AGENDA FOR WOMEN IN 2002

The Independent Women's Forum

Enclosed is both summary and detail of the legislative and regulatory issues we consider important to the lives and futures of women, along with information about the IWF policy experts available to speak on each.

As President George W. Bush prepares to come to Capitol Hill to deliver his State of the Union address, the **Independent Women's Forum** issues its own report on the state of the union and our recommendations to foster and advance those policies that we believe best serve all individuals – and particularly women.

In a matter of hours last September, we were made deeply aware of both our vulnerability and our resilience. The evil actions of our enemy – from the fiery deaths of innocent civilians to the cruelest possible treatment of women – have renewed our commitment to the triumph of freedom. Many see this troubled time in our nation's history as an opportunity for bigger government. We hope this impulse will be resisted, and that we will use our confidence and hope to create prosperity, not dependence. Americans have always faced challenges and seized opportunities with purpose and courage. These times are no exception.

In that spirit, we present the Independent Women's Forum **Agenda for Women in 2002**. It is our outline for the prosperity and empowerment of American women, who play a vital role in the advancement of the greatest country on Earth.

The Independent Women's Forum's
AGENDA FOR WOMEN IN 2002

I. Work and Family Balance

- Amend the Fair Labor Standards Act (FLSA) to allow employers to offer "comp time" (exchanging overtime pay for time off).
- Encourage the use of "flex time" and telecommuting.
- Assess real costs of existing requirements of Family and Medical Leave Act (FMLA) before embarking on expansions of FMLA, including paid leave.
- Avoid meddling with the free market laws of supply and demand through wage setting in the form of "pay equity" or "comparable worth."

II. Economic Growth and Empowerment

- Provide immediate tax relief and economic stimulus through acceleration of marginal tax rate reductions scheduled for coming years.
- Permanently repeal the death tax rather than a one-year reprieve.
- Expand IRAs.
- Provide fundamental tax reform for simplification and competitiveness.
- Reform Social Security to allow younger workers to build their own retirement assets, and create wealth.

III. Legal Issues

- Reform sexual harassment law to retain protection from real abuse without over-inclusion of trivial workplace interaction.
- Reform no-fault divorce laws to lessen their negative financial impact on women and children.
- Pass legislation forbidding discrimination by the federal government on the basis of sex, in defiance of civil rights law.
- Amend Title IX to clarify its anti-sex discrimination intent and prevent its application as gender quota law.
- Implement civil justice reform to stop regulation of products and industries through frivolous product liability litigation.
- Immediately act to fill all vacancies on the federal bench with qualified candidates who respect the rule of law.

IV. Science and Health

- Release research data used to support federal and state policy.
- Require use of validated models.
- Require *independent* peer review.
- Require disclosure of all studies accepted and rejected in assessing risk.
- Require agencies to produce scientifically objective estimates of risk that neither minimize nor exaggerate the nature and magnitude of risk.
- Prioritize risks and place them in context.

WORK AND FAMILY BALANCE

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Ms. Stolba is a senior fellow with the Independent Women's Forum where she writes about a range of issues, including women and the economy, feminism, and women's studies. She is also an adjunct scholar at the American Enterprise Institute for Public Policy Research, where she has written about bioethics and the history of genetics. She is co-author, with Diana Furchtgott-Roth, of two books: Women's Figures: An Illustrated Guide to the Economic Progress of Women in America (1999) and The Feminist Dilemma: When Success is Not Enough (2001).

Ms. Stolba's opinion pieces and essays have appeared in publications such as *The Wall Street Journal*, *The Houston Chronicle, The Salt Lake Tribune*, and *The Orlando Sentinel* as well as *Commentary*, *The New England Journal of Medicine*, *The Women's Quarterly,* and *Women in World History.* She is also a frequent contributor to radio and television shows, including MSNBC, FOX News, and C-SPAN's *Washington Journal*. She has presented her research at numerous academic conferences and seminars and has served as an instructor in the History Department at Emory University. Ms. Stolba has been the recipient of fellowships from Emory University and from the American Philosophical Society. She holds a Ph.D. in History from Emory University. Ms. Stolba lives in Washington, D.C.

Introduction:

The twenty-first century workplace presents an array of new challenges for employers and employees. With women now comprising a significant part of the workplace, questions about flexibility have moved to the forefront of the debate over work/family balance. In addition, new technologies now allow many workers the capability—if not yet the opportunity—to telecommute from nearly anywhere on the globe.

The Independent Women's Forum has identified several areas where the federal government can make choices that will help women and their families. Some of these proposals include simply amending existing workplace law to bring it into the twenty-first century; others are a warning about expanding federal intervention in the workplace. All of our recommendations share the end goal of creating a flexible, family-friendly, strong economy based on free market principles.

1. Amend the Fair Labor Standards Act (FLSA) to allow employers to offer "comp time".

The intent of the FLSA, which was passed in 1938 and established a federal minimum wage, a 40-hour workweek, and requirements for overtime pay, was to protect American workers. Today, however, it works against the interests of many of them by making it expensive and impractical for employers to offer popular policies such as comp time—exchanging overtime pay for time off—to their employees. Because employers are required by law to pay workers for any overtime above the federally-mandated number of hours in the pay period, it is difficult for workers to "time shift" their hours from week to week, even though many workers would like to do so. A 1996 survey conducted by the Independent Women's Forum found that half of all respondents were willing to give up pay at work in exchange for more personal time; a recent poll by the Employment Policy Foundation found that 81 percent of women favor comp time as an option.

2. Encourage the use of flex time and telecommuting.

Flex time, one of the most widely offered flexible work arrangements in the U.S., is another policy that has proven to be popular with women workers. Flex time allows employees to decide when they want their workday to start and end, thus giving them more control over their personal schedules. A recent study by the Catalyst organization found that 80 percent of working couples would like the opportunity to set their own hours. A poll conducted by Ernst & Young revealed that flex time is good for employers too: 65 percent of those surveyed said that they would have left their present employers if they did not have the option of a flexible schedule.

What are the benefits of telecommuting? For employees, telecommuting offers flexibility and control over the pace of work. For employers, encouraging employees to work from home brings lower rates of absenteeism and lowers overhead costs. Telecommuting offers more general benefits as well: More employees working from home means less congestion on the nation's roads and less pollution.

3. Assess real costs of existing requirements of the Family and Medical Act (FMLA) before embarking on expansions of FMLA, including paid leave.

Enacted in 1993, the FMLA applies to businesses with more than fifty employees and requires employers to give their workers up to twelve weeks of unpaid leave for the care of a newborn or newly-adopted child, for treatment of their own serious health condition, or for care of a seriously ill spouse, parent, or child. But FMLA has also raised questions about its implementation in the workplace and its costs. According to a survey by the Society for Human Resource Management (SHRM), nearly 60 percent of human resource professionals reported facing significant problems complying with FMLA; a bipartisan Congressional commission that studied the FMLA found that 67.5 percent of employers end up reassigning the work of those on leave to coworkers, raising issues of fairness. The lessons learned so far with FMLA suggest the need for caution with regard to expanding the federal government's role, including proposals for federally mandated paid leave (which nearly half of the work force already has access to through private programs sponsored by their employers).

4. Avoid meddling with the free market laws of supply and demand through wage setting in the form of "pay equity" or "comparable worth."

Although the theory of "comparable worth"—the practice of state or federal government bureaucrats setting wage scales for jobs—was thoroughly rejected by the courts in the 1980s as a requirement for equal pay for women, feminist groups continue to push for such meddling with market forces. Under the rubric of seeking "pay equity" or "fair pay," they argue that wages in female-dominated occupations (such as nursing or teaching) should be artificially inflated to make them "equal" to the wages paid in male-dominated professions (such as sanitation work or truck driving). What these proposals overlook—and what the experience of countries such as Canada and the United Kingdom, who have experimented with comparable worth policies reveal – is that attempts by the government to determine the intrinsic worth of certain jobs undermines the laws of supply and demand in the labor market and ultimately leads to lower rates of employment for women. Rather than embark on such questionable economic schemes, the government should continue to enforce the Equal Pay Act of 1963 and ensure that all occupations are open to qualified women.

Amend the Fair Labor Standards Act

The Problem: Let's say you work a regular forty-hour week and want an occasional afternoon off for family reasons without taking annual leave. You approach your boss and offer to come in early and work through lunch the following week to make up for your time off this week. "Can't do it," says your boss. And he's right--it's the law. The federal Fair Labor Standards Act requires employers to pay overtime anytime an employee works more than eighty hours in a two-week period.

The Evidence: The law goes back to 1937 when President Franklin D. Roosevelt declared "All but the hopeless reactionary will agree that to conserve our primary resources of manpower, government must have some control over maximum hours, minimum wages, the evil of child labor, and the exploitation of unorganized labor." The Cato Institute reports that the 1938 Fair Labor Standards Act (FLSA) sought to "conserve our primary resources of manpower," but in fact drove hundreds of thousands of people out of the workforce in order to rig higher wages for other workers. Though the national unemployment rate was 18 percent, the federal government tried forcibly to drive up wages by political command—as if employers were more likely to hire people at higher wages than at lower wages. The FLSA mandated a twenty-five cent an hour minimum wage and time-and-a-half pay for any work done over 40 hours a week. The original minimum wage law was enacted in part to decrease the advantage that low-wage southern factories had over northern factories; Rep. John Dent of Pennsylvania later explained, "We had to do something; we were losing all of our jobs to the South."

It is that mandate for time-and-a-half pay for any work done over 40 hours a week that is preventing employers from offering “comp time,” – the exchange of overtime pay for time off.

The Solution: Congress needs to amend this outdated law to allow employers and employees to organize shifts and work by mutual agreement.

Why Women Should Care: It's no sin for a mother to try to combine work and motherhood in a manner convenient to herself and her family. Most mothers want more time with their children, and that translates into less time at work. Superwomen want to cut back to mere mortals' hours; full-time workers would prefer flex-time or comp time; and wage earners would rather be their own bosses and set their own hours and level of commitment.

Encourage the Use of "Flex Time" and Telecommuting

The Problem: "Flexibility" is a popular buzzword in discussions of the contemporary American workplace. Employees all say they want it, employers claim to offer it, and researchers and politicians frequently tout its benefits. But what policies provide real workplace flexibility—particularly for women workers, who often feel the pressure of the so-called time bind most acutely? With more women—and particularly more mothers—in the paid workforce, and more Americans working longer hours, "family-friendly" initiatives have become the quintessential "feel-good" policies of our day and age. In public discussion of these policies, there is a tendency to assume that they are unambiguously good things.

The Solution: Instead of insisting on more government directives, we should encourage employers to develop creative solutions to help their workers—including comp time, flex-time, job sharing, and telecommuting. Centralized government mandates stifle that spirit by installing inflexible standards in the workplace. For all workers—but especially for women—a family-friendly workplace is one that encourages flexibility and equal opportunity. To achieve real flexibility for women, we don't need more government meddling, but we need instead the revision of outdated laws and regulations that prevent employers from offering creative and flexible policies for their workers. We need to rein in excessive and costly litigation that stifles technological innovation and growth, and we need to give employers the ability to meet the often-diverse needs of their employees on their terms—not on the one-size-fits-all terms of the federal government.

The Wrong Answer: Some critics contend that the real problem with the American workplace is that the federal government has not done enough for workers. They argue for further federal intervention in the economy through increases in the minimum wage; government-sponsored paid leave for parents; and government wage scales that favor female-dominated fields, among other things.

But not all of these policies are really good for families—or for the American economy. To some, the difficulty women have in balancing work and family responsibilities is not simply a natural outgrowth of their movement into the labor force—it is a workplace discrimination issue. Since women don't have access to paid leave or subsidized childcare, the argument goes, they are at a distinct disadvantage in the working world.

The Evidence: Increasing federal mandatory benefits and interfering in the labor market through wage-setting would likely lead to higher unemployment and lower rates of economic growth, as such policies have in many European countries. A study by the National Federation of Independent Businesses, which compared mandatory benefit plans among several countries, found that the countries that had the lowest number of mandated benefits—Australia, Japan, and the United States—also had the highest rates of job growth and the lowest rates of unemployment. This free-market lesson is worth remembering in light of the recent slowdown in the American economy.

Why Women Should Care: Researchers at the Radcliffe Public Policy Center found that 85 percent of women surveyed said that striking the right balance between work and family was the most important thing in their lives. Women trying to this balance are aided by wonderful gadgets like the PC, fax and portable phone, and by great inventions like e-mail and the Internet. Now women want to use technology and flexibility to better their working lives, and cannot afford to be thwarted by their own government. If your boss keeps track of every illness and doctor's appointment you have in order to comply with government reporting requirements, some degree of privacy is lost.

Assess the Real Costs of the Family and Medical Leave Act

The Problem: The Family and Medical Leave Act (FMLA) was designed to provide job protection for new parents to spend time with their newborn or adopted children. The law also provides an employee with time off to care for a seriously ill family member or for the employee's own serious health condition. After Congress passed the law, however, the United States Department of Labor wrote the implementing regulations—the details of how the law would be applied and enforced—and the law has now drifted far from its original intent.

The Solution: The FMLA should be assessed according to its real costs before embarking on expansions of the act, including paid leave. Government mandates sound great on the surface, but they come with a hidden price tag. Big government discourages innovation and punishes progressive employers. While it's easy to talk a good game on work and family issues, the Labor Department's confusing and contradictory regulations have hurt America's employees.

The Wrong Answer: The most publicized solution for working families is more government mandates. But practical evidence suggests that government intervention cannot solve all of our problems and in some cases can make them worse by providing a false sense of security. There are often unintended consequences that can actually hurt workers in the long run. Mandated benefits only help those who currently hold jobs, at the cost of those who wish they did.

The Evidence: Because of the Labor Department's shortsighted and confusing regulations, the FMLA has come to stand for the "Far More Leave Than Anyone Intended Act." The overly broad regulations make it difficult for employers to prevent abuses of FMLA leave, allowing some workers to demand significant time off for minor or questionable conditions.

What's more, there are bills pending in Congress to expand the FMLA to allow federally protected leave for non-medical reasons like attending a child's soccer game, parent-teacher conferences, and community service. This may make a great sound bite for politicians, but issues such as the various costs of the program, employee abuse, and coworker resentment are ignored.

Why Women Should Care: Women want and need flexibility in their work and cannot afford to see their choices undermined by the consequences of misapplied and misused laws.

Avoid Meddling with the Free Market Laws of Supply and Demand Through Wage Setting in the Form of "Pay Equity" or "Comparable Worth".

The Problem: In contemporary discussions of women's advancement in the American workplace, one phrase looms large: the "wage gap." Feminist organizations cite the existence of a wage gap as "proof" that women are the victims of discrimination; politicians decry its existence and call for tougher enforcement of anti-discrimination laws; the media highlights the gap as an example of women's continued workplace struggle.

But what is this oft-cited gap? Technically, the gender wage gap is the difference between the average annual pay of full-time working men and the average annual pay of full-time working women. In 1999, women supposedly earned 73 cents for every dollar earned by a man. Many special interest groups would like you to believe that this statistic, but a closer look at the facts about the wage gap tells a very different story.

The Solution: Congress must avoid interfering with the free market laws of supply and demand by utilizing "pay equity" or "comparable worth".

The Evidence: The wage gap one hears about in the media is the average wage gap—a misleading indicator of women's earnings and status in the workplace. It fails to take into account important factors such as age, education, number of hours worked, full- or part-time status, experience, number of children, and consecutive years in the workforce. With those factors included, the wage gap shrinks.

In fact, no respectable economist would claim that the average wage gap proves discrimination. Economists who study the wage gap always examine *adjusted* wage gaps—in other words, they compare apples to apples (men and women with equivalent levels of education, experience, and job responsibilities). Economists who compare adjusted wage gaps report much smaller differences between men's and women's earnings, with women earning anywhere from 88 to 99 percent of what men earn.

In a perfect world, of course, gender wage discrimination would never occur. In the real world, however, it sometimes does. To protect women's right to pursue fair wages, Congress passed an Equal Pay Act in 1963, which, along with provisions of Title VII of the Civil Rights Act of 1964, guarantee that women and men will receive equal pay for equal work.

The Wrong Answer: Such protections have not satisfied many special interest groups. Organizations such as the National Committee for Pay Equity and the National Organization for Women have joined with unions such as the AFL-CIO to promote so-called pay equity as a solution to the wage gap.

What is pay equity? It is not, as its name implies, an outgrowth of the principles of equal opportunity outlined in the Equal Pay Act. Instead, it is an attempt to enact government wage setting—which used to be called comparable worth and was thoroughly discredited in the 1980s—in order to eliminate average wage gaps.

Pay equity advocates are not arguing for equal pay for equal work—after all, that is already the law of the land. Rather, they propose that the government set wages for different categories of jobs since they believe it is unfair that market wages in some female-dominated job categories are lower than in male-dominated occupations. They would replace the free market laws of supply and demand with an "objective," bureaucratic system of wage setting. But who is qualified to measure the intrinsic worth of particular jobs? Is a secretary more important than a janitor? Is a hairdresser more valuable than a salesman? Until now, we have trusted the market, however imperfect, to determine the answer. Pay equity advocates want the government to decide.

Why Women Should Care: With benign names such as the "Paycheck Fairness Act" and the "Fair Pay Act," these pay equity proposals might appear harmless. In fact, pay equity ends up harming women workers in the long run. By artificially inflating women's wages above market rates, wage guidelines discourage employers from hiring women in the first place.

ECONOMIC EMPOWERMENT

Nancy Mitchell Pfotenhauer

IWF President and Senior Economist

Nancy M. Pfotenhauer began her career in Washington, D.C. in 1987 as a Senior Economist at the Republican National Committee. Promoted to Chief Economist in 1988, Pfotenhauer led the program analysis and economic policy communications efforts within the RNC through that presidential election cycle. Selected by the Bush transition team, at age 24, Pfotenhauer served as the economist for the independent agencies task force for President-elect George Bush, overseeing the policy, budget, and personnel recommendations for both the Federal Trade Commission and the Interstate Commerce Commission.

In 1990, after serving as Economic Counsel for Senator William L. Armstrong (R, CO), Pfotenhauer re-joined the Bush Administration as Chief Economist of the President's Council on Competitiveness. In this post, Pfotenhauer handled a portfolio of issues for this cabinet-level regulatory review body chaired by Vice President Quayle. The job involved daily interaction with the highest level career and political personnel at OMB, EPA, DOE, DOT, USDA, Interior and Treasury.

Pfotenhauer left the White House in 1992 and launched a two-track career: one as Executive Vice President at Citizens for a Sound Economy (CSE) and another as a daily morning talk show host. At CSE, Pfotenhauer oversaw 40 employees and handled multi-million dollar public policy campaigns focused on affecting Congressional and Executive branch actions. On NET, CNN, ABC, and NBC, Pfotenhauer made the case for free market policy solutions to problems facing the nation. In 1994, *National Journal* put Pfotenhauer on the cover of their magazine, calling her one of the "Best and the Rightest" 30-somethings in D.C. Her television work was covered by *Newsweek*, *George* magazine, the *Wall Street Journal*, and the *Washington Post*, among other publications.

Most recently, Nancy M. Pfotenhauer served as Director of the Washington Office for Koch Industries, the second-largest privately held company in the country. Koch Industries is a diversified energy company with operations in 44 states and estimated revenues in excess of $38 billion annually.

Ms. Pfotenhauer holds a B.A. in Economics from the University of Georgia and an M.A. in Economics from George Mason University.

Introduction:

America's market-based economy provides tremendous opportunity, and women have reaped the benefits. Women have virtual parity in top-flight educational institutions. Their wages have jumped dramatically, eliminating any statistical wage difference for men and women with equal education and work experience. There are now more than six million women-owned businesses employing more than nine million people – a larger workforce than the Fortune 500! Women have much to gain if legislators reduce the burden of government. While they have made tremendous strides, there are still many women – often women of color – trapped in jobs that do not pay well. If we want these women to improve their standard of living, we need to enact reforms that will ensure that these jobs are simply the first step on the economic ladder.

The Independent Women's Forum has identified five major economic policy reforms. If implemented, these policies would substantially boost opportunity and give all women a brighter future.

1. Immediate tax relief and economic stimulus.

The U.S. economy has stumbled, falling into recession last March. While the downturn is not severe, hundreds of thousands of workers have lost their jobs and many others are facing increased economic insecurity. Many women have been adversely affected, particularly marginal workers with low skills and new entrants to the workforce. It is imperative that Congress increase incentives to work, save, and invest by enacting lower tax rates.

2. Permanent repeal of the death tax.

President Bush asked Congress to repeal the death tax last year. Legislators complied, but only for people who die in 2010. This bizarre solution was the result of arcane, inside-the-beltway budget rules. This travesty must be addressed, and the only way to rectify the error is permanent elimination of this unfair form of double-taxation. Full repeal will benefit women, particularly since first-generation businesses are especially vulnerable to this punitive levy.

3. Expansion of IRAs.

Saving is the best way to close the gap between rich and poor. The ability to set aside income for the future – and to earn a decent return on investment – is a sure-fire way to create economic security and boost long-term living standards. Unfortunately, the internal revenue code often subjects income that is saved and invested to multiple layers of taxation. Individual retirement accounts are tax-neutral vehicles that allow taxpayers to avoid a second layer of tax on saving, but these accounts are restricted. Expanding IRAs and creating similar accounts for education, health care, and stay-at-home spouses will boost national savings. And since wealth accumulation is one area where women still lag behind men (because of historical patterns of workforce participation), this reform will be a boon for women workers.

4. International tax competition and fundamental tax reform.

America's tax burden may be too high, but the U.S. is a tax haven compared to European welfare states. This comparative advantage helps attract jobs and capital to the U.S. economy. As a result, per capita income in America is about 50 percent higher than European levels and our unemployment rates are almost 50 percent lower. Unfortunately, high-tax nations want to undermine America's competitive advantage, and they are working through international bureaucracies like the Organization for Economic Cooperation and Development (OECD) and the European Union (EU) in an effort to implicitly harmonize tax systems so they can tax capital that has fled to America. U.S. lawmakers should reject this proposed tax cartel and instead reform our tax system. All major tax reform plans, such as the flat tax, eliminate "worldwide" taxation and only apply to income earned inside our borders. This "territorial" approach is good tax policy, and it also would eliminate any argument to participate in any tax harmonization schemes.

5. Social Security reform.

America's Social Security system faces a long-term crisis. Promised benefits over the next 75 years exceed projected revenues by more than $20 trillion (and that is after adjusting for inflation). This inability to fully finance future benefits is a huge threat to women because they live longer than men. Moreover, Social Security's benefit formulas discriminate against women who work outside the home and women from certain demographic groups – like African Americans – with below-average life expectancy. The only way of fixing these problems and providing real protection is with private accounts which allow women to build their own nest egg.

Economic Stimulus

The Problem: Beginning in the summer of 2000, the economy began to stumble. By March 2001, a recession began. This may not be a deep recession, but it is still a serious problem for the hundreds of thousands of workers who have lost their jobs. A weak economy also has an adverse impact on government finances. Simply stated, people without jobs and companies without profits do not pay taxes. These problems are only reversed by economic growth.

The Solution: To help jump-start the economy, lawmakers should reduce impediments to productive behavior. Lower tax rates on work, savings, investment, risk-taking, and entrepreneurship will help boost the economy's performance. One easy way of achieving this goal would be to immediately implement the marginal income tax rate reductions that currently are not scheduled to take effect until 2004 and 2006. These tax rate reductions were part of President Bush's tax cut package last year, but misguided budget rules led Congress to delay their implementation for several years. But since the tax cuts are delayed for several years, this also means that the economic benefits will be delayed for several years. There are other tax cuts that lawmakers could choose to provide an immediate boost to the economy, including capital gains tax relief, lower depreciation taxes on business investment, and repeal of the complicated personal and business alternative minimum tax rules. The common thread in all these tax cuts is that they are "supply-side" reductions in tax rates on work, saving, and investment.

The Wrong Answer: Not all tax cuts are created equal. Tax rebates, for instance, have no measurable impact on economic growth because there is no change in the after-tax "price" of working, saving, or investing. In other words, marginal tax rates stay the same, so taxpayers have no incentive to engage in additional productive behavior. Some believe that rebates will increase economic growth by injecting money into the economy and thereby increasing consumer spending. This "Keynesian" analysis is deeply flawed, though, since it fails to recognize that any surplus revenues used for rebates (as well as tax credits and other forms of lump-sum tax relief) is money that otherwise would have been used for debt relief. There is no increase in economy-wide spending power. This argument also explains why government spending does not help an economy grow. Any money that politicians spend to "boost" one sector of the economy comes at the expense of other sectors of the economy that would have prospered had the money been left in private hands.

The Evidence: Marginal tax rate reductions have a strong track record. Lower tax rates in the 1960s and 1980s helped trigger economic expansions. The capital gains tax cut in 1997 helped usher in several years of strong growth. Around the world, low-tax rate economies like Ireland, Hong Kong, and Switzerland are global success stories. The nations may be different, but the recipe is the same: Low marginal tax rates so that people are not punished for taking risks and creating wealth. Keynesian economics, by contrast, has a miserable track record. Perhaps the best evidence comes from Japan. Nearly 10 years of higher spending has failed to pull the economy out of a lengthy economic downturn. Turning to the U.S. experience, tax rebates in the 1970s failed to trigger growth, and the rebates approved last year also failed to jump-start the economy.

Why Women Should Care: All Americans benefit when the economy expands and people can get good jobs paying good wages, but marginal workers reap the largest benefits. They are, after all, the ones most likely to be "last-hired, first-fired."

Permanent Repeal of the Death Tax

The Problem: The federal death tax (sometimes known as the estate tax) imposes a punitive tax of more than 50 percent on the accumulated savings of people upon death. The death tax is one of the most inefficient levies imposed by government. It punishes people for being frugal. It deprives the economy of capital by reducing incentives to save and invest. It encourages an enormous amount of inefficient tax shelters. Indeed, the tax probably loses money for the federal government because families spend so much time and energy on tax minimization strategies. Above all else, though, death tax repeal is a moral issue. People should not be punished because they want to help their children live better lives. Yet, as one expert notes, the death tax "rewards a 'die-broke' ethic, whereby the wealthy spend down their wealth on lavish consumption, and discourages economically and social beneficial intergenerational saving."

The Solution: There is good news and bad news. The good news is that Congress recognized that the death tax is inconsistent with the American dream and they repealed this unfair levy. The bad news is that they only repealed the tax for people who die in 2010. In 2011, the death tax rises from the grave to once again undermine work, thrift, and family. The obvious solution is to permanently repeal the tax. Indeed, lawmakers should not only repeal the tax for all years following 2010, they should allow repeal to take effect in 2002. No American should be taxed just because they die.

The Wrong Answer: Some argue that lawmakers should allow the death tax to be reinstated. Some say that the tax should be kept so that politicians can spend more money and others argue that it is important to punish rich people. Both of these arguments are misguided. As previously stated, the death tax probably loses money for the federal government. Widespread tax planning (as families seek to avoid and/or evade the tax) results in very little revenue collection from the tax and significantly reduces the amount of regular income tax these families pay before death. The class-warfare argument is similarly specious. Wealthy families can hire accountants and lawyers to protect themselves from the tax. It is the entrepreneurs, farmers, and small business owners who bear the brunt of the tax.

The Evidence: A 1996 Heritage Foundation analysis found that if the estate tax had been repealed at that time, thereby freeing business owners to make rational decisions about investing in and growing their businesses, the economy would have benefited substantially. The study projected (over the ensuing nine years) an additional $11 billion per year in output, an average of 145,000 new jobs per year, and an extra $8 billion per year in personal income. Tax revenues resulting from that growth would be far in excess of the revenues lost from ending the death tax. It also is worth noting that several states and many nations have repealed their death taxes, including Australia, New Zealand, and Israel. Lawmakers in these countries recognized that punishing savings was bad economic policy and undermined their ability to be competitive in a global economy.

Why Women Should Care: Women have a special interest in how the death tax affects their families. In part that's because women are the fastest growing group of business owners and employers. Whether you own a business yourself or work for a woman-owned business – as millions of Americans do – the death tax can affect your livelihood.

IRA Expansion

The Problem: Income that is saved and invested should not be taxed twice, yet that frequently happens under the internal revenue code. Under current law, a taxpayer must pay tax on the income that they earn. But if they then save any of their after-tax income, the government imposes a second layer of tax on any interest generated by that saving. This creates a bias against saving and investment since there is no tax penalty if taxpayers consume their after-tax income. This anti-savings bias is economically foolish since every economic theory agrees that capital formation – saving and investment – is the key to long-running economic growth.

The Solution: Individual retirement accounts are a way of protecting income from double-taxation. There are two types of IRAs. Front-ended (or traditional) IRAs give people a deduction for income that is saved, and the taxpayer then pays a single layer of tax on all withdrawals (including any earnings). The back-ended (or Roth) IRA takes the opposite approach. Taxpayers are subject to a single layer of tax when income is first earned, but there is no second layer of tax on the returns to saving. Both IRAs end double taxation, and they should be substantially expanded. An unlimited back-ended IRA would be particularly desirable since it would reduce paperwork and promote privacy. This will substantially boost incentives to save and invest and eliminate the need for taxpayers to tell the government about the level and composition of their financial assets.

The Wrong Answer: IRA opponents generally believe that government should take the place of individual savings. As such, they advocate expanded government programs and subsidies for health care, education, home purchases, and other big-ticket items. This approach has severe adverse consequences. Without saving, there can be no investment. Saving is the seed-corn for the economy. It provides the funds for businesses to expand and the liquidity families need. Government policies that undermine savings and frugality can cripple the economy's long-term performance.

The Evidence: Capital formation is very sensitive to changes in tax policy. Simply stated, people are more willing to save when the tax burden is reduced. When IRAs were dramatically expanded in the 1980s, money poured into these accounts. And while some of that money surely would have been saved anyhow, a considerable portion of these new IRAs represented additional saving. Equally important, IRA expansion is a good way of ensuring that savings do not gravitate to other countries that have a more rational tax system.

Why Women Should Care: Building a nest egg is a step toward financial independence. It provides economic security and provides a store of wealth to finance important purchases or meet economic emergencies. In order to ensure that all women are able to benefit from IRA expansion, lawmakers should stipulate that a family can make contributions on behalf of a non-working spouse.

Tax Competition and Tax Reform

The Problem: Many politicians from high-tax nations resent low-tax countries for luring away savings, investment, and entrepreneurship. In an effort to eliminate the pressure of having to compete, they want international bureaucracies like the Organization for Economic Cooperation and Development (OECD) and the European Union (EU) to undermine the process of tax competition. Instead of competition, they want tax harmonization – either explicitly or by global sharing of tax data so taxpayers are unable to shift their economic activity to a lower tax environment. In effect, the OECD and EU are akin to a group of high-price gas stations seeking to create a cartel to prevent new, more efficient gas stations from opening. The OECD/EU tax harmonization agenda is a threat to tax reform. Proposals like the flat tax are based on principles such as taxing income only one time and taxing only income earned inside national borders. High-tax European nations, by contrast, are seeking to tax income earned outside their borders, largely so that they can double-tax income that is saved and invested.

The Solution: U.S. lawmakers should unambiguously reject tax harmonization schemes. Proposals such as "information exchange" are a threat to America's interests since they would allow foreign governments to tax income earned in the United States. Needless to say, this would reduce the flow of jobs and capital to the U.S. economy. More generally, tax competition promotes responsible tax policies. Lower tax rates reduce the burden of government on businesses and create an environment more conducive to entrepreneurship and economic growth. Without competition, politicians can act like monopolists, free to impose excessive tax rates without fear of consequences. Instead, legislators should seek to replace the internal revenue code with a simple and fair system like the flat tax. A flat tax – or any other single-rate, consumption-base tax – taxes economic activity just one time and at one rate. And since it only taxes income earned inside U.S. borders, this undercuts the OECD/EU tax harmonization agenda and dramatically improves America's competitive advantage in the global economy.

The Wrong Answer: Without the pressure of competition, politicians will be likely to impose higher tax rates and heavier tax burdens. This will result in slower growth and less capital formation, leading to less productivity growth and lower wages. Tax harmonization proposals also violate national sovereignty since international bureaucracies are asserting the right to dictate tax system. These initiatives also would cripple financial privacy since governments would be expected to collect and share private financial information.

The Evidence: Almost every industrial economy in the world was forced to lower tax rates after Ronald Reagan and Margaret Thatcher implemented sweeping tax rate reductions in the 1980s. This did not occur because policymakers in other nations suddenly realized that low tax rates promote growth. Instead, foreign politicians realized that investors and entrepreneurs were shifting their activity to the U.S. economy and they had no choice but to lower their personal and corporate tax rates in order to remain economically attractive. Tax competition is a liberalizing force in the world economy. Assuming the OECD and EU are unable to create a tax cartel, fiscal competition will force lawmakers to enact responsible fiscal policy. Indeed, fundamental tax reform likely will be impossible in the absence of tax competition.

Why Women Should Care: All taxpayers benefit from tax competition. When politicians are compelled to lower tax rates and reform tax systems, this creates more opportunity. Because of historical work patterns, women disproportionately benefit from this prosperity. Fundamental tax reform also will help women since it removes special preferences and loopholes that make it harder for entrepreneurs to challenge entrenched corporate interests.

Social Security Reform

The Problem: The Social Security system is suffering from two crises. The first is the program's long-term fiscal deficit. Promised benefits exceed projected tax revenues by a staggering $20 trillion-plus. This red ink will begin in 2016 and rapidly reach astronomical proportions when the baby boom generation is fully retired. But there is a second Social Security crisis. This second crisis is the meager amount of benefits that the system provides retirees compared to the amount of Social Security taxes that people pay. A young worker today, for instance, likely will earn a "return" on her payroll taxes of less than 1 percent. This is a scandal compared to the nest egg that could be accumulated if the same amount of money was privately invested.

The Solution: Younger workers must be allowed to shift a portion of their payroll tax burden to a personal retirement account. This money then would be professionally invested over a working lifetime and could not be withdrawn until retirement. Current retirees and workers who are too old to benefit from the new system should receive all the benefits currently promised. This type of reform will solve both Social Security crises. The long-term deficit will disappear since younger workers will self-finance the lion's share of their retirement. And since private investment over a long period of time is a safe way to earn a good return, workers will enjoy more retirement income. During the transition to a new system, revenues from the general budget will be needed to ensure benefit payments to current retirees, but this revenue transfer (or "transition cost") will be much smaller than the $20 trillion-plus general budget transfer that will be needed to prop up the current system.

The Wrong Answer: Defenders of the status quo argue that Social Security can be fixed with a combination of tax increases, benefit cuts, and adjustments to the retirement age. In theory, this is probably true. In reality, however, it would be a grave injustice to force workers to pay more and get less. As discussed above, Social Security already is a bad deal for younger workers. Forcing these workers to pay more taxes and spend more years in the workforce, while also cutting their benefits, is simply not fair. This type of reform also will hinder economic growth since higher payroll taxes will discourage job creation. Personal retirement accounts, by contrast, will replace a tax with mandatory savings, and the combination of lower taxes and higher savings will enhance economic growth.

The Evidence: Nearly two dozen countries around the world have shifted to personal retirement accounts and the results have been very encouraging. Australia, Sweden, Great Britain, Chile, Hungary, Mexico, Switzerland, and Hong Kong are just a few of the nations that have boosted their economies and created more retirement security by replacing antiquated pay-as-you-go government schemes with private savings. Interestingly, Social Security reform is a nonpartisan issue outside of America. The Social Democrats in Sweden are overseeing privatization, while the Labor Party was responsible for private accounts in Australia. Unlike some leftists in America, policy makers in these countries decided that improving retirement income for workers was more important than preserving big government.

Why Women Should Care: Women live longer than men, and because they tend to marry men who are older than they are, women outlive their spouses by a considerable margin. This means it is particularly important for women to have a stable retirement system. Social Security, with its gigantic long-term deficit, is too risky for women – particularly since the program's benefit formulae discriminate against married women who work and women of color.

LEGAL ISSUES

Jennifer C. Braceras

Senior Fellow for Legal Policy

Jennifer C. Braceras is a John M. Olin Fellow in Law at Harvard Law School. From 1996-2000 Ms. Braceras practiced law at the Boston law firm of Ropes & Gray, where she counseled a variety of institutions on employment-related issues. Prior to joining Ropes & Gray, Ms. Braceras served as a law clerk to the Honorable Ralph K. Winter of the United States Court of Appeals for the Second Circuit ('95-'96), and to the Honorable William G. Young of the United States District Court for the District of Massachusetts ('94-'95).

During the presidential campaign of 2000, Ms. Braceras published a weekly column in *The Boston Globe.* Ms. Braceras has also published articles in the *Legal Times of Washington, The Wall Street Journal, The Washington Times, The Weekly Standard* , and *The Women's Quarterly.* She has appeared as an expert on politics and legal issues on a variety of broadcasts, including CNN Morning News, ABC World News Tonight with Peter Jennings, and Fox Special Report with Tony Snow.

In December, 2001, President George W. Bush appointed Ms. Braceras to a six-year term on the U.S. Commission on Civil Rights.

Ms. Braceras is a 1994 cum laude graduate of Harvard Law School. She received her B.A., Phi Beta Kappa and magna cum laude, from the University of Massachusetts at Amherst in 1989. Prior to attending law school, Ms. Braceras served as a staff assistant to William Kristol, then Chief of Staff to Vice President Dan Quayle.

Ms. Braceras is a member of the Massachusetts Bar Association (MBA) and the Hispanic National Bar Association (HNBA). She is a member of the Civil Rights Practice Group of the Federalist Society for Law & Public Policy Studies and serves on the National Advisory Board of the Independent Women's Forum.

She lives in Concord, Massachusetts with her husband and two children.

Introduction:

The Independent Women's Forum is committed to the equality of individuals before the law and supports the vigorous enforcement of our nation's anti-discrimination laws. While similarly-situated men and women must be treated equally under the law, we recognize that in a nation where individuals have the freedom to make different personal choices, equal opportunity does not guarantee equal results. Unfortunately, however, many on the political Left have manipulated the legal system to define women as "victims" and to demand equal outcomes. The IWF opposes efforts to legislate or otherwise require proportional demographic outcomes, particularly in the arena of employment law, sexual harassment, and college sports. We believe that equal opportunity under the law -- rather than demographically balanced results mandated by legislative or judicial fiat -- will provide the widest range of opportunities for American women.

In order to protect the principle of equal opportunity enshrined in the American Constitution and in our modern civil rights laws, the IWF supports the nomination and confirmation of judges who understand that the role of a judge is to interpret the law, not make law. And in order to ensure that women – and, indeed, all Americans – have access to justice, the IWF supports legal reforms that will help our system of justice to function more effectively and efficiently.

In accordance with these principles, the IWF has identified six major legal reforms which, if implemented, would improve the quality of justice for all Americans.

1. Reform sexual harassment law.

The ability of women to function in the workplace unimpeded by harassment or other discrimination on the basis of sex is critical to insuring women's full and equal participation in our society. To this end, legal protections from workplace harassment constitute important gains for women. Unfortunately, however, such laws are often misused as weapons to completely sanitize workplace interactions and have resulted in the stereotyping of men as sexual predators and women as helpless victims.

In order to address this problem, the IWF seeks legal reforms that will protect women from workplace abuse or other disparate treatment (whether sexual in nature or not), while eliminating from the scope of coverage behavior which is not intentionally abusive or which does not cause the victim tangible job detriment.

2. Reform no-fault divorce laws.

All fifty states currently have no-fault divorce laws on the books. Under no-fault laws, a marriage can be dissolved unilaterally by one spouse without consent of the other. In some states, no-fault laws provide for the allocation of resources after a marriage has ended in a manner unrelated to the question of who caused the marriage to fail.

Experts agree that divorce often has a devastating financial impact on women and children. In order to lessen the economic impact of abandonment by a spouse, and to ensure that those who bear the responsibility for the breakup of the marriage fully compensate the injured party, the IWF supports legal reforms which will increase the role that the concept of fault plays in dissolution proceedings and in the allocation of financial resources following marriage.

3. Pass legislation forbidding sex discrimination by the federal government and the private sector.

Discrimination on the basis of sex is not only unlawful, it is immoral. Unfortunately, however, our federal government today actively discriminates in the awarding of government contracts, jobs, benefits, and other resources in an attempt to achieve gender parity in federal programming. Many universities, private employers, and other recipients of federal funds likewise use discriminatory gender preferences in an attempt to manufacture demographic balance. Although the United States Constitution and the Civil Rights Act of 1964 prohibit discrimination on the basis of sex, proponents of gender quotas continue to argue that so-called "benign discrimination" is not covered by our federal civil rights laws.

In order to remove any remaining ambiguity from federal law, Congress must pass legislation forbidding federal agencies from requiring or encouraging gender preferences in connection with federal contracts and in the administration of federal programs. Moreover, Congress must amend the Civil Rights Act of 1964 to prevent employers, colleges, universities, and recipients of federal funds from discriminating on the basis of sex by utilizing gender quotas or sex-based preferences.

4. Reform Title IX.

Title IX—the 1972 statute which prohibits sex discrimination by federally-funded educational institutions — has been credited with opening the door to intercollegiate sports for many young female athletes. In recent years, however, strained interpretations of the statute by the federal courts and by the Department of Education have transformed Title IX from a simple anti-discrimination law to a rigid quota law. Under such interpretations, schools that are unable to replicate in their athletic departments the proportion of females in the student-body at large are presumed to have discriminated against female athletes. Because, however, fewer women than men are interested in playing competitive college sports, many colleges have been able to achieve gender balance -- and thus avoid the presumption of discrimination -- only by cutting men's sports teams.

The IWF rejects the use of gender quotas in education -- both on and off the playing field -- and urges Congress to amend Title IX to prohibit explicitly schools from using quotas or eliminating opportunities for one sex in order to achieve gender balance in their athletic, academic, or extra-curricular programs.

5. Initiate civil justice reform.

In recent years, special interest groups and plaintiffs' lawyers have sought to use our civil litigation system to achieve in court what they cannot achieve at the ballot box. By using product liability law to regulate industry through the backdoor, and by encouraging activist judges to create an ever expanding menu of special rights, the interest groups have abused our justice system at the expense of all Americans. The IWF supports legal reforms which will stop lawsuit abuse, curb the power of the imperial judiciary, and protect the health and safety of all Americans without hindering scientific progress.

6. Eliminate the crisis in the "Third Branch" of government by filling vacancies on the federal bench with qualified men and women who respect the rule of law.

A fully-staffed, balanced, and independent judiciary is necessary for the protection of our safety, freedom, and civil rights. To this end, the IWF supports the nomination to the federal bench of qualified men and women with a demonstrated commitment to the U.S. Constitution and the rule of law. In addition, because we believe that a judge's personal political views should play no role in determining the outcome of cases and controversies presented in court, the IWF rejects the use of political litmus tests in the selection of federal judges or in the confirmation process.

Reforming Sexual Harassment Law

The Problem: More than fifteen years after the Supreme Court recognized "sexual harassment" as a form of sex discrimination, lower courts continue to wrestle with the legal definition of the term and the contours of employer liability for such conduct. Today, most laypersons -- and, indeed, many courts of law -- view sex harassment through the lens of *sexuality* (that is, male-to-female sexual advances). This approach is both over- and under-inclusive. It is *under-inclusive* in that it excludes harassment which is non-sexual, but which is nevertheless *based on the victim's gender*. For example, acts of humiliation, work sabotage, physical violence, and bullying are often based on the target's sex. Yet federal statutes, and many state statutes, are silent with respect to such behaviors. The question of whether such conduct is actionable, therefore, often depends on which jurisdiction the case arises out of and which judge the case is before.

At the same time, the judge-made "sexuality" approach to sex harassment is *over-inclusive* in that it often sweeps within its reach trivial banter and minor manifestations of male sexual interest, and encourages employers to construe the law to prohibit forms of sexual expression -- and even romance -- that are not, in fact, abusive. Moreover, some courts have found employers liable for sex discrimination on the basis of sexually-charged banter aimed at both women and men. This, of course, undermines the very premise of discrimination law: that *differential treatment* of people on the basis of sex (or race, etc.) is unfair and unacceptable.

The Solution: The focus of harassment law should not be on sexuality, but rather on sex-based harassment -- in other words, disparate treatment. Accordingly, federal and state laws against sex discrimination and/or sex harassment should be amended to explicitly provide that workplace abuse which is targeted at members of a particular sex -- whether sexual or otherwise -- is unlawful and can give rise to employer liability. At the same time, federal and state laws should be reformed so that liability will not flow from an employer's failure to prevent benign sexual comments, jokes, or flirtations which are not aimed solely at members of one sex and which are not undertaken in order to keep one sex subordinate in the workplace.

The Wrong Answer: Some supporters of current sexual harassment jurisprudence argue that male sexuality is indeed the problem – that male sexual advances are an inherently discriminatory means of subordinating women. These thought-police define sexual harassment so broadly as to include all forms of offensive language or conduct, irrespective of whether women are in fact abused or treated differently than male colleagues on the basis of sex. Expansive definitions of the term "sexual harassment" threaten to envelop all male-female workplace interactions, thus leading some analysts to grossly over-estimate the incidence of discriminatory sex harassment, and trivializing real cases of unfair treatment on the basis of sex. Put simply: It is wrong to classify all workplace flirtations and unwanted compliments or requests for dates as "harassment" while simultaneously ignoring the mistreatment of working women by their male colleagues when that mistreatment is not sexual in nature.

Why Women Should Care: Women want to work in environments free from discrimination – not those which are unnecessarily restrictive. The ability of women to function in the workplace unimpeded by harassment or other discrimination on the basis of sex is critical to ensuring women's full and equal participation in our society. Unfortunately, however, current laws do not necessarily protect women from all forms of sex-based abuse in the workplace. At the same time, current sexual harassment laws often unduly sanitize workplace interactions and infringe upon our cherished right to free speech.

Reforming No Fault Divorce Law

The Problem: Until the late 1960s, most state divorce laws were fault-based systems under which a divorce could be granted only to an "innocent" party. In order to receive a divorce, the spouse who wanted to terminate the marriage had to prove that the other party was responsible for the marriage's breakdown. A party at fault would not be able to receive a divorce unless he or she negotiated with the other spouse and persuaded the innocent party to grant it. Under this system, an aggrieved spouse could make the responsible party compensate for his or her loss. The grounds for assigning blame included adultery, physical or mental cruelty, insanity, neglect, habitual drunkenness, and desertion. Under the fault-based system, a woman could be assured of receiving a just financial settlement as long as she was the injured party.

In 1969, California became the first state to eliminate all fault grounds and permit either spouse to obtain a divorce simply by citing "irreconcilable differences." During the 1970s other states followed suit, adopting the California model of "no-fault divorce." Today, all fifty states provide for "no-fault" divorce.

Unfortunately, the shift from fault-based systems to no-fault systems has resulted in a steep rise in the divorce rate and has had significant negative economic consequences for many women and children.

The Solution: In order to restore fairness to our nation's divorce laws, the IWF supports reforms that would increase the role of fault in dissolution proceedings and particularly in the allocation of financial resources following the marriage.

The Wrong Answer: Proponents of the status-quo argue that no-fault systems allow people trapped in bad marriages to end them easily and quickly and that such regimes reduce the rate of perjury in divorce proceedings. While these are noble goals, the reality is that the transformation from fault-based divorce to a system involving no-fault has caused the divorce rate to skyrocket. By reducing the financial cost of divorce, reducing the amount of time it takes to get a divorce, and eliminating legal barriers to divorce, the no-fault system has made individuals both more likely to engage in marriage-destroying conduct and more likely to opt for divorce. By making it easy for people to opt out of their marriages at any time with few or no consequences, no-fault divorce has reduced marriage to a contract that is unenforceable.

Why Women Should Care: Indeed, under the pure no-fault approach, a marriage is given less legal weight than a business partnership agreement, which would allow aggrieved partners to seek monetary compensation for breach of contract. No-fault laws disadvantage many women by shifting power to the bread-winning spouse who wants out of the marriage and taking power away from economically dependent spouse who wants the marriage to continue. Not surprisingly, the failure to consider fault and moral blame in divorce law has far reaching economic consequences and has led to an increase in poverty among women and children, both in absolute as well as relative terms. By restoring a role for fault in dissolution proceedings and in the allocation of financial resources, we may be able to reduce the divorce rate and its negative economic impact on women and children.

Passing Legislation Forbidding Sex Discrimination By the Federal Government and the Private Sector

The Problem: No one should be denied a job, contract, or chance to obtain an education on the basis of sex. Yet the federal government today actively discriminates in the awarding of government contracts, jobs, benefits, and other resources in an attempt to achieve gender parity in federal programming. At the same time, private businesses, public schools, colleges and universities often face pressure to discriminate in order to achieve gender balance in the workforce or other programs.

The Solution: The harmful effect of such policies requires that they be discontinued with all deliberate speed. The IWF, therefore, calls on Congress to pass legislation forbidding explicitly federal agencies from requiring or encouraging preferences based on sex in connection with federal contracts and in the administration of federal programs. The IWF further calls on Congress to amend the Civil Rights Act of 1964 to prevent employers, universities, and other recipients of federal funds from using gender quotas or sex-based preferences.

The Wrong Answer: Many on the political left argue that gender preferences are permissible under federal anti-discrimination statutes and that such preferences are necessary in order to ensure the full participation of women in American life. Such arguments are simply false.

Rights belong to individuals -- not groups. The focus on group-based outcomes contradicts the standard of merit and undermines the principle of equal opportunity upon which our civil rights laws are based. Legal protections against discrimination apply to *all* people. The use of gender quotas or sex-based preferences to benefit women over similarly-situated men discriminates against men and undermines our nation's commitment to the principle of equal opportunity.

Gender quotas are *unnecessary*. Over the past thirty years, women have made tremendous gains in all segments of the workforce, not through preferences but through high levels of educational attainment. Thus in 1960 American women earned only 19 percent of all bachelor's degrees, in 1995 the percentage of B.A.s awarded to women had risen to 55 percent. During the same period, women increased their share of M.B.A.s, M.D.s and J.D.s by more than 500 percent. Today, women make up 56 percent of undergraduate students and earn the majority of master's degrees (trends which are expected to continue).

In response to such data, proponents of gender quotas point to the relative dearth of women at the top of the corporate ladder as evidence that gender preferences are necessary in order to "break the glass ceiling." But such statistics are misleading. Because women born in the 1940s and 50s were less likely than men of their generation to obtain college and professional degrees, the pool of qualified candidates for top corporate positions is not evenly split along gender lines. Moreover -- like many women today -- the middle-aged women who do hold the requisite educational degrees to compete for top corporate positions often have less professional experience than equally educated men due to years spent outside the paid workforce caring for children. To the extent that there exists a disparity in the levels of professional achievement between men and women of the same age, this disparity is largely a result of personal choice, not discrimination.

Why Women Should Care: Gender quotas and sex-based preferences intended to help women hurt men, and this is not good for relations between the sexes. More importantly, however, the use of preferences or quotas to advantage female candidates over male candidates men inevitably imposes costs on numerous wives, mothers, and daughters and undermines the bedrock principle of equal opportunity under law.

Reforming Title IX and Promoting Equal Opportunity in College Sports

The Problem: Title IX prohibits sex discrimination in educational programs or activities that receive federal financial assistance. With respect to participation in athletics, Title IX's implementing regulations require that the opportunities to participate at each level of competition be made available on a non-discriminatory basis, and that there be no discrimination on the basis of sex in the treatment of athletes competing at each level.

Unfortunately, case law interpreting these regulations and the Department of Education's non-binding "Policy Guidance" on the subject dictate that the participation ratio in athletic programs be based upon the number of males and females enrolled *in the educational institution at large.* Thus, under current interpretations of the law, if a college's student body is 54% female, then 54% of the school's athletes must also be female -- even if the pool of students who want to participate in competitive sports is only 30% female. As a result, colleges across the country have been eliminating systematically male sports teams in order to achieve gender parity on the playing fields.

The Solution: Congress must amend Title IX to state explicitly that the percentage of males and females in a particular athletic, educational, or other programs need not mirror the proportion of men and women in the student body or population at large and that any disparity between the percentage of members of a particular sex in a given program and the percentage of that sex in the student population or general population is not proof of discrimination. Moreover, Congress must amend Title IX to state *explicitly* that the only relevant question in determining whether a particular program is in compliance with the statute is whether men and women who have an interest in participating in that program have the opportunity to do so.

The Wrong Answer: Proponents of the current regime contend that the proportionality requirement increases opportunities for female athletes. Nothing could be further from the truth. As explained above, the current implementation of Title IX has led to the elimination of over 80,000 slots for male athletes without a corresponding increase in opportunities for women.

Why Women Should Care: The current regime is not only unfair to male athletes; it hurts female athletes as well. Rather than target their resources towards the most popular and revenue producing women's sports teams, schools are forced to throw money at women's teams with little popularity and little revenue producing ability simply to increase the overall number of women in the school's athletic program. This takes away from female athletes in popular sports, who might otherwise receive more funding, and it ultimately costs the school (and indirectly all students) revenues it might otherwise receive.

Moreover, notions of gender equity embodied in these interpretations of Title IX have implications far beyond the athletic fields. If a statute which prohibits sex discrimination in education can be interpreted to impose gender quotas on the playing field, then there is no reason why the same set of presumptions should not be applied to academic programs to "remedy", for example, the relatively small number of men in nursing programs or the English department.

Civil Justice Reform

The Problem: Since the 1960s, political liberals have sought -- with great success -- to use the courts as a vehicle for achieving social policies rejected by our democratically elected branches of government. For example, in a number of high profile cases, activist judges have ordered states and municipalities to raise taxes, assumed indefinite administrative control over local schools, and struck down citizen-initiatives barring discrimination through quotas. Such rulings constitute a usurpation of the legislative and executive functions of government and strike at the core of American democracy. In recent years, special interest groups and plaintiffs' lawyers have also sought to regulate unpopular products and industries -- from tobacco and guns to HMOs and prescription drugs -- through product liability litigation.

The Solution: Congress must reform the legal system to place restrictions on the imperial judiciary, restore power to the people, prevent frivolous lawsuits, and reverse the trend of regulation through litigation. In particular, Congress should pass legislation which would deny federal judges the power to tax (either directly or indirectly), create a presumption of compliance with federal consent decrees after a certain number of years, end the abusive use of the racketeering laws, and require that any constitutional challenge to a citizen initiative be heard in the first instance by a three judge panel.

In addition, the IWF supports revising the federal rules of civil procedure to increase penalties for frivolous law suits, limit "fishing expeditions" in pre-trial discovery, and curb the use of "junk science" in court room testimony. To encourage settlement and reduce court backlog, the IWF supports the implementation of a Fair Settlements Rule requiring that a party in federal court who rejects a timely, reasonable, and good faith pre-trial settlement offer, and who ultimately loses in court, must pay the opposing party's costs, including legal fees. The IWF also supports reforming federal law to cap non-economic and punitive damages in all civil cases. At the state level, the IWF supports reforms that would replace state laws allowing for "joint and several liability" with "proportionate liability" schemes; repeal strict liability regimes where defendants can be liable for injuries even in the absence of negligence, and cap punitive and non-economic damage awards.

The Wrong Answer: Defenders of the status quo claim that, because legislatures are prone to majoritarian impulses, it is perfectly proper to seek protections not gained through legislation from the courts. This argument vastly misstates the role of the judge in a democratic republic. In truth, while it is perfectly appropriate for judges to strike down as unconstitutional laws which conflict with express provisions of the constitution, it is not the role of the judge to create new rights out of whole cloth, dictate state economic policy, or allow frivolous lawsuits and runaway juries to drive makers of lawful products out of business.

Why Women Should Care: When our legal system is abused, it is not only corporate America that suffers. Small business owners -- many of who are women -- are also threatened by potentially crippling lawsuits. And frivolous litigation often hurts American consumers, many of whom are women and children. Moreover, the use of our judicial system to legislate social policy threatens the liberty of all Americans. When judges act to thwart the express will of the people, administer local institutions indefinitely, or legislate new taxes, democracy itself is threatened.

Filling Vacancies on the Federal Bench with Judges Who Respect the Rule of Law

The Problem: There are currently 100 vacancies in the federal judiciary, 37 of which have been designated as judicial emergencies.

During his first year in office, President George W. Bush nominated a total of 66 men and women to Article III judgeships. The President's judicial nominees are a diverse group of eminently well-qualified lawyers who share the President's commitment to the Constitution, the administration of justice, and the rule of law.

Yet, despite the record pace of nominations by the President, the Democratic leadership in the Senate is attempting to thwart the confirmation of judges with whom they disagree politically. The strategy of Senate Democrats is clear: delay hearings and floor votes on nominees for as long as possible.

There are today more than 20 nominees to the U.S. Courts of Appeal pending before the United States Senate. Some have been pending for more than 8 months -- without even a hearing before the Senate Judiciary Committee.

While the Senate drags its feet, court dockets continue to grow and the number of vacancies on the federal bench continues to rise. With the judiciary vastly understaffed, cases take longer to make their way through the judicial system, thus increasing the chance that justice will be denied or that the law will not be enforced.

The Solution: The President must continue to nominate judges who have demonstrated respect for the Constitution and the rule of law, and the Senate must act with all deliberate speed to conduct hearings and schedule floor votes on all of the President's judicial nominations.

The Wrong Answer: Democratic Senators have argued that it is appropriate to evaluate judicial nominees on the basis of ideology. At the same time, many feminist special interest groups have encouraged Democratic Senators to stall the confirmation process for nominees who are not on record as endorsing their political positions on certain "key issues." This approach is wrong-headed. Playing partisan politics with judicial nominations not only compromises the integrity of the judicial branch but has serious implications for the administration of justice in this country.

Demanding guarantees from judicial nominees that they will vote a certain way on cases that may eventually come before them violates the principle of impartiality which is the cornerstone of an independent judiciary. A nominee's personal political views should have no bearing on his or her ability to uphold the law. Judges are appointed to enforce and interpret the law, not make law, and thus any inquiry into a nominee's personal politics is inappropriate. In performing their "advice and consent" role under the United States Constitution, members of the Senate are bound to consider a nominee's qualifications, temperament, ethics, and judgment. Senators should also inquire into a nominee's respect for the democratic process and ability to follow the law, even when the law conflicts with his or her own political views. But Senators must not delay the administration of justice by refusing to schedule hearings or floor votes for nominees on the basis of political disagreements.

Why Women Should Care: Our safety, freedom, and civil rights are threatened by an under-staffed judiciary. Because justice delayed means justice denied, the rights of all Americans are in jeopardy when the courts move too slowly to enforce them.

SCIENCE AND HEALTH

Teresa Gorman

Senior Fellow for Science and Environmental Policy

Ms. Gorman has 20 years of experience working on energy and environmental issues from a regulatory, economic, and legislative perspective. As former Special Assistant to the President for Energy, Environment and Natural Resources in the Bush Administration, Ms. Gorman participated in and directed the development and review of energy and environmental policy at senior levels of government.

Prior to joining the White House, she served as a professional staff member to the House Energy and Commerce Committee for six years, where she worked on a number of energy and environmental issues. Before joining the House Committee staff, Ms. Gorman worked two years in the policy office of the Environmental Protection Agency and two years in the policy office of the Department of Energy.

Ms. Gorman is a Phi Beta Kappa graduate of Cornell University.

Introduction:

The news is filled almost daily with reports summarizing new health and environmental threats – arsenic in our drinking water, lead in our homes, genetically modified substances in our food, and cancer-causing pollution in the air we breathe. And, while public interest and concern is high, sifting through these claims and separating real problems from media hype, has become a difficult if not overwhelming task for most Americans. Many consumers tend to vacillate between fearing everything to fearing nothing. As a result, it is not surprising that many Americans feel helpless in responding to the complicated and often conflicting news and advice that is meted out each day.

IWF's science agenda is premised on the belief that women should be presented with scientifically accurate information about health and environmental risks in order to make informed decisions. This requires greater transparency and public access to the methods and information used in the assessment of risks. It also means increased procedural safeguards to assure that estimates and descriptions of risk are scientifically valid and represent the most accurate estimates of the true risks.

The Independent Women's Forum has identified six major scientific reform proposals. If implemented, these reform proposals would go a long way towards improving the overall quality of scientific information used in assessing health and environmental risks, and would thereby help women make informed decisions.

1. Public and Private Sector Research Institutions Should Adopt the Practice of Releasing Research Data for Review.

Most of the media reports detailing new dangers to society have their origins in recently published studies that may be either federally or privately funded. A fundamental safeguard in assuring the accuracy and validity of these studies is to allow the public and other researchers access to the underlying research data. This allows interested researchers to reproduce the results of the study and assure its validity – an vital step in the scientific process. It also allows researchers to assess whether the results are consistent throughout the data sets, and to determine how robust the results are when alternative models and assumptions are applied.

2. All Government Models Should be Validated and Made Available to the Public.

In the absence of complete information, government assessments of public health and environmental quality often rely on elaborate computer models to estimate likely impacts. In order to assure the most accurate estimates possible, the IWF believes that such models should only be employed in the absence of site-specific data. In addition, the IWF believes that the models themselves should be tested to assure that they are accurate in predicting or estimating an unknown. This process, known as validation, is important to assuring the quality and reliability of the model and the government's overall assessment of risk. The IWF also believes that any models developed by the federal government or under federal contract should be released to the public for review and analysis. This will allow the public the opportunity to assess the strengths and weaknesses of the models in predicting outcomes.

3. Research Studies Should be Subject to *Independent* Peer Review.

An important step in assuring the reliability of assessments of public health and environmental quality is to assure that the research studies and the models used to develop any estimates of risk, are subject to review by *independent* scientists. This process, known as peer review, allows other qualified researchers to review and comment on the quality of the data, the methodologies employed, and the potential accuracy of the results. For peer review to be fully effective, the IWF believes that the peer reviewers must be independent from the federal office that sponsored the study. This means that the selection of the peer review panels and the staffing of such panels must be set apart from the program offices that sponsored or developed the science product being reviewed.

4. Require Disclosure of All Studies Accepted and Rejected in Assessing Risk.

A similar government reform in line with those recommended above is to require risk assessors to list the studies that were used or rejected in developing its assessment of health and environmental risk. This is an essential step in understanding the validity of and rationale for any conclusions. Unless the public has full access to and knowledge of the array of studies considered, as well as the rationale for choosing among the studies in developing a final risk estimate, it will have only partial information to assess the validity of the results. The disclosure of this list will allow for a more meaningful public engagement.

5. Require Risk Assessors to Produce Scientifically Objective Estimates of Risk That Neither Minimize nor Exaggerate the Nature or Magnitude of Risk.

Because of the absence of complete information on public exposure and sensitivity, the risk assessor must often make assumptions about how chemicals disperse and affect public health or the environment. While the IWF recognizes that the use of such assumptions in developing estimates of risks is often unavoidable, it is important that these assumptions represent objective estimates of the true risk. This means that the assumptions should not tend to minimize or exaggerate potential risks. Instead, the assumptions should attempt to accurately integrate all known information to produce the most plausible or likely estimate of risk.

6. Prioritizing Risks and Placing Risks Into Context.

Accurate and unbiased estimates of risk, while important, are not sufficient in and of themselves to ensure informed decisions. The IWF recommends that agencies, when issuing a risk assessment, provide sufficient information to allow the public to place an estimate of risk into context with other known risks with which they are familiar, such as the risk posed by common activities such as driving, bicycle riding, smoking, or common accidents at home. Additionally, the risk assessor should also include information regarding how the estimate of risk compares to the public's overall risk. For instance, if the government is estimating the cancer risk posed by exposure to a specific chemical, the assessment should include information on the population's current risk of developing cancer and show the incremental increase in risk posed by exposure to the chemical in question. Only by providing this complete information can the public accurately gauge the value of the policy being considered and the appropriateness of government expenditures.

Public and Private Sector Research Institutions Should Adopt the Practice of Releasing Research Data for Review

The Problem: Most new claims of health or environmental risks are based on studies where researchers gather data on populations at risk and apply statistical tools and other models to develop estimates of risk for the population at large. In most cases, however, researchers publish the results of the study without releasing the underlying data for review. Without access to the raw data, independent researchers cannot replicate the results of the study and assure that it is free from errors. Perhaps even more importantly, failure to release the raw data increases the chances that researchers who fabricate or falsify data will go undetected.

The Solution: A fundamental safeguard in assuring the accuracy and validity of research studies is to allow the public and other researchers access to the underlying research data. This allows interested researchers to reproduce the results of the study and assure its validity. It also allows researchers to assess other aspects of the study which are important, such as whether the results are consistent throughout the data sets, and the robustness of the results when alternative models and assumptions are applied. Access to the underlying will data will strengthen our understanding of the science, accelerate its development, and improve policies and public decisions that are based on science.

The Wrong Answer: Often many researchers object to the release of the underlying research data from their study. These researchers claim that the practice of releasing data will discourage research from being conducted and that it may jeopardize patient confidentiality or confidential business information.

The Evidence: Eminent research institutions, such as the National Research Council (an arm of the National Academy of Sciences), have supported increasing public access to research data as a means of improving the overall quality of science. (See *Sharing Research Data,* (National Academy Press, Washington D.C. 1985) and *Bits of Power: Issues in Global Access to Scientific Data,* (National Academy Press, Washington D.C. 1997). Requiring public access to research data will allow other researchers the opportunity not only to replicate the results of the study, but to test new hypothesis without expending the resources to gather the original data. The need to provide the public full access is also underscored by repeated discoveries by the federal Office of Scientific Integrity of incidents of data fabrication and falsification by federally funded researchers. One of the most recent incidents of data fabrication concerned pivotal research in the field of endocrine disruptors. A full inquiry by the U.S. Public Health Service, found that the lead researcher had falsified and fabricated the data. (See the October 12, 2001 Federal Register Notice: 66 FR 52137)

Why Women Should Care: Only by providing the public with full access to the underlying research data can these fundamental issues be addressed and the public assured of the soundness of the underlying studies. For these reasons, the IWF supports policy initiatives that would increase the public's ability to access the underlying research data from federally funded and privately funded research studies through mechanisms, such as the Freedom of Information Act. Consistent with the disclosure exemptions found in the Freedom of Information Act, IWF does not support the release of medical records or other personal information, confidential business information, law enforcement data or national security information.

Government Models Should be Validated and Made Available to the Public

The Problem: In the absence of complete data, government assessments of public health and environmental quality often rely on elaborate computer models and other similar tools to estimate likely impacts. This may include estimates of the risk as well as projections of the potential costs and impacts of addressing these risks. Despite the key role these models play, in most instances, the public and those most directly impacted do not have access to the models to evaluate the key assumptions used and to weigh their the strengths and weaknesses. Furthermore, in some instances the government may not have validated the model to determine how well the model predicts a given impact. This means there is no certainty that the model is effective in estimating a potential impact or in estimating the true costs of taking action. The result can be significant misinformation that leads to bad public policy and incorrect public information on risks.

The Solution: In order to assure the most accurate estimates possible, models used in estimating risk or in developing policy initiatives should only be employed in the absence of site-specific data. In addition, it is important that the models themselves should be tested to assure that they are accurate in predicting or estimating an unknown. This process, known as validation, is important to assuring the quality of the government's overall assessment of risk and its reliability. Without requiring validation of the models, the public has no way of knowing whether the models are accurate and reliable. Too often, the government ignores this common-sense step necessary to assuring the integrity and soundness of its estimates. The IWF also believes that any models developed by the federal government or under federal contract should be released to the public for review and analysis, thereby allowing the public the opportunity to assess the strengths and weakness of the models in predicting outcomes.

The Wrong Answer: Unfortunately, government agencies too often agree to hiring contractors who refuse to release the underlying models used. The use of "secret" information feeds public mistrust in government and unfairly limits public participation in the policy development process.

The Evidence: Each year the federal government considers over 4,000 regulations. The total regulatory burden for the country is now estimated at over $600 billion. Currently, businesses and others impacted by these rules are often unable to access the models use by the government to assess their operation and limitations. Without this access, those directly impacted by a proposed policy or regulatory decision are severely limited in their ability to understand the basis of the proposed rule and engage in a meaningful debate.

Why Women Should Care: For women to make informed decisions, they must be presented with accurate information about the true nature of the risks they face. Public access to the technical models used in estimating these risks, and a requirement that such models be validated are important to assuring that any model employed is effective in estimating a given effect. Validation and public access are also necessary to assure that women can meaningfully participate in the decision making process.

Independent Peer Review

The Problem: An important step in assuring the reliability of federal assessments of public health and environmental quality is to ensure that the research studies and the models used to develop any estimates of risk are subject to review by independent scientists. This process, known as peer review, allows other qualified researchers to review and comment on the quality of the data, the methodologies employed, and the correctness of the results. Unfortunately, peer review policies are often applied unevenly in agencies, with many important studies failing to receive rigorous peer review. Equally troublesome is the frequency with which the peer reviewers are selected by those who funded or directed the study being reviewed. In other instances, the peer review report itself may be drafted by people who work for offices that funded the original studies. These potential conflicts of interest undermine the likelihood that the peer review process will result in an unbiased critique of the original study.

Solution: For peer review to be fully effective, the IWF believes that the peer reviewers must be autonomous from the federal office that sponsored the science. This means that the selection of the peer review panels and the staffing of such panels must be fully independent of the program offices that sponsored or developed the science product being reviewed. The IWF also believes that the peer review panels must operate in an open manner that allows the public full access to the product being reviewed as well as the comments of the panel. In addition, the IWF believes that peer reviewers must be selected primarily on the basis of their expertise and the relevancy of such expertise to the research being reviewed. Furthermore, peer reviewers must be willing to disclose any relevant technical or policy positions taken prior to the review and any sources of personal or institutional funding both private or public that could be considered a conflict of interest.

The Wrong Answer: Often researchers or agencies funding the research will select peer reviewers that they know are sympathetic to the results of the studies. In addition, in an effort to help facilitate the review, funding offices will compound the problem by providing their own staff to help write the peer review reports. This conflict of interest can undermine the integrity of the peer review process.

The Evidence: Several recent reports have called upon key regulatory agencies to strengthen their peer review process and to take additional steps to assure greater independence and objectivity on the part of the peer reviewers. These reports include:

- *An SAB Report: Review of the Peer Review Program of the Environmental Protection Agency*, EPA-SAB-RSAC-00-002, U.S. Environmental Protection Agency, Science Advisory Board, Washington, DC, November 1999.
- National Research Council, *Strengthening Science at the U.S. Environmental Protection Agency: Research-Management and Peer Review Practices*, National Academy Press, Washington, DC. 2000.
- USEPA (1999) *EPA's Selection of Peer Reviewers*, EPA OIG Report No. 1999-P-217, U.S. Environmental Protection Agency, Office of the Inspector General (OIG), Washington, DC, September 1999.

Why Women Should Care: The peer review process is an important step in ensuring the quality of scientific research. Ineffective or biased peer review will increase the likelihood that poor or misleading scientific information will shape public policy and public understanding of the true nature of environmental and public health risks.

Risk Assessors Should Disclose All Studies Accepted and Rejected in Assessing Risk

The Problem: In assessing public health or environmental risks, government officials and private sector risk assessors traditionally rely on existing research studies to develop their estimates. Thus, the selection of studies is pivotal to assuring an accurate estimate that is based on the best information available. Failure to recognize and incorporate the results of major scientific studies can distort the risk estimation process and produce misleading results.

The Solution: The solution to this problem is simple and straightforward. In publishing estimates of public health or environmental risks, risk assessors should be required to list all of the studies that were used in developing the estimate and all of the studies that were rejected for inclusion in the risk estimation process. This allows interested researchers and the public to determine if the risk assessors were aware of all of the major studies conducted, and to comment on the principles and rationale used by the risk assessors in deciding which studies should be used as a basis for estimating risk.

The Wrong Answer: Some risk assessors may reject this task because they believe it takes time and opens up new issues for review. As a result, reviewers are often left in the dark with regard to studies that were rejected and the reasons for their rejection. Failure to review this information can undermine the peer review process and unfairly limit public participation.

The Evidence: Final risk estimate results can vary significantly based on the selection of the studies that are used to develop the estimates. For instance, reliance only on animal testing and ignoring direct studies on human populations in estimating risks may lead to over or under estimates of risk, since humans may respond differently to exposures than animals. Similarly, over-reliance on studies that have methodological flaws or questions regarding the quality of the original data may also produce estimates of risk that are misleading. The public and the scientific community should have confidence that the risk estimates our based on the best information available.

Why Women Should Care: Requiring federal agencies to list the studies that agencies use and reject in developing their assessment of health and environmental risk is a simple good government reform that will increase the quality of science used in government. Unless the public has full access and knowledge of the array of studies considered and the rationale for choosing among the studies in developing a risk estimate, the public will have only partial information to assess the validity of the results. The disclosure of this list will allow women to make more meaningful, informed decisions regarding their health.

Require Risk Assessors to Produce Scientifically Objective Estimates of Risk That Neither Minimize nor Exaggerate the Nature or Magnitude of Risk

The Problem: Because of the absence of complete information on public exposure and sensitivity, the federal government is often forced to make assumptions that dramatically influence the overall the risk estimation process. While the use of these default assumptions in developing estimates of risks is often unavoidable, many assessors will employ default assumptions that are intentionally biased to over-estimate the true risks. This practice of relying on such conservative default assumptions has produced over-estimations of true risk by several orders of magnitude. The result is misleading information on public risks, and misallocation of limited public resources to address inflated risks.

The Solution: Default assumptions used in the risk estimation process should not minimize potential risks or exaggerate potential risks. Instead, the assumptions should attempt to accurately integrate all known information to produce an estimate of risk that represents the most plausible or likely estimate of risk. Providing the most accurate and best information possible will help assure that the public can make informed judgments that are not skewed by incomplete or biased information. A first step in achieving this end is to require federal risk assessors to identify all major assumptions used in assessing risk and to explain how the assumption affects the overall risk estimate.

The Evidence: The problem of over-reliance on conservative default assumptions has been cited in numerous scientific reports from imminent research institutions. This includes the National Research Council's authoritative 1994 report, *Science and Judgment in Risk Assessment,* National Academy Press, Washington, D.C. and the report of the President/Congressional Commission on Risk Assessment and Risk Management, *Risk Assessment and Risk Management in Regulatory Decision-Making,* issued in 1997. The issue has been addressed more recently in testimony Dr. Morton Lippmann, Professor, Department of Environmental Medicine New York University School of Medicine and Interim Chair of the U.S. Environmental Protection Agency Science Advisory Board before the Senate Committee on Environment and Public Works on October 3, 2000. In that testimony, Dr Lippmann discusses how conservative default assumptions have produced estimates that are contradicted by real world observations, and calls on regulators to develop new risk estimation procedures to remove the conservative biases.

Why Women Should Care: The development of risk estimates that either exaggerate or minimize the true likely risk leads to misinformation and can distort the allocation of limited government and private sector resources. This may allow real risks to go unaddressed while precious resources are spent to reduce questionable or negligible risks. Over time, this leads to ineffective policies that fail to adequately inform women and protect public health.

Prioritizing Risks and Placing Risks Into Context

The Problem: Often, risk assessors may produce estimates of risk without taking the time to explain the significance of the risks and what they mean to the public at large. Without adequate explanations, relatively small risks can be perceived as significant risks, while major risks may appear small. The public needs additional assistance in placing risk information into context so that they understand the information being presented and make informed judgments.

The Solution: Accurate and unbiased estimates of risk, while important, are not sufficient in and of themselves to ensure informed decisions. The IWF recommends that agencies, when issuing a risk assessment, provide sufficient information to the public to allow the public to place an estimate of risk into context with other known risks with which they are familiar. Additionally, the risk assessor should also include information on how the estimate of risk compares to the public's overall risk. For instance, if the government is estimating the cancer risk posed by exposure to a specific chemical, the assessment should include information on the population's current risk of developing cancer and show the incremental increase in risk posed by exposure to the chemical in question. Only by providing this complete information can the public accurately gauge the value of the policy being considered and the appropriateness of government expenditures.

The Evidence: Recommendations to improve risk communication skills have been included in numerous scientific reports from eminent research institutions. These include the National Research Council's authoritative 1994 report, *Science and Judgment in Risk Assessment,* National Academy Press, Washington, D.C. and the report of the President/Congressional Commission on Risk Assessment and Risk Management, *Risk Assessment and Risk Management in Regulatory Decision-Making,* issued in 1997. Both reports call upon risk assessors and risk managers to take steps to better communicate risk information to the public, including greater use of risk comparisons to other regulated risks and to non-regulated risks with which the public is familiar.

Why Women Should Care: The IWF believes that women should have access to the best information available in order to make sound decisions. The communication of highly technical information without adequate explanation is not only unhelpful but can be misleading. For this reason, the IWF strongly supports measures to assist the women understand the significance of the risks being measured. This in turn, will help women make informed decisions and assist them to participate more effectively in the development of policies that may directly affect them.