



Written by [Michael Tennant](#) on May 21, 2019

Harris Proposes Federal Bureaucracy, Fines to Close Nonexistent “Gender Pay Gap”

In what she accurately dubs “the most aggressive equal pay proposal in history,” Senator Kamala Harris (D-Calif.) is calling for the federal government to become the arbiter of every wage decision in every company in America.



The [plan](#), released Monday, aims to address the so-called gender pay gap, which posits that, on average, women who are employed full time earn 80 cents for every dollar men doing equivalent work earn. In fact, the alleged pay gap has been repeatedly shown to be, in economist [John Phelan’s](#) words, “as real as unicorns”; any gap that exists is almost entirely attributable to men’s and women’s [different life choices](#).

But would-be tyrants have never let facts get in their way, and Harris, who is seeking her party’s presidential nod, is no exception. She has, she says, “a simple message for corporations: Pay women fairly or pay the price.”

Harris believes one reason for the alleged pay gap is that, although there are already equal-pay laws on the books, women must prove unequal-pay allegations in court, an expensive and time-consuming process with no guarantee of success. Harris proposes tossing out the presumption of innocence and forcing companies to “prove they’re not paying women less than men for work of equal value.”

Under her plan, companies will have to obtain “Equal Pay Certification” from the federal government. “To receive certification,” explains Harris, “companies must demonstrate they have eliminated pay disparities between women and men who are doing work of equal value. To the extent pay disparities do exist for similar jobs, companies will be required to show the gap is based on merit, performance, or seniority — not gender.”

Companies will be “required to disclose their pay policies and align them with best-practice standards,” too. They “will be prohibited from asking about prior salary history as part of their hiring process, banned from using forced arbitration agreements in employment contracts for pay discrimination matters, and must allow employees to freely discuss their pay.”

Harris is just getting warmed up. Companies will also have to “report statistics on the percentage of women in leadership positions and the percentage of women who are amongst the company’s top earners” and on “the overall pay gap” between men and women. Leaving no special-interest group behind, Harris wants these statistics reported by race and ethnicity.

What happens to companies that don’t cotton to having their internal policies micromanaged by Uncle Kam — er, Sam? “For every 1% gap that exists after accounting for differences in job titles, experience,



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and performance,” writes Harris, “companies will be fined at 1% of their average daily profits during the last fiscal year.” She estimates this will bring about \$180 billion into the Treasury over 10 years — money she plans to plow into a paid family and medical leave program.

Harris says that as president, she would impose her program on federal contractors by executive order, affecting 28 million employees.

It hardly needs stating that Harris’ plan is blatantly unconstitutional. The federal government was never authorized to interfere in businesses’ internal policies. But most politicians — Harris and her ilk especially — long ago gave up any pretense of adhering to the Constitution, and the courts have largely ratified this indifference.

In practical terms, the proposal of Harris would mean a vast increase in the federal bureaucracy, with incredibly intrusive and punitive powers, at a huge cost to taxpayers. In addition, its compliance costs, plus the constant dread of running afoul of the wage police, would be detrimental to business and thus would harm those in whose name it was supposedly enacted. Indeed, the fear of getting caught paying women “unfair” wages might induce companies to hire fewer women, much as the Americans with Disabilities Act led to a [reduction in the hiring of the disabled](#). Furthermore, whether or not Congress is a foe of big corporations, Harris’ scheme would harm them far less than their smaller competitors, since the former can absorb the compliance costs more readily than the latter.

Harris’ proposal is based on faulty economics and would do nothing to help the average working woman. It would, however, arrogate even more power to the federal government — and that, of course, is the very *raison d’être* of today’s Democratic Party.

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