Empowerment in the Workplace

Diana Furchtgott-Roth
Senior Fellow and Director, Economics21
Manhattan Institute for Policy Research

Testimony before the Joint Economic Committee
June 18, 2014

Empowerment in the Workplace

Diana Furchtgott-Roth
Senior Fellow and Director, Economics21

Mr. Chairman, Ms. Vice Chair, members of the Committee, I am honored to be invited to testify before your Committee today on the subject of how to help women. I have followed and written about this and related issues for many years. Currently I am a senior fellow and director of Economics21 at the Manhattan Institute for Policy Research. From February 2003 until April 2005 I was chief economist at the U.S. Department of Labor. From 2001 until 2003 I served at the Council of Economic Advisers as chief of staff and special adviser. Previously, I was a resident fellow at the American Enterprise Institute. I have served as Deputy Executive Secretary of the Domestic Policy Council under President George H.W. Bush. I am the author of several books, including Women's Figures: An Illustrated Guide to the Economic Progress of Women in America.

Employment for women 16 years and older only reached December 2007 levels (68 million) in January of this year. Employment for women 25 to 54 years old stands at 44 million, and has yet to reach pre-recession levels of 46 million. Labor force participation for women 16 years and older has declined from 59.4 percent in December 2007 to 57.0 percent today. The labor force participation rate for women in their prime working years (25 to 54) fell from 75.5 percent to 73.8 percent over the same period, so the decline cannot be explained by more women retiring or staying in school. At its peak in 2000, 60.3 percent of women participated in the workforce.[1]

The slow growth of the economy is reducing employment opportunities for men and women alike. In addition, women face particular barriers to employment in their role as secondary workers and as family caregivers. It is important to make sure that labor markets are flexible so that women can have the choice of jobs that they want.

For those who believe that children are not important to women in the workplace, look at the Yale Law Women website. Yale Law Women just announced its ninth list of Top Ten Family Friendly Firms.[2] Now, few women at Yale Law School have children, but they are looking ahead. Their top firms are derived from a survey which "explores

[1] Bureau of Labor Statistics, "Current Population Survey," June 2014.
[2] Yale Law Women, "2014 Top Ten Family Friendly Firms List," April 2014.

important family friendliness indicators such as the billable hour requirement, part-time and flex-time options, caregiver leave policies, and childcare availability."

Choice of Comp Time Instead of Overtime Pay

President Obama's new proposed overtime rules would reduce flexibility for working women. In March, President Obama directed the Department of Labor to overhaul regulations regarding overtime compensation. His proposed regulation would extend overtime rules to several million employees that businesses classify as executive or professional employees. The rules currently grant overtime pay to any salaried worker making less than $455 per week, or $23,660 a year, a level established under new Department of Labor regulations in 2004. The Department of Labor has not yet stated how high it will seek to push the weekly salary limit for guaranteed overtime, but it is expected to be a significant increase.[3]

Overtime rules hurt women by reducing flexibility with their employer. Many women with children, particularly young mothers who cannot afford childcare, would prefer to have flexibility in their schedule rather than extra overtime pay. When overtime hours are allowed to count toward time off instead of pay, women can change their work schedules according to their needs. If a child becomes sick or the babysitter cancels, a female employee with the flexibility of extra hours can simply take time off. Requiring overtime pay legally limits many women from trying to negotiate time off with their employers.

The Working Families Flexibility Act of 2013, sponsored by Representative Martha Roby, would allow employers to offer workers who worked more than 40 hours a week a choice of compensatory time off rather than overtime pay.[4]

There is a fundamental law in economics: giving individuals a greater number of attractive choices makes them better off. The Working Families Flexibility Act expands choices available to workers. Some may prefer additional financial compensation, and some may prefer additional time, either to spend with their families or for activities such as going to sports events, fixing their cars, or running their own small business.

---

[3] Shear, Michael D. and Steven Greenhouse, "Obama Will Seek Broad Expansion of Overtime Pay," New York Times, March 11, 2014.

[4] Congressional Research Service, "Summary: H.R. 1406 – 113th Congress (2013-2014)," May 8, 2013.

The advantage of the Working Families Flexibility Act is that it gives employees, not employers, the power to choose what is in their best interest, either more time or more money.

When people have more money they can buy many things to make their lives more pleasant and more entertaining—but they cannot buy more time. When workers are hired, they frequently have little vacation. When they are given the choice of comp time instead of overtime pay, they are taking something that money cannot buy. Some people would always prefer to receive overtime pay rather than comp time, and they would be able to do it under the Act.

The bill would extend to middle-income families those privileges already enjoyed by higher-salaried individuals, such as graduates of Yale Law School. Many Americans already have the opportunity of comp time. They mostly work in white collar professions and the federal and state governments. But for millions of average hourly and salaried workers, comp time is just a dream, not a reality. President Obama wants to remove the choice of comp time from millions more workers, not extend it to others.

The choice of comp time instead of overtime pay is simply not available to many employees under current labor law. The Fair Labor Standards Act is a well-intentioned law, fashioned in 1938. Its overtime regulations were updated in 2004. But those who designed the Fair Labor Standards Act in 1938 might have never imaged the workplace as we know it today, or as it may look in the future.

One of the main problems facing parents today is how to combine the dual demands of work and family. It is here that the Working Families Flexibility Act is so valuable. Many women choose flexible careers, and 24 percent work part-time, because they place a higher value on extra hours spent with the family.[5]

The Working Families Flexibility Act would benefit not just current workers who would like additional flexibility, but also women who do not work but who might find the prospect of comp time an inducement to enter the labor force. Some mothers do not want to enter the workforce because they are unwilling to work long hours. In some occupations overtime is required, rather than voluntary, leading to more than 40 hours a week away from home. For these people, the prospect of comp time might make working a full-time job a viable option.

[5] Bureau of Labor Statistics, "Current Population Survey," June 2014.

Marriage Penalty

The marriage penalty affects working women disproportionately, because they move in and out of the labor force. When single women work and are considering marriage, higher tax rates discourage marriage. Sometimes high tax rates result in women quitting the workforce altogether. Marriage penalties are found throughout the income distribution.

The top fifth of the income distribution contains a disproportionate share of two-earner couples, where combined federal and state marginal income tax rates can reach over 50 percent. Frequently it is women's work that pushes the family into the top brackets. Transportation, child care, and professional clothing are additional costs to moving into the workforce.

Census Bureau data show that in 2012, in the top fifth of earners, 78 percent of households were married couples. In the top 5 percent of income earners, 81 percent were married couples.[6] Mothers are more affected by the marriage penalty than other women because they are more likely to move out of the labor force to look after their children. They are also more likely to return to work when their children are in school or have left home.

Marriage penalties can also be seen at the bottom of the income scale, as women lose benefits as their earnings increase. These "effective marginal tax rates," as they are known, can exceed the marginal tax rates at the top of the income scale.

In a paper published by the Brookings Institution in December, University of Maryland economists Melissa Kearney and Lesley Turner calculate that if two people who each earn $25,000 get married, they will take home less than 30 percent of the second earner's paycheck, due to taxes and phase-outs of transfer payments.[7] That is equivalent to a 70 percent marginal tax rate.

A full-time worker earning $25,000 a year with two children and a spouse who stays home would qualify for almost $5,000 in earned income tax credit. But if the spouse goes into the workforce, also earning $25,000, the family would not qualify for the EITC. The EITC disappears completely.

---

[6] U.S. Census Bureau, Annual Social and Economic Supplement, 2013 (Table HINC-05).

[7] Kearney, Melissa S. and Lesley J. Turner, "Giving Secondary Earners a Tax Break: A Proposal to Help Low- and Middle-Income Families," The Hamilton Project, December, 2013.

Marriage penalties have been made worse by the Affordable Care Act. The phaseouts of subsidies in the Act could increase the incentive to divorce and discourage marriage.

Anyone under 400 percent of the poverty line, currently $94,000 for a family of four, qualifies for a subsidy—unless a family member has employer-provided insurance.[8] Without subsidies, low-income families will not be able to afford to buy insurance on the state exchanges. The Internal Revenue Service estimates that family plans will cost $20,000 (in after-tax dollars) a year by 2016.[9]

In a 2011 National Bureau of Economic Research working paper, Cornell University professor Richard Burkhauser, Indiana University professor Kosali Simon, and Cornell PhD candidate Sean Lyons showed that in 2014, when the law will take full effect, 13 million low-income Americans may be unable to get subsidized health insurance through new state healthcare exchanges because one family member has employer-provided coverage for that person only.[10]

Perversely, the only way for other family members to get subsidized coverage would be for the spouses to get divorced. Then the spouse without coverage and the children could get coverage on the exchange.

This provision of the Act also discourages marriage. Since premium subsidies are on a sliding scale, two married people getting their coverage on the exchange would pay more than if they were single.

Those at 133 percent of the poverty line can pay no more than 3 percent of their income in premiums. Someone at 400 percent of the poverty line can pay no more than 9.5 percent of income.[11] Two people making $32,000 annually would qualify for subsidies when single, but not when they got married and earned a combined income of $64,000.

The incentives are different for people earning above 400 percent of the poverty line because they will not qualify for subsidies. They will be better off with an employer

---

[8] U.S. Department of Health & Human Services, "2014 Poverty Guidelines," January 22, 2014.

[9] Internal Revenue Service and Department of the Treasury, "Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage," May 3, 2013.

[10] Burkhauser, Richard V., Sean Lyons, and Kosali I. Simon, "The Importance of the Meaning and Measurement of 'Affordable' in the Affordable Care Act," National Bureau of Economic Research working paper, August, 2011.

[11] Fernandez, Bernadette, "Health Insurance Premium Credits in the Patient Protection and Affordable Care Act," Congressional Research Service, March 12, 2014.

who does offer health insurance, because it is a tax-free benefit. To the extent that premiums are paid through an employer, these can be paid out of pre-tax income.

Families without employer-provided insurance who do not qualify for a subsidy will be worse off because they will have to buy insurance with after-tax dollars on the exchange. To pay for a $20,000 family policy a taxpayer in the 33 percent tax bracket would have to use $30,000 in pre-tax dollars to buy a $20,000 policy.

Honorable Members of Congress, marriage penalties and arcane rules discourage women in the workplace. I hope that you can manage to solve some of these problems. Thanks for inviting me to testify, and I would be glad to answer any questions.