Alturas presents two new monthly newsletters: 
Constitution First and Gender Equality Now

We're happy to send you our first monthly newsletter featuring Dr. David Adler and Dr. Meridith Conroy.
Each month Alturas members will receive this newsletter discussing current issues and how they relate to the goals of Alturas Institute: to advance the Constitution, civic education, and gender equality.
Future issues will be solely for our members. We hope that if you are not a member, that you will consider becoming one. We love our network of people and all that they bring to our organization. Thank you!

Dr. David Adler

Dr. Meridith Conroy
Each issue of Constitution First will explore current Constitutional controversies illuminated by historical insights and observations. Each month this newsletter will feature insights, report on new research, and keep you informed on issues surrounding gender equality.

Gender Equality Now

Meredith Conroy

According to EMILY’s List, the country’s leading interest group directed at recruiting and encouraging women to run for office, around 26,000 women have expressed interest in running since January 2017. Estimates by the Center for American Women and Politics (CAWP) anticipate that in the upcoming 2018 election cycle, around 436 women will run for the U.S. House of Representatives, 54 women for the U.S. Senate, and around 80 women have expressed interest in running for governor. This is a profound increase compared to 2016, when just 16 women ran for the Senate, 167 for House seats, and 3 women ran for governor (there were just 12 governor’s races that year).


The surge in women’s interest is welcome news, because for decades women’s interest in government has not translated into women’s willingness to run for office; as a result, women are underrepresented at all levels. In this first edition of the Gender Equality Now newsletter, we report on the status of women in elected offices at the state and local level in the U.S., and describe some of the explanations for why women continue to fall short of parity in our governing institution.

The Numbers: Women in Elected Offices

Today, women hold 19.8 percent of congressional seats, up just slightly from 19.3 percent before the 2016 election cycle. While women make up less than 20 percent of our Congress, just ten years ago women were only 11.8 percent. Thus, modest progress has been made over the last 10 years or so, even though overall women hold a meager share of elected positions at the federal level (Center for American Women and Politics 2017).

Data: Center for American Women and Politics
At the state level, women’s representation varies, but in general, men far outnumber women there, as well. Currently, only six out of 50 governors are women and 23 states have never elected a woman as their governor, including Idaho.

On average, 25.3 percent of state legislatures are made up of women; the Idaho state legislature is slightly better than this national average—30.5 percent of Idaho state assembly and senate seats are held by women.

Although these numbers suggest women are making slow progress, we may be on the cusp of more drastic growth, given the number of women who will be running for office in 2018.

However, experts suggest that we should be cautious in interpreting this uptick in enthusiasm from women as a boon for women’s representation; men are also expressing an increase in interest in running for public office. It seems clear that broad changes in individuals’ levels of interest and political ambition may be at work, and this could be tied to shifts in the political landscape that may or may not be gendered. To better understand why the current political climate is attracting more women to politics, it is useful to review the various factors that explain why women historically have been underrepresented.

Why Are Women Underrepresented in Government?

To explain women’s underrepresentation in American politics, researchers have directed their attention to demand-side barriers and supply-side barriers that contribute to the gap in representation between men and women. Demand-side barriers refer to external factors, such as the public’s perception of candidate qualifications. In short, do voters view female candidates as less competent or qualified for office than male candidates? Supply-side barriers refer to factors that affect the supply of candidates, or willingness of individuals to run for office, such as political ambition. For example, women are less likely to see themselves as qualified for public office, which is explains why they are less likely to run for office in the first place.

In next month’s newsletter, we will summarize the latest research on demand-side barriers to women’s representation, and under what circumstances women candidates have an advantage.
Court Ruling Progress in Fight Against Financial Exploitation of Women

Dr. David Adler

Working women in Idaho, within hours of the celebration of Equal Pay Day in 2018, received a much deserved and much-needed boost this week when the Ninth Circuit Court of Appeals ruled that employers may not use a woman’s salary history to rationalize paying her less than a man performing the same job. The 11-judge panel rightly ruled that the act of calculating a woman’s wages based on her salary history is a form of gender discrimination and a violation of the 1963 Equal Pay Act, which prohibits businesses from paying women less than men earn for doing the same work.

The court’s opinion, one of the last written by Judge Stephen Reinhardt, who died last month, focused on the impact of an insidious practice to deny equal pay to female workers. Permitting employers to take account of a woman’s salary history, Reinhardt wrote, allows “employers to capitalize on the persistence of the wage gap and perpetuate that gap ad infinitum,” which would violate “the text and history of the Equal Pay Act, and would vitiate the very purpose for which the Act stands.” Judge Reinhardt, known as the “liberal lion,” wrote that a woman’s salary history should not be used as a factor to pay her less than a man.

The Ninth Circuit’s ruling in Rizo v. Yovino is now law for all western states within the circuit, including Idaho. The ruling is in conflict with other circuit courts, including the 10th and 11th Circuits, which have held that businesses may not use salary history as the “sole” reason for paying a woman less. The split among the circuits makes the issue ripe for review by the U.S. Supreme Court. How the Court might rule on an eventual appeal is anyone’s guess at this juncture, but at least four of the current Justices—Ginsburg, Sotomayor, Kagan, and Breyer-- will be very much alive to Reinhardt’s reasoning and likely to embrace it.

The gender pay gap, Reinhardt observed, “is an embarrassing reality of our
It rests on “the financial exploitation of women.” Several states, including Massachusetts, Delaware, and Oregon, have enacted laws prohibiting employers from asking job candidates about their salary history. Major cities have passed similar ordinances. Judge Reinhardt’s ruling doesn’t stretch that far, but it will make it more difficult for employers in the Ninth Circuit to ignore and dismiss gender pay questions and complaints.

There remain grounds, within the parameters of the Equal Pay Act, to pay women less than men, but they must be based on factors “other than sex.” Thus, a man may be paid more than a woman for reasons of experience, seniority and job performance. One way for employers to protect themselves against gender pay lawsuits, of course, is to avoid asking women about their salary history. Avoiding that question is a win-win for employer and employee.

The gender pay gap is alarming and mocks the concept of equal protection under the 14th Amendment. April 10 marked Equal Pay Day. On average, women had to work 99 days into 2018 from the start of 2017 to earn the same amount of money that men earned on average in 2017.

A white woman earns roughly 80 cents for every dollar that a white man earns. Unsurprisingly, it’s worse for women of color. African-American women earn 63 cents and Latina women make only 54 cents for every dollar that a white man makes. As a society, we are staring at an average 20% gender wage gap.

What to do about this? Unless businesses assume the responsibility of narrowing and eliminating, the wage gap, the citizenry—men and women alike—must assert the importance, value, and justice in the principle of equal pay for equal work. This principle is of such importance to America that the burden of achieving it should not rest on the shoulders of women alone.