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The Maternal Wall in Corporate America: Why the Family and Medical Leave Act of  
1993 Is Failing Mothers Today

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While the feminist movement in the United States has made great progress towards gender equality over the past century, there are still major inequalities that exist in the workplace today, especially for working mothers. Due to the cultural beliefs about motherhood in the United States, working mothers face a specific set of challenges that include overcoming the notion that mothers are less competent, less available, put in less effort, and have less energy. These perceptions have created a phenomenon called “the maternal wall,” which accounts for the difficulties working mothers face when attempting to get hired, trained, or promoted (Mayock 106). The conversations about mothers with mothering responsibilities must change to parents with parenting responsibilities in order to create a cultural change and improve gender equality in the United States. While making strides towards this kind of cultural change is possible, policy makers in the United States have failed to create a family leave law that supports women. Not only does the current family leave law, the Family and Medical Leave Act of 1993, fail to offer any form of paid leave, but only 60% of employees are eligible (dol.gov). Furthermore, the law was not designed to promote gender equality and does not reassign any of the parenting responsibilities to both parents.

The challenges working mothers face are incredibly problematic because the presence of women in the workforce *produces positive results*. A report published by the McKinsey Global Institute in 2015 stated that advancing women’s equality by achieving gender parity in the workplace could add \$12 trillion to global GDP by 2025 (Woetzel, Madgavkar, Ellingrud, Labaye, Devillard, Kutcher, Manyika, Dobbs, and Krishnan). Other studies have shown that having at least one woman on a corporate board can lead to fewer rash acquisitions and a lower rate of earnings restatements or fraud (Picker). These studies suggest that increasing the presence of women in corporate leadership positions will improve the overall earnings of corporations.

Unfortunately, there appears to be a shortage of women in leadership positions at this time, as recent data has indicated that only 26 women are currently serving as CEOs of Fortune 500 companies, which is roughly 5%, and only 17% of the board members of Fortune 500 companies are women (PewResearchCenter.org).

With such a high correlation between women in leadership and performance improvement for the whole company, achieving gender parity in the United States can only result in a positive outcome for both men and women in the workplace. While the failure to place women in leadership roles has been a persisting issue in the United States, it is also a *worldwide* problem. According to a recent think tank study which surveyed 22,000 companies worldwide, about 60% of corporate boards do not have female directors (Peterson Institute for International Economics). Many countries around the world, however, have made policy attempts to rectify this problem; the United States government has not. *The New York Times* recently reported on this issue, claiming that since the United States does not have any parity laws in place, shareholders have taken it upon themselves to change board composition (Picker). While these internal attempts to improve gender equality at the top of the workplace are helpful, the problem is continuing to persist on a national level in *all* areas of the workplace.

### **Literature Review: Attempts to Identify the Problem and Solution**

As of 2017, gender inequality in the workplace has become a great source of frustration for women in the United States. This form of discrimination has become so widely recognized that there are several scholarly journals dedicated to this topic alone and large sections of bookstores contain popular literature targeted towards helping women overcome discrimination in the workplace. The current popular literature focuses primarily on the existence of a gendered barrier between men and women because of behavioral differences. Scholarly literature, on the

other hand, introduces a second gap that exists between mothers and nonmothers. This gap is in place because of cultural beliefs about motherhood and is reproduced in the workplace through structural inequalities. The following literature review will explore the popular literature written by women who have advanced in their careers, the self-help books that were available for women when they initially joined the workforce in the 1960s, and the self-help books that are currently available today in 2017. Scholarly work will be introduced through a discussion of motherhood as an obstacle for working women and how working mothers have begun to accept and demand less as a result.

### Sheryl Sandberg Versus Anne Marie Slaughter

As the “girl power” generation of the 1970s reached adulthood, women began to climb the corporate ladder and encourage younger generations to strive for more in the workplace. The women at the top of this ladder, however, are unsatisfied with America’s progress in closing the gender gap that exists today. Two women in particular are driving the popular discourse on this form of gender discrimination: Sheryl Sandberg, CEO of Facebook, and Anne-Marie Slaughter, former employee of the U.S. State Department. Sandberg’s stance on the issue stems from her belief that internal obstacles are holding women back, and therefore making the gender gap a result of a *behavioral* problem. Slaughter challenges Sandberg’s argument with her own commentary on the problems with the *structure* of the workplace today. Together these women outline the challenges they have observed and offer advice to their gender in hopes of encouraging young women to break the glass ceiling and close the gender gap that exists today.

Sandberg’s book *Lean In: Women, Work, and the Will to Lead* encourages women to change their gendered behavior by *leaning in* at work. The term “lean in,” describes the phenomenon of women being assertive and asking for more opportunities in the workplace. As a boss in her own

workplace, Sandberg has observed several concerning behaviors that translate to women leaning out by giving in to internal obstacles. According to Sandberg, the ambition gap exists because men are more aggressive in vocalizing why they deserve promotions or should be working in new areas. Women, on the other hand, behave much more cautiously when seeking out new challenges, which results in men being promoted based on potential and women being promoted based on past accomplishments (Sandberg 8). To understand why this gendered behavior exists, Sandberg examines the internal struggle many women face when dividing their time between their families and their job. Sandberg observed the tendency for women to lean out beginning before some women even have children (Sandberg 96). Young women who intend on having families one day, regardless of this being in the near or distant future, are scaling back their own ambitions in the workplace. They are hesitant to accept challenging assignments and are passing up on opportunities because they do not believe they can climb the corporate ladder and *also* have a family (Sandberg 94).

While Sandberg offers a few solutions to the problem of advancing while having a family, she also recognizes that women may not want to do both because the choice between work and family can be a very difficult one, and therefore some of these behaviors are unavoidable. When women become mothers, their priorities change. As an example, new mothers may choose not to return to work because they know they will be returning to a job that will be less fulfilling (Sandberg 94). For some women, that may be true and Sandberg respects their desire to be a stay-at-home parent, especially because it is a necessary choice for some people. For the career loving parents, however, Sandberg encourages women to continue to lean in while avoiding *unnecessary* sacrifices because it is very possible to be a mother *and* dedicated employee at the same time.

Slaughter's book *Unfinished Business* was written in response to Sandberg's book because she believes the problem is more complicated than female behavior. *Unfinished Business* is filled with stories of women making the decision to move sideways rather than upwards in the workplace. Slaughter claims that women are forced to decide what is more important to them, a family or a career, because the structure of the workplace today makes it impossible for women to have equal success in both. Slaughter acknowledges that there may be an ambition gap like Sandberg suggests, but the existing gender gap in the workplace is more complicated because there is a popular assumption that women could be at the top if they just wanted it badly enough (Slaughter 10). Slaughter claims that this assumption is false because sometimes the time demands of families cannot be controlled, even if women are very committed to their careers.

As a result of this discrepancy, Slaughter claims that millennial women are seeing ambition and commitment as essentials to succeeding in the workplace, but they are not seeing how to create room for their families at the same time (Slaughter 12). Women today may not see these two goals as things that can be achieved together, and therefore make the choice that means the most to them personally. Sometimes that choice is the family, especially because the value that individuals place on their careers versus time spent with their families shift with age (Slaughter 15). For women to see these two goals as achievable at the same time, there are many structural issues with today's workplace that need to be addressed, such as the price of childcare, the duration of paid maternity leave, and the assumption that employees can be available around the clock to answer emails or work a shift (Slaughter 16). When outlining the issues of the structure of childcare, Slaughter addresses the issue of the caregiving responsibilities falling primarily to women, which causes women to compromise work to be present for their children. A solution to this problem may be to redefine the women's problem as a care problem and

refocus the issue as being the undervaluing of care, no matter who does it (Slaughter 57).

Slaughter makes another important structural argument when she claims that many women cannot “lean in” because they do not have the means to: “Yet today we don’t provide affordable daycare, early-education, and after-school programs that take up the caregiving slack” (Slaughter 86). For a single mother or impoverished family, these structural issues are extremely problematic and make it impossible to “lean in” in the way that Sandberg advises.

Both Sandberg and Slaughter have attempted to identify the issue of gender inequality in the workplace using their own experiences at the top as a reference. The young women entering the workforce that read these books will understand that there is a significant problem, but will not necessarily know what to do as a result. As a result, they may turn to the popular self-help books available that are designed to help women navigate the challenges in the workplace Sandberg and Slaughter describe.

#### Trade Books for Women in the Workplace

The gender specific self-help books written about the workplace offer professional women and young women entering the workplace advice on the best way to behave and conduct themselves. These books, of which there are hundreds, are written by journalists, life coaches, and educated specialists on the subject of the gender gap in the workplace. Despite the variety of titles, all of these books communicate the same contradictory messages, such as be assertive but not too aggressive or be confident but avoid being labeled a “bitch,” that make it impossible for women to know how to succeed.

This genre of self-help books first became available when women entered the workforce during the twentieth century. A well-known example of an early self-help book written for women in the workplace is Helen Gurley Brown’s *Sex and the Office*, which was published in

1964. Since women had *just* entered the workplace at that time, Brown focused on helping women become valuable in the workplace instead of just at home. In order to do so, Brown excluded the topic of motherhood almost entirely from her book because so few working women had children in the 1960s. Instead, she focused on teaching women how to get ahead by dressing to be “especially sexy” (Brown 32) and conversing in a way to “butter up anybody... a boss, client.... even people who are a little creepy” (Brown 60). Brown also offered advice on behavior that is still applicable today, such as how to negotiate when appropriate and ask for promotions when deserved: “You ought to have a heart-to heart talk with whoever is in charge. Hopefully, you know of a specific job you could take over. Ask for it. You’ve earned the right” (Brown 54). While Brown encourages her readers to take this sort of action, she also acknowledges the female stereotyping that can come with success: “I’d be burying my head like the ostrich to pretend there weren’t highly successful bitches in business- but, oh, how everyone detests them” (Brown 65). While many things have changed in the workplace since 1964, the self-help books available today for twenty-first century women offer disturbingly similar advice on how to behave and avoid being labeled a “bitch.”

The main theme of today’s self-help books for women in the workplace is that there are fundamental problems with the way that women behave, and therefore women need to retrain themselves if they want to succeed. The issue with these books, however, is that there does not seem to be an identifiable solution to this alleged problem with female behavior. Katty Kay and Claire Shipman’s popular 2014 book *The Confidence Code: The Science and Art of Self-Assurance – What Women Should Know* offers an example of this contradictory advice. Kay and Shipman focus on helping women build confidence in the workplace through communication because apparently, “[The] identified fear of speaking publically is the number one thing that



stops women” (Kay and Shipman 158). The authors claim that women ask fewer questions, especially when men are present, due to a fear that they will appear unintelligent or uninformed. To fix this problem, Kay and Shipman claim that women need to use their own communication styles, understand the power they will feel when speaking on behalf of others, and banish their use of upspeak (Kay and Shipman 161). While these pieces of advice are encouraging women to be confident when communicating and negotiating, the authors also address the fact that women are held to different standards in the workplace: “If [women] walk into [their] boss’ office with unsolicited opinions, speak up first at meetings, and give business advice above [their] pay grade, [they] are either disliked, or – let’s not beat around the bush- labeled ‘a bitch’” (Kay and Shipman 95). This is confusing advice to read in a book about confidence because it undermines all of the other advice given. This leaves women with the message that they should be confident but not *too* confident, because women must behave *like women* in the workplace in order to succeed.

Lois P. Frankel’s 2014 book, *Nice Girls Still Don’t Get The Corner Office*, is written in a different style, but communicates the same contradictory messages. The book is set up with each page offering one of one hundred and thirty-three identified “mistakes” that women can make in the workplace and advice on how to fix them. This design subliminally implies that women are capable of or likely to make up to one hundred and thirty-three gender specific mistakes in the workplace, therefore indicating that women are at a disadvantage until these mistakes are corrected. The possible mistakes outlined in this book include: “Holding Your Tongue” (Frankel 61), “Playing the Game Safely and Within Bounds” (Frankel 23), “Avoiding Office Politics” (Frankel 54), “Not Asking Questions for Fear of Sounding Stupid” (Frankel 88), “Being Overly Concerned with Offending Others” (Frankel 101), “Reluctance to Negotiate” (Frankel 153), and

“Not Sitting at the Table” (Frankel 190). These mistakes imply that women should go after what they want, ask more questions, negotiate, and get involved in office politics. These would seem like straightforward solutions if Frankel had not also included “Assuming the Rules, Boundaries, and Strategies Are the Same for Everyone” (Frankel 26) and “Acting Like a Man” (Frankel 90) as mistakes women could make. These mistakes communicate an incredibly confusing message to readers by suggesting that women are supposed to avoid making mistakes that highlight their gender while understanding that the rules, boundaries, and strategies in the workplace are not the same for them *because of their gender*.

*Nice Girls Still Don't Get The Corner Office* also addresses some of the mistakes Sandberg outlines in *Lean In*. Some of these mistakes include: “Putting Work Ahead of Your Personal Life” (Frankel 149), “Prematurely Abandoning Your Career Goals” (Frankel 157), and “Refusing High-Profile Assignments” (Frankel 188). Putting personal life ahead of work often requires women with children to prematurely abandon their career goals or refuse high-profile assignments. Mothers, therefore, would struggle to interpret this advice because it does not provide a solution to the conflict between work and family.

The advice offered in these self-help books is ultimately impossible to follow and confusing to understand. It is difficult to even imagine what kind of behavior would be produced if a woman attempted to follow all of this contradictory advice. These self-help books also fail to address one of the major issues both Sandberg and Slaughter highlight: the hardships that come with being a *working mother*. Failing to mention the topic implies that there is not a place for mothers in the workplace in the 1960s or 2017.

#### Scholars Attempt to Understand the Problem

The culturally held stereotypes of the widely accepted notion of the American family

structure, with men as the primary breadwinners and females as the natural caregivers, are the biggest contributors to perpetuating the gender inequalities that exist today. Scholars have discovered that these stereotypes translate to perceptions in the workplace, especially for working mothers because of the culturally held beliefs about motherhood. Women, as a result, are convincing themselves to be satisfied with the gender inequality that exists in their workplace because they do not believe they have any other options.

While it may seem that traditional gender roles are not as important as they once were, scholars are finding that ancient, culturally held beliefs about gender roles in society are still holding more weight than the modern family structures. According to scholar Shelley J. Correll, culturally held beliefs about gender are essential to the *system* of gender: “If gender is a system for constituting difference and organizing inequality on the basis of that difference, then the widely held cultural beliefs that define the distinguishing characteristics of men and women and how they are expected to behave clearly are a central component of that system” (Correll and Rideway 511). The gendered discrimination that exists in the workplace today is a result of an integration of culturally held stereotypes and beliefs about gender roles in society and gender roles at work. This is because, “cultural beliefs about gender (hereafter called ‘gender beliefs’) are the component of gender stereotypes that contain specific expectations for competence” (Correll 1696).

There has always been a gendered assumption that women are not as naturally competent as men, and therefore women in the workplace are constantly held to higher standards to prove their competence and are often denied credit for their success (Blair-Loy and Cech 374). These differences in perception have always been an issue for women because they affect their career paths: “When competence at a certain skill is thought to be necessary for a particular career, then

gender differences in the perceptions of task competence, over and above actual ability, foster gender differences in commitment to paths leading to that career” (Correll 1692). These unconscious stereotyping practices can explain issues like the current wage gap that exists between male and female professionals in America: “Even amidst an increase in women’s entry into professions and management, women continue to earn less pay than men with similar levels of experience” (Buchanan 204).

While these gender discrimination practices have separated men and women, there have also been differences in perceived competence among different groups of women. There is a widely held perception that homemakers in America are cooperative and warm but not necessarily competent (Cuddy, Fiske, and Glick 705). In contrast to homemakers, female professionals are viewed as high-status competitors and competent but cold, which evokes begrudging respect and resentment. When women are able to make it to the top in their workplace by displaying their competence, they must cope with a new label that comes with authority, “[the] stigmatization for excelling at tasks viewed as masculine” (Blair-Loy and Cech 374). Women highly competent at “masculine” tasks are categorized as dislikable, untrustworthy, and less influential than men acting similarly (Blair-Loy and Cech 374). When these female professionals become mothers however, culture assumptions about motherhood change their perceived levels of competence:

Not only are [women] viewed as less competent and less worthy of training than their childless female counterparts, [but] they are also viewed as less competent than they were before they had children. Merely adding a child caused people to view the woman as lower on traits such as capable and skillful, and decreased people’s interest in training, hiring, and promoting her (Cuddy, Fiske, and Glick 711).

This change in perception becomes a huge problem from working mothers because it begins to affect their careers. Furthermore, working mothers are now seen as less competent as men *and*

nonmothers, which puts them at an extreme disadvantage:

[In an experiment performed in 2004,] participants were asked to imagine that they were clients choosing a consultant from a consulting firm (Cuddy et al. 2004). The researchers found that simply adding the phrase ‘has a two-year-old child’ to the description of the consultant lead evaluators to rate the consultant as less competent than an otherwise equal consultant not presented as having a child (Benard, Correll, and Paik 1303).

Regardless of how competent a woman actually is, her label as a mother completely changes her perceived capabilities, and therefore diminishes her future career opportunities.

In addition to being viewed as less competent at work, mothers struggle to overcome the other cultural assumptions that come with the “mother” label. It is assumed that working mothers hold a desire to fulfill their perceived duty as the primary caregiver in addition to being a working mom. Furthermore, “Contemporary cultural beliefs about the mother role include a normative expectation that mothers will and should engage in ‘intensive’ mothering that prioritizes meeting the needs of dependent children above all other activities” (Benard, Correll, and Paik 1306). In order to engage in intensive mothering, the cultural implication is that a mother’s time will be compromised and she will have less availability to work. Another issue is that of commitment to work: “There is considerable evidence that contemporary cultural beliefs include assumptions that employed mothers are less committed to work than nonmothers and, consequently, put less *effort* into it.” (Benard, Correll, and Paik 1306). Becker’s “work effort” hypothesis explains that mothers may be less productive at work because they have spent all their energy caring for their children (Benard, Correll, and Paik 1299). All of these assumptions exist because of the culturally held beliefs of what mothers *should* do and how they *should* spend their time. These assumptions are not a deliberate form of gender discrimination, but instead a result of the ancient idea that mothers are the natural caregivers. These ideas are so internalized that mothers not acting in accordance with their maternal role are punished: “Similarly, working

mothers who did not take a maternity leave after having a child are, generally, judged more harshly than working mothers who did take leave, which is mediated by people's perceptions that the no-leave mothers are less committed to their children" (Cuddy, Fiske, and Glick 706).

As a result of mothers being perceived as less competent, less available, putting in less effort, and having less energy, mothers are at an *extreme* disadvantage compared to nonmothers. As a result, studies found that employed mothers in the United States suffer a per-child wage penalty of approximately 5%, on average, after controlling for the usual human capital and occupational factors that affect wages (Benard, Correll, and Paik 1297). For mothers under the age of 35, the pay gap between mothers and nonmothers is larger than the pay gap between men and women (Benard, Correll, and Paik 1297). A study by Shelley J. Correll, Stephen Benard, In Paik determined that mothers were called back after job interviews about half as often as nonmothers (Benard, Correll, and Paik 1333). Since the difference between mothers and nonmothers is not gender-based, these statistics prove choosing to expand their family puts women at a significant disadvantage.

While deciding to have children is a career-changing decision for mothers, it does not have the same effect on men in the workplace. A laboratory experiment found that mothers were penalized for being mothers in ways ranging from their perceived competence to their recommended starting salary. Fathers, however, do not have the same experiences: "Men were not penalized for, and sometimes benefited from, being a parent. The audit study showed that actual employers discriminate against mothers, but not against fathers" (Benard, Correll, and Paik 1297). Working fathers do not make the same trade of perceived competence for perceived warmth. Instead, they gain perceived warmth and maintain perceived competence. While women are called back after a job interview about half as often as nonmothers, fathers are not

disadvantaged in the hiring process (Benard, Correll, and Paik 1333). Without the burden of mothering responsibilities, fathers are not viewed as having less availability, energy, and commitment to their careers: “We do not expect that fathers will experience these types of workplace disadvantages since understandings of what it means to be a good father are not seen in our culture as incompatible with understandings of what it means to be a good worker” (Benard, Correll, and Paik 1298).

The combination of these cultural assumptions about motherhood and a perceived lack of competence results in the internalization of gender roles. Shelley J. Correll claims, “I argue that widely shared cultural beliefs about gender and task competence bias actors’ perceptions of their competence at various skills” (Correll 1692). Women are accepting this discrimination because they believe that they have to. Women are having to work harder to prove their competence and yet are accepting less in return: “The paradox of the contented female worker results from the fact that women expect and consider fair a lower return of reward for their inputs than do men” (Phelan 97). In addition to accepting this, women are even convincing themselves to be satisfied with the inequality: “The ‘paradox of the contented female worker’ is that although women have jobs with lower pay and less authority than men, they are equally satisfied with their jobs and employers” (Phelan 95).

The cultural perceptions that are putting women at such a disadvantage in the workplace cannot change until the idea of what a typical American family *should be* and the idea of how a typical American mother *should act* begins to change. The conversation about mothers with mothering responsibilities needs to change to parents with parenting responsibilities. A change in this cultural perception, however, is impossible with the law currently in place. While the initial intent for this law was to create a policy to support working mothers, the current law acts as a

mere *placeholder* for a law supporting women because the law was not actually designed to help mothers at all.

### **Policy Response Analysis: The Family Medical Leave Act of 1993**

In the mid-1980s, it became clear that a policy response was necessary to address the challenges for mothers in the workplace. The number of women in the workforce had been increasing dramatically and the United States was one of the only wealthy nations without a policy to accommodate working mothers. The bill that eventually became the Family and Medical Leave Act of 1993 was debated in Congress for nine years before President Bill Clinton signed it on February 5th, 1993. The current law, however, was not designed to help working mothers and acts as placeholder for a family leave law because it applies to so few people. During the debates leading up to the establishment of the law, Congress debated the bill's implications for businesses, employers, the economy, and the employees who would not be receiving any benefits from the law. While the original intent of the law was to promote gender equality and change the structure of the workplace for women due to the recent increase of women in the workforce, those themes were missing from the discussions in Congress and eventually led to a law that does not address the issues working mothers experience at all.

Clinton signed H.R. 1, the Family and Medical Leave Act of 1993, almost immediately after becoming president. This law grants qualifying employees up to 12 weeks of unpaid leave a year. During that time, the employees have guaranteed job protection and still receive group health benefits. The FMLA applies to all public agencies and private sector employers who employ a minimum of 50 employees for at least 20 weeks in the current or preceding calendar year. To qualify for the benefits of the FMLA, employees must have worked for a covered employer for a minimum of 12 months, have worked a minimum of 1,250 hours during the 12



months prior to taking leave, and work at or within 75 miles of a location with a minimum of 50 employees employed at that location (dol.gov). An employee may take up to 12 weeks of leave to care for a newborn child, to care for a newly placed child, to care for an immediate family member with a serious health condition, or if the employee is unable to work because of the employee's own serious health condition. The term "serious health condition" includes an illness, injury, impairment, or physical or mental condition that involves a period of inpatient care or overnight stay in a medical care facility or hospital, incapacity requiring an absence of more than three calendar days, incapacity due to pregnancy, incapacity due to a chronic condition, incapacity due to permanent or long term conditions for which treatment may be ineffective, and any absences due to receiving multiple medical treatments (dol.gov). Due to the FMLA's requirements for eligibility, only 60% of the workforce is eligible as of 2013 (dol.gov), leaving 40% of employees without any federally mandated coverage.

#### The Bill Becomes a Law (1991-1993)

While Clinton may have been the president to sign H.R.1, this law had been taking shape in Congress for years prior to his inauguration. When the 102<sup>nd</sup> Congress met for their first session in January of 1991, family leave was at the top of the congressional legislative agenda. President George H.W. Bush had just vetoed the bill because he was against the proposed federal mandate on businesses and claimed that the bill would be too costly (CQ Almanac 1991, 311). In the House, Republicans on the House Education and Labor Committee claimed that the bill would unfairly burden businesses and agreed with Bush that the government should not intervene in business affairs. The Democrats, however, argued that the current lack of leave was hurting families in America. As a result of this dispute, the Penny-LaFalce substitute, which raised the required working hours a week to qualify for the benefits of the law to 25 hours, required

employees to provide 30 days' notice, lowered penalties for businesses, and allowed companies to keep their 10% highest-paid employees, was established as a compromise. The bill still did not pass on the floor of the House, however, because the votes were too low to override Bush's veto (CQ Almanac 1991, 311). Meanwhile in the Senate, the Republicans on the Health, Education, Labor, and Pensions Committee were mainly against the proposed consequences that employees could collect quadruple pay if businesses violated the law. The Bond Substitute was introduced as a compromise because it softened the penalties for businesses by allowing employees to collect double pay (instead of quadruple) and raised the requirements of employees be working 25 hours (instead of 19) a week over the previous 12 months to qualify for the benefits of the law. With this substitution, the law passed by a voice vote on the floor of the Senate (CQ Almanac 1991, 311).

When the 102<sup>nd</sup> Congress met for their second session in January of 1992, the upcoming presidential election was beginning to affect the discussion of family leave. There were major policy opinion differences between Bush and Bill Clinton, the Democratic nominee who had claimed that family leave would be his top priority if president. During the Democratic and Republican National Conventions, the sponsors of the bill made a political statement about the need for Clinton because the bill had bipartisan support but did not have the supermajority needed to override Bush's veto. As a result, family leave discussion in Congress shifted as Republicans accused Democrats of using the bill to embarrass Bush (CQ Almanac 1992, 353). The Democrats denied this accusation and continued to claim they were looking at the bill as a way to meet basic social needs in America. The Democrats also argued that the bill was a good compromise because it would be providing benefits that were not very generous, especially because it would not provide any paid leave (CQ Almanac 1992, 353).

During his final months as president, Bush came up with an alternative plan for family leave that would require big businesses (with more than 500 employees) to provide unpaid leave for workers in exchange for up to \$1,200 tax credits per worker if they gave employees time off for family emergencies. Overall, the bill would cost about \$500 million. Congress received the bill on September 16<sup>th</sup> and promptly sent it back to the White House on September 22<sup>nd</sup>. The Democrats were especially critical of Bush's alternative plan because they saw it as an attempt to give the president a reason to continue to veto the bill (CQ Almanac 1992, 353).

On September 24<sup>th</sup>, the Senate voted on the bill and officially had enough votes to override Bush's veto, after facing 32 total vetoes from Bush for all types of legislation. The existence of this conflict in many policy areas put pressure on the construction of this particular family leave bill. On September 30<sup>th</sup>, the House voted on the bill again but failed to override the veto, making the bill dead for the 102<sup>nd</sup> Congress. This was not a bad thing for the Democrats, however, because they knew that when Clinton was in the White House, they would no longer have to appease business groups and could make a stronger family leave law (CQ Almanac 1992, 353).

### Hearing on H.R. 2

In order to truly understand why the current law in place, the Family and Medical Leave Act of 1993, offers so little to only 60% of the workforce and has been in place for so long, it is necessary to analyze the specific conversations that took place in Congress during the time the bill was developed. During the year of 1991, the bill had become very similar to what was signed into law. The Senate voted to pass the bill with the Bond Substitute in 1991 and then overrode Bush's veto in 1992 with a supermajority. The House, however, was more conflicted on the bill by failing to pass the bill in 1991 and failing to override the veto in 1992. The House was fairly

divided on this issue with strong opinions on both sides for and against the bill. Since these opinions helped shape the bill that became today's law, it is necessary to examine the differing opinions presented to the House to understand how the bill changed from a policy response to an increase in working mothers to a placeholder for a family leave law. Although there are many different ways to analyze how the FMLA took shape, such as analyzing the media coverage or the actions in the Senate, the House had the most differing opinions and issues to solve, and therefore today's law truly took form in the House in 1991.

The hearing on H.R. 2 took place before the House Subcommittee on Labor-Management Relations of the Committee on Education and Labor on February 28<sup>th</sup>, 1991. This hearing was critical for the House Democrats because they did not have enough support for the bill to override Bush's veto. The Democrats were desperate to get the bill passed, especially with all of the compromises they had been forced to make to satisfy the Republicans. The Republicans, on the other hand, were insistent on continuing to honor Bush's veto despite the compromises being made by the Democrats. The hearing on H.R. 2 that took place on February 28<sup>th</sup>, 1991, allowed both parties to passionately voice their opinions on the bill to a divided House in hopes of achieving a majority opinion.

The hearing document contains 60 pages of content from the hearing with an additional 177 pages of prepared statements, letters, and supplemental materials. The hearing featured two panels of witnesses with a short recess during the transition between the first and second panel. The first panel was made of up witnesses that were in favor of H.R. 2: James Malone, Bishop of Youngstown, Ohio and Chairman of the Domestic Policy Committee of the United States Catholic Conference; Mary Roberts, Commissioner of the Oregon Bureau of Labor and Industries; Robert Dawkins, employee of the Georgia Department of Transportation; and

Thomas Kean, President of Drew University and former Governor of New Jersey. The second panel was made up of witnesses that were opposed to H.R. 2: Mary Tavenner, Senior Director of Government Relations for the National Association of Wholesaler Distributors; and Dr. Marvin Koster, the American Enterprise Institute. All of the witnesses were given the opportunity to provide an opening statement before members of the subcommittee questioned them.

Discussion during this hearing focused on the bill's implications for businesses. The Republicans were opposed to the bill because of businesses and the economy. As a result, witnesses that were in favor of the bill gave testimonies trying to prove to the Republicans that the bill would not have harmful effects for business or the economy, instead of explaining why the bill was actually necessary. These witnesses used examples from current in-house policies and states with family leave laws to highlight the possible positive effects of the bill for employers, businesses, the economy, and employees that would not directly benefit from the bill. There was very little discussion, however, of the employees that *would* benefit from bill, motherhood, or gender inequality in the workplace overall.

#### Discussion of the Bill's Effects on Businesses

When those opposed to H.R. 2 discussed the bill's possible negative effects, they mainly argued that the bill was too costly for businesses, especially small businesses, which could lead to bankruptcy and major changes in the United States economy. The bill would require businesses to keep a job position open for an employee taking leave for up to 12 weeks. Congressman Bill Barrett argued, "Employers can't be forced to hold that job open if it would mean possible bankruptcy of the company" (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 11). During his testimony, Dr. Marvin H. Koster of the American Enterprise

Institute claimed that forcing businesses to keep a job position open could be costly in a variety of ways:

Disruptions of production, training of temporary replacement workers, helping temporary workers find new jobs, and coping with delays before permanent replacement workers can be hired are among the costs involved. It is hard to estimate how large these costs, and the costs of administering the system and resolving disputes might be (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 89).

Koster made it clear that it is difficult for Congress to predict exactly how much the bill would cost businesses because businesses would have different expenses depending on their size and industry. Republicans and those opposed to H.R. 2 wanted to avoid an economic disaster if it was discovered the costs were too high *after* the bill became a law.

One of the sure costs the bill would impose on businesses would be hiring a replacement worker, which would often be necessary for a business to function normally with an employee on leave. The first issue with hiring a replacement worker is that it could be costly to pay for the temporary worker's training. After the temporary worker has been trained and performed the job for 12 weeks, there is the second issue of essentially firing that replacement worker. In a statement submitted to the second, the Associated Builders and Contractors of America raised the question:

What does an employer do with the replacement worker when the original employee is entitled to return to his or her same job? Unemployment costs are certain to increase, as the employer will have to let the replacement worker go after 12 weeks when the employee on leave returns (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 170).

While the issue of hiring and firing a replacement worker can be costly, it could be even more costly if the business did not have the option of hiring a temporary worker. The Florists' Transworld Delivery Association was opposed to H.R. 2 specifically for this reason: "Many positions in the floral industry are specialized and not readily replaceable by temporary workers"

(The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 184). They claimed that specialized work makes it almost impossible to hire a replacement worker, meaning a specialized job position would have to be kept vacant until the original employees could return to work. The Associated General Contractors of America pointed out that some companies may be able to afford costs that would come with the vacancy left by a specialized workers, but others would not: “The proposed leave structure ignores the fact that not all employers in all industries are in the same financial circumstances” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991,174). Overall, those opposed to H.R. 2 established that the costs of filling a job vacancy may be hard to predict, but will definitely exist for businesses if the bill passes.

Those opposed to H.R. 2 also claimed that the smaller businesses would be affected by the bill the most because they are not in the same financial circumstances as larger businesses, and yet have to try to stay competitive. The National Federation of Independent Business claimed, “Any additional cost burden on the small employer could threaten not only the financial security of the business, but also the greatest creator of jobs in the U.S. work force” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 226). Those opposed to H.R. 2 also highlighted the fact that the bill would affect businesses that would not be covered by the law because of having less than 50 employees. The Associated Builders and Contractors claimed:

The average number of employees for a small construction business is 10. Proponents argue that such businesses will be exempt from the mandate, as they have less than 50 employees. This is simply not the case. Smaller firms will have to offer the same benefits to compete with larger companies in order to keep their workforce (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 171).

They claimed the bill might harmfully affect small businesses with less than 50 employees because they have to try to stay competitive with the larger businesses that are forced to give family leave.

#### Discussion of the Bill's Implication for Employees

In addition to claiming that the bill would have negative effects on businesses, those opposed to H.R. 2 claimed that the bill was actually unnecessary because businesses were already beginning to offer family leave benefits of their own. In her testimony, Mary Tavenner of the Government Relations for the National Association of Wholesaler Distributors and the Concerned Alliance of Responsible Employers claimed, "Every year, employers are adjusting their employee benefits packages to respond to the marketplace. They ought to be allowed to continue to do this in order to respond to the ever-changing needs of me and millions of other Americans" (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 62). If businesses are beginning to make these changes without government intervention, those opposed to H.R. 2 believe that businesses should be allowed to continue to do so without a federal mandate.

Those opposed to H.R.2 also felt strongly that Congress should not be meddling with the employee/employer relationship because it would take away the flexibility that exists for both employees and employers. Dr. Marvin H. Kosters of the American Enterprise Institute claimed:

It seems to me that main problem about a proposal like this is that it takes away some of the flexibility that employers and workers now have to choose among those benefits that they prefer most, and they would value most; and for employers to choose with ones they would offer in which way, depending on the particular cost to them and particular jobs (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 81).

When employees are able to negotiate their own benefits, they have the ability to customize their benefit packages in a way that is best for both the employee and employer or business. Dr.



Kosters stated, “A federal mandate would make it more difficult for firms to offer flexible arrangements like ‘cafeteria’ plans so that workers can choose benefits that best suit their needs and interests” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 94). The term “cafeteria plans” refers to the option that some businesses offer that allows employees to choose their benefits from a menu based on their individual needs and wants. Employees that currently have the opportunity to choose from a cafeteria plan are generally able to take a form of family leave if needed, while employees that do not need to take family leave can choose a different benefit.

Those opposed to H.R. 2 argued that employees who do not have a menu of benefits to choose from can work with their employers to accommodate their needs. According to the National Federation of Independent Business, a menu of benefits to choose from is one of the special benefits of small businesses that would disappear if they were forced to compete with larger businesses: “The small business atmosphere fosters negotiated benefits packages that take into account the individual needs of the employee” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 226). Tavenner, who is also a mother, claimed during her testimony, “My needs have changed dramatically over the past 20 years. As a result, I want to continue the flexibility I have now... I have never encountered an unsympathetic employer who has not been willing to work with me to accommodate my needs” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 61). Republicans asserted that not only would the flexibility be gone, but employees might also be given benefits they do not need and not given benefits they do as a result of the bill. In his final remarks, Dr. Kosters stated: “The employee would essentially be paying for the benefit but receiving less cash wages... Requirements for employers to provide particular non-wage employment benefits are essentially equivalent to telling workers how a

portion of their pay must be spent” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 84, 95). These statements and testimonies collectively communicate that losing this flexibility would be one of the most difficult changes for both businesses and employees.

In addition to the claims that valuable benefits would be taken away, others argued that employees who do not need the benefits the bill would provide would be left with the stress of their coworker’s absence. If the business hires a replacement worker, the employees not on leave would often be the ones who would have to take the time to train them. If the business does not hire a replacement worker, the employees not on leave may be forced to absorb the responsibilities of those on leave. In their statement submitted to the record, the National Federation of Independent Business claimed, “H.R. 2 also overlooks the stress in the work place create when an employee takes leave. The employees who remain suffer as a result of another’s leave” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 229). Ultimately, it was argued that the bill would not account for that potential stress and those who would be affected by the bill but not receive the benefits.

#### Discussion of Evidence in Favor of H.R. 2

Before H.R. 2 was at the top of the congressional agenda, family leave was debated at the state level. Mary Wendy Robert, Commissioner of the Oregon Bureau of Labor and Industries, described Oregon’s family leave policies during her testimony, as Oregon was one of the first states to enact a law for parental leave in 1987. Under Oregon’s Parental Leave Law, 10.8% of public and private employers were covered by the law, which accounted for 65% of the Oregon workforce. Most employees, however, did not actually take the available leave and many Oregon employers were already offering more generous benefits than the Parental Leave Law. Roberts

claimed this law did not change any of the benefits available to the employees who were not taking any leave:

The Bureau informally polled Oregon employers and we found an estimated of some 30 Oregon companies employing an estimated 85,000 employees, not one of them had reduced any benefits due to this bill, not one. You've heard a lot of people allege that this will happen, but not in Oregon where the law's been in effect, it did not happen (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 29).

This is positive evidence that the bill would not negatively affect employee benefits or become too expensive for businesses.

Thomas Kean, former Governor of New Jersey, also spoke on the subject of family leave laws at the state level. The law was not difficult to pass in New Jersey because it was viewed as a "bipartisan and balanced" bill proposed by a pro-business administration. New Jersey was one of 21 states with leave policies in place at the time. Kean felt the law was necessary because the changes in the labor forces were beginning to outpace the willingness of businesses to accommodate the need for family leave. Kean believed that this law would help families while not necessarily hurting businesses: "Now, creating sound public policies that put family values into action is not incompatible with concern for a healthy business climate. In fact, I believe the two can work well together if we see the investment in people as an investment in business growth and economic opportunity" (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 41). By looking at the bill as a way to invest in employees, Kean argued that it was a positive requirement for businesses to offer family leave.

Other witnesses in favor of H.R. 2 spoke about the successes of in-house family leave policies and their effects on employee morale. Bishop James W. Malone, Bishop of Youngstown, Ohio and Chairman of Domestic Policy Committee of the U.S. Catholic Conference, claimed, "The leave policies have contributed to raising employee morale... Co-

workers are usually very understanding and often willing to pick up the additional workload in the absence of one of their co-workers” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 22). He argued that the improved morale could actually be beneficial to businesses economically because productivity would be higher. In their statement submitted to the record, the Child Care Action Campaign claimed that the leave could be cost-effective, “Despite the argument given by many employers that family leave is too costly, survey from the General Accounting Office shows this legislation would save employers recruitment and retraining costs, create higher morale and increase worker productivity” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 181). Democrats and those in favor of H.R. 2 were also careful to argue that it was not enough to have family leave policies at the business or state level because it would not guarantee that all employees would have access to leave. Martha McSteen, President of the National Committee to Preserve Social Security and Medicare, claimed, “While some forward-thinking corporations will offer family leave, others will never” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 222). As a result, a federal mandate becomes necessary to ensure that all employees have access to family leave if necessary.

#### Discussion of Women and Motherhood

Those in favor of H.R. 2 discussed how the bill would be helpful to families overall because neither parent would have to compromise their career. The American Academy of Pediatrics stated, “This important legislation would eliminate for parents the painful and often hopeless choice between keeping their jobs and caring for their children. FMLA would allow parents the opportunity to take unpaid leave without the threat of losing their livelihood” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 142). The Child Care Action Campaign, however, argued that this may not always be a viable option: “There is a severe lack

of quality infant care, and this shortage often forces parents into an unacceptable position of either placing their infant into an inadequate care arrangement, or dropping out of the labor force altogether” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 178). While these claims are true, they fail to highlight the fact that these issues affect mothers much more than fathers.

Overall, there was very little mention of motherhood in this hearing, which is perplexing because the bill initially stemmed from the cited increase of mothers in the workforce and increase of single mothers today. There were not any testimonies given by mothers in favor of the bill and the only victim of a lack of a leave policy was Robert Dawkins from the Georgia Department of Transportation, who needed to take leave because of his sick parents and disabled wife. Elinor Guggenheimer, President of Child Care Action Campaign, was the only person in favor of H.R. 2 who quoted a mother in need:

One respondent, a mother from the South wrote, ‘Six weeks is barely enough time to recover from labor, to return to work, and carry a full workload. I have worked at the same job for nine years. It took me eight years to accrue enough sick leave to take off two weeks before and ten weeks after the birth of my baby. I now have no sick leave until it accrues with time. I hope I don’t get sick’ (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 179).

While this is a very powerful statement coming from a mother who would greatly benefit from H.R. 2, it would have been much more effective for those in favor of H.R. 2 to have had a mother in need testify before the subcommittee.

When the issue of women having to leave the workforce was discussed, the bulk of the conversation was pointedly against H.R. 2. In their statement submitted to the record, American Association of Retired Persons claimed, “Women with interrupted work careers may find themselves disadvantaged in a number of respects when they reenter the labor force” (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 130). While this is true, those

opposed to H.R. 2 used the notion of women being disadvantaged when trying to reenter the workforce to prove that H.R. 2 would be detrimental for women. Dr. Kusters' stated, "To avoid the additional costs that may be entailed, employers may be more selective in their hiring policy. If so, the result would be fewer jobs and somewhat lower wages for many women" (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 88). Similarly, the National Federation of Independent Business cited a survey conducted by Fingerhut/Granados in 1987, which asked whether or not respondents agreed that "employers would be less likely to hire women if the law required them to give new parents time off and job guarantees following birth or adoption." Sixty-six percent said they agreed with the statement " (The Hearing on H.R. 2, The Family and Medical Leave Act of 1991, 230). If women taking the leave are going to be disadvantaged when trying to reenter the workforce, it seems as if those opposed to H.R. 2 are implying they should not be given the leave at all. In other words, the cure for one form of discrimination mother's face was the elimination of assistance with another problem.

#### Conclusions on the Hearing

Overall, the testimonies and statements that made up this hearing implied that United States businesses, instead of mothers, were the victims. The conversations that took place during the hearing indicated that it would be a burden for businesses to offer yet another benefit to their employees just because of the recent increase in women in the workforce. Testimonies were given that the bill would cause the bankruptcy of businesses of all sizes because of the costs of providing family leave, and that would destroy the United States economy. When those opposed to H.R. 2 argued about the bill's potential affect on the economy, it was implied that there was no place for mothers in the workforce. This point was made especially clear when several

statements alluded to the fact that it was more difficult for women to get rehired after temporarily leaving the workforce, so therefore women should not leave at all or not attempt to return.

In response to these claims, the Democrats and those in favor of the bill attempted to counter these points but failed to explain why the bill was so necessary. The Democrats *did not have a working mother in need testify*, which seems illogical considering that the surplus of working mothers in need sparked the initial need for a family leave law in the United States. There was *no discussion of gender equality*, which made it confusing to understand why the bill was needed in the first place. Most importantly, the Democrats failed to make the point that family leave is not a benefit but *a human right*. While the Democrats were presenting themselves as the great problem solvers for women, they failed to *actually discuss the problems women face* during this hearing. As a result, the hearing was ultimately a discussion about protecting businesses and the economy instead of trying to make a cultural change that would promote gender equality in the United States.

### **Discussion: What Sweden Did Differently**

While the recent increase in working mothers caused Congress to create the Family and Medical Leave Act of 1993, other wealthy nations created much more generous policies that were designed to actively help women and change the cultural beliefs about working mothers. These nations, which are predominantly in Europe, had policy responses that were intended to change the dialogue about working *mothers* to working *parents* to promote gender equality. The March 1992 EU Council Recommendation on childcare stated:

As regards responsibilities arising from the care and upbringing of children, it is recommended that Member States should promote and encourage, with due respect for freedom of the individual, increased participation by men, in order to achieve a more equal sharing of parental responsibilities between men and women and to enable women to have a more effective role in the labour market (Math and Meiland).

As a result of this encouragement, many countries in the EU have policies attempting to offer their citizens gender equality in the workplace by offering paid maternity leave, paid paternity leave, or paid parental leave that can be shared between two parents after maternity or paternity leave is taken. Offering paid maternity leave is incredibly beneficial to mothers, especially single mothers, because they can actually afford to take their maternity leave. The policy changes that provide paid leave for both parents are assigning the parenting responsibilities to *both* mothers and fathers. As of 2017, the United States is *not* one of the 41 countries in the world that offers paid maternity leave, paid paternity leave, or paid parental leave.

While it can only be speculated that these European policies have been successful in promoting gender equality, Sweden is a very important example to consider because of the Swedish family leave law's proven success. Sweden was the first country in the world to offer any gender-neutral paid parental leave forty years ago (Haas and Hwang 29). The law became necessary because of a recent cultural change in Sweden, and all Nordic countries, over the last century. As women began entering the workforce, their need for childcare or paid leave became especially important. Swedish women, however, were lacking the same built-in childcare through extended family as women in other European countries because family units in Nordic countries have become much smaller over time (Lammi-Taskula, Brandth, Ingólfur, Guðný, Björk, and Rostgaard). Without extended family that is willing and able to care for their children, Swedish women were forced to figure out alternative childcare and that began to mean leaving the workforce.

When the Swedish government realized that women were leaving the workforce, they created a law that was specifically designed to promote gender equality: "This has meant that women (including those with small children) have been guaranteed a place in the labor market



and have been encouraged to see themselves as family breadwinners. It has also meant that men are encouraged to take equal responsibility for housework and child care” (Haas and Hwang 29). The Swedish government took the implementation of their family leave law one step further by attempting to instill cultural changes that would place the parenting responsibilities on both parents, not just the mothers, in Sweden: “Fathers receive special encouragement to become involved in parenting through the media, prenatal courses, childbirth leave, well-baby clinics, child rearing publications, social insurance offices, and trade unions” (Haas and Hwang 29).

The family leave policies in Sweden have been widely successful as a result of the Swedish government’s efforts. *The Economist* recently reported, “Close to 90% of Swedish fathers take paternity leave. In 2013, some 340,000 dads took a total of 12 million days’ leave, equivalent to about seven weeks each” (S.H.). According to the Swedish Institute of Labor Market Policy Evaluation, mothers are benefiting from a 7% increase in future earnings for every month the father takes (Harrington, Eddy, Fraone, and Van Deusen 2014). Not only have the parenting responsibilities shifted to both parents, but Swedish women are seeing results of improved gender inequality in the workplace with increased earnings. It can be speculated that this success is largely due to the Swedish government’s efforts to create a law *specifically* for promoting gender equality and then implementing the law in a way that would *actually* encourage results. The United States, however, has not made any real efforts to change the dialogue about working *mothers* to working *parents* and has not made any changes to the FMLA since 1993.

### **Conclusions: Where the Policy Makers Failed**

As of February of 2017, it appears as if the issue of family leave in the United States is becoming a topic in Congress again. Ivanka Trump recently summoned a small group of female

Republican members of Congress to the White House to discuss childcare and family leave (Steinhauer). While Ms. Trump has no formal role in the Trump administration, she does have the ear of the president and the ability to bring lawmakers to a table for discussion. Reporter Jennifer Steinhauer commented, “Ms. Trump faces a difficult challenge as she tries to use that voice to span the deep divides between Republicans and Democrats on these issues” (Steinhauer). As Ms. Trump works to unite the Republican women, the Democrats are beginning to have conversations as well. Senator Patty Murray, Democrat of Washington, told *The New York Times*, “If Republicans think they can get away with offering workers window dressing in response to huge problems like the astronomically high cost of child care or the fact that so many parents still can’t take a day to care for a sick child without losing pay, they are sorely mistaken” (Steinhauer).

If individuals like Senator Patty Murray and Ms. Trump are going to have any success in changing the current family leave law in the United States, the conversations in Congress must *actually* be about gender inequality in the workplace. As stated in the introduction and literature review, there are major issues with gender equality in the workplace that need to be addressed. Women are “leaning out” and cannot figure out how to have a family and a career at the same time. Women are trading their perceived competence for warmth when becoming mothers, and therefore working mothers are losing their competitive edge as employers become less interested in hiring, training, and promoting them. The conversations about mothers with mothering responsibilities *must change* to conversations about parents with parenting responsibilities in order to create a cultural change and improve gender equality. The belief that mothers are less available, put in less effort, and have less energy might as well be true because the FMLA does not provide any support for women facing these issues. With a law in place like the FMLA,

gender equality will not improve in the workplace because that law was not designed to help women and does not encourage a transfer of parenting responsibilities to both parents.

The Swedish government experienced success with their family leave policies because they were designed to promote gender equality and were implemented in a way that would actually encourage the policy's success. When H.R. 2 was debated in Congress, women in America were lacking the necessary representation to push the problems women were actually facing. According to a report published by the Congressional Research Service, only 33 women were serving in the 102<sup>nd</sup> Congress, a number that has since risen to 104 women with the 114<sup>th</sup> Congress (Manning, Brudnick, and Shogan 4-5). The alleged problem solvers serving in the 102<sup>nd</sup> Congress did not discuss the challenges women face, the people who need family leave, or why a cultural change was truly necessary in 1991-1992. This lack of discussion implies that there was a massive political disconnect between the policy makers, or problem solvers, and the actual problem. Women need representation in Congress that will actually make the conversation about gender inequality and the needs of modern women today.

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