THE CHANGING STATUS OF WOMEN IN THE UNITED STATES

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I have been an attorney for 20 years. Prior to that I worked as a secretary, one of the few jobs open to a woman college graduate back in the mid-1950's. I have been married 7 years, and have a 5½-year-old daughter. All these experiences contributed towards forming my beliefs.

This paper discusses recent developments in the women's movement in the United States. The word "recent" is used advisedly because there was an earlier women's movement in the United States. That one culminated in 1920 when American women got the right to vote by amendment to our Constitution. After that, for about 40 years, most American women forgot about the struggle for women's rights. Perhaps they thought that the right to vote would bring with it all other rights. But that did not happen.

Until the early 1960's, there was no federal or state law in the United States prohibiting discrimination against women on the job. Since that time, however, laws have been passed by both Federal and State legislatures, Presidents and Governors have issued Executive Orders; Congress has passed The Equal Rights Amendment[1] to the Constitution [guaranteeing women

[1] The Equal Rights Amendment (ERA) provides:

"Section 1: Equality of rights under the law shall not be denied or abridged by the United States or any state on account of sex.

Section 2: The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3: This amendment shall take effect two years after the date of ratification."

It was voted on by the House on October 12, 1971, and the Senate on March 22, 1972. Its purposes are to:

1. Enshrine in the Constitution the moral value judgment that sex discrimination is wrong.
2. Insure that all States and the Federal Government review and revise their official practices to eliminate sex discrimination, and to prohibit the future passage of such laws, including labor laws restricting women's job opportunities.
3. To give Constitutional sanction to the principle that the homemaker's role in marriage has economic value.
4. To insure equal opportunity in government employment, and admission to the military services and military training schools.
5. To insure equality in public schools, and State Universities, colleges and training programs.
6. To insure that families of women workers receive equal benefits under Social Security laws and worker's compensation laws.
7. To insure that married women can engage in business freely and dispose of separate or community property equally.
8. To permit married women to maintain a separate legal domicile.
9. To give women prisoners equal opportunities and privileges, and provide for equal sentencing.

equal rights under Federal and State laws (currently awaiting the approval of 3 more States to be effective)]; and courts all over the country, including the Supreme Court, have issued decisions dealing with the rights of women.

The first laws and orders prohibited discrimination only on the job, but thereafter developments occurred in a multitude of areas: changes in abortion laws;[2] changes in the laws involving rape; a re-examination of our procedures and laws for dealing with wife-beating and child abuse; changes in the laws involving marriage, alimony, child custody and child support;

Opponents of the Amendment have confused the public with unfounded or misleading claims, which are belied by the legislative history of the Amendment and by the interpretations which have been given to Equal Rights Amendments to State Constitutions.

The ERA will not alter family structure, which is based on private relationships and custom. Obligations for family support, which are in fact obligations to pay creditors, will be based on individual circumstances and not on sex.

Under the ERA, decisions with regard to alimony, child support and custody will be based on individual circumstances rather than sex. Courts will make judgments based on an individual's background and potential earning capacity. The noncompensated contributions of a spouse will be a prime factor in determining support obligations. Divorced parents will be responsible for support of the children in accordance with their means.

The right of privacy would permit a separation of the sexes with respect to such places as public toilets, as well as sleeping quarters of public institutions.

Under the ERA, restrictive labor laws which apply to women only, such as laws prohibiting weight lifting or employment over 8 hours daily, will be invalidated. As a result of court decisions under Title VII and legislative action, practically no such laws are operative now. Laws which are beneficial will be extended to cover both sexes.

The ERA will require that women be drafted if men are drafted. There is no draft now and because of the success of the volunteer armed services, there is little likelihood of a draft in the foreseeable future. Furthermore, under its general war powers, Congress has always had the power to draft woman. In the event of an emergency, it would probably draft women with or without the ERA.

In such an event, appropriate exemptions would be available to women as they have been to men.

ERA means that women who choose to enlist will have equal opportunity for enlistment, and hence access to valuable military benefits, such as in-service training, GI loans and mortgages, and veterans' preferences for civilian jobs. Now women who wish to enlist must meet higher standards than men.

As to combat, the military services will have the same right to assign women as they have to assign men, and will continue to do so on the basis of ability to perform.

[2] Throughout the 20th Century, a variety of restrictive abortion laws existed in States across the Nation. By 1973, 13 States had revised their laws to permit abortion for a variety of reasons and 4 States had made abortion available upon request of the woman and her physician. Then, on January 22, 1973, the U.S. Supreme Court declared unconstitutional the restrictive Texas and Georgia statutes concerning abortions. The court ruled that States may not prohibit a woman's right to an abortion in the first 3 months of pregnancy. Thereafter, a State may regulate abortion in ways that are reasonably related to the mother's health. Roe v. Wade, 410 U.S. 113, 33 L.Ed. 2d 694, 93 S.Ct. 1409 (1973); Doe v. Bolton, 410 U.S. 179, 35 L.Ed. 2d 201, 93 S.Ct. 739, rehearing denied, 410 U.S. 959, 35 L.Ed 2d 694, 93 S.Ct. 1410.

In 1977, however, anti-abortion groups stepped up their efforts bouyed up by anti-abortion stands in all three branches of the Federal Government. The current principal issue is the government financing of abortions, but it is intertwined with the more basic battle now building over the court-affirmed constitutional right of abortion. In June, the Supreme Court ruled that states need not provide Medicaid funds for nontherapeutic abortions and that public hospitals need not perform them. Beal v. Doe, 432 U.S. 438, 97 S.Ct. 2366 (1977). In August, the Supreme Court upheld the Hyde Amendment, passed by Congress in 1976, which bans Federal money for abortions, including pregnancies caused by rape or incest, unless the woman's life is in danger.

the right of married women to keep their maiden names;[3] the admission of women to military academies, and equality for women in the armed forces;[4] the right to be free of discrimination in securing credit and loans,[5] housing [6] and admission to places of public accommodation, such as clubs,[7] restaurants, and bars; equality in serving on juries,[8] and in sentencing after conviction of crime; equality for women in serving as administrators and executors of estates;[9] special efforts directed at educational institutions so that women are not discriminated against in hiring, and in admission to courses and schools, colleges and universities;[10] changes in our language so as to eliminate

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[3] In the case of Custer and Holdsworth v. Schaeffer (No. 178366) in the Superior Court of Connecticut, filed in 1973, the court found that two young married women who had never adopted their husbands' names were entitled to register to vote in their own names.

[4] In 1967, President Johnson signed a law removing restrictions on the upgrading of women in the armed forces so that they could become admirals and generals on an equal basis with men. Pub. L. No. 90-130 (Nov. 8, 1967); S. REP. No. 66, 90 Cong. 1st. Sess. 1 (1967).

There have been a number of cases brought under the U.S. Constitution involving the rights of women in the military service. In Frontiero v. Richardson, 411 U.S. 677, 93 S.Ct. 1764, 36 L.Ed. 2d (1973), the U.S. Supreme Court found that husbands of servicewomen were entitled to be considered dependents just as the wives of servicemen were.

There have been a number of cases involving various policies of the Air Force, Navy, and Marine Corps which required the termination of servicewomen for becoming pregnant or for becoming pregnant while unwed. These cases have resulted in changed policies on the part of the services in the direction of greater flexibility.

[5] The Equal Credit Opportunity Act of 1974, effective October 28, 1975, prohibits creditors from discriminating against applicants for credit on the basis of sex or marital status. This includes banks, finance companies, department stores, and credit card issuers. Among the specific acts prohibited by regulations are the discounting of the income of an applicant or spouse on the basis of sex or marital status; requesing information about birth control or childbearing capability; terminating credit or requiring a new application for credit solely because of a change in the creditor's marital status; and inquiring about the income and credit history of the applicant's spouse where the applicant is not relying on the spouse's income to establish credit-worthiness.

[6] Title VIII of the Civil Rights Act of 1968, as amended, effective August 22, 1974, prohibits discrimination on the basis of sex with regard to the sale or rental of housing.

[7] An interesting recent case in this area occurred in my own town of Stamford, Connecticut. The Midtown Club, a prestigious luncheon club where the businessmen of the community made business contacts over lunch, had never permitted women as members or guests. A male club member and lawyer brought suit against the club under corporate law doctrines. Inasmuch as the club's charter stated that its purpose was "to provide facilities for the serving of luncheon or other meals to members," he charged that by excluding women, the directors exceeded the scope of their authority. The suit was successful and the Midtown Club now has women members. Cross v. The Midtown Club, Inc., CORPORATION LAW GUIDE, para. 11, 441 (1976).

[8] White v. Crook, 251 F. Supp. 401 (1966).

[9] In November 1971, in Reed v. Reed, 404 U.S. 71, 92 S.Ct. 251, 30 L.Ed. 2d 225 (1971), a case involving separate petitions by an adoptive mother and father for the right to administer their deceased child's estate, the Supreme Court held that an Idaho law giving preference to males as executors of estates was unconstitutional.

[10] Title IX of the Education Amendments of 1972 and implementing regulations by the Department of Health, Education and Welfare prohibit educational institutions which receive federal money, including preschools, elementary, secondary and vocational schools, colleges, and universities (with certain exceptions) from discriminating on the basis of sex in areas such as admissions, financial aid, access to courses and training programs, and extracurricular activities; and require physical education classes to be coeducation except for contact sports, such as football and wrestling (baseball has, however, not been held to be a contact sport).

Titles VII and VIII of the Public Health Service Act, effective November 1971, prohibit schools of medicine, dentistry, pharmacy, optometry, veterinary medicine,

sexism;[11] changes in policies by publishers and producers in the media (newspapers, magazines, books, and films) so as to insure the accurate portrayal of women, and the equal participation of women on the staffs; revisions in textbooks so that boys and girls and men and women are accurately portrayed; the elimination of discrimination in sports, particularly in school sports, so that girls, like boys, may develop their bodies and the ability to cooperate and compete; and so on.

This paper shall concentrate on developments prohibiting job discrimination because that has been the first area of change, and remains the key area.

The revolution in women's roles in America — unlike most other revolutions — did not start with a movement. Instead, it started with legislation and the legislation led to the movement.[12] Since 1963,[13] a number of laws has been passed and Executive Orders signed prohibiting sex discrimination on the job. The principal ones are the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, and Executive Order 11246, as amended in 1968. The Equal Pay Act requires the payment of equal wages and salaries for substantially equal work without regard to sex. Title VII prohibits sex discrimination in all terms, conditions, and privileges of employment by employers, employment agencies, and labor unions. The Executive Order requires organizations which employ at least 50 people and have federal government contracts of $50,000 or more to engage in affirmative action to hire and promote women, or they may face the loss of millions of dollars in government contracts.[14]

These statutes and executive orders have created new government agencies, such as the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs, whose job it is to enforce these statutes and executive orders. The unique aspect of these developments as compared with developments in other countries is that *the government* is made responsible for investigating, processing and enforcing claims of sex discrimination. Many other countries have provisions concerning equal rights for women in their laws and Constitution. But the United States is

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public health, nursing, and other institutions receiving federal financial support from discriminating on the basis of sex in admissions, in participation in any research or training program, or any other benefit.

[11] MILLER AND CASEY'S recently published book, WORDS AND WOMEN (1st. ed. 1976) points out the prevalence and significance of sexism in language.

[12] It was only after the passage of Title VII of the Civil Rights Act of 1964 that organizations devoted to women's rights, such as the National Organization for Women (NOW) and the Women's Equity Action League (Weal) were formed.

[13] Progress for women at the federal level began in 1961 when President Kennedy by Executive Order No. 10980 established the President's Commission on the Status of Women to review the status of women and make recommendations for improvement. The Commission submitted its report to the President in 1963.

[14] Also of interest to women is the Age Discrimination of Employment Act of 1967, which prohibits discrimination based on age between the ages of 40 and 65. Women who attempt to return to the work force after the age of 40 frequently find themselves the victims of two forms of discrimination: that based on sex and that based on age.

unique in the extent to which the government has assumed the burden of ensuring the enforcement of such laws.[15]

In the United States today, practically all persons and organizations, including the Federal and State governments, which employ 15 or more persons, are prohibited from discriminating in employment on the basis of sex.

Not all of the cases which arise under the new laws are filed by women. A number of issues have been raised by men. Whenever women are restricted to certain roles, so are men to other roles. And so the movement for women's liberation in the United States has also brought about the increased liberation of men. Until recently, every American man was expected to be strong and aggressive, to make all the important decisions for himself and his family, to be the sole or principal wage-earner in the family, and to be minimally involved in the running of his home and the raising of his children. Now, much of this is changing.

Men have filed cases challenging employer rules which prohibit male employees from wearing beards, mustaches, and long hair; attacking provisions in pension plans and Social Security which discriminate in favor of women;[16] challenging discrimination against men in the military services;[17]

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[15] The Equal Employment Opportunity Commission (EEOC) has district offices all over the United States where written charges may be filed. A charge may be filed either by the person aggrieved or by some person or organization on his/her behalf. If it is filed on behalf of the aggrieved person, the name and address of the aggrieved person must be submitted to the EEOC and will be kept confidential. There are certain time limits within which charges may be filed and in certain states, the charge must first be filed with the state fair employment practices agency. Once the state agency has had the charge for a prescribed period of time, the EEOC may also investigate the charge. If reasonable cause to believe the statute has been violated is found, the EEOC will attempt to conciliate or settle the case. If conciliation is not achieved, the EEOC may institute suit in the federal district court. The charging party also has the right to institute suit in the federal district court.

If the EEOC or a court finds that the Act has been violated, it may order an award of backpay for the individual involved, and, where appropriate, for all similarly situated employees of the employer; it may order the hiring or reinstatement of the individual involved; and it may order the employer to discontinue certain practices, and to institute new ones for the future.

Employment discrimination may be a violation of various statutes and executive orders: a state fair employment practice statute, Title VII of the Civil Rights Act of 1964, Executive Order 11246, the Equal Pay Act, etc. A charging party may have the option of filing a complaint with the agency enforcing one of these statutes or with several agencies. The aggrieved person can, however, receive only one award for backpay for a particular unlawful employment practice.

[16] In Califano v. Goldfarb 430 U.S. 199, 97 S.Ct. 1021 (1977), the U.S. Supreme Court found that the different treatment of widowers and widows with regard to eligibility for Social Security survivors benefits was unconstitutional.

In April 1975, the U.S. Supreme Court held in Wiesenfeld v. Wineberger, 420 U.S. 636, 95 S.Ct. 1225, 43 L.Ed. 2d 514, that a widower with minor children whose deceased wife was covered by Social Security was entitled to a Social Security benefit under the same circumstances as a widow would be.

[17] In Schlesinger v. Ballard, 9 EPD para. 9894 (1975), the Supreme Court upheld the validity of a federal law which subjects male Navy lieutenants to mandatory discharge if they fail to get promoted twice while female officers get more favored treatment.

and seeking policies which provide paternity leave so working men may take time off to raise their children. Recently, men have filed charges attacking preferential treatment for women in hiring and promotion.[18]

But most of the cases have been brought by women. It is now established that practically all jobs must be open to men and women alike. Thus, women cannot now be denied jobs because of the preferences of the employer, co-workers, clients, or customers; because the job has traditionally been held by men; because the job involves working or traveling with, or supervising, men; because the job involves overtime, late night hours, or work in isolated locations; or because it involves heavy lifting or other strenuous activity. A woman does not have to be hired if she is not qualified to do a job — but she cannot be refused employment just because she is a woman.

Employers who advertise for employees in the newspapers or contact employment agencies cannot indicate a preference based on sex.[19] Female job applicants cannot be questioned about their marital status and arrangements for child care unless male applicants are similarly questioned.

An employer cannot establish job qualifications as to height and weight where such requirements screen out a disproportionate number of women unless the employer can establish that these standards bear a reasonable relationship to successful performance of the job. Cases in this area have involved height and weight standards for policewomen, baseball umpires, lifeguards, and plant production employees. This past June our Supreme Court found that the State of Alabama's requirement that prison guards weigh a minimum of 120 pounds and be at least 5 feet 2 inches tall was unconstitutional because it would exclude about 20-30% of adult American women versus only about 1-2% of the men, and the requirements were not shown to be job-related.[20]

Employers cannot lawfully hire male minors (people under the age of 18) at certain ages and require female minors to be older before being eligible for employment.

Men and women doing substantially similar work are entitled to equal pay. Furthermore, they are entitled to equality in other benefits related to their employment, such as medical, hospital, accident and life insurance benefits, and retirement and pension plans. The question of what equality

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[18]McAleer v. American Telephone & Telegraph Co., 12 EPD para. 10, 994 (D.C.D.C. 1976), involved the company's affirmative action program which had been adopted pursuant to a consent decree. A white male employee who had been passed over for promotion in favor of a less qualified, less senior female employee brought suit under Title VII. Although the District Court did not order the promotion of the male, it did order the company to pay him damages.

[19] In Pittsburgh Press Co. v. Pittsburgh Commission on Human Relations, 6 EPD para. 8678 (1973), the Supreme Court found that a municipal human rights agency could constitutionally direct a newspaper to cease publishing job advertisements under sex-segregated column headings.

[20] Dothard v. Rawlinson, 433 U.S. 321, 97 S.Ct. 2720 (1977).

means with regard to such fringe benefits is, however, still under litigation. Some agencies of government have found that there is equality of benefits when an employer has equal costs for its insurance for men and women. Other agencies contend that costs to the employer are irrelevant and that what is required is equality of *benefits* for male and female employees.

There is further controversy over equality *vis-a-vis* pension plans. Some contend that in view of the fact that the majority of women in the United States live longer than the majority of men, equality of pension benefits can be achieved by requiring the women to make larger contributions or by granting them smaller benefits. Others contend that the whole purpose of anti-discrimination legislation is to provide individual treatment without regard to group statistics, and that employee contributions and pension benefits must be the same for men and women. On October 3, 1977, the U.S. Supreme Court agreed to decide one of the cases in this area.[21]

Another major area of concern where the law has not yet been settled involves the treatment of pregnant women on the job. There have been decisions by administrative agencies and the courts indicating that an employer may not refuse to hire and may not discharge women simply because they are married or pregnant; or because they are pregnant and unmarried.[22] Our Supreme Court has said that a school may not force a pregnant schoolteacher to resign or take a leave of absence at the end of the fourth or fifth month of pregnancy;[23] and that state unemployment compensation benefits could not be denied to pregnant women who are willing and able to work.[24] A woman has the right to work as long as her doctor finds that she is physically able to work and she remains qualified to perform her job.

Other matters involving the rights of pregnant women on the job remain in ferment. Last December, the Supreme Court ruled that an employer who provides insurance benefits to its employees who have temporary disabilities could exclude from coverage disabilities arising from pregnancy.[25]

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[21] Manhart v. City of Los Angeles Department of Water and Power. In that case, the Ninth Circuit Court of Appeals found that the City of Los Angeles violated Title VII by requiring female employees to make larger contribution to a retirement plan than male employees.

The EEOC has said that the use of sex-segregated actuarial tables in computing joint and survivor annuity and/or lump sum pension benefit options is unlawful. In December of 1975, the District Court in Oregon made a similar finding. In the case of Henderon v. State of Oregon, the court issued a judgment finding that Title VII prohibits a state from using sex-segregated life expectancy tables in calculating refund annuity benefits for state employees. That case is currently pending on appeal in the Ninth Circuit.

[22] In Jacobs v. Martin Sweets Co., Inc., 550 F. 2d. 364 (6th Cir. 1977) the Court held that termination because of unwed pregnancy was violative of Title VII. The Supreme Court denied certiorari. 14 EPD para. 7527 (1977). Accord: Doe v. Osteopathic Hospital of Wichita, Inc., 4 EPD para. 7545 (D.C. Kan. 1971).

[23] La Fluer v. Cleveland Board of Education, 7 EPD para. 9072 (1974).

[24] Turner v. Department of Employment Security, 423 U.S. 44, 96 S.Ct. 249 (1975).

[25] Gilbert v. General Electric Co., 429 U.S. 1125, 97 S.Ct. 401 (1976), *rehearing denied* 97 S.Ct. 825 (1977).

American women were outraged by this decision and mounted a campaign to secure the passage of legislation requiring the same employee benefits for pregnant women as are available for employees who are temporarily disabled for other reasons. That legislation is currently pending in Congress, and is expected to pass.

Thirteen years ago when these laws began to be enforced in the United States, employers did not take them seriously. The women's rights movement was initially greeted with ridicule. But employers have stopped laughing now. As a result of court decisions, companies have paid hundreds of millions of dollars for violations of the law.[26] Today, employers are increasingly concerned with "affirmative action," the development of programs to facilitate the hiring, promotion and integration of women into the work force.[27]

While the overwhelming trend of the decisions has been in the direction of eliminating sex discrimination, vestiges of traditional approaches remain. In Kahn v. Shevin, 416 U.S. 351, 94 S.Ct. 1734, 40 L.Ed. 2d 189 (1974), the Supreme Court found that a Florida statute giving widows but not widowers a $500 exemption from property taxation was not unconstitutional.

In Geduldig v. Aiello, 417 U.S. 484, 94 S.Ct. 2485 (1974), the Supreme Court found that it was not unconstitutional for the State of California to have a disability insurance system for employees which excluded disabilities accompanying normal pregnancy and childbirth.

Schlesinger v. Ballard, *op.cit., supra,* note 17.

[26] In January of 1973, for example, the Justice Department, the EEOC and the FCC entered into a consent decree with the largest private employer in the United States. American Telephone & Telegraph Company (AT&T) and its 24 operating companies agreed to pay about $15 million to 13,000 women and 2,000 men who had been denied pay and promotion opportunities. In addition, the company agreed to institute a new pay and promotion policy which resulted in increasing wages for women and minorities by $23 million a year. In May 1975, the government entered into a second agreement with the company which cost the telephone companies another $2,500,000 for 1975 and 1976.

In April of 1974, the government entered into a consent decree with the 9 major companies and unions in the steel industry, which resulted in backpay for 46,000 minority and female steelworkers, a total of $30.9 million.

In the first half of 1976, employees were awarded 11.5 million dollars under the Equal Pay Act.

[27] Affirmative action with regard to minorities and women is the principal issue of contention in the civil rights area in the United States today. On the one hand, we have learned from past experience that if employers are not required to develop programs to increase their utilization of groups previously excluded from certain jobs, little change in bringing such groups into the labor force occurs. On the other hand, experience with affirmative action demonstrated that overzealousness in this area may lead to discrimination against members of the majority group. It has been suggested that such "reverse discrimination" during a period of transition may be the price we have to pay to achieve an integrated work force.

The issue is far from settled. There have been court decisions upholding goals and timetables for hiring minorities and women, especially at a company or government agency where they are blatantly unrepresented due to past discrimination. There have also been court decisions refusing to uphold such goals and timetables.

The leading case in this area is currently pending before the U.S. Supreme Court, Bakke v. The Regents of the University of California (Case No. 76-81), which was argued before the Supreme Court on October 12, 1977. In 1969, the University of California's medical college instituted an affirmative action plan, which provided for two methods of selecting medical school freshmen. One was for all regular admission applicants, and the other, with lower entrance requirements, was for those who came from economically and educationally disadvantaged backgrounds, none of whom had been whites since the institution of the plan. In 1973, sixteen of the 100 slots for entering freshmen were reserved for "disadvantaged" applicants. Allan Paul Bakke, a

It should not be taken, however, that women have achieved the millenium in the United States. Thus far, the consciousness of the country has been raised so that the status of women has become a recognized national issue; the passage of numerous laws has been secured seeking to change that status; and women have made significant breakthroughs in areas formerly closed to them. Nonetheless, the occupational and economic status of most women has not changed.

It must be remembered that the movement to upgrade the status of American women on the job and in society is going on at the same time as other movements to eliminate discrimination against minority groups in the United States, principally Black and Spanish-surnamed Americans. These minority groups, other ethnic groups, women, and white non-minority men are all struggling for fair participation in the economic and occupational opportunities of American society.

Furthermore, not all women want equality. Some of the most vocal and active opponents to the movement for women's rights in America are women. "Equality" entails equal responsibility — equal responsibility in securing employment, earning a living, participating in society, and making significant decisions. For many women raised in a society and culture where only men were expected to shoulder such burdens, "equality" is a frightening and threatening concept.

Nonetheless, the women's movement has made some gains. The argument that woman's place is in the home is rarely heard today. Over the past 25 years the number of American working women more than doubled, rising to nearly 39 million in 1976. Today, nearly half of all American women between the ages of 18 and 64 are in the labor force, and studies show that 9 out of 10 American women will work outside the home at some time in their lives. The increase in the number and proportion of

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white male, was denied admission to the medical school in the fall of 1973, and filed suit under the Constitution alleging that he would have been admitted had he been a member of a minority group.

In 1974, the Supreme Court ruled on an earlier case raising the same issue, DeFunis v. Odegaard, 416 U.S. 312, 94 S.Ct. 1704, 40 L.Ed. 2d 164 (1974), which involved a constitutional attack on the University of Washington Law School's admissions program by a white male applicant. By the time that case got to the Supreme Court, however, the plaintiff had been admitted to the law school by virtue of a court order and was a third year law student about to graduate. The Supreme Court, therefore, found the case was moot and did not rule.

A similar case filed by a young woman from my own community of Stamford was dismissed by the lower court in 1976, Steward v. New York University (74-4126, S.D. N.Y., 1976). In September 1974, Ms. Steward, who was denied admission to NYU Law School, filed a complaint under the Constitution and the Civil Rights Act against the school on behalf of all white women who were denied admission on the ground that the school gave preference to minority applicants. (Title VII of the Civil Rights Act of 1964 was not available to her inasmuch as she was attacking an admissions rather than an employment policy.) The court did not get to the substantive issues of the case inasmuch as it found that the procedural requirements, including the degree of federal and state contacts which the school had, were insufficient to consider the school's action that of the State.

women who work has been called "the single most outstanding phenomenon of our century."[28]

The back-to-work movement among women has been shaped by many economic and cultural forces, but economic need is clearly one of them. More than half of the women who work do so because of pressing economic need. They are either single, widowed, separated, divorced, or have husbands who are unemployed or whose incomes are low.

About 15% of all families with children under 18 in America — 7.2 million families — are headed by women. Many of these families live in poverty due to the depressed incomes of the women who head them.

While women's pay has increased significantly in recent years, it has not increased as fast as that of men. Consequently, the difference between men's and women's pay is wider today than it was 20 years ago. Among full-time workers employed throughout 1974, women's median earnings were less than 57% that of men. Twenty years ago they were 64% that of men.[29]

The pay gap does not disappear when women go into the professions. The median or average income for women college professors, high school teachers, scientists, and engineers, remains lower than that of men.

The average woman college graduate still earns less than the average male high school drop-out.

Women still hold jobs far from commensurate with their abilities and educational achievements. In 1975, more than 40% of all women workers were employed in just 10 job categories.[30] In March 1973, about 1 out of 8 working women *who were college graduates* were employed in non-professional jobs, as clericals, sales or service workers, or factory operatives. One-third of all working women were still employed in clerical jobs, as stenographers, typists, and secretaries.

American women who are members of minority groups, such as Blacks, Spanish-surnamed Americans, Orientals, or American Indians, are often at

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[28] Statement by Eli Ginzberg, a Columbia University economist and chairman of the National Commission for Manpower Policy, quoted in THE WOMEN'S MOVEMENT ACHIEVEMENTS AND EFFECTS, published by Congressional Quarterly Inc., 1977, p. 23.

The women's back-to-work movement has been shaped by many economic and cultural forces. These include: economic need and the rising rate of divorce; more effective means of birth control and the trend toward fewer children; the increased life expectancy of women; the greater number of college-educated women; the widespread use of labor-saving devices in the home; the expansion of the white-collar market in which most women are employed; the increase in part-time employment opportunities; the laws prohibiting job discrimination based on sex; and the women's movement.

[29] This is due to the facts that the dynamic rise in women's labor force participation has resulted in a larger proportion of women who are in or near the entry level; the continuing predominance of women in lower status occupations of a traditional nature which provide limited opportunities for advancement; and discrimination against women in wages and salaries.

[30] Secretary, retail sales worker, bookkeeper, private household worker, elementary school teacher, waitress, typist, cashier, sewer and stitcher, and registered nurse.

the lowest rung of the economic and occupational ladders because they may suffer from two forms of discrimination: that based on sex and that based on race or national origin.[31]

The participation of American women in professional and political life is still low. In 1970, women constituted less than 2% of our engineers, 5% of our lawyers, 9% of our doctors, and 14% of our scientists.

Although 66% of all elementary and high school teachers are women, only 13% of all principals are women; and among school superintendents, 1 out of 1,000 is a woman. In 1973, at the undergraduate and graduate college levels, 22% of the full-time faculty was female. But only 9% of all faculty women had attained the rank of full professor compared with 25% of the men. The greatest number of faculty women — almost 40% — were employed at the lowest rank of instructor.

Significant numbers of women are still not preparing for some of the traditionally male occupations. Only 7% of all college women who earned their bachelor's degrees in June 1972 majored in science and mathematics (including engineering) compared to 24% of the men.

Opportunities for women in management have been developing gradually. Women constituted 2% or less of those in top management jobs.

Only 10 women have been appointed to the Federal court system in its 200-year history. In 1975-1976, out of a total of 496 authorized Federal District and Circuit Court judgeships, women were actively serving in only four. No woman has ever been appointed to the nine-member U.S. Supreme Court.

In 1975-76, in the United States Congress, out of 435 Representatives, 19 were women; out of 100 Senators, none was a woman. This in a country whose population is 51% female.

On the other hand, there are encouraging trends. More and more, women are becoming junior executives and sales representatives, positions that often lead to top corporate jobs. A recent report on commercial banking showed women making significant gains in that industry. Growing num-

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[31] A point of interest are facts on Asian-American women. Asians today constitute less than 1% of the American population. A larger percentage of Asian-American women (50%) work outside the home than do Black or white women.

Levels of unemployment of Chinese-American women are generally low, even slightly lower than those for whites. The problem is not in getting a job, but rather in the kind of job and the salary it pays.

Although many Asian-American women are highly educated, having attended or completed college, they are nevertheless concentrated in the positions of bookkeepers, secretaries, typists, file clerks, and the like.

Divorce or separation among Asian wives of military men resulted in over 20% of those in a study made at Washington State becoming female heads of households. These Asian wives are often unable to seek help because of their isolation, lack of proficiency in English, unfamiliarity with the life style and fear of outside contact. The above facts with regard to Asian-American women are from Hart, *Enlarging the American Dream*, 13 AM. EDUCATION, May 1977, Vol. 13, No. 4 (Oct. 1977).

bers of women are seeking fuller access to such traditionally male-dominated professions as law, medicine, pharmacy, architecture, business and engineering. Today about 23% of all law students in the United States are women, up from 8.5% in 1971. About 25% of all entering medical students are women, up from 8.9% in 1965. The number of women doctorates was five times greater in 1972 than in 1960.

Women are making inroads into blue-collar jobs that until recently have been largely male enclaves. Women are increasingly found in positions as gas station attendants, mail carriers, and taxi-cab drivers. Women are working as machinists, mechanics, laborers, and truckdrivers. About 11,000 American women make their living as carpenters and 700 as coal miners.

Despite these gains, the number of women who have cracked the sex barriers remains relatively small. At the end of 1975, only 18% of blue-collar workers in America were women.

While it is true that the employment status of women and their involvement in policy-making decisions have not changed significantly yet, the handwriting is on the wall. The effect of these changes on relationships outside of employment are also beginning to be seen. The changing role of women on the job is producing corresponding changes in the role of women toward their husbands, their children, and society in general.

The American women are just beginning to consider new patterns for our lives and new solutions. These include new roles in marriage, new methods of child-raising, and innovations on the job, such as the greater use of part-time employees, flexible hours, and the shorter work week. Many of the adjustments being made to facilitate the entrance of women into the workforce are resulting in more humane conditions for male employees as well.

This is not to give the impression that these changes are proceeding with ease. Change is traumatic and the establishment of new male/female relationships is giving rise to a host of new problems. Today the American working wife and mother may be liberated, but frequently she's been liberated to perform two full-time jobs instead of the one she performed in the past. Now she must juggle the roles of working woman, wife and mother — and while her roles have expanded, the time within which to perform them has not. Now the "liberated" woman finds that in the course of a day she may be expected to prepare the family's breakfast, drop the baby off at the child care center, work from 9 to 5, pick up her husband's shirts at the cleaners, order new furniture for the house, prepare dinner for her family, and be a relaxed and considerate wife and mother throughout.

A study has shown that "in general, the husbands of working wives engage in slightly more child care and housework than do husbands of nonworking women," but the "rapid movement of women into the labor

force has not been matched by any significant increase in the willingness of husbands to help around the house."[32]

Among the serious problems in our country are the unavailability of household help and the lack of day-care facilities for children. These are problems both for the family with two working parents and the family headed by a man or woman who is divorced or widowed. Live-in and live-out qualified household help is scarce and the cost beyond the pocketbook of most working parents. There are 6.5 million American children under the age of 6, and 18 million children from the ages of 6 to 14, who need some form of supervision after school hours. Yet, care in licensed day-care centers is available for only slightly more than one million children.

The changing role of American women is part of a complex of changes in male/female relationships. Americans today are increasingly choosing options outside of marriage and are doing so openly.[33] Some live alone; some live together as unmarried couples;[34] some live in communes, and some live in homosexual arrangements.

A growing number of young people who do marry are entering into "equalitarian marriages," where the husband and wife share decision-making in all aspects of their lives and share responsibility for home and family.

Greater numbers of young people who marry decide not to have children,[35] and those who have children are having fewer of them.[36]

Couples are more and more raising their children in non-sexist ways, so that both boys and girls are encouraged to develop themselves to the utmost. It is still a cause for rejoicing when one's son announces that he wants to be a doctor, but no longer a cause for alarm when one's daughter makes the same announcement.

More and more marriages are ending in divorce. Nearly 40% of all American marriages end in divorce — the highest divorce rate in the world.

Some scholars see these changes as symbols of the deterioration of the American family. Others see positive change in the increased options open to women today and in the increased emphasis on self-fulfillment for all individuals.[37] While the high rate of divorce is a cause for concern, the

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[32] Moore and Sawhill, "Implications of Women's Employment for Home and Family Life," The Urban Institute, Aug. 1975, pp. 7-8.

[33] The number of marriages performed in the United States declined about 7% from 1973 to 1975.

[34] The number of couples living together though unmarried has more than doubled between 1970 and 1975.

[35] Today 5% of all wives between the ages of 18 and 24 expect to have no children.

[36] Since 1957, the fertility rate in the United States has dropped from 3.76 children per woman to 1.75 in 1976.

[37] What divorce is doing to disrupt families today, death did in earlier times. In fact, even with the rising divorce rate, more children today are living with at least one parent than ever before. One reason for this is the large increase in the proportion of

high rate of remarriage [38] indicates that marriage is still a pervasive and enduring institution.[39]

We are thus in the midst of an era of revolution and transition in the United States. In spite of the problems, or perhaps because of them, it is a challenging and exciting time in which to live and work.

widowed and divorced women who continue living with their children after their marriage has ended rather than sending the children to live with grandparents, other relatives or orphanages.

[38] There were 4.9 million one-parent families in the United States in 1975. Statistics indicate that half of these one-parent families are likely to evolve into new nuclear families within five years. Stancel, *Single-Parent Families*, in THE WOMEN'S MOVEMENT ACHIEVEMENTS AND EFFECTS (Congressional Quarterly Inc. 1977).

[39] BANE, HERE TO STAY: AMERICAN FAMILIES IN THE TWENTIETH CENTURY 37 (1976).