

Government Relations Report

National Organization for Women

To: National NOW Board Members

From: Bonnie Grabenhofer, Vice President, and Jan Erickson, Government Relations Director

Date: June 7, 2016

VIOLENCE AGAINST WOMEN

Military Justice Improvement Act Offered Again

New York Sen. Kristen Gillibrand (D) will offer her bill, the **Military Justice Improvement Act (MJIA)**, as amendment (#4310) to the National Defense Authorization Act (NDAA) this week. The MJIA would change the military chain of command's sole oversight for sexual assault cases, by requiring independent, specially trained prosecutors outside the chain of command, to pursue sexual assault crimes. An **independent prosecutor is seen as essential** to reduce retaliation, increase reporting, and respond to the needs of victims. The requirement, if adopted, would pertain to all the military academies as well as active duty personnel.

Even though a myriad number of improvements have been made to the military's efforts at prevention and education, victims' counseling and support, many service members do not have confidence in the military justice system, according to Sen. Gillibrand's office. The Pentagon reported that 62 percent of female sexual assault victims who reported their assaults experience retaliation – this is a rate that has not changed over the last two years. Currently, military sexual assault survivors continue to have to rely on their commanders to help them begin the process of seeking justice.

The bill/amendment is similar to one nearly adopted in 2014, falling only five votes short of the required 60 vote threshold. In 2015, again the measure came close to passage.

ECONOMIC EQUITY

THIS IS Y-U-U-G-E! President Obama Gets the Message on Social Security

After years of advocacy from NOW – and later joined in this effort by our colleagues on the left -- **President Obama** announced that he supports **Social Security expansion**. Obama has moved from a right-leaning position of wanting to get 'entitlement spending under control', an oft spoken mantra from the political right.

For a while President Obama pursued a 'Grand Bargain' with the Republicans on federal spending. Predictably, the Republicans kept insisting on cuts to important social programs and a change in the cost of living formula (Chained CPI) for Social Security benefits which would have drastically cut benefits over time, especially disadvantaging elderly women. NOW and allies vigorously opposed the proposed cuts to important programs as well as the change in the Social Security COLA and argued instead for benefit improvement.

NOW wrote several open letters (posted on our former website) to the president discussing the current retirement funding crisis where a majority of retiring baby boomers admits that they are not adequately financially prepared for retirement. Our letters – as well as many lobby visits to members of Congress -- emphasized the precarious financial state of many older women whose retirement security has been undermined by sex-based wage discrimination, disappearing defined benefit pensions and the inadequacy of defined contribution plans, like 401(k)s. The loss of savings/investments and home values of the **Great Recession** has further put retirement security at risk, especially for communities of color. Additionally, NOW often took the opportunity to promote our idea of attaching a value under Social Security for the unpaid caregiving that women do for family members, often taking time out of the paid workforce and, as a result, seeing a reduction in retirement income.

Our work has paid off! On Wednesday, June 1, **the president announced his support for increasing Social Security retirement benefits** on Wednesday in a speech in Elkhart, Ind. Obama said, **“And we can start paying for it by asking the wealthiest Americans to contribute a little bit more. They can afford it.”**

That President Obama has agreed that lifting the cap on taxable income to help fund benefit improvements is important. Right now that cap is set at \$118,500, meaning that most six- and seven-figure income earners get an easy ride. Lifting the cap on the payroll tax should also help solve Social Security's long range financing needs.

Both Democratic candidates for president support benefit improvements and 90 percent of Senate Democrats now support expansion. Polling shows that 79 percent of likely voters – including Democrats, Republicans, Independents and even Tea Partiers – support increased Social Security benefits and paying for it by having high income earners pay more.

Donald Trump has even said that Social Security “should not be touched” – much to the chagrin of Republicans who have campaigned for years to convert Social Security to private stock market accounts. Although Trump — probably will – change his mind at any given moment.

In addition, there are three different **Caregiver Credit** bills which have been introduced into this Congress; they are sponsored by **Rep. Nita Lowey (D-New York)**, **Rep. Chris Murphy (D-Conn.)** and **Rep. Patrick Murphy (D-Fla.)**, and we know that **Sen. Elizabeth Warren (D-Mass.)** is finalizing a fourth. **Rep. Linda Sanchez (D-Calif.)** is working on a larger Social Security expansion bill that would include a version of the caregiver credit.

Sen. Bernie Sanders (I-Vt.) supports across-the-board retiree benefit increases, while former **Secretary of State, Hillary Clinton**, supports targeted benefit increases for “those who need it most and are unfairly treated by the system, including widows and persons who have taken time out of the paid workforce to care for children, aging parents or ailing family members.” She would also “ask the highest-income Americans to contribute by paying more.”

A Setback for Tipped Workers in D.C.

Today we received news that the **District of Columbia City Council** will adopt a bill today to require that employers pay \$5 per hour by the year 2020 to tipped wage employees. The paltry amount (as opposed to the current slave-like tipped minimum wage of \$2.77 an hour) is part of a deal reportedly made by D.C. officials, several labor unions and the Working Families Party.

NOW President Terry O’Neill submitted testimony several weeks ago urging an increase in the minimum wage which we thought at the time would be half (\$7.50) of the proposed **One Fair Wage’s** ballot initiative campaign for the \$15 minimum. NOW joined with a score of other women’s organizations and Restaurant Opportunities Centers United (ROC United) advocates in testifying before the DC Council for the higher minimum wage as DC is a high-cost city and most tipped workers are women with children to support. It also has a thriving restaurant scene that can well afford a higher minimum wage, in our view. The ballot initiative would likely not be going forward under this disappointing agreement.

Saru Jayaraman is the inspired leader of ROC United and has travelled the country extensively to promote higher wages for tipped workers; her new book is *Forked: A New Standard for American Dining*, published by Oxford University Press, 2016. NOW recognized Saru’s efforts for tipped workers – most of whom are women – with an award at a recent national NOW conference.

Terry’s testimony is at the end of this board report.

Republicans Attempt to Kill New Rule Protecting Retirement Savers

Watch Out! They Want Your Money - Women trying to secure a comfortable retirement could be affected by the outcome of this new rule (regulation) and of the lawsuit that has been filed by big financial interests against the rule. Here's an update.

Both the House and Senate have passed a **joint resolution (H.J. Res. 88)** that would nullify a rule to protect ordinary investors who are trying to build financial security for retirement. The measure was passed on party lines (56-41 in the Senate) with all Republicans voting for this bad measure. It will go to the President Obama today. He has indicated that he will veto it, and it is not clear yet whether there will be enough votes to override.

One of the most important advances of the Obama administration was to adopt a **Department of Labor (DoL)** regulation that establishes a fiduciary standard of responsibility for investment advisors. On April 28, a regulation was made final that individuals and firms who provide advice on retirement investments do so with no conflict of interest. That is, these advisers must put their clients' best interests before their own profits. Research showed that the practice of advisers talking ordinary investors into buying bad retirement investments with high costs and low returns. Frequently, there has been a "backdoor payment" to the investment adviser to promote certain investments.

A **White House Council of Economic Advisers** analysis found that these conflicts of interest result in **a loss of an estimated \$17 billion per year**. As an example, the council said that a retirement investment of \$10,000 which should grow to more than \$38,000 over 35 years (inflation adjusted), but with the fees and other often small print provisions, the actual amount at the end of 35 years would be just over \$27,500. The problem impacts middle-class investors, primarily, and has been one of the major reasons why many retirees and soon-to-be retirees are not financially well prepared for retirement.

The new rule is predicted to generate in excess of \$40 billion over the next ten years for retirement savers. Predictably, the powerful financial industry has fought this regulation tooth and nail. They have conducted a major advertising and lobbying campaign, claiming that the rule would ruin small investment firms and unfairly burden other companies. Republicans sponsored and passed legislation to undermine the rule, as indicated. More information on the new rule is at, <https://www.dol.gov/ebsa/newsroom/fs-conflict-of-interest.html>

Not content to try to kill the new rule with the help of their friends in Congress, Wall Street's biggest trade groups and allies (including **the Securities Industry and Financial Markets Association, The Financial Services Roundtable, and the U.S.**

Chamber of Commerce, among others) have filed a lawsuit against the new rule. The lawsuit challenges the rule saying that the government overstepped its authority and the matter should have been considered instead by the Securities and Exchange Commission. (Why, you ask? Because the SEC appears to be an industry “captured” agency and would predictably side with the big financial interests, we believe.) They are seeking out a potentially friendly judge in the very conservative Federal District Court in Dallas, Tex., where the **Fifth Circuit Court of Appeals** is thought to be especially friendly to businesses rather than consumers and investors, according to **Better Markers**, a research and advocacy group working with a large coalition (including NOW) backing the new fiduciary rule.

And many of the groups involved in the lawsuit are the same ones still trying to take apart **Dodd-Frank**, the law enacted to address big bank excesses, and to dismantle the **Consumer Financial Protection Bureau (CFPB)**. The CFPB, you may recall, is **Sen. Elizabeth Warren’s** (D-Mass.) “baby.” These huge financial firms aren’t giving up, have a lot of clout in Congress with Republicans in control and are devoted to building even more wealth for the top one or two percent. You can keep up with their appalling behavior by going to the website for Better Markets, <http://bettermarkets.com/>

CONSTITUTIONAL EQUALITY

Women’s History - A Win for Sewall-Belmont and Us

A great step forward in preserving women’s history was taken this spring when the **Sewall-Belmont House and Museum** in Washington, D.C. near the Hart Senate Office Building became part of the **National Park Service (NPS)**. On April 12, President Obama visited the museum and officially proclaimed the house the **Belmont-Paul Women’s Equality National Monument**. The president was introduced by **Chitra Panjabi**, formerly NOW Vice President-Membership, who used to work at the S-B House and Museum (along with former NOW board member, **Lis Harper**, who helped move the NPS designation along). The new designation was made by the president’s power to declare the National Monument status under the Antiquities Act.

NOW attended a public hearing several weeks prior to the event on April 12 when dozens of persons spoke in support of designating the Sewell-Belmont House and Museum a national monument. Doing so will help guarantee the survival of the historic home of the **National Woman’s Party** that organized and fought for women’s suffrage. The new name reflects the critical role that Alice Paul played as a leader in the suffrage movement, also updating the text of the Equal Rights Amendment and writing provisions to prevent gender discrimination that were later included in the Civil Rights Act of 1966.

The holdings of the Sewall-Belmont Museum which tell the story of how the women's vote was finally recognized will remain with the former organization which manages the museum and its exhibits. For more information on the activities of the organization, please go to, <http://www.sewallbelmont.org/>. Much is in store as we head towards the 2020 centennial of the women's vote.

At the hearing, **National Park Service Director Jonathan B. Jarvis** said that NPS would like to increase the number of sites relating to women's history as there are very few existing sites in that category currently. (So if you know of any you'd like to recommend, send us the info, and we'll forward to Director Jarvis.) **Interior Secretary Sally Jewell** also spoke at the hearing revealing her own family history linked to women's suffrage in the U.S. and in England.

Local billionaire philanthropist David Rubinstein gave the Belmont-Paul Women's Equality National Monument \$1 million to fund sorely needed repair and maintenance projects.

A video of the President's announcement is here, <https://www.washingtonpost.com/news/post-politics/wp/2016/04/11/obama-to-designate-a-national-monument-in-d-c-to-honor-womens-equality-tuesday/>

And more information on the history of Sewall-Belmont House is here, <https://www.whitehouse.gov/the-press-office/2016/04/11/fact-sheet-equal-pay-day-president-obama-designate-national-monument/>

REPRODUCTIVE RIGHTS

Supreme Court Decided Not to Decide in *Zubik v. Burwell*

The **Affordable Care Act** (ACA) has provided 55 million women with birth control coverage, including counseling. The *Zubik* non-decision stems, in part, from the 2011 religious controversy when certain religiously-related non-profit organizations objected to the mandatory insurance coverage provision under the ACA. They were granted "accommodations" by the Department of Health and Human Services so that women employees could receive their contraceptive coverage with the government acting as a third party conduit to secure insurance coverage.

For-profit companies also sued, asserting that the mandated BC coverage violated the **Religious Freedom Restoration Act (RFRA)** and the **Supreme Court** eventually issued its ruling in the Hobby Lobby case in which closely-held, family-owned businesses can claim a violation of their religion (an absurd notion, in our view) to avoid the mandate. For-profit companies can now seek an "accommodation."

In *Zubik*, the non-profits claim that they are still indirectly involved in providing birth control under the accommodation – a sin in the estimation of the Catholic Church. A 4-4 evenly split Supreme Court turned the cases back to the lower courts where eight of the nine circuit courts agreed that the accommodation system was adequate. **Justice Sonia Sotomayor** wrote that the Court’s action at this time does not constitute a ruling on the merits – so the issue may return to the Court next term.

NOW President Terry O’Neill’s May 23 statement below underscores important concerns about the use of religion to deny or constrain women’s access to needed health care services.

The Supreme Court’s announcement that it will not rule on *Zubik v. Burwell*, the challenge to women’s access to birth control under the Affordable Care Act, is meant to avoid a 4-to-4 deadlock by sending the issue back to lower courts. It would have been far better if the Court had simply recognized fundamental constitutional principles and human rights.

Zubik is the latest attempt by radical religious conservatives to deny women their fundamental right to reproductive health care. The court had an opportunity to reject the plaintiffs’ extremist interpretation of their religious entitlements as unjustifiably trampling the rights and needs of women. **It could have ruled that because contraception is essential health care—utilized at some point by roughly 99 percent of U.S. women)—blocking access to it is a dangerous form of sex discrimination.** The court could have acknowledged and condemned our nation’s painful history of using religion to justify such oppressions as slavery, segregation, and LGBTQ discrimination, issuing a principled, upright rejection of the plaintiffs’ attempt to use religion to justify bigotry against women.

There is nothing “pro-life” about restricting birth control. Contraception is life-saving, life-affirming health care. Unintended pregnancy is closely correlated with infant and maternal mortality and is a significant risk factor for domestic violence homicide. The fact that half of pregnancies in the U.S. each year are unintended, and that our country has the highest rates of infant and maternal mortality among developed countries, higher than in some developing countries, should tell us that the *Zubik* plaintiffs’ arguments are not only constitutionally untenable but downright vicious in their disregard for women’s health and lives.

The good news about the court’s non-decision decision is that, at least, the path is now cleared for the plaintiffs’ current employees to have their contraception covered like any other health care, as required under the Affordable Care Act.

The shorthanded Supreme Court is hoping that lower courts can act more decisively than it can. But rather than find a workaround to impending deadlocks, it would be better for everyone if the U.S. Senate would do its job and let the Supreme Court return to full strength so it could do the same.

NOW Supports Bill to Pilot Test Prison Nurseries

NOW President Terry O’Neill spoke at a press conference on May 10 with **Rep. Sheila Jackson Lee** (D-Tex.) upon her introduction of a bill that would provide for a pilot project for a nursery in a federal prison. Experience in ten state prison systems has shown that prison nurseries, with supportive services, to be critically important in the lives of mothers and babies. Terry’s letter to Rep. Jackson Lee for the press packet is included below. As the letter notes, we only wish that all women’s prisons could immediately have these nurseries.

The National Organization for Women (NOW) with hundreds of chapters in every state and the District of Columbia and hundreds of thousands of members and contributing supporters endorses your legislation, the **Stop Infant Mortality and Recidivism Reduction Act of 2016** (SIMARRA Act), and urges all members of the House to pass this worthy bill. As the country is moving forward to reduce incarceration rates, it is critical that imprisoned pregnant women and women with infants receive the care and attention they deserve.

The very lives of infants and the health of both mother and baby depend upon humane policies of care that would be provided under the pilot program proposed in the SIMARRA Act. We only wish that all incarcerated pregnant women and new mothers would have access immediately to these services which have been demonstrated effective in ten states in promoting critically important maternal bonding as well as healthy infant and child development and reduced recidivism of formerly incarcerated women. The tens of thousands of babies born to incarcerated mothers each year must have that special close relationship with their birth mothers during the early months of their lives. Studies show that children born to imprisoned mothers who are then removed to social services programs often suffer from adverse childhood experiences, often involving illicit substance use, mental illness, and domestic violence.

The data with respect to babies born to incarcerated mothers who are then separated from their birth mothers are tragic: the infant mortality rate is 7.9 infant deaths per 1,000 live births for Hispanic inmates and 14.3 infant deaths per 1,000 live births for African American inmates – compared to the national infant mortality rate at 5.96 deaths per 1,000 live births. Equally tragic is the lack of care for incarcerated women relating to a higher prevalence of medical, mental health and substance abuse problems; the model of criminal punishment for users of illicit drugs is not only an inappropriate response, but a policy that is devastating to communities of color.

The SIMARRA Act's authorization of developmental in-prison nurseries which allow mothers and babies to be together for 30 months, along with the conduct of risk and needs assessments of mothers, education and counseling in the areas of child development, parenting skills, domestic violence, vocational training and substance abuse are necessary components to help mother and child succeed over the long-term.

Thank you for the opportunity to comment on this important legislation. NOW stands ready to assist in its passage by Congress and eventual adoption into law.

District of Columbia Tipped Workers Minimum Wage Testimony

Testimony Regarding the Fair Shot Minimum Wage Amendment Act of 2016

**Submitted by Terry O'Neill, President, National Organization for Women (NOW)
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May 24, 2016

Thank you for this opportunity to comment on a proposed increase of the minimum wage for tipped workers in the District of Columbia (D.C.) and the proposed Fair Shot Minimum Wage Amendment Act of 2016. **The National Organization for Women opposes short-changing tipped workers who should receive the one fair wage of \$15, and therefore calls for rejection of the Fair Shot Minimum Wage Amendment Act of 2016.** We have heard that the \$7.50 for tipped workers' wage is part of a tacit agreement to receive support from the restaurant industry for the \$15 minimum wage increase by 2020 for other workers. This rumored agreement, if true, would be an enormous betrayal for tens of thousands of the working poor in the District of Columbia.

The National Organization for Women (NOW) with its hundreds of chapters and hundreds of thousands of members and activists has worked for decades to improve the economic security of women. In particular, we strongly support a dramatic increase in a mandated minimum wage at state and federal levels given the fact that two-thirds of the 1.6 million minimum wage workers nationally are women. The inflation-eroded value of the federal (\$7.25 p/h) and other minimum wage amounts, plus the failure of governments to regularly increase the minimum wage as the cost of living has risen, has meant that the real dollar value of the minimum wage has plummeted. As a result, many minimum wage workers barely survive at or below the (unrealistically low) federal poverty line.

The DC Fiscal Policy Institute reports that employment growth in the retail trade and in food service rose from 2013 through mid-2015, even by as much as 6.1 percent in limited service eating places in 2015 –

the first full year of a minimum wage increase to \$10.50 went into effect. Full service restaurants have shown an extremely strong growth in the District since 2011 with an employment increase of 3.4 percent in 2015. So it appears that the District's restaurant sector can handle a wage increase to \$15 per hour by 2020.

The current District of Columbia minimum wage for tipped workers of \$2.77 consigns too many workers, disproportionately women of color, to a sub-poverty income. This abysmally low wage contributes significantly to the 20 percent of District residents who live in poverty and results in high social costs for the District as well as enormous financial pressure on fragile families. Data show that more than one in five tipped women workers live in poverty, a rate more than twice that for working women and men overall, according to calculations drawn from American Community Survey findings. The poverty rate for working women in D.C., as reported by the National Women's Law Center (NWLC), is 9.3 percent and for men, it is 6.8 percent. No one who works full-time should live in poverty.

Female restaurant servers and bartenders in the District have especially low incomes with more than one in four or 28 percent living in poverty, contrasted with 12 percent of male servers and bartenders. What likely constitutes both gender- and race-discrimination in the industry could be diminished by an across-the-board wage increase to \$15 per hour. The National Women's Law Center (NWLC) notes that the \$15 per hour would help close a persistent wage gap that women –and especially women of color – experience in D.C. It is an important distinction to be made that 80 percent of the workers who would benefit from the \$15 minimum wage are persons of color and a majority of these are women.

We fear that any wage amount below \$15 will mean that wage theft may continue, despite new laws in the District. We know that employers' failing to bring the tipped worker's paycheck to an amount that equals the federal minimum wage of \$7.25 is widespread. An additional concern is based on a finding that tipped workers who have to rely on tips for most of their income are more likely to experience sexual harassment on the job. A recent study by Restaurant Opportunities Center United found that workers in states with a \$2.13 (federal) tipped minimum wage are subject to twice the rate of sexual harassment as workers in states where employers are required to pay the regular minimum wage before tips.

There can be no doubt that a \$15 minimum wage that includes tipped workers will help to break the grip of poverty that affects so many in the District. The Economic Policy Institute (EPI) estimates that if the minimum wage rises to \$15 per hour over the next four years, 114,000 District workers would get a raise, averaging \$2,900. Of those workers, 60,000 are women and of the overall total, 33,000 are parents, including 14,000 single parents, equaling one-fifth of all working parents in D.C. A \$15 minimum wage would provide the most efficient means to lift a substantial proportion of the District's 110,000 residents out of poverty: the EPI has estimated that the \$15 wage would increase incomes for half of D.C. workers who are living in poverty and for workers whose families have incomes between 100 and 200 percent of the poverty line.

A report by the D.C. Fiscal Policy Institute in February found that in comparing D.C. with other large U.S. cities, income trends reveal worrying problem signs for equity in the city, such as, incomes are falling for

already low-income households, D.C. families are among the poorest in major U.S. cities and lower than for low-income families in surrounding suburbs – while the average income for the top five percent of DC residents was 52 times the income of the bottom 20 percent in 2014.

As various studies have found, low-wage work sets up many parents' and children's lives for a continuous cycle of failure. A 2016 NWLC study found that the unpredictability and demands of low-wage jobs keep families off-balance, variably affecting resources for food, rent, child care, children's education, and health care for family members. Low-wage jobs can undermine development and success at school for children as well as negatively affecting parents' ability to get additional education and training to improve their economic circumstances. Certainly, this destructive cycle typifies the lives of many tipped and other low wage workers in D.C.

NOW believes that the stranglehold on millions of low-skilled workers in the United States must end and that the \$15 an hour One Fair Wage is a giant step towards that goal. The District of Columbia City Council has it within its power to take that giant step and to vote against the Fair Shot Minimum Wage Amendment Act of 2016.

Sources:

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