their work schedules without fear of retaliation and require employers to consider these requests and provide “more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices that negatively affect employees.”¹⁰⁹ In low-wage industries like retail, food services, hospitality, cleaning, and warehousing, employers use “just-in-time” scheduling practices to create workers’ schedules, which results in employees “hav[ing] little notice of their work schedules, experiencing last minute shift cancellations that deprive them of vital income, and [being] assigned to “on-call shifts” that leave them in limbo, not knowing whether they will be required to report to work.”¹¹⁰ The Act would also provide a right to rest between shifts, prohibiting employers from scheduling workers for “clopening” shifts, which require an employee to work the closing shift one night and the opening shift the next morning.¹¹¹ There is a gender disparity between workers who work nonstandard or irregular schedules. Research shows that mothers with incomes below 100%, below 200%, and at or above 200% of the federal poverty line are more likely to work nonstandard schedules than fathers.¹¹² Giving low-wage workers notice of their schedule would allow them to plan for family responsibilities like childcare and transportation. In addition, workers being paid for “on-call” time and shift cancellations would provide wages for time they spent preparing for their job. The bill has not been introduced in the 118th Congress.

The Protecting the Right to Organize Act would expand labor protections related to employees’ rights to organize and collectively bargain in the workplace.¹¹³ Increasing union membership among women is one way to increase the

108. SCHWEITZER, *supra* note 106.

109. H.R. 6670, 117th Cong. (2022), <https://www.congress.gov/bill/117th-congress/house-bill/6670/text?r=4&s=1>.

110. NAT’L WOMEN’S L. CTR., THE SCHEDULES THAT WORK ACT: GIVING WORKERS THE TOOLS THEY NEED TO SUCCEED 1 (2022), <https://nwlc.org/resource/schedules-work-act-giving-workers-tools-they-need-succeed>.

111. *Id.* at 2. See also EMILY MARTIN ET AL., NAT’L WOMEN’S L. CTR., SET UP FOR SUCCESS: SUPPORTING PARENTS IN LOW-WAGE JOBS AND THEIR CHILDREN 11–16 (2016), <https://nwlc.org/wp-content/uploads/2016/06/Set-Up-for-Success.pdf>.

112. MARIA E. ENCHAUTGUI ET AL., URB. INST., WHO MINDS THE KIDS WHEN MOM WORKS A NONSTANDARD SCHEDULE? 10 (2015), <https://www.urban.org/sites/default/files/publication/64696/2000307-Who-Minds-the-Kids-When-Mom-Works-a-Nonstandard-Schedule.pdf>.

113. H.R. 842, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/842>.

wages and working conditions of low-wage women. Unionized women earn 10.5% more than non-union workers, and Latina, Asian, and Black female union members earn even more: 15.9%, 17.5%, and 18.6%, respectively.¹¹⁴ Collective bargaining agreements can set gender-neutral wage rates, promote pay transparency, and include grievance procedures for workers who experience discrimination.¹¹⁵ In addition, union members are more likely to receive benefits such as paid leave, paid sick days, and paid family and medical leave.¹¹⁶ Passing the Protecting the Right to Organize Act would provide additional protections to women who seek to unionize and engage in collective bargaining. In the 117th Congress, the Act passed the House but was not acted upon in the Senate. The Act has not been reintroduced in the 118th Congress.

In the restaurant industry, mandating “one fair wage” for restaurant workers and abolishing the subminimum tipped minimum wage would and many of the problems female workers face. Restaurant workers in one fair wage states, especially workers of color, are less likely to live in poverty than workers in subminimum wages states.¹¹⁷ More than one in four Black women working in subminimum wage states lived in poverty, while Black women working in one fair wage states were 34% less likely to live in poverty.¹¹⁸ In one fair wage states, sexual harassment is lower than in the subminimum wage states, likely because they do not have to endure harassment in order to receive tips.¹¹⁹

In September 2022, the Restaurant Opportunities Centers United (ROCU) introduced the “Restaurant Workers Bill of Rights,” accompanied by model local, state, and federal legislation.¹²⁰ The Restaurant Workers Bill of Rights would guarantee workers in the restaurant industry basic protections necessary to ensure safe and adequate working conditions and terms.¹²¹ The Bill of Rights advocates for fair wages, the right to paid leave, healthcare, and mandated breaks, the right to a safe and dignified work environment free from discrimination, and the right to participate in governance.¹²² Representative Rashida Tlaib introduced the Bill

114. Stephanie Luce & Eve Weinbaum, *Low Wage Women Workers: A Profile*, 17 NEW LAB. F. 20, 25 (2008).

115. Elise Gould & Celine McNicholas, *Unions Help Narrow the Gender Wage Gap*, ECON. POL'Y INST. (Apr. 3, 2017), <https://www.epi.org/blog/unions-help-narrow-the-gender-wage-gap/>.

116. *Id.*

117. THE RESTAURANT OPPORTUNITIES CTRS. UNITED, BETTER WAGES, BETTER TIPS: RESTAURANTS FLOURISH WITH ONE FAIR WAGE 2 (2018), <https://eofnetwork.org/wp-content/uploads/2019/10/Better-Wages-Better-Tips.pdf>.

118. NAT'L WOMEN'S L. CTR., ONE FAIR WAGE: WOMEN FARE BETTER IN STATES WITH EQUAL TREATMENT FOR TIPPED WORKERS 2 (2021), <https://nwlc.org/wp-content/uploads/2021/02/OFW-Factsheet-2021-v2.pdf>.

119. *Id.* at 1.

120. *Restaurant Workers Bill of Rights*, THE RESTAURANT OPPORTUNITIES CTRS. UNITED, <https://rocunited.org/bill-of-rights/> (last visited May 4, 2023).

121. THE RESTAURANT OPPORTUNITIES CTRS. UNITED, RESTAURANT WORKERS BILL OF RIGHTS 1 (2022), https://rocunited.org/wp-content/uploads/sites/7/2022/09/RWBOR_SEPTMBER-2022.docx.pdf.

122. *Id.* at 2–3.

of Rights as a House resolution in December 2022, which would recognize the federal government's duty to develop employment rights for restaurant workers.¹²³ Advocates should express their support to local, state, and federal lawmakers to encourage its reintroduction in the 118th Congress and its enactment.

B. Increasing Access to Education and Job Training Expands Working Women's Job Opportunities

Because women who receive more education earn higher wages, providing educational opportunities to women is a beneficial way to improve women's economic situations and lift them out of poverty. Research shows that college degrees are especially impactful for single mothers: only 13% of single mothers who hold a bachelor's degree live in poverty, compared to 41% of single mothers with only a high school diploma.¹²⁴

Government support for women obtaining higher education, such as an Associate degree, would give women the opportunity to advance into a higher-paying career. For example, a job training program, Project Quest, that places participants in local community colleges to complete degrees in high-demand fields such as healthcare and nursing and information technology helped participants earn \$5,000 more annually.¹²⁵ The program is aimed at nontraditional students: the average age of participants is 30 years old, two-thirds are women, and 60% are Hispanic.¹²⁶ Project Quest spends \$11,000 per participant and offers intensive coaching and financial help, covering half of tuition and helping with rent, utilities, and childcare.¹²⁷ Jeremiah Program (JP) provides similar support specifically for single mothers with the goal of "disrupting poverty, two generations at a time."¹²⁸ JP provides support for mothers to receive a college education, quality early childhood education, safe and affordable housing, and leadership and career training.¹²⁹ Since its founding in 1993, JP has helped more than 4,000 single mothers and their children and has expanded to eight cities across the U.S.¹³⁰

123. *Tlaib Introduces Restaurant Workers Bill of Rights to Improve the Lives of Restaurant Workers Nationwide*, CONGRESSWOMAN RASHIDA TLAIB (Dec. 19, 2022), <https://tlaib.house.gov/posts/tlaib-introduces-restaurant-workers-bill-of-rights-to-improve-the-lives-of-restaurant-workers-nationwide>; H.R. Res. 1528, 117th Cong. (2022), <https://www.congress.gov/bill/117th-congress/house-resolution/1528>.

124. INST. FOR WOMEN'S POL'Y RSCH., *SINGLE MOTHERS WITH COLLEGE DEGREES MUCH LESS LIKELY TO LIVE IN POVERTY* 1 (2018).

125. Nelson D. Schwartz, *Job Training Can Change Lives. See How San Antonio Does It.*, N.Y. TIMES (Aug. 19, 2019), <https://www.nytimes.com/2019/08/19/business/economy/worker-training-project.html>.

126. *Id.*

127. *Id.*

128. *Mission and History*, JEREMIAH PROGRAM, <https://jeremiahprogram.org/about-us/our-mission/> (last visited May 4, 2023).

129. *Our Guiding Principles*, JEREMIAH PROGRAM, <https://jeremiahprogram.org/our-impact/the-five-pillars-of-jeremiah-program/> (last visited May 4, 2023).

130. Lorie Konish, *How One Non-Profit is Helping Single Moms Disrupt the Cycle of Poverty*, CNBC (May 8, 2022), <https://www.cnbc.com/2022/05/08/how-one-non-profit-is-helping-single-moms-disrupt-the-cycle-of-poverty.html>.

Funding from the federal government through the Department of Labor or Health and Human Services can help pay for programs like these, which could be administered through organizations or local governments.

Government investment in job training programs, either administered by the government or local organizations, could help women obtain essential skills that would help women get higher-paying jobs. For example, Women Who Weld, a Detroit nonprofit organization, offers training courses in welding, teaching women skills necessary for high-demand, high-paying jobs in the manufacturing industry.¹³¹ There are several proposals to remedy the underrepresentation of women in higher-paying jobs that require job training, such as construction. For example, the National Women's Law Center proposes that the U.S. Department of Labor's Office of Apprenticeship should revise its affirmative action regulations to increase the number of women in apprenticeship programs that would give women the skills necessary to work in construction jobs.¹³² Furthermore, the Women in Apprenticeship and Nontraditional Occupations Program (WANTO) is a federal grant program designed to train women in nontraditional fields such as the building trades, but this program is severely underfunded.¹³³ In 2022, WANTO awarded \$3.4 million dollars to only five community organizations to increase women's participation in apprenticeships and nontraditional occupations.¹³⁴ Allocating more funding to WANTO would allow the program to increase the number of organizations that receive funding and help more women enter higher-paying jobs.

C. Providing Support for Childcare and Family Responsibilities Ensures Working Women Can Participate in the Workforce

Providing women with adequate childcare resources and accommodations for family responsibilities is critical to alleviating poverty by ensuring that women can participate in the workforce.

1. Childcare

One solution to the problem of women choosing not to work in order to take care of children is to offer affordable childcare services. Research supports that when employees have quality childcare, employers see improved productivity, reduced absenteeism, less turnover, and increased company value.¹³⁵ When employees have access to affordable, quality childcare, they experience fewer missed days, schedule changes, and lost overtime hours, and are thus able to work

131. Katie Pacheco, *Women Who Weld: Lighting the Way Out of Poverty*, 2018 WELDING J. 84, 85 (July 2018).

132. GROSS ET AL., *supra* note 29, at 10.

133. *See id.* at 11.

134. *WANTO Grant Program*, U.S. DEP'T OF LAB.: WOMEN'S BUREAU, <https://www.dol.gov/agencies/wb/grants/wanto> (last visited May 4, 2023).

135. KAREN SHELLBACK, CORNELL UNIV., CHILD CARE & PARENT PRODUCTIVITY: MAKING THE BUSINESS CASE 1 (Dec. 2004).

longer periods.¹³⁶ Receiving childcare assistance meant women were 40% more likely to remain employed after two years following the receipt of assistance for childcare costs.¹³⁷ Furthermore, when women with below-median incomes received a 50% childcare subsidy, welfare reciprocity decreased 28 percentage points and employment increased by more than 25 percentage points.¹³⁸ Therefore, childcare is beneficial for both employees, especially women, and employers.

Employers, or the government, could provide a stipend or tax credit for childcare. The 2021 American Rescue Plan allocated \$39 million in block grants for expansions and improvements in childcare.¹³⁹ The Biden administration also encouraged states and local governments to finance childcare options for parents. The Administration of Children and Families released guidance encouraging agencies receiving the funding to implement policies that would build the supply of childcare in low-income and underserved communities and provide childcare assistance to families who lost employment or income during the pandemic.¹⁴⁰

2. Family and Medical Leave

All employers should be required to provide employees with paid family and medical leave. Providing paid family and medical leave benefits both workers and employers. Research shows that providing paid family leave after childbirth increased the likelihood that mothers would return to work, which benefits both women, by giving them time to bond with their child after childbirth and guaranteeing they have a job to return to, and employers, by reducing employee turnover.¹⁴¹ In addition, paid family leave has a positive impact on women's wages, contributing to narrowing the gender wage gap.¹⁴²

136. CHILD AWARE OF AM., *supra* note 88, at 8.

137. *Id.*

138. Taryn W. Morrissey, *Child Care and Parent Labor Force Participation: A Review of the Research Literature*, 15 REV. ECONS. HOUSEHOLD 1, 6 (2017).

139. *FACT SHEET: Biden-Harris Administration Announces Child Tax Credit Awareness Day and Releases Guidance for Unprecedented American Rescue Plan Investments to Support Parents and Healthy Child Development*, WHITE HOUSE (June 11, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/11/fact-sheet-biden-harris-administration-announces-child-tax-credit-awareness-day-and-releases-guidance-for-unprecedented-american-rescue-plan-investments-to-support-parents-and-healthy-child-dev/>.

140. *Id.*

141. Maria D. Tito, *Maternity Leave and the Gender Wage Gap: An Analysis of New Jersey Family Leave Insurance*, BD. OF GOVERNORS OF THE FED. RESERVE SYS., FEDS NOTES (Aug. 17, 2016), <https://www.federalreserve.gov/econresdata/notes/feds-notes/2016/maternity-leave-and-the-gender-wage-gap-an-analysis-of-new-jersey-family-leave-insurance-20160817.html>; EILEEN APPELBAUM & RUTH MILKMAN, CTR. FOR ECON. & POL'Y RSCH., LEAVES THAT PAY: EMPLOYER AND WORKER EXPERIENCES WITH PAID FAMILY LEAVE IN CALIFORNIA 5 (2011), <https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>. *See also* BRIGID SCHULTE ET AL., NEW AM., PAID FAMILY LEAVE: HOW MUCH TIME IS ENOUGH? 18 (June 2017), https://d1y8sb8igg2f8e.cloudfront.net/documents/Paid_Family_Leave___Final.pdf (collecting research on the economic impact of paid family leave).

142. Tito, *supra* note 141.

The Family and Medical Insurance or FAMILY Act would provide up to 12 weeks of paid family and medical leave for needs such as caring for a new child, serious health conditions, and caring for a family member.¹⁴³ The Act would cover all workers, no matter the employer's size, including part-time, lower-wage, and self-employed workers, and workers would be able to receive 66% of their monthly wages.¹⁴⁴ The Act has not been reintroduced in the 118th Congress.

The Center for Law and Social Policy recommends that paid family and medical leave:

- 1) Be available to all workers, regardless of sector or employer size and whether they work full or part-time or are self-employed.
- 2) Allow workers to take time to address serious family and medical needs as well as care for new children.
- 3) Offer sufficient replacement wages so that workers who are paid low wages can afford to take leave when they need it.
- 4) Include all families, whether through blood, marriage, or affinity.
- 5) Ensure leaves are long enough to meet individual and family care needs.
- 6) Be funded through a social insurance program rather than tax credits or individual employer requirements or mandates. A social insurance program will allow the risk to be pooled across a large group of workers, making it affordable, accessible, and efficient.
- 7) Include job protection and strong prohibitions against discrimination or retaliation.¹⁴⁵

Paid sick leave is also an important benefit that should be available to all workers. The Shift Project found that among retail and food-service firms surveyed, 49% of union members had paid sick leave compared to 44% of non-unionized workers.¹⁴⁶ In addition, “[p]aid sick leave is also more gender equitable among unionized workers. While men were 15% more likely to have paid sick leave among non-union members, the gap is just 11% among union members.”¹⁴⁷ The Shift Project also recommends states, cities, and counties to enact laws requiring employers to provide paid sick leave to employees.¹⁴⁸ In states with paid sick leave, the gender gap between men and women who have access to paid

143. H.R. 804, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/804>; NAT'L WOMEN'S L. CTR., PAID FAMILY AND MEDICAL LEAVE WILL SUPPORT AN EQUITABLE ECONOMIC RECOVERY 3 (May 2021), <https://nwlc.org/wp-content/uploads/2021/05/PaidLeaveFS.pdf>.

144. NAT'L P'SHIP FOR WOMEN & FAMILIES, THE FAMILY AND MEDICAL INSURANCE LEAVE (FAMILY) ACT 1 (2022), <https://live-national-partnership-for-women-dev.pantheonsite.io/wp-content/uploads/2023/02/family-act-fact-sheet.pdf?wpId=64863>.

145. GUPTA ET AL., *supra* note 93, AT 4.

146. SCHNEIDER & HARKNETT, *supra* note 96, at 3–4.

147. *Id.* at 4.

148. *Id.*

sick leave is narrower at 7% compared to 14% in states without mandated paid sick leave.¹⁴⁹

IV. CONCLUSION

Women are more likely than men to work low-wage jobs and live in poverty. Several possible reasons explain why women are more likely to experience poverty despite working. Women have been historically segregated into lower-wage occupations and subject to discrimination that can perpetuate poverty. Women are also less likely to have access to educational and job training opportunities that would help them obtain higher-paying jobs. Finally, women are often disadvantaged in the workforce because of their family responsibilities.

It is time to give women the support they need to access higher-paying, better-quality jobs. Existing and proposed legislation are aimed at increasing wages for women in the lowest-paying jobs, such as the restaurant industry, and to remedy historical occupational segregation and discrimination in the workforce. Pro-women, family, and worker coalitions should come together to persuade lawmakers to enact these laws. Furthermore, women should be provided with additional educational and job training opportunities that would help them obtain higher-paying jobs. Finally, working women should be given more support for accommodating family responsibilities. Childcare should be free, and jobs should provide paid sick and family leave for all workers. After decades, if not centuries, of insufficient support, change must be made to alleviate poverty among working women.

149. *Id.*