

**Unpaid Interns: “Breaking Persistent Barriers” without Employee Status and Anti-Discrimination Protections?**

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### An All Too Familiar Story

In 1995, a 22 year-old woman gained a sought-after unpaid internship position at the White House chief of staff's office. The intern was fortunate, for she grew up in a well-to-do family that provided her with the social connections to land the internship she thought would advance her career. She would answer phone calls and retrieve coffee, all in the hope that her unpaid labor would pay out with letters of recommendations or further professional connections. As an unpaid intern, she would be at the bottom of the workplace hierarchy. Here, she would need to retain the good graces of her supervisors so that her unpaid position would have a tangible effect on her future employment prospects. When the government shut down in November of the same year, the intern and her peers, as unpaid interns and therefore not on the payroll, continued to labor while all of the employees were barred from work. During this period, the intern became involved in a romantic relationship with a man twice her age, who also happened to be both her boss and the president of the United States, Bill Clinton.

The Lewinsky/Clinton scandal is often viewed as a moral failure on the part of President Bill Clinton for participating in an extramarital affair and lying under oath to the entire nation. However, this scandal encompasses many of the detrimental components of internship labor and its core power dynamics. In the media and popular opinion, Lewinsky was framed as an opportunistic temptress or as a naive young person who took on more than she could handle by pursuing one of the most powerful people on the planet. In the famed Starr report, the culmination of the investigation into the Lewinsky/Clinton scandal, the author stated that when terminating their sexual relationship, the "President had told Ms. Lewinsky that he hoped they



would remain friends, for he could do a great deal for her.”<sup>1</sup> Additionally, during their relationship, the two discussed the possibility of Clinton getting Lewinsky a job in New York such as at the United Nations.<sup>2</sup> Clinton’s promises demonstrate the power that he, like many other bosses and supervisors, had over interns. Although Lewinsky herself, in the late 1990s, had asserted that the relationship was consensual, she has, in retrospect, questioned how consensual the relationship between a young intern and the president really could have been.<sup>3</sup> The Lewinsky/Clinton scandal was a distinctive event due to its national and international scale; however, the core dynamic to the scandal is not actually unique in the slightest. Rather, Lewinsky’s experiences encapsulate many of the central concerns about internships including the class components, exploitation of unpaid labor, and the power differential between the intern and the supervisor.

Beyond Lewinsky, the most famous of interns, many people have participated in or are currently involved in an internship program. Educators, parents, career service and departmental advisors constantly harangue university students about the necessity of interning, where they will gain valuable work experiences and take learning outside of the classroom and into the real world. Unpaid internships are so common that when I first pursued an internship I was initially perplexed, albeit positively so, by the realization that I would actually be paid for my efforts. The view of internships as educational experiences is so ingrained in the American psyche that many millennials, as well as members of previous generations, simply view the positions as necessary

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<sup>1</sup> "The Starr Report; Full Text of Findings Sent to Congress -- Part Five of Thirteen," The New York Times, September 12, 1998, accessed March 03, 2019.

<sup>2</sup> Ibid.

<sup>3</sup>Maegan Vazquez, "Lewinsky Sees 'problematic' Issue of Consent in Clinton Affair," CNN, February 26, 2018.

educational experiences to add to resumes and CV's rather than as labor worthy of compensation. However, in the past decade or so, the study of internships and their many contradictory components has piqued the interest of journalists and legal scholars.

### Overview of The Scholarly Intern Conversation

Although internships have existed in a variety of career paths in the United States throughout the 20th century, there has not been a significant amount of scholarship on the topic, outside of medical internships, until the 21st century. In 2011, Ross Perlin, a journalist, published the "first exposé of the exploitative world of internships" titled "Intern Nation: How to Earn Nothing and Learn Little in the Brave New Economy."<sup>4</sup> Here, Perlin emphasized how the 2008-2009 recession initiated the rise of the "Intern Nation" and the role of universities in both legitimizing and perpetuating this form of highly exploitable labor.<sup>5</sup> In the years since Perlin's publication, other scholars have addressed the world of internships; including Malcolm Harris, who emphasized the role of "hope labor" in the intern economy. In *Kids these Days: Human Capital and the Making of Millennials*, Harris argued that the rise of a service "winner takes all" market and the "feminization of labor" have produced an economic environment in which most people, both men, and women, work more for less compensation.<sup>6</sup> Harris argued that, in this market, millennials are taught from an early age that they need to "hustle" to succeed in the hostile economy. This, in turn, has prepared them to accept the necessity of participating in

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<sup>4</sup> Ross Perlin." Versobooks.com. Accessed November 11, 2018. <https://www.versobooks.com/authors/1241-ross-perlin>.

<sup>5</sup> Ibid.

<sup>6</sup>Malcolm Harris, *Kids These Days: Human Capital and the Making of Millenials* (Little, Brown, and Co., 2017).

unpaid labor, in the form of internships, in order to make themselves more employable.<sup>7</sup> Harris argues that these trends have placed the cost of producing "human capital" solely on the individual through forcing potential employees to be economically responsible for their own training before attaining paid work.<sup>8</sup>

Additionally, countless journalists, and a few scholars have examined both the legal foundations of unpaid internships and the real world effects of this labor on its mainly young participants. One scholar, in particular, Natalie Bacon, completed a thorough analysis of the development of the unpaid internships. In her analysis, Bacon focused on the 2010 Department of Labor's Fact Sheet #71, and its historical background, which is a 6- part test to determines which types of internships can be exempt from Fair Labor Standards Act (FLSA) protections.<sup>9</sup> Here, Bacon argues that Fact Sheet #71 has symbolic importance because it suggests that the Department of Labor will better regulate internships to make sure that interns are the primary beneficiaries of their positions, rather than the employer. However, as Bacon points out, the

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid., pg. 95.

<sup>9</sup> Natalie Bacon. "Unpaid Internships: The History, Policy, and Future Implications of "Fact Sheet # 71"." *Entrepreneurial Business Law Journal* 6 (2011). pg. 71.

United States, Department of Labor Wage and Hour Division, *Fact Sheet #71 Internship Program Under The Fair Labor Standard Act* (Washington, DC: U.S. Department of Labor, 2010).

6-Part Test:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and,
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

language is not particularly specific and therefore, may not lead to much change in the unpaid intern economy.<sup>10</sup>

Scholarship on women's involvement in internships has mainly revolved around sexual harassment law in the 21st century. In her analysis of the plight of unpaid interns, Jessica Greenvald discussed the 21st-century developments in sexual harassment protections for interns.<sup>11</sup> Here, Greenvald laid out how a limited number of individual states including California and Oregon have taken action against the lack of sexual harassment protections for interns.<sup>12</sup> Greenvald explained that through taking action, states are extending employee protections for anti-discrimination laws to interns. However, Greenvald notes that these extended protections are only applied to anti-discrimination laws rather than all employee protections including the federally mandated minimum wage. Greenvald argues that this is ultimately detrimental to current and future interns.<sup>13</sup>

### **Justification for Scholarly Intervention**

This thesis will build upon prior scholarship through discussing the notion of "hope labor," the connection between universities and interns, and the categorization that has allowed for internship to be legally unpaid. However, this thesis will break with previous scholarship, which has focused on the 21st century, by taking the conversation back a generation or two. Through taking a more historical approach, this project will explore unanswered questions

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<sup>10</sup> Natalie Bacon. "Unpaid Internships: The History, Policy, and Future Implications of "Fact Sheet # 71"," *Entrepreneurial Business Law Journal* 6 (2011): pg. 93.

<sup>11</sup> Jessica Greenvald, "The Ongoing Abuse of Unpaid Interns:How Much Longer Until I Get Paid?," *Hofstra Law Review*, 45, 673 (Winter, 2016).

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

regarding how internships were framed to justify their unpaid and unprotected status throughout the 20th century. Additionally, this project will examine how and why internships were seen as especially beneficial for women during and beyond the 1970s movement for educational and economic equity and how this affected women's experiences with internships. To answer these questions, this project will examine the Women's Educational Equity Act funded internship programs, utilize a variety of news articles and legal documents. This project will finish where it started, with the infamous Lewinsky/ Clinton scandal, to explore how an event of international notoriety that encompassed all of the most unsavory ingredients of the intern economy, especially those that fell more heavily on women, influenced the conversation on internships.

### Thesis

This thesis reveals that the 20th-century rhetoric reframing internships as outside of employment resulted in a shifting legal categorization of internships. From the 1970s to the turn of the century, internships were seen as an avenue to expand employment prospects, especially for those who had historically been excluded from certain professions. Feminists framed internships as a way for women to tackle "persistent barriers" to upward mobility by allowing them to disprove stereotypes, prove competence, and create professional networks and connections. However, the rhetoric of proponents of internships, including those connected with the Women's Educational Equity Act, shaped interns as students rather than as workers through emphasizing the future benefits or compensation of the positions instead of the current realities of the labor. This rhetoric was reflected in interns being legally defined as volunteers or trainees rather than employees, thereby excluding them from many American labor laws.

My research further demonstrates several problematic and long-lasting implications of framing interns as anything other than workers, and legally categorizing them accordingly, especially those more heavily felt by women. Throughout the latter half of the 20th century, prospective interns faced a lack of opportunities due to the positions exclusive nature and if they did land an internship, faced low or no wages. Moreover, during the 1990s, the compensation that unpaid interns were supposed to receive, in the forms of future benefits, were found to contrast with the legal definition of compensation. This disconnect of meanings ultimately prevented interns who faced discrimination, including sexual harassment, from holding employers legally accountable throughout the 20th century. Even in the wake of the Lewinsky scandal and an increase in the awareness of the sexual harassment concerns in the late 1990s and early 2000s, the image of the intern as a student rather than as a worker, and all of its negative implications prevailed. Ultimately, the erasure or de-emphasis of the intern as a laborer, aided by the rhetoric of WEEA funded programs, contributed to the negative experiences of interns, especially women interns that has lasted into the 21st century.

### **Typography of Internships**

Before exploring the history of internships, it is important to establish the varying types of internships that currently exist to illustrate their prevalence in and effect on the American economy. Students partake in internships at a variety of companies and organizations in the public, private, and volunteer sectors of the economy. Some of the most well known, numerous, sought after, and exploitative internships have been in government positions and the creative

industries. These positions are well-known for opening doors for student; however, they are also infamous for being accessible only to those with social and familial connections and who can afford to work for free, as many positions are unpaid. Beyond the more ostentatiously glamorous, positions, there are also internships in education, such as education administration and teaching. There are internship positions for those in the STEM field, which are becoming increasingly essential for engineering students. Legal training programs have existed for well over a century in the United States with legal students being involved in first legal apprenticeships and now legal internships and clerkships, which are internships with judicial offices. With the rise of the late 20th and early 21st century technology industry, there have been an increasing number of students interning with start-ups companies. These internships with start-up companies are easier to get but are rarely paid and come with little promise of employment opportunities. Conclusively, the intern economy is vast and has reached into nearly, if not all sectors of the American economy.

### **Historical Context**

#### *From Apprenticeships to Internships*

Prior to delving into internships in the later-half of the 20th century, we will start with the historical development of internship labor, beginning with apprenticeships. Hands-on training as both education and labor, is a practice that has a long history in the United States. Early forms of this trainee labor occurred primarily in the trade careers in the form of apprenticeships.<sup>14</sup> U.S.

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<sup>14</sup> Daniel Jacoby. "The Transformation of Industrial Apprenticeship in the United States." *The Journal of Economic History* 51, no. 4 (1991): 887-910. <http://www.jstor.org/stable/2123397>.

apprenticeships date back to the colonial era master- apprentice model that resembled indentured servitude by contractually binding young boys to their masters.<sup>15</sup> Some of the most famous men in American history were involved in apprenticeships. For example, Paul Revere began his career as a silversmith with an apprenticeship position under his father, and Benjamin Franklin started as an apprentice at the age of twelve in a printing shop. By the early 1900s, the apprenticeship model in the United States was revised as apprenticeships became associated with trade unions which led to both the regulation and mandated financial compensation for the practice.<sup>16</sup>

Apprenticeships and internships are both a combination of education and labor; however, they differ in many respects. First, apprenticeships are a well-established trainee labor model with a long history in the United States and Europe whereas internships are relatively new since they didn't appear in America until the late 19th century.<sup>17</sup> Throughout the 20th century, apprenticeships were traditionally associated with blue-collar labor in trade careers, especially in construction, manufacturing, and production. Although there are also apprenticeship programs in the professional occupations, many of the training programs in these fields came to be known as internships.<sup>18</sup>

As defined by the Department of Labor, apprenticeships are paid with federal regulations in place to protect this compensation.<sup>19</sup> In contrast, according to the National Association of

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<sup>15</sup>Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ross Perlin, *Intern Nation: How to Earn Nothing and Learn Little in the Brave New Economy* (New York: Verso, 2012).

<sup>18</sup> Ibid.

<sup>19</sup> U.S. Department of Labor. <https://www.dol.gov/general/topic/training/apprenticeship>.



Colleges and Employers (NACE) in 2011, only half of student internships were paid.<sup>20</sup> Further, apprenticeships provide a relatively clear path towards employment by providing specialized training for a specific occupation. Although internships can directly result in job offers, many interns do not receive specialized training and often are not offered a position of employment upon finishing their internships.<sup>21</sup> Additionally, internships are regularly associated with volunteer work as some positions are titled Volunteer Internships and internship positions with government and nonprofit organizations are framed as do-good work. Thus, while both apprenticeships and internships are forms of trainee work, apprenticeships are considered labor while internships are categorized as and associated with educational or volunteer experiences.

### *Legal Categorization*

In order to understand the legality of unpaid and underpaid internships, we will analyze how internship placement in a cross section of labor and education fields has landed the labor practice in a murky legal classification. In 1947, the court case *Walling v. Portland Terminal Co.* set a precedent for future policies regarding trainee labor that ultimately excluded many interns from the classification of “employee.”<sup>22</sup> The *Walling v. Portland Terminal Co.* case was brought to court when workers attempted to sue the Portland Terminal Company for failing to pay them during a training period of seven days.<sup>23</sup> Since the induction of the Fair Labor Standards Act (FLSA) of 1938, employers are required to compensate their workers with a federally mandated

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<sup>20</sup> 2011 Internship & Co-Opt Survey, Report, National University of Colleges and Employers. [https://www.indianaintern.net/documents/research/internship\\_co\\_op\\_survey\\_research\\_brief\\_2011.pdf](https://www.indianaintern.net/documents/research/internship_co_op_survey_research_brief_2011.pdf).

<sup>21</sup> Ibid.

<sup>22</sup> Natalie Bacon. "Unpaid Internships: The History, Policy, and Future Implications of "Fact Sheet # 71". *Entrepreneurial Business Law Journal* 6 (2011): pg.72-73.

<sup>23</sup> Ibid., pg. 72.

minimum wage.<sup>24</sup> However, the Fair Labor Standards Act (FLSA) only covers employees and with its initial passage, excluded a variety of positions.<sup>25</sup> Those include positions most commonly held by women and people of color, such as domestic and agricultural work.<sup>26</sup> The *Walling v. Portland Terminal Co.* decision ultimately exempted the plaintiffs, and all trainees, from the federal minimum wage laws by finding "trainees" to be a different category of worker than "employees."<sup>27</sup>

The categorical distinction of trainees has fundamentally impacted trainee labor by excluding them not only from federally mandated minimum wage compensation but from all employee benefits and protections. Additionally, in the years following *Walling v. Portland Terminal Co.*, Congress has created more exemptions to exclude various forms of labor from its protections. 1985 marked a particularly pivotal movement, as the Department of Labor amended the FLSA to only cover employees who work with the expectation of financial compensation, so to establish that employers do not need to pay volunteers for their efforts.<sup>28</sup> Thus, trainees and volunteers, both categories that courts have placed interns in, are considered exceptions to many American labor laws.

### *Early Internships*

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<sup>24</sup> Ibid., pg. 70.

<sup>25</sup> Juan Perea. "The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act", 72 Ohio ST. L.J. 195 (2011). pg. 114.

<sup>26</sup> Ibid.

<sup>27</sup> Natalie Bacon. "Unpaid Internships: The History, Policy, and Future Implications of "Fact Sheet # 71". *Entrepreneurial Business Law Journal* 6 (2011): pg. 72.

<sup>28</sup> "United States Department of Labor," Elaws - Employment Laws Assistance for Workers and Small Businesses, , accessed March 18, 2019, <https://webapps.dol.gov/elaws/whd/flsa/docs/volunteers.asp>.

Early internships were more like apprenticeships in structure. In the early 1900s, internships were synonymous with the medical field since the first internship program in the United States was established at a hospital in Boston in the late 1800s, and the vast majority of internships remained in that field until the later-half of the 20th century.<sup>29</sup> Medical internships were more similar to the apprenticeship model than the modern internship as they often directly led to clear careers and were a means for pre-medical professional to gain valuable hands-on experience before permanent employment.<sup>30</sup> As internships were a required component of getting one's medical education, women have participated in these positions since Elizabeth Blackwell became the first American, woman doctor in 1849.<sup>31</sup> Although women were participating in MD internships in the early 20th century, due to the low rates of women in the profession, they were vastly outnumbered by their male counterparts until the later-half of the 20th century.<sup>32</sup> In addition to MD medical internships, there are also internships in the nursing profession, which included many women since women have come to dominate the field in the wake of WWII.<sup>33</sup> Medical internships were notoriously exploitative with their extreme work schedules and low-pay. Because of the exploitative aspects of medical internships and similarity to apprenticeships in structure, medical interns created the first intern union in 1957 that came to be called the Committee of Interns and Residents.<sup>34</sup>

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<sup>29</sup> Ross Perlin, *Intern Nation: How to Earn Nothing and Learn Little in the Brave New Economy* (New York: Verso, 2012). pg. 30.

<sup>30</sup> Ibid.

<sup>31</sup> Laura Clark, "The First Woman in America to Receive an M.D. Was Admitted to Med School as a Joke," *Smithsonian.com*, January 21, 2015, accessed March 09, 2019. <https://www.smithsonianmag.com/smart-news/first-woman-america-receive-md-was-admitted-med-school-joke-180953978/>.

<sup>32</sup> Judy Klemesrud, "Female doctors assess the problems of their profession". *New York Times* (1979, Oct 12).

<sup>33</sup> "American Nursing: An Introduction to the Past," *Nursing, History, and Health Care Penn Nursing*, accessed March 8, 2019, <https://www.nursing.upenn.edu/nhhc/american-nursing-an-introduction-to-the-past/>.

<sup>34</sup> "Home Page." Committee of Interns and Residents. Accessed March 09, 2019. <https://www.cirseiu.org/>.

Throughout the first half of the 20th century, there were also some internships outside of the medical profession that women were involved in including creative, academic, and educational careers. For example, in 1939, Lucy Caldwell was selected as the first-ever National Archives intern where she worked with the archival team to proof copies and select images for annual reports.<sup>35</sup> Additionally, throughout the 1940s, young girls participated in internship-like positions that were titled “guest editors” where they wrote articles for newspapers.<sup>36</sup> Teaching internships were also popular among women in the early to mid- 1900s since women have traditionally held the role of educators in the United States. Although women partook in internships in the early 20th century, mid-century economic and social trends increased women’s need for and ability to participate in professional training.

#### *University as the Middle-Man*

In the 1960s, universities increasingly undertook the role of the middle-man by offering academic credit to students who wished to gain real-world experience.<sup>37</sup> As students began to take on training programs in the government, universities reacted by offering course credit to these student interns for their educationally enriching experiences.<sup>38</sup> Furthermore, universities collaborated with employers to create and advertise programs in a variety of fields such as business, administration, education, and the creative industries in an effort to aid students transition from school to the working world. A Washington Center study from 1985 found that at

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<sup>35</sup> “Our First Intern, 1939,” National Archives and Records Administration, accessed March 8, 2019, <https://prologue.blogs.archives.gov/2017/06/01/our-first-intern-1939/>.

<sup>36</sup> Ross Perlin, *Intern Nation: How to Earn Nothing and Learn Little in the Brave New Economy* (New York: Verso, 2012). pg. 35.

<sup>37</sup> Ross Perlin, *Intern Nation: How to Earn Nothing and Learn Little in the Brave New Economy* (New York: Verso, 2012). pg. 90.

<sup>38</sup> *Ibid.*

the time of the study, two-thirds of university department-sponsored internship programs began in the 1970s and onward, thereby revealing universities increasing ties to internships.<sup>39</sup> By the mid-1980s, most colleges offered credit for internships with an academic focus or benefit.<sup>40</sup> Some university departments even made the participation in an internship a requirement for completion of their program.<sup>41</sup> Additionally, universities advertised internship programs both through their career services and advising as well as on flyers that they distributed throughout their campuses. Through these developments, universities connected themselves with internships and perpetuated the ideology that internships are especially beneficial to students as they supplement traditional classroom education. This relationship between the university and internship labor solidified the status of internships as educational experiences for young university students, rather than as work completed by trainee laborers.

### *Economic Factors*

When the economy took a downturn in the 1970s, individuals needed to increase their employability to attain jobs and higher wages, leading to an increase in internship positions. The rise of stagflation -- a combination of high unemployment and high inflation-- created a hostile job market where more people were fighting over fewer jobs. Some reacted to the hostile economy by increasing their qualifications for skilled-positions with education and hands on training. During this period, there was a rise in university enrollment and an increase in internships.<sup>42</sup> The rising number of internships, and especially unpaid internships, demonstrates

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<sup>39</sup> Sandra Schocket "Making the Summer Job A Career Launching Pad." *New York Times*, April 14, 1985.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ross Perlin, *Intern Nation: How to Earn Nothing and Learn Little in the Brave New Economy* (New York: Verso, 2012). pg. 90.

the increasing need to better one's qualifications, the desperation that led people to work for free, and employers need for and ability to reduce labor costs. Even when internship labor is not used to substantially reduce regular labor costs for employers, it was utilized to lessen costs for hiring processes and employee training.<sup>43</sup> By the early-1980s, it was estimated that one million people were participating in internship labor and that one in five students enrolled at universities throughout the United States spent their summers and/ or semesters working as an intern.<sup>44</sup> Thus, economic factors on the 1970s, in combination with university involvement, propelled the rise of internship positions.

The 1970s economic trends had an especially substantial impact on women's involvement in internships. Throughout the 1970s and beyond, many American families could no longer support themselves through a sole breadwinner, making women's economic contributions to the household increasingly necessary.<sup>45</sup> Women had been entering the paid workforce at a steadily rising rate since World War II. However, the 1970s marked an era where women's wages would be needed for a large percentage of American households economic survival thereby precipitating greater numbers of women into the formal economy at a more rapid rate. Although women's wages were essential for many families, women were concentrated in lower paid fields, mainly in the service sector.<sup>46</sup> One avenue around these economic constraints was through education, training, and internships.

### *Expanding Educational Opportunities*

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<sup>43</sup> Tom Callahan "Internships Offer Students Variety of Work Experiences". *New York Times*, Oct 02, 1998.

<sup>44</sup> Ibid.

<sup>45</sup> Joanna Brash and Lareina Yee. "Unlocking the Full Potential of Women in the U.S. Economy" April, 2011.

<sup>46</sup> Thomas L. Steiger and Mark Wardell, "Gender and Employment in the Service Sector," *Oxford University Press*, February 1995.

Due to the barriers preventing women from breaking into higher paying fields and positions, feminist groups such as the National Organization for Women (NOW) and its spin-off the Women's Equity Action League began implementing a number of strategies to increase educational equity and improve women's higher paying employment prospects.<sup>47</sup> Feminist efforts culminated in the passage of the Educational Amendment of 1972 Title IX. This amendment was signed into law by President Nixon with two main objectives: "to avoid the use of federal resources to support discriminatory practices," and "to provide individual citizens effective protection against those practices."<sup>48</sup> Representative Edith Green was the author of Title IX of the act which states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."<sup>49</sup> Although Title IX is most famous for increasing women's sports funding and participation, it aimed at reduce and eliminate sexual discrimination in all educational settings, including internships, which were, after all, framed as educational experiences.<sup>50</sup>

With the rising need for two-income households and feminist efforts to increase women's educational and employment opportunities throughout the mid-20th century, internships rose in popularity for women. Women specific internship programs began to pop-up at a number of universities throughout the United States. For example, in the mid-1970s, Pace University began advertising for their MS and Professional diploma programs in Educational Administration that

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<sup>47</sup> "National Organization for Women," National Organization for Women, accessed March 09, 2019, <https://now.org/>.

<sup>48</sup> Margaret E. Juliano. "Forty years of Title IX: History and New Application." *Delaware Law Review* 14 (2013): 83-153.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.



included on the job supervised internships.<sup>51</sup> Around the same time, there were various “Community based” programs affiliated with universities such as Yale that included internships in their programs to aid women in entering the “business or professional world on a higher level.”<sup>52</sup> These internship programs often aimed to increase women’s ability to get higher paying and leadership positions in careers that were traditionally male-dominated. By the late 1970s, business administration and management were the two fastest growing and most popular majors for women.<sup>53</sup> The popularity of these majors along with the existence of various internship programs for women throughout the 1970s-1990s suggest that there was an especially high demand for business and education administration leadership internships throughout the latter-half of the 20th century.

### **Women’s Educational Equity Act**

Although there were a number of internship programs aimed at increasing women’s employment opportunities, one public policy in particular, the Women’s Educational Equity Act, federally funded a variety of these programs. Therefore, this thesis will analyze the Women’s Educational Equity Act to explore the reasons why internships were seen as a viable way to enhance women’s economic opportunities and how feminism contributed to the expansion of internship labor in the United States. Driven by women’s concentration in low paying careers,

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<sup>51</sup> Classified ad 1488 -- no title. *New York Times* October 23, 1977. Retrieved from <https://search.proquest.com/docview/123412944?accountid=14522>

<sup>52</sup> Classified ad 1425 -- no title. *New York Times* December 9, 1979. Retrieved from <https://search.proquest.com/docview/123892204?accountid=14522>

<sup>53</sup> Deborah Rankin. Business of women is business. *New York Times* April 30, 1977. Retrieved from <https://search.proquest.com/docview/123721304?accountid=14522>



feminists lobbying efforts resulted in the bipartisan support for, and the passage of, the Women's Educational Equity Act (WEEA), as part of the Special Projects Act of 1974.<sup>54</sup> The WEEA was passed two years after Title IX and aimed to address similar issues but with a different strategy.<sup>55</sup> The WEEA was authored by Representative Patsy Mink, an Asian-American congresswoman who sought to combat discrimination against women in the workplace and increasing their employment opportunities.<sup>56</sup> This act was presented at the Subcommittee on Equal Opportunities of the Committee on Education and Labor House of Representatives as H.R 208, "A bill to authorize the secretary of health, education, and welfare to make grants to conduct special education programs and activities designed to achieve educational equity for all students."<sup>57</sup> In justifying the passage of this act, proponents quoted the startling statistic that despite women making up 38% of the workforce in the 1970s, the "average women with a bachelors who works full time earns about the same median income as a man who is a high school dropout".<sup>58</sup> These statistics emphasized the economic need for more women to break into higher paying non-traditional occupations. To accomplish its goal, WEEA looked to reducing sex- role stereotyping in education and researching the causes of the limited vocational and professional training opportunities for women.<sup>59</sup>

Ultimately, the Women's Educational Equity Act was severely underfunded with proponents only successfully attaining about one sixth of the funding they sought for the

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<sup>54</sup> Senate, Subcommittee on Education of the Committee of Labor and Public Welfare United States Senate, *The Women's Educational Equity Act 1973*, 93 Cong., 1st sess., S. Bill (Washington, DC: U.S. Government Printing Office).

<sup>55</sup> Ibid.

<sup>56</sup> Ibid., pg. 1.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

program.<sup>60</sup> The passage of the program with limited funding had symbolic importance through demonstrating the government's willingness to only partially support efforts to increase women's employment prospects. The WEEA was reauthorized by congress in 1978 as Title IX, part C of the Elementary and Secondary Education Act which made the implementation of Title IX at the local-level a priority. In 1982, Barbara Stein, chairman of the National Coalition for Women and Girls in Education stated that at a time when poverty was becoming increasing a "female syndrome", due to female headed households much higher likelihood of being impoverished, the Reagan administration "would condone discrimination in the main route out of economic dependency -- education and career training."<sup>61</sup> Two years later, under the Reagan administration, the WEEA was amended and maximum funding was reduced by more than 50%. The trend of diminishing funding continued into the Carter administration and by 1992, the Acts funding was reduced to nearly nothing.<sup>62</sup> Opponents of WEEA disapproved for various reasons throughout the life of WEEA, with some even referring to the program as "feminist propaganda".<sup>63</sup> WEEA was revised many times and lasted until the early 2000s. Although this program was viewed as economically efficient and highly successful, especially in light of its limited funding, opponents of the act were ultimately successful in preventing the approval of greater WEEA funding.

### *Tackling "Persistent Barriers"*

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<sup>60</sup> *Women's Educational Equity Act Annual Report 1987-1992*, report, U.S. Department of Education, Women's Educational Equity Act. Retrieved from <https://babel.hathitrust.org/cgi/pt?id=uiug.30112001084554;view=1up;seq=7>.

<sup>61</sup> Linda Allnock, "Women's Educational Equity Act Up for Renewal," *UPI NewsTrack*, March 10, 1984.

<sup>62</sup> *Women's Educational Equity Act Annual Report 1987-1992*, report, U.S. Department of Education, Women's Educational Equity Act. Retrieved from <https://babel.hathitrust.org/cgi/pt?id=uiug.30112001084554;view=1up;seq=7>. pg. 7.

<sup>63</sup> Linda Allnock, "Women's Educational Equity Act Up for Renewal," *UPI NewsTrack*, March 10, 1984.

With its limited economic resources, the Women's Educational Equity Act funded a number of hands on training programs to increase women's employability in non-traditional fields.<sup>64</sup> These hands on training programs went under a variety of names including internship and apprenticeship programs. In the hearings before the subcommittee on Education in 1973, a paper presented by the Association of American Colleges titled "Women in Fellowship and Training Programs" stressed the necessity of increasing women's participation in internships to expand their employment opportunities in positions of power and better financial compensation.<sup>65</sup> It states that:

Such fellowships, traineeships, and internships play a large part in the process of educating the best American scholars, professionals, and business and government leaders. Until women achieve a higher participation rate in these programs, many qualified women will lack one of the more important credentials necessary for career upward mobility. They will always be less "qualified."<sup>66</sup>

Therefore, proponents of the 1973 WEEA saw internships and other traineeships as both viable and necessary ways to allow for "career upward mobility".<sup>67</sup>

Since WEEA had limited financial capacity, only a select small number of proposed programs were awarded funding. Therefore, the WEEA extended grants to programs that they believed would achieve its goals, necessitating that the selected internship and apprenticeship programs demonstrated their worthiness in increasing women's employment opportunities.<sup>68</sup>

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<sup>64</sup> *Women's Educational Equity Act Annual Report 1987-1992*, report, U.S. Department of Education, Women's Educational Equity Act. Retrieved from <https://babel.hathitrust.org/cgi/pt?id=uiug.30112001084554;view=1up;seq=7>.

<sup>65</sup> Senate, Subcommittee on Education of the Committee of Labor and Public Welfare United States Senate, *The Women's Educational Equity Act 1973*, 93 Cong., 1st sess., S. Bill (Washington, DC: U.S. Government Printing Office).

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

Each year, the WEEA established certain priorities, ranging from “Eliminating persistent barriers” in 1988 to prioritizing the economically disadvantaged and dropout prevention in 1990.<sup>69</sup> The internship and traineeship programs selected for funding aimed at bettering the employment prospects of various subgroups of women including ethnic and racial minority women and young mothers. A number of WEEA programs also aimed to provide opportunities to women reentering the workforce after a long work hiatus from the formal economy, which were especially numerous throughout the 1980s.<sup>70</sup>

These programs sought to address a number of social concerns that prevented women from entering non- traditionally feminine positions in higher numbers. Many of the programs stressed the need to reduce sex-role stereotyping in early education in order to combat the development of expectations that women’s work differs from men’s work. WEEA internships focused on reducing negative views of female leadership, by giving women the chance to demonstrate their competence. Another WEEA funded internship program strategy was to create networks that would aid in women’s professional development and offer them greater opportunities. The development of female or gender inclusive professional networks would reduce the exclusive nature of certain male-dominated professions, such as the education administration profession that was controlled by “old-boys networks”. The existence of the “old-boys networks”, and their cause for concerns, were demonstrated by an all male-club in early 1980s Texas that was comprised of education administrators where “everybody who is anybody belongs”.<sup>71</sup> As members of this all-male club, participants would initiate each other with cattle

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<sup>69</sup> *Women's Educational Equity Act Annual Report 1987-1992*, report, U.S. Department of Education, Women's Educational Equity Act. Retrieved from <https://babel.hathitrust.org/cgi/pt?id=uiug.30112001084554;view=1up;seq=>.

<sup>70</sup> Ibid.

<sup>71</sup> “Administrators warm up cattle prods for initiation”. *United Press International*. January 15, 1984.

prods and develop a fraternity like bond that allowed for an atmosphere of informal networking.<sup>72</sup> One of the 17 female administrators in Texas, none of which were invited to join the club, titled it part of the “Good old boys network” that impedes women who want to advance because, like any sex- restricted group, it “will put forth the goals of that sex at the expense of the other.”<sup>73</sup> At a conference in 1976, the speaker addressed how internship programs were creating networks “to afford women the chance to enter administration” which did what “the old-boys network did for the boys”.<sup>74</sup> Hence, WEEA funded programs emphasized how through the neutralization of “persistent barriers”, women would have better chances of succeeding in careers they had historically been excluded from.<sup>75</sup>

Many of the WEEA internships and traineeships resulted in the creation of models so that other universities, educational institutions, and employers could utilize similar tactics in increasing employment opportunities for women of a variety of backgrounds.<sup>76</sup> Therefore, these programs had a more widespread effect in influencing similar programs that did not directly receive funding from the WEEA. For instance, the University of Michigan Ann Arbor’s, “internship program in the sciences for female students in a university setting” aimed to increase the number of women scientists and produced a “model program of academic/ community cooperation in encouraging young women into the sciences.”<sup>77</sup> The Career Equity Opportunities

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<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Patricia Stringer (1977) *Grooming Women for Leadership, Change: The Magazine of Higher Learning*, 9:2, 21-26, DOI: 10.1080/00091383.1977.10569066

<sup>75</sup> *Women's Educational Equity Act Annual Report 1987-1992*, report, U.S. Department of Education, Women's Educational Equity Act. Retrieved from <https://babel.hathitrust.org/cgi/pt?id=uiug.30112001084554;view=1up;seq=>.

<sup>76</sup> Senate, Subcommittee on Education of the Committee of Labor and Public Welfare United States Senate, *The Women's Educational Equity Act 1984*, 98th Cong., 2nd sess., S. Bill (Washington, DC: U.S. Government Printing Office).

<sup>77</sup> Ibid.

project supported by the North Carolina Commission of Indian Affairs provided 300-400 “Indian high school students” with internships so that they could be exposed to non-traditional careers.<sup>78</sup> “Job training and Work Experience for Low Income/ Disadvantaged women” sponsored by Volunteer Clearing House Inc. provided training, tutoring, and mentor supports system to reduce “stereotypical attitudes” and increase opportunities for disadvantaged women in Colorado.<sup>79</sup> “Pre-vocational training program for Women in the skilled- Trades” created a program to “provide women with a realistic opportunity to break the cycle of being low-paying, female-dominated, dead- end occupations or relying on public assistance”.<sup>80</sup> Like many other models, created with the help of WEEA funding, the program was dispersed to four-year colleges throughout the United States.<sup>81</sup>

### **WEEA Internship Programs: Successes and Fundamental Issues**

This thesis will now examine two WEEA funded internship programs: Internships, Certification, Equity Leadership and Support (ICES) and Women’s Management for Professional Job Re Entry. These programs were two examples of numerous internship program funded by the WEEA that produced models to be distributed throughout their perspectives states and the nation. Although it is unclear to what extent these specific programs influenced the intern market, they did make an impact through their visibility within their fields, which garnered interest from other employers, universities, and students who wanted to create and participate in similar programs.<sup>82</sup>

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<sup>78</sup> *Women's Educational Equity Act Annual Report 1987-1992*, report, U.S. Department of Education, Women's Educational Equity Act. Retrieved from <https://babel.hathitrust.org/cgi/pt?id=uiug.30112001084554;view=1up;seq=>

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> ICES, A Project of Internships, Certification, Equity Leadership, and Support Final Report.

Additionally, these example, and all other WEEA sponsored programs, were only a portion of the internship programs available during the 1970s- 1990s that geared specifically towards women who aspired to break into male-dominated fields. For example, the Carnegie funded Administrative Intern Program for women was a similar program that lasted from the early to mid-1970s.<sup>83</sup> Although these internships are only two examples, they ultimately demonstrate the common successes and concerns with female interns placed in male-dominated professions throughout this period and into the modern day.

Throughout the 1970's, many of the internship programs that received WEEA funding were aimed at increasing the number of women in education and business administration positions. The Equal Opportunity Commission reported that in 1977 although women made up 65% of teachers in the United States, only 15% of educational administrators and decision makers were women.<sup>84</sup> One WEEA funded program that sought to better the proportion of women in educational administration positions was A Project of Internships, Certification, Equity Leadership and Support (ICES), sponsored by Kansas University Lawrence School of Education.<sup>85</sup> ICES lasted from 1977-1979.<sup>86</sup> ICES produced a model program that was distributed in the United School Administrators (USA) newsletter regularly throughout the late 1970s and was featured at the USA annual convention in 1978, 1979, and 1980. Additionally, the model program was shown in numerous new sources and promoted at a number of conferences nationwide that led to various requests for further information both from prospective interns

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<sup>83</sup> Patricia Stringer (1977) Grooming Women for Leadership, *Change: The Magazine of Higher Learning*, 9:2, 21-26, DOI: 10.1080/00091383.1977.10569066

<sup>84</sup> Ibid., pg. 8.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.



seeking opportunities and universities interested in implementing similar programs.<sup>87</sup> In the final report for this project, the author explains that scholarship in the 1970s on “women’s issues” was dominated by the idea of changing the individual to better work within society and the structures in place that allow for more men to enter leadership roles than women.<sup>88</sup> However, the goals of ICES were to both change individuals, through increasing their skill-set; and to create structural changes that allow for competent women to enter these fields in higher numbers.<sup>89</sup>

ICES was largely successful in reaching its goals in the small study that it conducted by placing thirteen women in administrative positions in school districts throughout the state of Kansas. <sup>90</sup>As mentioned by Judith Adkins, the Coordinator of ICES, “much of the resistance of school administrators and board members stem[ed] from widely held sex-role stereotypes that depict women as inefficient and unpopular administrators.”<sup>91</sup> That is why ICES strongly emphasized giving interns the opportunity to demonstrate their competence through using strategies such as daily logs in which interns had to determine if they were “passive” or “active” participants in the day’s activities.<sup>92</sup> ICES program coordinators may have included this as an extra provision to discourage the employing district from giving the interns too many menial tasks that detracted from their positions in leadership and administration.

At the same time as the ICES program, Wichita, Kansas had an established history of internship programs to recruit administrators. The Wichita intern programs were in collaboration

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<sup>87</sup> Ibid., pg. 82-83.

<sup>88</sup> Ibid., pg. 9-12.

<sup>89</sup> Ibid., pg. 13.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid., pg. 44.

<sup>92</sup> Judith Adkison, *A Project of Internship, Certification, Equity-Leadership, and Support* (“Example of a Daily Log”), report, Sponsoring Agency: Women’s Educational Equity Act, Kansas University Lawrence School of Education (WEEA Publishing Center). pg. 58.



with the local Wichita State University and did not pay salaries.<sup>93</sup> However, the ICES program attempted to make it easier for individuals heading single parent households to participate, ensuring that all interns were paid and providing each intern with a support team to aid in the transition.<sup>94</sup> Due to ICES's numerous considerations, ten out of the thirteen participants received job offers in administrative positions, seven of which were offered positions in the districts where they had interned.<sup>95</sup>

Although ICES did include measures to ensure that the interns would get the most out of their internships, there were a number of issues with the internship program, made especially clear in Melba Sherwood's account of her experience as an ICES intern.<sup>96</sup> Sherwood was a former school counselor and aspiring school administrator when she acquired her ICES internship which she participated in for the 1978-1979 academic year. During her internship, Sherwood worked closely with the Assistant Superintendent for Personnel and Administration and the Curriculum Coordinating Council to accomplish a number of tasks including "curriculum matters and consultation work".<sup>97</sup> In her Intern Report included in the ICES Final Report, Sherwood mentions that the interns worked "sixty- seventy hours" each week which left her with "very little time".<sup>98</sup> Presumably, the demanding hours of the internship would create extra

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<sup>93</sup> Judith Adkison, *A Project of Internship, Certification, Equity-Leadership, and Support* ("The Intern in the School District: The Wichita Administrative Internship Program"), report, Sponsoring Agency: Women's Educational Equity Act, Kansas University Lawrence School of Education (WEEA Publishing Center).pg. 61-64.

<sup>94</sup> Judith Adkison, *A Project of Internship, Certification, Equity-Leadership, and Support*, report, Sponsoring Agency: Women's Educational Equity Act, Kansas University Lawrence School of Education (WEEA Publishing Center)

<sup>95</sup> *Ibid.*, pg. 1.

<sup>96</sup> Judith Adkison, *A Project of Internship, Certification, Equity-Leadership, and Support* ("The ICES Internship: An Intern's Report"), report, Sponsoring Agency: Women's Educational Equity Act, Kansas University Lawrence School of Education (WEEA Publishing Center). pg. 56.

<sup>97</sup> *Ibid.*, pg. 67.

<sup>98</sup> *Ibid.*, pg. 77.

difficulty for women who headed single parent households, thereby diminishing some of the positive influence of the paid aspect of the position. Sherwood also notes that her internship was a “vaguely defined job viewed as a temporary position” which caused difficulty in determining the right balance between labor and education and left her with uncertainty about her future prospects.<sup>99</sup> Sherwood began her “Recommendation for Future Internship” portion with the statement “The Administration internship position needs to be a paid position” for it to succeed.<sup>100</sup> Sherwood’s description of the positive aspects of this internship demonstrated the success that can be achieved through added measures to better the chances that internships will be sufficiently educational. On the other hand, Sherwood’s account also illustrated that many of the current concerns with internships, such as overly long hours and the uncertainty of future job prospects, have a long history and are difficult to alleviate even with interns possessing strong support.

Another concern with women’s internships was made evident in the self-reported description of ICES’s own successes. In the final section of the ICES report titled “Dissemination”, the author describes the progression of how people perceived the participating interns at the United School Administrators (USA) National Convention for education administration over the three years in which the interns attended.<sup>101</sup> It is casually mentioned that initially the interns were considered “oddities” and even “sexual objects” at the convention during the first years, due to being females in a male-dominated profession; however, by the last year, the interns were “treated as professionals”.<sup>102</sup> This statement was portrayed as a

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<sup>99</sup> Ibid.

<sup>100</sup> Ibid., pg. 78.

<sup>101</sup> Ibid., pg. 81.

<sup>102</sup> Ibid., pg. 82.

demonstration of the success of the interns in proving their competence and gaining the respect of leaders in their aspiring profession. However, the short mentioning of interns being treated as “sexual objects” suggests that this was a common occurrence, nearly expected for its circumstances, and not viewed as a major concern to be dealt with in a serious manner. There is no mention of either the interns or facilitators of the internship programs attempt to alleviate this issue as it is stated that through time the interns male colleges came to respect them as professionals rather than view them solely as “sexual objects.”<sup>103</sup> Further, there is no inclusion of training or preparation for unwanted sexual harassment, which had become a newly recognized issue in the early 1970s, within the model.<sup>104</sup> Thus, the ICES program, although careful to make the internship paid and educational, failed to prevent the participants from facing a variety of major concerns including potential sexual discrimination.

Similarly to the ICES program, Goucher College’s Developing Women’s Management Program for Professional Job Reentry, was university sponsored, the program aimed to place women in leadership positions, guaranteed paid internships, and developed an internship model to be utilized by other educational institution.<sup>105</sup> However, this program, funded by the WEEA in 1977, differed from the ICES program through its stronger university connection and its attempt to better cater to women re-entering the job market by creating a job-share model.<sup>106</sup> The job-share model allows for two part-time interns to share a single full-time position through collaboration with each other.<sup>107</sup> Due to its enrollment requirement, unlike ICES, participants had

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<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> Judie Jubin, *Developing Women’s Management Programs: A Guide for Professional Job Reentry*, report, Sponsoring Agency: Women’s Educational Equity Act, Goucher College (WEEA Publishing Center). pg.1.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

to pay application fees and tuition costs.<sup>108</sup> The program's coordinators admitted that their fees of \$2000 for participation in the course which included a 3-month long internship would be too high for economically disadvantaged women; however, they claimed that scholarships and loans made the program more affordable and accessible.<sup>109</sup>

The most significant element of the Goucher College's model program, was the implementation of the timeshare model that allowed for "displaced mothers" to intern on a part-time basis, thereby provided for schedule flexibility. The timeshare aspect of this program allowed for single mothers and heads of single-income households the opportunity to participate without having the added difficulties of an overly demanding work schedule. Although these work-share programs were beneficial in making the internships more accessible, along with their short duration, they resulted in low-rates of offers for permanent positions.<sup>110</sup> The program creators made sure to state that the internship should be regarded as a "transitional aid" rather than a direct route to employment since there "is no guarantee" of job offers.<sup>111</sup> Further, they emphasized that a "positive recommendation from the intern's supervisor" and the fostering of "valuable contacts" would be essential in the women's attempts to gain permanent positions.<sup>112</sup> Therefore, the benefits of the internships on the participants relied heavily on the goodwill of the interns' supervisors.

The combination of the position of power, placing supervisors over their interns, due to intern's uncertain job prospects, and the fact that these women interns were entering male

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<sup>108</sup> Ibid., pg. 23-24.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid., pg. 117.

<sup>112</sup> Ibid.

dominated workplaces could lead to issues regarding sexual harassment and discrimination. However, even with this possibility, there is no inclusion of sexual harassment training, by any terminology, for the interns themselves or the employers in the sample documents utilized to facilitate employer- intern- university cooperation.<sup>113</sup> As for the educational- training course portion of the program, unwanted sexual advances were only addressed one time in a write-up question.<sup>114</sup> In the write up, a hypothetical situation was given in which a “close working” male “associate” would act in an uncomfortable and sexual manner towards the intern, who would continually brush it off until the male associate committed a third offense.<sup>115</sup> At the end of the hypothetical, participants were asked to write down what course of action they would take.<sup>116</sup> This hypothetical implies that action would only need to be taken once the sexual harassment had gone too far by occurring multiple times rather than suggesting that interns should inform supervisors or take other action upon the first occurrence of inappropriate behavior. Additionally, the single hypothetical scenario would not prepare students for dealing with sexual harassment if the perpetrator was their supervisor or someone else who had greater power over their current and future career prospects. Overall, the single activity in the course dedicated to sexual harassment was not enough to properly prepare the participating interns.

The Goucher Internship model program demonstrated how universities attempted to decrease their involvement with the employer-intern relationships. The creators of this program stated that interns will be placed under the “personal rules and policies” of the employer and that

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<sup>113</sup> Ibid.

<sup>114</sup> Zudie Jubin, *Developing Women's Management Programs: A Guide for Professional Job Reentry (Week 9 Of Course Curriculum)*, report, Sponsoring Agency: Women's Educational Equity Act, Goucher College. (WEEA Publishing Center). pg. 218.

<sup>115</sup> Ibid.

<sup>116</sup> Ibid.

any contact the program coordinators would have with the intern would be with the “permission” of the employers chosen liaison for the project.<sup>117</sup> The combination of an emphasis on gaining the supervisor’s favor, the lack of sexual harassment training, and the universities’ attempt to distance themselves from the employer-intern relationship that they had fostered contributes to the occurrence of sexual harassment and interns’ lack of knowledge of and access to proper support from their internship programs. Thus, the Goucher internship program is demonstrative of the ways in which universities who utilized this model, or similar models, would have distanced themselves from the responsibilities of providing training and protections against sexual harassment. The concern of universities separating themselves from protecting interns from sexual misconduct continued into the late 1990s and early 2000s.<sup>118</sup>

Both ICES and the Goucher College internship programs illustrate the ways in which internships could be utilized to aid women in attaining positions in non-traditionally feminine career paths such as education administration and business leadership. ICES sought, and succeeded, in allowing for their participants to demonstrate their competence and reduce negative sex-role stereotyping that framed women as “inefficient and unlikable administrators”.<sup>119</sup> The Goucher College internship program showed how successful timeshare positions can be in allowing enough flexibility for nontraditional students such as mothers to participate. However, the interns in these programs nevertheless faced job insecurity, uncertainty

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<sup>117</sup> Zudie Jubin, *Developing Women's Management Programs: A Guide for Professional Job Reentry (Sample Letter)*, report, Sponsoring Agency: Women's Educational Equity Act, Goucher College. (WEEA Publishing Center). pg. 67.

<sup>118</sup> Cynthia Bowman and MaryBeth Lipp, "Legal Limbo of the Student Intern: The Responsibility of Colleges and Universities to Protect Student Interns Against Sexual Harassment," *Harvard Women's Law Journal*, 2000.

<sup>119</sup> Judith Adkison, *A Project of Internship, Certification, Equity-Leadership, and Support*, report, Sponsoring Agency: Women's Educational Equity Act, Kansas University Lawrence School of Education (WEEA Publishing Center).

regarding the balance between education and labor, economic inaccessibility, and lack of training or protections of unwanted sexual advances from their coworkers and supervisors. These programs demonstrate how the foundations of major issues in the intern economy, especially those that negatively impacted female interns, were present even in the internship programs that had the most support.

### **Concerns with the Rising Intern Economy**

Proponents of WEEA internships' rhetoric regarding the benefits of internships in expanding women's employment opportunities also illustrate how and why female interns could be more vulnerable to economic and sexual exploitation. As repeatedly mentioned throughout WEEA internship program summaries and final reports, internships were and are an avenue for women to demonstrate their competence.<sup>120</sup> This was especially helpful for women who were entering male-dominated fields where their competence was heavily contested. For instance, the ICES program found that resistance from school administrators and board members of increasing women's representation in administrative leadership "stems from widely held sex role stereotypes that depict women as ineffective and unpopular administrators."<sup>121</sup> However, in order for their demonstration of competence to relate to job offers, women interns would need to gain the favor of their supervisors who would either endorse them for positions at their organization or recommend them for positions with other employers. As many of these internships were

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<sup>120</sup> Ibid.

<sup>121</sup> Ibid., pg. 44.



temporary low-pay or no-pay positions, the real benefit of participating in these programs was not only in the development of new and specific skill-sets, but also in their providing access to job opportunities through supervisor's recommendations. Thus, the rhetoric of proponents of women's involvement in internships incentivized them to endure low or unpaid work and potential sexual harassment for the possibility of future well-paying employment. In order to explore the negative aspects of the intern economy, this thesis will address the topics of internships as do-good work, the role of social and family connections, and the class component prior to delving into the main focus of this section: sexual harassment.

As established earlier on in this thesis, due to the exclusion of interns from FLSA employee protections, resulting from the landmark 1947 *Walling v. Portland Terminal Co.* decision, employers could and did utilize interns as cheap, and exploitable labor.<sup>122</sup> *Walling v. Portland Terminal Co.* decided on six factors that would determine if a trainee could be exempt from minimum wage protections.<sup>123</sup> These factors emphasized that a trainee must benefit from the relationship, although the extent to which they benefit is not specified; that they do not complete the labor of actual employees, and that the employer does not receive an "immediate advantage" from the trainee's labor; consequently, this reasoning supported the idea that although trainees are workers, they are not "employees".<sup>124</sup> This standard remained unchanged until 2010 when the test was expanded on by the Department of Labor.<sup>125</sup> *Walling v. Portland Terminal Co.* precedent standard that interns are not necessarily supposed to perform valuable

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<sup>122</sup> Natalie Bacon, "Unpaid Internships: The History, Policy, and Future Implications of Fact Sheet #71" *Entrepreneurial Business Law Journal* 6 (2011).

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid.*



labor without compensation was discussed in the Goucher College Internship Program report in 1979.<sup>126</sup> Here, the author states that their initial plan to coordinate unpaid internship programs was “abandoned” after they determined that it would be against the FLSA for interns who complete “meaningful work” to be unpaid.<sup>127</sup> However, due to the unclear language of the trainee standards test and the necessity of interns to preserve favor of their supervisors for the sake of their future careers, employers could use unpaid interns who partook in valued work to cut labor costs.

The issue of unpaid and low-paid intern labor has a long history and were pervasive in a variety sectors of the economy throughout the later-half of the 20th century. Throughout the late 1970s, internship positions, especially in the government, grew in numbers and desirability. From 1977-1978 there was a 15 % increase in the number of students interning with congress.<sup>128</sup> These 2,600 interns are paid very little or absolutely nothing to complete work that employers stated benefitted the office greatly as the interns completed a lot of essential but unappealing “menial work”.<sup>129</sup> Additionally, employers used the interns especially for their “idealism” and were willing to give them “pretty heavy responsibilities”.<sup>130</sup> Although interns are not legally supposed to produce “meaningful” work, their employers would often have them do both clerical and substantial projects that ultimately benefitted the employer and could have led interns to taking on the responsibilities of “employees” rather than remain passive learners.

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<sup>126</sup> Judie Jubin, *Developing Women's Management Programs: A Guide for Professional Job Reentry*, report, Sponsoring Agency: Women's Educational Equity Act, Goucher College (WEEA Publishing Center).

<sup>127</sup> Ibid.

<sup>128</sup> "Growing Number of Young People Strive for Internships at Capitol," *The New York Times* (New York), July 26, 1978.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

For this abuse of free labor to be accepted, the rhetoric surrounding internships during the later-half of the 20th century went beyond the ability of interns to gain better future job prospects, and appealed to the desire of interns to accomplish something meaningful. In 1972, Paul Glasius, a senator's intern who was "researching low and moderate income homes" was one of "hundreds" of interns who went to the country's capital to work for "love" rather than money because they are unpaid.<sup>131</sup> In justifying their use of unpaid labor, employers framed governmental and non-profit internships as work that one does because they want to -- out of a desire to do good -- rather than as a means to support oneself as they work towards permanent employment.<sup>132</sup> This ideology aided in the conflation of the intern with volunteers, that ultimately had legal consequences that will be discussed later in this thesis.

Along with unpaid and low-paid internships being limited to those with the financial means to work for free, internship positions that could open doors were often gained through social and familial connections. Due to the informal nature of this hiring process, it is difficult to determine the extent of the effect of networking on the intern economy. However, discussions in the media illustrate how the issues of internship positions' exclusion only to those with connections devalued the positions in society's eyes, which further reduced the opportunities of those without pre-made social connections. In a 1984, interns expressed how "most interns get their jobs through a friend or a family or school connection" highlighting how essential personal connections were in the intern economy.<sup>133</sup> Additionally D.J O'Brian, a former intern, stated that it is difficult for one to gain respect in a position that is obtained "because your dad knew

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<sup>131</sup> Hoopes, "Capital Draws Many Students for Intern Jobs," *Los Angeles Times* (Los Angeles), August 10, 1972.

<sup>132</sup> Ibid.

<sup>133</sup> "Hordes of Youths Test their Susceptibility." *New York Times* (Los Angeles), Aug 24, 1984.

somebody," and, due to this lack of respect, people perceive the intern as "somebody for the office to take advantage of."<sup>134</sup> This statement demonstrates the devaluating effects that internships' connection with social networks have, thereby contributing to the survival of the unpaid aspect of internships. If interns are mainly youths who gained their positions through networks and whose living is paid for by their parents, then it is reasonable to see how people would perceive interns to be less deserving of financial compensation and protection. However, these assumptions about interns had the negative effect of further restricting access to internships to those who fit the mould portrayed in the media, ultimately creating a labor practice that could be used to reproduce social class rather than expand opportunities for those who lacked financial backing and social connections.

Unpaid and low-paid internships not only exploit interns for their labor with the promise of future employment security and the ability to do what they "love", but they also limit the options of non-financially privileged individuals to expand their own employment opportunities. As the ICES intern Melba Sherwood exclaimed in her report on her education administrative internship, interns need to be paid in order for poor people to participate.<sup>135</sup> Some internship programs funded by the WEEA sought to be paid for the purpose of opening up opportunities for non-financially privileged individuals. For example, the final report for the ICES program states that the interns were paid salaries sufficient for the heads of single households, like single

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<sup>134</sup> Edward Felsenthal and Christina Duff. "'My Summer Job? Uh, Well, Ma, I Run Rackets for the Mob' --- Post-Monica, Interns Prefer any Title but the 'I-Word'; Short-Skirting the Issue." *Wall Street Journal* (New York), Jun 03, 1998.

<sup>135</sup> Judith Adkison, *A Project of Internship, Certification, Equity-Leadership, and Support* ("Intern Final Report"), report, Sponsoring Agency: Women's Educational Equity Act, Kansas University Lawrence School of Education (WEEA Publishing Center) pg. 56.

mothers, to afford to seize the opportunity and thereby expand their employment prospects.<sup>136</sup> Since households headed by single mothers are far more likely to be impoverished, unpaid internships were accordingly out of reach for many women and therefore prevented them from obtaining the same opportunities for career advancement as those with more secure finances.<sup>137</sup>

The devaluing effects of the conflation of the intern with a privileged young person resulted in low sympathies for many young people involved in this form of labor, even when it came to them getting enough food to eat. Unpaid interns such as Susie Vella, a government intern in the summer of 1985, were cramped into crowded inexpensive housing.<sup>138</sup> These students could not afford single, or even double rooms, to reside in during their off hours. These unpaid interns, like many throughout the decade, relied on a separate paid job in order to support themselves through their unpaid internships, since as interns they were “working to learn, not earn”.<sup>139</sup> While interning, they saw an opportunity to receive a free lunch or dinner when they were asked to represent their employer at a variety of networking events funded by lobbyists.<sup>140</sup> With this knowledge, unpaid and financially struggling interns created a network of their own to inform each other of opportunities for a free meals, the most seemingly immediate benefit of their uncompensated labor.<sup>141</sup> However, the lobbyists that hosted these events hoped to speak with congress people and senators rather than their lowly intern representatives.<sup>142</sup> Lobbyist

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<sup>136</sup> Judith Adkison, *A Project of Internship, Certification, Equity-Leadership, and Support* (“Intern Final Report”), report, Sponsoring Agency: Women’s Educational Equity Act, Kansas University Lawrence School of Education (WEEA Publishing Center)

<sup>137</sup> U.S. Poverty Statistics released September 2018 by the U.S. Census Bureau

<sup>138</sup> Nauth, Zack. “Some Represent Lawmaker Bosses, Others Simply Crash.” *Los Angeles Times* (1923-1995), Apr 26, 1985. <https://search.proquest.com/docview/154298121?accountid=14522>.

<sup>139</sup> “Staying fed, intern-style”. *New York Times*. Apr 04, 1985.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

groups and newscolorists framed the network of interns as young people who were just too lazy or “unfamiliar with the art of cooking” to make a simple meal.<sup>143</sup> The intern network for finding dinner demonstrated both the financial hardship that unpaid internship positions bestowed on young people trying to advance their careers and the strength of the privileged intern image.

### *Sex Discrimination in Internships*

This project will now turn to how issues with the intern economy effected sex based discrimination. Once women gained internship positions, they could be faced with being given more menial tasks than their male counterparts, fewer opportunities to gain mentors, and the ever-present possibility of sexual harassment. In 1984, the Women’s Educational Equity Act sponsored a study to examine educational equity in non-classroom based education programs that was eventually titled “Out of the Classroom: A Chilly Campus Climate for Women?”<sup>144</sup> The study found that there were a number of reasons why women interns were not given as many opportunities as their male counterparts.<sup>145</sup> As for acquiring internship positions, women were less likely to benefit from the “old boys” network and other types of informal avenues to finding interns and advertising positions.<sup>146</sup> Once women attained positions, the report found that they were more likely than men to be “assigned tasks requiring limited ability and less likely to be given an overview of the organization in which they are working.”<sup>147</sup> Additionally, female interns may be more likely to be treated in a “patronizing” manner.<sup>148</sup> Therefore, as the study

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<sup>143</sup> Ibid.

<sup>144</sup> Roberta Hall and Bernice Sandler, *Out of the Classroom: A Chilly Campus Climate for Women?* report, Sponsoring Agency: Women's Educational Equity Act, Association of American Colleges (Washington, DC: WEEA Publishing Center).

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid.

<sup>148</sup> Ibid.

concluded, female interns disproportionately suffered from the negative aspects of the intern economy.

In addition to facing reduced opportunities due to sex and gender, interns also faced sexual harassment due to the power-dynamic that the nature of internship positions created. In 1978, the National Advisory Council on Women's Educational Programs asked the U.S Office of Civil Rights for a policy statement on how schools and universities were required to handle sexual assault.<sup>149</sup> The U.S. Office of Civil Rights refused the request, by claiming that sexual harassment in the educational setting was not seen as a pervasive issue due to the low- rates of reports.<sup>150</sup> In response, the Council conducted a study which found that between 40% and 60% of women, on various campuses throughout the country, including at the UC's, had experienced sexual harassment ranging from sexually suggestive remarks, to rape.<sup>151</sup> Although sexual harassment was pervasive throughout the country, the Council found that women were too afraid to report it due to the unequal power dynamics, temporary nature of enrollment at an educational institution, and because "they had no apparent avenue of redress".<sup>152</sup> At the time of this study, the Supreme Court had yet to determine that sexual harassment was protected by Title IX; consequently, students did not yet have a legal route to address the issue.<sup>153</sup> The National Advisory Council on Women's Educational Program's explanation for the disparity between the rate of occurring sexual harassment and reports of sexual harassment could also be applied to

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<sup>149</sup> Janice Mall. "About Women". *Los Angeles Times*. December 21, 1979.

<sup>150</sup> Ibid.

<sup>151</sup> Ibid.

<sup>152</sup> Ibid.

<sup>153</sup> Bernice Resnick Sandler, Title IX: How We Got It and What a Difference it Made, 55 Clev. St. L. Rev. 473 (2007) available at <https://engagedscholarship.csuohio.edu/clevstlrev/vol55/iss4/4>

internship positions. Similarly to students, interns are faced with similar power dynamics, temporary nature of their positions, and a lack of clear legal protections.

### *Scandals*

Although the above examined reasons explain why female interns facing sexual harassment would opt against reporting their coworkers, and especially their supervisors, there were still a number of scandals addressing interns and sexual misconduct prior to the notorious Monica Lewinsky scandal of the late 1990s. The scandals that were shown in the media often revolved around a powerful government official. The media sources would first look to discredit the accuser, or wait until a larger number of women made accusation about the same figure, prior to extending sympathetic language to the women. For example, in 1987, a news article discussed how Senator Brock Adams contended that the women who accused him of sexual assault-- his friend's daughter, Ms. Trupper, whom he had aided in obtaining an internship--was a liar who was only in it for the "hush money".<sup>154</sup> The article took the senator's side through calling the complaint a "sex allegation", rather than a sexual assault, using sceptical language when discussing Trupper's actions such as stating that "it is unclear why Trupper waited four months to file her assault complaint" and leaving the article off on a the quote that Trupper was "upset about her job and not feeling well" at the time of the allegation.<sup>155</sup> However, four years later when seven more women also accused Adams of sexual harassment, the news media began to take the side of the women.

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<sup>154</sup> Susan Rasky. "Senator Adams Disputes Sex Assault Charge". *New York Times*. Sep 28, 1988.

<sup>155</sup> Ibid.



In the late-1980s, around the time that Trupper initially reported Senator Adams, there were attempts to crack-down on sexual harassment, such as in California. Throughout the 1970s and 1980s, Women's Rights activists made the issues of sexual harassment -- especially in the workplace and the educational setting -- more visible. This increase in visibility prompted some legislation and policies to be created and enacted with the goals of addressing the issue of sexual harassment. For example, in 1988, the Mayor of Los Angeles instituted a policy that required all employee supervisors to be trained in sexual harassment due to a recommendation by the Committee on the Status of Women.<sup>156</sup> However, even with the attempts of some to reduce the issues of sexual harassment, the exploitative behavior persisted.

In 1992, a story came out about ten women, including former staffers and interns, who claimed that the U.S. Senator Bob Packwood had made unwanted sexual advances on them.<sup>157</sup> None of the women made formal complaints about Packwood's behavior and some told the newspaper that they chose against reporting the harassment because "they feared no one would believe them and that their careers might suffer."<sup>158</sup> Due to the large number of accusers, the reports were taken seriously and in 1995, the Ethics Committee of the United States House of Representatives unanimously voted to recommend that Packwood be removed from the senate.<sup>159</sup> A *Los Angeles Times* article proclaimed the Committee's decision to be a "Turning Point" and a "precedent- setting event destined to become a watershed moment in the struggle against sexual

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<sup>156</sup> "Tougher Policy on Harassment." *Los Angeles Times*, Feb 5, 1988.

<sup>157</sup> "Packwood Apologizes After Sex Harassment is Charged Ethics: Senator's Statement Stops Short of Saying He made Unwanted Advances, as Alleged by 10 Women. Democrats in Oregon May Seek Inquiry." *Los Angeles Times*, Nov 23, 1992.

<sup>158</sup> *Ibid.*

<sup>159</sup> Marlene Cimon and Doug Connor. "Feminists and Lawmakers See a Turning Point." *Los Angeles Times*, Sep 08, 1995.



harassment".<sup>160</sup> However, throughout the late 1990s, the reports of interns, and any other kind of worker, facing sexual harassment continued.

In the mid-1990s, a number of news sources covered the topic of taxpayer funds being utilized to either discreetly eliminate or completely squash the threat of numerous sexual harassment allegations against prominent political figures from coming out or tarnishing the defendant's reputation.<sup>161</sup> <sup>162</sup>An article titled "Sex-Harassment Suit Turns the Tables on Accuser" stated that "eight lawyers were hired by California and used "\$300,000 in taxpayer funds" to discredit Robyn Boyden, a political intern who had accused her boss, "a powerful state assemblyman" of sexual harassment through making sexual innuendos and demanding that she kiss and embrace him.<sup>163</sup> The funds were utilized to exploit the interns marital problems, sex life, and to "assassinate" her character. The same article, along with one published by *Dissent*, discussed how taxpayer funds had already gone towards a number of settlements for sexual harassment claims.<sup>164</sup> These concerns demonstrates common tactics in pushing sexual harassment claims into the dark, through discrediting the accusers and coming to settlements before the news can reach the surface. Although there are very few, if any, court cases regarding women interns facing sexual harassment or discrimination prior to the 1990s, the emphasis of interns need for supervisors recommendation along with surveys and scandals illustrate how the problem very much existed throughout the later -half of the 20th century.

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<sup>160</sup> Ibid.

<sup>161</sup> Lance Williams, "Sex-harass Suit Turns the Tables on Accuser," SFGate. September 29, 1996.

<sup>162</sup> Eric Bailey, "Ex-Lawmaker Conroy Goes on Trial in Sexual Harassment Case," Los Angeles Times, April 17, 1997.

<sup>163</sup> Ibid.

<sup>164</sup> Ibid.

### Title VII and Sexual Harassment of Employees

In addition to the nature of internships preventing women from coming forward about their experiences with sexually harassment, the United States sexual harassment law did not provide women with viable means of legally contesting their harassers and the institutions that failed to adequately handle the situations. The passage of the Title VII of the Civil Rights Act in 1964 made sex-based discrimination against an *employee* illegal in the workplace.<sup>165</sup> However, as Reva B. Siegal explains in her analysis of sexual harassment law in the United States, it wasn't until the 1970s and 1980s that sexual harassment, in the ways in which we view it today, was covered by Title VII protections.<sup>166</sup> The term "sexual harassment" itself developed out of a Cornell University course on women and work taught by Lin Farley in 1974.<sup>167</sup> Initially, the courts found sexual harassment to be a personal matter, having nothing to do with work.<sup>168</sup> Additionally, since sexual harassment could happen to both men and women, the courts did not find that it "systematically differentiate[s] among employees by sex."<sup>169</sup> In the early years of Title VII, sexual harassment could be included under the "sex plus" rules which allowed for discriminatory employment practices to evade Title VII protections because they were based on sex, as in the gender of an individual, "plus" some other neutral criteria.<sup>170</sup> In the case of sexual harassment, it was sex "plus" a "refusal to furnish sexual considerations".<sup>171</sup> As more women were entering male-dominated fields throughout the 1970s, women faced greater chances of

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<sup>165</sup>MacKinnon, and Siegel. "A Short History of Sexual Harassment." *Yale Press*, 2003. pg. 8.

<sup>166</sup> *Ibid.*

<sup>167</sup> *Ibid.*, pg. 8.

<sup>168</sup> *Ibid.*, pg. 11.

<sup>169</sup> *Ibid.*

<sup>170</sup> *Ibid.*, pg. 14.

<sup>171</sup> *Ibid.*

encountering sexual harassment due to the utilization of sexual harassment to exert male-control in the workplace.<sup>172</sup> These trends resulted in a number of court cases where women contested the “sex plus” rules and were able to successfully utilize Title VII to sue their employers for sexual harassment, which was upheld by the Supreme Court in 1986 with *Meritor Savings Bank v. Vinson*.<sup>173</sup> Thus, by the mid-1980s, sexual harassment was deemed to be discrimination on the “basis of sex” and therefore, a violation of Title VII.<sup>174</sup> With Title VII protections, *employees* facing sexual harassment would be able to sue their employers and employing institutions that failed to adequately handle sexual harassment concerns.<sup>175</sup> Even with these victories in extending protections against sexual harassment to employees, other groups of individuals, including interns, remained unprotected both in and out of the workplace.

### **Title IX and Sexual Harassment in the Educational Setting**

As discussed earlier on in this thesis, proponents of reducing sexual discrimination and expanding women’s opportunities in the educational realm succeeded in getting Title IX added to the The Educational Amendments Act of 1972.<sup>176</sup> Title IX states that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Due to the passage of this legislation, students were able to legally challenge educational institutions that discriminated against them on the “basis of sex”. In 1992,

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<sup>172</sup> Ibid., pg. 9-10.

<sup>173</sup> Ibid., pg. 20.

<sup>174</sup> Ibid.

<sup>175</sup> Ibid.

<sup>176</sup> Douglas P. Ruth, “Note title VII: ISs Title VII The Exclusive Remedy for Employment Discrimination in the Educational Sector?,” *Cornell Journal of Law and Public Policy*, 5, 185 (Winter, 1996).

with the case *Franklin v. Gwinnett County Schools*, the Supreme court found that sexual harassment would be considered “discrimination on the basis of sex” for Title IX purposes, thereby protecting students from sexual harassment of school personnel.<sup>177</sup> Similarly to Title VII, sexual harassment was not considered “discrimination on the basis of sex” and thus protected by Title IX until decades after the Title’s initial passage. Yet, by the early 1990s, both students, with Title IX, and workers, with Title VII had clear legal avenues to contest the improper handling of sexual harassment by the institutions they were involved with.

### **Limitations to Anti Discrimination Protections for Interns**

By definition and in practice, internships are work-experiences either through producing meaningful work, which are often considered the best internships, or through the completion of menial tasks that interns do in the hope of receiving a good letter of recommendation. However, due to the 1947 *Walling v. Portland Terminal Co.* decision that created the worker category of “trainee”, the increasing role of the university as the middleman of the intern world, and the cultural association of interns with youthful students, unpaid interns are not legally considered “employees”. Interns’ lack of employee status exempts them from Fair Labor Standard Act (FLSA) protections, allowing employers to pay them less than minimum wage, hence the existence of numerous unpaid internships.<sup>178</sup> More relevant to this section, interns lack of “employee” status also exempted them from the 1964 Civil Rights Act Title VII anti-

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<sup>177</sup> Bernice Resnick Sandler, Title IX: How We Got It and What a Difference it Made, 55 Clev. St. L. Rev. 473 (2007)

<sup>178</sup> Ibid.

discrimination protections.<sup>179</sup> Therefore, throughout the 20th century, unpaid interns could not sue their employing institutions for violating Title VII through discriminating against them, or not adequately handling their discrimination, on the basis of race, color, religion, sex, or national orientation.<sup>180</sup>

Nearing the end of the 20th century, as the intern economy grew larger and more women were entering male-dominated fields, occasionally through internships, interns legally challenged the sexual harassment they were facing. Due to the expensive nature of the United States legal system and the potential negative ramifications on intern's career prospects, resulting from taking actions against their harassers, the potential for financial compensation was and is necessary for interns to choose this route. Since internships are a form of labor that is viewed mainly as an educational experience, interns are placed in a legal gray area that had yet to be adequately addressed. The lack of legal protections for interns against sexual harassment builds upon the earlier discussed reasons why internships, although beneficial for women in various ways, was legally and socially steered into becoming an extremely exploitable forms of labor.

*O'Connor v. Davis*

The 1996 court case *O'Connor v. Davis* established that unpaid interns qualify as “volunteers” rather than “employees”, for the purposes of Title VII and that the institutions in which unpaid interns labor can not be regarded as educational institutions for the purpose of Title IX unless educating is their “primary purpose”.<sup>181</sup> The plaintiff-appellant Bridget O'Connor was enrolled at Marymount College where, as a major in social work, she was required to conduct

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<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> *O'Connor v. Davis*, 126 F.3d 112, 1997 U.S. App. LEXIS 26401, 74 Fair Empl. Prac. Cas. (BNA) 1561 (United States Court of Appeals for the Second Circuit September 19, 1997, Decided).

field work.<sup>182</sup> In order to meet this requirement, O'Connor, with the help of Marymount College, obtained an unpaid internship with Rockland Psychiatric Center.<sup>183</sup> O'Connor participated in the unpaid internship program as "work study," meaning that she received federal funding for her labor.<sup>184</sup> O'Connor stated that while interning at Rockland, she repeatedly was sexually harassed by Dr. James Davis who was employed by Rockland as a licensed psychiatrist.<sup>185</sup> O'Connor stated that Davis repeatedly called her "Miss Sexual Harassment" and suggested that they participate in an orgy.<sup>186</sup> O'Connor reported these occurrences to her supervisor, Lisa Punzone, who stated that Davis said similar things to her and that O'Connor should try to ignore him.<sup>187</sup> Eventually, Punzone did report Davis' behavior towards O'Connor to her own supervisor, who failed to take further action.<sup>188</sup> In 1995, O'Connor filed lawsuits against Marymount, Rockland, the State of New York, and various Marymount and Rockland employees, claiming, *inter alia*, sexual harassment in violation of Title VII and Title IX.<sup>189</sup> The action was discontinued for all except Rockland and New York State.<sup>190</sup>

The district court concluded that O'Connor was not an "employee" under Title VII due to her "volunteering" her labor at Rockland rather than receiving compensation for it.<sup>191</sup> O'Connor argued that the district court's decision was "improperly concluded" because, as she argued, she satisfied the common-law agency definition and that she was compensated through federal work-

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<sup>182</sup> Ibid.

<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid.

<sup>191</sup> Ibid.

study.<sup>192</sup> The Court of Appeals disagreed with O'Connor's argument by stating that a "hire", in turn meaning agreement for compensation, by the institution itself must occur for the common-law agency definition to apply.<sup>193</sup> The court determined that unlike in the previous case *Haavistola v. Community Fire Co.*, where a volunteer was able to use Title VII to sue her employer for sexual harassment, the plaintiff did not receive any forms of compensation, such as health benefits and retirement benefits.<sup>194</sup> Therefore, O'Connor would be considered a "volunteer" rather than an "employee" of Rockland, disqualifying her from claiming that the institution violated Title VII through their inadequate handling of Davis' sexual harassment of O'Connor.<sup>195</sup>

O'Connor also claimed that for the purposes of Title IX, Rockland was an educational institution because it "both receives federal financial assistance either through the state, its patients, or its employees, and also operates "vocational training through an organized educational program".<sup>196</sup> However, the court of appeals also disagreed with O'Connor's argument because it declined "to convert Rockland's willingness to accept volunteers into conduct analogous to administering an "education program" as contemplated by Title IX."<sup>197</sup> The court concluded that Rockwell was not an educational institution because its "primary purpose" was not to educate.<sup>198</sup> Although Rockwell and Marymount were connected through Marymount's

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<sup>192</sup> Ibid.

<sup>193</sup> Ibid.

<sup>194</sup> Ibid.

<sup>195</sup> Ibid.

<sup>196</sup> Ibid.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

placement of O'Connor in an internship at Rockwell, the court ruled that this was not enough to make Rockwell an educational institution for the purpose of Title IX.<sup>199</sup>

Ultimately, O'Connor's unpaid intern status prevented her from gaining reparations for the sexual harassment that she encountered by the institution that inadequately handled the situation either through the utilization of Title VII or Title IX.<sup>200</sup> *O'Connor v. Davis* was a significant case because it established that unpaid interns would be limited in their legal options for fighting harassment or any other forms of discrimination since they are considered "volunteers" rather than "employees".<sup>201</sup> The term "volunteer" means that an intern is not controlled by the employer to the extent that an "employee" would be through the employers economic control over them. That implied that the unpaid intern is not tied to the employer in a substantial way, allowing them to leave more easily.<sup>202</sup> However, the issue with this reasoning is that in the case of O'Connor, the intern's educational career would be hindered by her leaving Rockwell without finishing her internship. Although O'Connor was able to be placed in another internship with the help of Marymount, this still raises the issue of how much control an employer really has over an unpaid intern.

#### *Lippold v. Duggal Color Project*

A similar case was brought up in New York a year later where the Plaintiff, an intern named Jennifer Lippold, claimed that Duggal Color Projects violated Title VII by failing to adequately address her supervisor's sexual harassment of her.<sup>203</sup> Lippold was training to become

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<sup>199</sup> Ibid.

<sup>200</sup> Ibid.

<sup>201</sup> Ibid.

<sup>202</sup> Ibid.

<sup>203</sup> *Lippold v. Duggal Color Projects*, 1998 U.S. Dist. LEXIS 335, 1998 WL 13854 (United States District Court for the Southern District of New York January 15, 1998, Filed).



a teacher through a vocational program run by the Board of Education.<sup>204</sup> The program required that she work at an outside site for three years. Because Lippold was interested in photography, the board placed her as an intern at Duggal Color Projects.<sup>205</sup> To get her position at Duggal, Lippold was interviewed by the supervisor and as she argued, “Duggal Color Projects exercised employment-type control over her hours, daily activity, and work assignments.”<sup>206</sup> In order for Lippold to get credit towards her educational program for her work as an intern, she was required to produce supervisor signed time cards and evaluation sheets.<sup>207</sup> While Lippold was interning at the company, her supervisor sexually harassed her and refused to sign her time cards and evaluation sheets. Although she argued that Duggal had “employment-type control” over her labor, the court cited cases such as O’Connor’s that established that in order to be considered an “employee” for Title VII purposes, the plaintiff must have been directly compensated by the employer.<sup>208</sup> As with the O’Connor case, Lippold’s claims against the corporation were “dismissed” because she was considered a “volunteer” and the corporation did not *directly* compensate her with a “wage or salary” or other forms of compensation such as health care.<sup>209</sup> Douglas’ case demonstrates how the courts disagreed that “employment-type control” could create an employer- employee relationship for Title VII purposes.<sup>210</sup>

O’Connor and Lippold’s cases established that direct financial compensation was a prerequisite of “employee” status even when the intern position was “employee-like” in all other

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<sup>204</sup> Ibid.

<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

<sup>207</sup> Ibid.

<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

<sup>210</sup> Ibid.

respects and that unpaid internships are compensated through other means.<sup>211</sup> Although in order for someone to be an “employee” they can be either paid or receive “other compensation”, the courts found that compensation ultimately has to have a guaranteed economic component.<sup>212</sup> As made clear by the WEEA funded internship programs examined earlier, the benefit of the temporary internship position is the ability to increase your chances of gaining permanent employment through making connections and attaining recommendations from supervisors. Thus, advocates of women’s specific involvement in internships argued that the real compensation for their labor lay with the *potential* for future economic compensation, through increased job opportunities etc. Both O’Connor and Lippold were compensated for their labor as unpaid interns through positive supervisor evaluation forms, that were essential for them to gain credit at their educational institutions and advance their careers. Since that compensation was withheld from Lippold by her supervisor due to her rebutting his sexual advances, he had immediate control over her educational success and future economic status. Therefore, although Lippold was unpaid and thus placed under the category of “volunteer,” her supervisor still had economically-based control over her through his ability to withhold her evaluation forms or rate her performance negatively, which would harm her educational progress and future career prospects. O’Connor and Lippold’s cases show the inconsistency of the utilization of the term compensation for interns. Moreover, this inconsistency demonstrated the legal loopholes in which the categorization of interns as “volunteers”, regardless of the economic value for the intern of this form of labor, has created.

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<sup>211</sup> Ibid.

<sup>212</sup> Ibid.

### The “I- Word” in the Aftermath of the Lewinsky Scandal

In the same year as the Lippold case, the sex scandal involving the young intern Monica Lewinsky and President Bill Clinton became a national sensation. The story headlined news sources all across the nation, making internships a topic of conversation, and regularly, the butt of jokes. In the aftermath of the Lewinsky/ Clinton scandal, news coverage of the term internship skyrocketed.<sup>213</sup> Monica Lewinsky was often framed as “that woman”, either as a temptress, or by her sympathizers, as a naive woman who took on too much to handle.<sup>214</sup> Due to the destruction of Lewinsky’s reputation, internships, now most closely associated with the scandal, were synonymous with both naivety and potential sexual wrong-doings for many Americans. Within a few months, a young woman named Hannah Allam gave an interview where she claimed that “Intern has become a dirty word” and explained how when she told her father that she had been offered an internship at a newspaper, he replied by proclaiming “You’re not going to be any kind of intern!” She was forced to reassure him that “it’s not that kind of internship.”<sup>215</sup> This story illustrates how closely associated interns had become with sexual misconduct.

News stories and personal accounts from the late 1990s illustrate how female interns were increasingly labelled the “Lewinsky’s” of the office. For example, two young interns for a apartment- rental firm were called the “two Monicas”, and MaryBeth Lipp, a future legal

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<sup>213</sup> Nexus Uni search results for “Intern AND Sexual Harassment”

<sup>214</sup> “Monica Lewinsky and Shame: 1998 Newspaper Framing of “That Woman”,” *Journal of Research in Crime and Delinquency*, accessed March 03, 2019, <https://journals.sagepub.com/doi/pdf/10.1177/0196859917707920>.

<sup>215</sup> Edward Felsenthal and Christina Duff. “My summer job? uh, well, ma, I run rackets for the mob’ --- post-monica, interns prefer any title but the ‘I-word’; short-skirting the issue”. *Wall Street Journal* (New York) June 3, 1998.

scholar, noted that during her own experience as a journalist intern, she was often referred to as "Monica Lewinsky" by her male coworkers as a means for them to devalue her.<sup>216</sup> Even though some interns, such as MaryBeth, were greatly insulted by these comments, another intern noted how "a little joke here and there is a very low price to pay for the amount of experience and contacts that you make."<sup>217</sup> This illustrates how female interns could, and did, put up with the harassment by continuing their internships in the hope of future benefit. Although the Lewinsky scandal brought the issues of interns and sexual misconduct into nationwide conversations, interns need for letters of recommendations and job offers incentivized some to ignore or deflect the seriousness of harassment.

During this period, those who were more conservative on feminist issues also entered the conversation. Some argued that the discussions of sexual harassment as an issue in and of itself, created a real problem: it both insulted women's ability to handle themselves and created an uncomfortable work environment by making men fear that they would need to monitor their actions and comments around women. In her 1998 article titled "Who's Harassing Whom?", the legal and ethnic studies professor, Ms. Jennings, framed sexual harassment concerns as overblown and harmful.<sup>218</sup> She emphasized that she herself did not face sexual harassment even when she was in the most vulnerable of positions, as an intern.<sup>219</sup> Jennings noted that she was offended by the Equal Opportunities Commission policy for handling sexual harassment because it insinuated that she was incapable of handling "the advances of knuckleheads" herself, without

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<sup>216</sup> Cynthia Bowman and MaryBeth Lipp, "Legal Limbo of the Student Intern: The Responsibility of Colleges and Universities to Protect Student Interns Against Sexual Harassment," *Harvard Women's Law Journal*, 2000.

<sup>217</sup> Edward Felsenthal and Christina Duff. "My summer job? uh, well, ma, I run rackets for the mob' --- post-monica, interns prefer any title but the 'I-word'; short-skirting the issue". *Wall Street Journal* (New York) June 3, 1998.

<sup>218</sup> Marianne Jennings. "Who's harassing whom?" *Wall Street Journal* (New York). July 6, 1998.

<sup>219</sup> Ibid.

outside resources.<sup>220</sup> Professor Jennings posed the question of "How innocent are the victims of sexual harassment anyway's" prior to claiming that women workers who accuse men of sexual harassment are really moral degenerates because they often were willing to have sexual relations with their employers to keep better paying jobs, placing their financial desires over their morals.<sup>221</sup> Lastly, Jennings stated that she resented that men feel that they need to avert their eyes from their female coworkers because it prevents them from developing genuine friendships and positive coworkers relationships.<sup>222</sup> Jennings argument, and others like hers, portray the increasing discussions of sexual harassment as overblown and a hindrance to women's progress in the workforce.

The cultural association of internships with sexual misconduct, and the rising discussions of interns and sexual harassment, induced anxieties in students who feared that men would no longer take them on as mentees for fear of being accused of sexual harassment.<sup>223</sup> One year after the scandal, an article was published where female legislative interns expressed their fears that male legislators would keep their distance from the interns.<sup>224</sup> The interns' fears were exacerbated by a rumor that female interns would no longer be assigned to male legislators at all.<sup>225</sup> These fears echo the rationale of Professor Jennings that the discussion of sexual harassment and internships will actually hurt female intern.

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<sup>220</sup> Ibid.

<sup>221</sup> Ibid.

<sup>222</sup> Ibid.

<sup>223</sup> Russ Bynum. "Legislative interns ponder fallout from Lewinsky affair". *The Associated Press State & Local Wire*. January 8, 1999.

<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

The Lewinsky/ Clinton scandal led employers to address the issues of sexual harassment of interns in a number of different ways. Some began to offer sexual harassment training programs for the first time. For example, the director of an internship program at a law firm explained how her newly instated sexual-harassment training was intended to train interns “so they [would] understand how to comport themselves.”<sup>226</sup> The language suggests that the burden of preventing sexual harassment was placed largely on the predominantly young and inexperienced interns, rather than on the employers who would be in a position to harass them.

<sup>227</sup> Additionally, a young legislative intern said that during her internship, which occurred right after the Lewinsky affair, she and her female peers were constantly told to not “pull another Monica”, watch their behaviors, and guard their reputations. Stephanie Kerk also noted her frustration with the situation, stating that she doubts that “they’re sitting down all the freshman legislators and telling them, ‘Stay away from the interns,’ like they’re telling us.” The tendency to place the blame on the intern for creating the situation that would lead to sexual harassment was also illustrated by the confessions of some employers who were hesitant to hire “very attractive” women who dressed in ways they deemed to be revealing because they could be “walking disaster zone[s]”.<sup>228</sup> Ultimately, the Lewinsky/Clinton scandal brought the issue of interns facing sexual harassment into nationwide conversations, but in reacting to this issue, employers sought

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<sup>226</sup> Edward Felsenthal and Christina Duff. “My summer job? uh, well, ma, I run rackets for the mob’ --- post-monica, interns prefer any title but the ‘I-word’; short-skirting the issue”. *Wall Street Journal* (New York) June 3, 1998.

<sup>227</sup> Russ Bynum. “Legislative interns ponder fallout from Lewinsky affair”. *The Associated Press State & Local Wire*. January 8, 1999.

<sup>228</sup> *Ibid.*

to place the burden of responsibility for preventing the problem with those at the bottom of the workplace hierarchy, the interns.

### Solutions

In the aftermath of the Lewinsky scandal, some academics took notice of the legal ambiguities of the unpaid intern and proposed solutions to alleviate the issues, although not fully closing the loopholes. In 2000, two years after the scandal initially broke out, legal historians Cynthia Bowman and MaryBeth Lipp published an article titled "Legal Limbo of the Student Intern: the responsibilities of Universities to Protect Student Interns Against Sexual Harassment".<sup>229</sup>In this article, Bowman and Lipp argue that universities should take on greater responsibilities in safeguarding interns from sexual harassment and that ultimately, interns should be protected by Title XI because harassment and discrimination impedes students educational pursuits.<sup>230</sup> Bowman and Lipp analyze Title IX of The Education Amendment of 1972, which provides protections from sexual harassment in an educational setting, and Article VII of the Civil Rights Act of 1965, that ultimately came to legally protect individuals from sexual harassment in a work environment.<sup>231</sup> The authors argue that although these two acts legally protect people in an educational and workplace environment, interns, as both students and workers, fall into a middle category that the courts have not sufficiently addressed.<sup>232</sup> Due to internships status as educational experiences, the authors analyzed Northwestern University student internship program documents to see how universities were addressing sexual harassment in internships.<sup>233</sup>

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<sup>229</sup> Cynthia Bowman and MaryBeth Lipp, "Legal Limbo of the Student Intern: The Responsibility of Colleges and Universities to Protect Student Interns Against Sexual Harassment," *Harvard Women's Law Journal*, 2000.

<sup>230</sup> *Ibid.*, pg. 112.

<sup>231</sup> *Ibid.*

<sup>232</sup> *Ibid.*, pg. 96.

<sup>233</sup> *Ibid.*, pg. 105.

The authors found that although some program agreements “appear to incorporate the protections of federal anti-discrimination law and university sexual harassment policies”, others have no “formal agreement” stating the extent of the universities roles and obligations.<sup>234</sup> Bowman and Lipp explain that due to the factor of potential distance from the location of the internship to the location of the school, universities can escape liability for the harassment of interns off campus.<sup>235</sup> However, they argue that this would be “inconsistent with Title IX’s purpose of ensuring a genuinely equal education” for all students.<sup>236</sup>

In “Legal Limbo”, Bowman and Lipp analyzed the 1996 court case *O’Connor v. Davis* by briefly mentioning the aspect of “employee” status in the court’s ultimate dismissal of the charges against the employer; however, their analysis focused on how the university in this case was able to evade liability.<sup>237</sup> They explain how the *Davis* case set precedent that as long as a university takes corrective action in the aftermath of harassment, it would not be held liable and would therefore not need to economically compensate the intern for damages.<sup>238</sup> Bowman and Lipp argue that universities needed to do more than take adequate action after an incident, and that they must have better programs and training to reduce the possibility of harassment occurring in the first place. Bowman and Lipp primarily framed internships as educational experiences that should be protected from discrimination by Title IX. Their framing both demonstrated the strength of the cultural association of universities with internships and the pervasive view of interns as students primarily, rather than as workers, even though labor is a fundamental aspect of internships.

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<sup>234</sup> Ibid., pg. 120.

<sup>235</sup> Ibid.

<sup>236</sup> Ibid.

<sup>237</sup> Ibid.

<sup>238</sup> Ibid.



The framing of interns as students, rather than as workers is one of the core reasons why interns continued to lack economic justice and anti-discrimination protections. As the legal scholar, David Yamada, pointed out in 2002, there are many internship programs that are not directly connected with a university.<sup>239</sup> Due to internships being apart of a work environment, rather than an educational institution such as a university, and the prevalence of interns working without university connections, internships should not have to rely on Title IX protections. Rather, interns as workers, not necessarily always as students, at least not in the sense of participating in a formal university led program, should be viewed as members of the labor force entitled to protections under the 1964 Civil Rights Act Title VII.

### **Conclusion**

The breaking of the intern from the student identity allows for the labor essence of internships to be increasingly visible and the notion of mandatory compensation for internships more palatable even though it contrasts the rhetoric of early internship advocates. This thesis has attempted to emphasize that work as an intern is indeed labor. Additionally, this thesis has shown how the implementation of internship programs without an adequate emphasize on their labor aspects established the foundation of pervasive concerns in the intern economy. And ultimately, the pro-internship rhetoric utilized by those attempting to expand opportunities for individuals, especially women, fostered problematic power-dynamics and legal ambiguities that made discrimination, particularly sexual harassment, a real concern and partially legally uncontestable issue, whose effects were felt by people just beginning their path towards employment.

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<sup>239</sup> David Yamada. "The Employment Law Rights of Student Interns," *Connecticut Law Review*, 35, 215 (Fall, 2002).

Internships are not the only form of labor where misleading rhetoric and categorizations have separated them from the employee status and all of the legal protections in which that status would afford them. Nor are internships the singular form of misrepresented labor that has an especially negative impact on women. On the contrary, with the turn to outsourcing in the late 20th century's trend in globalization and the decline of Keynesianism, where unionism was at its strength and the purchasing power of all Americans was valued, companies have increasingly looked towards outsourcing their labor power. In the United States, outsourcing takes forms such as independent contracting, a reliance on temporary workers, and sending jobs overseas. Independent contractors now make up the labor forces of many major companies such as Amazon, AT&T, and even increasingly as many maintenance and service workers on the UC campuses. Independent contractors and temporary workers face many concerns analogous to those of interns. Like interns throughout the 20th century, independent contractors and temporary workers are excluded from employee status and therefore some Fair Labor Standards Act (FLSA) protections, which allows for them to be paid less than minimum wage and leaves no regulation on overtime.<sup>240</sup> Similarly to interns, independent contractors and temporary workers often times do not make livable wages, necessitating that they take on other jobs or outside work to adequately support themselves.<sup>241</sup>

The effects of a lack of employee status, in various different categorizations of workers, can be especially felt by women workers who are disproportionately involved in certain forms of this labor and are more likely to experience sexual harassment. Due to the lack of adequate maternity leave and affordable childcare, working mothers are often pushed towards temporary

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<sup>240</sup> David Weil. *Fissured Workplace: Why Work Became so Bad for so Many and What Can Be Done to Improve It* (Cambridge: Harvard University Press, 2017).

<sup>241</sup> Ibid.

positions, such as Goucher College internships, which were explored earlier on in this thesis. Further, similarly to interns throughout the 20th century, independent contractors have been legally limited in their ability to fight their employing institutions for systematically insufficiently handling issues of sexual assault and harassment. For example, well into the 2010s, employers of independent contractors have included in their workers contracts clauses that prevent them from taking legal actions against employers when the worker is sexually harassed and the employer fails to take reasonable actions.<sup>242</sup>

As more journalists and popular conversations have addressed the negative aspects of the intern economy, advocates of intern rights, largely composed of interns or former intern millennials have pressured and worked alongside legislatures to close the legal loopholes and make internship opportunities more accessible to people of color, low-income, and non-traditional students. In 2017, a group of former interns created the non-profit group Pay Our Interns which began social media campaigns to expose legislators who take advantage of the legal free labor of interns.<sup>243</sup> In 2018, due to the efforts of former and current interns and bipartisan legislators, President Donald Trump signed a budget that included \$13.8 million in total funding for congressional internship programs, greatly increasing the number of paid internships available, and allowing for federal internships to be more accessible to members of all socioeconomic classes.<sup>244</sup> However, the focus on increasing the number of paid internships has largely been in the public sector. The federal funding for internship programs is limited to

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<sup>242</sup>"California Responds to #MeToo: Three New Laws Limit Contractual Confidentiality," California Peculiarities Employment Law Blog, December 28, 2018, , accessed March 22, 2019, <https://www.calpeculiarities.com/2018/12/19/california-responds-to-metoo-three-new-laws-limit-contractual-confidentiality/>.

<sup>243</sup> Mazenhalabi, Payourinterns.com, , accessed March 03, 2019, <http://payourinterns.com/team>.

<sup>244</sup> Ibid.

internships with congress, leaving the countless internship programs in the private and voluntary sectors without federal funding, unpaid, and out of reach for many individuals.

With the development of the #MeToo movement, people are refusing to allow for issues of sexual misconduct to remain underneath the surface. This current climate has contributed to the development of legislation to increase protections of workers in especially vulnerable positions. In 2017, legislatures passed the Federal Intern Protection Act which extends employee protections to unpaid interns who labor for the federal government for the purposes of Title VII anti-discrimination protections.<sup>245</sup> However, the Federal Intern Protection Act is limited solely to interns who labor for the federal government, leaving a large portion of interns unprotected. Other developments occurred simultaneously such as in January of 2019, California passed legislation that would make it illegal for independent contractor employers to include a clause in their contract that would legally prevent individuals from suing their employers for sexual harassment.<sup>246</sup> These actions, although a step towards increasing protections for non-employee, forgets a large portion of workers.

For such a prevalent form of labor, the history of internships is greatly under researched. Although this thesis has attempted to answer a few questions, it raises many more. A historical analysis of internships from the employers perspective and an economic history of the impact of unpaid internship labor on different facets of the American economy would be especially helpful in expanding scholars understanding of how internship labor has impacted American economic and cultural history. Additionally, further research on the reasons for the lack of legal cases for

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<sup>245</sup> Targeted News Service. "House Oversight Committee Issues Report on Federal Intern Protection Act". *Targeted News Service*. April 6, 2017.

<sup>246</sup> Drew Lunt and Drew Lunt, "New Employment Law Changes in California for the #MeToo Movement," *Employment Law Handbook*, January 14, 2019, accessed March 20, 2019, <https://www.employmentlawhandbook.com/employment-and-labor-laws/new-employment-law-changes-in-california-for-the-metoo-movement/>.

interns facing sexual harassment prior to the 1990s would further the knowledge on sexual harassment law and the experience of the women intern of the 20th century.

As the economy continues towards outsourcing and a reliance on non-employee workers, the history of internship labor, and the discussions that allowed for this form of work to be uncompensated and workers unprotected will simultaneously grow in relevance to understanding the modern working- world dynamic. This thesis has demonstrated the detrimental effects of framing labor as something other than what it is. By reframing intern work as labor and legally categorizing them accordingly, young impressionable individuals will receive the financial compensation and legal protections that are presumed to be afforded to all workers in post New-Deal America. By instilling in pre-professionals a sense of understanding the worth of their labor early on in their careers, professional workers may come to better understand, as Martin Luther King Jr. proclaimed shortly before his death, that "all labor has dignity."<sup>247</sup>

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<sup>247</sup> Martin Luther King, "All Work Has Dignity" (Bishop Charles Mason Temple of the Church of God in Christ, Memphis, Tennessee, March 18, 1968).

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