

# Unsafe and Underpaid

How Sexual Harassment and Unfair Pay Hold Women Back

**Andrea Flynn**

**PUBLISHED AUGUST 2020**

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## About the Author

**Andrea Flynn** researches and writes about gender, race, health, and economic inequality. She was formerly a fellow and the Director of Health Equity at the Roosevelt Institute, and is the incoming director of the Research and Action Hub at the Institute for Women's Policy Research. She is the co-author of *The Hidden Rules of Race* (Cambridge University Press, 2017). Her writing on the race and gender dimensions of economic inequality, reproductive health and justice, and health equity has appeared in *The Washington Post*, *The Atlantic*, *The New Republic*, *Time*, *Teen Vogue*, and *Cosmopolitan*. Andrea teaches courses on reproductive and sexual health and economic inequality at the Mailman School for Public Health at Columbia University. She received her MPA and MPH from Columbia University. You can follow Andrea on Twitter @dreaflynn.

## Acknowledgements

The author would like to thank Jae Aron, Amy Castro Baker, Jessica Forden, Rebecca Goldman, Amanda Harrington, Matthew Hughes, Angie Jean-Marie, Devan King, Jennifer Klein, LaShawnda Lindsay-Dennis, Rakeen Mabud, and Tina Tchen for their comments, insights, and support.

This report was made possible with the generous support of Pivotal Ventures.

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# Executive Summary

Though the public, policymakers, and celebrities have paid increased attention to gender inequity in recent years, we have a long way to go when it comes to equal pay and workplaces free of sexual harassment. Women still only make 82 cents on the dollar compared to men, with women of color faring even worse, and the U.S. Equal Employment Opportunity Commission reports that up to 85 percent of women experience sexual harassment over the course of their career (National Partnership, "America's Women"; EEOC).

These two issues, pay inequity and sexual harassment, have often been presented as independent symptoms of a sexist culture, rather than intertwined and iterative co-conspirators. This paper challenges that notion. **Instead, it argues that these dynamics are mutually reinforcing, together preventing women from reaching their full potential at work and in society.**

To illustrate the ties between sexual harassment and pay inequity, this paper investigates these interlocking trends within culture, public policy, and the private sector. It illustrates how embedded social norms, codified laws, and commonplace employer practices have left unequal pay and sexual harassment unchecked and undermined women's safety and economic security:

- ▶ **Culture.** Historical norms that devalue women's work persist and have been cemented in our labor practices and laws, channeling women into low-wage and undervalued sectors of the economy.
- ▶ **Public Policy.** Emaciated labor policies, from weak nondiscrimination laws to dwindling worker protections, have diminished women's ability to advocate for equity and safety, while a lack of work-family policies continues to reinforce gendered social norms.
- ▶ **Workplace Policy.** From gender discrimination in hiring and promotions to nondisclosure and forced arbitration agreements that actively protect perpetrators of harassment, private sector practices both drive and derive from culture and labor policy.

Pay inequity and sexual harassment are not just problems in and of themselves; they are *symptoms* of long-broken cultural, legal, and employment systems, which we must rebuild to ensure that women have fair, safe, and dignified work.

Today, COVID-19 has only exacerbated these inequities, limiting women's options to find alternate employment, heightening trade-offs between increased child care needs and work hours, and worsening their burden of economic risk on the front lines. It has never been clearer that combating these problems will require centering women — and women of color, specifically — in policymaking.

# Introduction

In recent years, gender pay inequity and sexual harassment have moved to the forefront of our collective conscience, shining a spotlight on the injustice women have endured with little recourse for far too long. Though women comprise nearly half of the workforce and are the sole or co-breadwinner in more than half of U.S. families with children, the conditions and practices they are routinely subjected to threaten their safety, their labor market participation, and their economic mobility and security (“Pay Equity”). This is detrimental to women and their families and is also bad for our economy. Gender inequity alone costs the United States \$2 trillion in lost GDP (Roy).

Although gender pay inequity and sexual harassment have generally been considered as siloed concerns, this paper challenges that notion by arguing the two dynamics are mutually reinforcing and interconnected. As Marion Crain and Kenneth Matheny write, “Sexual harassment is about much more than men behaving badly. It is a structural problem linked to unequal pay and occupational segregation by sex.” Economic insecurity makes it more difficult for women to leave unsafe jobs and advocate for change at work. Research shows that when women at any income level experience sexual harassment, it leads to a range of negative health and economic outcomes, including changing jobs or leaving the labor market altogether.

To highlight the ways in which gender pay inequity and sexual harassment combine to create negative outcomes for women, this paper describes three causal pathways – culture, public policy, and workplace policy – that have undermined women’s safety and economic security and allowed pay inequity and sexual harassment to go unchecked. It illustrates how toxic cultural beliefs – steeped in the devaluation and undervaluation of women’s labor – shape and justify outdated and unfair legal and employment practices. It also shows how those policies and practices create conditions and outcomes that reinforce harmful patriarchal beliefs, fueling a vicious cycle.

Mainstream conversations about pay inequity and sexual harassment often point to single drivers of these problems and their corresponding solutions: a lack of pay transparency, forced arbitration policies, too few women in C-suite positions, a dearth of work-life policies that allow women to care for their families and participate in the labor market, etc. While these are all critical issues, a narrow focus on these drivers often leads to policy interventions that simply encourage women to work harder, network more aggressively, negotiate better, or choose a different career path. However, as this paper argues, pay inequity and sexual harassment are not just problems in and of themselves; they are symptoms of long-broken cultural, legal, and employment systems, which we must rebuild to ensure that women have fair, safe, and equitable access to economic opportunity and security.

***Pay inequity and sexual harassment are not just problems in and of themselves; they are symptoms of long-broken cultural, legal, and employment systems, which we must rebuild to ensure that women have fair, safe, and equitable access to economic opportunity and security.***

The need to dismantle and rebuild these structures has only become more apparent during the COVID-19 pandemic, as women manage dangerous front-line work, constrained labor market options, and huge increases in child care responsibilities. In particular, COVID-19 has laid bare deep racial and gender inequities and has shown how women's health and economic security are systematically threatened. The uneven impact the global pandemic will have on women's long-term safety and security was not inevitable and can be avoided with better and more inclusive policy decisions.

Meaningfully changing women's employment opportunities and outcomes will require structural change on three fronts. First, we must address the cultural norms that underpin and uphold the devaluation of women, the work that women have traditionally done, and the role of women in the workplace more broadly. Next, we must proactively contest — and ultimately undo — the laws and policies that have impeded women's social and economic security and fueled vast gender and racial disparities in income and wealth. Finally, we need private sector employers to enact policies that ensure greater inclusion, fairness, and equity at every stage of the employment process. Those changes should be shaped by women, should respond directly to the injustices and exclusions that women have experienced, and should be designed not simply to tinker around the edges but to overhaul an unjust system.

While this paper focuses on the role of women in the workplace, it also acknowledges that women's lives extend far beyond their place(s) of employment, and that the inequities they face in those workplaces reflect injustices they experience in their homes, in their communities, and in our society. As Loretta Ross and Rickie Solinger write, "Economic justice is not just about closing the income gap. Economic justice also means responding to the total lived experiences of individuals so that they have a fighting chance to thrive, to move up economically, and to contribute to the well-being of their families and communities." Developing effective solutions to pay inequity and sexual harassment will require understanding those issues as rooted in a system founded on sexism and racism — and particularly *gendered racism* — a system constructed to uphold privilege and power primarily for white male workers.

The first section of this paper describes how the gender pay gap and sexual harassment interact with and reinforce one another. The second section describes the cultural, legal,

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majority of the U.S. workforce, holding up industries at the center of our economy and of many American lives (Omeokwe). The inequity they experience does not just hold them back individually; it contributes to the insecurity of entire communities and represents lost economic growth for all. If women could be safer, more secure, and more prosperous, so too could our nation.

and employment norms that fuel these interlocking trends. The third section explains how women at all levels of the income scale experience these two phenomena and elevates the ways in which race, class, sexuality, and immigration status shape these experiences. The final section will propose a guiding framework for developing a comprehensive set of solutions to the problems.

Transformative change for women workers is not only necessary and just, but also smart. Women are at the center of our families, in their personal capacities and in their professional capacities as caregivers for our young, our old, and our unwell. At the end of 2019, they surpassed men as the

## The Scope of Gender Pay Inequity and Sexual Harassment

*Pay inequity and sexual harassment trap women in a cyclical relationship, defining women’s experiences in the U.S. labor market.*

### **Gender Pay Inequity**

The gender pay gap in the U.S. has improved overall since 1980, when women workers made 64 cents for every dollar their male counterparts took home (Graf et al.). However, as of 2018, full-time, year-round women workers still made only 82 cents for every dollar men workers made overall (Semega et al).

When we look squarely at how women of color and LGBTQIA+ individuals are treated in the labor market, the circumstances are even more dire. In 2018, Black and Latinx women made 61.3 and 54.5 percent, respectively, of white men’s median yearly income, and some subgroups of Asian American and Pacific Islander women make as little as 50 percent of the

income of a white man (Semega et al.). Women in same-sex couples have a median personal income of \$38,000, compared to \$47,000 for men in same-sex couples, and a 2012 study showed that the earnings of transgender women plummeted by nearly a third after they transitioned (Burns). However, difficulties with getting large enough sample sizes has led to a dearth of meaningful economic statistics on LGBTQIA+ workers (as well as for some race and ethnicities) causing entire populations to be rendered invisible in policy and research.

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The gender pay gap is the result of a range of forces, including gender and racial discrimination, occupational segregation and unequal caregiving responsibilities, and our government's failure to implement a host of work-family policies. Because women are twice as likely as men to work

part-time and inconsistently, it is critical that we consider weekly earnings in addition to annual earnings: Weekly earnings of white women are 81 percent of white men's, and those of Black and Latinx women are 69 and 62 percent, respectively (U.S. BLS "Median").

### **Sexual Harassment**

In recent years, the #MeToo movement has elevated an essential fact: For as long as women have worked, sexual harassment in the workplace has shaped women's work experiences, economic security, and overall well-being.

Because of intimidation or fear of retaliation, many workers do not report sexual harassment, making it difficult to measure just how pervasive the problem is. One 2019 study, however, showed that 38 percent of women reported experiencing sexual harassment in the workplace, and 81 percent of women reported experiencing assault or harassment of some kind in their lifetime (Kearl et al.).

The intersecting identities of race, gender, sexuality, and immigration status make women particularly vulnerable to both low-paid work and sexual harassment. The National Women's Law Center found that Black women filed sexual harassment charges with the U.S. Equal Employment Opportunity Commission (EEOC) at nearly three times the rate of white, non-Latinx women, and that in every industry, Black women are disproportionately represented among women who filed sexual harassment complaints (Rossie et al.).

Women who are undocumented immigrants are particularly susceptible to unsafe working conditions. They often face language barriers at work, may not know their rights as workers, and because of fear of deportation, may not feel safe reporting sexual harassment. In a 2009 survey of meatpacking workers in Iowa, 91 percent of respondents said that immigrant women do not report sexual violence or harassment in their workplaces (Lewis), and Bernice

Yeung details how commonplace sexual harassment, assault, and rape are in farm labor and janitorial industries (Ramchandani).

Transgender and gender nonconforming individuals are also particularly vulnerable. They report a rate of unemployment double that of the general population, and transgender and gender nonconforming people of color have an unemployment rate four times the national rate. That was before the COVID-19 epidemic thrust millions more Americans into unemployment. In a 2011 survey, 90 percent reported experiencing harassment, discrimination, or mistreatment on the job, and 47 percent reported experiencing negative job outcomes, such as being denied a promotion, getting fired, or not being hired because of their identity (Grant). Unfortunately, data limitations, as mentioned above, have led to a lack of reliable statistics on pay gaps and incidences of sexual harassment for transgender and gender nonconforming individuals, so the true extent to which these communities face such issues is buried and poorly reported.

Another risk factor is physical isolation. Women whose positions require working in isolation – such as hotel workers, office cleaners, home health aides, and remote agricultural workers – are at heightened risk of sexual harassment. One survey revealed that 58 percent of hotel workers have experienced sexual harassment, including male guests exposing themselves, answering the door naked, or outright committing assault (Lewis).

Women with low incomes also face great risk; research shows that industries with low-paying jobs have the highest rates of sexual harassment charges filed by their employees. Those industries include accommodations and food services, including restaurants; retail trade; health care and social assistance; manufacturing; and administration, support, and waste management and remediation services (Rossie et al.). Many of these industries disproportionately comprise women, specifically immigrants and women of color.

As the COVID-19 crisis persists, all of these existing vulnerabilities are likely to be magnified. Cassino shows that as unemployment rates increase, so do reports of sexual harassment, suggesting that women are more vulnerable to sexual harassment during times of social strain and economic insecurity. Facing an economic downturn and precarious employment, women may feel less comfortable reporting sexual harassment.

# Mutually Reinforcing Trends

Sexual harassment and pay inequity come together in a vicious cycle to hold women back. They are linked by a socioeconomic system that routinely devalues women's work, particularly work done by women of color (Kashen). This includes both paid work that happens in the formal and informal labor markets and unpaid labor in the home.

These two trends reinforce each other – and fuel economic insecurity – in a number of ways.

- ▶ **Economic insecurity makes it harder for women to leave jobs in which they have experienced sexual harassment or assault, and also makes it difficult for them to fight to change unsafe, hostile and toxic work environments.** Low-wage work is a risk factor for sexual harassment. Economic security does not protect women against sexual harassment or violence, but working in a low-paying, insecure jobs makes it more likely that women will experience one or both, and experiencing harassment or violence makes it harder for women to advance professionally and economically. As the National Partnership for Women and Families argues, in workplaces that do not address sexual harassment women may feel less empowered to negotiate salaries and raises which can ultimately reduce their long-term earnings and advancement (“Sexual Harassment”).
- ▶ **Research shows that women who are harassed on the job are more likely to take lower-paying jobs, move to a different field, or exit the labor market altogether, any of which have significant financial implications** (Beras). Sexual harassment harms economic opportunities and outcomes both directly and indirectly: directly as women leave jobs and/or change career paths to escape their harassers, and indirectly as they experience negative health outcomes that impact their ability to participate in the labor market. Women who experience sexual harassment on the job suffer physical and emotional repercussions such as depression, burnout, anxiety, and even post-traumatic stress disorder (Cassino and Besen-Cassin). Others report that experiencing sexual harassment in the workplace has led to less job involvement and satisfaction, as well as “increases in absenteeism, turnover, early retirement and a range of negative health outcomes” (National Partnership, “Sexual Harassment”), all of which can lead to a range of long-lasting economic ramifications.
- ▶ **Retaliation for reporting sexual harassment can reinforce pay inequities.** More than one in three women who report sexual harassment at work also report experiencing retaliation, including demotion, undesirable changes in schedules, reduction in hours,

or termination. More than half of women who file complaints report being dissatisfied with the response from their employer (National Partnership, "Sexual Harassment"). This helps explain why many women avoid reporting their experiences in the first place.

- ▶ **Because of the vicious cycle, women cannot simply earn or advance their way out of sexual harassment.** Industries in which women are underrepresented — finance and insurance, real estate, management of companies and enterprises, etc. — have fewer reports of sexual harassment filed with the EEOC, but sexual harassment is still pervasive in many of those industries. In fact, 35 percent of women in corporate America experience sexual harassment at some point in their careers, from hearing sexist jokes to being touched in a sexual way (Krivkovich et al.). The Institute for Women's Policy Research shows that sexual harassment can restrict access to on-the-job learning and career advancement opportunities: "For women in the academic sciences, engineering, and medicine, a recent study found that harassment affects their career advancement by leading them to give up tenure opportunities, drop out of major research projects, or step down from leadership opportunities to avoid the perpetrator," (Shaw).

Sexual harassment and assault have a pernicious impact on women's short- and long-term employment, financial opportunities, and economic outcomes; not to mention on their physical and mental health. When combined with rampant pay inequities, these two factors work together to lock women in a toxic cycle that is challenging to break. In the next section, we explore the interplay among cultural norms, public policy choices, and workplace practices that uphold this systemic injustice.

## Wealth as a Channel That Connects Pay Inequities and Sexual Harassment

There is perhaps no issue that more clearly illustrates the broken rules of culture, public policy, and the private sector than the persistence of the United States' race and gender wealth gaps. As of 2013, Black and Latinx women had a median net worth of \$200 and \$100, respectively, compared to the median net worth of \$15,640 for white women and \$28,900 for white men (Flynn "Justice").

Conversations about women's workplace experiences often focus on income but pay little attention to the role of wealth. However, wealth is critically important in the context of this conversation about pay equity and workplace safety, as it buys women freedom to leave and move about the labor market (Chang; Price). Women who have few or no economic resources to fall back on in times of crisis are more likely to remain stuck in a low-paying or unsafe job because they are fully reliant on their wages to sustain themselves and their families.

Wealth and pay equity are iterative: When women earn less than men, it means they save less than men (and go into greater levels of debt). In addition, when women have less wealth, they feel the pain of lower wages more acutely and may be less able to escape poor working conditions. It is a stark illustration of how structural discrimination acts as a revolving door.

Women who lack wealth or economic backstops are fully reliant on their wages to sustain themselves and their families — a quagmire for the predominantly Black and Latinx women in minimum wage and subminimum wage jobs. These wealth disparities mean that women of color have essentially no assets to rely on in times of crisis, and that makes it all the more likely they will stay in unsafe jobs to receive an income, even if that income is grossly unfair. These dynamics are even more heightened in economic downturns like the COVID-19 crisis.

Policymakers have long argued that women looking to improve their financial opportunities should advance their education and gain more credentials. But this pathway has been a dead end for many, as a lack of familial or individual wealth has driven many young people to take on hefty loans. The cost of higher education means that it is harder for women of color and immigrant women — who are underpaid and have little wealth — to invest in education in the first place, which means it is harder for them to move out of low-wage work. When they do invest in education, they end up with a disproportionate amount of student debt, which only further fuels their lack of wealth and makes it harder for them to be economically secure (Zaw; Kahn et al.).

We often consider wealth as critical for investing in opportunities for future generations: home ownership, small business development, educational advancement, etc. It is also a safety net in times of crisis, one that women who experience sexual harassment might need to leave their job.

Women's lack of wealth binds together pay inequities and sexual harassment. Improving outcomes and opportunities for women, ensuring equitable pay, and guaranteeing their safety in the workplace will require deeper analysis of the ways culture, public policy, and workplace policy drive these injustices.

# Three Causal Pathways: Culture, Public Policy, and Workplace Policy

U.S. culture, policies, and employment practices are woven together in a toxic system that undervalues and devalues women and their work. The cultural understanding of women's roles in the family and in society and the devaluation of their work creates significant vulnerabilities for women and opens the door to pay inequity, sexual harassment, and a host of other circumstances that threaten women's safety and economic security. The United States' failures in the realm of public policy and workplace practices fuel the cyclical relationship between sexual harassment and pay inequity and ultimately reinforce the cultural root causes.

## Driver: Culture

Though women have transformed the labor market over the last half-century, patriarchal and racialized cultural notions of women's familial and societal roles — notions about where women belong and *which* women belong where — have been slow to transform (Abramovitz; Roberts; Jones).

A quick scan of history demonstrates that labor performed by women, especially women of color, has long been undervalued. The designating of some work as “women's work” and the under-compensation — or total lack of compensation — for such work can be tied directly to long-standing cultural norms rooted in sexism and racism:

- ▶ **Notions of acceptability** have long restricted the types of jobs that women have access to while simultaneously maintaining their social position.
- ▶ **The undervaluation of women's labor**, most notably caregiving, can be traced directly to the coerced labor of Black women beginning with slavery. Over time, this has translated into our laws, institutions, and norms (Jones). The institutionalization of such norms perpetuates a narrative that women — and the issues women face disproportionately — are “less than.”
- ▶ **But women have also consistently pushed back** on these injustices throughout history, laying the groundwork for generations of women to come.

## Notions of Acceptability

The gender discrimination that shapes women's labor market experiences today is rooted in early U.S. history, when cultural norms dictated that the socially acceptable place for most (white) women to work was in the home, raising families and maintaining the household (Abramovitz). However, the work of caring for families and households was not considered work at all – therefore, it was not assigned or thought to contribute any economic value – and instead was considered a set of duties that “good” women should fulfill as part of their domestic responsibilities. Women who had to work outside of the home were othered and labeled “bad” for stepping outside those personal domestic responsibilities even as they relieved other (usually white) women of those very same duties (Abramovitz). As Daphne Spain explains, this physical separation of men and women has been a way for men to maintain power: “Gendered spaces separate women from knowledge used by men to produce and reproduce power and privilege.” That continues to be true today.

Early historical notions of what made a “good” woman were steeped in the overlapping racism, sexism, and classism of slavery and the Jim Crow era that followed. For more than two centuries, Black women were legally required to endure inhumane treatment – including sexual and physical abuse – to “work” in the homes of other families while they were not legally permitted to have homes or families of their own. When slavery ended, a web of Jim Crow laws took its place, relegating Black women to the social and economic margins, forcing them to leave their own homes, and giving them no choice but to work in the homes of others (Roberts). In the decades that followed, these were some of the only jobs available to women of color and immigrant women.

World War II dramatically changed women's workforce participation, bringing approximately 6.7 million additional women into the labor market, an increase of nearly 50 percent (Evan Rose). Though the wartime surge in women's labor market participation would recede, as men returned from war and resumed their jobs and as women were steered back into the home by concerted post-war efforts, it began to normalize the notion of white women working outside the home and ultimately opened a pathway for women to play a bigger role in the workforce (Davis). In many ways, these jobs were an improvement over the insecure and exploitative work of domestic labor, but they were still low-paying and offered few, if any, protections.

Even as new labor market opportunities became available to women in the decades after the New Deal era, rules and guidelines were adapted to ensure exclusions would continue (Flynn et al. “Hidden Rules”). For example, the practice of tipping – today a source of poverty and vulnerability to sexual harassment among working women of all races – emerged in resistance to Black workers moving into formal employment as a way for employers to avoid paying them for their labor (Mabud).

Even in higher-paying jobs and sectors, norms about acceptable femininity pervade women's experiences at work. McKinsey has found that 55 percent of women in senior leadership, 48 percent of lesbians, and 45 percent of women in technical fields have reported being sexually harassed. "A common thread connects these groups: Research has found that women who do not conform to traditional feminine expectations — in this case, by holding authority, not being heterosexual, and working in fields dominated by men — are more often the targets of sexual harassment" (Krivkovich et al.).

Women in corporate America are more likely to be the "only" woman — or one of very few women — at their level in their company; 20 percent of women — and 40 percent of women in senior-level positions and technical roles — report being "onlys," which makes them more susceptible to a range of challenging and potentially harmful circumstances (Krivkovich et al.). As McKinsey describes, women who are "onlys" are nearly twice as likely to have experienced sexual harassment during their career (Krivkovich et al.).

### **Culture's Impact on Labor Market Opportunities and Outcomes**

Cultural beliefs both past and present — and the resulting centuries of race and gender discrimination — shape women's access to and experiences in the labor market today. The prevalence of women, and particularly women of color and immigrant women, in low-wage work is not a coincidence (Levanon et al.; Miller). One phenomenon that explains this imbalance is "channeling," a process by which certain job candidates — particularly those from historically marginalized communities — are pushed into particular kinds of jobs. For example, the channeling of women, and particularly women of color and immigrant women, into low-wage professions is the result of a range of cultural factors, including implicit bias and the historical devaluation of work inherently seen as "women's work."

Women of color are disproportionately represented among all low-wage earners and public sector workers: 31.8 percent of Latinx women, 27.7 percent of Black women, and 20 percent of Asian American women are employed in service occupations, compared to 7.4 percent of white women. As of 2015, Latinx women were the sole group whose largest share of employment was in the lowest-paying service occupations. More than 6 in 10 single mothers are employed in the retail and service industries, both of which are notorious for low pay, unpredictable scheduling, and a lack of work-life benefits (Hegewisch and Hartmann). Trans women living at the intersections of gender, race, and sexuality often face discrimination that pushes them out of the formal economy and into jobs that lack a broad range of worker protections.

The race and gender segregation of the labor market suppresses wages in positions held predominantly by women. Research shows that when women begin to move into occupations that have been dominated by men, the jobs in those industries actually begin paying less. For example, in cases where large numbers of women became park or camp workers, median wages decreased 57 percentage points, and when more women became ticket agents, wages

dropped 43 percentage points. However, when more men begin to move into a certain field, wages increase, which can create an imbalance in power dynamics, with women being more likely to experience pay inequities and becoming more vulnerable to sexual harassment (Levanon et al.; Miller).

## The Undervaluation of Women's Labor and Its Codification in Laws

The undervaluation of women's labor, particularly the labor of Black women, and gendered professional norms have been sustained by their codification in laws and policies.

For example, the disproportionate representation of women of color in low-wage professions today is a reflection of the racist and sexist rules that governed the labor market nearly 100 years ago. The New Deal era represented a time of unprecedented growth in policies and government jobs and programs that enabled millions of families to move into the middle class (Katznelson). An opportunity that could have been used to correct more than a century of racial economic disparities was instead seized to reinforce racial inequities.

In 1930, 40 percent of Black workers were employed in agriculture, compared to 26 percent of white men, and more than 60 percent of Black women worked as domestic workers, compared to 20 percent of white women (U.S. Census Bureau). Exploiting that gender and racial segmentation, Southern conservatives simply excluded certain professions from labor rights and benefits to deny Black people access to the New Deal: The 1935 Social Security Act, the National Labor Relations Act, and the Fair Labor Standards Act — policies that transformed the labor market for so many white workers — all excluded domestic and agricultural workers from unemployment benefits and a wide variety of protections such as a 40-hour workweek, a national minimum wage, the ability to unionize, and access to low-cost mortgages and educational opportunities (Gordon; Katznelson; Flynn et al. "Hidden Rules").

More than eight decades later, "demographics continue to act as destiny," and workers in these industries continue to be excluded from the NLRA (Block and Sachs). The legacy of the New Deal era is pervasive today: 95 percent of U.S. domestic workers are women, women of color, or women born in another country (Lin); 73 percent of agricultural workers are immigrants (National Center for Farmworker Health).

## Driver: Public Policy

Sexual harassment and pay inequity are not accidental features of our workplaces; they are symptoms of structural barriers built into our broader economic and legal systems. The fact that women routinely feel unsafe at work and are chronically underpaid for their labor is the result of an economic system that is stacked against them: Many women do not have access to paid sick days, paid family leave, or affordable child care, making it more likely they will need to take time away from work and lose income and career advancement opportunities.

Even women who have access to the range of important work-life benefits and receive higher wages face vulnerabilities in the workplace. They are sometimes the only woman in their department or company; they often make less than their male peers; and those who have leadership positions are more likely to experience sexual harassment and might feel less able to report it (Krivkovich et al.). Factors that drive the gender pay gap, ranging from caregiving responsibilities to discrimination, all reinforce women's subordinate position in the labor market. For example, sex-based discrimination contributes to the lack of women in leadership positions in all sectors and makes it all the more likely that women – and particularly women of color and immigrant women – will end up in the industries characterized by low-paying, unsafe, and insecure work.

The cultural forces described above both shape and are compounded by present-day public policies that facilitate or fail to address the existence of sexual harassment and pay inequity. One result of an economic ideology that puts the spotlight on individuals while making systems invisible is that mainstream conversations about sexual harassment and pay inequity often frame them as inevitable or accidental. But we must acknowledge that these dynamics are driven by choices, and that our policymakers can and should be making choices that address these issues head-on.

Below are just a few of the policy choices that reinforce inequity and insecurity for women in the labor market.

### **Paid Family and Medical Leave and Affordable Care**

The U.S. is the only developed country that does not mandate paid family leave and paid medical leave or provide universal, affordable, and quality child and elder care for families (Heymann et al.). These failures drive gendered economic inequity at all levels of the income ladder, reinforce unequal gender roles, and make women workers vulnerable to poor and unsafe working conditions. Without these policies, many parents ultimately must choose between maintaining a low-income, insecure job and caring for their children or other dependent family members.

Caregiving serves an infrastructural function in our society; it is not only a bedrock sector for many women workers, but is also an industry that allows parents who depend on care for their children and elders to participate fully in the labor market – and is therefore critical to ensuring that parents can work. Care labor, which is disproportionately performed by women, has long been undervalued. Its historical roots as free labor performed by Black women under the institution of slavery continue to show up today in the low-paid, poorly protected jobs that are disproportionately held by women of color and immigrant women.

The only federal policy that currently covers paid leave is the 1993 Family and Medical Leave Act (FMLA), which guarantees eligible workers up to 12 weeks of unpaid, job-protected leave to spend time with a new child, recover from personal illness, care for a sick family member, or deal with spousal military obligations (A Better Balance). That law is outdated and woefully inadequate. It only applies to companies with more than 50 employees and leaves behind roughly half of the workforce. It does not guarantee any compensation during time off, and research shows that the vast majority of workers do not take leave because they simply cannot afford to do so (U.S. Executive Office). Given the high percentage of U.S. households with children under 18 that depend on a mother's income, it is not surprising that one in four women return to work a mere two weeks after giving birth (Lerner). At the same time, research shows that 90 percent of firms with fewer than 100 staff members have no wage-protected family leave (Chen), and 93 percent of workers with low wages have no access to paid family leave (Gupta et al.).

The lack of affordable care and paid family and medical leave policies reinforces the link between pay inequity and sexual harassment through several channels. First, because of cultural norms that women are expected to take on a greater share of household caregiving responsibilities, women are more likely than men to cut back their hours or step away from formal labor market responsibilities, perpetuating pay inequities. During the COVID-19 pandemic, this dynamic threatens women's long-term pay and career advancement even further, as many households are burdened with significantly increased child care responsibilities that are being shouldered primarily by women. This includes not only the increased at-home care women are providing today, but also the decisions they will be forced to make as workplaces reopen, while schools and child care centers stay closed, and the reduced pay and career advancement opportunities they face for having to accommodate these extra care responsibilities.

At the same time, without paid leave policies, women are more likely to leave their job or cut back hours to perform caregiving labor. One study from Denmark showed that women's earnings dropped significantly after the birth of their first child, after which they ultimately earned 20 percent less than their male partners, due in equal parts to decreased labor force participation, hours of work, and wage rates (Kleven et al.).

These absences from the workplace perpetuate wage gaps, stymie women's abilities to advance in their careers and to be promoted into leadership (Hideg et al.). They also contribute to the lack of women in leadership positions and are a detriment to a companies' ability to promote safe workplaces for women. In fact, research shows that women in workplaces where men outnumber women or where leadership is male-dominated experience sexual harassment more at much higher rates (National Academies of Science).

Moreover, care responsibilities mean that women may be forced by their circumstances to stay in a job that pays little or is unsafe – whether because of sexual harassment or other workplace safety issues. Collectively, the cultural norms that reinforce women's role as "caregivers" and the public policies that fail to provide adequate support disempower women in the workplace and limit their agency and power to push back against unfair or unsafe workplace environments.

For women who have experienced sexual harassment in the workplace, a lack of available paid leave might also limit the ability of women to take time off to address and heal the sometimes severe medical or psychological impacts of harassment, or make it difficult for them to take time off to look for alternate—and safer—employment. One 2016 study of federal employees found that almost one in six employees who experienced sexual harassment took sick or annual leave following their harassment (Shaw et al.).

In recent years, six states have implemented paid leave programs that allow individuals to take paid time off for the birth or adoption of a new child and to care for themselves or a family member. These programs are a significant improvement over the FMLA and cover a much larger proportion of the population. However, the wage replacement levels – as low as 60 percent of wages – may still make it difficult for low-income women to take leave. They may also serve as a deterrent for men who might otherwise take leave. A 2014 Boston College survey found that 86 percent of men would not use paternity leave unless at least 70 percent of their salary was paid, and 45 percent said the compensation would need to be 100 percent (Harrington et al.). States should continue to improve upon their paid leave plans so that as many people as possible are able to access them.

Though some states have made headway on paid leave programs, federal efforts to fund child care fall woefully short of what is necessary. The fundamental problem in U.S. child care policy is a longstanding underinvestment in federal or state child care support. Efforts to fund child care, which include the Child Care and Development Block Grant and the Child and Dependent Care Tax Credit, are also deeply insufficient – and are a far cry from the universal access to care that many advocates have long called for. Recent legislative measures, such as the \$3.5 billion in supplemental funding provided in the CARES Act, are an important first step, but Congress needs to do far more to support child care workers and working parents.

## **Tipped Minimum Wage**

Some of the most insecure jobs in the labor market are those with a tipped minimum wage. Only seven states require employers to pay tipped workers a full minimum wage; other states require employers to pay their workers a mere \$2.13 an hour, making those workers fully reliant on tips for their financial security. Under state unemployment insurance policies, many tipped workers who are laid off are either given benefits only on the basis of their pre-tipped wage or don't qualify for unemployment benefits at all (U.S. Department of Labor).

One of the worst offenders of low wages is the restaurant industry, which represents more than 14 million workers. While 7 percent of American women work in the restaurant industry, an astonishing 37 percent of all sexual harassment claims filed with the EEOC come from the restaurant industry (Rossie et al.). Restaurant Opportunities Center United also found that women restaurant workers who are paid a minimum wage of \$2.13 are twice as likely to experience sexual harassment from customers, co-workers, and managers as women who are paid the same minimum wage as other workers.

Research shows that women in the restaurant industry are more likely to have positions that require them to be in “front of house” where they need to rely on tips for income, compared to men who are more likely to have “back of house” jobs with a guaranteed salary. Similarly, Black women tend to be overrepresented in minimum wage fast food jobs, compared to white men who are overrepresented in upscale fine-dining establishments that present tip opportunities far larger than in the rest of the service industry (Reyes et al.).

The persistence of women's economic insecurity makes them vulnerable to sexual harassment. The imbalanced power dynamics created by a reliance on tips means that women are more likely to put up with bad behavior from customers, managers, and co-workers in order to make ends meet. Low-wage jobs in general create conditions of economic precarity that facilitate sexual misconduct in the workplace, and research demonstrates that eliminating the tipped minimum wage and raising the minimum wage creates much safer work conditions (Restaurant Opportunities).

## **Declines in Union Membership and Worker Protections**

Union jobs, especially those in the public sector, have been a bastion of economic stability for all workers, but are particularly important for women of color who have historically been overrepresented in public sector jobs. The share of women workers who are part of a union declined from 18 percent in 1983 to 9.6 percent in 2018 (Shaw and Anderson). Black workers are more likely to be unionized than white workers, with 13.3 percent of Black men workers and 11.9 percent of Black women workers claiming union membership, compared with 11 percent of white men workers and 9.6 percent of white women workers (U.S. BLS “Union”). However, many women, including domestic workers and gig workers, are statutorily prohibited from unionizing (Andrias and Rogers).

Workers in unions are generally guaranteed higher pay, safer work environments, and more stable hours than those in nonunion jobs, and gender pay gaps have been smaller in those positions. This suggests that collective action – and environments where workers collectively have more power – is one pathway to greater pay equity, and greater power to stand up against workplace issues such as sexual harassment.

Black and Latinx women who are union members earn 37 and 44 percent more, respectively, than their nonunion peers. Research shows that unionized women workers in low-wage occupations are 32.6 percent more likely to have a pension and 24 percent more likely to have employer-based health insurance. The work-life benefits affiliated with union membership are significant for the health of women and their families and have been proven to have a positive impact on women’s long-term economic outcomes. A 2014 study found that “firms with a union presence were 22 percent more likely to allow workers to take parental leave for a new child, 16 percent more likely to allow workers to take medical leave for their own illness, 12 percent more likely to allow workers to take medical leave for pregnancy, and 19 percent more likely to allow workers to take medical leave to care for a family member” (Jones et al.). Moreover, an institutionalized vehicle for collective action may make it more likely that women will feel comfortable raising issues of workplace safety, including incidents of sexual harassment.

However, unions have a checkered history when it comes to standing up against sexual harassment (Avendaño). In the eruption of #MeToo related lawsuits in 2017, unions faced many assault and harassment charges, and a number of high-level union officials either resigned or were discharged (Eidelson “Harassment,” “SEIU”; Kullgren). Hertel-Fernandez shows that among a range of issues (including not being paid on time, not being paid in full, experiencing pay discrimination on the basis of gender or race, and being exposed to unsafe working conditions), only sexual harassment appeared not to have an overall union effect. This suggests “that unions may be less well-equipped to help workers deal with these rights violations as compared to other issues, like wage discrimination or workplace safety.”

Looking forward, the labor movement must ensure that women workers have access to the benefits of collective action and power and must become champions in rooting out sexual harassment and creating safer, fairer workplaces for all. Eliminating the domestic, agricultural, and gig worker carve-outs for unionization is also critically important, as they bar some of the most vulnerable workers from collective power.

### **Out-of-Date Labor Laws**

America’s labor laws are out of date, perpetuating the legacy of historical race and gender exclusions that left many workers unprotected on the job. These exclusions still have consequences today, impacting more workers as gig economy work becomes increasingly prevalent and union rates continue to decline. As Dixon and Mabud argue, our labor laws

reflect the power dynamics that exist in American society, and we have the ability to shape and change those power dynamics.

It's no surprise or coincidence that the industries with the fewest labor protections are disproportionately comprised of women, Black people, and immigrants (Dixon and Mabud; Bernhardt et al.). Today, state labor laws and the National Labor Relations Act, originally designed to protect workers' rights to engage in collective organizing, are ineffective and insufficient. As Jobs With Justice reports, "a full quarter of U.S. employees aren't covered by these laws and have no protected right to organize."

Recent efforts to further curtail worker power have only exacerbated our already failing labor laws. Recent Supreme Court and National Labor Relations Board rulings have impeded undocumented workers' and temporary workers' rights to organize and made their already precarious work even more unstable.

## Driver: Workplace Policies

Our toxic cultural norms and the harmful and inadequate public policies that result contribute to workplace policies that undermine the economic security and safety of women at all levels of the income spectrum, with detrimental cascading effects for low-income women. Listed below are a number of the policies and practices that fuel the cyclical trends of sexual harassment and pay inequity. We must see these policies and practices as a symptom of an economy that simply does not work for women; advancing women's health and economic equity in the workplace will require addressing them once and for all.

### **Gender Discrimination in Hiring and Promotions**

Earlier, this paper illustrated the ways in which cultural norms can result in women being channeled into low-wage jobs or into positions that are less secure or profitable than those men are often given. Similar gender discrimination in hiring and promotions persists at all levels of the income scale.

For example, research from McKinsey finds that corporate America has made almost zero progress in advancing gender equity over the last five years, and that the underrepresentation of women continues to be a major problem. Though women earn more bachelor's degrees than men do, they are still less likely to be hired for entry-level positions, and they are even less likely to be hired into and promoted into managerial roles, positions that set the stage for women's ascension into leadership roles. For every 100 men promoted to manager, only 79 women are promoted to manager. As the authors of the McKinsey report explain, this hiring discrimination at the early stages of women's careers has a profound impact on their career trajectory and leaves fewer women in the pipeline for promotion later in their careers (Krivkovich et al.).

If companies started to hire and promote women to managerial positions at the same rates as for men, corporations would achieve gender parity in management within the next decade. However, if companies continue at the current rates, the number of women in management will only increase by a single percentage point over the next decade (Krivkovich et al.).

This is not only a personal and professional loss for the women who could and should be given opportunities to advance their careers; it is also a bad business decision. In 2016, the Peterson Institute for International Economics surveyed 21,980 firms from 91 countries and found that having women at the C-suite level correlates to increases in net margins for companies. “A profitable firm at which 30 percent of leaders are women could expect to add more than 1 percentage point to its net margin compared with an otherwise similar firm with no female leaders. By way of comparison, the typical profitable firm in our sample had a net profit margin of 6.4 percent, so a 1 percentage point increase represents a 15 percent boost to profitability” (Noland et al.).

Other research on U.S. firms has found similar benefits to having more women in C-suite positions and on boards. A 2011 study by Catalyst found that the Fortune 500 companies with the highest proportion of women on their boards performed significantly better than firms with the lowest proportion (Wagner), and a 2015 study by McKinsey found that mixed-gender boards outperform all-male boards (Hunt et al.). Other studies found that hedge funds headed by women outperform hedge funds headed by men (Fortado). This research shows us that prioritizing gender parity in organizations and businesses is not only the right thing to do but the smart thing to do.

### **Forced Arbitration Agreements and Nondisclosure Agreements**

More and more U.S. firms are relying on forced arbitration agreements to solve a range of disputes such as sexual harassment, as well as gender and racial discrimination. Arbitration is an independent and private court system in which the employer chooses the parties to decide the case. Once parties settle a dispute through the arbitration process, they cede their right to have their case heard before a real court. Forced arbitration began to proliferate in the labor market beginning in the mid-1980s, when the Supreme Court determined that the practice could be used for a wide range of employment disputes (Colvin).

Now, more than 55 percent of the U.S. workforce is subject to mandatory arbitration, which means that more than 60 million workers are barred from accessing the U.S. legal system to solve their employment disputes (Colvin). Industries dominated by women workers are much more likely to impose forced arbitration than those dominated by men, illustrating the extent to which employers want to have greater control over their employees, particularly women employees who might be viewed as a threat to the traditional power structures.

In his research about the prevalence and impact of forced arbitration agreements, Colvin describes how allowing employees to have access to the courts is especially important in the current economic context:

*Against this backdrop of increased economic risk and uncertainty for workers and the disruption of traditional protections, laws protecting employment rights such as the minimum wage, the right to equal pay, and the right to a safe workplace free of harassment or discrimination based on race, gender, or religion have become increasingly important as a workplace safety net. However, these protections are at risk of being undermined if there is no effective means of enforcing them. For all the limitations of the courts, litigation has been a vital mechanism for enforcing employment rights, particularly in an era of reduced government agency resources (Colvin).*

Forced arbitration prevents women from seeking justice for the harm done to them and makes it more difficult for them to advocate for changing workplace policies. The practice also allows companies to hide their bad behavior and avoid being held accountable for their actions.

### **Perceived Culture of Indifference**

There is a strong perception by employees that companies do not take sexual harassment claims seriously and that they will not take adequate measures to eradicate it. Only 6 in 10 employees felt that over the last year their employers have taken a strong stance against sexual harassment. Only 60 percent of workers believe their employer would sufficiently investigate and address a sexual harassment claim, and only 30 percent believe such a claim would be investigated in a timely manner. Women are far more likely to believe that reporting sexual harassment will not result in a fair investigation and are twice as likely as men to say reporting such an incident would be risky or pointless (Krivkovich et al.).

### **Noncompete Agreements**

At the beginning of an employment relationship, employers often institute rules that make women vulnerable from the outset. One of those rules is the continued practice of asking employees to sign noncompete agreements that ban them from working in similar industries after their employment is finished. This practice used to be reserved for workers who had access to proprietary information, but a wide range of workers is now subject to these practices, including camp counselors, fast food workers, retail workers and many others (Greenhouse). Today, nearly 30 million working people, including more than 12 million women, are unable to leave their jobs because of noncompete clauses (U.S. Department of the Treasury; Hubbard and Vaheesan).

As described earlier, women who experience sexual harassment must often resort to finding a new job. One study showed that women who were targets of sexual harassment were 6.5 times more likely to change jobs than women who hadn't been targeted (McLaughlin). However, the prevalence of noncompete agreements — particularly in low-wage industries that are dominated by women workers — can make it nearly impossible for women to find a new job in the same industry.

As Hubbard and Vaheesan describe, workers who are subject to a noncompete agreement and looking to leave their job are faced with three choices that are not unlike those facing all workers who experience sexual harassment on the job. First, they can find a job in another line of work or industry, which severely limits employment options and might require a certain amount of skills or training that could be difficult to obtain. Second, they could move outside the geographic reach of the noncompete, which is likely to be out of the question for women whose families — children, parents, or spouse — are not mobile, or who do not have access to the financial resources required to facilitate a major geographic move. Lastly, they can choose unemployment for the duration of the noncompete agreement, which is simply not a choice for the vast majority of women workers, who have little to no wealth to fall back on and who are increasingly likely to be the sole breadwinners in their families. Even for women who have the means to stay out of the workforce for a period of time, doing so comes with a cost, and no worker should be expected to refrain from work because they experienced an injustice. When there is a culture of retaliation in an industry, or when the ability to secure work or advance one's career is strongly based on networks, this effect can be compounded.

The issues described in this section do not represent the totality of problematic workplace practices and policies, but they illustrate why the federal government must play an active role in ensuring that all workplaces are safe and equitable. While some individual companies have prioritized equity, many others have a long way to go, and it is unlikely they will get there without the leadership of the government. Additionally, leaving companies with so much flexibility to determine their workplace policies and programs means that inequities in workplace conditions will only deepen. Workers who have historically been marginalized will continue to experience the injustices addressed in this paper, while those who have had better access to labor market opportunities — largely white women who are economically secure — will experience safer and more dignified workplaces.

# Conclusion

This paper makes the case that pay inequity and sexual harassment are mutually reinforcing. The former contributes to women's economic insecurity, and that insecurity makes women more susceptible to sexual harassment and less equipped to address it when it occurs. And when women experience sexual harassment, the cascading effects on their physical and mental health can take a further economic toll.

This paper has illustrated that both of these dynamics are symptoms of a culture that has historically devalued and disrespected women, their work, and their place in society. Just as sexual harassment is related to pay inequity in a vicious cycle, so too are toxic culture and inadequate and harmful public and workplace policies that have been reinforced over the course of American history. Our culture of patriarchy has always limited the possibilities of equity for women in the home, in the workplace, and in public, with particularly pernicious effects for women of color. Ensuring safe, fair, and dignified work for all women requires shifting toxic cultural norms — as the #MeToo movement and generations of women resisters and revolutionaries have worked so hard to do.

The economic cost of the gender pay gap is astounding. Studies show that over a 40-year career, women overall lose \$418,800 as a result of the wage gap, with women of color losing almost \$1 million dollars in wages (Flynn "Justice"; Fins). That's devastating not only for women and their families but for our economy more broadly. Imagine the debt incurred on account of those missing wages — debt in health care, child care, education, housing, and more. Imagine how transformative that amount of money would have been for women, particularly those who are the sole caretakers in their families: women locked out of secure housing, out of starting small businesses, out of advancing their own and their children's education, out of saving for retirement. Imagine the impact of that amount of money if spread over the economy. Robbing women of fair wages doesn't just hurt women; it hurts everyone.

Sexual harassment and pay inequities are integrally related, and in order to solve these two problems, we must address the broader set of structural barriers that hold women back. That means addressing those who have historically been excluded from the labor market and systematically disadvantaged in the workplace, particularly women of color and immigrant women who have long faced too many barriers to security and safety. Moreover, any efforts to combat these drivers of pay inequity and sexual harassment must be truly inclusive, reaching women in all occupations, in all types of workplaces, and at all levels of the income ladder.

Economic inequity continues to grow, women's labor market participation has declined, and workers are losing full-time employment to contract or part-time work, and in the process are often losing access to benefits that provide safety and economic security. Ensuring broad-based inclusion will require centering the very individuals who have historically been excluded. Finally, policy choices must acknowledge that gender disparities such as pay

inequity and sexual harassment are deep, systemic issues. Tinkering around the edges will simply not suffice, and women deserve far more. Addressing these structural inequities and injustices that drive the gender pay gap and sexual harassment will require a broad vision of equity. Surely there will be efforts and initiatives that tackle single issue areas, but they must be bound together across public policy, workplace policy, and cultural change to cultivate, embrace, and reinforce true equity.

Safety and pay equity are deeply connected, and addressing these problems requires us to recognize and contest the links between them. We know that when women are paid little or are economically insecure more broadly, they are less likely to be able to leave jobs where they feel unsafe. Moreover, existing research shows that sexual harassment can contribute to women leaving a job or exiting the labor market, both of which can have significant financial implications. Even if a woman decides to stay in a job, retaliation for reporting sexual harassment can reinforce pay inequities. Together, this vicious cycle means that women cannot simply earn or advance their way out of sexual harassment. In order to ensure that workplaces are truly safe, fair, and dignified, we must:

- ▶ **Focus on preventing sexual harassment before it starts and protecting workers when it happens.** This means ensuring a clear and nuanced standard of what constitutes sexual harassment at work and a comprehensive understanding of the factors that place people at risk. It also means ensuring that all workers have access to necessary legal protections and supports before and after any incidents.
- ▶ **Advance equity for women by removing barriers to economic security and mobility.** Our public policies should ensure that all workers are treated fairly and equitably at work and have the support they need on and off the job to work and care for their families. Policies should be designed to proactively rebalance long-standing inequities that burden women disproportionately at work and in the home.
- ▶ **Increase women's representation, power, and dignity at work.** This will require a multipronged effort to lift up the voices of all workers and improve the representation of women at all levels of the income scale in every industry.

Improving the experiences and outcomes of women in the labor market, in their homes, and in society more broadly is no small task. But neither the path forward nor the reasons that injustice persists are mysteries. Racial and gender economic inequity is not inevitable. It has always been the result of a patriarchal culture that disrespects and devalues women and of policy and workplace choices shaped by those cultural norms. Starting by combatting the vicious cycle of sexual harassment and pay inequity will result in safer, fairer, and more dignified work, and going forward, will allow us to make different choices for women, for their families, and for all.

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