

Legislating Equality: State-level Anti-Discrimination Laws and Labor Force Sex Stratification

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Research statement

Over the past fifty years, gender inequality in the labor force has been greatly reduced. The proportion of women who work outside the home has increased dramatically, occupational segregation has declined as women have increasingly entered previously male-dominated professional occupations, and the sex gap in pay has narrowed (Cotter, Hermsen, and Venneman 2004; England 2005). The historical momentum toward gender equity is most often attributed to shifts in supply-side mechanisms, such as the educational, family, and work choices of individual women (Goldin 2006), and in demand-side factors such as the changing occupational structure and declining workplace and employer discrimination (Blau and Kahn 2006). The mechanisms that might have pushed the shift in the demand-side, however, have not been well-documented. Empirical research has not examined the extent to which the trend toward greater gender equity in the labor force (and its continuation) was prompted or reinforced by state-level policies and legislation (Mandel 2008).

In this study, we examine whether state laws prohibiting employment discrimination based on marital status reduced gender inequality in labor market participation and outcomes. Because employment discrimination based on marital status was almost exclusively aimed at women (Goldin 1990), laws prohibiting such actions may have worked as de facto protections against sex discrimination in employment and pay. Although the federal legislation of the 1960s provided federal protection against sex discrimination in pay, where state-level anti-discrimination legislation was enacted, it may have added a secondary and more proximate prohibition against employment discrimination. If so, we would expect the historical trend toward equity in labor market participation, integration, and attainment to have varied significantly between states that enacted such legislation and those that did not. We test this hypothesis using growth curve models and data from the 1962-2007 *March Current Population Surveys* (CPS).

State-level variation in labor force equality

There is substantial state-level variation in the labor force status of women and the level of gender inequality across the United States (Institute for Women's Policy Research 2004). In 2002, Women's labor force participation rates range from 48.8 percent in West Virginia to 68.1 percent in South Dakota (Institute for Women's Policy Research 2004). In terms of pay equity, the sex gap ranges from its smallest value of 92.4 in the District of Columbia, to its greatest value of 66.3 in Wyoming (according to 2002 data) (Institute for Women's Policy Research 2004). And while women represent 33 percent of workers in professional and managerial occupations nationally, women's representation in these occupations in the District of Columbia, at 49.3 percent, was

twice as high as in Idaho, where it was 24.6 percent (Institute for Women's Policy Research 2004).

Legislative history

Federal legislation prohibiting sex discrimination in pay is contained in the Equal Pay Act of 1963 (which stipulates that men and women must be paid the same for the same work) and Title VII of the Civil Rights Act of 1964. In 1972, the Equal Employment Opportunity Commission expanded the law referring to sex discrimination to include pregnancy discrimination. There is no federal law in the United States, however, that prohibits employers from discrimination based on marital or parental status.

Following the passage of the Civil Rights Act, many states added their own statutes that incorporated the intent of Title VII more generally (see Guthrie and Roth 1999 for a review). Between 1970 and 1988, twenty-one states, plus the District of Columbia and Puerto Rico, enacted laws prohibiting marital status discrimination in employment.¹ In states that lack such statutes, it is legal for a private employer to hire or reject a job applicant based on preferences for applicants in a particular marital status.

Impact of state-level anti-discrimination statutes on labor force equality

Surprisingly little research has examined whether (the post-1964) state statutes prohibiting marital and parental employment discrimination have, in fact, reduced gender inequality at work. Previous research has explored the impact of fair employment laws in the U.S., but the focus of this research has more often been racial, not gender, inequality in the workplace. Studies that have looked at state-level statutes enacted before the federal policies of the 1960s (Collins 2003) finds that the fair employment legislation enacted between 1940 and 1960 improved the relative income of black workers. In this research some attention is paid to gender inequality: the author finds that black women appear to have benefited more from the laws than black men (Collins 2003). Neumark and Stock (2006) explicitly explore the impact of legislation on gender inequality during the same pre-federal antidiscrimination period. They find that the state-level anti-discrimination laws *reduced* the relative employment of women. The researchers speculate that the legislation had this contrary outcome because it increased the labor costs for women and therefore drove down demand for their labor.

Other studies have looked at state-level statutes enacted after the federal policies of the 1960s. For instance, Guthrie and Roth (1999) find that the likelihood that a given organization has a female CEO (in 1996) is positively associated with the number

¹ States that prohibit employment discrimination based on marital status include: Alaska, California, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire,, New Jersey, New York, Oregon, North Dakota, Virginia, Washington, and Wisconsin (Porter 2000).

of statutes containing an explicit reference to equal employment opportunity laws there are in the home state of the business. Further evidence of the efficacy of federal and state policy to prompt change in employment practices also comes from studies showing that women's labor force participation is impacted by the 1980-1990 state and federal reforms in welfare policy (Schoeni and Blank 2000), parental leave policy (Waldfogel 1999), and childcare policy (Bainbridge, Meyers, and Waldfogel 2003).

Hypothesis

Given the evidence that state-level legislation can impact employment practices and labor market outcomes, we hypothesize that state-level statutes prohibiting marital status discrimination worked to accelerate the state-level trend toward gender equity in the labor force.

Research design

The enactment of state laws prohibiting marital status employment discrimination provides a "natural experiment" with which to test the efficacy of anti-discrimination laws. These statutes were passed at different times in different states, so we can treat our time-series data from states that did not enact laws as our "control" or "experimental" group. We use a lengthy time series of data drawn from all available years (1962 to 2007) of the CPS Annual Demographic files to provide sufficient data points to estimate the trends in indicators of labor market gender equity over lengthy pre- and post-enactment periods. We use growth curve models to estimate the aggregate trend toward gender equity in labor market outcomes, and to test for differences between states that do and do not have anti-marital status discrimination laws. These models also allow us to control for factors other than anti-discrimination statutes that may have influenced state-level variation in the development of employment equity such as general labor market conditions, welfare policy (Noonan, Smith, and Corcoran 2005), and the enactment of state-level family leave laws (Waldfogel 1999).

Using these models we empirically examine the following questions: (1) Does sex stratification in the labor market vary by state in both degree and in its rate of change over time? (2) What are the correlates of state-level differences in labor force sex stratification and of differences in the trajectories toward increased labor market equity? (3) Do the pre-enactment levels and trends in gender inequity differ significantly for states that pass anti-discrimination statutes and states that do not? (4) Does the passage of a state law banning marital discrimination alter the level and/or trend toward increased gender equity? We focus our analysis of gender equity on five measures of labor market outcomes: labor force participation, employment, attachment – measured as full-time employment, occupational integration – measured as employment in professional/managerial occupations, and remuneration.

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