

What Harms Women in the Workplace

By Rosalind Rosenberg

The defeat, last month, of a 12-year-old sex discrimination action against Sears, Roebuck & Company has been widely decried by feminists. In reality, however, the outcome of the suit may lay the foundation for wiser employment policies, helping eventually to advance women in the workplace and society at large.

The Equal Employment Opportunity Commission, a Federal agency, began investigating Sears in 1973 but did not file this case until 1979, when it brought 42 major claims, including discrimination in hiring, promotion and pay. On Feb. 3, the Federal District Court in Chicago ruled against the last remaining claims.

Some women activists now say that the era of major sex discrimination suits against corporations is over. Others warn that statistical proof of discrimination has been discredited. In fact, the only danger posed to women by this case — apart from the squandered time and resources — is the possibility that the feminists' reaction may drown out what the case was all about.

There is, for a start, no basis to the claim that this decision has discredited the use of statistics — evidence of numerical differences between men and women in certain jobs — to demonstrate discrimination. Courts have long recognized the relevance of statistics in such cases, and they will continue to do so. What made the commission's claim unusual was that it was based entirely on statistical evidence — without supporting testimony by witnesses or other evidence.

Indeed, after a six-year investigation, the commission's lawyers were unable to identify a single victim of discrimination at Sears or even anyone who had witnessed discrimination. Judge John A. Nordberg's opin-

Rosalind Rosenberg, associate professor of history at Barnard College, testified on behalf of Sears, Roebuck & Company in the suit brought by the Equal Employment Opportunity Commission.

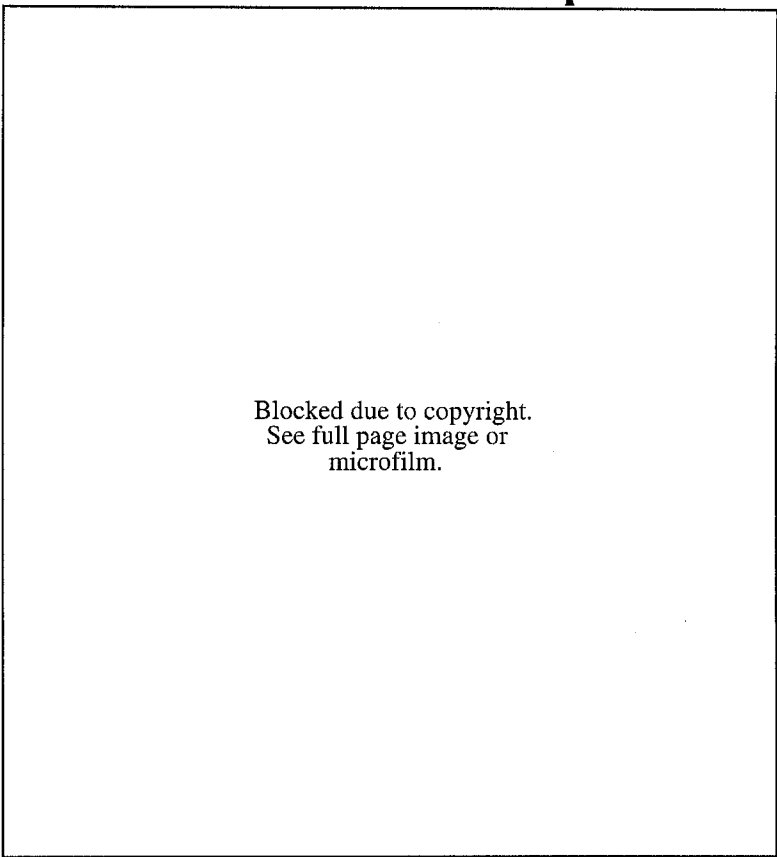
ion does not reject statistical evidence in itself; it merely recognizes that numerical disparities alone are not enough to prove discrimination except in extraordinary circumstances.

Judge Nordberg also found that the commission's statistics were "replete with flaws." The "most egregious" was the assumption that men and women were equally interested in and qualified for jobs in commission sales. Sears showed, through evidence from its own workforce and the nation at large, that this assumption was false, and Judge Nordberg concluded that Sears' record of hiring women as in such jobs "met all reasonable estimates of the proportion of qualified and interested women."

That numerical differences between men and women can exist in certain jobs without discrimination should surprise no one familiar with women workers in America. Though such differences may be the result of discrimination, they can also arise from other factors. For one thing, we educate boys and girls differently, preparing them for different roles in society. Moreover, even today, despite the rapid growth of women in the labor force, women continue to bear the primary responsibility for children and home. Men and women still do not begin at the same starting line — and, as a consequence, women often find it difficult to compete with men for certain jobs.

Many feminists involved in this case were reluctant to state in court that American culture, not merely employer discrimination, reinforces traditional roles for women. However well intentioned these advocates may be, their public insistence that employer discrimination is the only significant factor in explaining the low numbers of women in certain jobs threatens to cripple the cause of working women, not advance it.

To focus exclusively on discrimination is to ignore and hence excuse a host of social failings — many of them more important than employer discrimination — that policy makers should be forced to confront. To say, as the commission did in this case, that responsibilities for family and children place no greater burden on women than on men



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is to deny the fact that most women workers carry a double burden. They need guaranteed maternity leaves and subsidized child care if they are ever to compete with men on equal terms.

Nor are those the only built-in handicaps they face. On a more mundane level, for example, women rely more heavily than men on public transportation. To say that women are as free as men to take commission sales jobs outside the store is to slight this particular need. To say that women are just as interested as men in auto parts is to ignore the sexist ways in which we continue to socialize our children at home and in

the schools. And to say that discrimination alone keeps women in the jobs they now hold denigrates the job preferences of many women workers.

In insisting that numerical differences between men and women in certain jobs "can only be explained by sex discrimination by employers," the commission implied that attacking employers is the only way to change the role of women in American society. This is obviously nonsense.

Many feminists fear that any public recognition of differences between men and women will make it harder for women to win new opportunities. The difficulties women now face, however, lie not in Judge Nordberg's frank recognition that differences exist, but rather in many Americans' unwillingness to face those differences and do something about them.

Feminists who take the position that employer discrimination is the only significant factor explaining women's economic disadvantages actually contribute to society's reluctance to explore a whole range of social policies that must be developed if women are to achieve equality. Consideration of such policies cannot possibly proceed so long as talk of differences remains taboo. □

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