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From Formal Prohibition to Substantive Protection: The Evolution of U.S. Employment Law on Gender Discrimination

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Abstract. A September 2026 lawsuit alleging that Amazon denied reasonable accommodations to pregnant workers prompted my interest in the gap between legal protection and workplace practice. Although Amazon denies the allegations, the dispute raises a broader question: how far has U.S. employment law progressed in providing meaningful protection against workplace gender discrimination? This paper examines the evolution of United States employment law in addressing gender discrimination through three dimensions: hiring and recruitment, workplace sexual harassment, and pregnancy and maternity protection. It first identifies the rights affected in each context, including equal access to employment opportunities, equal working conditions and pregnancy-related workplace protection. It then uses Dothard v. Rawlinson, Meritor Savings Bank v. Vinson and Young v. United Parcel Service to analyze limitations in the earlier legal framework and the developments that followed. These developments expanded legal protection from explicit unequal treatment to disparate impact, from tangible economic harm to hostile working conditions.

Keywords: U.S. employment law, workplace gender discrimination, disparate impact, workplace sexual harassment, pregnancy accommodation

1. Introduction

The Civil Rights Act of 1964 was a landmark federal law that prohibited discrimination across several areas of American public life, including public accommodations, education and employment. Title VII is included in the Act. It specially established equal employment protections, along with prohibiting discrimination on the basis of race, colour, religion, sex and national origin. Section 703(a) makes it unlawful for am employer to hire, fire, or otherwise discriminate against an individual because of race, color, religion, sex or national origin. It also prohibits employers from restricting or classifying employees in a manner that adversely affects their employment opportunities [1]. However, workplace gender inequality doesn't arise only when an employer openly treats women less favorably than men. It can develop across different stages of employment through organizational policies and practices, including recruitment, working conditions and conflicts between employment requirements and family responsibilities [2].

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Recent developments have made these less explicit forms of inequality increasingly important. In recruitment, automated screening and decision-making tools may reproduce existing gender bias through the historical data and criteria on which they are trained, even when employers don't expressly exclude female applicants [3]. Within the workplace, sexual harassment can undermine an employee's equality and working conditions without necessarily resulting in dismissal, reduced pay or another immediate economic loss. Although Title VII recognizes workplace sexual harassment as sex discrimination, academic analysis continues to question whether existing rules impose sufficient responsibility on employers to prevent and address such conduct [4]. Pregnancy presents a further limitation of identical treatment. Pregnant workers may require temporary adjustments in order to remain employed, yet federal law historically provided no general independent right to pregnancy-related accommodation. The Pregnant Workers Fairness Act 2022 attempted to address this gap by requiring reasonable accommodation unless it would impose an undue burden on the employer [5].

Against this background, this paper examines gender discrimination in three employment context: hiring and recruitment, workplace sexual harassment, and pregnancy and maternity. It first identifies the employment rights that may be infringed in each context. It then uses Dothard v. Rawlinson, Meritor Savings Bank v. Vinson and Young v. United Parcel Service to analyse the limitations of the legal protection available at the time and evaluates how subsequent judicial and legislative developments responded to those limitations.

2. Rights affected by workplace gender discrimination: based on employment scenarios

Gender discrimination can affect employees and applicants at different stages of employment. This section examines the rights at stake in hiring and recruitment, workplace sexual harassment, and pregnancy and maternity, together with the legal provisions intended to protect them. These protections provided the basis for the case analysis in Section 3.

2.1. Hiring and recruitment

Gender discrimination in hiring and recruitment primarily infringes an applicant's right to equal employment opportunity. Section 703(a)(1) of Title VII of the Civil rights Act of 1964 indicates that it is illegal for an employer to not hire or fire any person, or to discriminate against any individual because of such individual's sex. Section 703(a)(2) further prohibits employers from limiting, segregating or classifying applicants in ways that deprive them of employment opportunities because of sex. Employment agencies are similarly prohibited from refusing to refer an individual for employment or classifying applicants on the basis of sex. Separately, section 704(b) prohibits job advertisements from indicating a sex-based preference, limitation or specification, unless sex constitutes a bona fide occupational qualification for the particular position [1]. Together, these provisions establish the basic legal protection against sex-based barriers at the point of the entry into employment. Whether this protection can also address formally neutral recruitment requirements that disproportionately exclude women will be examined through case law in the following section.

2.2. Workplace sexual harassment

Workplace sexual harassment primarily infringes an employee's statutory right to work under terms and conditions that are free from sex discrimination. Section 703(a)(1) of Title VII prohibits covered employers from discriminating on the basis of gender in compensation and terms of employment, conditions, and privileges [1]. However, the original statutory text didn't expressly refer to sexual

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harassment or identify a hostile working environment as a form of sex discrimination. Its protection was therefore general, and the extent to which it covered non-economic harm arising from the workplace environment remained unclear. It wasn't until Meritor Savings Bank v. Vinson that the supreme Court confirmed that Title VII wasn't limited to tangible economic discrimination. The limitations of the earlier protection and the significance of this development will be examined in the following section.

2.3. Pregnancy and maternity

Pregnancy discrimination may infringe employees' rights to equal employment opportunities and equal treatment in decisions concerning recruitment, working conditions, promotion and dismissal. It may also disadvantage workers who require temporary adjustments and accommodation in order to continue working during pregnancy. The Pregnancy Discrimination Act 1978 amended Title VII to define "sex" discrimination as well as discrimination based on pregnancy, childbirth, or related medical conditions. In addition, pregnant requires employees to be treated in the same manner as other employees who are similar in their ability or inability to work [6]. Therefore, an employee cannot lawfully dismiss, refuse to hire or otherwise disadvantage an employee simply because she is pregnant. However, the Act didn't expressly establish a general and independent right to reasonable workplace accommodation. Consequently, where an employer provided adjustments to certain categories of workers but denied them to pregnant employees, it could be difficult to determine whether the different treatment amounted to unlawful discrimination.

3. Case-based analysis of U.S. law and its limitations

The following section uses Dothard, Meritor and Young to examine the limitations of the legal protections outlined in Section 2. Each case illustrates the difficulties of applying these protections to negative attitudes towards women in the workplace.

3.1. Hiring and recruitment

The difficulty identified in Section 2.1 is that equal recruitment standards don't necessarily provide equal access to employment. A requirement may apply to both men and women, yet disproportionately exclude female applicants. If the requirement doesn't adequately reflect the actual abilities needed for the position, treating everyone alike can instead perpetuate an unreasonable barrier to employment.

This problem was illustrated in Dothard v. Rawlinson (1977). Alabama required applicants for correctional-counsellor positions to be at least 5 feet 2 inches tall and weight at least 120 pounds. National statistics indicated that these combined requirements would exclude around 41.13% of women but less than 1% of men. Alabama argued that the standards reflected the physical strength necessary for the work, but provided no evidence establishing that connection. The Supreme Court therefore upheld the finding that these requirements violated Title VII [7].

This case demonstrates that when employers use general physical characteristics as an alternative criterion for individual capabilities, seemingly neutral standards may actually limit employment opportunities. Applying the same threshold to everyone doesn't prove that these thresholds are approximately measures for evaluating job performance. Therefore, the core issue isn't merely the difference in rejection rates, but the lack of evidence to prove that these requirements are related to the actual job needs.

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However, the protection embodied in this case depends on the applicant being able to substantiate the discriminatory effect of a recruitment requirement. Rawlinson could rely on national statistics on height and weight, and the court believed that in this case these data are sufficient as evidence [7]. When selection depends on internal assessment or recruitment standards that are difficult for applicants to easily verify, comparable evidence may be harder to obtain. A similar problem in automated recruitment is also identified: limited transparency can make discriminatory screening practices difficult for applicants to detect and challenge [8]. This brings practical limitations: applicants may be excluded but lack sufficient information to prove the existence of discrimination. Moreover, disparate impact doesn't automatically constitute legal behaviour because it must also be examined whether the requirement is related to the job. Consequently, legal protection depends on not only access to evidence but also effective scrutiny of the employer's justification.

3.2. Workplace sexual harassment

As discussed in Section 2.2, Title VII prohibited sex discrimination in terms and conditions of employment, but the original text didn't expressly identify sexual harassment. This has led to debate over whether the protection covers situations involving a hostile working environment even when there is no direct financial loss. A narrow interpretation may overlook the unequal conditions experienced by an employee whose pay and position remained unaffected.

This limitation was illustrated in the initial handling of Meriotor Savings Bank v. Vinson in 1986. Ms. Cheryl Vincent claimed that he supervisor had repeatedly engaged in unwanted sexual behavior towards her. She testified that she initially submitted to his demands because she feared losing her job. The District Court denied relief, citing that any sexual relationship was voluntary and unrelated to her continued employment or promotion. The Court didn't adequately consider whether the alleged behavior constituted a hostile work environment [9].

The difficulty with this reasoning is that continued employment promotion and career advancement don't necessarily demonstrate the absence of discrimination. An employee can get promotion and financial rewards while facing intimidation that makes her everyday working conditions unequal. Focusing on economic outcomes therefore provide an incomplete assessment of the harm. Moreover, an employee's participation doesn't necessarily mean that sexual advances were welcome, and the authority of supervisor can't be overlooked. She may submit because she fears that refusing her supervisor could put her job at risk. The initial decision in Meritor therefore illustrates two limitations: focusing too narrowly on economic harm and failing to adequately consider how a supervisor's power may pressure an employee into accepting unwanted conduct.

3.3. Pregnancy and maternity

As stated in Section 2.3, the Pregnancy Discrimination Act required pregnant employees to receive the same treatment as other employees with similar abilities or limitations. However, this requirement was difficult to apply when employers accommodated certain non-pregnant workers but refused similar support to pregnant employees.

The difficult arose in Young v. United Parcel Service, Inc. (2015). Peggy Young, a UPS driver, was advised by her doctor not to lift more than 20 pounds during the first 20 weeks of pregnancy, although she was required to lift up to 70 pounds. UPS refused to accommodate her restriction, although it provided accommodations to workers injured on the job, those covered by the Americans

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with Disabilities Act and those who had lost Department of Transportation certifications. Young consequently spent much of her pregnancy on unpaid leave. The District Court ruled in favour of UPS, finding that the employees she identified were not sufficiently comparable, and the Court of Appeals affirmed [10].

These initial decisions reveal a limitation of protection based on comparison with other employees. Workers with similar limitations may receive different support because those limitations arise from different causes. A pregnant employee's claim therefore depends on showing that comparable workers received more favourable treatment, rather than simply demonstrating her need for an adjustment. This leaves a gap between equal treatment ans practical support: even when an adjustment could help her remain at work, the equal-treatment requirement alone doesn't guarantee it.

4. Recommendations on improvement

Building on the limitations identified in Section 3, this section examines how legal developments have strengthened protection against workplace gender discrimination. It then considers further improvements through legal reform, employer policies and public education.

4.1. Legislative and regulatory reform

Judicial decisions and legislation have addressed several of the limitations discussed above. This subsection examines these developments across the three areas and considers where further legal reforms could strengthen protection.

4.1.1. Hiring and recruitment

The limitation discussed in Section 3.1 requires recruitment standards to be assessed according to their actual effects and relationship to job performance. In Dothard, the Supreme Court rejected unsupported height and weight requirements and suggested that when it comes to proving physical ability, a validated test could be used directly for assessment [7]. The Civil Rights Act of 1991 later codified disparate-impact protection. Under Section 703(k), once a claimant demonstrates that a particular practice causes a disparate impact, the employer must prove that it is related to the hobby and appropriate to the business necessity. Additionally, if the claimant can prove the existence of an appropriate and less discriminatory alternative solution, and the employer refuses to adopt it, the claim may also succeed. This framework subjects apparently neutral criteria to scrutiny beyond whether they apply equally to everyone.

4.1.2. Workplace sexual harassment

Meriotor addressed the narrow understanding of workplace harm stated in Section 3.2. The Supreme Court confirmed that sexual harassment could violate Title VII without economic loss where it was sufficiently severe or pervasive to alter employment conditions and create an abusive working environment. It also distinguished participation from whether sexual advances were welcome [9].

Further reform should address employer's responsibility for harassment enabled by workplace authority. Fotiadis (2024) proposes a more comprehensive alternative liability system, namely that the employment relationship helps a perpetrator carry out actionable harassment [4]. This approach would connect responsibility more closely to the power employers give their employees. It could

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also strengthen incentives to prevent misuse of that power, addressing the imbalance highlighted by Meritor.

4.1.3. Pregnancy and maternity

In *Young*, the Supreme Court explained that a claimant could reach a jury through sufficient evidence that an accommodation policy significantly burdened pregnant workers and that the employer's reasons were insufficient to justify that burden, supporting an inference of intentional discrimination [10]. However, this approach still depended on proving discrimination. The Pregnant Workers Fairness Act 2022 went even further, requiring covered employers to provide reasonable accommodations for skilled employees' known pregnancy-related limitations, unless that would impose an undue hardship [11]. This addressed the limitation discussed in Section 3.3 by establishing an accommodation duty that didn't depend on identifying a non-pregnant employee who had received better treatment.

However, the effectiveness of this duty still depends on how it is interpreted. Gyory argues that the application of the existing ADA compliance doctrine to the PWFA may pose difficulties when previous court practice conflicts with the new statue and its rules [12]. Therefore, additional guidance should explain how standards of adaptation to pregnancy-related need are applied. Evidence from state legislation confirms the practical value of adaptation: the state's pregnancy adjustment laws increase employment and income during pregnancy [13]. These findings support adaptation to help women stay in the workforce, although they don't confirm the effects of federal PWFA.

4.2. Employer policies

Employers should regularly review whether the recruitment criteria reflect the actual ability required for the job. As Dothard illustrates, general physical requirements may exclude applicants without a reliable assessment of their work capabilities [7]. In addition, if employers use automated screening tools, they should provide sufficient evidence to prove that these tools have been validated and tested for discriminatory effects. Suppliers doesn't often disclose how the system selects job applicants and how biases are tested, so it is difficult for enterprises to determine whether this tool is reliable and fair [14]. Therefore, employers should ask for evidence before using them and continue to review their effects on applicants after adoption.

For sexual harassment, employers should provide reporting channels outside an employee's direct supervisory chain. In Meritor, The Supreme Court questioned a complaint procedure which required employees to file complaints with their supervisors, who were also the ones accused of harassment [9]. Therefore, an outside reporting channel is essential. Complaints should be investigated by someone independent of the allegation, with safeguards against retaliation. These measures would encourage employees who was sexually harassed to speak up and make the reporting progress more usable.

For pregnancy-related accommodation, employers should establish a clear process for receiving requests, discussing suitable adjustments and communicating decisions promptly. The EEOC's guidance explains that employers may violate the PWFA if they unnecessarily delay providing an accommodation for pregnant workers. Temporary adjustments while a request is being considered should be made to help employees continue working [15].

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4.3. Public education and awareness

Public education should help people recognize that workplace discrimination is not limited to obvious unequal treatment, and schools, public agencies and community organizations could offer the training through career programs, workshops, and short online videos. The 2016-report by the co-chairs of the EEOC's Specialized Task Force recommended integrating workplace harassment into school curricula and developing online content for young people [16]. This could help people enter the employment with a clearer understanding of their rights.

Recent studies have also shown that education should be linked to practical support. It found that sexual assault training had a stronger impact on knowledge that out-of-training outcomes [17]. An university study found moderate improvements in knowledge and relationships, but a decrease in intentions to report sexual violence among women [18]. While these studies don't directly confirm the impact of public education on discrimination in the workplace, they do show that awareness alone is not enough. Educational programs should therefore explain where people can get help and how reporting procedures work, as well as provide information about legal rights.

5. Conclusion

U.S. employment law has evolved beyond a narrow understanding of gender equality as equal treatment. The three dimensions examined in this article illustrate why this matters: neutral hiring criteria can create unjustified barriers, sexual harassment can undermine working conditions without economic loss, and pregnant employees may need reasonable accommodations to remain on the job. Judicial decisions and legislation have responded by recognizing discriminatory effects, hostile working environments and an independent duty to provide pregnancy-related accommodation. These developments represent progress towards substantive workplace equality.

However, broader legal protections don't automatically create equal employment practices. Its effectiveness also depends on how employers enforce recruitment standards, how they respond to complaints and provide benefits, and whether they understand the rights of individuals. Therefore, further progress requires that legal protection be supported by effective workplace practices and accessible public education. Substantive equality depends on making these protections usable in everyday employment.

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