

## **Appearance Discrimination in America: Weighting for Justice for Women Is Not Enough**

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### **Abstract**

Employment appearance discrimination is practically legal in the United States of America. Yet, the discrimination can involve unjust hiring or promotional practices based solely on physicality, including weight, skin, or height, versus skills, aptitudes, or qualifications. Women are more likely impacted than men based on the empirical acceptance of societal norms concerning gender inequality. Legislation continues to improve inequitable work conditions for women, as evidenced with the Lilly Ledbetter Fair Pay Act ratified on January 29, 2009. However, the act, like other gender and equality legislation for workforce development in America, is unlikely to impede employment appearance discrimination against women due to cultural assent and tolerance. This submission intends to increase awareness about the problem and to propose initiations for extended research. Until employment appearance discrimination against women declines in America, injustice may continue to increase.

### **Introduction**

#### **A Brief History**

Globally, discrimination against women has included the deprivation of basic human rights based solely on gender. In order to eliminate the deprivation in America, many legislative provisions have been enacted by the Congress of the United States, including the recent Lilly Ledbetter Act of 2009<sup>1</sup>. Due to this act, makes discriminatory compensation is unlawful based on gender and companies are subject to liability dating back to the year of 2007 due to the origination of the lawsuit that incited the legislation. Legislation, like the Lily Ledbetter Act, communicate clearly that discrimination against women is not a minor issue in workplaces or to be discounted by employers. American history includes women having fewer rights and opportunities than men based on traditional and societal norms involving inequality.

Appearance discrimination in workplaces is prejudicial treatment from employers or employees during hiring and promotion practices based on the structure, formation, attribution, or composition of candidates or other employees' bodies. Unfortunately, appearance discrimination is one effect of societal norms in America. Physical attractiveness is circumlocutory criterion for many employment opportunities in America, and the criterion is harsher for women than it is for men. The lack of equitable treatment in the American workforce is apparent between men and women starting with differences in earnings and continuing in hiring or promotional practices at businesses or companies. In the United States workforce, women earn only 77 cents for every dollar men earn<sup>2</sup>.

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<sup>1</sup> Lilly Ledbetter Fair Pay Act of 2009, Public Law No. 111-2 (2009)

2. Kevin Voigt, "Women: Saviors of the World Economy?"

<http://www.cnn.com/2009/WORLD/asiapcf/10/25/intl.women.global.economy/index.html?iref=allsearch>.

3. Laura Sinberg, Forbes.com, "Study Confirms Looks Still Matter for Working Women"

<http://abcnews.go.com/Business/womens-matter-workplace/story?id=9280418>

Appearance discrimination can significantly impact wages and benefits based on factors considered for compensation that are not professionally affiliated. Appearance discrimination can occur because of beauty biases by employers, health conditions related to looks, employers' assumptive ideals of attractiveness, or employers' stereotypes about what constitutes appeal. Americans characterize attractive women as having symmetry of features, balanced faces, youthfulness, and good physical health, including having a low waist-to-hip ratio (which is deemed as appealing)<sup>3</sup>. Hair, skin, freckles, height, teeth, or shapeliness can become indirect and undisclosed considerations for the employment or professional advancement of women instead of their skills and qualifications. A correlation between height and effectiveness or intelligence has not been proven, but a woman who is 5 feet 7 inches tall, which is above the national female average of 5 feet, 3.5 inches, earns \$5,250 more a year than a female coworker standing 5 feet 2 inches tall<sup>4</sup>. Weight discrimination is the most eminent form of appearance discrimination against women. For white females, wages can decrease by 9% when their weight increases by 64 pounds, and in a study during 2007 from the U.S. Bureau of Labor Statistics, a statistically significant "wage penalty" for overweight and obese white women was noted including with wage losses of 12%; the best-looking echelon of attractive females or the top one-third make about 10% more annually than those in the bottom sixth<sup>5</sup>.

The journals, *Obesity* and *International Journal of Obesity*, published that weight discrimination, as the most prominent form of appearance discrimination, is increasing in America and almost as common as racial discrimination. Weight discrimination is more omnipresent than discrimination based on gender along with race<sup>6</sup>. According to researchers at the Rudd Center for Food Policy and Obesity at Yale University,<sup>7</sup> women have been twice as likely as men to report or encounter weight discrimination in workplaces. Women are more likely to encounter discrimination than men with regard to having 'good' looks, and 'good looking' people are thought to be productive and effective, even if they are not<sup>8</sup>. Assumptions about productivity and effectiveness based on physical attributes may cause immediate inappropriate judgment, but the problem of appearance bias against women is not only because people judge others based on appearances<sup>9</sup>.

The problem is also due to the social acceptances of those judgments and psychological and tangible advantages associated with physical attractiveness in society. The assumption may be true that "beauty can be ugly" because Americans have entirely too much emphasis on

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4. Laura Sinberg, Forbes.com, "Study Confirms Looks Still Matter for Working Women" <http://abcnews.go.com/Business/womens-matter-workplace/story?id=9280418>

5. Laura Sinberg, Forbes.com, "Study Confirms Looks Still Matter for Working Women" <http://abcnews.go.com/Business/womens-matter-workplace/story?id=9280418>

6. Svetlana Shkolnikova, "Weight Discrimination Could Be As Common As Racial Bias," *USA Today*, May 20, 2008, [http://www.usatoday.com/news/health/weightloss/2008-05-20-overweight-bias\\_N.html](http://www.usatoday.com/news/health/weightloss/2008-05-20-overweight-bias_N.html) (accessed January 9, 2010).

7. Lucy Wang, "Weight Discrimination: One Size Fits All Remedy?" *The Yale Law Journal*, <http://www.yalelawjournal.org/117/8/wang.html>.

physical attractiveness, and the widespread bias in favor of good looks is so discriminatory<sup>10</sup>, especially against women because they are and have been scrutinized harshly due to appearance stereotypes about their appearances.

### **Dilemma**

#### **A Cultural Challenge**

Appearance discrimination against women involves partiality, prejudices, and preconceptions that are culturally acceptable. Discriminatory societal norms are stigmatized as acceptable and made visibly clear through projections in visual media, which is significant because America is an extremely visual society. American media establishes standards for the physical acceptability of women starting as early as childhood<sup>11</sup>. Media offers representations condemning women who are obese, gaunt, or below and above average height. Women differing in physical attributes from the ideal of ‘average’ or ‘norm’ for size or appeal can be subjected to abuse, rejection, or intolerance by peers, family, employers, and coworkers; the behaviors (oral and nonverbal) may seem commonplace and involve women suffering relational victimization that can consist of social exclusion, avoidance, or being the target of ill jokes<sup>11</sup>.

Women may receive or be subjected to discrimination from men and other women in workplaces exhibited by derogatory behaviors. The conduct may not diminish, on average, because the culture of socially acceptable behavior includes the degradation of women in America, historically, based on a distinct cultural stigma against undesirable appearances. The stigmas are normalized through the socialization in Americans’ thinking and behaviors<sup>11</sup>. In workplaces, the stigmas can be perceived as customary or tolerable in order for women to earn income, be part of a profession, or to achieve business advancement. Employment settings can provide means for discrimination<sup>13</sup> because women have historically endured unfair workplace practices in America<sup>14</sup>. The problem of gender respectability is not a modern invention in society.

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8. Gordon Patzer, 2008, Looks: Why They matter More Than You Ever Imagined

9. Svetlana Shkolnikova, “Weight Discrimination Could Be As Common As Racial Bias,” *USA Today*, May 20, 2008, [http://www.usatoday.com/news/health/weightloss/2008-05-20-overweight-bias\\_N.html](http://www.usatoday.com/news/health/weightloss/2008-05-20-overweight-bias_N.html) (accessed January 9, 2010).

10. Liz Wolgemuth, “How Plastic Surgery Can boost Your Career” <http://www.usnews.com/money/careers/articles/2008/05/12/why-people-are-investing-in-better-looks.html>

11. Leticia Law, “Report on Size Discrimination,” <http://www.lectlaw.com/files/con28.htm>

11. Rebecca Puhl, PhD, “Weight Discrimination: A Socially Acceptable Injustice,” <http://www.obesityaction.org/magazine/oacnews12/Obesity%20Discrimination.pdf> (accessed January 3, 2010).

12. L. C. Griffin, “Legalized Discrimination: Weight Discrimination in the United States: Updating the Civil Rights Act of 1994,” Associated Content, (September 14, 2007), [http://www.associatedcontent.com/article/376946/legalized\\_discrimination\\_weight\\_discrimination.html/cat=51](http://www.associatedcontent.com/article/376946/legalized_discrimination_weight_discrimination.html/cat=51).

13. Andrea Chernov, “Weight Discrimination: The Effects of Obesity on Employment,” 2006, Volume 4, Number 1, <http://www.uhh.hawaii.edu/academics/hohonu/writing.php/id=111>.

14. Kevin Voigt, “Women: Saviors of the World Economy?” <http://www.cnn.com/2009/WORLD/asiapcf/10/25/intl.women.global.economy/index.html?iref=allsearch>.

The irony of this dilemma—in modern times—is that the largest, current growing economic force in the world is the market of women—not a country or natural resource, and the earning power of women is expected to reach \$18 trillion by 2014, globally, but problems with equal gender propriety are still likely to occur, as only 38 of the top 400 companies in America are managed by women,<sup>15</sup> and discrimination practices against women versus men continue to increase.

### *Projections*

#### **A Competitive Climate**

At the start of the year 2010, women—for the first time in the history of the United States—were in employment positions previously solely occupied or dominated by men<sup>16</sup>. Women worked in industrial factories during World War II, Marie Curie was a highly visible and almost singular presence in the field of scientific research, and before the Civil War, men worked as sectaries while their women stayed home, but women started becoming police officers and firefighters in the 1980s. Female competition increased, and the selection of female candidates became more particular in workplaces than it was in the past. Appearance discrimination against women is unlikely to cease or decrease when female competition continues to increase. An increase of competition among female candidates for employment can cause an increase in the emphasis of appearances during the selection or evaluation of employees because some employers highly regard employee appearance. Women seem to be aware of this perception as evidenced by one of last year's most prominent trends, cosmetic surgery, to remain physically apt and attractive in competitive in workplaces,<sup>17</sup> despite the fact that women only make an extra five cents per dollar they spend on the cosmetic surgery<sup>18</sup>.

The visual media have emphasized the physical attractiveness of females throughout American history more than males in areas such as sales, public relations, advertising, or promotions. Employers appear to believe employees' physical images can project self confidence and esteem, which clients may find attractive. Companies may use this bias to illustrate leadership or to 'stand out' in their industries. To project an image of confident employees, companies may use enforced dress codes or uniform images to help sell products or to advocate brands. Specified skirt lengths or hair styles demonstrate physical prejudice. Since companies strongly believe physical attractiveness supports increased income and corporate advancement,

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15. Kevin Voigt, "Women: Saviors of the World Economy?"

<http://www.cnn.com/2009/WORLD/asiapcf/10/25/intl.women.global.economy/index.html?iref=allsearch>.

16. Kevin Voigt, "Women: Saviors of the World Economy?"

<http://www.cnn.com/2009/WORLD/asiapcf/10/25/intl.women.global.economy/index.html?iref=allsearch>.

17. Liz Wolgemuth, "How Plastic Surgery Can boost Your Career"

<http://www.usnews.com/money/careers/articles/2008/05/12/why-people-are-investing-in-better-looks.html>

18. Laura Sinberg, Forbes.com, "Study Confirms Looks Still Matter for Working Women"

<http://abcnews.go.com/Business/womens-matter-workplace/story?id=9280418>

appearance discrimination can be both consciously and subconsciously applied to business decisions.

Men and women who are perceived as beautiful tend to make more money and have more opportunities than their less attractive peers. Attractive women also seem to ‘beat the odds’ of declining in their appeal due to age or lifestyles. Perceived physical beauty seems to be important to employers and their customers in proportion to their conscious and unconscious belief that physical beauty is beneficial in society. Good-looking college graduates are more likely to get hired than those who are not, employees tend to do more for good-looking bosses than bosses who are not, and attractive supervisors are perceived as more credible and persuasive than those who are not<sup>19</sup>, and women are more likely subjected to scrutiny or discrimination for their physical attributes than men in any of these positions. Cultural norms have associated standards of unattractiveness with the visibility and physicality of women more than men in America. Despite credentials and experiences, judgments based on physical appearances can interfere with fair employment processes and practices for women.

## ***Conclusion***

### **Advocacy and Awareness**

Business leaders and individuals engaging in advocacy to prevent appearance discrimination against women can be powerful factors for the creation of dialogue and elimination of unfairness. Furthermore, leaders in all levels of society concerned with the fair treatment of women must instigate and continue to engage in dialogue focused on the elimination of physical biases against women in workplaces. Elimination of appearance discrimination cannot occur without significant publicity on the issue. Forty years after sex discrimination has been made illegal in America<sup>12</sup>, women should not have to endure appearance discrimination as commonplace, standard, or acceptable. Ethical practices in workplaces can help exclude appearance discrimination.

Increased legislation in opposition to appearance discrimination against women in America could help resolve the dilemma. Legal protection from appearance discrimination exists in one state, Michigan. In San Francisco, Madison, Santa Cruz, Urbana, Howard County, and the District of Columbia, lawsuits and formal complaints against appearance discrimination are accommodated.<sup>21</sup> The Justice Department in the United States of America has been ordered by congress to promote equal employment opportunities for women through federal laws

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19. Liz Wolgemuth, “How Plastic Surgery Can boost Your Career”

<http://www.usnews.com/money/careers/articles/2008/05/12/why-people-are-investing-in-better-looks.html>.

20. Betsy Morris, “How Corporate America Is Betraying Women,” *Fortune*, (January 10, 2005),

[http://money.cnn.com/magazines/fortune/fortune\\_archive/2005/01/10/8230967/index.htm](http://money.cnn.com/magazines/fortune/fortune_archive/2005/01/10/8230967/index.htm).

21. The United Equal Employment Opportunity Commission, <http://eeoc.gov/facts/qanda.html> (accessed January 28, 2010).

22. The United Equal Employment Opportunity Commission, <http://eeoc.gov/facts/qanda.html> (accessed January 28, 2010).

23. “Female Power,” *The Economist*, December 30, 2009,

[http://money.cnn.com/magazines/fortune/fortune\\_archive/2005/01/10/8230967/index.htm](http://money.cnn.com/magazines/fortune/fortune_archive/2005/01/10/8230967/index.htm).

prohibiting job discrimination. Legislation that has helped to alleviate discrimination based on sex or gender includes<sup>22</sup>:

- Fourteenth Amendment to the United States Constitution of 1868
- Equal Rights Amendment of 1923
- Fair Labor Standards Act of 1938
- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Age Discrimination in Employment Act of 1967 (for individuals age 40 or older)
- Civil Rights Act of 1991
- The United States Equal Employment Opportunity Commission
- Amendments in the Civil Rights Act of 1991

The Lilly Ledbetter Act of 2009 is a recent addition to the chronicle that merits acclaim for advocating correction of an unlawful practice against women, although women's empowerment continues to be a struggle in the United States.<sup>23</sup> Legislators need to develop a method to regulate or alleviate appearance discrimination against women, certainly, it is recommended. The insidious bias against females due to preconceived ideals about physical appearances should not be ignored. Discrimination against women in workplaces cannot end until the rewards and standards for women are equal to the rewards and standards for men<sup>24</sup>. Indications that the problem exists, historically and currently, should promote additional research and study. There is, of course, another alternative to help resolve the discrepancy of appearance discrimination against women. Employer and employees, armed with awareness of their discriminatory tendencies, could abruptly make conscious efforts to start treating everyone equally.<sup>25</sup>

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