A Reallocation of Rights in Industries with Reproductive Health Hazards

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ON MARCH 21, 1991 THE U.S. SUPREME COURT ruled that personnel practices limiting the employment of fertile women in jobs posing reproductive health hazards constitute illegal sex discrimination under the terms of the Civil Rights Act of 1964.[1] The judicial ruling against Johnson Controls, the nation's largest producer of batteries, culminates more than a decade of intense debate over the legality of exclusionary "fetal protection policies" in industries using reproductive hazards. It has important implications for public policy in other situations where there are real or perceived biological differences among individuals in vulnerability to the health effects of toxic substances.

In contesting the exclusionary hiring policy, the United Automobile Workers (UAW) union and its supporters emphasized that lead, the toxic substance used by Johnson Controls, has adverse effects on the reproductive capacity of male workers as well as the developing fetus, a

[1] *International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, et al. v. Johnson Controls, Inc.*, 111 S.Ct.1196–1217 (1991).

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gender-neutral policies that simply had a "disparate impact" on women. Under this interpretation, employers only had to convince the courts that their policies constituted a "business necessity," a substantially easier test than the BFOQ. In responding to the UAW before the Supreme Court, however, Johnson Controls virtually abandoned this argument, accepted the principle that fetal protection policies constitute explicit sex discrimination, and argued that the policies could nevertheless pass the BFOQ test. The corporation proposed a three-part test for the BFOQ in fetal protection cases, building upon interpretations by various lower courts and the Equal Employment Opportunity Commission.[3] Under this approach, a fetal protection policy would satisfy a BFOQ test if the employer proved "there is a substantial risk of harm to the employees' offspring through workplace exposure to toxic hazards; the transmission of that harm to offspring is confined to employees of one sex; and there are no adequate but less discriminatory alternatives to the employer's policy."[4]

In overturning the court of appeals ruling and invalidating the fetal protection policy, the Supreme Court unanimously declared, first, that such policies do indeed constitute disparate treatment and can only be justified by a BFOQ and, second, that the specific policy developed by Johnson Controls did not satisfy the BFOQ. The Court split, however, on the issue of how broadly to interpret the BFOQ test in general. The majority accepted the UAW's narrow interpretation and essentially closed the door on all fetal protection policies. Four members of the court argued for a broader interpretation of the BFOQ that would permit consideration of the economic cost of gender-neutral relative to gender-specific practices, but agreed that the Johnson Controls policy failed even the broader BFOQ test they envisaged.

The United Auto Workers Petition

In petitioning the Court to invalidate the Johnson Controls fetal protection policy, the UAW and its supporters summarized the adverse repro-

[3] Policy guidelines issued in 1990 by the Equal Employment Opportunity Commission on the decision in 1989 by the seventh circuit court in *International v. Johnson* (Washington: Bureau of National Affairs).

[4] *International v. Johnson*, brief for respondent by Johnson Controls, Inc. (1990, 16).

ductive health effects of lead on male workers as well as on female workers and the developing fetus. The scientific evidence did not play a central role in the union's legal argument, however. The UAW never presented equal risk as a necessary condition for opposing exclusionary hiring policies. Rather, it asserted that the Civil Rights Act forbids gender-specific hiring criteria, except in very narrow circumstances that do not include safety to either the worker or the fetus. The union also noted that equal risk would not be sufficient grounds for prohibiting exclusionary policies, were such policies valid under conditions of unequal risk.[5]

Rather than rely upon the evidence regarding equal risk, the UAW focused on the decision-making processes used by private employers in arriving at exclusionary hiring policies, comparing these unfavorably with the way legislative and regulatory bodies arrive at gender-neutral policies. The UAW contrasted the large number of jobs conceivably posing fetal hazards (some observers had speculated up to 20 million) with the relatively small number of these jobs actually covered by fetal protection policies. If employers were as concerned for fetal safety as they claimed, why did gender-specific policies occur only in male-dominated, high-wage industries rather than in equally hazardous female-dominated, low-wage industries?

The UAW proposed a narrow interpretation of the BFOQ test. The union acknowledged that "our economic system generally assigns to employers the decisions as to what skills employees must possess to perform a particular job and assumes employer competence to make those decisions." Therefore, "the BFOQ provision leaves limited room for validating such a production-related judgment by an employer," so long as it is based on "objective grounds." For "non-job-performance related concerns" such as fetal safety, however, employer discretion is inappropriate. "Each employer's decision in that regard would simply represent his or her own balance of the statute's nondiscrimination goals against his or her own moral and ethical agenda." Moreover, employers could easily claim moral and ethical justifications for essentially economic, profit-oriented decisions.

> In male-dominated industries, there is, from the employer's point of view, little disadvantage to excluding fertile female workers, since

[5] *International v. Johnson*, UAW brief for petitioners (1989, 44).

> male workers are readily available to fill the positions. . . . In contrast, because of the need to retain an adequate workforce, in the most female-intensive workplaces, employers rely on having women workers of childbearing age, and may not be able to operate without them. This is why, presumably, fertile women are not likely to be excluded wholesale from jobs as childcare workers [where they might be exposed, for example, to rubella], nurses, or dental assistants, among other examples, even though those jobs involve exposure to fetal hazards.[6]

This theme is developed more extensively by the American Civil Liberties Union[7] and in a frequently cited paper by Mary Becker of the University of Chicago (Becker 1986).

Gender-specific fetal protection policies reflect a balancing of advantages and disadvantages from the point of view of employers, not employees or society at large. A key factor in such balancing concerns the supply of male workers. In industries where profit rates are substantial enough to permit high wages and where unions are strong enough to obtain them, an ample supply of both male and female job applicants is available. Implicit and explicit gender-based discrimination has historically reserved these jobs for men to the disadvantage of women. Where profits are too thin to permit high wages and/or unions are too weak to obtain them, on the other hand, a much more limited supply of job applicants is available. These applicants often consist of female workers excluded from the highly paid jobs in profitable, unionized industries.

Were fetal protection policies to be required by the government rather than left to the discretion of employers, an alternative balancing of advantages and disadvantages would occur. The government would have to consider the consequences of denying employment to women in industries where employers find exclusionary policies profitable, with the result that women would be relegated to industries in which employers find exclusionary policies unprofitable. Exclusionary policies would impede achievement of the equal opportunity goals of the Civil Rights Act and Pregnancy Discrimination Act, and this would have to be weighed against any progress in achieving healthy reproductive outcomes. Moreover, exclusionary policies might well be counterproductive

[6] Id., 33–7.

[7] *International v. Johnson*, brief as amicus curiae in support of petitioners by the American Civil Liberties Union (1989, 16–44).

even when evaluated solely in terms of the goal of fetal safety. Women excluded from male-dominated industries are virtually certain to earn lower wages and have less generous (if any) health insurance, both of which are linked to nutritional status, use of prenatal medical services, and other important determinants of fetal outcomes. The direct fetal risks from toxic substances may even be higher in some female-dominated than male-dominated industries, moreover, precisely because of the relative absence of labor unions and other economic incentives to improve working conditions.

The UAW advocated shifting the forum of public debate over lead exposure from court reviews of individual employer policies to OSHA, the congressionally designated entity for determining occupational health standards. This would not only eliminate the disparity observed in the various judicial rulings, but would also ensure that occupational risks to fetuses were dealt with in a comprehensive manner that also considered the nonreproductive health hazards to workers. The union emphasized that there was no basis for treating health hazards to fetuses as socially more significant than health hazards to adult men and women.

Finally, if for some reason exclusionary policies were thought necessary to achieve public health goals even at the expense of equal employment opportunity, this determination should be made directly by Congress itself.

> That Congress decided not to allow individual employers fundamentally to compromise equal employment principles as a means of protecting fetal health in no way portends a later determination that the *government* cannot do so in particular exigent circumstances, under a statute permitting a fetal protection policy. . . . [However,] the fact is that *no* governmental agency has determined that employers may broadly ban women on a gender-specific basis from employment to protect fetal health.[8]

The Johnson Controls Response

In defending its fetal protection policy, Johnson Controls conceded that exclusion of fertile women could reasonably be considered explicit sex

[8] *International v. Johnson*, UAW reply brief for petitioners (1990, 17).

discrimination rather than gender-neutral practice with merely a "disparate impact" on women. It then went on to argue, however, that fetal protection policies can satisfy the BFOQ test if the test was interpreted in a suitably broad manner. Central to its argument was the claim that the Occupational Safety and Health Act (OSH Act) delegates to employers primary responsibility for workplace safety and, with this, the authority to enforce exclusionary hiring practices. The principle that employer responsibility logically entailed employer rights drew support from an usually diverse set of intervenors from across the political spectrum.

Johnson Controls targeted the UAW's assertion that non-job-performance concerns, such as fetal safety, could not constitute a valid BFOQ defense. "In this day and age, it cannot seriously be disputed that a company's desire to avoid direct harm to its employees and their families, its customers, and its neighbors from its own toxic hazards goes to the heart of its 'normal operation.' "[9] It disclaimed any intent to protect female workers themselves via the fetal protection policy, noting that directly paternalistic policies of this sort had been clearly outlawed by the Civil Rights Act. Rather, exclusionary hiring practices were intended to protect the fetus. "Where 'more is at stake' than the individual's [woman's] own well-being, however, safety risks can become a compelling consideration supporting gender-drawn classifications."[10]

Fetal protection policies were presented as a logical extension of the OSH Act and, in particular, of the 1978 OSHA lead standard. OSHA regulations, Johnson Controls pointed out, set a minimum rather than maximum allowable limit for protective measures. The "general duty clause" in the statute asserts that an employer who knows a particular standard is inadequate is obligated to go "over and above" that standard on its own initiative. Although the 1978 lead standard specifies a blood lead concentration above which employees must be removed from exposure, it permits employers to remove from exposure workers with lower blood lead concentrations upon the advice of the corporate medical staff. State common law and statutes also place obligations on employers to avoid work-related injuries and illnesses, independent of whether OSHA has taken any action on a particular risk.[11]

[9] *International v. Johnson*, brief for respondent by Johnson Controls (1990, 18).
[10] Id., 19.
[11] Id., 35–6.

The United States Catholic Conference, composed of the active Catholic bishops in the United States, saw the Johnson Controls policy as consistent with a broad historical trend to force employers to accept responsibility for hazardous materials generated in the process of production. "Employees and their unions have led the cause for regulation to safeguard the health and safety, not only of employees, but of third parties including their families. . . . This trend has continued unabated as corporations have been obliged to implement protective measures for society's health and safety."[12] Fetal protection policies that override the decisions by individual women are consistent with society's "legitimate interest in protecting unborn life," especially from the threat of abortion.[13] Because employers are more knowledgeable than governmental regulatory agencies concerning the production processes they use, they "are uniquely well-situated and ethically compelled to contribute to protecting their employees' offspring." In developing fetal protection policies, however, firms should consult first hand with their employees and labor unions, since they also are very knowledgeable about workplace hazards.[14] Similar linkages between employer knowledge and employer responsibilities were made by the U.S. Chamber of Commerce and the National Association of Manufacturers (NAM), albeit without any reference to consultation with employees and labor unions.[15]

The most unusual argument concerning the compatibility between fetal protection policies and occupational health policy came from the National Safe Workplace Institute (NSWI), a strongly pro-union and pro-OSHA organization. While placing a heavy burden of proof on the employer to meet the three criteria (substantial risk, risk to fetus only mediated by mother and not by father, no less discriminatory alternatives), the institute argued that occupational health principles permitted gender-specific fetal protection policies and even might require them.

> Employers must be held *fully* accountable for workplace injuries and illnesses and thus must be given discretion to make safety and health

[12] *International v. Johnson*, brief in support of respondent by the United States Catholic Conference as amicus curiae (1990, 11).
[13] Id., 7.
[14] Id., 13–14.
[15] *International v. Johnson*, brief by the Chamber of Commerce of the United States of America; also by the Equal Employment Advisory Council and the National Association of Manufacturers as amici curiae in support of respondent (1990).

> decisions, even when those choices are contrary to the economic interests of employees. That philosophy is embodied in the Occupational Safety and Health Act. Employers in this country are *not* free to offer high wages in return for increased health and safety risks. Employees are *not* free to accept an unsafe workplace for the higher wages employers might be willing to pay to avoid the cost of safety. For good reason, federal policy does not leave these choices to the workers.[16]

The institute claimed that the UAW's position implied that employment decisions are the personal responsibility of the employee. It noted that such a position would resemble the libertarian argument against occupational health regulation as an illegitimate incursion on the private right of contract for employees and employers.

The Opinions of the Court

The Supreme Court unanimously ruled in favor of the UAW, reversing the decisions of the lower courts and declaring the Johnson Controls fetal protection policy a violation of the Civil Rights Act of 1964. Members of the Court differed, however, on whether a more narrowly construed fetal protection policy, for example, one limited to women who were actually pregnant, would pass the BFOQ test. A majority of five justices, led by Justice Blackmun, adopted the narrow interpretation of the BFOQ criterion proposed by the UAW and considered any gender-specific hiring policies as discriminatory. The four other justices wrote two concurring opinions in which they joined the majority in opposing the Johnson Controls policy, but felt that a more narrowly tailored policy might be acceptable as a means of reducing the burden on the employer of potential tort liability for fetal damage.

The Court majority noted the "evidence on the record about the debilitating effects of lead exposure on the male reproductive system."[17] It did not rest its decision on the equal risk hypothesis, however, but rather on an interpretation of previous rulings that invalidated employer policies ostensibly designed to protect the interests of female workers against their own volition. This antipaternalistic orientation was extended

[16] *International v. Johnson*, brief by the National Safe Workplace Institute (NSWI) as amicus curiae in support of respondent (1989, 5).
[17] *International v. Johnson*, 111 S.Ct.1203 (1991).

to policies that claim to protect the fetus. "Decisions about the welfare of future children must be left to the parents who conceive, bear, support, and raise them rather than to the employers who hire those parents."[18] This restriction on employer initiatives did not imply any analogous restriction on governmental initiatives, however. The Court majority cited with approval the mandatory exposure limits and transfer provisions of the OSHA lead standard. Moreover, the Civil Rights Act "plainly forbids illegal sex discrimination as a method of diverting attention from an employer's obligation to police the workplace."[19] Differential vulnerability and unequal risk, even if scientifically proven, would not be sufficient grounds for discriminatory fetal protection policies. Even if female-mediated fetal risks are greater than risks to male workers, thereby raising the cost of ensuring workplace safety for women above that for men, this additional cost cannot justify gender-specific hiring practices. In passing the Pregnancy Discrimination Act in 1978 at precisely the time when OSHA was promulgating the lead standard, Congress explicitly decided that the social benefits of removing discrimination against fertile and pregnant women outweighed any incremental costs that employers might incur in hiring them rather than men.[20]

Job Transfers for Pregnant Workers

The *Johnson Controls* case involved gender-specific hiring policies rather than policies that permitted or required pregnant workers to transfer to nonexposed jobs. Many large employers currently offer to pregnant workers the option of transfer for the duration of pregnancy. Transfers have been much more common than formal hiring restrictions, and the implications of the *Johnson Controls* ruling for transfers are therefore of great importance. Some worker advocates propose that employers be required to offer transfers with wage and benefit retention (Workplace Reproductive Hazards Policy Group 1991; Newell 1991). Labor unions have traditionally supported fully paid transfer policies as an alternative to exclusionary hiring policies (Bayer 1982). Some are skeptical of any policies focused on pregnancy, however, fearing that gender-specific

[18] Id., 1207.
[19] Id., 1209.
[20] Id.

protective legislation often limits employment opportunities for women (Bertin 1986; Williams 1981).

The Supreme Court decision made no reference to transfer policies, as distinct from hiring policies. However, the narrow interpretation of the BFOQ established by the Court majority easily could be read to outlaw pregnancy transfer policies, even when optional and accompanied by full retention of wages and benefits because they are limited to female workers.[21] The Court majority's language might imply that a governmental body such as OSHA could establish a regulation permitting or mandating transfer policies under certain specified conditions, but that no employer could establish a transfer policy using its own criteria. A different configuration of judicial opinion could emerge, however, if the Court were asked to rule on gender-specific transfer policies (an employment benefit) as distinct from gender-specific hiring policies. In 1987 the Court ruled that a California statute providing benefits to pregnant women promoted rather than undermined the principles of equal employment opportunity, as expressed in the Pregnancy Discrimination Act. The issue of job transfers for pregnant workers exposed to reproductive hazards may reopen the legal and philosophical debate over the meaning of equity in the labor market.

The 1987 U.S. Supreme Court case centered on the California Fair Employment and Housing Act (FEHA), which contains a provision requiring employers to offer a minimum of four months unpaid leave, with guaranteed reinstatement, to employees who are temporarily disabled as a result of pregnancy. Employers are not required to offer analogous leave for male and female employees temporarily disabled for other causes, but may do so if they wish. The California Federal Savings and Loan Association (Cal Fed) challenged the law as a violation of title VII of the Civil Rights Act and the Pregnancy Discrimination Act. Because the benefits of the pregnancy disability leave were restricted to women in the eyes of the petitioners, the FEHA discriminated against men, and should be preempted by the federal antidiscrimination statutes.[22] Cal Fed was supported in its petition by the U.S. Chamber of

[21] *International v. Johnson*, brief by the United States and the Equal Employment Opportunity Commission as amici curiae supporting petitioners (1989, 19); see also note 16 supra.

[22] *California Federal Savings and Loan Association v. Guerra*, 479 U.S. 272 (1987), brief for the petitioners: California Federal Savings and Loan Association, Merchants and Manufacturers Association, and California Chamber of Commerce.

Commerce, the Equal Employment Advisory Council (EEAC, representing large employers), and the U.S. Department of Justice.

The California pregnancy disability leave provision was simultaneously attacked by a group of prominent feminist and civil liberties organizations, some of which subsequently took an active role in the *Johnson Controls* litigation. The American Civil Liberties Union (ACLU), the National Organization for Women (NOW), and several other women's advocacy organizations filed briefs in the case agreeing with the petitioners that federal law prohibits special benefits for female workers, but disagreeing over what should be the court-imposed remedy.[23] These groups supported the goals of the California statute, but disagreed with the strategy of singling out pregnancy as a focus of employment leave policy. They conceptualized pregnancy as analogous to other short-term disabilities. In the view of these feminist organizations, the Supreme Court should interpret the Civil Rights Act as prohibiting employers from granting disability leave benefits to women alone, but uphold the California requirement for pregnancy disability leaves. This almost creates a double bind for employers, but offers one possible escape. Employers could comply both with the FEHA's requirement for pregnancy disability leave and with a judicial interpretation of the Civil Rights Act as prohibiting gender-specific benefits by granting four month leaves for *all* forms of disability.

The California pregnancy disability leave policy received strong support from an equally important and diverse coalition, which included the AFL-CIO and numerous labor unions, the Coalition for Reproductive Equality in the Workplace, Equal Rights Advocates, the Planned Parenthood Federation of America, and a variety of other feminist organizations.[24] Many of these organizations also participated subsequently

[23] *California Federal v. Guerra*, 479 U.S. 272 (1987), amici curiae brief by the American Civil Liberties Union, the League of Women Voters of the United States, the League of Women Voters of California, the National Women's Political Caucus, and the Coal Employment Project in support of neither party. Also in support of neither party, amici curiae brief by the National Organization for Women; NOW Legal Defense and Education Fund; National Bar Association, Women Lawyers' Division, Washington Area Chapter; National Women's Law Center; Women's Law Project; and Women's Legal Defense Fund.

[24] *California Federal v. Guerra*, brief of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) as amicus curiae in support of respondents, 1987; also in support of respondents, amici curiae brief of Coalition for Reproductive Equality in the Workplace: Betty Friedan; International Ladies Garment Workers Union AFL-CIO; 9 to 5, National Association of Working Women; Planned Parenthood Federation of America Inc., et al.

in the *Johnson Controls* case. They agreed that leave policies for nonpregnancy disability were desirable, but supported the pregnancy leave provision as a concrete gain for working women that should not be risked for the unlikely possibility that judges would mandate guaranteed leaves for all forms of disability. More broadly, these advocates conceptualized the pregnancy leave provisions of the FEHA, not as granting a special benefit to women, but rather as equalizing women's ability to compete with men in the labor market while enjoying comparable opportunities to have children. Men are never occupationally disabled by childbirth and only rarely are prevented by work responsibilities from becoming fathers. They rarely face the type of choices between reproduction and employment that women frequently confront. Although four months of unpaid leave is hardly a generous and sufficient remedy, the disability leave advocates argued, it helps create genuine equal employment opportunity for women. The State of California respondents and their supporters prevailed when the Supreme Court upheld the FEHA provisions as consistent with federal antidiscrimination law.[25]

Alternative Interpretations of Gender Equality

Underlying the divergent positions on the pregnancy disability leave case lie two alternative interpretations of gender equality that are likely to reappear in debates over transfer policies for pregnant workers exposed to reproductive hazards. On the one side stands an "equal treatment" interpretation of antidiscrimination law that prohibits both benefits and obstacles that are gender specific. On the other side stand "equitable treatment" interpretations of the law, which support affirmative action, pregnancy disability leaves, and, possibly, paid transfer policies—all promoting equality of opportunity for working women.

Equal treatment theorists resist legislative and judicial provision of special benefits or protections for women because they fear these will inevitably reduce women's employment opportunities (Bertin 1986; Williams 1981, 1985; Taub and Williams 1985). Historically, legislative limits on employment in occupations with unsafe working conditions masqueraded as protections for women, but effectively harmed them by reducing their ability to compete with men in the labor market. Equal

[25] 479 U.S. 272 (1987).

treatment theorists argue that even protections or benefits that are genuinely designed to help women, such as pregnancy disability leaves or job transfer options in hazardous industries, will end up hurting the intended beneficiaries. They do not trust the courts, which must ultimately enforce any gender-specific benefits or protections, to refrain from promoting stereotypes of women as less fit than men for employment and other public roles. They note that legislatures and courts consistently believe work disability resulting from pregnancy is more severe and/or more worthy of social protection than work disability stemming from other causes. Similarly, they note, employers and the courts often view occupational risks to fetal development as more serious and/or more worthy of social protection than occupational risks to adult workers. Favorable special treatment places women on a "slippery slope" toward unfavorable special treatment.

Equitable treatment theorists counter that, within the context of institutionalized sexism, such "equal treatment" of women means treating them as if they were men, using social rules designed to promote employment for men (Becker 1987; Colker 1986; Krieger and Cooney 1983; Law 1984; Littleton 1987). They emphasize that equity implies similar treatment of similarly situated individuals but not similar treatment of dissimilarly situated individuals. They support affirmative action programs as gender-specific benefits that redress the effects of historical discrimination. More fundamentally, equitable treatment theorists also support social reforms that accommodate biological differences between the sexes. In particular, they advocate that pregnancy be acknowledged as a unique, and specifically female, capacity. Attempts by equal treatment theorists to characterize this "ability" as a "disability" demean women and perpetuate damaging stereotypes. Equitable treatment theorists assert that pregnancy is not inherently a disability; rather, the social institutions that fail to accommodate the biology of reproduction create "disability." Fundamental differences between men and women, such as the ability to become pregnant, rather than being ignored, should be made socially "costless" in order truly to equalize the situations of the sexes.

Conclusion

Many toxic substances that harm the developing fetus in the workplace also harm the reproductive capacity of adult workers and impose nonreproductive health burdens on both men and women. For these sub-

stances, policies designed only to protect the developing fetus not only impair the employment opportunities of female workers, but also leave male workers unprotected and limit the pressure to reduce exposures for all members of the population. It would be both risky and unnecessary, however, to base reproductive health policy in the workplace upon the toxicological hypothesis that the risks to the male worker, the female worker, and the developing fetus are equal for all substances at all exposure levels. This equal risk hypothesis may prove to be scientifically unacceptable for some substances, even if it is satisfactory for others. Moreover, the equal risk hypothesis, even where it has been favorably received, is not by itself sufficient to invalidate discriminatory fetal protection policies if supporters of those policies can successfully claim that society has a stronger responsibility for ensuring fetal safety than for safeguarding informed and consenting adults.

The policy argument against exclusionary "fetal protection policies" can be made without any reference to the equal risk hypothesis and can be applied consistently even in cases of unequal risk. First, exclusion of pregnant and/or fertile workers from hazardous jobs may actually lead to worse reproductive outcomes if the indirect effects of lower wages and less adequate health insurance in the alternative available jobs are taken into account. Second, even when reproductive outcomes would be improved by exclusionary employment policies, the effect of such policies on the individual woman's overall well-being would be negative. Employment discrimination hurts women both through its economic impact and through the loss it implies in autonomy and decision-making authority. Third, the pernicious effects of exclusionary fetal protection policies extend beyond the individual women who are denied employment in hazardous but high-paying jobs. Occupational segregation reinforces gender stereotypes that have severely restricted women's abilities to gain economic independence and to take on prominent public roles. The Supreme Court ruling in the *Johnson Controls* case reaffirms the importance of the Civil Rights Act as both a shield against unfair treatment for individual women and a commitment to eradicate sexist attitudes and economic inequality throughout society.

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