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WORKING WOMEN: IS UNCLE SAM THE SOLUTION...OR THE PROBLEM?

INTRODUCTION

Women, like many other allegedly "disadvantaged groups," often blame the private sector for an apparent lack of opportunities, in business and the professions. They look to the government for a solution. Ironically, Uncle Sam is the source of many of their problems.

For the greatest barriers to women's attaining economic advancement arise in the form of regulations and restrictions promulgated by the various levels of government, and not from the business community. These rules often make it difficult for certain individuals to enter a field, and by reducing the competition faced by practitioners in the industry, they create an opportunity for discrimination within that field. Furthermore, the paperwork requirements that often accompany regulations place excessive burdens on smaller businesses, discouraging their creation and inhibiting their growth. This is particularly harmful for any group threatened with discrimination because a small business provides them the chance to be completely independent. And finally, a major government impediment to married working women remains imbedded in the tax code.

As women have sought equality of economic opportunity, they have been persuaded that the only remedy for the obstacles they face is through legislation and even changes in the Constitution. Yet an analysis of the environment facing women shows that far more could be accomplished by eliminating the rules and laws that currently frustrate those women who seek fulfillment in businesses and the professions.

BACKGROUND

Women are joining the labor force in growing numbers. Sixty-two percent of all women aged 18 to 64 worked at least part time in 1981.¹ In that year, 52 percent of all women over the age of 16 were in the labor force, up from 43 percent in 1970 and just under 34 percent in 1950.² In addition, women are making inroads in fields formerly viewed as the exclusive domain of men.

Changes in the roles adopted by women have occurred for a variety of reasons. A large number of women are working because they feel they must--either as part of a two-income family trying to attain a chosen standard of living, or because they are the heads of households. There are also women pursuing a career. These women may choose not to marry or to delay starting a family until they reach their career goals. As social attitudes have changed and barriers to various professions have been removed, many women have become more career oriented, choosing to gain the education and make the sacrifices necessary to succeed.

Working women, however, face certain barriers and penalties not usually encountered by white males. Some of these stem from public attitudes. There are people who still have trouble accepting a woman doctor or disc jockey, for example. And as with any group entering areas not perceived as traditionally part of their milieu, some women have found themselves asked to work harder than their male colleagues simply to prove themselves to those unable to accept women in new roles.

Government efforts to aid women have included affirmative action policies intended to encourage the hiring of women and minorities, equal pay for equal work, and equal credit requirements. Other recent approaches share the erroneous assumption that government programs and regulations are needed to correct problems, when in fact it is often the government that is responsible for many of the roadblocks confronting women. As a consequence, some of the major reform movements designed to bring about equality of opportunity have either missed the mark or, in some cases, actually exacerbated the problem.

The Equal Rights Amendment: The ERA is a classic case of both a failed and a misdirected effort. It failed to win ratification by the necessary 38 states despite ten years of intensive lobbying. And yet supporters continue to press for its adoption. Placing so much effort behind that one approach has meant attention has been deflected from reforms that could be implemented to help

¹ 20 Facts on Women Workers, Women's Bureau, Office of the Secretary, Department of Labor, 1982, p. 1.

² Equal Employment Opportunity for Women: U.S. Policies, Women's Bureau, U.S. Department of Labor, 1982, Table 2.

women immediately without opening a constitutional Pandora's Box. Legislative and regulatory reforms require much less time and energy to enact than an amendment to the Constitution.

Comparable Worth: Another misdirected effort is the recent attempt, initiated by the National Committee on Pay Equity, to force employers to provide "equal pay for comparable work." The committee argues that professions dominated by females yield lower wage rates than those in "comparable" male dominated occupations.

Under Title VII of the Civil Rights Act, the Courts have ruled on two types of job discrimination: (1) paying men more than women for substantially the same job and (2) favoring men over equally qualified women in hiring and promotion. The concept of comparable worth, however, is a completely separate issue. It is not directed at individual employers, but at broad classes of occupations. As Vivienne Killingsworth, a critic of comparable worth, wrote in The Atlantic Monthly, "It [comparable worth] has nothing to do with the idea of equal pay for equal work, and even less to do with the idea of equal opportunity--the two basic notions underlying present anti-discrimination laws. Moreover, no one has made a convincing case that reinterpreting or expanding job-bias statutes would represent good social policy."³

In fact, the concept of comparable worth is bad social policy, especially for those it seeks to help--women. This is true for two reasons.

First, requiring equal pay for comparable work will slow, if not reverse, the gains made by women who have entered traditionally male fields. This is because women who are qualified for better jobs would be encouraged to remain in professions normally staffed by women instead of trying to enter professions mainly occupied by men. Women should be encouraged to make rational economic decisions in the job market. If a woman wants to become a nurse, for instance, she should be prepared to accept the going wage rate associated with that profession. On the other hand, if the monetary incentive associated with nursing is not sufficient to satisfy her, other options should be explored without regard to whether the profession is considered "male" or female." Furthermore, it should always be remembered that the quickest way to increase wages in traditionally female sectors would be to reduce the supply of labor to those occupations. So the more women who become doctors rather than nurses, the more the salaries of nurses will rise. The idea is to break down the barriers to entry that have traditionally restricted women's choices, not to reinforce them with an artificial wage structure.

³ Vivienne Killingsworth, "Labor: What's a Job Worth?" Atlantic Monthly, February 1981, p. 17.

Second, a law that would require employers to raise wages in "female" professions to equal those in comparable "male" professions (which poses the interesting question of who is to decide what is a "comparable" profession) might well produce layoffs in the female sector as employers find they cannot afford to pay their workers the new mandated wage. Consider the market for secretaries. Having to pay secretaries more would simply encourage employers to switch to more automated office systems. Since the comparable worth doctrine does nothing to encourage openings for women in the male job sector, it could actually result in a net loss of jobs for women.

Insurance: Another effort currently receiving a great deal of attention concerns the way in which insurance and pension premiums are assessed against various groups. Because women as a group live longer than men, they traditionally have received lower monthly pension payments for a given contribution--simply because they can be expected to receive these checks for a longer period of time than their male counterparts. This practice is now being attacked as sexually discriminatory behavior and a push is being made to stop it.

Just as there is a significant statistical difference in the life expectancies of men and women, however, there are also other recognized differences. For example, despite the bad jokes about women drivers, women have compiled a much better driving record than men and are rewarded accordingly through lower automobile insurance rates. Thus a law prohibiting differentiation by insurance companies and pension funds on the basis of sex may well end up costing women as much or more than it pays them.

Rather than continuing to expend resources petitioning the government for a solution, it is time to recognize that governments are a large part of the problem. They repeatedly have erected barriers for those attempting to enter the workforce, thanks to lobbying by power groups determined to protect their market positions. Naturally, such actions usually are couched in terms of "helping" those groups they are designed to suppress.

REMOVING BARRIERS TO WOMEN

Working women face many major problems stemming from government. Many federal and state tax policies and government regulations serve to impede the economic progress of women. Until these are reformed, working women's progress will be constrained.

The Marriage Penalty

Married women who want to work have been discouraged from doing so by the "marriage penalty" in the federal tax code. The penalty is the difference between the tax liability of a married couple filing jointly and the sum of their tax liabilities if each spouse were single and could file as an individual. The

Joint Committee on Taxation has reported that if the second income is least 20 percent of the total family income, the couple's total income tax liability will increase when they marry.⁴ This particularly hurts "secondary workers," disproportionately women, who face higher than normal marginal tax rates because of the marriage penalty and so are discouraged from seeking outside employment.

Congress has attempted on a number of occasions to remedy this situation, and with some success. First, the marginal tax rate structure for married couples was reduced for each income level beginning in 1982. With the enactment of the Economic Recovery Tax Act of 1981, two-earner couples filing jointly were allowed to deduct ten percent of the earned income of the spouse earning less, up to a maximum deduction of \$3,000. This effectively lowered the marginal tax rates on secondary workers' income, but because the tax system is progressive, the marriage penalty was not eliminated entirely.

One way to eradicate the penalty completely would be to give two-income married couples the option of filing as individuals. Such a reform would have a number of positive effects. First, it would completely restore marriage neutrality. Single people would no longer see their individual tax liabilities increase if they married. Second, two-income married couples could see a reduction in their taxes, depending upon the proportion of income each spouse earned. For example, using the 1982 1040A Tax Schedule and assuming that each family took its standard deduction, a one-income family making \$20,000 would face a tax liability of \$2,459. Yet if each spouse in a two-income family earned \$10,000, the individual tax liability would be \$1,048, for a combined tax of \$2,096. Thus, the two-income family would save \$363 by filing singly. One-income families would not be affected by this proposal.

The Joint Committee on Taxation's General Explanation of the Economic Recovery Tax Act briefly commented on the idea of allowing married couples to file as individuals, but rejected the concept on a number of grounds. "Allowing married couples to file separate returns as single taxpayers," the report said, "would have been very complex because of the necessity for rules to allocate income and deductions between the spouses. If separate filing were optional, many couples would have been burdened by having to compute tax liability under both options (separately and jointly) in order to determine which method minimized their liability."⁵

Both these arguments can be readily refuted. While it is certain that new rules for dividing income and deductions between spouses would be necessary, this would hardly be an insurmountable

⁴ General Explanation of the Economic Recovery Act of 1981, U.S. Congress, Joint Committee on Taxation, p. 33.

⁵ Ibid., p. 34.

problem. It is often forgotten that until 1948 everyone was taxed as an individual, and many other countries still tax on that basis--without creating significant difficulties. Furthermore, the current U.S. income tax system contains an extensive list of rules for dividing income, and these rules could easily be modified to reflect the reform.

The burden that would be placed on couples if they had the option of paying as individuals would be little different from the burden people face by having the option of taking a standard deduction or itemizing. And even if there were such a burden, it is doubtful whether many couples would complain if the result were a reduction in taxes. Furthermore, the IRS could easily provide simple guidelines concerning the percentage income split at which individual filings would be advantageous.

Another proposal Congress has begun to consider is the replacement of the present system by a flat-rate tax. If the tax were truly "flat," the marriage penalty would be eliminated entirely without special deductions or formulas for income splitting.

RECOMMENDATION: Congress should either (1) allow two-earner married couples the option of filing as individuals to correct the present bias against two-income couples, or ideally, (2) replace the personal income tax with a truly flat-rate tax, which would eliminate the marriage penalty entirely.

Regulation

The greatest barriers to women lie in the regulations promulgated by various government entities. These regulations present significant problems to new or potential entrants into many occupations. The costs and obstacles due to regulation occur in many forms. Paperwork requirements, for instance, can quickly raise costs for small, new enterprises. This is particularly troublesome to the many women who are trying to branch out into an independent business operation.

In addition to making it more difficult for women to start in business, some regulations involve outright prohibition. A recent news story provides a typical example. In Ripon, Wisconsin, several dozen women were selling ladies' garments made at home to the Silent Woman Company. Aside from providing the women with the basic materials, the company made no demands on them and paid what the seamstresses considered a fair price. Yet the Department of Labor determined that the women were in violation of a 40-year-old regulation prohibiting the manufacture of women's garments in the home.⁶ Department of Labor Regulations forbid women from work-

⁶ Glenn Emery, "Women Seek to Stop U.S. from Banning Jobs Sewing at Home," Washington Times, February 23, 1983.

ing at home and selling their handiwork in six industries.⁷ These rules appeared after unions argued that women should be protected from "sweatshop" working conditions and below standard wages. Most women probably do not think of their homes as "sweatshops," however, and by forbidding capable women from contracting with retailers for the sale of their merchandise, the Labor Department is doing much more to protect the unions from competition than it is doing to protect women.

RECOMMENDATION: With the help of interested womens' groups and the regulatory agencies, the Vice President's Task Force on Regulatory Reform should identify those federal regulations that inhibit the ability to sell skills in the marketplace. The agencies concerned should then be instructed to remove these barriers immediately.

State and Local Regulations

Many of the barriers to the further economic progress of women emanate from state and local regulations. Occupational licensing, zoning ordinances, and rules against home-based enterprises are but a few examples of restrictions that make it difficult for new entrants, including women, to establish a foothold in professions and businesses. And the federal government often has a role even in this rule making. Federal guidelines (usually attached to federal funds) encourage or require that state and local governments publish regulations in certain areas.

Day Care Centers: By 1982, half of all mothers with preschool children also had jobs.⁸ Thus, the availability of adequate, reasonably-priced day care has become increasingly important. Yet people wishing to provide day care in their homes are faced with extensive state and local regulation.

Most states limit the number of children who can be cared for in a home. If the specified limit of children is exceeded, the facility may become subject to building codes designed for schools. This can involve such requirements as separate toilet facilities for boys and girls and that these facilities are accessible to wheelchairs, whether or not handicapped children are being cared for. Further unreasonable barriers are erected through local zoning codes and fire laws.⁹

Such extensive regulation hurts working women in two ways. In the first place, it limits opportunities for those women who prefer to work at home. By imposing strict day care guidelines,

⁷ These industries are: embroidery, sewing women's clothing, making handkerchiefs, buttons and buckles, jewelry, and gloves and mittens. Knitting outerwear was recently removed from the list of prohibited activities.

⁸ 20 Facts on Women Workers, op. cit., p. 2.

⁹ Virginia Inman, "Day-Care Laws Limit Private Home Centers That Parents Like Best," Wall Street Journal, October 26, 1982, pp. 1, 23.

governments reduce the options open to these mothers and limit the economic opportunities for women seeking to provide a useful service by operating their home as a day care facility. Second, restricting the supply of day care services inhibits the ability of parents to choose the kind of atmosphere they feel is most appropriate for their child, and makes this service unnecessarily expensive. This serves to reduce the effective take-home pay of working mothers.

RECOMMENDATION: The provision of day care should be largely deregulated and the responsibility for oversight shifted to parents--as it is when the child is in the home. This would create improved economic opportunities for women who wish to provide day care services, lower day care costs, and lead to more flexibility for parents in choosing where and with whom to place their children.

State Licensing Requirements: The provision of day care is not the only service with unnecessarily strict licensing requirements. Practitioners of a number of professions, from beekeepers to lightning rod salesmen, have convinced various state legislatures of the need to protect the public by regulating entry to the profession. Unfortunately, this seldom results in much improvement in safety or quality, but does entail considerable reduction of competition, and consequently higher costs for consumers and reduced opportunities for new entrants.

Most state licensing boards are heavily influenced by members of the profession involved, who seek to restrict the number of practitioners and the way in which they practice. Guidelines or regulations may be established covering key aspects of work--hours of operation, advertising, office location, etc. Such rules limit competition and make it more difficult for new entrants to compete and become established. This is particularly true in those cases where prejudice does exist, as it gives practitioners in place more power than they would have otherwise. Consequently, as women try to break into male dominated professions, these entry restrictions have become a serious obstacle to equality of opportunity.

An example of these unreasonable professional regulations is the drive by many state medical and dental boards to restrict the actions of nurse practitioners, midwives, dental hygienists, etc. The latter professionals, most of whom are women, believe they should have the right to establish practices separate from physicians, offering lower priced routine care to patients. The campaign by physician dominated state licensing boards to eliminate these services has reduced the prospects of healthy competition for doctors and dentists, and resulted in severely limited care in some remote areas where there are not enough doctors to provide comprehensive service.

Examples of similar restrictions can be found in many professions. While some minimum standards are necessary in certain cases to

protect consumers from outright fraud or harm, an enormous number of these rules and regulations could be removed with little effect, other than to create additional career opportunities for women and other newcomers to the profession.

RECOMMENDATION: The 50 States Project, created by the President to examine regulation at the state level, should closely examine state licensing laws in its effort to identify state laws harmful to women.

Zoning, Home-Based Enterprises, and Cottage Industries:
Another group of state and local restrictions make it difficult for women to work within their homes. This is particularly important for women who have small children and cannot afford day care or for women attempting to start up their own businesses with limited capital and cannot begin operations on recognized commercial space. Some local ordinances forbid keeping an inventory within a home. Others prohibit certain business activities in the home. And most cities impose blanket zoning restrictions on businesses within residential neighborhoods.

In short, a number of state and local regulations inhibit the ability of women to succeed in nontraditional careers or to start their own businesses. Many of these restrictions serve to limit competition, thus creating conditions under which discrimination can continue to flourish.

RECOMMENDATION: Women's organizations should examine zoning and other local ordinances that impede home based enterprises, and thus the economic advancement of women. Where appropriate, these regulations should be modified or eliminated.

Women Entrepreneurs

Women are increasingly choosing the career option of self-employment. According to the Internal Revenue Service, there are almost 3 million small businesses now owned by women.

Since the vast majority of women entrepreneurs conduct small businesses, they are beset with all the problems suffered by smaller firms generally. Any moves by governments to reduce paperwork and regulatory and tax requirements on small businesses, therefore, would be particularly helpful to women entrepreneurs.

A second serious problem is a general lack of training among women business owners. Many women lack the basic financial and management skills vital to running a business. Federal offices created to assist women business owners, however, seem to be cheerleaders rather than advisors with relevant, down-to-earth assistance. Such unrealistic advice tends to promote frustration, failure, and the conclusion among women that they must be victims of discrimination.

Training programs designed to overcome these educational deficiencies have been unsuccessful generally when run by government employees or academicians. Business management is best taught by people who have actually managed a business (compare, the experience of CETA, which showed that job training programs are best designed by those with jobs to offer). Consequently, organizations, such as the National Association of Women Business Owners and the Alliance of Home-Based Business Women, would seem to be in the best position to provide the necessary catch-up information to women entrepreneurs trying to start and operate new businesses.

Another problem for women entrepreneurs, as in the case of many small business aspirants, is the acquisition of start-up capital. While a primary function of the Small Business Administration (SBA) is to provide or guarantee seed capital for new enterprises, the internal incentives have led to unfortunate results. At the SBA, the emphasis is on the dollar volume of loans awarded and safety. In seeking a high dollar value of safe loans, the SBA has tended to act conservatively, channeling most support to older small firms with a solid track record, rather than to the newer companies most in need of help.

To generate more capital for these newer, higher-risk firms, it has been suggested that tax incentives should be made available to individuals willing to invest savings in small enterprises. One proposal, presented in a bill (H.R. 1444) introduced by Congresswoman Bobbi Fiedler (R-Calif.), would treat stock bought in these businesses somewhat like an individual retirement account. New stock purchases by an individual in a small business would be deductible from taxable income, providing the stock is retained for at least three years. Since the majority of new businesses receive their start-up capital from friends and relatives, rather than banks or major investors, such a tax incentive could be very helpful to new business owners. Because a high proportion of firms owned by women fall into this category, such a tax mechanism could provide an enormous boost to businesswomen--far more help than they receive currently from any federal agencies.

Almost two-thirds of women business owners are married.¹⁰ And most of the firms owned by women are sole proprietorships, partnerships, or closely held corporations, all of which pay personal, rather than corporate, income taxes. Thus, the marriage penalty (discussed earlier) places a further handicap on many women entrepreneurs by reducing the funds they have available to reinvest in their businesses.

The federal government has used the procurement process in an effort to stimulate minority owned firms. Yet the process has been widely criticized as a source of impediments for women entrepreneurs. For those who deal in supply of government needs, the going is not easy. Only 12 percent of government contracts

¹⁰ The Bottom Line: Unequal Enterprise in America, Report of the President's Interagency Task Force on Women Business Owners, June 1978, p. 88.

are allocated on the basis of competitive bids. The rest are considered too complex for open bids. The result is a system that places a great deal of discretion in the hands of government procurement officers--who prefer dealing with established firms possessing a past record of government contracting.

This system compounds the difficulties of firms trying to enter the process. It has been suggested that women be included in those "socially and culturally" disadvantaged groups, which receive special treatment through contract set-asides (under which agencies are required to award a given percentage of contracts to minority entrepreneurs or small business generally). But set-asides have not worked for other groups. The SBA 8(a) minority business program, for instance, has been criticized by Congress on several occasions for its ineffectiveness and its tendency to frustrate entrepreneurs rather than help them. There seems little reason to suppose such programs would work any better for women.

The federal government would help women far more if it would simply award more contracts through genuine competitive bidding. When contracting opportunities arise, the government should make every effort to ensure that interested owners and managers are informed. Furthermore, attention should be directed to the government's computerized records of firms willing and able to meet federal contract needs. Developing a simple, rational system at that point in the process could reduce paperwork and delay. Since the SBA, along with other government agencies and departments, seemingly has been unable to develop an adequate system, perhaps the project should be turned over to a private company on a contractual basis.

Thus, for self-employed women, as with other women, the problems faced in attaining economic equity would seem to stem from government action--in some cases action intended to protect them. The answer is for the government to stop regulating and taxing women entrepreneurs out of existence--and to provide a generally stable economic environment in which they can conduct business.

RECOMMENDATION: A review of government's impact on small businesses should receive top priority, particularly in the area of procurement policies. Where possible, the procurement process should be simplified and made genuinely competitive.

CONCLUSION

While the efforts of women to advance have been hampered by the outdated attitudes of those who choose to discriminate, they have been frustrated as well by government regulations and restrictions. By creating obstacles, imposing costs, and reducing competition, these restrictions have helped to perpetuate a climate in which discrimination could take place.

Government regulation and taxing policies often increase the problems facing women who want to start their own businesses because of the high cost of paperwork and compliance requirements. They inhibit the ability of married women to generate funds for reinvestment in their businesses through the marriage penalty and the tax code. Zoning laws and rules against cottage industries make it difficult for women to work out of their homes. Licensing restrictions and the concomitant myriad of rules about the physical surroundings present further barriers to women seeking to enter various fields.

Changing the attitudes of a society is a long process. It takes years of education and persuasion. Many women's organizations feel the need to force changes in public attitudes by pressing for new government rules and regulations in an attempt to advance the cause of women. What they fail to realize is that many of the problems and obstacles they wish to terminate through government action were generated in the first place by government. Women would find the road to economic equity far smoother, therefore, if they spent less time campaigning for government to help them, and more time campaigning for government to stop hindering them.

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