

with
A SAFE
WORKPLACE
a
HUMAN
RIGHT

ONE
IS DEATH
TOO MANY

to improve
working conditions,
we must
organize
and fight.
PLEASE CALL



Reproductive Hazards

A Labor-Feminist Alliance

■ *Elise Morse*

This term the U.S. Supreme Court will hear a case called *UAW vs. Johnson Controls*. The Court will decide on the legality of excluding women from certain jobs under the guise of protecting unborn children. The decision may have a dramatic impact on the future of women's equal employment opportunity and on companies' responsibility to provide clean and healthy workplaces for all workers.

Johnson Controls will be defending its policy of excluding all fertile women from employment in areas of its battery plants where too much lead, used in making batteries, is present in the air. Earlier court decisions have allowed Johnson Controls to implement this policy, in the interest of protecting pregnant workers' unborn children. The United Auto Workers argues that Johnson's policy unfairly discriminates against women.

Joining the UAW is an impressive array of political forces. Writing friend-of-the-court briefs in opposition to this exclusionary policy are the American Civil Liberties Union, the 31,000-member American Public Health Association, Attorney General offices of 17 states, Puerto Rico and the Virgin Islands, the American Nurses

• *Elise Morse is an industrial hygienist with the Massachusetts Department of Labor and Industries and is an active member of MassCOSH (Massachusetts Committee on Occupational Safety & Health).*

Association, the Association of Women in Science, the Toxic Use Reduction Institute and many others.

In the Boston area a number of labor and women's organizations wanted to respond to this case in a way that recognized its impact on the fights for health and safety on the job, for reproductive privacy and choice, and for equal employment opportunity. We formed a coalition to develop a comprehensive response and to articulate the need for healthy workplaces for all workers and an end to discriminatory work policies. This article is about the work of this new coalition, the disagreements among us, and the progress we've made.

Biology and Exclusion

Excluding women from predominantly male jobs based on biological differences isn't new, of course. But women have slowly been breaking gender barriers, proving their physical, mental and organizational competence, entering traditionally male workplaces including auto plants, steel mills and the building trades as well as professional careers in computers, law and medicine. Now some of these gains are being met with new resistance, with the biological vulnerability argument now focusing on women's child-bearing capacity.

The Johnson Controls case seems to be an effort to legitimize this approach: exclude women from jobs because they might be pregnant at any time, but leave men to work with the same hazards that also harm their health. Lead, for example, is a hazard known to damage kidneys, brain cells and the cardiovascular systems of both men and women. If pregnant women are exposed to lead, their children may be born with learning and developmental disabilities, hyperactivity and mental retardation. But studies also show that lead causes sperm abnormalities and decreased sex drive in men.

Johnson Controls has 14 battery plants across the country, from Bennington, Vermont, to Fullerton, California, with its corporate headquarters in Milwaukee, Wisconsin. In 1982 the company wrote a new policy: "All female applicants must present medical documentation of inability to bear children to be hired for any hourly job in a battery plant." Those women working in lead areas were demoted to janitorial and cleaning jobs; although they retained their previous wages, the women lost overtime pay and promotional opportunities because of their restriction from production jobs. A UAW member from Louisville, Kentucky, claimed she lost about \$40,000 in wages over the years. "Each year there

are fewer jobs that women can bid on, and now there are only four departments out of 10 that are open to women of child-bearing age."

In other Johnson plants hiring of women has stopped altogether. Johnson Controls told the press it was unwilling to "expose unborn children to serious harm." But the more likely reasons for this policy are unwillingness to pay the cost of cleaning up the lead and fear of a lawsuit by a child injured by exposure in utero.

Nor is Johnson Controls the only company adopting such policies. Digital Equipment Corporation in Hudson, Massachusetts, for example, suddenly pulled women out of its computer wafer fabrication areas when a poorly designed study seemed to show an increase in miscarriages among women employed there. AT&T soon followed suit. The study neglected to examine the families of men working in the same positions.

A subsequent study conducted by the Massachusetts Department of Public Health and the University of Massachusetts found that more than half of the 198 companies contacted were using radiation or one of several chemicals proven to be reproductive hazards for both men and women. Many of these companies were not training workers about the hazards, and nearly 20% were excluding women from selected jobs and work areas.

This approach of protection by exclusion is unique to male-dominated industries. When questions have been raised about the effects on pregnancy of video display terminals or anaesthetic gases in operating rooms, in jobs traditionally held by women, nobody has advocated exclusion of women from hospitals or offices.

A Labor-Feminist Coalition

Both labor and women's groups have recently become more involved with reproductive hazards, and the *Johnson Controls* case has galvanized a new coalition in Massachusetts. As in any coalition, the partners bring different outlooks and priorities to the coalition, and this has produced tensions that needed to be worked through.

On a daily basis unions and occupational health activists try to answer questions and advise workers about workplace hazards to the reproductive system. In some areas, COSH groups like MassCOSH and PhilaPOSH have written flyers and booklets educating workers about the health hazards of chemicals at work, including their potential harm to the reproductive system. The most pressing questions come from pregnant women frightened

by the potential harm to their pregnancy of constant lifting, or auto exhaust fumes, or degreasing chemicals they use on the job. Pregnant workers are stymied by incomplete scientific information and limited medical expertise. They face a difficult choice of remaining on a potentially hazardous job, or leaving the job, relinquishing medical insurance and income.

In some unions—like IUE Local 201 at General Electric in Lynn, Massachusetts—women's committees and health and safety committees have developed tactics to force the company to reevaluate and change the chemicals used on certain jobs and to provide transfers for men and women trying to start families. Unions are also in the forefront of the battle for family leave, and for unemployment compensation and disability leave with wage and seniority retention.

Within the movement to preserve the right to choose abortion, some groups like the Reproductive Rights National Network (R2N2) have expanded their concerns to fighting forced sterilizations and recent attempts to prosecute pregnant women for harming their fetuses. They became interested in workplace issues in the context of the Supreme Court's *Webster* decision, which curtailed women's choices in the name of fetal rights. They see recent exclusionary policies in the workplace linked to larger issues of reproductive freedom for all women.

Numerous other individuals and organizations formed a community of concern that followed recent developments in the *Johnson Controls* case. The National Lawyers Guild, skilled in both labor and discrimination issues, was pressed with questions from various sides. Someone suggested bringing together activists from diverse constituencies who saw the *Johnson Controls* case as a serious threat: to women's employment rights, to reproductive freedom, and to the continuing battle to clean up the workplace and empower workers. The result in Massachusetts was a meeting that included the MassCOSH Executive Board and Women's Committee, the IUE 201 Women's Committee, the Boston Reproductive Rights Network, Women of Color for Reproductive Freedom, and the Lawyers Guild.

"At the first meeting of the coalition, everyone was tense," says Tolle Graham, MassCOSH staff member who co-chaired the first meeting. "Each organization attending thought they had the definitive experience on reproductive hazards and the correct analysis of the *Johnson Controls* case and its political implications."

Beneath the willingness to unite to work on this project were suspicions that the feminists were anti-worker and that the trade unionists underestimated the attack on women's rights. To make

matters worse, the coalition formed on the heels of a controversy about the *Macy's* decision by a California Appellate Court. The different responses to this case exaggerated the differences between member organizations.

The *Macy's* case represented the conflict between labor's efforts to use every available tool to force companies to reduce hazards and the feminist movement's opposition to giving rights to fetuses and treating women as incubators.

A pregnant clerical worker at *Macy's* became ill at work. She was seven months pregnant and had severe abdominal pain, but the company nurse delayed giving her care or sending her to the hospital. This delay resulted in severe consequences from a ruptured uterus and brain damage to the child, who was born prematurely. The baby, Manuel Robert Freytes, died at age two years and four months. The parents sued *Macy's* for the wrongful death of their child, as well as on their own behalf. The Court denied their claim, stating that Workers Compensation was the exclusive remedy for injuries at work.

Several COSH groups attempted to build nationwide support for an appeal to hold *Macy's* responsible beyond the limitations of Workers Compensation law and to require *Macy's* to compensate the family for their emotional suffering and financial devastation. The Court, in the majority decision, had acknowledged the financial danger to employers if they were to be held responsible for fetal health from the "by-products of the Industrial Revolution."

The Boston Reproductive Rights Network was appalled at the COSH groups' efforts to solicit friend-of-the-court briefs. Efforts to empower a fetus to sue, as though it were a separate individual, they wrote, fed into the attack on women's rights. While sympathetic to the family's loss, this lawsuit could strengthen efforts by companies to pose as babies' protectors.

"The fetus should never be considered separate from the mother," stated Sabrina Kurtz, a member of R2N2. "You can't bestow rights on parts of a women's body in opposition to her rights as a mother." R2N2 cites the case of a pregnant woman who was charged with the death of her fetus after an alcohol-related auto accident, as well as cases of pregnant women who have been jailed to protect the fetus from alcohol or cocaine.

Milagros Padilla, a founding member of Women of Color for Reproductive Freedom, pointed out that these recent "save the unborn babies" attacks on women have their greatest impact on women of color, who are less likely to have a private physician or lawyer to intercede. Maureen Paul, an occupational physician

specializing in obstetrics and gynecology, observed that companies are claiming to know what is in the best health interests of their women employees, or claiming to protect fetuses from their mothers' poor decisions. If governments can punish women who are "guilty" of exposing their fetuses to alcohol or drugs, could the next step be prosecuting women for staying on a job where hazardous chemicals are used?

The Work of the Coalition

Our coalition has been meeting for six months, agreeing to disagree on certain points. The importance of the *Johnson Controls* case has muted these differences. Early efforts have been aimed at tentatively exploring our areas of agreement and disagreement and doing research on Johnson Controls and the legal issues. We've discussed the Court's unwillingness to accept animal research showing lead's effect on sperm, preferring instead to allow workers to be exposed until male offspring show the harmful effects. We've discussed the impossible choices that pregnant women face when working in jobs where they fear the chemicals they use.

We agree that the ultimate solutions must include forcing companies to remove the hazards and not the most vulnerable workers. We agree that exclusion of workers because of their gender or reproductive status must be prohibited. We don't always agree on which to say first. We agree that workers must have the right to know the chemicals with which they work and the right to act to protect themselves. We want to advocate toxic use reduction to replace hazardous chemicals and processes with safe ones—for example, to build batteries without lead.

We are trying to figure out how to organize our respective constituencies when we still disagree about whether protection for pregnant women can be written in a way to avoid protecting them out of the workplace. We still cannot resolve whether to advocate that workers have the right to refuse work with a reproductive toxin when they cannot refuse work with a cancer-causing agent or neurotoxin. Does healthy reproductive function merit better protection than brain function? How can we balance the protection vs. discrimination scale?

The coalition is writing its principles and developing a press packet. Committees are beginning corporate research on Johnson Controls and gathering information about local cases of exclusion. MassCOSH is planning presentations for its Labor Committee and its 80 member unions to help locals develop shopfloor tactics and contract language that benefit from the shared experience of the

coalition.

The IUE 201 Women's Committee is continuing its battle to help men and women planning families to transfer away from jobs that entail contact with mixtures of alcohols, freons and dyes that may be reproductive toxins. Coalition members active in the Coalition for Labor Union Women (CLUW) are planning a forum that will address reproductive hazard issues as one of five main topics.

Unions facing worsening economic conditions are battling to hold onto jobs; this is traditionally a time when efforts to divide union members may be used. This can be especially effective when it is done with the rhetoric of "save the children." Mass-COSH has helped bring this issue to its member locals in the context of the battle for a safe and healthy workplace, an issue which clearly points out the different interests of owners and workers.

Some women who have been active within their unions see this as an opportunity to raise women's issues "from the bottom of labor's agenda," as a member of both SEIU and R2N2 wrote. She hailed these meetings as the beginnings of a "labor-feminist alliance." Others have expressed excitement at being able to finally bring together their political concerns, as women and workers, on one issue. It offers the chance to bring the concerns of working women into the established women's movement. It also offers both the labor and women's movements the opportunity to work with women of color on an issue that affects them at work and in their communities.

Whatever the Court decides on *Johnson Controls*, by working together we'll all be in a better position in the future to defend all workers from reproductive hazards without sacrificing women's rights. ■

WE MADE A MISTAKE:

In *Labor Research Review* #15, "Privatization & Contracting Out," the photos on pages 36 and 42 should have been credited to:

Johnny Knox of the SEIU Local 660 Voice