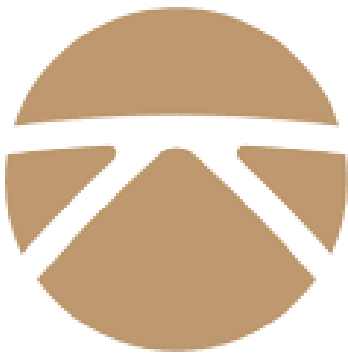


Exploring Gender Inequality within the Workplace:

A Human Rights Analysis of the Gender Pay Gap and the Motherhood Penalty

By

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Abstract

This paper explores the intersection of the Gender Pay Gap and the Motherhood Penalty, investigating their implications for women's rights and potential violations of fundamental human rights. Through a combination of legal analysis and qualitative research, it examines the persistent challenges faced by women in the workforce, particularly those who balance motherhood with employment. The findings reveal systemic disparities, underscoring the need for comprehensive policy reforms to ensure gender equality and non-discrimination. Additionally, it highlights the importance of addressing societal attitudes and workplace policies that perpetuate gender disparities, advocating for greater workplace flexibility and comprehensive policy reforms to support working mothers. Moreover, the paper discusses the United States' reluctance to ratify international conventions like CEDAW and emphasizes the importance of embracing global agreements to promote gender equality on both national and international levels. By addressing these issues through a human rights lens, the paper argues for building a more just and equitable society that upholds the rights and dignity of all individuals, regardless of gender or parental status.

Key Words

Gender Equality, Gender Pay Gap, Motherhood Penalty, Workplace Inequality, Work-Life Balance, Parenthood and Employment.

Table of Content

ABSTRACT	1
KEY WORDS	1
TABLE OF CONTENT	2
1. INTRODUCTION	3
1.2. AIM OF THE REPORT	5
2. RESEARCH DESIGN	5
2.1. METHOD ONE: LEGAL ANALYSIS.....	5
2.1.1. <i>Conventions and Rule Identifications</i>	6
2.2. METHOD TWO: QUALITATIVE APPROACH.....	7
2.2.1. <i>Interview Procedures and Sources</i>	7
2.3. DATA COLLECTION	8
2.4. DATA ANALYSIS	8
3.5. ETHICAL CONSIDERATIONS	9
3.6. LIMITATIONS	9
5. ANALYSIS	10
5.1. LEGAL ANALYSIS.....	11
5.1.2. <i>Gender Pay Gap</i>	11
5.1.2. <i>The Motherhood Penalty</i>	12
5.2. INTERVIEW ANALYSIS	15
5.2.1. <i>Gender Discrimination in the workplace</i>	15
5.2.2. <i>The Influence of Motherhood on career paths</i>	18
5.2.3. <i>Workplace Policies</i>	21
6. DISCUSSION	24
7. CONCLUSION	25
8. BIBLIOGRAPHY	27
8.1. LEGAL CASES	30
8.2. INTERVIEWS	30

1. Introduction

This report delves into the intersection of the Gender Pay Gap and the Motherhood Penalty in the United States, questioning whether these phenomena constitute violations of fundamental human rights and contribute to systemic discrimination against women. While addressing economic disparities between men and women, the focus of the paper extends to the discriminatory impact on women who choose motherhood compared to those who do not.

The Gender Pay Gap refers to the measurable indicator of difference in earnings between men and women in the workplace and as of 2023, no country has attained complete gender parity (World Economic Forum, 2023). The Gender pay Gap is an important topic in the context of gender inequality and it is one of the more visible examples of gender discrimination. The concept highlights the systemic and persistent inequality in wages, illustrating that, on average, women earn less than men for comparable work. (Bureau for Employers' Activities (ACT/EMP), 2020)

Various factors contribute to the Gender Pay Gap, including disparities in industries or job choices, with women often concentrated in lower-paying fields. Differences in years of experience also contribute, as women may exit the workforce for caregiving and other unpaid obligations. Variations in working hours, where women tend to work fewer hours due to caregiving and other unpaid obligations, further impact the gap (Bleiweis, 2020). Additionally, the under-representation of women in leadership (Bureau for Employers' Activities (ACT/EMP), 2020) and the influence of discrimination and biases, leading to unequal opportunities for women, are additional factors contributing to the Gender Pay Gap (Bleiweis, 2020).

This paper argues that the Gender Pay Gap is intensified by the Motherhood Penalty, which refers to the disadvantages and discrimination faced by mothers in the workplace. The Motherhood Penalty is a phenomenon that arises from societal expectations and biases surrounding gender roles and parenthood. The term refers to the negative impact that motherhood causes on women's careers, often resulting in reduced wages, limited career advancement, and increased discrimination in the workplace (Pino, 2023).

Several factors contribute to the occurrence of the Motherhood Penalty. Firstly, many women dedicate additional time at home taking care of their children, interrupting their work experience, or full-time employment. Another factor is that some mothers tend to trade off higher wages, for more "mother-friendly" jobs, facilitating the combination of work and motherhood. Additionally, the demands of parenting may leave mothers feeling more exhausted, potentially impacting their

productivity at work. Lastly, employers may engage in discrimination against working mothers (Budig & England, 2001).

For an extended period, women have been perceived as incapable of making significant strides in the workforce, and the slow progress in their leadership roles has often been dismissed as a consequence of personal choices. However, this is not always accurate. Recently, working mothers have taken legal action against their employers for discrimination. Juries are increasingly granting substantial settlements if evidence suggests that gender biases played a role in hindering their careers (Cuddy & Williams, 2021). Discussing the motherhood penalty is therefore important as it adds to gender inequality as most women are or become mothers, and still today women do most of the work of childcaring. Thus, any penalty of being a mother, not experienced by fathers or non-mothers, impacts women and contributes to gender inequality (Budig & England, 2001).

This paper examines the persistence of the Gender Pay Gap in the United States, highlighting its minimal closure over the past few decades. Despite advancements in education, with women being more likely than men to graduate from college, the gender pay disparity has shown limited improvement (Kochhar, 2023). In 2022, American women earned 82 cents for every dollar earned by men, a figure nearly unchanged from the 80 cents per dollar reported in 2002. A contributing factor to this enduring gap is parenthood. Research indicates that mothers aged 25 to 44 are less likely to participate in the labour force compared to women without children, and when employed, they tend to work fewer hours per week (Ibid). The paper opted to centre its focus on the United States because it remains among the handful of nations that have yet to ratify The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (Lowen, 2020).

Consequently, it is deemed important to examine the approaches the US employs in addressing women's rights issues, with specific attention to the Gender Pay Gap and the Motherhood Penalty.

The paper commences by outlining the research design employed. Initially, it introduces the first method utilized: legal analysis, briefly outlining the laws under scrutiny. Subsequently, it transitions to the second method employed: Qualitative Approach, detailing the interview procedure. Finally, this section elucidates the data collection and analysis process, along with the ethical considerations and limitations encountered by the paper.

Following this, the paper transitions to the analysis section, which entails in-depth legal scrutiny of various court cases related to first the Gender Pay Gap and second the Motherhood Penalty. These cases are examined based on the applicable laws to ascertain whether these phenomena could

constitute to violations of fundamental human rights. Subsequently, the section delves into the qualitative approach, where the paper examines real-life experiences of working mothers to determine if they have encountered systemic discrimination while balancing motherhood and employment.

Finally, the paper engages in a discussion regarding the United States' failure to ratify CEDAW, a treaty specifically focusing on women's rights. It explores the potential benefits for the US in ratifying this international convention.

1.2. Aim of the Report

This research explores the impact of the Gender Pay Gap and the Motherhood Penalty on women's rights, analysing potential systemic disparities for those exercising their reproductive rights. It delves into the evolving nature of the Gender Pay Gap within motherhood and examines societal attitudes and workplace policies, questioning their role in perpetuating or challenging human rights violation. The paper wishes to conduct this by using following research question:

To what extent do the Gender Pay Gap and the Motherhood Penalty contribute to gender disparities in the workplace, and how do these phenomena align with principles of human rights?

2. Research Design

This section offers a comprehensive overview of the methodology employed in this study. Firstly, it introduces the legal analysis methodology and discusses the relevant laws. Secondly, it outlines the qualitative approach, detailing the interview procedures. Finally, the section presents the data utilized in the analysis, along with the ethical considerations and limitations encountered during the study.

2.1. Method One: Legal Analysis

The first method utilised in the study is a legal analysis, this method is to identify issues or issues presented by a client's facts and determine what law applies and how it applies. Legal analysis is the process of applying the law to the facts of a case, exploring how and why a specific law does or does not apply. When doing the legal analysis this paper will apply a four-step method which is commonly used called IRAC: Issue identification, rule identification, analysis/application of the rule to the facts and conclusion (Putman, 2013). This paper employs legal analysis as a method as it allows the paper to examine the intricate interplays between the Gender Pay Gap, the Motherhood

Penalty, and international human rights instruments. The legal analysis provides the paper with a structured and systematic approach to interpreting and evaluating legal principles, ensuring a nuanced understanding of the implications of laws and regulations (Ibid).

2.1.1. Conventions and Rule Identifications

This paper aims to assess whether the Gender Pay Gap and the Motherhood Penalty can be regarded as human rights violations and manifestations of systematic biases. To achieve this, the study will delve into specific national laws in the US related to these phenomena. Additionally, the paper will examine the practical application of these conventions in real-life scenarios by analysing court cases specifically tied to issues surrounding the Gender Pay Gap and the Motherhood Penalty. This multifaceted approach will contribute to a comprehensive understanding of the legal dimensions and real-world implications of these gender-related workplace disparities.

2.1.1.1. *The Equal Pay Act of 1963 (The Equal Pay Act)*

The Equal Pay Act of 1963 is a legislation in the US that aims to address wage disparities based on gender. The main objective of the act is to abolish wage disparities based on sex by requiring that men and women is given equal pay for equal work in the same establishment (US EEOC, n.d., c)

2.1.1.2. *Title VII of the Civil Rights Act of 1964 (Title VII)*

The Equal Employment Opportunity Commission (EEOC) administers and enforces this act, which prohibits discrimination based on race, colour, religion, sex, or national origin. The provisions of this civil act specifically prohibit discrimination based on both sex and race in the processes of hiring, promotion, and termination (US EEOC, n.d., a). The relevant provision about sex-based discrimination is Section 703, which states that it is unlawful for an employer to discriminate against any individual concerning their compensation, terms, conditions, or privileges of employment because of their sex (Ibid).

2.1.1.3. *The Pregnancy Discrimination Act of 1978 (PDA)*

PDA is a U.S. federal law that amended Title VII of the Civil Rights Acts to prohibit sex-based discrimination based on pregnancy, childbirth, or related medical conditions. The main goal of the PDA is to protect pregnant employees from discrimination in the workplace and to ensure that they receive fair treatment in all aspects of employment, including hiring, promotion, job assignments, and benefits (US EEOC, n.d., b).

2.1.1.4. Family and Medical Leave Act (FMLA)

The FMLA provides eligible employees with up to 12 weeks of unpaid leave for qualified medical and family reasons, including the birth of a child. It further prohibits employers from interfering with, restraining or denying the exercise of FMLA rights and from retaliating against employees for exercising their FMLA rights (DOL, n.d.).

2.2. Method Two: Qualitative Approach

The second method applied in this study, the chosen method for collecting empirical data was semi-structured interviews. This approach involved incorporating a combination of structured questions and open-ended conversations to facilitate a thorough exploration of the research topic through participant dialogue. The semi-structured format was selected to ensure systematic information gathering, covering all pertinent topics, while also permitting the emergence of unexpected issues. This allowed for the identification of new and potentially significant points that might not have been previously considered by the interviewer. Moreover, the semi-structured interview approach enabled broad comparisons to be drawn between participants' responses (Wilson 2014).

2.2.1. Interview Procedures and Sources

The upcoming section will offer an overview of the interview procedures and sources from which we collected empirical data. It will begin by clarifying the process of establishing contact with the interviewees. Subsequently, it will explain how the interviews were conducted, and presentation the formulation of interview themes and questions. This serves as a foundation for a more profound exploration of the potential discrimination experienced by working mothers in the workforce.

2.2.1.2. Establishing Contact

Initially, the search for interviewees commenced online across diverse platforms, including Facebook, Instagram, and LinkedIn, targeting working mothers with first-hand experiences of workplace discrimination. The post received multiple shares within my network, extending the reach to their connections. Subsequently, all potential interviewees were contacted via email, providing a comprehensive overview of the project. They were then further contacted to confirm their willingness to participate in the interviews. Finally, specific dates and times were arranged for the interviews, which were conducted via Zoom.

2.2.1.3. Conducting the Interviews

The interviews were conducted in January and February through discussions featuring open-ended questions which lasted between 30 to 45 minutes. The interviewer initiated the conversation by introducing the project's topic and purpose, leading to the interviewee providing a self-introduction. Subsequently, the interviewee delved into key questions, centred on topics such as the Gender Pay Gap, Motherhood Penalty, discrimination, and Rights and Policies. The main questions asked to the interviewees were: "Have you ever experienced that there have been any disparities between you and your counterparts in terms of earnings or opportunities in the workplace?", "Has motherhood influenced your career? If yes, how?", and "Do you believe that your rights in the workplace have been impacted as a result of being a mother?". Upon receiving comprehensive responses, the interviewer concluded the session with closing remarks, inviting the interviewee to share any additional thoughts.

2.3. Data Collection

A part of the data collection for this study was sourced from reviewing court cases addressing issues where individuals sought legal recourse for workplace discrimination based on the Gender Pay Gap and the Motherhood Penalty. Parallel to the analysis of court cases, a search was conducted to gather pertinent national and international laws relevant to gender-based workplace discrimination. This broader legal framework served as a foundation, enhancing the understanding of the legal dimensions surrounding the Gender Pay Gap and the Motherhood Penalty. Another part of the data was received from four individual interviews with four different working mothers in the US. All the interviews were conducted online. Moreover, the internet served as a platform for verifying if the interview experiences correlated with broader trends among working mothers.

2.4. Data Analysis

This paper employs a hybrid research approach that combines inductive insights drawn from real-life experiences of diverse working mothers in the US with a deductive examination through legal analysis to comprehend the legal underpinnings of the Gender Pay Gap and the Motherhood Penalty. As a result, the primary methodological orientation of this paper adopts the abductive approach. This integrated approach seeks to overcome inherent limitations in both deductive and inductive reasoning, enabling researchers to refine or adapt their legal framework based on empirical evidence gathered throughout the research process. The utilization of this abductive approach facilitated a

dynamic and interactive relationship, allowing the study to seamlessly navigate between legal constructs and empirical data (Bryman, 2016).

3.5. Ethical Considerations

The participants were notified both prior to the interviews and as the first thing during the interviews that their identity would remain anonymous, and solely information they chose to share in the introduction of the interviews would be used in the study. Furthermore, the interviewer ensured that each interviewee felt comfortable and free to express themselves without fear of being judged. It is important to acknowledge that there is a potential for an interviewer effect, whereby the interviewers' characteristics and demeanour could influence the responses received (Wilson, 2014). The potential influence of the participants' backgrounds and upbringings on their responses is acknowledged. Nevertheless, the study prioritised the shared characteristics of all the participants working mothers in the US. This approach was influenced by the adoption of the phenomenological approach (Ibid).

3.6. Limitations

This paper could have improved by including a larger pool of interviewees. Currently, the analysis is based on insights from just four individuals, potentially insufficient to capture the full spectrum of experiences among working mothers in the US. However, given the paper's limited time frame, the number of interviews can be viewed positively, as it allowed for a more thorough exploration of the insights gathered.

Moreover, all interviewees fell within a narrow age range, with children aged between 13 and 28. While the analysis touches upon recent court cases, offering some understanding of present-day issues, the real-life experiences fail to reflect recent advancements or shifts in legislation, workplace policies, and societal perceptions of gender equality and motherhood. Consequently, this limitation undermines the paper's relevance to contemporary contexts.

All the interviews were conducted online and while some may see this a limitation, this paper saw it as an advantage as it was possible to have interviews with people from the US while being located elsewhere. It further allowed the interviewee to be in their own house, making them feel more comfortable.

The court cases used in the analysis in this paper predominantly involve settlements prior to trial. A comprehensive examination of how judges approach various cases and whether they rule in favour of

the plaintiffs would have enhanced the paper's findings. This analysis could have provided a more reliable conclusion regarding whether the Gender Pay Gap and the Motherhood Penalty constitute violations of fundamental human rights. Companies often opt to settle before a case reaches the courtroom, with approximately 97% of all civil cases being resolved in this manner. There are various reasons for this decision, one of which is the desire to avoid negative publicity, which can sometimes cause more harm to the company than the lawsuit itself (Offshore Protection, 2023). Therefore, the paper concluded that utilizing settled cases was acceptable, given that the Gender Pay Gap and the Motherhood Penalty are topics that could significantly damage a company's reputation if brought to court. It is logical for companies to seek settlement beforehand, making the settled cases relevant for examination.

The paper originally wanted to include international conventions in the legal analysis, as it would have enriched the analysis, by providing a broader context for understanding the rights of working mothers and women. However, during data collection, it was found that the US had not ratified the relevant conventions for this paper. Consequently, the decision was made to focus on analysing national laws in the analysis. As the US mostly do focus on their national laws the national focus benefitted the paper. Despite this, the paper deemed it relevant to mention the international conventions and decided to incorporate them into the discussion.

Finally, the paper acknowledges that it could have conducted a more extensive analysis given additional time and space for expansion. While the interview analysis does investigate the policies related to the Gender Pay Gap and the Motherhood Penalty in the interviewees workplaces, it could have benefitted from adding a more in-dept policy analysis. This could have provided a valuable insight into the effectiveness of current policies and offer recommendations for addressing gender inequalities in the workplace.

5. Analysis

This segment delves into the pervasive issue of the Gender Pay Gap and the Motherhood Penalty analysing if these phenomena constitute violations of fundamental human rights and contribute to systemic discrimination against women in the workplace, exploring its multifaceted dimensions and implications through a combination of legal analysis and real-life experiences.

This analysis is divided into two different analyses firstly the reader is presented with a legal analysis, which looks at the concepts of the Gender Pay Gap and The Motherhood Penalty in relation to legal remedies. Secondly, this paper digs into an interview analysis which looks at real-life

experiences of working mothers in the US, this section explores themes such as gender discrimination, the influence of motherhood and policies in the workforce. Through this analysis, we aim to gain a deeper understanding of the systemic barriers faced by women in the workforce and the implications for their rights and opportunities.

5.1. Legal Analysis

The following section delves into two legal analyses focusing on gender-based discrimination in the workplace: the Gender Pay Gap and the Motherhood Penalty. These pervasive issues persist despite legal protections aimed at ensuring equality in employment. The first section examines the Gender Pay Gap, highlighting pivotal legislation and its enforcement. The second section revolves around the Motherhood Penalty, firstly it briefly outlines the evolution of laws related to the Motherhood Penalty before delving into the analysis of two distinct court cases, examining the intersection of pregnancy discrimination, retaliation, and disparate treatment experienced by working mothers.

5.1.2. Gender Pay Gap

While numerous legal frameworks aim to address this issue of the Gender Pay Gap, one pivotal legislation in the United States is the Equal Pay Act of 1963. This act is a vital component of the ongoing fight against workplace discrimination, as it mandates equal pay for equal work, regardless of gender (US EEOC, n.d., c).

An example of where the Equal Pay Act of 1963 was used to sue a company for discrimination in compensation is the court case EEOC v. Jerry's Chevrolet Inc. (EEOC v. Jerry's Chevrolet Inc., 2021). An Auto Dealership allegedly paid a female Dispatcher less than her male counterparts, both performing equal work (Ibid). This situation directly reflects the Gender Pay Gap, where women, on average, earn less than men for similar work.

The plaintiff took up her complaint about her salary with Human Resources, and she was fired a week after (Ibid). This raises a concern about wage disparity and suggests a potential retaliation. The plaintiff's swift termination following her complaint could be perceived as a form of punishment for asserting her rights.

EEOC sued Jerry's Chevrolet Inc on the background of violation of both The Equal Pay Act and Title VII (Ibid). While Title VII does not specifically mention equal pay for equal remuneration, the act does in Section 703 prohibit discrimination on various factors here including sex. They here

specifically prohibit discrimination in compensation, among other terms and conditions of employment, based on sex (ibid). If it can be shown that the Gender Pay Gap is a result of systemic practices that disadvantage women in terms of compensation solely based on their sex, it could be deemed as sex-based discrimination under Title VII. In this court case, Title VII is mostly used as it prohibits retaliation against employees who request to be paid equally to employees of the opposite sex (US EEOC, n.d.).

This case therefore involves a violation of both The Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964 which prohibits discrimination based on pay and retaliation against employees who request equal pay to employees of the opposite sex (EEOC v. Jerry's Chevrolet Inc., 2021). The fact that EEOC went to court with the plaintiffs' allegations underscores the severity of the alleged violation. EEOC filed a lawsuit in the U.S. District Court for the District of Maryland, Baltimore Division and reached a settlement which included monetary relief for the plaintiff and injunctions against future sex-based pay discrimination and retaliation. Additionally, the company are required to implement policies and procedures to address unequal pay complaints and provide training to prevent wage discrimination and retaliation (Ibid).

This case emphasises ongoing challenges in addressing the Gender Pay Gap. Despite legal protections, disparities persist in the US, and women continue to face barriers to achieving equal pay for equal work. The case further shows the importance of enforcement efforts and proactive measures by employers to address gender-based wage disparities. While the settlement of this case aims to rectify the immediate violation, it also underscores broader systemic challenges in achieving gender equality in the workplace, making it a significant human rights issue.

Employers who pay women less than men for substantially similar work solely based on their sex would violate the laws of both The Equal Pay Act and Title VII.

5.1.2. The Motherhood Penalty

Title VII serves as a critical legal recourse for addressing pregnancy or motherhood discrimination within companies, though its efficacy has undergone improvement over time. Initially, the act lacked explicit provisions prohibiting discrimination based on pregnancy.

A case highlighting this gap occurred in 1976 when the Supreme Court ruled in *General Electric v. Gilbert* that an employer could deny benefits to pregnant women (Quinell, 2021). This ruling underscored the absence of robust protection for pregnant women in the workplace.

Subsequently, spurred by this legal setback, unions in the United States intensified their advocacy efforts for women's rights, with a particular focus on safeguarding the rights of pregnant employees. Following this, in 1978, the Pregnancy Discrimination Act (PDA) was enacted as an amendment to Title VII, representing a notable advancement in advocating for and safeguarding the rights of pregnant workers (Ibid). The implementation of the PDA has facilitated greater accessibility to cases involving workplace discrimination linked to pregnancy and motherhood. This has resulted in heightened chances of settlements and favourable judgments for women encountering discrimination in the workplace due to their roles as mothers or pregnancies.

This can be seen in the court case of EEOC v. Akal Sec. Inc. (U.S. EEOC v. Akal Security, INC., 2008). In this case, the primary issues were whether Akal Security's actions of forcing pregnant employees to take leave, discharging them due to pregnancy, subjecting them to less favourable terms and conditions of employment, and retaliating against an employee who complained about discrimination constituted a violation of Title VII and PDA (Ibid).

By forcing pregnant employees to take leave and discharging them because of pregnancy, Akal Security discriminated against these women based on their sex, as pregnancy discrimination is considered a form of sex discrimination under Title VII and the PDA (US EEOC, n.d., a). Additionally, subjecting pregnant employees to less favourable terms and conditions of employment, such as preventing them from completing required tests or forcing them to take such tests prematurely, constitutes further discrimination based on pregnancy (U.S. EEOC v. Akal Security, INC., 2008).

Furthermore, the retaliation against an employee who complained about discrimination, as alleged (Ibid), violates the retaliation provision of Title VII, which prohibits adverse actions taken against employees for opposing discriminatory practices or filing complaints with the EEOC (US EEOC, n.d.).

The fact that EEOC and Akal Security decided to settle this case before it was taken further underscores the seriousness of the violations and aims to prevent future discrimination against pregnant employees (U.S. EEOC v. Akal Security, INC., 2008). It was demonstrated that Akal Security was treating the women working for them unfavourable, and based on the facts presented, Akal Security's actions appear to be clear violations of Title VII, as amended by the PDA. This case highlights the importance of enforcing laws against pregnancy discrimination in the workplace and ensuring equal treatment for all employees regardless of pregnancy or related conditions.

In 2017 it was shown in the case: Hicks v. Tuscaloosa that discrimination against mothers was not only during the pregnancy but also occurred to women who chose to continue working after becoming mothers. This case was about a police officer, who became pregnant while working on the narcotics task force. Her supervisor and colleagues expressed dissatisfaction with her taking FMLA leave and made derogatory remarks about her. Upon her return from FMLA leave, she was reassigned to a different division under circumstances suggesting discrimination and retaliation. Hicks subsequently resigned and filed a lawsuit against the City of Tuscaloosa (Hicks v. City of Tuscaloosa, 2017). The legal issues, in this case, were whether the defendants' actions constituted interference with FMLA rights and retaliation against the plaintiff for exercising her FMLA rights, whether the plaintiff was subject to sexual harassment and disparate treatment in violation of Title VII, whether the plaintiff was constructively discharged due to discriminatory actions by the defendant, and whether the plaintiff's reassignment to patrol constitutes pregnancy discrimination under the PDA (Ibid).

Firstly, regarding pregnancy discrimination and the plaintiff's FMLA retaliation the jury found sufficient evidence to support Hicks's claims of discrimination and retaliation. This includes derogatory remarks, the timing of her reassignment shortly after returning from FMLA leave, and evidence suggesting her supervisor harboured hostility toward her for taking leave (Ibid).

Secondly, the court found that Hicks was constructively discharged due to intolerable working conditions. Chief Anderson's refusal to provide reasonable accommodations for Hicks's breastfeeding needs led to her resignation, which the court deemed equivalent to a termination under Title VII (Ibid).

Additionally, the court interpreted the PDA to cover breastfeeding as a related medical condition to pregnancy, thus protecting breastfeeding mothers from discrimination in the workplace. This interpretation aligns with the PDA's purpose of ensuring equal treatment for women in the workforce (Ibid).

Lastly, the jury's award for discriminatory transfer under the PDA and the subsequent reduction of damages by the court indicates that the plaintiff successfully proved pregnancy discrimination under the PDA (Ibid). The evidence suggested that the plaintiff's reassignment to a less favourable position was motivated by her pregnancy and related conditions, which constitutes unlawful discrimination under the PDA (Ibid).

From this case it was clear to see that the court upheld the jury's verdict in favour of Hicks, affirming that she is suffering discrimination, retaliation, and constructive discharge in violation of

the Title VII, PDA, and FMLA. Overall, this case underscores how discrimination against mothers extends beyond pregnancy itself and can persist in the workplace even after childbirth. It highlights the need for legal protections and enforcement to ensure equal treatment and opportunities for working mothers, thereby addressing the motherhood penalty as a human rights violation.

5.2. Interview Analysis

This section delves into the real-life experiences of working mothers in the US, examining the challenges they encounter in balancing career aspirations with caregiving responsibilities. The narratives of four interviewees shed light on the three main themes: gender discrimination in the workplace, the influence of motherhood on career paths, and the impact of workplace policies. Through their stories, we gain insight into the systemic barriers hindering women's professional advancement and the urgent need for reforms to uphold women's rights to equality, non-discrimination, and work-life balance.

5.2.1. Gender Discrimination in the workplace

Each of the four interviewees acknowledged that they had been fortunate to have not personally encountered instances of discrimination manifested through the Gender Pay Gap. However, they unanimously affirmed the reality of the Gender Pay Gap, recognizing themselves as exceptions to this trend (Interviewee 1, 2, 3, and 4 & Christensen, 2024). Despite their exemption from the Gender Pay Gap, they recounted encountering various other forms of discrimination within the workforce. Interviewee 1's account highlights the challenges she faced within organizational structures, where factors such as appearance and gender stereotypes impacted opportunities for career advancement.

“I feel that I did experience that but I sort of understood for example in the event management company the nicer you looked like if you were tall and blond you would get the best positions and I’m not tall and blonde. I’m not super organised I’m like kind of a doer so I think I felt I was put in a different category, like less promotable” (Interviewee 1 & Christensen, 2024)

Her experience underscores the complex interplay of societal expectations and workplace dynamics, which can perpetuate inequalities. So, despite her qualifications, she encountered limited opportunities for career progression, reflecting systemic gender bias that undermines women's rights to equal treatment and opportunity in the workplace. It is important to mention that discrimination based on appearance does of course not only affect women. A study shows that 36% of workers in

the US have experienced discrimination in the workplace due to their weight, height, or level of attractiveness (Hess, 2023).

Additionally, she reflects on the societal norms regarding childcare responsibilities, acknowledging the broader cultural context within which these expectations operate. *“(…) And I think it’s not really fair that in the mentality here in the U.S. is that women take care of children. Or you can work, but you also take care of children. Men just work.” (Interviewee 1 & Christensen, 2024).* This displays how societal norms and their impact on gender roles can lead to inequality and hinder women's full participation in the workforce. According to a 2009 study, only 12% of respondents believed that it was preferable for mothers with young children to work full-time. 40% expressed that part-time employment would be acceptable, with full-time work being deemed acceptable only after the children began school. Additionally, 42% of respondents, primarily fathers, indicated that it was preferable for mothers not to work at all while their children were young (Pew Research Center, 2009). These findings highlight a prevailing trend in the US where mothers are discouraged from working full-time while raising young children, making it hard for people like Interviewee 1 who want to work full-time as they may encounter negative perceptions in the workplace. Similarly, Interviewee 2's narrative delves into the division of domestic responsibilities and its implications for women's professional opportunities, emphasizing the need for a shift in societal attitudes and behaviours.

“Whereas if you’re a guy, you get to just go to work. You don’t worry about who’s taking care of the children, who’s getting the groceries, who’s taking care of the dogs, who’s making sure the house is clean. You just go to work and come back (…) It is a huge part of the problem of being a working woman, right? Because I don’t know why, women seem to have changed, and adapted to not being in traditional roles right? To being half of the income, to being indispensable financially. But then when it comes to the home, they’re still primarily responsible. And I don’t know why there’s not been like a mirror image going on for men where they evaluate and say, oh we need to, we need to do this now, right?” (Interviewee 2 & Christensen, 2024)

Her perspective underscores the need for a more impartial distribution of responsibilities within households, recognising the broader societal implications for women's professional lives. Household labour has become more equal, but 59% of women still feel as if they do the heavy lifting in the home (Barroso, 2021). So, by highlighting the disparity in workload between genders and the lack of recognition for women's contributions, Interviewee 2 underscores the violation of women's rights to

equal recognition and value for their labour, both within and outside the home. Moreover, her critique of societal perceptions regarding women's roles reflects the violation of women's rights, as they are subjected to restrictive gender norms that limit their choices and opportunities.

Interviewee 3's experience in the military sheds light on the persistent gender discrimination prevalent in traditionally male-dominated environments, emphasising the importance of addressing biases and stereotypes.

"(...) There's a, he's like a senior chief so he's really way up there. Making comments to me that I'm trying, like that I tried to get out of deployment, like, like you're just getting pregnant so you don't have to do your job kind of thing. So there were some comments made to me about that. Which that was very negative." (Interviewee 3 & Christensen, 2024)

Her encounter with negative attitudes and discriminatory treatment during pregnancy highlights the need for greater awareness and accountability within institutional settings, ensuring that all individuals are treated with dignity and respect. Furthermore, the differential treatment based on gender roles and stereotypes perpetuates systemic inequalities that undermine gender equality and women's rights.

Lastly, Interviewee 4's narrative exposes the intersectionality of gender discrimination and religious beliefs, illustrating how patriarchal ideologies permeate workplace cultures and hinder women's professional advancement.

"The job that I had was, well, it was a fellowship (...) And they usually hire one person to be the fellow each year (...) And I came out on top and they offered me that fellowship. And then the next day I learned that they also offered it to a Mormon man, so that was a year that there were two fellows (...) It definitely felt like, you know, the one fellow being a female well, was not considered filling the position" (Interviewee 4 & Christensen, 2024)

Her experience highlights the need for greater awareness of intersecting identities and the potential bias within decision-making processes. Religion often becomes a source of gender discrimination because it's viewed as sacred and sometimes considered more important than laws against discrimination. As a result, religion contributes to the ongoing presence of gender discrimination and inequality worldwide (Alba, 2019).

In summary, the narratives collectively illuminate the multifaceted challenges faced by working mothers in navigating the professional environment and the nature of gender discrimination as critical human rights issues. Women are met with subtle biases embedded within organisational structures to broader societal expectations regarding gender roles, these experiences underscore the complexity of achieving gender equality in the workplace. Women further experience things such as unequal opportunities for career advancement and discriminatory treatment based on gender roles and stereotypes, this shows that women continue to face systemic barriers that undermine their rights to equality, and non-discrimination. Addressing these issues requires comprehensive measures to challenge discriminatory practices, promote gender equality, and uphold women's rights as fundamental human rights.

5.2.2. The Influence of Motherhood on career paths

Interviewee 1's experience reflects the challenge of balancing work and motherhood in a society that often places the burden of caregiving excessively on women. Despite her efforts to prioritize her career, she acknowledges the unavoidable impact of motherhood on her professional life.

“But I was fortunate that my husband would take care of the children and I found it interesting that I would be flawed, I would be somewhere, and some didn't say: Oh my gosh, you know, who is taking care of your children? (...) But nobody ever asked that of the men, you know they just assumed: Yeah, you got someone at home taking care of your kids (...) So I tend to put work before my family which I think men can do but women would be looked down upon” (Interviewee 1 & Christensen, 2024)

This narrative highlights the systemic expectation for mothers to prioritize familial responsibilities over work, perpetuating the Motherhood Penalty and contributing to the gender pay gap. Interviewee 1's experience prompts reflection on how societal norms intersect with employment practices, influencing women's career decisions and opportunities. Many women feel guilty or judged for prioritizing their careers after having children, despite research suggesting benefits for both mothers and children when mothers are engaged in the workforce (Morin, 2020).

Interviewee 2's account further elucidates the adverse effects of the Motherhood Penalty on career paths, revealing systemic biases that hinder women's advancement in the workplace. She recounts her decision to take a five-year hiatus from work due to her child's illness, highlighting the challenges of re-entering the workforce amidst societal expectations and workplace judgments.

"There's a built-in bias right? Because by the time I came back, five years had gone by (...) So you're constantly fighting this battle where you're not well enough at home and you don't feel like you're doing well enough at work because either place you are, people are judging you for not being in the other place." (Interviewee 2 & Christensen, 2024)

Interviewee 2's experience further underscores the need to address systemic biases and promote inclusive workplace environments that support individuals in balancing their professional and caregiving responsibilities without facing discrimination. This illustrates the internal conflict mothers may experience when returning to work, feeling guilty for not being fully present in their professional roles while also feeling guilty for not being at home with their children. This dual burden can result in feelings of inadequacy as a mother for working, potentially leading to self-reproach or self-punishment, which is detrimental to one's well-being (Morin, 2020). Interviewee 2's account further elucidates the challenges faced by working mothers, highlighting instances of scepticism and resistance in the workplace, which reflect pervasive gender norms that marginalize women.

"(...) And I had one judge who literally was denying my motion and telling me that I didn't have a medical reason (...) But they are telling me no I can't so it was an incredible thing to have an adult human being look at a pregnant woman and want to know the medical reason is. I'm like I well I'm gonna have a baby that's the medical reason but he thought I was trying to ask for a special privilege and I think that's where the problem is men see these things as a special privilege when they're not they're simply part of what we do as human beings and you're not doing me a favour." (Interviewee 2 & Christensen, 2024)

Her experience underscores the systemic biases that undermine the professional credibility of working mothers, highlighting the violation of women's rights to equal treatment and non-discrimination. This narrative further emphasizes the need to challenge gender norms and promote inclusive workplaces that recognize and accommodate the diverse needs of employees, including those related to caregiving responsibilities.

Interviewee 3's narrative sheds light on the structural barriers and institutional constraints that constrain women's choices and opportunities in the workforce, particularly in professions requiring extended periods away from home.

“I just saw what the like new mothers and new fathers or people that actually have had kids (...) I just talked to them and we talk about life (...) and deployment, they can be anywhere from like six months to a year (...) I just was left with the impression that I didn’t really want that. I didn’t want to be separated from my kid” (Interviewee 3 & Christensen, 2024)

Her decision to leave the military due to the challenges of balancing deployment duties with motherhood exemplifies the intersectionality of gender and employment policies, underscoring the need for more supportive frameworks that accommodate diverse family structures and responsibilities.

Additionally, Interviewee 4's experience underscores the intersection of motherhood and employment policies, highlighting the systemic barriers that hinder women's ability to balance work and family life.

“Yeah, very much (...) my employer only allowed full-time work (...) But then after that maternity leave, my employer required 40 hours a week of work, they didn’t allow for, you know fewer hours per week (...) In the end I had to work five days a week. And there was no telecommuting or flexible hours or anything like that. So it was really you know nine to five, five days a week. And I found that very limiting. I really hated it. I really, for about five years I was just sad about that, because I really was like, this is not the amount of time I want to be spending at work versus spending with my kids.” (Interviewee 4 & Christensen, 2024)

Her struggle to access flexible work arrangements and essential benefits post-maternity leave reflects the violation of women's rights to work-life balance and social protection. The long working hours and lack of flexible work schedules put women at a disadvantage (AAUW, n.d.). Interviewee 4 also expressed that she might have sought career advancement opportunities if she didn't have children. By expressing a desire for career advancement had she not had children or been a male in society, she highlights the systemic barriers that hinder women's professional growth. *“(…) If I hadn’t had kids of if I was a male in our society, that I think I would have looked for jobs that had more and more advancing responsibility and pay” (Interviewee 4 & Christensen, 2024)*. Her acknowledgement underscores the reality that women often face limited opportunities for career progression due to caregiving responsibilities, contributing to the perpetuation of the motherhood penalty. Furthermore, her decision to prioritize flexibility and family over career advancement reflects the broader challenges women encounter in balancing work and caregiving responsibilities. This dilemma not

only impacts individual career trajectories but also perpetuates the gender pay gap by limiting women's access to higher-paying positions.

In conclusion, the narratives collectively highlight the significant impact of the Motherhood Penalty on women's career paths, revealing broader human rights implications. These narratives underscore the systemic challenges that mothers encounter in the workplace, which compromise their rights to equality, non-discrimination, and work-life balance. To address these issues effectively, comprehensive measures are needed to challenge deep-rooted gender norms, foster greater workplace flexibility, and ensure that women's rights are upheld as fundamental human rights in all spheres of life.

5.2.3. Workplace Policies

Interviewee 1 illustrates the complex landscape faced by working mothers, shedding light on the intricacies and legal complexities involved. Despite being entitled to a standard six-week maternity leave following the birth of her second child, she encountered challenges when her employer failed to adhere to this policy.

“(…) With my second child I had turned over all my work to someone else. And one day, like three four weeks into my maternity leave, someone calls me and goes, she’s doing nothing. In fact, she’s abandoned your clients. Like, oh my God. So I had to go back to work, even though I was on maternity leave (….) So, it was you know officially that’s not legal” (Interviewee 1 & Christensen, 2024)

Despite official maternity leave policies, she encountered situations where she was pressured to return to work prematurely and experienced workloads abandoned by others during her absence. This highlights a violation of her right to an adequate maternity leave. Similarly, Interviewee 2's experience shed light on the gender dynamics present within workplace structures, where women are disadvantaged due to inflexible structures designed around traditional male roles.

“It is set up in a perfectly kind of fair, equitable way if you’re a man right? But if you’re a women. Um, there’s kind of a feeling that you’re asking for more, which you are, but your needs are different (….) I think it (The 9-5 working day) is set up for the convenience of men and we been doing it that

way for so long that when people say, no you can do it a different way. It's like, why should we have to change for you?" (Interviewee 2 & Christensen, 2024)

Her observation underscores a systemic bias against accommodating women's diverse needs within the workplace, thus violating their rights to equal treatment and freedom from discrimination. The lack of support for working mothers perpetuates broader systemic inequalities, impeding their professional progression and contributing to the persistence of the gender pay gap (AAUW, n.d.). This highlights the imperative for more inclusive policies that acknowledge and address the unique challenges faced by women in the workforce.

Later, Interviewee 2 challenges the prevailing societal norms that undervalue caregiving and domestic responsibilities typically associated with women, prompting a critical examination of why these essential tasks are deemed less worthy compared to traditional workplace roles.

"(...) The problem is we're trying to shift individual policies when the real answer is we have to shift basic paradigms. We have to, I don't know how it got to the point, that all of the stuff that allows us to live, the cleaning, the cooking, the bearing and caring for children became the easy job. And going to work for a set number of hours a day, getting a paycheck, going to the bathroom whenever you want, being able to take a shower privately and get up to go to lunch with people. I don't know how that became venerated and became the way you determine somebody's value. Why isn't the stuff that has to get done every day, the stuff that allows society to be a society valued." (Interviewee 2 & Christensen, 2024)

In challenging these ingrained perceptions, Interviewee 2 highlights a crucial human rights concern: the systemic undervaluation of traditionally female-associated domestic work, which perpetuates the gender pay gap and reinforces inequalities in the workplace. By advocating for a paradigm shift that values all forms of labour equally, regardless of gender and location (at home or in the office), the interviewee calls for sweeping changes in both workplace policies and societal attitudes to uphold principles of equality and non-discrimination.

Interviewee 3's experiences in the military reveal the systemic challenges faced by pregnant women and working mothers within institutional settings.

"(...) From what I remember, I don't really think they had a good standard, I don't know if it's changed but I don't think they had a really good standard of policies in place for pregnant women

(...) I kind of got just different opinions from different people. Like if were to talk to the people at medical, they were very adamant that, oh, you need to lay down, you need to rest, you need to do this, but that's coming from their background. But if I try to take that information to the new battalion that I was attached to, it's just kind of shrugged off like, whatever, you still need to hold up your end of the pack of whatever. So I don't know, it was a little bit chaotic.” (Interviewee 3 & Christensen, 2024)

Despite official protocols, Interviewee 3 encountered a landscape marked by unstable support and inadequate policies for pregnant women, signifying a breach in upholding women's rights to health and freedom from discrimination. The rigid structure and lack of adaptability further compound the challenges faced by working mothers, reinforcing gender disparities within the military, and perpetuating the Motherhood Penalty. This underscores the pressing need for comprehensive reforms to ensure equitable treatment and support for women navigating their professional and caregiving responsibilities within military contexts.

Interviewee 4's perspective highlights the complex interplay of workplace policies, gender dynamics, and leadership attitudes in addressing the Gender Pay Gap and the Motherhood Penalty.

“(...) Maybe they just felt like it was a lost cause, and they didn't want to have the female-dominated department approach the city and say, we want more flexibility, you know, maybe they didn't want to do that politically or whatever. But the way it felt to me was that I wish that they would have been willing to fight the fight for us” (Interviewee 4& Christensen, 2024)

Despite working in a female-dominated field, she observed resistance from female leaders to advocate for more flexible policies, reflecting a perpetuation of discriminatory practices within the workforce. This underscores the importance of leadership accountability in promoting gender equality and upholding women's rights in the workplace.

Overall, the narratives of these interviewees emphasise the need for comprehensive policy reforms and cultural shifts to address the systemic discrimination against mothers and women in the workforce. Upholding women's rights to equal treatment, non-discrimination, and work-life balance is essential in creating inclusive and equitable workplaces.

6. Discussion

During the data collection process for this paper, it became evident that the United States has not ratified any international conventions advocating for women's rights, notably The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This section intends to delve into the reasons behind the US's failure to ratify these conventions, the adverse impacts of non-ratification, and suggestions on why ratifying them is crucial.

CEDAW is the biggest international convention for women's rights and was adopted by the United Nations (UN) in 1979. The convention has been ratified by more than 90% of the UN countries, US being one of the few countries that have still not ratified the convention (Lowen, 2020). US is often looked at as a global leader, so why have they not ratified many international conventions (Wahal, 2022)? According to scholars and policy makers one of the major reasons is that the US are afraid the treaties interfere with their national sovereignty. They prefer to prioritise their interests over working closely with other countries (Ibid). Politics also plays a great role in the lack of ratification in the US, as the process of ratifying conventions involves multiple steps such as getting approval from the senate. So, while a president can sign treaties, ratification requires the approval of two-thirds of the Senate (Ibid).

Not ratifying different international conventions is not a good thing for the US or anywhere else in the world, as it can undermine the credibility of these treaties, it can weaken US relationships with other countries, and it can make the people worry if the US is committed to important things such as women's rights (Wahal, 2022). Further, by not ratifying treaties that most countries support the US gives up its ability to help decide global rules (Ibid).

It is therefore important for the US to join these treaties, to set an example and advocate for women's rights in the world. Ratifying international covenants such as CEDAW would offer significant advantages to the United States in advancing women's rights. Firstly, it would provide American human rights organizations with a platform to elevate their advocacy efforts to an international level (Verveer & de Alwis, 2021). By engaging with the CEDAW Committee, these organizations could present their findings and observations on women's rights issues within the US, thereby subjecting government actions, or lack thereof, to international scrutiny (ibid).

Secondly, ratification would facilitate collaboration between reformers, lawmakers, and experts on intersectionality. CEDAW fosters an environment where countries can exchange knowledge and

experiences, allowing US stakeholders to learn from global experts and implement more comprehensive approaches to addressing gender-based discrimination (Ibid).

Moreover, the Convention can help set priorities in the US. The suggestions and recommendations made by the CEDAW can give ideas to lawmakers about which laws could work well and how to navigate complex political landscapes. The endorsement of these norms by an international body lends additional credibility and legitimacy to their status as fundamental human rights principles (Ibid).

The CEDAW mentions important topics related to the Motherhood Penalty and the Gender Pay Gap, as it emphasises the principle of equal pay for equal work and calls for measures to eliminate discrimination against women in employment (Bisset, 2020). This paper therefore recommends that the United States ratify conventions like CEDAW, as it effectively tackles crucial concerns regarding women's rights, particularly regarding wage disparities and the unjust treatment of mothers in the workplace.

7. Conclusion

This study aimed to investigate *to what extent the Gender Pay Gap and the Motherhood Penalty contribute to gender disparities in the workplace, and how these phenomena align with principles of human rights*. To examine the complex nature of the Gender Pay Gap and the Motherhood Penalty and their implication for women's rights, this paper applied a combination of legal analysis and real-life experiences.

The legal analysis revealed that there are persistent challenges in addressing the Gender Pay Gap and the Motherhood Penalty, highlighting their role in perpetuating gender disparities in pay and treatment within the workforce. Despite existing legal protections, disparities persist, underscoring the need for comprehensive policy reforms and enforcement efforts to ensure equal treatment and opportunities for all employees, regardless of gender or parental status.

Furthermore, the interview analysis shed light on the systemic barriers faced by working mothers in balancing career aspirations with caregiving responsibilities. From subtle biases to clear discrimination, women encounter countless challenges that compromise their rights to equality, non-discrimination, and a work-life balance. These narratives underscored the need for greater workplace flexibility and comprehensive policy reforms to address the unique challenges faced by working mothers.

The Gender Pay Gap and the Motherhood Penalty align with human rights principles as they perpetuate gender discrimination and hinder women's ability to fully enjoy their rights to work, equal pay and family life. So, by confronting these issues through a human rights lens, it is possible to work towards building a more just and equitable society that upholds the rights and dignity of all individuals, regardless of gender or parental status.

Moreover, the United States' reluctance to ratify international conventions like CEDAW raises doubts about its commitment to global women's rights. While concerns over sovereignty and political barriers may impede ratification, embracing these international agreements and enacting proactive policies would indicate the United States' dedication to promoting gender equality both domestically and internationally. The U.S. must take a leadership role by advocating for women's rights and collaborating with other nations to foster a more inclusive and equitable society for all individuals.

All in all, the Gender Pay Gap and the Motherhood Penalty significantly contribute to gender disparities in the workplace, undermining women's rights to equality and non-discrimination. These phenomena perpetuate gender discrimination and hinder women's ability to fully enjoy their rights to work, equal pay, and family life. By addressing these issues through a human rights lens, we can work towards building a more just and equitable society that upholds the rights and dignity of all individuals, regardless of gender or parental status.

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