

# The Gender Pay Gap: From History to Computer Algorithms

The Continued Inequality of  
Women at Work 50 Years after  
the Equal Pay Act was Introduced

*Online via Zoom. Friday, November 20th 2020*

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## ORGANISERS' INTRODUCTION

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The Gender, Sexuality and the Law (GSL) research group, part of the Law and Society Signature Interest Group at Northumbria Law School, are very pleased to host this online event sponsored by the Socio-Legal Studies Association. The GSL research group draws together established/early career academics and postgraduate students from a range of disciplines across Northumbria University aligned with the core themes of gender, sexuality and law in a socio-legal context. Although this seminar was delayed from May because of Covid19, falling in November as it now does is quite apt. November has become equal pay month. Each year, the Fawcett Society calculates the day in the year that women effectively "stop earning", because of the gender pay gap. In 2020 it falls on 20 November. This year, The Equality Trust are asking supporters to be active across the whole of November to ensure fair and equal pay. This seminar has inadvertently fallen in the right month and even on the right day, but 50 years is long enough!

In the 50 years since the Equal Pay Act 1970<sup>1</sup> was introduced, the UK has legislated for a wide range of measures to protect women at work. These include anti-discrimination measures, maternity leave, maternity pay, health and safety protections for pregnant workers, tax breaks and childcare vouchers, shared parental leave and gender pay gap reporting. However, the gender pay gap still stands at 17.3% according to the Fawcett Society. The overarching purpose of this seminar is to examine why these laws have been so ineffective; to try to influence change through discussion and activism across a range of sectors; and to adopt new perspectives. Using the overarching theme of the gender pay gap, we hope to explore the causes for and the continued inequalities between the sexes in the workplace. The seminar will critically explore the relevant legislation at a significant time in its development through a socio-legal lens exploring why the inequalities persist at all levels of the labour market using a productive theoretical prism, seeking to shed light on central questions animating socio-legal research, including:

- The intersecting realities of women in society and the historical influence of pay inequalities;
- Persistent inequalities in the professions;
- Pay inequalities in times of austerity and now Covid19;
- The regulation of work and care relationships;
- Family allowances, taxation and pensions;
- The use of AI;
- Pay implications of living a reproductive life in the workplace.

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<sup>1</sup> The Equal Pay Act 1970 itself has been repealed but its provisions continue as consolidated within the Equality Act 2010

Women earn significantly less than men do over their entire careers for complex, often, interrelated reasons. These include differences in caring responsibilities; more women in low skilled and low paid work; low presence of women in certain industry sectors such as STEM, the intersection of age and gender and outright discrimination.<sup>2</sup>

Our intention is to explore these issues by bringing together academics, lawyers, politicians and activists from a range of disciplines; practitioners from the world of business and the legal profession whilst this issue is at the forefront of activism and public thought in many countries. With making the decision to move the event online because of Covid19 we have also managed to make the seminar more accessible and hear from people not just in the UK, but also in the United States, India and Afghanistan.

We very much hope you enjoy this time to critical evaluate and reflect on these laws from a range of perspectives.

**Elisabeth Griffiths and Dr Frances Hamilton**

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<sup>2</sup> Gender Pay Gap Women and Equalities Select Committee Report (22 March 2016) 18.

## SESSION 1: GENDER DIVERSITY, FEMALE PROGRESSION AND EQUAL PAY

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9:00 – 9:10: ORGANISERS' WELCOME AND INTRODUCTION

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9.10 – 9.30: "SHORTCOMINGS OF THE PRESENT GENDER PAY GAP LEGISLATION",  
DAPHNE ROMNEY QC

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This paper will consider:

1. History of Legislation of Equal Pay Audits
2. The Structure of the 2017 Regulations
3. What information do you get from the Regulations?
4. What information do you not get from the Regulations?
5. How could things be improved?

**Daphne Romney** is an expert in discrimination and equal pay and is the author of *'Equal Pay - Law and Practice'*, published by Oxford University Press in November 2018. She has appeared in many mass equal pay claims against public authorities, including against Birmingham City Council and Glasgow City Council and the test case on Agenda for Change in the NHS. Recently she appeared in two important equal pay cases, *Barnard v Hampshire & Rescue* in the EAT and *Walker v The Co-Operative Group* in the Court of Appeal. Daphne also chaired the Fawcett Society's Equal Pay Bill Working Party, which drafted amendments to the Equality Act 2010 and the Gender Pay Gap Regulations 2017.

9.30 – 9.50: "THE EXPERIENCE FROM LEGAL PRACTICE", TRACY WALSH

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In "The Experience from Legal Practice", Tracy will be covering the operational partnership structure of most UK law firms, and how historically this has resulted in relatively low numbers of females in senior positions of influence within law firms, despite the number of women entering the profession. She will be reflecting on the gender equality experience in the US legal industry, and how and why this differs from the UK. She will describe how clients have and can be been a driving force for change. Finally, she will be describing some of the positive steps which WBD and other progressive law firms have taken in an attempt to achieve better gender equality at senior level, which of these have been most successful, and asking the question 'what else needs to be done, for gender equality to exist?'

**Tracy Walsh** has been a partner at transatlantic law firm, Womble Bond Dickinson (UK) LLP, since 2012. She is a Board and Global Board Member of the firm, having been elected by the partners for a three-year term in May 2019. She is Board Sponsor for Diversity and Inclusion.

9.50 – 10.10: "BEYOND THE GENDER PAY GAP 'BOX TICK': BUILDING A CASE FOR GENDER MAINSTREAMING PRACTICES, PROF. JAMIE CALLAHAN

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Although there is modest evidence that gender pay gap (GPG) reporting can be successful at creating more equitable remuneration for women in organisations, subsequent reports too often reveal a reversal of gains. Schemes intended to create equity and equality for women in organisations have earned a significant amount of criticisms for perceptions of creating "tick box" exercises, hiding discrimination, and displacing accountability. Within the context of performance accountability, a number of organisations attempt to meet government requirements on GPG reporting without doing

the work necessary for meaningful change. This presentation offers a framework based on United Nations gender mainstreaming practices that can progress and sustain pay equality for women.

**Professor Jamie Callahan** is a critical management studies scholar whose work focuses on exploring issues of power and privilege in relation to leadership, emotion management and organizational contexts. She served as the Director of Equality, Diversity, & Inclusion for the Faculty of Business & Law at Northumbria University from 2017-2020. She was Editor-in-Chief for Human Resource Development Review (2011-2014), and her leadership provided space for critical voices in the field. Her co-edited book, *Realising Critical HRD: Stories of Reflecting, Voicing, and Enacting Critical Practice*, received the Academy of Human Resource Development 2015 R. Wayne Pace Outstanding Book of the Year Award.

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10.10 – 10.30: “SPEAKING IN A DIFFERENT VOICE: THE GENDERED NATURE OF PROMOTION APPLICATIONS IN ACADEMIA”, DR FRANCES HAMILTON AND ELISABETH GRIFFITHS

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Analysis by Times Higher Education in 2019 suggests that the Further Education and Higher Education sectors are making slow progress to address the gender pay gap. Latest figures show that male employees’ advantage has widened even further at one in five higher education institutions since the reporting mechanism began in 2017 and women in UK universities were paid a mean hourly wage that was, on average, 15.9 per cent lower than their male colleagues. In 2019, analysis by Times Higher Education shows that figure has changed little, with it now standing at 15.1 per cent (which is slightly wider than that for the Fawcett Society where the current overall mean gender pay gap for all full time workers is 13.7%). Being promoted in academia enables higher salaries and more women at senior levels can assist in closing the gender pay gap. However, barriers to promotion for women continue to exist. At a cross faculty gender focus group conducted during preparation for Northumbria University’s successful application for Faculty of Business and Law application for a Bronze award for Athena SWAN in 2020 a group of 20 women anonymously discussed their experiences in applying for academic promotion. A common theme emerged of women having their promotion applications read and in many cases redrafted by senior men in the Faculty. Whilst everyone agreed that this was done to assist their chances of promotion, many women felt deeply uncomfortable that their own voice was disguised and not valued in the promotion process. It was also perceived by some women that the language of the promotion criteria was inherently masculine, which inevitably led to this process of re-writing. This paper investigates, following the model of the Feminist Judgments Project (Hunter, McGlynn and Rackley) how feminist theory could be applied in practice to consider promotion criteria and what is considered to be an excellent promotion application. This may ultimately reconsider what is of value in academic promotion rounds, one of the multitude of factors, it is suggested which impact on the gender pay gap in academia.

**Elisabeth Griffiths** is an Associate Professor at Northumbria Law School and a qualified Solicitor (now non-practising). She has worked in academia for over twenty years, teaching mainly Employment Law to undergraduate and postgraduate students. Elisabeth’s research interests are in Disability Legal Studies and she also writes more generally on equality, diversity, discrimination law in the workplace, in the legal profession and amongst law students. She is using her research in disability legal studies for her Professional Doctorate in Law, which is on the lived experience of disability for law students as they transition into graduate employment. Elisabeth is the Faculty of Business and Law Director of Equality, Diversity and Inclusion as a job share and she is also the Equality Lead for Northumbria Law School sitting on the Law School’s Departmental Leadership Team.

**Dr Frances Hamilton** holds an MA from the University of Cambridge together with an LLM from Trinity College Dublin and she is also a qualified solicitor (non-practising). Her teaching interests include being Module Leader on the Law and Society (Foundation degree) and Gender Sexuality and the Law Optional module (MLaw and LLB) where she focuses on LGBTQ+ discrimination and gender pay related issues.

She has been published internationally in Florida, California, Italy as well as in the UK including well known journals such as the European Human Rights Law Review. She is Lead Editor for an Edited Collection 'Same-Sex Relationships, Law and Social Change', Routledge, 2020 ISBN 978-0-367-07609- including contributions from 14 different international authors.

10.30 – 10.50: "AFFECT THEORY, JUDICIAL REASONING AND GENDER DIVERSITY IN THE IRISH JUDICIARY", CAOIMHE KIERNAN

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This seminar presentation will investigate whether affect theory can aid our understanding of judicial reasoning, how affect theory can be used to help explore the impact of gender on women judge's judicial reasoning and the affective potential of judicial reasoning by women judges.

Affect theory is the study of the impact of affect. Affect extends beyond mere emotion; it is a type of gut instinct. Affect is found at the 'first stirrings' of any movement (Massumi 2015, p.2). Affect theory can be used as a framework to understand change (Greco and Stenner 2013, p.11). Affective potential can be found in nearly all things; anything that evokes affect in others has affective potential. Affect theory has been used as a framework to explore gender-related issues. Pedwell and Whitehead explain that this is because: 'for some, feminism itself is a politics 'suffused with feelings passions and emotions' (2012, pp.115-116).

The Irish judicial system evolved over the 20th Century, with the first women judge appointed in 1963. This was seen as an 'extraordinary' action at the time, given that women were unable to sit on juries until 1976 (O'Donoghue 2017, p.86). Currently, 37% of the judiciary in Ireland are female (Courts.ie 2020). This is in comparison to 21% in 2003 (Bacik et al 2003, p.63). Can affect theory aid in our understanding of the impact that gender has had on Irish jurisprudence?

This seminar presentation will briefly explore the status of Irish women and the Irish judiciary in the early 20th century. This presentation will then demonstrate and analyse how affect theory can aid in our understanding of the reasoning of judges, using feminist judging projects to illustrate this point, and the affective potential of gender diversity within the judiciary, including how women judge's may have changed the course of Irish jurisprudence.

**Caoimhe Kiernan** is a second year PhD student and part-time tutor with the Law Department in the Technological University Dublin. Her doctoral research investigates the impact that the introduction of female judges has had on the development of Irish jurisprudence. Her research interests include feminist legal theory, the judiciary, gender studies, constitutional law, human rights law, and Irish jurisprudence. She conducts her research from the Environmental, Sustainability and Health Institute within TU Dublin and is supervised by Dr Brian Barry.

She holds an LLB Clinical from Maynooth University and her final year thesis focussed on the responsibility of online moderators in the European Union to combat online hate speech. She has previously presented at the 2020 SLS Annual Conference and has had her work displayed by the SLSA. She is a research assistant with the Equality, Diversity and Inclusion Directorate in TU Dublin, working under Professor Yvonne Galligan.

10.50 – 11.10: COFFEE BREAK AND ONLINE POSTER DISPLAY

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*Poster submissions on the issues raised by this conference have been invited from students across all levels. These will be displayed throughout the day.*

## SESSION 2: WOMEN IN THE WORKPLACE – HISTORY, CAMPAIGNING AND THE FUTURE

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### 11.10 – 11.30: “FEMALE ENTREPRENEURSHIP IN NINETEENTH-CENTURY ENGLAND”, DR JENNIFER ASTON

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This paper analyses female entrepreneurship in late Victorian- Edwardian England. Traditional views on female entrepreneurship in 19th and 20th century England point towards a decline in number and relevance of women as business owners vis-a vis the 18th century, and their retreat into a “separate sphere” away from the world of trade and production. Recent studies, however, have deeply challenged this view suggesting that women still played an important role as entrepreneurs also during industrialisation and after. Still, a number of questions are open as regard to the features of female entrepreneurship during these phases of British history, as issues such as scale of operation, attitude to risk, credit structure and managerial styles are still widely debated. Using original sources, this paper provides a novel view on these issues analysing female entrepreneurship from the perspective of bankruptcy. Analysing statistics on women’s bankruptcy derived from Board of Trade reports, as well as a sample of archival cases, this paper argues that overall female business owners traded in ways similar to their male counterparts in terms of business size, risk-taking and, eventually, success.

**Dr Jennifer Aston’s** research expertise lies in gender and small business ownership, bankruptcy, property, and the law across the long nineteenth century. She has published widely on these subjects and co-founded the global research network ‘ReWOMEN’ (Researching Women of Management and Enterprise Network). Aston sits on the editorial board of the Business History Collective, is an Academic Delegate on The National Archive’s User Advisory Group and Director of the Institute of Humanities at Northumbria University. Prior to this she held the EHS Eileen Power Research Fellowship at the Institute of Historical Research and research positions at the universities of Oxford and Hull.

### 11.30 – 11.50: “THE ROLE OF THE EQUALITY TRUST AND ITS CAMPAIGN FOR FAIR PAY”, DR WANDA WYPORSKA

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UK income inequality is among the highest in the developed world and evidence shows that this is bad for almost everyone. The Equality Trust works to improve the quality of life in the UK by reducing economic and social inequality.

People in more equal societies live longer, have better mental health and have better chances for a good education regardless of their background. Community life is stronger where the income gap is narrower, children do better at school and they are less likely to become teenage parents. When inequality is reduced people trust each other more, there is less violence and rates of imprisonment are lower.

If we want to build a better society, it is essential we take action. The Equality Trust is working with others to build a social movement for change. We analyse and disseminate the latest research, promote robust evidence-based arguments and support a dynamic network of campaign groups across the country.

**Dr Wanda Wyporska** is Executive Director at The Equality Trust, the national charity that campaigns to reduce social and economic inequality. She is a Visiting Research Fellow at the University of York, a trustee of ACEVO (Association of Chief Executives of Voluntary Organisations), Redthread Youth, and Equally Ours and Governor of a primary school. She is a regular keynote speaker and sits on or has advised a range of bodies, such as the ACEVO race advisory panel, the Fight Inequality Alliance Steering

Group, the Sheila McKechnie Foundation Social Power review, NUS Poverty Commission and the Sex Education Forum Advisory Group.

Wanda has over a decade of experience working in the trade union movement, leading on equalities, social mobility and education policy and is an experienced campaigner. She is a TEDx speaker, has spoken at the United Nations, York Festival of Ideas, and chaired a panel at the Women of the World Festival. She regularly comments in the media, having appeared on Newsnight, BBC Radio 4's The Moral Maze, Sky News, and BBC 1's The Big Questions, and written for The Guardian, HuffPo, and The Independent among other outlets.

Wanda was a Starun Senior Scholar at Hertford College, Oxford, where she was awarded a doctorate in European History and subsequently published her first book, Witchcraft in Early Modern Poland 1500-1800 in 2013. It was shortlisted for the Katharine Briggs Folklore Award.

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11.50 – 12.10: “THE ROAD TRAVELLED TOWARDS EQUAL PAY – IS GENDER PAY REPORTING A DIVERSION OR DESTINATION? CAN AI GET WOMEN BACK ON TRACK?”, ROBIN ALLEN QC

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This talk will sketch the history of the campaign for equal pay for work of equal value from the earliest years of the 20th Century up to the Equal pay Act as the author has outlined in his Hamlyn Lectures and then explain how and why the Equal Pay Act failed to give an effective right to equal pay for work of equal value, the steps take to remedy this omission and the possibility for better enforcement of this right in a future where machine learning will increasingly be used by human resource departments and pay modellers.

**Robin Allen QC** specialises in in Equality, Employment and Human Rights law and has litigated all test cases on all the protected characteristics in the House of Lords/Supreme Court of the United Kingdom and many significant equality references to the CJEU. He has named Chambers and Partners Employment Law Silk twice and Cloisters was named the Employment Law Set of the Year 2018.

In 2019, Robin set up the AI Law Consultancy with Dee Masters of Cloisters (See [www.ai-lawhub.com](http://www.ai-lawhub.com) and @ailawhub ) and is now specialising in the fast developing new regulation of Artificial Intelligence (AI). The AI Law Consultancy has just completed a major report for Report for Equinet - the European Network of Equality Bodies: Regulating For An Equal Ai:A New Role For Equality Bodies.

Robin has written and spoken widely on equality issues, including writing Employment Law and Human Rights, OUP, (3<sup>rd</sup> edn. 2018) giving the Hamlyn Lectures 2018 under the overarching title “Why does Equality seem so difficult?”; the lectures will be published by Cambridge University Press in October 2020. He is a trustee of the Equal Rights Trust, and General Editor of Halsbury’s Laws of England and Wales “Discrimination law” title. Robin was Chair of the England and Wales’ Bar Council’s Equality and Diversity and Social Mobility Committee from 2013 until the end of 2019 and Head of Cloisters Chambers ([www.cloisters.com](http://www.cloisters.com)) for 16 years.

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12.10 – 12.45 Q&A PANEL WITH MORNING SPEAKERS

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12.45 – 1.30 LUNCH BREAK AND ONLINE POSTER DISPLAY

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## SESSION 3: WOMEN’S RIGHTS, WELFARE AND “LABOURING” INSIDE AND OUTSIDE THE HOME – WITH ADDITIONAL CONSIDERATION OF THE IMPACT OF COVID-19

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### 1.30 – 1.50: “MOTHERING AND WORKING DURING CORONAVIRUS: THE FAILURE OF WORK/LIFE RECONCILIATION POLICIES”, DR MEGAN PEARSON

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For several months during lockdown and beyond, access to formal and informal sources of childcare was severely restricted. Given the possibility of periods of self isolation and the closure of schools and childcare due to local outbreaks, full access is likely to continue to be restricted for some time. Given the gendered nature of caregiving, women have performed a disproportionate amount of the extra caregiving required, affecting their ability to undertake paid employment.

Whilst there are numerous work/life reconciliation rights, such as a right to take unpaid parental leave or a right to request flexible working, these rights are limited and complex. There is also a lack of knowledge by both employees and employers, stigma in using them and a lacuna when it comes to their enforcement. This paper therefore applies vulnerability theory and in particular Eva Kittay’s idea of *doulia*, to consider how the current situation fails parents who undertake paid work or who would like to. It argues that UK law needs to move beyond piecemeal, sound-bite legislation to a situation where an ethic of care is engrained into the employment landscape.

**Dr Megan Pearson** is a Lecturer in Law and Co-Director of the Stefan Cross Centre for Women, Equality and the Law at the University of Southampton. Her main research interests are in equality and employment law, particularly gender equality, and in law and religion. Her work has focused on ‘clashes’ of rights and her book *Equality Laws, Proportionality, and Religion: Conflicts in England, Canada and the USA* was published by Routledge in 2017. She has also recently published on the Masterpiece Cakeshop and Ashers Bakery litigations and whether conspiracy theories should be treated as ‘religions’ in law.

### 1.50 – 2.10: “WOMEN’S RIGHTS AND WELFARE: THE FAMILY ALLOWANCES ACT 1945”, PROF. LUCY VICKERS

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The Family Allowances Act 1945 introduced the first systematic payment of welfare support to women linked to children. It has since been replaced by Child Benefit. This paper will discuss the debates which surrounded the introduction of the Family Allowances Act, which included debates on equal pay. It will also outline the key distinctive features which were understood to be key to the effectiveness of family allowances. It will reflect on the impact of the removal of these aspects of financial support for children in recent reforms to child benefit, and the implications of these changes for women.

**Lucy Vickers** is Professor of Law at Oxford Brookes University. Her main research area is the protection of human rights within the workplace and aspects of equality law. She has written extensively on issues relating to religious discrimination and age discrimination at work. She is the UK expert on non-discrimination for the European Equality Law Network.

### 2.10 – 2.30: “A TYPOLOGY OF UNPAID LABOUR”, PROF. ANN MUMFORD

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The goal of this paper is to answer the question - how does law respond to unpaid labour? – with a classification, or typology, of case law in the UK in which unpaid labour is relevant. The paper concludes that, when unpaid labour is valued, it is in part to ensure that it will continue to be available in other

similar circumstances, in future – except where this should not happen for moral grounds. Women’s economic rights are not advanced within this framework.

**Professor Ann Mumford** specialises in tax law, fiscal institutions and equality. The scope of her published work has ranged from feminist perspectives on taxation law; to, as a contributor to the “new” fiscal sociology movement, the integration of tax legal scholarship into the realm of economic sociology. As a researcher, Professor Mumford’s work has focused on international, comparative, and socio-legal, feminist legal perspectives, particularly those that arise through taxation law.

She has been an invited speaker at numerous international conferences and symposia, and has supervised students successfully at PhD level.

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### 2.30 – 2.50: “DOMESTIC WORKERS, THE ‘FAMILY WORKER’ EXEMPTION FROM MINIMUM WAGE, AND GENDERED DEVALUATION OF WOMEN’S WORK”, NATALIE SEDACCA

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Domestic workers are overwhelmingly women. This paper will analyse and critique an exemption that has allowed for some live-in domestic workers to be paid below the minimum wage and will examine challenges to the exemption.

S57(3) National Minimum Wage Regulations (SI 2015/621) exempts an employer from paying the minimum wage where, inter alia, a domestic worker lives in their employer’s family home and is treated ‘as a member of the family’ in relation to accommodation, meals, tasks and leisure activities.

The exemption was intended to apply to au pairs, but several cases including *Nambalat v Taher & ors* [2012] EWCA Civ 1249 have found it to be applicable to full time domestic workers. The paper argues that these findings reflect the devaluation of domestic work, stemming from its conflation with work normally performed for free by women in the ‘private sphere’ of the home.

The paper will focus on the case of *Puthenveetil v Alexander & ors* (Ref: 2361118/2013), heard in the Employment Tribunal in July 2020 with judgment awaited. The claimant challenges the family worker exemption as indirectly discriminatory, arguing that it affects a greater number of women than men and cannot be objectively justified for other reasons.

**Natalie Sedacca** is a PhD Candidate and Teaching Fellow at UCL Faculty of Laws. Her doctoral research analyses the exclusion of domestic workers from the protection of labour law and considers whether this exclusion is compatible with human rights standards. It includes case studies on Chile and the UK with empirical work in each and is funded the London Arts and Humanities Partnership and UCL Faculty of Laws. Natalie is a trustee of, and was previously Research Volunteer for, the migrant domestic worker charity Kalayaan. Before starting her PhD Natalie was a solicitor specialising in claims against the police and public authorities.

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### 2.50 – 3.10: “GENDER PAY GAP IN THE GIG ECONOMY: HAS TAYLOR PROVIDED A SOLUTION?”, DR ANDREW NOBLE

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Many gig economy employers seek to encourage female workers to engage with their platforms by extolling ‘flexibility’ as a virtue of this form of employment. In this paper, I examine the suggestion that the price of this claimed flexibility is a widening gender pay gap for female gig economy workers, and assess whether recent legislative changes as a consequence of the Taylor ‘Good Work’ Report can stimulate a narrowing of this gap. Although there are existing studies of women working in the gig economy, they reach divergent conclusions on the impact of atypical working arrangements and the gender pay gap compared with more traditional employment structures. The study uses publicly

available quantitative and qualitative data from existing studies and gig economy employers, as well as recent legislative provisions, to explore ways in which to reduce the existing inequalities between male and female gig economy workers. The findings of this study suggest that the legislative changes which seek to assimilate, but not equate, the protections of employees and workers afford an opportunity to narrow the gender pay gap within the gig economy, but this is unlikely to be achieved without overcoming the inherent gender bias around the notion of flexible working.

**Dr Andy Noble** is currently a Senior Lecturer in Employment Law in the Faculty of Business & Law, Anglia Ruskin University, Cambridge, where he teaches Employment Law to undergraduate and postgraduate students on degree and professional qualification courses. Andy worked as a solicitor in private practice for a number of years before returning to academia to undertake a PhD at the University of Birmingham. Andy pursues research interests in all aspects of employment law, with particular focus on DBS disclosures and their impact on both employees and employers, and contributes papers on these topics to conferences and journals.

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### 3.10 – 3.40: TEA BREAK AND ONLINE POSTER DISPLAY

## SESSION 4: ADDITIONAL PAPERS AND CLOSING REMARKS

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### 3.40 – 4.00: “PARENTHOOD DEMANDS: RESISTING A DYSTOPIA IN THE WORKPLACE”, MARK GATTO

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Parenthood is a high impact, and culturally divisive issue; its influence over organisational life is as normalised as the negative consequences for working parents. The parental problem is indicative of patriarchal cultures idolising ‘hegemonic masculinity’ (HM), which privileges masculine careers. Such hegemonic problems demand radical, multifaceted approaches to re-imagine patriarchal organisational cultures; this is where dystopian fiction can help.

This paper uses Dystopian Fiction (DF) to offer a manifesto of five demands (adapted from ‘The Children of Men’ by P.D. James, 1992), as a speculative future for new conceptions of parenthood. Drawing on masculinities theory and feminist manifestos, the paper problematizes current parental decisions in the context of DF examples of hegemonic masculinity. The paper’s ‘scriptology’ incorporates DF and authorial reflexivity to subvert HM and imagine the future. These five demands promote a reconceptualization of existing problems affecting working parents towards equitable change.

1. Openly negotiate and make transparent organisational parental policies
2. Strengthen civil rights for marginalised mothers
3. Abolish the silencing of fathers in fertility discourse
4. Stop ‘deporting’ mothers out of their career paths
5. End the anticipatory discrimination of potential mothers

**Mark Gatto** is a Graduate Research Associate and Project Manager on a Equality, Diversity and Inclusion project in the Faculty of Business and Law at Northumbria University. He is a Post Graduate Researcher whose main research interest is parental decision making in the workplace and the influence of masculinities on gender imbalance in organisational and individual decisions. He also uses an unconventional methodology by incorporating dystopian fiction as a critical inspiration and is motivated by social justice.

### 4:00 – 4.20: “THE ROLE OF EQUAL PAY AUDITING IN RESOLVING UNEQUAL PAY: MORE HINDERANCE THAN HELP?”, ALEX PATRICK

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The introduction of the Equal Pay Act had an immediate effect on the incidence of unequal pay for equal work. 50 years on however, unequal pay remains an intractable issue, partly due to a pervasive culture of pay secrecy that prevents women from discovering whether they are victims of pay discrimination. A wide range of regulatory measures under the banner of “pay transparency” are often proposed to combat this problem. One such measure is equal pay auditing.

This paper examines the Equality and Human Rights Commission’s (EHRC) recommended method for conducting a voluntary equal pay audit. The EHRC tells employers that this method will establish whether their organisation is compliant with the Equality Act. However, this paper argues that there is a disconnect between the EHRC’s method and equal pay law, which prevents employers who conduct an audit from identifying individual cases of unequal pay for equal work. Given this disconnect, this paper argues that the EHRC’s auditing method may be counterproductive, as it may mislead employers and employees about the existence of discriminatory pay.

**Alex Patrick** is a PhD researcher in the Stefan Cross Centre for Women, Equality & Law at the University of Southampton. She obtained her LLB at the University of Adelaide, Australia and qualified as a solicitor in New South Wales. She obtained her Master of Philosophy in Law at the University of Adelaide. Her master's thesis examined criminal law representations of domestic violence in the UK and Australia, and proposed an alternative criminal offence of intimate partner abuse which recognises the vulnerability of victims. Her current research examines the use of equal pay audits to strengthen UK employers' compliance with equal pay law.

#### 4.20 – 4.40: “AFGHAN WOMEN’S ECONOMIC OPPORTUNITIES AND THE CONSTITUTION OF AFGHANISTAN”, MURTAZA MOHIQI

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Since the fall of the Taliban, measurable gains have been made for Afghan women in terms of their economic opportunities, with women today even taking an active role in Afghanistan's government and civil society. A post-Taliban generation of young women are fighting for equal participation in the future of their country. Women's economic opportunities have also been a key focus for women's empowerment and promoting gender equality. Women play a major role in Afghan industry, including agriculture, jewelry, carpets, and embroidery, but receive few benefits for their work. Women-led businesses face a number of challenges, including limited access to markets and credit, illiteracy, and economic policy-making that is often dominated by men, such as the Chamber of Commerce and Industry and the Afghanistan Investment Support Agency. The Afghan Constitution is an example of state-supported integration of women in the public sphere. The right to acquire property and its protection provided in the Constitution could also help women more than men because many women are either deprived of property rights or not recognized as active (beneficial) owners of property belonging to them in government records (Article 40). The Constitution also gives everyone the right to work and to free choice of profession and prohibits forced labor (Articles 48, 49). Given that in many cases women are forced into labor, this provision could be used as a safeguard against such practices. This should also encourage women to get out of the four walls of home, eventually leading to economic independence and freedom of movement. This group of articles begins with a provision prohibiting any kind of discrimination, including discrimination on the basis of sex: “any kind of discrimination and privilege between the citizens of Afghanistan is prohibited” and “the men and women of Afghanistan have equal rights and duties before the law” (Article 22). This provisions, if actualized, will fill the great vacuum of women's rights in Afghanistan.

**Murtaza Mohiqi** is a Ph.D. student at Ferdowsi University of Mashhad, and a member of the Department of Private Law, Faculty of Law at Gharjistan University where he has taught subjects on Afghanistan law since 2014. At the university, he was also appointed as the Executive Secretary of Gharjistan Research Center. He has also taught guest lectured at Ferdowsi University of Mashhad. His previous work experience includes being employed as a legal consultant, a human rights researcher, and a law lecturer. He works as a researcher at the Afghan Institute for Strategic Studies. Beside doing research, he also teaches legal research methodology. he has previously held positions as a journal editor in several national accredited journals, such as the scientific and research journal of Gharjistan University. He has produced leading publications on a number of legal issues. mohiqi has published in Afghanistan and international journals. With a background in journalism as well as law, Annie has been involved in multiple research projects aimed at improving the media's reporting of violence against women and children in Afghanistan.

#### 4.40 – 5.00: “THE IMPACT OF ARTIFICIAL INTELLIGENCE (AI) ON THE GENDER PAY GAP”, DR KISHOR DERE

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This paper critically analyses the adverse effects of advent and use of AI on gender pay gap. Gravity of the situation could be gauged by the fact that The World Economic Forum (WEF) published a report in 2018 entitled Gender Pay Gap. The WEF Report reveals it is alarming to note that the typical jobs assigned to women such as administrative and customer services are being automated with the help of charming new digital AI technologies. It is lamentable that the talent pool of women in Information Technology (IT) sector in disciplines such as machine learning and big data is quite small. This has served as a setback to the cause of gender pay parity that had gathered momentum in the recent past. Of course, low representation of women in science, technology, engineering and maths (STEM) is already known. What has aggravated the problem is the historical gender stereotypes leading to gender pay disparity. Twenty-two percent of the AI workforce comprises women. The gender pay gap in AI industry is thrice larger than other industries. It means all AI programming is done by men only, ignoring female perspectives, needs and desires.

**Kishor Dere** is an independent scholar currently based in New Delhi, India. He has earned doctorates in International Relations, Philosophy and Law. He has keen interest in jurisprudence, artificial intelligence, human rights and gender equality. He is a visiting faculty at various academic institutions.

#### 5.00 – 5.20: “MILITARY EMPLOYMENT AND MILITARY VETERANS PREFERENCE FOR POST-MILITARY EMPLOYMENT: A MISSING ANALYSIS IN GENDER PAY GAP RESEARCH”, CORNELIA WEISS

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This paper raises, and addresses, the question of whether the gender pay gap is also a consequence of militaries (and other employers in the security sector) serving overwhelmingly as jobs programs for males, to include preference for military veterans in government employment after military service.

It is a missing analysis. The World Bank refuses to include an analysis of militaries and gender discrimination in its annual reports on discriminatory laws. The CEDAW Committee also does not analyze the connection between militaries and gender discrimination.

Yet the reality is that militaries are major employers, to include the U.S. Department of Defense as the largest employer in the world (of which over 80% of the employees are male). Post-military service, laws that require veterans’ preference in government employment, result in military veterans comprising 50% of new hires despite being less than 10% of the population. The laws include veterans’ preference for promotion. Even the U.S. Office of Personnel Management admits that one of the major obstacles to the employment and promotion of women in government employment is veterans’ preference. Veterans’ preference laws are not limited to federal government employment, but extend to U.S. States, to include quotas up to 100% for employment of veterans, and the granting of contracts to private (veteran owned) companies, which requires non-veteran spouses [wives] to resign at least 2% of ownership for the company to qualify as a veteran owned company. The U.S. is led by government bureaucracies that are not filled by the best qualified, but that are instead dominated by lesser-qualified individuals, despite options for more narrowly tailored appreciation for veterans. This paper is a start of addressing the resulting gender wage gap, caused by the veterans’ preference laws, of more qualified females being denied employment, promotion, quotas, and contracts.

**Cornelia Weiss** is a retired U.S. colonel who served in the Americas, Europe and the Pacific. Colombia awarded her the Medalla al Mérito Militar en Derecho Humanos y Derecho Internacional Humanitario “General José Hilario López Valdés” as well as the Medalla Militar “Servicios Distinguidos a la Justicia Penal Militar” for her accomplishments within the Colombian Public Forces. Among other awards, the U.S. Air Force awarded her the Keenan Award for making the most notable contribution to the development of international law.

Weiss holds a Bachelor of Arts in Women's Studies from the University of Utah, a Master's degree from Chile's national academy of strategy and policy studies (ANEPE), and a Juris Doctor from Vanderbilt University School of Law. She is a 2012 Ian Axford Fellow (New Zealand), a 2015 Rotary Peace Fellow (Chulalongkorn University, Bangkok, Thailand), and a 2015 National Endowment for the Humanities (NEH) Summer Scholar. Her research is interdisciplinary.

As a result of her work and studies, she has found that efforts to forge a world of pay equity are illusory when men exclude women. Knowing that lack of analysis is often used as an excuse to ignore and exclude women, she intends to use the next 30 years of her life to illuminate obscured reality.

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#### 5.20 – 5.40: COFFEE BREAK AND POSTER COMPETITION

*Poster submissions on the issues raised by this conference have been invited from students across all levels. Attendees will be able to provide feedback and comments on posters during this session.*

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#### 5.40 – 6.00: "WASPI WOMEN" AND CLOSING REMARKS, JULIE ELLIOTT MP

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#### 6.00 – CLOSE: Q&A PANEL WITH AFTERNOON SPEAKERS

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